

The fact is that the House of Representatives overwhelmingly passed legislation that would have prohibited all employers—not just Federal contractors—from using permanent replacement workers. This body never got the chance to vote on the striker replacement legislation. A majority of Senators were ready to enact a bill that prohibited all employers from using permanent replacements. But a handful of Senators from the other side of the aisle filibustered that legislation. They never permitted it to come to a vote. Mr. President, that happened not once, but twice. If Congress has expressed any view on this subject, it has expressed overwhelming support for the President's ban on the use of permanent replacements.

Mr. President, this Executive order is a lawful and necessary exercise of the authority delegated to the President by Congress to effectuate the purposes of our Government's procurement laws. It is consistent with past Presidential practice and legal precedent. This Executive order is an appropriate exercise of the President's Executive authority.

Mr. President, we have over these last few days spelled out in careful detail the legal justification and rationale for the issuing of the Executive order. We have analyzed the impact of the Executive order and reviewed what has been happening in terms of labor-management relations over the period of the last 10 or 15 years. We have drawn conclusions based upon those strikes and what is happening in the real world in terms of labor-management relations, about how the public's interest would be served by this action.

I believe it is sound and wise public policy. I hope that the Senate will uphold it.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. KEMPTHORNE). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. CONRAD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. CONRAD. Mr. President, I ask to be able to proceed as in morning business.

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

The Senator from North Dakota [Mr. CONRAD] is recognized.

(The remarks of Mr. CONRAD pertaining to the introduction of S. 542 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. CONRAD. I thank the Chair.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will please call the roll.

The bill clerk proceeded to call the roll.

Mr. DASCHLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

EMERGENCY SUPPLEMENTAL APPROPRIATIONS AND RESCIS-SIONS ACT

The Senate continued with the consideration of the bill.

Mr. DASCHLE. Mr. President, I want to commend the distinguished Senator from Massachusetts for his eloquent and passionate leadership on this issue. Let me also commend many of my other colleagues: the Senator from Iowa, the Senator from Minnesota, the Senator from Illinois, and a number of others who have participated over the last several days in this debate.

No one should misunderstand what this debate is all about. Obviously, if Senators have heard any of the speeches made by the colleagues whom I have just mentioned, there can be no misunderstanding. Quite simply, it is about fairness. That is the issue.

It is fairness for American working families, in a very important set of circumstances: the workplace. It is fairness in reaffirming their right to strike, fairness in restoring a fundamental balance between workers and management, and fairness in halting the practice of requiring striking workers to pay taxes for salaries of workers who replace them.

That is really what this issue is all about. The President understands that. He understands he is on solid ground in issuing the Executive order as he did a couple of weeks ago. The order is quite simple. It says to do business for more than \$100,000 with the Federal Government, you cannot hire replacement workers in the case of a strike. That is all it says. A person simply cannot do what the law of the last 60 years has said could not be done.

This President is doing exactly what President Bush did in 1992. President Bush required unionized contractors to notify employees of their right to refuse to pay union dues. He was not challenged by Republicans when he issued that particular Executive order. President Clinton is doing also what President Carter did in 1978, when he issued an Executive order that directly affected the lives and livelihood of thousands of working families by limiting what Federal contractors could agree to in collective bargaining.

In fact, this President is doing exactly what President Roosevelt, President Truman, Presidents Nixon, Johnson, Carter, and Bush have all done in the past. In this case, he has shown Presidential leadership in protecting the rights and the spirit of the law for all working families.

The President is well within his rights, in my view, for at least three good reasons. First, as I indicated, there is ample precedent in virtually every past administration for the past

60 years. Second, he is supported by the American people. More than 60 percent of the American people, according to recent polls, have shown that they oppose the use of permanent replacement workers in the event of a lawful strike.

The American people understand the question of fairness. They appreciate the need for worker-management balance. The American people support actions and laws to guarantee that balance, which is really what the Executive order was designed to do.

And third, this action taken by the President is consistent with the National Labor Relations Act itself, signed into law, as I said, by President Roosevelt about 60 years ago. In fact, this year, we will celebrate the 60th anniversary of the National Labor Relations Act, an act that fundamentally appreciates the balance in the workplace, that understands the need for the right to strike, that underscores the importance of providing opportunities for workers and management to work out their differences.

That was the law that recognized the need for American workers to form organizations to bring the balance back into the workplace. It has been a balance that, frankly, has worked well for 45 years, a balance that has brought about better wages, a balance that has brought about better working conditions, better retirement security, better productivity.

But it is a balance that was destroyed by the actions taken by President Reagan during the PATCO strike of 1981, when the President of the United States hired permanent replacement workers. His action sent a green light to every business in the country. Virtually all of the work of 45 years under the National Labor Relations Act was lost with that action, and for 15 years now, Democrats in Congress, and others, have attempted to pass the Workplace Fairness Act to restore the balance that we had for those 45 years, an act which very simply puts into law what we believe was there all along: a prohibition of the hiring of permanent replacement workers during a strike; a restoration of the balance that we had in labor-management relations up until 1981.

It is important to note that a majority of Congress has supported the Workplace Fairness Act. There have been more than 50 votes for it on those occasions when the legislation was brought before this body, and were it not for a minority that kept it from being passed, it would, in fact, be law.

So whether it is law or whether it is an Executive order, this clarification is long overdue and extremely important to all working families. The right to organize, the right to bargain collectively is essential to American workers. As history has shown, the right to strike is the right to be taken seriously. The right to strike is the only leverage workers have when bargaining with management.

