

U.S. BUREAU OF MINES

• Mr. BENNETT. I wish to bring to the attention of the chairman of the Interior Appropriations Subcommittee a matter of great importance to the State of Utah—the matter of the impending closure of U.S. Bureau of Mines facilities throughout the United States. The facility in Salt Lake City will be closed and 115 jobs will be lost. The Salt Lake City facility has conducted valuable research in environmental remediation and water research. While I am disappointed that the Senate acceded to House demands that the Bureau of Mines be closed, I also recognize the long-term benefits resulting from the earnest efforts to reduce the budget deficit and downsize the Federal Government. And in recent weeks, a silver lining emerged in the cloud surrounding the closure of the Salt Lake City facility. Mr. President, the chairman will be pleased to learn that efforts are underway right now to make preparations to privatize the Salt Lake City Bureau of Mines facility.

I would be remiss if I did not commend the staff of the Salt Lake City facility for their tremendous efforts to find a viable alternative which will prevent the technical expertise which has been accumulated for years from going to waste. On their own initiative, several employees have prepared a list of options in light of the pending closure. The most promising option and the one that the people of Utah are the most excited about, would permit the privatization of the Bureau of Mines facility. An interested group of investors and the employees of the Bureau of Mines have been in close contact in recent weeks to work out the details. Sufficient funding has been secured and should the facilities be transferred to the State of Utah, the State would in turn take the necessary steps to ensure the continued operation of these facilities under a consortium of private and State interests.

Mr. President, the chairman knows, there is legislative language in H.R. 1977 which grants the Secretary of Interior the authority to convey without reimbursement, the title and all interest of several Bureau of Mines facilities to various State university and government entities. While the Salt Lake City facility is not mentioned directly, the language permits transfer of such facilities as the Secretary deems appropriate. May I ask the chairman if such a transfer would be appropriate for the Salt Lake City facility?

Mr. GORTON. The Senator from Utah raises a very good point. Of course the transfer of the Salt Lake City facility would be appropriate. From what the Senator from Utah has explained to me, this is a unique opportunity to accomplish several goals at once. In keeping with our efforts to downsize the Federal Government, we can privatize certain government services, reducing the burden on the taxpayer while retaining essential research ca-

pabilities within the State of Utah. Such a transfer would permit the private sector, State university and the State of Utah to work in a cooperative effort to continue important environmental remediation research efforts.

Mr. BENNETT. Is it the chairman's understanding that this action should occur as soon as possible?

Mr. GORTON. It is my understanding that quick action is essential to the successful transfer of the facilities in Salt Lake City. While the fiscal year 1995 Interior Appropriations Act provides the Secretary of the Interior authority to transfer only certain Bureau facilities, both the House and Senate versions of the fiscal year 1996 Interior bill give the Secretary broader authority to transfer other facilities such as those in Salt Lake City. This authority was requested by the administration, is supported by both the House and Senate, and I have every reason to believe will be signed into law when action on the fiscal year 1996 bill is completed. I would urge the Bureau, the State of Utah, and other entities involved in the proposed transfer of the Salt Lake City facilities to work together in anticipation of this authority being granted. I will do everything in my power to see that the fiscal year 1996 bill is enacted in the coming weeks.

Mr. BENNETT. I thank the chairman for his explanation as well as the excellent manner in which has managed this bill. •

PRIME MINISTER YITZHAK RABIN

Ms. MOSELEY-BRAUN. Mr. President, like most Americans, I am shocked and grief stricken by the brutal and senseless assassination of Prime Minister Yitzhak Rabin. My heart grieves not only for Israel and its people for the loss of their leader, but for all peace loving peoples in the Middle East. Most especially, my heart grieves for the family of Prime Minister Rabin: his wife Leah, their children and their grandchildren. Our prayers and heartfelt sympathy are with them as they deal with the most personal of life's tragedies in the most public of circumstances.

Father, grandfather, husband, patriot, soldier, statesman, Nobel laureate and peacemaker, Prime Minister Rabin was a man of many parts. He dedicated his life to the service of his country and his life mirrored the evolution of his country. As a young man, his valor in the cause of freedom helped create the State of Israel. As an older man, he defended Israel in battle against enemies that threatened the existence of his homeland. As a senior statesman, he relentlessly pursued the cause of peace with Israel's adversaries with boldness and courage. Perhaps only a person hardened by the experiences of war could put aside anger over the past and undertake the risks of pursuing peace with hostile neighbors.

Mr. President, the world has lost a great leader, and we are all diminished

by his passing. He died before fulfilling his dream: peaceful coexistence with all Arab neighbors. The peace process must go forward. We, the world community, must continue and fulfill what he started. We cannot reward this act of extremism by halting or slowing negotiations. We must use this occasion to show all extremists capable of using violence that the killing of Prime Minister Rabin will not frustrate or stop the peace process. We must unite in this time of tragedy and pursue peace with renewed vigor and purpose.

