

I have made before, that I will continue to make.

Mr. PRESSLER. Some of the biggest corporations in America want a Justice Department review.

Mr. KERREY. I agree, some of the biggest corporations in America do not want the Justice Department review.

That merely makes the point that this is largely the kind of an argument driven by concerns of corporations who either want to do something or do not want somebody else to do something in this area.

The PRESIDING OFFICER. I notify all Senators that it is now 4:30. Based on the previous agreement, all discussion was to cease at 4:30.

Mr. EXON. I ask unanimous consent I be allowed to continue for 5 minutes as in morning business.

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

Mr. EXON. First, to be facetious, I would like to advise my colleague from Nebraska that unless he misspoke or unless I heard him wrong, he said something to the effect that he sees nothing wrong with the U.S. Senate. If somebody would take that out of context, it would be the end of his political career. It might be a good time to ask that be stricken from the record.

Seriously speaking, I had cited earlier the section on page 8. I would also like to cite an additional paragraph from page 89 of the same act which says "before making any determination under this subparagraph, the commission shall consult with the Attorney General regarding the application."

I would simply advise both of my colleagues that this Senator has had considerable experience over the years in dealing with the bureaucracy. We have dealt for a long time, and my colleague from Nebraska has been involved in many of the interstate commerce decisions.

In no case does the Justice Department have prior consideration with regard to the Interstate Commerce Commission. Therefore, I think the point the Senator from South Dakota is trying to make is that we are treating the various agencies of the Federal Government—either independent agencies or agencies under the direct control of the President—the same as we have treated them previously.

I think that my colleague from Nebraska makes a pretty good point. I think I understand his concern.

I just want to say, as one involved in S. 1822, the predecessor of this, and this piece of legislation, the original draft that came to the committee after our distinguished colleague from South Dakota became chairman, contained no information or statement whatever to help address the concerns that have been raised, and I think to some degree, legitimately raised by my colleague from Nebraska.

It had nothing in there at all. That proposal came that would have, for all practical purposes, ignored the Justice Department.

I have cited two instances where, during the cooperation, during the discussion, during the compromise that we worked very hard to maintain, we came up with something that I think would allow the Justice Department to play a key role.

One thing I would suggest might be wrong, to go back to the illustration used by my colleague from Nebraska, U.S. West, for example, wanted to go into some kind of a network they had not previously been allowed to do.

According to the feelings, unless they were spelled out in the law, they would have to act after the fact. Of course, that is the way they always do, act after the fact.

The problem that the company, in that particular situation, I am fearful, was that they would have two different agencies of the Federal Government to go to for clearance, the Justice Department on one hand and the Federal Communications Commission on the other.

I simply say that I happen to feel that the hard-driven compromise that was worked on this by members of the committee may not be perfect, but as both Senators know, I have never voted for a perfect law since I have been here.

I will study the matter over the weekend further. I appreciate the discussion I had with my good friend and colleague from Nebraska and my colleague from the State to the north, South Dakota, where I was born. Thank you both very much.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting treaties.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 9:48 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bills, without amendment:

S. 349. An act to reauthorize appropriations for the Navajo-Hopi Relocation Housing Program.

S. 441. An act to reauthorize appropriations for certain programs under the Indian Child Protection and Family Violence Prevention Act, and for other purposes.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-206. A concurrent resolution adopted by the Legislature of the State of Michigan; to the Committee on Agriculture, Nutrition, and Forestry.

"SENATE CONCURRENT RESOLUTION NO. 28

"Whereas, Michigan's farmers represent an important element of our state's increasingly diversified economy. American consumers purchase ever higher amounts of high quality fresh produce, and Michigan farmers continue to meet that demand. Fresh produce, by its nature, is also highly perishable with a relatively short shelf life compared to manufactured products. This characteristic of fresh fruits and vegetables imposes a burden on farmers unique to them. Specifically, the need to sell produce quickly means that fruits and vegetables may actually be consumed before the farmer can even receive payment. If farmers sell their goods to customers who are slow to pay or who fail to pay at all, farmers have few means to recoup their losses. Consumed goods can hardly be reclaimed, and the costs associated with pursuing a claim through the courts make this avenue futile in many cases; and

