

favor of fiscal control. While we may differ, there is no question that in my chairmanship and his ranking membership of that committee, we clearly set the tone for the country that a balanced budget was absolutely necessary for the future of our children and our country. He has gained expertise, obviously, in some special areas of armed services, for which I commend him. Those who are in agriculture and farming in his State know how hard he worked to maintain the right things, as he saw them, for that part of America's marketplace mix. Much of that was directed at his State, but it helped many farmers everywhere.

SENATOR HOWELL HEFLIN

Mr. President, I have just a few remarks about the distinguished Senator, Senator HEFLIN. I think we all know this Senator came here as a renowned judicial reformist from his State, where he presided in a masterful way over reorganizing the judicial system and putting honesty and integrity back front and center in that system in Alabama. He brought to us his very sharp mind on legal matters, and he has been consistently well-prepared on a wide diversity of issues, for which he will be remembered as much for the clarity of purpose and the clarity of expression as for the issues themselves.

He also deserves our accolades, because anybody who chairs the Ethics Committee of the U.S. Senate for any sustained period of time deserves our highest esteem. Not only did he do that, but he did it during the most difficult of modern times in terms of that Ethics Committee. I believe the matters before him took a long time because of their complexity and personal nature, but things came out fairly well. I believe he is entitled to a great deal of respect for that.

SENATOR DAVID PRYOR

Mr. President, I want to say a few words about a Senator on the other side of the aisle, Senator PRYOR. Let me just say that this Senator, as I view it, has been a marvelous, quiet, strong advocate for the issues that concern him. Whether it was the Taxpayers Bill of Rights, which he proposed, or whether it was his advocacy for small business, he obviously did it with a kind of calm and calmness that many of us wish we could have every day we come to the floor of the Senate.

I also want to commend him, because it fell to him—and I assume it was with relish on his part—to be the principal defender in many instances of the current occupant of the White House, President Bill Clinton. They are from the same State. Senator PRYOR had been Governor, as had Senator BUMPERS, of that State. I think his efforts to support the President and fellow Arkansas resident was done eloquently and articulately. But I also believe that he had the ability to do that, which puts him in an extremely partisan mode, without ruffling the feathers of those of us on this side of the aisle because of the way he did it. It

seems to me that he added some great character to his personality, because he did it in a way that was not intended to offend us on this side of the aisle, and he did it in great, good spirit. I commend him for that. He had a heart attack and came close to death in that episode. He brought a great deal of calmness to all of us, as he shared going through the rigors of that incident. I thank him for the personal way he has affected all of us in a positive manner.

SENATOR ALAN SIMPSON

Mr. President, I would like to say a few words about Senator SIMPSON. I don't know what we can say to label him. We all, in a very strange way, sort of smile when we think of Senator SIMPSON. I guess it is fair to say that he is our cowboy philosopher. He has educated and delighted the Members of this Chamber with his unmatched sense of humor and his sharp wit, with his fine mind and his broad knowledge.

He has helped lead the charge in so many areas that are so desperately in need of reform. While he didn't yet accomplish his goal of reforming the entitlement programs of this country, it is clear that he never backed away from calling things exactly as he saw them, whether or not that would lead to his adulation or to, as he has indicated to many of us, clamor by many, or to being chastised by many groups because of the way he presented issues, which was in the forthright manner that he believed in.

He took a lead in such matters as immigration reform. I think it is fair to say we would not have major immigration reform signed into law by this President but for this Senator. He was courageous in that regard, and he will be very much missed.

There will be a few Senators whom I will mention before we adjourn. I will try to find time without burdening the Senate. At a time when perhaps there is nothing else to do, I will try to find another 15 or 20 minutes to comment on a few other Members. Those I have commented on and talked about will be missed. I trust that we will all get to see each other again, and frequently. But I understand that may not be the case, for as you leave the Senate, sometimes you don't see each other for years. We will miss them dearly.

I yield the floor.

#### FEDERAL AVIATION ADMINISTRATION REAUTHORIZATION—CONFERENCE REPORT

The Senate continued to consider the conference report.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER (Mr. BURNS). The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, I yield myself such time as I might use.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, I want to take the bulk of my time to talk

about really the underlying fundamental issue, which is how we are going to treat working families, because we have heard a great deal about technical amendments, nontechnical amendments, holdings, committee reports, and all of the others. I will just reference some of those items very, very quickly and then get to what I think is really the fundamental issue. That is the issue of fairness. Are we, by the action that has been included in the legislation, really denying some fundamental justice to scores of American workers who have been playing by the rules and believe that they ought to have their rights considered and adjudicated under the National Labor Relations Act, a process and procedure which is being considered at this very time?