Mr. President, when I heard the news of Prime Minister Rabin's tragic death, I was reminded of the death of another great martyr in the cause of Middle East peace, former President Anwar Sadat of Egypt. The similarities in their lives and the circumstances surrounding their deaths cannot be ignored. Both knew the hardships of war and understood the risks of peace. Both understood the need for honest dialogue with adversaries and the value of compromise. Both were slain at the hands of countrymen who were opposed to their making peace with former enemies. We would do well to learn from their boldness and courage.

Mr. President, Israel deserves our unqualified support at this time of national tragedy. We must make it clear to all who would be opponents and disrupters of peace that we intend to continue and fulfill what Prime Minister Rabin started: conciliation between Israel and its Arab neighbors. This legacy must not be lost with his senseless death.

Tzedek! Tzedek! Terdofel! Righteousness! Righteousness! you shall pursue!

ELI 1995 ENVIRONMENTAL LEADERSHIP AWARD

• Mr. CHAFEE. Mr. President, last month the Environmental Law Institute [ELI] met here in Washington to bestow its highest honor, the Environmental Leadership Award, to a well known, internationally respected businessman, lawyer, public servant and Republican, Mr. William D. Ruckelshaus.

As many of us in this body know, the Environmental Law Institute has played a major role in shaping environmental policy and law, here in the United States and abroad. Over the past 26 years ELI has provided thoughtful environmental information, research, and policy analysis to a diverse constituency of government, business, and academic interests. Publisher of the Environmental Forum and the Environmental Law Reporter, ELI remains a resource and the place to go for answering the toughest environmental questions.

ELI's 1995 annual award dinner opened with an interesting keynote speech by Dr. Stephan Schmidheiny. Dr. Schmidheiny, chairman of UNOTEC AG, a multinational industrial group, founded the Business Council for Sustainable Development and

serves as a director of ABB Asea Brown Boveri, Nestle, and Union Bank of Switzerland. Far from advocating throwing out the environmental baby with the bath water, Dr. Schmidheiny advanced the view that environmentalism makes good business sense. A businessperson himself, he highlighted positive and voluntary steps taken by the business community to live up to environmental responsibilities in an increasingly open and international setting.

Dr. Schmidheiny's remarks proved to be a fine introduction to ELI's 1995 honoree. Bill Ruckelshaus represents everything that is best about business, government service, and commitment to a clean and health environment. A former Director of the Federal Bureau of Investigation as well as Deputy Attorney General of the United States. Mr. Ruckelshaus served as the first Administrator of the Environmental Protection Agency. He is currently chairman of the board of Browning-Ferris Industries, Inc., one of the Nation's largest waste management companies. Bill's breadth of experience gives him a unique and valuable perspective on the current state and future of environmental protection in the United States. What's more, his career represents a shining example of the interaction between business and environmental protection.

Mr. Ruckelshaus' acceptance speech underscored the fundamental need for a clean environment and outlined a program to reform our current system of environmental protection. Most importantly, his remarks focused not on tying the Environmental Protection Agency's hands, but allowing EPA to get the environmental job done.

On recent criticism of environmental protection, Mr. Ruckelshaus concluded:

*** There is a cottage industry now writing books and articles stating that many of our environmental concerns are a lot of hokey. *** My answer to that is the same as it has been for a number of years. Our efforts in America are not about controlling a few chemicals or saving a few species. There are more than five billion people on this globe living in under-developed nations who want to live as well as we do materially. And they are going to try to get there. If they all try to get there in the same way we got there, wastefully, scattering pollution, unduly impacting our natural resource base, then all of us are in a world of trouble.

It was a thought-provoking speech from an advocate for both business and the environment—a perspective overshadowed lately by the rush to turn back the calendar to a day that has truly come and gone—when our resources were believed to be limitless and immune from harm. With several environmental statutes currently before the Congress for reauthorization, including the Safe Drinking Water Act, Superfund, and the Clean Water Act, his speech is especially timely. I congratulate Bill for receiving ELI's 1995 Environmental Leadership Award and ask that the text of his remarks as well as Dr. Schmidheiny's be printed in the RECORD.

The material follows:

STOPPING THE PENDULUM
(By William D. Ruckelshaus)

It is conventional for people receiving awards of this nature—for environmental leadership—to make some remarks in favor of the environment, which is usually taken to mean our current system of environmental protection. This might seem to be particularly desirable in a season characterized by the most violent anti-environmental rhetoric in recent memory coming from the Congress. For example, I believe at least one Member has compared the Environmental Protection Agency to the Gestapo. I don't think he meant that as a compliment. My cue as an awardee is to come forth and while away at the forces of darkness, vow to hold the line and protect our environmental progress at all cost and so on. But, at the risk of you taking back this fine award, which I do truly appreciate, I have to tell you that I am disinclined to do that tonight.