"Whereas, fortunately, our nation's farmers have been protected from such problems for sixty-five years by the Perishable Agricultural Commodities Act (PACA). Enacted in 1930, the PACA enforces fair trading practices in the marketing of fresh and frozen fruits and vegetables. It is administered by the Fruit and Vegetable Division of the Agricultural Marketing Service and allows farmers to ship their produce across our country in a timely fashion with confidence that they will be paid for their labor and goods. Should a contract dispute emerge, the PACA provides a means to resolve the problem without further burdening our court system; and

"Whereas, consumers benefit in many ways from this act. Not only can consumers purchase high quality produce fresh from the field because farmers may rapidly ship their goods confident that they will be paid, but other protections exist as well. For example, our schools, hospitals, and restaurants cannot be over-charged for produce because the PACA prohibits a produce dealer from hiding the true wholesale cost received by farmers for the fruits and vegetables; and

"Whereas, defenders of the PACA recognize that the act can be improved and have been willing to compromise in order to address the concerns of retailers. Unfortunately, legislation has been introduced into the United States House of Representatives that undermines efforts to preserve the PACA while improving it to correct certain shortcomings. HR 669 has been introduced into the 104th Congress to repeal the Perishable Agricultural Commodities Act. Rather than being a bill to eliminate unneeded regulations, this bill would impose a severe hardship on our state's farmers, and ultimately all people who purchase and enjoy high quality fruits and vegetables. HR 669, or any other bill that would repeal the PACA, must not be passed for the sake of our farmers and consumers: Now, therefore, be it

"Resolved by the Senate (the House of Representatives concurring), That we memorialize the United States Congress to reject any efforts to repeal the Perishable Agricultural Commodities Act; and be it further

"Resolved, That a copy of this resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, and the members of the Michigan congressional delegation."

POM-207. A resolution adopted by the Senate of the Legislature of the Commonwealth of Pennsylvania; to the Committee on Armed Services.

"RESOLUTION

"Whereas, Tobyhanna Army Depot in Monroe County provides employment for 3,500 Pennsylvanians; and

"Whereas, Tobyhanna Army Depot is the nation's most productive and cost efficient maintenance facility, having a highly skilled and technologically advanced mission of designing, building, repairing and overhauling a wide range of communications and electronics systems for the Department of Defense; and

"Whereas, the closure of Tobyhanna Army Depot could result in the termination of not only those jobs on the operating base, but also hundreds of base-related jobs and the loss of thousands of dollars in total income; and

"Whereas, this Commonwealth has lost 11.5% of all defense jobs eliminated in the United States as a result of the Defense Base Closure and Realignment Commission's 1991 and 1993 recommendations; therefore be it

"Resolved, That the Senate of the Commonwealth of Pennsylvania memorialize the President of the United States and Congress to oppose the closure of Tobyhanna Army Depot in Monroe County for the reasons stated in this resolution; and be it further

"Resolved, That copies of this resolution be transmitted to the President of the United States, to the presiding officers of each house of Congress, to each member of Congress from Pennsylvania and to the members of the Defense Base Closure and Realignment Commission."

POM-208. A resolution adopted by the Council of the Village of Silver Lake, Summit County, Ohio relative to telecommunications legislation; to the Committee on Commerce, Science, and Transportation.

POM-209. A resolution adopted by the Council of the City of Upper Arlington County, Ohio relative to public rights-of-way; to the Committee on Commerce, Science, and Transportation.

POM-210. A resolution adopted by the Council of the City of Garfield Heights, Ohio relative to public rights-of-way; to the Committee on Commerce, Science, and Transportation.

POM-211. A resolution adopted by the City Council of the City of Nassau Bay, Texas relative to NASA's Johnson Space Center; to the Committee on Commerce, Science, and Transportation.

POM-212. A resolution adopted by the Council of the City of Newton Fall, Ohio relative to telecommunications legislation; to the Committee on Commerce, Science, and Transportation.

POM-213. A concurrent resolution adopted by the Legislature of the State of Louisiana; to the Committee on Environment and Public Works.

