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No. 104

## House of Representatives

The House was not in session today. Its next meeting will be held on Monday, June 26, 1995, at 12 noon.

## Senate

FRIDAY, JUNE 23, 1995

(Legislative day of Monday, June 19, 1995)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. THURMOND].

### PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Gracious Lord, You have placed within each of us a conscience as the voice of our deep inner self. Over the years our consciences have been impacted by what we have been taught is true and right. We thank You for a conscience rooted in the Ten Commandments and guided by Your Spirit. You are the potter, our conscience the clay; mold our values after Your way. We ask this not just for our own personal relationships, but also for the responsibilities of leadership You have entrusted to us.

You want to develop the future of this Nation through the leadership of the women and men of this Senate and all of us who labor with them. So refine our consciences; purify any dross until You can see Your own nature reflected in the refined gold of Your priorities of righteousness, justice, mercy. Give us Your heart for the poor and those who suffer. Keep us faithful to Your vision for this Nation so clearly revealed to our Founding Fathers and Mothers. Set us ablaze with patriotism and loyalty. Then continue to speak to us through our consciences. May we work out in specifics what You have worked into the fiber of our character. We commit ourselves anew to seek Your guidance and follow it this day. In Your holy name. Amen.

### RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The acting majority leader is recognized.

### SCHEDULE

Mr. INHOFE. Mr. President, this morning the leader time has been reserved.

There will be a period for morning business until the hour of 9:30 a.m., with Senators to speak for up to 5 minutes each.

At 9:30, the Senate will resume consideration of S. 240, the securities litigation bill. At 9:30, Senator SHELBY will be recognized to offer an amendment regarding proportionate liability, with a rollcall vote occurring on or in relation to the amendment at 10:55 a.m. this morning. Further rollcall votes are expected throughout the session today.

### RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

### MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business, not to extend beyond the hour of 9:30 a.m., with Senators permitted to speak therein for not to exceed 5 minutes each.

### OFFICE OF SURGEON GENERAL TERMINATION ACT

Mr. BURNS. Mr. President, yesterday I introduced a bill to eliminate the Office of the Surgeon General in the Public Health Service. In light of what we have just been through with Dr. Foster's nomination, what Dr. Elders went through, and even Dr. Koop, I think it has never been more clear that this position is a lightning rod. Let me say at the outset, this has nothing to do with Dr. Henry Foster, and everything to do with politics.

For years, this office has been used by both parties as a political football. Instead of fulfilling the duties as spokesperson for public health, the Surgeon General has found himself or herself as a puppet for the administration, pushing forward rhetoric on whatever pet topic peaks their interest.

I guess as a political appointee, you would expect this. However, when it comes to the public's health, politics should not come into play.

But what makes this bill timely is the effort being made by both the administration and Congress to shrink the size of Government. Being a voice for good health habits is not a job that only a Surgeon General can do.

There have been times in our recent history when we had no Surgeon General. Was the public's health in danger during that time? No. The duties were picked up by the Assistant Secretary for Health. In fact, through most of the 1970's there was no Surgeon General. During the Carter administration, the Assistant Secretary for Health doubled

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.



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as Surgeon General. And it worked. It wasn't until Dr. Koop was named to the position, that the offices were again split.

Do not get me wrong—those who have filled this position have done some remarkable things. But the position is redundant. And if we are serious about wanting to reduce the size of Government and save the taxpayers money, then we have to take a close look at why this position is still there.

The Office of the Surgeon General has six employees and costs the taxpayer close to \$1 million each year. In the scheme of things, that may not sound like a lot, but to folks in Montana, folks in Arizona, in fact, folks anywhere outside the beltway, a million dollars is a lot of money.

Am I saying the public doesn't need the information they get from the Surgeon General? No. They will still get the information that is important to preventing disease promoting wellness and learning how to live healthy lives. But that information will come from the Assistant Secretary for Health, who by the way should be no less credible. This position is consistently filled by a medical doctor. And again, it's been done before.

Mr. President, I think it is time we stop playing games with the public's dollar. This is one level of bureaucracy that we don't need. It has been proven in the past and we can make it work again. Eliminating the Office of the Surgeon General would not only save money—without hurting the public, I might add—it will also remove the football that has been used by both Republicans and Democrats to control a pulpit that the public has come to count on.

We do not need a separate Office of the Surgeon General, Mr. President. I have been joined by Senators KYL, THOMAS, HELMS, SANTORUM, NICKLES, THOMPSON, and BROWN in introducing this bill and I urge my colleagues to join with me in this effort to restore common sense to the Government.