Here is why. We are gathered here to celebrate the twenty-fifth anniversary of the Environmental Law Institute. It coincides with the same anniversary of EPA. That's a period representing much of a working lifetime. Some of us have been in the environmental protection business in one way or another for at least that long, or longer, and we should be able to recognize certain repeating patterns. And so we do. We recognize, as perhaps the newer members of Congress do not, that the current rhetorical excess is yet another phase in a dismaying pattern. The anti-environmental push of the nineties is prompted by the pro-environmental excess of the late eighties, which was prompted by the anti-environmental excess of the early eighties, which was prompted by the pro-environmental excess of the seventies, which was prompted. . . but why go on? The pattern is quite clear. The new Congress may believe that it is the vanguard of a permanent change in attitude toward regulation, but unless the past is no longer prologue, then as sure as I am standing here, the pendulum will swing back, and we will see a new era of pro-environmental lurching in the future.

So what is wrong with this picture? Aren't changes in emphasis part of the fabric of democracy? Yes, but in the case of environmental policy, these violent swings of the pendulum have had an unusually devastating—perhaps a uniquely devastating—effect on the executive agency entrusted to carry out whatever environmental policy the nation says it wants. The Environmental Protection Agency is now staggering under the assault of its enemies—while still gravely wounded from the gifts of its friends. That is an exaggeration: the Environmental Protection Agency, like the IRS, has no friends. As far as I can see, there is not coherent politically potent constituency devoted to making sure that the EPA can make the best possible decisions and carry them out effectively.

Currently, some members of Congress seek to stop the Agency from doing what previous Congresses have mandated it do by refusing to give it the funds to act. A little like cheering the launch of an airplane flying from New York to Los Angeles while giving it the gas to reach Chicago, and then decrying the crash in Iowa as further evidence of pilot ineptitude. And we wonder why trust in the EPA has eroded.

The impact of all this on the agency is devastating. EPA suffers from the battered agency syndrome. Domestically, it is hesitant, not sufficiently empowered by Congress to set and pursue meaningful priorities, deluged in paper and lawsuits, and pulled on a dozen different vectors by an ill-assorted and antiquated set of statutes. Internationally, it

is nowhere near the position it should occupy in global environmental debates as the representatives of the largest industrial nation and one with an enviable track record of environmental improvement: in short, it is an agency paralyzed by the conflict between its statutory mandate and sound public policy, and a public debate which erroneously depicts the social choices in apocalyptic terms.

And this is why I do not wish to join the rhetorical firing line on either side, neither to slash at EPA for doing what Congress told it to do, nor to argue for increased resources and for a defense in the last ditch on behalf of the current array of legislation and regulation. Instead, I would like to take all of us, in a sense, above the smoky battlefield, as in a balloon, and discuss, in the relative quiet of the upper, cleaner air, what is really wrong with the American environmental system and what to do about it.

The first step, as in all recovery programs, is to admit that the system is broken, severely broke, broken beyond hope of any easy repair. Repairing it is going to take serious effort, hard work—hard work—hard work, by a great many people, over an extended period of time. Privately, many of you in this room on all sides of this debate have admitted that to me many times. Despite the current rhetoric in this city, there is no simple fix, no silver bullet; just the opportunity to do a lot of good for our environment and by example to the environment of every place else.

Once we acknowledge that, we can dismiss the strawman problems that those simple fixes are supposed to address, and penetrate to the underlying actual defects. The currently prevailing myth, of course, is that EPA's problems are essentially bureaucratic. "A bureaucracy run amuck," is how it's usually put. And the illustrative text is the EPA horror story, usually featuring an arrogant bureaucrat from the nest of vipers inside the Beltway making some hardworking honest fellow out in the pure heartland of America do something utterly stupid. To accept this view, we must imagine the apocryphal bureaucrat wandering freely through fields of policy and musing, "What can I do today that will really drive them up the wall? If they think they've seen dumb, wait until they see this!"

And naturally, the conclusion from this view of things is that if you can somehow tie up EPA, strip it of resources, burden it with even more legal challenges, you will have gone far towards solving the problem.

Well, in fact, the image of EPA as an overweening bureaucracy is miscast. In fact, if anything, it is an underweening bureaucracy. Any senior EPA official will tell you that the agency has the resources to do not much more than ten percent of the things Congress has charged it to do. In addition, they are not empowered to allocate that ten percent so as to ensure a wise expenditure of the public treasure. The people who run EPA are not so much executives as prisoners of the stringent legislative mandates and court decisions that have been laid down like archaeological strata for the past quarter-century.