Mr. President, just to reiterate the points that have been made by Senator FEINGOLD, Senator MURRAY, Senator SIMON yesterday, and others, all of us are for the FAA conference report—without this particular provision. We were prepared to offer the FAA conference report without this provision as an amendment to the continuing resolution and do it within a 5- or 10-minute time limit. That would have been over and been accepted in the House of Representatives, and we would not be here this afternoon discussing this particular amendment. Or we could follow another procedure by just calling a clean bill up from the calendar this afternoon and acting on that this afternoon and doing that by voice vote, and our colleagues and friends would not have to inconvenience themselves by being here tomorrow.

There is a question then about whether the House would accept it or not. But the precedent is quite clear that the House has taken favorable action in such situations in the past and are still acting on some measures, even as we are here.

There is really very little reason to doubt that they would accept it, particularly when you look back over the debate and discussion in the House of Representatives when they were considering the FAA conference report.

So that is where we are, Mr. President, and that is why we continue to maintain that it is those who are continually committed to this provision who are the ones that are really holding up the Senate. It is not those of us who want to move along into other endeavors but feel compelled to protect the rights of working families to make this case.

Mr. President, just very briefly, the National Mediation Board has ruled 12 times since 1978 on cases involving Federal Express. There has been a discussion of that by my friends and colleagues, the Senator from South Carolina and others. These cases involve requests for union elections, unfair labor practice charges, and other labor-management issues. In one case involving the Airline Pilots Association, the

court Board found that FedEx had engaged in unfair labor practices that tainted the election so badly that a new election was ordered.

In all 12 of these cases the National Mediation Board exercised its jurisdiction over Federal Express as an airline. Federal Express argued over and over to the National Mediation Board that it was an express company too. The National Mediation Board ignored this argument every single time. No court or board has ever held Federal Express is an express company under the Railway Act.

That is the statement I made yesterday. Individuals can quote various cases and draw various conclusions. But those statements remain uncontroverted.

Mr. President, just again very briefly, was this really an oversight, or was this just a technical question? If we accept the arguments that have been made by my friend and colleague from South Carolina—he interprets the cases favorably to Federal Express, and states that the National Mediation Board ruled that all of its trucking operations would be considered under the Railway Labor Act, there is no real reason why we have to even be in the situation that we are in. You can't have it both ways. You can't say they have all ruled in all of these cases to include it and, therefore, they would achieve what Federal Express wants to achieve, and that is to get all of their trucking operations under the coverage of the Railway Act so that there will not be the possibility of the workers to get together to pursue their grievances. We are not under any illusion—and nobody should be—about exactly what the issue is really all about. So if it is, as the Senator said, they should not really need this measure. But, nonetheless, they have fought tooth and nail, tooth and nail in order to get it, which basically sustains the point that I have made.

How did we come to this situation? I refer just to the ICC Termination Act of 1995. That act struck the term "express company" from the Interstate Commerce Act. In the conference report, by Senate amendment it said "Outdated references to express and sleeping car carriers, which no longer exist, would be removed." A conforming amendment struck the same term from the Railway Labor Act.

This is the conforming measure in the ICC Termination Act. You have it specifically in the legislation, and specifically in the conference report. And that conference report was signed by my friend and colleague, Senator HOLLINGS, and many others.

So it is difficult again for us to perceive that this was somehow just a hyphen that was overlooked. Those are the facts. There may be different conclusions drawn from this fact. But, nonetheless, that is so.

Mr. President, the fact remains that when we asked an independent review board to review and evaluate whether

this was a technical correction, or whether it was a substantive correction, the Congressional Research Service reviewed the history, reviewed the legislative history, reviewed the various documents, and indicated that it was not. It was a substantive issue. I know the Senator from South Carolina is unwilling to accept the Congressional Research Service's independence in its review of this and its conclusion. But, nonetheless, they have found and supported the same position that I have taken. Senator FEINGOLD, Senator MURRAY, Senator SIMON, and I have not taken the position of the Senator from South Carolina. I can understand why he differs with it. But, nonetheless, the Congressional Research Service again supports our position.

