

years to resolve in court, and even when a sued company wins, its liability insurance premiums generally go up—a lot. So it's become standard practice for securities class-action defendants to settle these lawsuits pre-emptively, in a struggle to avoid massive legal expenses and business distractions.

Settlement still hurts, of course. A study by the National Venture Capital Association found that companies embroiled in securities litigation—whether they settle or go to court—must spend an average of nearly \$700,000 and 1,055 hours of management time. But they really have no choice, because the merits of an individual securities class-action suit are, at least under current law, essentially irrelevant. Innocence is no protection against a lawsuit. And real fraud too often goes unpunished; genuinely guilty companies are encouraged to settle, too.

Rules of legal standing in the securities field are very broad—and very thin. Acceptable evidence of corporate wrongdoing barely extends beyond an unexpected stock price change; roughly 20 percent of securities suits are filed within 48 hours of a major stock decline. Or a stock increase, for that matter—since it's not unknown for lawyers to file suite against a company whose market position has improved, claiming that information about a merger or expansion has been fraudulently withheld.

Given such juicy opportunities for standing, it's no surprise that speculative securities litigation has become a lucrative specialty in the American plaintiffs' bar. The small group of lawyers who concentrate on such law made a 1994 average of \$1.4 million in fees and expenses on every case. But America's pension funds who are shareholders in these companies and in whose interest our securities laws are intended to protect, get stuck with the short end of the stick.

Lead attorneys—usually the first lawyer to sign up a single “defrauded” shareholder and rush his papers to the courthouse—are generally granted wide latitude over pretrial procedure. They're allowed to set settlement terms and establish their own contingency fee rates with minimal consultation and judicial supervision. After all expenses are accounted for, plaintiff shareholders, even “successful” ones, generally receive just a tiny fraction of the market loss their lawyers claim for them: pennies on the dollar, in fact. And when the process is concluded, shareholder investments are very often in worse shape than when it began. The companies involved are out big money, and their business plans have been distorted by a tortuous legal entanglement.

The life of a careful fund manager is seriously complicated by the frivolous securities lawsuit phenomenon. If lawyers are so broadly encouraged to seize on predictive corporate earnings statements as “evidence” of an intention to mislead, corporate officers will have a huge incentive to dumb those statements down—or stop talking about future profits at all. In Silicon Valley in particular, for example, the trend is minimal disclosure. But intelligent investment strategy requires maximum possible disclosure. And if I'm not offered frank assessments of various companies' future potential how can I rest assured that Ohio's pensioners' hard-earned money is being invested wisely?

My fiduciary responsibility compels me to act. And the U.S. Senate also should act. As the final days of this debate wind down, trial lawyers are digging in their heels and calling in old chits. Securities litigation remains a fat chunk of their practice, one they dearly want to protect. But Congress is charged with protection of the public interest generally. And the public interest, in this case, is best advanced in simple and straightforward fashion.

We must make deliberate acts of corporate fraud clearly illegal, and easier and less costly to pursue. And we must make high-dollar, meritless securities lawsuits—legal devices that are threatening the retirement savings of millions of ordinary Americans, and acting as a brake on the engine of American economic growth—vastly more difficult to pursue.

The American system of law should be our country's greatest treasure. But one part of that treasure is now mortgaged to the narrow financial interest of a small group of specialized attorneys. Enough is enough. The Senate reform legislation has 50 co-sponsors from both parties. Not one of them should waver.

#### FRENCH NUCLEAR TESTING IN THE SOUTH PACIFIC

Mr. THOMAS. Mr. President, as the chairman of the Senate Subcommittee on East Asian and Pacific Affairs, I come to the floor today to respond briefly to French President Jacques Chirac's decision to conduct a series of underground nuclear test explosions in the South Pacific between September of this year and May 1996.

I strongly believe that President Chirac's decision to conduct these tests will be damaging to international efforts to curb the proliferation of nuclear weapons. The Soviet Union began a test moratorium in October 1990; France initiated its own in April 1992, although it had not exploded a device since 1991, and the United States and Great Britain have similarly observed a moratorium since 1992. Continuing the trend toward minimizing the nuclear threat, in May of this year the world's five declared nuclear powers extended indefinitely the Nuclear Non-Proliferation Treaty [NPT].

On June 13 of this year, however, President Chirac—citing the need to check the reliability and safety of France's existing nuclear arsenal—announced that country would conduct eight nuclear tests at its site at Mururoa Atoll in the South Pacific. That decision is unfortunate for three principal reasons. First, it is likely that a resumption of testing by France will result in the disintegration of the current testing moratorium and a renewal of underground testing by other states. Moratoria are like truces—they are only good as long as all the parties to them observe their provisions. Second, it calls into serious question France's commitment to the NPT extension. In May, the world's five nuclear powers—the United States, France, Russia, China, and Britain—persuaded the rest of the world to extend indefinitely the Nuclear Non-Proliferation Treaty. To win that consensus, the five countries promised to sign a comprehensive test ban treaty by the end of next year. The resumption of French nuclear testing though, only 4 months after France signed this agreement, I believe calls into question France's commitment to the CTBT and consequently undermines these international efforts to curb the proliferation of nuclear weapons. Japan's Prime

Minister, Murayama Tomiichi, has accused France of betraying nonnuclear countries, while Minister of Science and Technology Tanaka has stated that “Nations that possess nuclear weapons must show their wisdom and set an example to countries that do not have nuclear weapons.”