"A CONCURRENT RESOLUTION

"Whereas, the mainline levee portion of the Mississippi River and Tributaries (MR&T) project has resulted in the loss of hundreds of thousands of acres of bottomland forests in Arkansas, Louisiana, Mississippi, Tennessee, Missouri, and Kentucky; and

"Whereas, the Corps, Vicksburg District, proposes to continue work on the mainline levee that would clear an additional 11,400 acres of forested wetlands in Arkansas, Louisiana, and Mississippi; and

"Whereas, this proposed work would destroy valuable fish and wildlife resources, including fish spawning habitat, in the batture lands along the Mississippi River without minimizing environmental impacts or without providing adequate compensation; and

"Whereas, the Corps maintains that they do not have to coordinate with the federal or

state agencies as required by the Fish and Wildlife Coordination Act (FWCA) since greater than 60 percent of the project costs were obligated before the FWCA was enacted; and

"Whereas, the 1976 Environmental Impact Statement for this work is outdated and the last opportunity for public comment was in 1978; and

"Whereas, there are a number of significant issues which need to be addressed including a range of alternatives, mitigation loss of bottomland hardwoods, water quality, and potential impacts to the federally listed threatened Louisiana black bear: Therefore, be it

"Resolved That the Legislature of Louisiana memorializes the Congress of the United States to cause the Corps' MR&T Mainline Levee Construction Program to adequately mitigate for the loss of valuable forested wetlands and update its 1976 Environmental Impact Statement and open hearings for additional public comment; be it further

"Resolved That a duly attested copy of this Resolution be immediately transmitted to the president of the United States, to the secretary of the United States Senate, to the clerk of the United States House of Representatives, and to each member of the Louisiana delegation to the United States Congress."

POM-214. A concurrent resolution adopted by the Legislature of the State of Louisiana to the Committee on Environment and Public Works.

"A CONCURRENT RESOLUTION

"Whereas, the Nuclear Waste Policy Act established a federal program for managing and disposing of spent nuclear fuel and required that the program be fully funded by electric utility customers who benefit from the electricity generated at nuclear power plants; and

"Whereas, the United States Department of Energy is obligated under the Nuclear Waste Policy Act to begin storing spent nuclear fuel by January 31, 1998; and

"Whereas, the Department of Energy has not made significant progress in meeting its statutory obligation to take title to and remove spent nuclear fuel from nuclear power plants; and

"Whereas, the Nuclear Waste Policy Act requires customers who benefit from the electricity generated by nuclear power plants to pay a fee of one-tenth of a cent per kilowatt hour of electricity produced by nuclear power plants; and

"Whereas, this fee generates approximately \$600 million per year and since its inception in 1983, has provided more than \$10.5 billion, including interest, to the federal Nuclear Waste Fund; and

"Whereas, monies received by the Nuclear Waste Fund have not been committed to the Nuclear Waste Program, such that a significant portion of Nuclear Waste Fund receipts have been relied on the offset the federal budget deficit; and

"Whereas, approximately 25% of the electricity consumed by Louisiana is provided by nuclear power plants based located in the state of Louisiana; and

"Whereas, electric utility customers in the state of Louisiana have paid millions of dollars into the Nuclear Waste Fund; and

"Whereas, the Department of Energy's failure to begin accepting spent nuclear fuel may result in millions of Louisiana's electric utility customers having to pay for the additional costs of expanding on-site storage capacity, thereby causing customers to pay twice for the storage of spent nuclear fuel; and

"Whereas, the United States Congress should address the programmatic and bud-

etary shortfall that has plagued the Nuclear Waste Program: Therefore, be it

"Resolved That the Legislature of Louisiana does hereby memorialize the Congress of the United States to establish an integrated spent fuel management storage facility which includes the following:

"(1) A central, interim spent fuel storage facility capable of allowing the Department of Energy to begin accepting spent nuclear fuel in 1998;

"(2) A storage and shipping canister system which will minimize the costs of transportation spent nuclear fuel;

"(3) Removal of the Nuclear Waste Fund from the federal budget process in order for the department to have adequate access to the funds supplied by utility customers and to timely remove spent fuel from this state's nuclear power plants; and

"(4) Require that all nuclear waste shall be taken to the Yucca Mountain Nuclear Depository located in Nevada; be it further

"Resolved That a copy of this Resolution shall be transmitted to the secretary of the United States Senate and the clerk of the United States House of Representatives and to each member of the Louisiana congressional delegation.

POM-215. A concurrent resolution adopted by the Legislature of the State of Texas; to the Committee on Environment and Public Works.