If you review what the debate was over in the House of Representatives—where the members of the House Transportation Committee and Aviation Subcommittee, Democratic members, indicate very compellingly their view—they never viewed this as a technical amendment. And, as a matter of fact, the House Parliamentarian ruled it was outside of the scope of the conference itself because it was nontechnical and required an independent vote. The House Parliamentarian is not under the purview nor under the control of the Senator from Massachusetts, nor our other colleagues. He made a judgment that it was outside of the scope of it and required the House of Representatives to vote on it. Virtually all of the Democrats voted in opposition—30 Republicans voted in opposition, and 15 Democrats voted in favor of it.

So, I took time yesterday to review the relevant statements of the members of the House Transportation and Aviation Committee that made comments on this, that are basically in support of the Congressional Research Service and others that this is not a technical correction. It is an effort by Federal Express to have this growing operation of the utilization of trucks considered under the Railway Labor Act, and thereby be able to have a competitive advantage over any of their competitors. Make no mistake about it. This provision is only for one company.

I mean the idea that we are making a technical correction out here like it was generic and it was going to apply to a whole class defies any kind of logic, or understanding, or truthfulness, as has been used here on the floor of the Senate. It only affects one company; and that is Federal Express.

So, let us try to at least not to misrepresent exactly what the significance of all of this is. The reason for that is Federal Express currently has 560 aircraft, and 37,000 vehicles, according to the fiscal year 1997 earnings statement, Federal Express makes no secret of its plans to increase its trucking-only operation.

In May 1996, a top Federal Express official told a House staffer preparing a paper on Federal Express for a grad-

uate school course that FedEx's ultimate goal is to send 80 percent of its packages by truck. In the future, according to this Federal Express official, only overnight packages traveling more than 400 miles will be flown, and all others will travel on the road.

So this business shift is the real reason Federal Express wants "express company" reinserted in the Railway Act.

To date, Federal Express has successfully argued that the Railway Act applies because the company is an airline. But, as Federal Express looks less and less like an airline and more and more like a trucking company, its argument that the Railway Labor Act applies becomes much weaker.

That is what this is all about. Those facts have never been really disputed or argued with, and that is because this is the essence of what this whole special interest provision is all about. Federal Express wants assurance that its workers will forever be covered by the Railway Labor Act, thus requiring nationwide bargaining units and making union organizing far more difficult. If "express company" is reinserted in the Railway Labor Act, Federal Express can argue in the future that its trucking operations qualify and, therefore, block its employees' efforts to organize.

Mr. President, that, all respects to the contrary, I think is the fair representation as to the reasons that we are here and why this particular provision has been put into this legislation.

Mr. President, I have here the letter from the Executive Office of the President, the Office of Management and Budget. I will include the whole letter in the RECORD.

I ask unanimous consent that the whole letter be printed in the RECORD.

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

EXECUTIVE OFFICE OF THE PRESIDENT, OFFICE OF MANAGEMENT AND BUDGET,

*Washington, DC, October 2, 1996.*

Hon. LARRY PRESSLER,  
Chairman, Committee on Commerce, U.S. Senate, Washington, DC

DEAR MR. CHAIRMAN: I am writing to express the Administration's position on the conference report to H.R. 3539, the Federal Aviation Authorization Act of 1996.

Let me begin by stating that there are many positive aspects of the conference report including many vital provisions which we strongly support. The bill authorizes Federal Aviation Administration's (FAA) programs, including the Airport Improvement Program, which enables the award of critical safety, security, and capacity expansion grants to airports throughout the country. H.R. 3539 also includes several important aviation safety and security initiatives, including many recommended by the Vice President's Commission on Aviation Safety and Security. In addition, the bill provides for many important reforms to the FAA that will enhance air travel safety.

Unfortunately, the conferees to this bill also added a new controversial provision which would reinstate coverage of "express companies" under the Railway Labor Act.

The provision appeared in neither bill and was agreed to without hearing or public debate. Congress deleted express companies from the scope of the Railway Labor Act last year in the Interstate Commerce Commission Termination Act (P.L. 104-88) believing that the last express company went out of existence years ago.

