

by seeking patents on procedures they use. That prospect is frightening.

Mr. President, the practice of enforcing medical patents against physicians and other health care providers has profoundly negative implications for the entire health care field. And that is why I am introducing legislation that would provide an exception from the definition of patent infringement for medical and surgical procedures. With this approach, physicians and others will still be entitled to seek and obtain a medical method patent, but there will be no infringement if the procedure is used by other physicians or other licensed health care practitioners. And because the legislation does not impose a ban on the issuance of medical method patents, there should be no concern that the legislation would prohibit biotechnology companies from enforcing their patent rights against commercial users with respect to any patentable advancements in areas such as gene therapy, cell therapy, or with respect to new uses for well-known drugs. Additionally, Mr. President, there is an explicit exemption for the commercial manufacture of drugs, medical devices and any other products regulated by the Food and Drug Administration, which should also provide substantial protection for the biotechnology industry.

Mr. President, more than 80 nations, including Japan, Germany, Great Britain, and France, prohibit the issuance of medical method patents. Increased enforcement of medical method patents will increase health care costs, limit access to quality health care, and ultimately put patient privacy at risk. The legislation I am introducing will limit the enforcement of medical method patents against physicians, while preserving the rights of the biotechnology industry. I believe this legislation is both balanced and necessary, and I urge my colleagues to support its passage. ●

#### ADDITIONAL COSPONSORS

S. 881

At the request of Mr. GRASSLEY, the name of the Senator from Kentucky [Mr. McCONNELL] was added as a cosponsor of S. 881, a bill to amend the Internal Revenue Code of 1986 to clarify provisions relating to church pension benefit plans, to modify certain provisions relating to participants in such plans, to reduce the complexity of and to bring workable consistency to the applicable rules, to promote retirement savings and benefits, and for other purposes.

S. 942

At the request of Mr. BOND, the name of the Senator from Iowa [Mr. GRASSLEY] was added as a cosponsor of S. 942, a bill to promote increased understanding of Federal regulations and increased voluntary compliance with such regulations by small entities, to provide for the designation of regional

ombudsmen and oversight boards to monitor the enforcement practices of certain Federal agencies with respect to small business concerns, to provide relief from excessive and arbitrary regulatory enforcement actions against small entities, and for other purposes.

S. 949

At the request of Mr. GRAHAM, the names of the Senator from South Carolina [Mr. THURMOND], the Senator from Pennsylvania [Mr. SANTORUM], and the Senator from Kentucky [Mr. FORD] were added as cosponsors of S. 949, a bill to require the Secretary of the Treasury to mint coins in commemoration of the 200th anniversary of the death of George Washington.

S. 1027

At the request of Mr. BROWN, the name of the Senator from Arizona [Mr. KYL] was added as a cosponsor of S. 1027, a bill to eliminate the quota and price support programs for peanuts, and for other purposes.

S. 1028

At the request of Mrs. KASSEBAUM, the name of the Senator from Kentucky [Mr. FORD] was added as a cosponsor of S. 1028, a bill to provide increased access to health care benefits, to provide increased portability of health care benefits, to provide increased security of health care benefits, to increase the purchasing power of individuals and small employers, and for other purposes.

#### AMENDMENTS SUBMITTED

#### THE CUBAN LIBERTY AND DEMOCRATIC SOLIDARITY [LIBERTAD] ACT OF 1995

##### HELMS AMENDMENT NO. 2938

(Ordered to lie on the table.)

Mr. HELMS submitted an amendment intended to be proposed by him to amendment No. 2898 proposed by Mr. DOLE to the bill (H.R. 927) to seek international sanctions against the Castro government in Cuba, to plan for support of a transition government leading to a democratically elected government in Cuba, and for other purposes; as follows:

At the end, add the following:

( ) Notwithstanding any other provision of this Act, but for purposes of Title III, any person or entity, including any agency or instrumentality of a foreign state, shall be deemed to have received the notices described in subsections (B)(I) and (B)(ii) with respect to any claim certified prior to the effective date hereof by the Foreign Claims Settlement Commission.

( ) Notwithstanding any other provision of this Act, but for purposes of Title III, an action may be brought under Title III by a United States national only where the amount in controversy exceeds \$100,000, exclusive of costs, attorneys' fees, and exclusive of interest under sections 302(a)(I)(I), (II), and (III), and exclusive of any additional sums under section 302(a)(3)(B).

( ) Notwithstanding any other provision of this Act, but for purposes of Title III, a

United States national who was eligible to file the underlying claim in the action with the Foreign Claims Settlement Commission under Title V of the International Claims Settlement Act of 1949 but did not so file the claim may not bring an action under this Title.