Having said that it is also fair to say that we should not be surprised if, having been given Mission Impossible, having been whipped both for doing things and for not doing things, having been prevented from using their judgment like ordinary folks do, the people of EPA get insensitive, thick-skinned and defensive. This is where many of those "can you believe this one" horror stories originate. I have traveled to the Hill with senior EPA officials and listened to

Members of Congress rail away about the unreasonable things foisted upon their constituents. Often it was the case that the complaints were justified; and when I asked these EPA officials privately what they thought about the Congressional laments, the response was usually something like, "That's just the role he's forced to play; he's been going on like that for years" or "It goes with the territory". There was often little sense that this expression of Congressional outrage was a problem to be solved by the application of intelligence, cooperation, and creativity. It was like a game, where the rules were crazy and nobody was allowed to win. It is therefore no wonder that EPA representatives occasionally act like the Red Queen in "Alice" when they venture beyond the Beltway to try to do all the impossible things that Congress has told them to do in some 10 massive, separate and uncoordinated statutes. I am not trying to excuse irrational behavior. I'm trying to get us all to understand its root causes.

How have we come to this pass? EPA was launched on a huge wave of public enthusiasm. Its programs have had an enormous and beneficial effect on all our lives. The gross pollution we were all worried about twenty-five years ago is either a memory or under reasonable social control. Why is EPA now the agency everyone loves to hate?

Well, I think there are four reasons, three built into the very core of EPA, and one that results from the peculiarities of our times.

First, there is the belief that pollution is not just a problem to be worked out by society using rational means, but a form of evil. And I think in the early days of environmentalism this was a plausible idea to many of the people drafting the initial set of laws. Industry at that time didn't take environmental degradation seriously, and there was considerable bad faith shown, lies, cheating, and so on. I further think it can be demonstrated that things have changed now, in two respects. First, nearly all major industrial leaders know that environmentalism is here to stay, and so firms wish to avoid charges that they are insensitive polluters, just as they wish to avoid defects in quality. The customers don't like it, and believe it or not, paying attention to the environmental impact of technology or processes benefits the bottom line and therefore has become a permanent factor to be weighed by corporate America.

In addition, the most significant threats to our environment now seem to lie, not with major industrial sites, but in the habits of we ordinary Americans: we like to drive big, powerful cars, use a lot of electricity, generate a lot of waste, enjoy cheap food, live in grassy suburbs and collectively send pollution in massive amounts to often distant airsheds and waterways.

The laws, and the enforcement policies that follow them, are still looking for that evil polluter, and in the same place—major facilities. Since the relative threat from these has decreased, EPA is ever more like the drunk looking for his keys under the lamp-post. More effort, more irritation, less achievement to show.

This phenomenon is directly related to the second major flaw—the commitment to perfection built into the language of our major statutes. In addition to the mistaken belief that absolute safety was both possible and affordable, the theory was that if standards were set extremely high, sometimes on scant scientific evidence, and an extremely tight time frame was set to achieve those standards, then there would be constant pressure on industry and on EPA to make continuous improvements. The nation was committed to a sort of pie in the sky at some future date, a date extended further and further into the

future as inevitably EPA missed nearly every deadline set for it. Each time a new generation of clean technology came into use, the response from EPA had to be. "That's great—now do some more", whether that "more" made any sense as a priority or not. It can be argued that the present system has produced significant environmental benefits. True it has; the environment is a good deal less toxic than it once was.

But look at the cost. Even though the environment has improved, EPA and the environmental community are pervaded by a sense of failure. In fact, that failure was fore-ordained by the promise of an unattainable future. In addition, pursuit of perfection inevitably leads to the pursuit of trivialities, which yield more of those famous EPA horror stories. The business of environmental protection devolves into an endless debate about arcane scientific procedures—one in a million or one in a billion. The important moral force of EPA is frittered away, and still we cannot summon up the energy to deal with real environmental problems. We cannot direct our attention outward to help the global problems crying out for assistance from the most powerful nation on earth. I do not believe this is what we started out to do twenty-five years ago.

The mission impossible of pursuing perfection leads directly to the third quandary—the devolution of all important environmental decisions to the courts. As is well known, nearly every major EPA decision ends up in the judicial system, one result of the determination of the early drafters of our legislation, who were—no surprise here—environmental lawyers, to allow the most liberal provisions for citizen suits. The result has been that most of the environmental protections that are actually—rather than theoretically—put into place are the result not of the deliberations of scientists or engineers or elected representatives or responsible appointed officials, but of consent decrees handed down by judges. A grim irony or poetic justice, depending on your point of view, is the current proposal by the majorities in the House and Senate to allow even more opportunities to block action by way of lawsuit, this time favoring those who would stop EPA action.