As economically painful as it may be for workers and their families, resorting to a strike is sometimes the only way to resolve a labor dispute. But when employers are free to replace striking workers, that leverage disappears and the imbalance destroys any hope of meaningful conflict resolution.

We have seen it in the precipitous drop in the number of strikes over the past 20 years. There are nearly half the strikes in the early 1990's that there were in the 1970's, and the number of union members has also declined.

The attack on this Executive order is part of a well-orchestrated effort to dramatically reduce the Federal role in workers' security. This effort ranges from calls for the elimination of the Federal minimum wage law, to proposals to repeal the Davis-Bacon Act, to efforts to minimize the regulation of workplace safety. These efforts are orchestrated to continue the rollback of the progress we have made for decades under the auspices of the National Labor Relations Act and other important labor legislation. As the rollback continues, while unions are threatened, the American worker and working families have seen their incomes and the level of job benefits plummet. In constant dollars, wages have now declined by more than 10 percent in 10 years. Wages have actually gone down by more than a dollar an hour since the 1970's. Moreover, far fewer workers have health insurance benefits or retirement benefits than they did back then.

Without the right to strike, workers continually lose the right to negotiate. Without the right to negotiate, they lose the right to benefits, benefits on which they and their families depend.

By taking this action, the President is simply saying, "If you're going to bid for Federal tax dollars on a Federal contract, all we ask is that you live up to the intent of the National Labor Relations Act. If there is a strike, we want you, the company, to resolve it in a responsible way. We want you to renounce the practice of hiring permanent replacements."

Working families are counting on us to support the President. This is a very important vote for them and for the future of labor law in this country. A vote against cloture is a vote for working Americans at their time of greatest need. It should also be a clear sign of our desire to reverse the long downward slope of economic security for all working families. There is much which must be done, including the passage of meaningful health reform during this Congress. Hopefully, we can do that and many other things to restore the kind of security and confidence that working families must have if they are to look to the future with any more optimism than they can right now.

But this is the place to begin, on this vote, on this important issue, to send the kind of clear message: that we understand the importance of balance,

that we understand the importance of fostering meaningful negotiations between workers and their employers, that we understand the right to strike, that we understand the importance of a law that has now been on the books for 60 years, and that we restore the kind of equality in the workplace that workers now say is even more important than it was back in 1935.

So, Mr. President, I hope that we can defeat this cloture motion and send the kind of message that I know Republicans and Democrats want to be able to send to working families. And that is: we appreciate your plight, we appreciate your need for security, we appreciate your need for more confidence in the future than you have right now.

I hope that all Senators will understand that message and support us in our effort to defeat cloture on Wednesday morning.

With that, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BUMPERS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. CRAIG). Without objection, it is so ordered.

The Senator from Arkansas is recognized.

(The remarks of Mr. BUMPERS pertaining to the introduction of S. 545 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. GRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida.

RETURNING TO STATES RESPONSIBILITY FOR COMPLEX ISSUES

Mr. GRAHAM. Mr. President, I first would like to commend our friend and colleague, the Senator from Arkansas, for another outstanding statement on a cause that he has led for many years, and I hope, I say to the Senator from Arkansas, that we are close to the time when your long walk will reach its destination. I agree with the comments that you have made today as to the fairness and the rationale of moving forward as the Supreme Court has now allowed us to do to sanction States to impose this sales tax on mail order businesses.

But, Mr. President, I suggest that there is another reason why this is an imperative at this point in time. We are soon to consider a series of proposals that will have the effect of devolving back to the States, returning to the States significant responsibility for some of the most complex domestic programs that we have in our Nation, programs, in some cases, in which the States have had current involvement, such as the Medicaid Program, some programs in which the Federal Government has in the past played a priority

role, such as welfare, and others that are mixed.

If we are prepared to say that the States are able to provide the administrative machinery to carry out these complex domestic programs, I find it hard to say that the States should not be entrusted with the authority to make a judgment as to whether it is in the interest of their citizens to tax products that come in by mail order in a parity means with products that are purchased within the State itself, and that is essentially what the issue is with the legislation proposed by the Senator from Arkansas. We are not imposing the tax, we are authorizing the 50 individual States to make a judgment as to whether they believe it is in the interest of their citizens for those States to impose the tax.

I am also concerned, Mr. President, about what we are about to do to States, and I come out of a background as a very strong believer in the State Government sensitivity to their people, to their capability to operate programs effectively and efficiently and to their innovative capabilities. But the States also are not alchemists, they do not have the ability to take stones and rub them and convert them into golden coins.

We are going to be sending substantial responsibilities back to the States with substantially less dollars than we had felt it was necessary to operate those if they were still under Federal obligation. As an example, in my State of Florida, the calculations are that if we send back Medicaid, the program that provides financing for indigent Americans, to the States, that over the next 5 years, the State of Florida will receive approximately \$3.5 billion less than the individual recipients of those funds would have received had we stayed with the current Federal program—\$3.5 billion less.

The State of Florida this year, from both Federal and State sources, will spend approximately \$5 billion on Medicaid. So we are talking about very substantial percentage reductions in funds available.

Why is it going to cost the State of Florida so much? In part it is because the formula that has been suggested is one that essentially says we take the status quo, we freeze it for 5 years and allow essentially a cost-of-living adjustment. In my State, we are a growth State which is adding a substantial population every year. For the last 15 years, we have grown at a rate in excess of 300,000 persons a year. Many of those 300,000 are in the high-target populations for Medicaid. In my State, about half of Medicaid expenditures goes for the elderly, primarily for long-term care.

So if we are going to say for the next 5 years we are going to freeze the program at a cost-of-living factor and not take into account growth in population, not take into account growth in those populations that are heaviest users of these programs, we are going