( ) Notwithstanding any other provision of this Act, but for purposes of Title III, in the event some or all actions or claims filed under this section are consolidated by judicial or other action in such manner as to create a pool of assets available to satisfy such claims, including a pool of assets in a proceeding in bankruptcy, every certified claimant who filed such an action or claim which is consolidated in such manner with other claims shall be entitled to payment in full of its claim from the assets in such pool prior to any payment from the assets in such pool with respect to any claim not certified by the Foreign Claims Settlement Commission.

( ) Notwithstanding any other provision of this Act, but for purposes of Title III, in the case of any action brought under this Title by a United States national whose underlying claim in the action was timely filed with the Foreign Claims Settlement Commission under Title V of the International Claims Settlement Act of 1949 but was denied by the Commission, the court shall accept the findings of the Commission on the claim as conclusive in the action under this Title.

( ) Notwithstanding any other provision of this Act, any provisions in this Act related to the import of sugar or sugar products shall be deemed "sense of the Congress" language.

#### NOTICE OF HEARING

##### COMMITTEE ON INDIAN AFFAIRS

Mr. MCCAIN. Mr. President, I would like to announce that the Senate Committee on Indian Affairs will hold a hearing on S. 1327, the Saddleback Mountain-Arizona Settlement Act of 1995, a bill to transfer certain lands to the Salt River Pima-Maricopa Indian community and the city of Scottsdale, AZ. The hearing will take place on Thursday, October 26, 1995, beginning at 9:30 a.m. in room 485 of the Russell Senate Office Building.

Those wishing additional information should contact the Committee on Indian Affairs at 224-2251.

#### AUTHORITY FOR COMMITTEES TO MEET

##### COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. HELMS. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be allowed to meet twice during the Wednesday, October 18, 1995, session of the Senate for the purpose of conducting an oversight hearing on the Amateur Sports Act and a hearing on S. 1043, the Natural Disaster Protection and Insurance Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

##### COMMITTEE ON FOREIGN RELATIONS

Mr. HELMS. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, October 18, 1995, at 10 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### COMMITTEE ON THE JUDICIARY

Mr. HELMS. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Wednesday, October 18, 1995, at 10 a.m. to hold a hearing on the Omnibus Property Rights Act of 1995.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. HELMS. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet for a hearing on emerging infections, during the session of the Senate on Wednesday, October 18, 1995, at 9:30 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### SELECT COMMITTEE ON INTELLIGENCE

Mr. HELMS. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Wednesday, October 18, 1995, at 2 p.m. to hold an open hearing on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### SPECIAL COMMITTEE ON AGING

Mr. HELMS. Mr. President, I wish to announce that the Special Committee on Aging will hold a hearing on Wednesday, October 18, 1995, at 10 a.m., in room 628 of the Dirksen Senate Office Building. The hearing will discuss quality of care in nursing homes.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### SUBCOMMITTEE ON TERRORISM, TECHNOLOGY AND GOVERNMENT INFORMATION

Mr. HELMS. Mr. President, I ask unanimous consent that the Subcommittee on Terrorism, Technology and Government Information of the Senate Committee on the Judiciary, be authorized to meet during a session of the Senate on Wednesday, October 18, 1995, at 11 a.m., in Senate Hart room 216, on the Ruby Ridge incident.

The PRESIDING OFFICER. Without objection, it is so ordered.

### ADDITIONAL STATEMENTS

#### ABDICATING ON THE CASE FOR ENDOWMENTS

• Mrs. HUTCHISON. Mr. President, I rise to invite the attention of the Senate to an article in the October 2 edition of the Washington Times entitled "Abdicating on the Case for the Endowments." The author is Leonard Garment, a Washington lawyer who has followed the issue of Federal funding of the arts and humanities since he worked as White House counsel to President Richard Nixon.

"That soft gurgling you hear," writes Mr. Garment, "is the sound of the National Endowments for the Arts and Humanities being slowly strangled to death."

In the article, Mr. Garment lists the abuses of the public trust that, in his words, "denigrate the values of millions of taxpaying Americans." The notorious Andres Serrano project. The panels that judge projects by ideological litmus tests and fund the politically correct. The wheelbarrows full of money dumped into frivolous whimsies.

He concludes that the solution is not to throw the baby out with the bathwater—to risk weakening America's cultural treasures because of these abuses. Rather, he advocates a clean break with the past. He would disassemble and rebuild them from the ground up.

"Such reforms," he writes "are not only possible but already on the congressional table—in the form of a bill, jointly introduced by Senators Kay Bailey Hutchison of Texas and Robert Bennett of Utah, that addresses every one of these issues."