Third, Mr. President, the French decision to test is vehemently opposed by most, if not all, of the countries along the Pacific rim, most of which have publicly condemned the decision. I have been visited by the Ambassadors of Australia, New Zealand, Papua New Guinea, Micronesia, among others, all of whom have conveyed their Governments' opposition to nuclear testing in their “backyards.” Australia's Prime Minister recently summed up his country's position in an article in the German daily *Die Welt*:

Australia and its citizens, and the peoples and governments of many other countries, are outraged about the French Government's announcement that it intends to resume nuclear testing in Mururoa. I believe the French people will understand such feelings very well.

The mood in the South Pacific countries is general: If France has to test these weapons, it should do so on its internal territory. Whatever the French Government intends to achieve with these actions, they are seen by the overwhelming majority of the people in this region as a big nation's attack on the rights of smaller ones. The decision to resume the tests is inevitably regarded as a return to old colonial attitudes. This is all the more tragic since most recently France's relations with the countries in the region have become much more positive and fruitful.

Neither Australia nor the other countries in the region want France to withdraw from the Pacific. On the contrary, we want to cooperate closely and well with it. However, it is one of the lamentable consequences of this decision that many people in the region now doubt the legitimacy of France's role.

\* \* \* \* \*

Australia's concern is increased further by the additional responsibility that arises this year from our role as chairman of the 15 members in the South Pacific Forum. In this function we speak on behalf of all countries in the region; many of them are small and economically vulnerable and all of them have a deep material and spiritual relationship with the Pacific Ocean.

I am convinced that I speak for the members of the Forum when I continue to urge France to rescind its decision and when I stress that in this case it would gain considerable prestige not only in the South Pacific countries but among all the peoples in the world.

The French Government has mentioned the safety of the environment with regard to the tests in Mururoa. However, we are most deeply concerned about the possibility of accidents. And no one can foresee the long-term dangers that arise from a potential destruction of the sensitive atoll structures during the tests.

Australia's reaction is neither precipitate nor a mere reflex. Australia can point to a long history of responsible diplomatic efforts with regard to nuclear issues. Together with the other South Pacific countries, in the 1970's Australia opposed France's atmospheric tests and, upon our initiative, the South Pacific nuclear-free zone was established in 1985.

Australia has also been active regarding nuclear issues in the United Nations and in

other international forums. Often, we acted in close cooperation with France, in particular since President Mitterrand's highly welcome decision to declare a nuclear test moratorium in 1992. These efforts were combined on 11 May with the decision by the international community to extend the Nuclear Nonproliferation Treaty [NPT] for an unlimited period—an important element for the safety of our two countries.

Neither Australia nor any other country has the right to define France's security; however, given the circumstances, the French will certainly permit me to explain why, in our view, France's action is not good for France or for the world.

We believe that these tests endanger our efforts to preserve the effectiveness of the NPT and to achieve universal membership. For the unlimited extension of this treaty it was decisive that a "declaration of principles and goals on nonproliferation and disarmament" was simultaneously negotiated and adopted by all states involved, including the nuclear states.

This declaration announced the speedy conclusion by 1996 at the latest—of a comprehensive nuclear test ban treaty. And until such a treaty comes into effect the nuclear states have committed themselves to "extreme restraint."

However, "extreme restraint" regarding nuclear tests hardly applies to a program of eight tests. France's decision will certainly make many non-nuclear states wonder about the honesty of all nuclear states.

This will harm the treaty's credibility, which must be preserved if some states, which have not yet signed it, are to be persuaded to do so.

The decision will also increase the problems in the negotiations on a comprehensive nuclear test ban treaty. Despite President Chirac's gratifying statement that France will sign such a treaty, there is the serious danger that the very difficult treaty negotiations that we are facing in Geneva will become even more difficult.

In particular France's position as a responsible and leading power in the world means that any new French test will play into the hands of potential arms dealers and that any test will make many of those countries hesitate whose support we need to conclude a comprehensive treaty.

We know the arguments for France's nuclear capacity and the strategic dimensions of a nuclear power very well. We argue not merely on the basis of emotions when we say that the biggest responsibility for us all is the one to keep alive the hope for a nuclear-free world, which was born when the Cold War ended. The burden of this responsibility rests most heavily on the nuclear states, particularly after the unlimited extension of the NPT.

And in view of the nuclear experiences in Europe, the biggest challenge for leadership certainly is right in front of Europe's own door. The damaged Chernobyl reactor may have been encased in a sarcophagus, but there are still another 20 reactors with similar design flaws on the territory of the former Soviet Union. Dozens of nuclear powered submarines of the former Soviet fleet are now idle. Nuclear material and nuclear expert knowledge are leaking from the former Soviet Union into illegal markets.