The Administration believes that the provision is not a "technical amendment" to transportation labor law. In fact, it could result in a significant shift of the relationship between certain workers and management. We hope Congress will not jeopardize aviation safety, security, and investment initiatives as it comes to closure on this issue.

Accordingly, the Administration opposes inclusion of this extraneous "express company" language in H.R. 3539, and urges the Senate to complete action on this important authorization bill.

Sincerely,

FRANKLIN D. RAINES,  
*Director.*

Mr. KENNEDY. Mr. President, I will just review it very quickly.

I am writing to express the administration's position on the conference report on the Federal aviation authorization.

There are many positive aspects of the conference report, including vital provisions, which we strongly support. The bill authorizes the Federal Aviation Administration's program, including the Airport Improvement Program, which enables the award of critical safety and security capacity expansion granted to the airports throughout the country.

H.R. 3539 also includes several important aviation security initiatives including many recommended by the Vice President's Commission on Aviation Safety and Security. In addition, the bill provides for many important reforms to the FAA that will enhance air travel safety.

Unfortunately, the conferees to this bill also added a new controversial provision which would reinstate the coverage of "express companies" under the Railway Labor Act. The provision appeared in neither bill and was agreed to without hearing or public debate. Congress deleted express companies from the scope of the Railway Labor Act last year in the Interstate Commerce Commission Termination Act believing that the last express company went out of existence years ago.

That is the REA.

The administration believes that the provision is not a technical amendment—

I will stress, "not a technical amendment." "Not a technical amendment." to transportation labor law. In fact, it could result in a significant shift of the relationship between certain workers and management. We hope Congress will not jeopardize aviation safety, security and investment initiatives as it comes to closure on this issue.

Accordingly, the Administration opposes inclusion of this extraneous "express company" language in H.R. 3539, and urges the Senate to complete action on this important bill.

Mr. President, there you have it as well. They understand us. I do not know how much more we have to do. I do not think much more because anybody who has followed this discussion or debate can see and understand very clearly that this is not a technical amendment. Here it is in the administration's review, Congressional Research Service independent review, members of the various committees

who understand the history and the background of this review, that it is substantive, and as the administration's own letter points out, "the provision is not a technical amendment to transportation. In fact, it could result in a significant shift in the relationship between certain workers and management."

That is the issue. That states the issue. It affects the relationship between workers and management. Now, let us get to what that really means in terms of the workers and the management.

Mr. President, I regret very much that we are facing the impasse, but an important issue of principle is at stake—whether a large and powerful corporation can abuse its power and misuse its influence and obtain an unjustified benefit that flagrantly undermines the basic rights of employees. Let us get to the real issue, and that is the rights of working families. That is what is at stake, the rights of these workers' families who have pursued their interests under what they believed would be the law under the National Labor Relations Act, and that is the trucking operations would be under the National Labor Relations Act. They have not been able to get the final judgment and decision but the matter is in litigation. They believed they would be under that National Labor Relations Act. I think any fair evaluation, looking at UPS and other examples of holdings, would say they would.

Now, the issue at stake here has nothing to do with aviation security. It has everything to do with special interest legislation of the worst kind. The Senate Republican leadership is cynically using the aviation bill to conceal their antiworker payoff to the Federal Express Corp. The delay in the vote gives us time to shine the spotlight of public opinion on this unacceptable anti-labor rider. I am optimistic that in the coming days we can succeed in passing a clean aviation bill without the Republican personal interest provision. That provision is designed solely to deny employees of a single corporation their right to join a union.

Truck drivers employed by the Federal Express Co. in Pennsylvania began organizing a union because they had not received a raise in more than 7 years. It is unconscionable for the Senate to intervene on the side of management to deny those men and women their rights.

Federal Express is a company that has grown rapidly in the past 20 years. The original motto of the company was, "People, Service and Profit." But as the company grew the rank and file men and women who contributed so much to the growth of the company found that they were being left further and further behind.

In 1991, truck drivers at Federal Express in Pennsylvania began organizing to address the same economic issues that face most working families. Not

only had Federal Express truck drivers been denied a pay increase for over 7 years but the drivers also were concerned about company decisions subcontracting their routes, hiring temporary drivers instead of full-time regular employees, and reducing their hours on the job.

The organizing effort started with a group of 12 employees in Pennsylvania. After months of preparation, the workers filed a petition with the National Labor Relations Board for an election to form a union of 1,200 truck drivers in Federal Express' Liberty District in Pennsylvania.