I hope I don't offend when I say that when we lawyers get involved, things tend to slow down a bit. That means both that environmental improvement is delayed, sometimes indefinitely, and that all involved in these drawn-out proceedings face crippling, costly uncertainties. The transaction costs of any environmental progress under these conditions are often an appreciable fraction of the costs of the substantive environmental remedies. Superfund is the great exemplar here, a program designed to clean up abandoned dumps that somehow transformed into a program in which the only people allowed to clean up are the consultants and the litigators.

Yes, we built this system, you built it and I built it, that moved America along toward a cleaner environment, but the system is now broken and must be repaired, in some cases, in the teeth of the immediate interests of many in this room. That's one reason why repair will be incredibly hard.

Another and fourth reason is that peculiar quality of our times I mentioned earlier, which is the nearly steady thirty year erosion of trust in all public institutions, particularly those situated here in our nation's capital.

You've all read the polls. People don't trust government, but they don't trust the press or business either. We are down to Walter Cronkite, Mother Teresa and Colin Powell.

At the absolute epicenter of this institutional hell of mistrust is the EPA. This is largely because advocates for address to our environmental problems and their allies in Congress feared for the implementation of their program in the event of a hostile administration, and their antidote was to write stringent mandates, restrictions, and time-tables into the EPA's basic statutes. As I've tried to argue here, tying the Administrator's hands in this way does not necessarily advance the achievement of substantive environmental goals; paradoxically, it may even retard them. Promising unachievable perfection simply assures trust eroding failure. And, of course, now we have a Congress that has so far shown itself unwilling to do the hard work necessary for meaningful reform. Instead, it is intent on further snarling a system it sees as another example of liberalism gone wild.

I don't think universally applied risk assessment or cost benefit analysis or refusing to fund mandates from previous Congresses that this Congress doesn't like will pass both Houses and be signed by the President. Nor do I believe the Congress could override a Presidential veto of these approaches to reform. I believe the result will be the much maligned gridlock. In fact, we may already have reached it.

We have to assume that at some time in the future—probably when this current version of gridlock is more apparent—we will be able to deal seriously with the reform we all recognize is needed. What would that reform look like?

First of all it would have to be effective. It must be able to address those problems that a consensus of knowledge and research has identified as the worst environmental risks. This requires an administrative structure capable of marshaling resources to address those problems, in whatever media they occur, and the discretion and flexibility to allocate those resources effectively. This means that Congress is going to have to return to its Constitutional role of setting national policy and providing vigorous oversight, and leave the EPA to get on with implementing that policy, free of direct supervision from 535 administrators.

Second, reform has to produce efficiency. It has to provide the maximum reduction of risk to human health and the environment per dollar invested in controls or incentives. This implies, first, a vast simplification of environmental rule-making. We cannot go on with a system in which the physical volume of the paper necessary to establish a permit approaches the physical volume of the waste to be controlled. Also, some finite well-understood limits should be established for what our society is prepared to pay for a certain level of environmental health, together with some reasonable relationship between what is paid and what we get for it. In other words, environmentalism has to leave the realm of quasi-religion and take its place among the realities of the state, along with national security, social welfare, health and justice—pretty good company, by the way.

Third, the system must better reflect the essential democratic values of our society. The day is past when a dozen or so youngish people can sit in a windowless room in Waterside Mall in Washington D.C. and after a year or so, in the last stages of exhaustion, emerge with a set of absolute commands for a major economic sector. We need a system that reflects the real choices of the American people as to what levels of protection they desire locally for local problems, and that builds upon the basic good sense of communities in balancing their environmental and other social values. Needless to say, no one can be allowed to clean up by loading pollution on to a neighbor, and so the new

system has to be carefully designed to be consistent with regional, national and global environmental goals.

Finally, the system has to be fair. It cannot impose an undue burden of either risk or expense on any one portion of the population, or allow the transfer of risk from one place to another without fully informed consent. It cannot, for example, expect private landowners to carry the full cost of species protection, nor can it expect farm workers or people living near industrial plants to suffer inordinate risks for the economic benefit of the general population.

It hardly needs saying that no petty adjustment of the current set of laws can easily achieve these objectives. The nation needs a new, single, unified environmental statute supervised by a single authorizing committee and a single appropriations committee in each house of Congress. Not the 12 laws and 70 committees we now have. I am fully aware of the political difficulty of achieving this nirvana, but it is no more vaulted in aspiration than zero cancer risk with a margin of safety below that—an impossible assignment EPA has labored with for decades.