I am gratified that a man of Mr. Garment's stature and experience supports our bill. I recommend this excellent article to my colleagues, and I ask that it be printed in the RECORD.

The article follows:

[From the Washington Times, Oct. 2, 1995]

#### ABDICATING ON THE CASE FOR THE ENDOWMENTS

(By Leonard Garment)

That soft gurgling you hear is the sound of the National Endowments for the Arts and Humanities being slowly strangled to death. The House of Representatives has voted to fund the endowments at drastically reduced levels and take them out entirely in two years. The Senate, while not imposing a similar deadline, has also slashed the endowments' money.

Yet most fans of the endowments are walking around with "What, me worry?" smiles on their faces. Since they survived, they think their arguments worked and that they can just keep making these arguments again and again until their opponents' fervor cools. Then it will be business as usual.

I fear the endowment enthusiast overestimate the stamina of their friends and underestimate the resentment of their adversaries, in Congress and out. The editorial stalwarts at The Washington Post, for example seem to have quietly tiptoed out of the current debate, leaving it to Jonathan Yardley. The Post's senior book reviewer and distinguished social commentator—a man with cast-iron convictions, by the way—to call for an end to the Endowments (Aug. 28, Sept. 10, Sept. 25). During this barrage, the Post gave "Taking Exception" time to a wearily hackneyed defense of the humanities endowment by one of its senior officials (Sept. 19). Jane Alexander, chairman of the National Endowment for the Arts, the lead horse of the cultural troika, appears to have taken a sabbatical powder from public advocacy, apparently content to let matters rock along without risking a misstep that might upset the congressional stay of execution.

The national endowments are making a miserable mistake in thus defaulting on the attacks against them, letting the once-splendid arts and humanities enterprise fade slowly into history with little more than befuddled whimpers of support. This is a pity, since every legitimate objection made by those who want to pull the plug on the endowments can be answered. What has been missing, as usual, is the creative intelligence and the legislative will necessary to do so.

After 30 years of reasonably close observation of the spasms of congressional support and hostility toward the endowments, it seems to me that the current mixture of indifference and resentment, reflecting the powerful conservative political tide, involves five major categories of complaint. First, it is said that the endowments have supported artistic and humanities projects that denigrate the values of millions of taxpaying Americans. Robert Mapplethorpe, Andres Serrano, Annie Sprinkle and Her Magnificent Speculum, blah, blah, blah. All true. However these unpleasant projects came to be funded, the relevant fact is that they should not have been. But the chance of such mistakes in the future can be reduced to near-zero if the endowments are prohibited from awarding grants, subgrants or fellowships to individuals. These personal subventions have been the main instruments of the corrosive damage inflicted on the endowments.

Next, the endowments are called mutual back-scratching societies that use their hundreds of so-called "peer panels" to support highly personal and ideological judgements about art and scholarship. True again. But this need not be if we eliminate the large array of narrow and manipulable peer panels and create a small number of cross-disciplinary advisory groups, less vulnerable to parochialism and conflict of interest, to advise the endowment leadership on the distribution of endowment resources. The arts and humanities are too important to be left to artists and humanities—who are intensely concerned, and understandably so, with self-expression, not with safeguarding cultural institutions from political harm. Individual grants and fellowships are a fine idea but quintessentially the business of private foundations and corporate or individual donors. And I refuse to believe that an artist or scholar who has something important to say will pack up his palette or PC if he or she is not paid in advance. Just try making the argument for the necessity of individual grants to the hordes of young writers, painters and musicians who work without complaint at part-time jobs to support their particular muses.

Third, critics contend that the endowments are used by federal arts bureaucracies as instruments for their own private agendas. Also true. To the extent that the law permits, we should clear out these long-timers—who think they, not the taxpayers, own the endowments. We should make the rest accountable to a council subject to Senate confirmation as well. The council should be composed of mature persons required by law to be genuinely "learned in the arts and humanities." Even allowing for the occasional political hack who will slide through, such a council would be very difficult for bureaucracies to roll.

Front and center for years now, the big complaint is that the endowments try to be all things to all constituencies rather than acting out of their own sense of national cultural mission. For this grievance Congress has a remedy at hand. It can establish by law that the endowments will support only American cultural institutions whose weakening or destruction would mean the loss of irreplaceable treasures. These institutions—there are not that many—would be selected by the national council and would be the nation's indisputable best: The great museums, symphony orchestras, jazz ensembles, art schools, performing arts centers, ballet, operas and theater companies. In short, they would be the emblems of the honor that America gives to its major cultural institutions and of the importance it ascribes to them as instruments of aesthetic education. Congress also can (and should) stipulate that