The corporation, with its intense antiunion bias, has used legal maneuvers ever since to block those employees' efforts, and 1,200 truck drivers still have not been granted a chance to vote on whether to have union representation. Federal Express' delay has not cooled the drivers' commitment to work together to improve their conditions of work. In fact, more and more Federal Express employees are standing together and standing up to management. Employees are organizing not just in Pennsylvania but in 48 other States as well.

Now in desperation Federal Express has come crying to Congress to obtain this special interest rider to block their employees' efforts.

Now, who are these workers? Let me tell about some of the people at Federal Express, people who have worked hard year after year, people who want nothing more than to provide for themselves and their families. They are loyal workers. They are proud of Federal Express and the work they have done to build the company into a national powerhouse but they want to join together to better themselves. They want a voice. They want the ability to organize and address issues that are of concern to them.

Let me tell you about some of them. We heard from Leanna Cochran, from Indiana, who worked for Federal Express for 14 years as a courier, truck dispatcher and, in her own words, "anything else that needed to be done."

When she joined there were 80 employees in the area. Now there are 4,000. She told us how proud she was to wear the uniform.

We dedicated our lives to making Federal Express what it is. In the late 1980's, I often worked over 100 hours per week. My friends say I have purple blood.

Meaning the symbolic color of the Federal Express.

My friends say I have purple blood. Now there is no overtime because the company is contracting out more and more of its work. As Federal Express grew, management stopped caring about the people. The company's President, Fred Smith, has said there will never be a general pay increase in Federal Express, only performance standards that are impossible to meet. Even Fred Smith could not meet them.

Joe Carney, a tractor-trailer driver at Philadelphia station for 16 years, is 1 of the 12 original employees who met in 1991 to try to start a union.

I've always given 150 percent of my effort loyally to the company, and I still am. I'm a team player, but I feel strongly that we need to have a union to help the workers. As a senior employee, I've seen my wages, benefits and other conditions steadily erode. At one point I didn't have a raise for nearly 7 years.

He explained that Federal Express' success, growing from 5 to 17 truck terminals in the Philadelphia area while he has worked there, has not translated to better wages or job security for the workers.

We are all dismayed by what is happening in Congress. It's difficult for us to understand why any Senator would support a special interest provision for Federal Express that will undermine our efforts to get a union or try and build a better life for ourselves and our families.

Elizabeth Tucker, 42 years old, has been paying taxes for 24 years. She is a Vietnam era veteran. She enlisted in 1973. She served her country. She was a married mom for a number of years but was divorced and had to go to work to support herself and her 10-year-old daughter. She took a job at Federal Express in 1987. She started as a package handler, then a service agent, then became a truck driver, which she is today—a hard working, loyal employee since she started.

Last year, her mother was diagnosed with cancer. She asked the company to work with her so the family could help her mother with cancer treatments. She asked to use all of her own time, her vacation time, and her personal time to arrange her schedule with her sister and four brothers so that their mother would not have to go through the cancer treatment alone. Federal Express told her she could use her own time and arrange it with her sister and brothers so that they could take care of her mother.

They all arranged their schedules to take care of their mother, but 7 days before she was to take the time off to take care of her mother, Federal Express said they were not going to honor their agreement with her, they were not going to let her take the time off to take care of her mother. She had to rearrange everything with her sister and brothers so that their mother did not have to undergo cancer treatment by herself. To make matters worse, her daughter had recently had an infectious intestinal disease which required her to take time off to care for her. She was also exposed to the disease and therefore could have been contagious.

What did Federal Express do? Just before they finally agreed to let her go to take care of her mother, they gave her a disciplinary letter due to her absenteeism—because she missed work because she and her daughter were sick. Imagine the stress. Her mother has cancer, her daughter is sick, all she wants to do is use her own time to take care of her mother. Her employer finally lets her, but sticks a disciplinary letter in her hand.

Her job is stressful also. Her truck has to make 100 stops a day. Federal

Express gives a money-back guarantee if a package is not delivered before 10:30 a.m. Drivers are required to deliver packages within 3 minutes of each other during the morning. From the time they hand one customer a package they only have 3 minutes to get the next package delivered. This is not only stressful, but raises serious, serious safety issues because it requires the drivers to drive as fast as possible to get to the next stop. If drivers take more time than the company requires, they can be denied performance pay, or get a letter that they are not working up to par—or it could lead to a disciplinary letter. The pressure is intense.