How to get there is, of course, the problem. The kind of rhetoric we are seeing now on both sides of the debate will not help, nor will the careless budget slashing in which the current Congress is indulging. It almost seems as if many Members of Congress believe that environmental protection is nothing but an aspect of liberalism, and since liberalism is discredited, we can happily return to converting every environmental value we have left into ready cash. In my view, like some of the Democratic Congresses of the past, the Republican Congress is too often promising more than can be delivered, and thereby contributing to the very lack of trust in government that got them elected in the first place. The result of all this could be a cordless bungee jump named Ross Perot.

What one piece of a right answer could look like is slowly emerging from local experiences in this country and from the experience of some other nations. It involves a new sort of consensus process, in which all the significant stakeholders are brought together to hammer out a solution to a set of environmental problems. This approach is particularly applicable to problems confined to specific geographic regions. The critical thing about such a process, and the only way to make it work, is that all participants have to understand that the process is the entire and exclusive theater for decisions, therefore Congress and other legislative bodies have to mandate the process. There will be no appeal, and no way to weasel out of the deal. This is critical; no consensus process can survive the idea that one of the parties can get everything it wants—without compromise—at some other forum.

A process of this type has been used successfully by the state of Washington in working through the competing interests of timber companies, environmentalists, Indian tribes and local communities regarding the cut of timber on state lands. On a large scale, the Netherlands now runs its entire environmental program out of consensus groups covering every major industry and district. Industries can meet national guidelines in just about any way they choose, but they have to play the game. The Dutch call the national plans developed through such processes "coercive voluntary agreements."

Whether a process that seems to work to work in a small, crowded nation with a long culture of cooperation in the face of danger would work here in a big, mostly empty country, where the tradition is more libertarian, is an open question. But somehow we have to get past this situation where EPA

is out there in the boat and everyone else in on the shore jeering as the ship of state floats by. Somehow, we have to use whatever civic consciousness and sense of community we have left to bring all the interests into the same boat and give them an oar. Don't jeer—row! Because if EPA sinks while we watch, we all get pulled under.

A lot of people don't believe this; there is a cottage industry now writing books and articles stating that many of our environmental concerns are a lot on hokey. If that's true, why do we need an effective EPA? My answer to that is the same as it's been for a number of years. Our efforts at environmental improvement in America are not about controlling a few chemicals or saving a few species. There are more than five billion people on this globe living in under-developed nations who want to live as well as we do materially. And they are going to try to get there. If they all try to get there in the same way we got there, wastefully, scattering pollution, unduly impacting our natural resource base, then all of us are in a world of trouble.

Supposing that's not true? Supposing somehow, magically, the global development process will take place and not cause all the terrible things to happen to the environment that some predict? Well, I for one, would be delighted if that were the case. Twenty-five years from now, when they come by the nursing home and say "Ruckelshaus, you were a damn fool about ozone depletion or fisheries destruction," I'll just smile. Meanwhile, you can call me a conservative old Republican, but I don't care to bet the future of the country, and the planet, and the free institutions we're worked so hard to preserve, on that scenario being true. We need to take the prudent steps necessary to bring the major global problems under control, and we need to lead the world in that effort—because, you know, there is really no one else—and to do that we need effective, efficient and fair governmental institutions, among which is EPA. And we have to begin the hard work of fixing it, or suffer the incalculable consequences of our failure.

REMARKS BY DR. STEPHAN SCHMIDHEINY

Thank you. I was extremely relieved to learn that it is not part of my assignment tonight to say a lot of nice things about Bill Ruckelshaus. I have known him too long, and have so much admiration for his person and his achievements in all his many fields of endeavour that if praise were my assignment we would be here for days.

But I must take this opportunity to thank Bill for the leadership he showed when we were putting together the Business Council for Sustainable Development's report to the 1992 Earth Summit. He always offered compelling logic, and always rallied our less courageous members.

He also gave me an important word of advice on an early draft of the report, in which I had begun with all the usual environmental gloom and doom as a rallying call to action. Bill took me aside, and in the confidential tones an uncle might use to explain sex to a backwards nephew, he said: "Stephan, don't do it that way. Business people stop reading immediately when they come upon bad news. To seduce business people, you have got to start by telling them how good things are going to be. Only then do you add a few side problems, such as the loss of the world's forests, oceans, animals, air and ozone layer."

Now, many of you are lawyers, and I know that lawyers are different. You not only have a higher tolerance for bad news, you actually thrive on it, and make your livelihoods out of it. Even so, I shall start with good news anyway.

The good news is that in many parts of the world business is beginning to live up to its new responsibilities. As markets become more open and more international, business is ever more obliged to see that its activities work for, rather than against, the goal of sustainable development.