"HOUSE CONCURRENT RESOLUTION

"Whereas, enacted by the United States Congress in 1973, the Endangered Species Act was designed to promote the laudable goal of protecting threatened and endangered plant and animal species; and

"Whereas, the act was widely viewed at the time as the most comprehensive environmental protection law in history but has evolved into a well-meaning but misguided federal policy; and

"Whereas, due for authorization by the Congress of the United States, the Endangered Species Act should strike a balance between environmental and resource protection and the social and economic consequences resulting from the listing of threatened or endangered species; and

"Whereas, the current Endangered Species Act does not adequately consider the role of states in species protection, nor does it consider the social and economic implications of critical habitat designation or recovery plan development and implementation; and

"Whereas, the Endangered Species Act has resulted in complete and partial takings of private property and has threatened the rights of Americans to own and control their own property; and

"Whereas, such intrusion by the federal government poses a real and substantial economic and social threat to Texans and all citizens of the United States; and

"Whereas, it is imperative that the Congress of the United States re-open the debate on the Endangered Species Act and apply a more balanced, common sense approach to habitat and species protection that does not jeopardize this nation's economic and social well-being or endanger the constitutional rights of property owners. Now, therefore, be it

"Resolved, That the 74th legislature of the State of Texas hereby strongly urge the Congress of the United States to amend the Endangered Species Act to require a stronger role for the states, consideration of private property rights, and consideration of the social and economic consequences in the listing and delisting of species, in the designation of critical habitats, and in the development and implementation of recovery programs for threatened or endangered species; and, be it further

"Resolved, That the Texas secretary of state forward official copies of this resolution to the Speaker of the House of Representatives and president of the Senate of the United States Congress and to all members of the Texas delegation to the congress with the request that it be officially entered in the Congressional Record as a memorial to the Congress of the United States of America."

POM-216. A resolution adopted by the Legislature of the State of Rhode Island; to the Committee on Finance.

"SENATE RESOLUTION

"Whereas, the proposed 'Personal Responsibility Act' would impose new restrictions on virtually every program funded by federal, state and local governments. Legal immigrants, with only a few exceptions, would become ineligible for the five major federal programs: AFDC, Food Stamps, SSI, Medicaid and Social Services Block Grants; and

"Whereas, additionally, most legal immigrants would be denied all other needs-based benefits via a PRA provision that would impose a 'deeming' requirement in all needs based programs other than housing programs. Under deeming, the income of the sponsor is counted as though available to the immigrant, regardless of actual availability to the immigrant, to determine if the immigrant meets the income and resource eligibility criteria of any given program. Deeming also disqualifies the immigrant if the immigrant's sponsor is unavailable or unwilling to cooperate by providing evidence of income and property; and

"Whereas, the deeming provision contains no exceptions for emergency services. Deeming would apply to almost all emergency services such as church meals provided with public funds, battered women's shelters and child protective services to rescue battered children; and

"Whereas, the deeming provision does not contain a time limit. Therefore, a legal immigrant who has lived in the United States and paid taxes for thirty or forty years would be disqualified from benefits solely because he or she is unable to locate their sponsor; and

"Whereas, the deeming provision does not contain an exception for battered spouses. Because women are frequently sponsored by their husbands, the PRA would create a situation where a battered woman would be unable to qualify for basic services to escape family violence because she cannot obtain the cooperation of the very husband she seeks to escape; and

"Whereas, because the deeming requirement applies to all needs-based programs at the state and local levels, any entity receiving government-funded assistance, including churches, schools, English as a Second Language classes, health care clinics, soup kitchens and shelters would be required to check immigrant status and to obtain financial assistance from immigrant sponsors. The time-consuming nature of this process and the difficulty of ascertaining much of the necessary information would create a tremendous administrative burden for these entities, many of which are already operating on a very limited budget; and

"Whereas, Congress recently passed legislation which would prohibit 'Unfunded Mandates'. One could argue that the Personal Responsibility Act is an unfunded mandate of enormous magnitude. Lawfully admitted immigrants in need of services to improve their futures will not suddenly disappear following enactment of the PRA, and it will fall to the states to pay the social and economic costs of relegating them to a new class of poor and downtrodden: Now, therefore, be it

"Resolved, That this Senate of the State of Rhode Island and Providence Plantations hereby respectfully requests that the United States Senate not pass the 'Personal Responsibility Act' for the reasons stated previously; and be it further

"Resolved, That the Secretary of State be and he hereby is authorized and directed to transmit a duly certified copy of this resolution to the United States Senate."

POM-217. A resolution adopted by the City Council of the City of Pinole, California relative to the semi-automatic assault weapons ban; to the Committee on the Judiciary.

POM-218. A resolution adopted by the Senate of the Legislature of the State of Hawaii; to the Committee on Veterans' Affairs.