I ask unanimous consent that a copy of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 957

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Office of Surgeon General Termination Act".

#### SEC. 2. TERMINATION OF OFFICE OF SURGEON GENERAL OF PUBLIC HEALTH SERVICE.

With respect to the Office of Surgeon General of the Public Health Service—

(1) all authorities and personnel of the Office are transferred to the Assistant Secretary for Health of the Department of Health and Human Services;

(2) all unobligated portions of budget authority allocated for the Office are rescinded; and

(3) the Office, and the position of such Surgeon General, are terminated.

#### CHANGE OF VOTE

Mr. BIDEN. Mr. President, on rollcall vote No. 274, I voted "nay." It was my intention to vote "aye." Therefore, I ask unanimous consent that I be permitted to change my vote. This will not change the outcome of the vote. I have checked with both leaders.

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

#### NATIONAL HIGHWAY SYSTEM DESIGNATION ACT

Mr. BYRD. Mr. President, on June 21, 1995, I proposed an amendment, No. 1446, to S. 440, the National Highway System Designation Act. When the amendment was printed in the RECORD, the name of Senator MCCONNELL was inadvertently omitted as a cosponsor, even though he was so recorded in the official papers. I wanted to take this opportunity to note that Senator MCCONNELL was, in fact, a cosponsor of my amendment.

#### WAS CONGRESS IRRESPONSIBLE? THE VOTERS HAVE SAID YES

Mr. HELMS. Mr. President, as of the close of business yesterday, Thursday, June 22, the Federal debt stood at \$4,885,968,241,521.21. On a per capita basis, every man, woman, and child in America owes \$18,547.22 as his or her share of that debt.

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

The PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

#### CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is now closed.

#### PRIVATE SECURITIES LITIGATION REFORM ACT

The PRESIDING OFFICER. Under the previous order, the hour of 9:30 a.m. having arrived, the Senate will now proceed to consider S. 240, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 240) to amend the Securities Exchange Act of 1934 to establish a filing deadline and to provide certain safeguards to ensure that the interests of investors are well protected under the implied private action provisions of the act.

The Senate resumed consideration of the bill.

Mr. D'AMATO. Mr. President, Senator SHELBY has an amendment dealing with proportionate liability. It is an

amendment really that goes to the heart of the legislation. He is going to offer it and take it up at this time. I believe we have agreed that at 10:55 we will have a vote on it. At this time, I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SHELBY. Mr. President, I would like to commend Chairman D'AMATO, Senators DOMENICI, DODD, and GRAMM for their hard work in trying to forge a consensus behind reforming our securities litigation system to weed out abuses and eliminate frivolous suits.

I am concerned and disappointed, however, that the bill before the Senate will do more to impair the rights of the small investor than it will to place checks on abusive conduct and frivolous litigation. For this reason, I continue to oppose S. 240.

Earlier this spring, Senator BRYAN and I introduced a bill aimed at striking a balance between preserving the rights of the small investor and eliminating incentives for frivolous and abusive litigation.

Senate bill 667 incorporated many of the widely supported provisions incorporated in the bill before us like prohibiting referral fees, and the payment of attorney fees from the SEC disgorgement fund, increasing fraud detection and enforcement, and ensuring adequate disclosure of settlement terms.

In addition, our bill addressed many of the concerns that Chairman Levitt and the SEC have raised against S. 240 regarding pleading requirements, liability standards, and statute of limitations issues.

While the bill before us responds to some of these concerns—it still fails to ensure adequate protection of the rights of the innocent victim of securities fraud and effectively leaves the little guy who seeks redress for professional wrongdoing out in the cold.

On several key issues, S. 240 fails to preserve the important role that legitimate private securities litigation plays in checking abusive conduct and, in fact, makes it more difficult for the small investor to gain access to the courts and obtain full recovery for securities fraud.

I believe that individual investors, particularly small shareholders, must be assured a full recovery against professional wrongdoers if we are to maintain integrity in our securities markets.

Like Chairman Levitt and many other colleagues, I believe the bill can still be improved.

I, therefore, intend to offer a couple of amendments that I believe will help assure that meritorious claims are not inhibited in our effort to prevent frivolous and abusive ones.

Mr. President, S. 240 makes important reforms, many of which I support. Sadly, however, the bill would come at too great a cost to the small individual shareholder.

I urge my colleagues to oppose S. 240 as currently drafted and support