The World Business Council for Sustainable Development now consists of more than 120 companies and is still growing. We have spun off national BCSDs in Asia, Eastern Europe, and throughout Latin America. The Councils have been involved in a broad spectrum of activities. The WBCSD has developed a "Joint Implementation" programme in which industrial and developing world companies are cooperating to reduce greenhouse gases in the most internationally cost-effective ways. The BCSD of Columbia, composed of large companies, is showing small companies in such inherently dirty business as tanning and metal plating how they can save money by producing less waste and pollution.

This is a perfect example of the WBCSD paradigm of eco-efficiency—adding ever more value while using ever less resources and producing ever less waste and pollution.

There are many reasons why companies should not get involved in eco-efficiency. First, many governments still actually subsidize waste—the waste of energy, water, forest products, pesticides and fertilizer. Second, even if not subsidized, many environmental resources are priced too low. This is especially true of pollution sinks—such as rivers, soil, and the atmosphere. Thus the act of polluting is just not as expensive to companies in the marketplace as it should be.

I think that these disincentives are fading. I think there are a number of trends pushing companies toward increased eco-efficiency. Taken separately, no single one is convincing. Taken together, they become a powerful force.

In many parts of the world regulations are getting tougher and—more important—enforcement is getting tougher; more and more CEOs are finding themselves in court for non-compliance; more use is being made of economic instruments—taxes, charges and tradable permits—to encourage companies towards constant improvement; banks are more willing to lend to cleaner companies; insurers are more willing to insure cleaner companies; investors are increasingly interested in investing in cleaner companies; the best and the brightest graduates are more willing to work only for cleaner companies; "green consumerism" is becoming more mature, switching from brand loyalty to company loyalty; the general public feels a growing right to have a say in what our companies do; the search for eco-efficiency can motivate a company and its employees to become more innovative on many fronts; eco-efficiency is an excellent avenue for introducing the concept and the practice of Total Quality Management (and indeed it is hard to talk about Total Quality Management without including environmental quality in terms of eco-efficiency); media coverage of pollution and environmental liability problems is becoming more sophisticated—and thus harder for companies to shrug off; many of the people to whom the company directors are related (spouses, children) are becoming more concerned and sophisticated about environment and social issues.

Given the recent antics of the U.S. Congress, you may be surprised to hear me list tougher regulations as a present trend. I shall let Bill Ruckelshaus comment on the activities of the lawmakers here. But I am convinced that the American people will ultimately prove unwilling to return to a time

when U.S. rivers caught fire and whole towns had to be abandoned.

Internationally, a recent survey of multinationals by the Economist offered a long list of examples of successful companies involved in eco-efficiency and community development activities: Western chemical companies becoming vigilant in policing the industry to decrease pollution scandals; computer companies pushing for higher environmental standards; accountancy firms helping post-communist countries set up modern accounting systems; and oil companies guaranteeing to build schools and airports and act as green watchdogs in return for drilling rights. All of these activities are so obviously investments in present and future business that, the survey concluded, "it seems that behaving like good corporate citizens makes eminent business sense".

It also noted that multinationals tend to help the countries in which they operate by using international standards wherever they go. "On the whole they find it easier to operate one set of rules everywhere in the world. * * * So multinationals clamor for more global—and usually higher—standards partly because it makes their lives easier, partly because it imposes the same standards on their competitors."

The general philosophy at the WBCSD is that since trends are moving towards greater eco-efficiency, the smart company will back such trends, encouraging governments where they need encouragement, while getting their own corporate houses in order to be ready as eco-efficiency becomes the norm rather than the exception.

This process is reaching into unexpected parts of the business world—such as the financial community. I recently helped to lead a WBCSD Working Group on Financial Markets and Sustainable Development. We had been worried that the financial markets, which much be the engine of any kind of development, might be inherently opposed to the goal of sustainability. We worried that they encourage short-term thinking, that they under-value environmental resources, and that they rigorously discount the future.

Our work—which will be published as a book early next year—found that these fears were largely justified. But we also found a surprising amount of encouraging activity in a financial community. Bankers are moving beyond concern for Super Fund liability to realize that a loan to a dirty company is simply becoming a more risky loan—as dirty companies have more difficulty being financially successful. The fact that many banks have signed a statement committing themselves to support sustainable development is not particularly impressive. That the signers have recently hired an NGO to report on how they are honouring their commitment—now that is impressive.

Insurance companies have become sensitized by liabilities for contaminated industrial sites and by losses due to what looks to them like the first financial effects of global warming. Conservative companies like Munich Re and Swiss Re are—in their demands for government action to limit climate change—sounding more radical than the more militant environmental groups.

Even those professions with reputations as fonts of boredom and conservatism—the accountants and the auditors—are working on new forms of accounting that account for the nature as well as capital.

So, we have dealt with industry: it is improving. We have dealt governments: by advising them to take advice from the more progressive businesses. We have even found cause for hope among the financial community.