"SENATE CONCURRENT RESOLUTION

"Whereas, service-connected disability compensation for veterans from World War I, World War II, the Korean War, the Vietnam War, and the Persian Gulf War and any other conflicts, as designated by the President of the United States, is compensation for wounds or injuries, or both, sustained while on active duty; and

"Whereas, social security disability compensation for these same veterans injured while in the service of their country is vital to the health and welfare of disabled veterans and their families; and

"Whereas, the reduction, taxation, or elimination of veterans' disability compensation and social security disability compensation would, in effect, penalize the service-connected disabled, who by the grace of opportunity and the success of unusual determination, have overcome or lessened the economic loss associated with their disabilities; and

"Whereas, any taxation, reduction, or elimination of these benefits will guarantee that disabled veterans and their families can never enjoy the potential to rise above a governmentally-mandated economic status and station in life without being penalized; and

"Whereas, veterans are not responsible for the current federal deficit; and

"Whereas, these disabled veterans, in good faith, have served their country in support of those ideals upon which this country was founded and have answered the call to protect and defend the Constitution of the United States; and

"Whereas, this nation has a solemn contract with her veterans to provide health care and compensation for wounds or injuries sustained; Now, therefore, be it

"Resolved by the Senate of the Eighteenth Legislature of the State of Hawaii, Regular Session of 1995, the House of Representatives concurring, That the Legislature urges Congress to support legislation to safeguard veterans' disability compensation and social security disability compensation from elimination, reduction, or taxation; and be it further

"Resolved That certified copies of this Concurrent Resolution be transmitted to the President of the United States Senate, the Speaker of the House of the United States House of Representatives, the United States Secretary for Veterans' Affairs, the members of Hawaii's congressional delegation, and the Director of the State Office of Veterans' Services."

POM-219. A resolution adopted by the City Commission of the City of Lake Wales, Florida relative to tobacco; to the Committee on Environment and Public Works.

REPORTS OF COMMITTEES

The following reports of committees were submitted.

By Mr. HELMS, from the Committee on Foreign Relations, without amendment:

S. 908. An original bill to authorize appropriations for the Department of State for fiscal years 1996 through 1999 and to abolish the United States Information Agency, the United States Arms Control and Disarmament Agency, and the Agency for International Development, and for other purposes. (Rept. No. 104-95).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. BRYAN (for himself and Mr. REID):

S. 903. A bill to designate the Nellis Federal Hospital in Las Vegas, Nevada, as the "Mike O'Callaghan Military Hospital", and for other purposes; to the Committee on Armed Services.

By Mr. LUGAR:

S. 904. A bill to provide flexibility to States to administer, and control the cost of, the food stamp and child nutrition programs, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. AKAKA:

S. 905. A bill to provide for the management of the airplane over units of the National Park System, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. BRADLEY:

S. 906. A bill to amend title 18, United States Code, to add multiple deaths as an aggravating factor in determining whether a sentence of death as an aggravating factor in determining whether a sentence of death is to be imposed on a defendant, and for other purposes; to the Committee on the Judiciary.

By Mr. MURKOWSKI (for himself, Mr. LEAHY, Mr. CAMPBELL, Mr. KYL, Mr. BROWN, Mr. GREGG, Mr. CRAIG, and Mr. DOMENICI):

S. 907. A bill to amend the National Forest Ski Area Permit Act of 1986 to clarify the authorities and duties of the Secretary of Agriculture in issuing ski area permits on National Forest System lands and to withdraw lands within ski area permit boundaries from the operation of the mining and mineral leasing laws; to the Committee on Energy and Natural Resources.

By Mr. HELMS:

S. 908. An original bill to authorize appropriations for the Department of State for fiscal years 1996 through 1999 and to abolish the United States Information Agency, the United States Arms Control and Disarmament Agency, and the Agency for International Development, and for other purposes; from the Committee on Foreign Relations; placed on the calendar.

By Mr. LIEBERMAN:

S. 909. A bill to amend part I of title 35, United States Code, to provide for the protection of inventors contracting for invention development services; to the Committee on the Judiciary.

By Mr. CHAFEE (for himself and Mr. BAUCUS):

S. 910. A bill to amend the Internal Revenue Code of 1986 to provide an election to exclude from the gross estate of a decedent the value of certain land subject to a qualified conservation easement, and to make technical changes to alternative valuation rules; to the Committee on Finance.