These dangers, as well as the stocks of dismantled nuclear weapons and contaminated areas, are not precisely banished by the development of further nuclear weapons capacities. But France's top international skills in nuclear science and technology could help. How much more respect would France gain and how much more useful would it be if the country were not to concentrate its skills and energy on countering a purely hypothetical threat but on meeting a real threat!

I do not doubt that the Australians want to make it known in France that their attitude is in no way determined by hostility toward the French people or the French nation. Our opposition specifically refers to the French Government's decision to resume the nuclear tests in the Pacific.

In the past Australia's attitude was sometimes understood as an expression of some kind of Anglo-Saxon hostility toward France. However, Australia is certainly not an Anglo-Saxon enclave in the Asia-Pacific region. As the many French who live in Australia can confirm, Australia is a rich multicultural society, in which half of the immigrants come from Asian countries. It is clear that many of these French inhabitants of Australia think that the French Government should rescind its decision.

If they live on Australia's east coast, they know that there is an enormous difference between studying a map of the Pacific in Europe and actually living on the shores of the ocean in Sydney or Brisbane or Auckland. The map shows these places to be far away from Mururoa. However, if one lives in these places, one knows that the South Pacific—no matter how gigantic it is constitutes a single environment and links everyone who participates in it.

The community spirit that the Pacific Ocean gives us is similar to the one given to France by the idea of "Europe." It is the fundamental reason for our opposition to France's decision to resume the tests and for the fact that Australia and its partners in the South Pacific Forum will not stop emphatically presenting our views to the French Government and conveying to the French people, if we can, the depth of our feelings.

Mr. President, it is my understanding that Senator AKAKA intends to introduce an amendment to the Department of Defense authorization bill this week expressing the sense of the Senate that France must abide by the current international moratorium on nuclear test explosions, and refrain from proceeding with its announced intention of conducting a series of nuclear tests in advance of a comprehensive test ban treaty. I support that amendment, and hope that the French will reconsider their position on conducting these tests and that the CTBT will be signed by the end of next year.

#### DEFECTIONS FROM IRAQ

Mr. PELL. Mr. President, as many of my colleagues may have heard, there have been dramatic developments in the Middle East today.

Two major Iraqi government figures—both members of Saddam Hussein's circle of power—have defected from Iraq and are now in Jordan.

One of the defectors, Lt. Gen. Hussein Kamel Hassan, was in charge of military industrialization in Iraq. The other, Lt. Col. Saddam Kamel Hassan, was in charge of Saddam Hussein's guards. Both—this is really the curious thing—coincidentally, are married to daughters of Saddam Hussein and are thus his sons-in-law.

The development is significant for a number of reasons. Just last week, Ambassador Madeleine Albright testified to the Foreign Relations Committee that Saddam's base of support has been

shrinking. Today's events illustrate that point in an extraordinary way. On a more fundamental level, the defections demonstrate the soundness of United States containment policy toward Iraq, which is designed in part to encourage internal change. It is still too early to assess how the defections will affect Saddam's grip on power; it is clear, however, that there is considerable turmoil in Baghdad's inner sanctum.

As a final note, Mr. President, I would like to add a word of appreciation for Jordan's King Hussein. It is no small gesture for King Hussein to welcome the defectors and provide them safe haven. As unpredictable as Saddam Hussein can be, the King's actions could well provoke an Iraqi response.

President Clinton has said that the United States stands ready to support the King, who by today's actions has shown true courage in defiance of Saddam. I support the President's statement and join him in expressing gratitude to King Hussein.

#### THE BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, the skyrocketing Federal debt, which long ago soared into the stratosphere, fueled by bureaucratic hot air, is sort of like the weather—everybody talks about it but almost nobody did much about it until immediately after the elections last November.

But when the new 104th Congress convened in January, the U.S. House of Representatives quickly approved a balanced budget amendment to the U.S. Constitution. On the Senate side, all but one of the 54 Republicans supported the balanced budget amendment—that was the good news. The bad news is that only 13 Democrats supported it. Since a two-thirds-vote—67 Senators—is necessary to approve a constitutional amendment, the proposed Senate amendment failed by one vote. There will be another vote either this year or next.

Here is today's bad debt boxscore:

As of the close of business Wednesday, August 9, the Federal debt—down to the penny—stood at exactly \$4,942,218,005,858.98 or \$18,760.74 for every man, woman, and child on a per capita basis.

#### THE MYSTERIOUS V-CHIP

Mr. DOLE. Mr. President, there's been a lot of hype recently about the so-called V-chip.

President Clinton has endorsed the chip, touting it as an antidote to the gratuitous violence and sexual innuendo that now permeate prime-time television. A majority of the Senate has voted to require that every new television set contain the V-chip. And the House of Representatives has joined the V-chip bandwagon, by including a V-chip mandate in the recently passed telecommunications bill.