That leaves the lawyers. What can be done with the lawyers? I am willing to frankly

state that in my personal opinion the greatest threat to the competitiveness of US business is not low foreign wages or Oriental inventiveness; it is the US legal system. First, it adds more and more every year to the cost of doing business. As a whole, it represents a tremendous transaction cost to the US economy and society.

Second, the laws covering the different sectors and concerns—banking, business, energy, agriculture, transportation, taxes—have grown up in such an ad hoc manner that they now positively war with one another. And this, of course, only fans the flames of enthusiasm for litigation. I am often advocating the use of common sense in addressing environmental challenges. At a time when payments to the legal profession routinely exceed those to victims or the actual costs of clean-up, then a move towards more common-sense approaches would appear timely.

I am criticising the US system because I stand on US soil before US lawyers. We in Europe also suffer from legal adhocism or "piecemealism"; though I do insist that you in the US continue to lead the world in money-wasting litigiousness, as you lead the world in so much else. And I admit that, in this instance, we are genuinely afraid that you may become successful exporters of the another US product—your legal system.

I do not offer an answer. But I have been deeply and profoundly impressed with the work of Bill Futrell and the Environmental Law Institute in what they call "sustainable development law". I hope we in Europe can learn from this ELI work. We too need to go back to legal basics, to—as Bill Futrell suggests—organise laws around human activities. We need to develop pollution laws and resource laws that operate in harmony. This would not only produce a more common-sensible set of laws, it might even decrease the growing tendency to seek complex legal solutions to simple business problems.

While speaking of the work of the Institute, I want to acknowledge the help it gave to both the BCSD and the International Chamber of Commerce in these groups' preparations for the Earth Summit.

This occasion tonight has been a great pleasure for me—to have been asked by a most prestigious institution to honour a man not only of great prestige, but of great wisdom, warmth, and incisive humour. Maurice Strong told me that whenever the Brundtland commission reached a completely hopeless impasse, Bill Ruckelshaus would begin slowly in his deep growl of a voice: "Well, you know, this reminds me of the time * * *". He would tell a funny, carefully considered story; the tension would collapse, and cordial progress would resume.

It is a great joy to be here with you all, and it is always a wonderful treat to be in the same room with Bill Ruckelshaus.●

Mrs. BOXER addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

NO BUDGET—NO PAY

Mrs. BOXER. Mr. President, here we are in day four of a partial shutdown of the Federal Government, and the only Federal employees that are not feeling any pain regarding their paychecks are the Members of Congress. We are treated differently, and that is wrong.

I know that twice the U.S. Senate passed my no-budget—no-pay amendment, and we have done it with bipartisanship. We have done it with Senator DOLE and Senator DASCHLE, with the

Republican leadership and the Democratic leadership. I am very proud of that. Congressman DURBIN is trying to get this through on the District of Columbia appropriations bill, and we are very hopeful that will occur. But at this point, it is stymied.

I think it is shameful. I think it is embarrassing. I think it is a height of hypocrisy that the Members of Congress, who have caused this problem because we cannot figure it out, are still getting our pay. And I am very pleased that Senator SNOWE has introduced a bill. We have worked on it together, and we are trying very hard to bring it forward because the other efforts of the Senate are not enough at this time.

The problem we face is that one of the amendments we passed is on the District of Columbia bill, and that is stuck. The other one we passed is on reconciliation, and that is not here yet. We continue to get our pay while all other personnel—and Senator HARKIN pointed this out to the Senate yesterday—are not getting their pay.

So I would like to ask unanimous consent that I send to the desk now for its immediate consideration a no budget-no pay bill that will treat the Members of the Senate and the Members of the House exactly like Federal employees, and I hope there will not be any objection because we are on record before and I would like to take us on record now in a separate bill because the American people are disgusted with this situation as, indeed, they should be. And, yes, there are colleagues who are giving their pay to charity. There are colleagues who are putting their pay in escrow. And some are not even talking about it. That is very, very noble. But that does not address the institutional failure here.

So I ask unanimous consent to take up the no budget-no pay bill right now.

Mr. COATS. Mr. President, reserving the right to object, on behalf of several Senators on both sides of the aisle who were informed on the last vote that that would be the last vote and have therefore left the Senate Chamber, without commenting on the merits or demerits of the proposition put forward by the Senator from California, I will object on behalf of the Senators who are absent.

The PRESIDING OFFICER. Objection is heard.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana.

UNANIMOUS-CONSENT AGREEMENT—CONFERENCE REPORT ON S. 440

Mr. COATS. Mr. President, I ask unanimous consent that at 10 a.m. Friday, November 17, the Senate proceed to the consideration of the conference report to accompany S. 440, the highway system designation bill, and that it be considered under the following