The company has asked drivers to shorten their time between deliveries and asked for them to get there at 90 percent of the time they had last year, and are asking for it to be done in only 87 percent of the time this year. They can only drive so fast.

Elizabeth Tucker has been working hard for Federal Express, driving and meeting the demands of her employer for many years now. She is trying to meet her family needs also. She is doing her best.

Bill Chapin lives in Indianapolis, has a wife and two children, a boy and a girl; he served 6 years in the Navy, enlisted. He is a Vietnam-era veteran. He has been working for Federal Express for 13 years as a truck driver; works with another 125 truck drivers at his shop. He is very proud of his work. He worked 96 hours one week, did everything to build the company, did everything he was asked to do, did whatever it took to get the job done. "Now the focus is all on profits, not people," he says. "They have been reducing the hours, hiring more and more part-time and temporary employees. No pay raise for many years."

But pay is not the only issue. Bill was chairman of the safety committee in his shop, and there were numerous workplace injuries and accidents. Most of these resulted from the requirement to meet very, very strict time deadlines. People injured themselves trying to meet these deadlines. People also got into car accidents trying to meet the deadlines.

Bill talked about the danger created by drivers who had to make the 10:30 money-back deadline. He said that from 10:15 to 10:30 every morning, people's lives are in danger as drivers go as fast as possible to meet the deadline. He said if a driver is late, he could get written up or he could lose his job. These drivers have families. They cannot afford to lose their jobs.

Unfortunately, that means people get injured, and it means that there are truck accidents. Bill heard about these at the safety committee meetings he attended. He remembered one meeting in particular, in 1993, when a truck driver in Chicago was trying to meet a 10:30 deadline. It was about 10:28 or 10:29 and the driver was trying to find the address of his next stop and did not see a 70-year-old woman crossing the road, and the driver hit her.

After listening to this report at a safety meeting, Bill quit the committee. Pay is important and Bill wants better pay and benefits, but Bill also wants a safe workplace and wants a voice to talk about these issues. He wants to organize. He served his country in the Navy. He is a good and loyal employee. He has worked hard to support his family. He just does not understand why the U.S. Senate would help his employer prevent him from joining with his fellow workers.

Ros Ranamon has a wife and a 21-month-old daughter. He is a truck driver in Washington, DC. He works with 300 other truck drivers, and has been with Federal Express since 1992, but he is considered a senior employee because the turnover is so high. He started as a part-time employee with Federal Express. When he was part-time, he was sick with the chicken pox, but the company had no disability benefits for part-time employees. He had only 5 sick days. After they started to organize in the company, the company began a part-time disability program for its part-time employees.

So it is not just pay. Sure, pay is important, and he would like better pay. But the employees need better benefits also.

There are other parts of the job that they need to organize for. For example, the company requires them to take a job knowledge test every 6 months. If you fail the test you could lose your performance pay. You get written up or lose your job, but no employee has a right to see the tests or the answers. Some were told they failed the test and would suffer the consequences, but they found out the test scoring system did not always work right. Sometimes it failed people who passed the test. He just works hard to raise his family. He is just trying to make a decent wage. He is just looking for fair treatment.

Ros Ranamon talked about how Federal Express gives all its employees nice, sharp uniforms, but employees' pockets are empty. They just do not give the employees raises, not until some of the employees tried to organize a union.

These workers, and thousands more like them, deserve better.

We had these people who commented today in our committee room, and behind them another 20, from Federal Express. These are individuals who need those jobs, and talked about their own personal experience. They talked about the sickness and illness of members of their family, about their children. It is a very difficult thing to do.

They were willing to share that. Frankly, it takes a good deal of political and moral courage, because there is no question that those individuals are going to be targeted. I hope not. I hope I am wrong. We will watch very closely those workers who are loyal, dedicated to Federal Express, each and every one of them. They indicated dedication to Federal Express, but that they wanted fairness and decency in the workplace

to deal with some of these grievances. They wanted at least the opportunity to be able to see if they could convince other members to be able to join a union.

Maybe they could not, but they were trying to play by the rules of the game that are defined under the National Labor Relations Act. Their case is moving ahead since 1991.

But after this amendment that we are talking about here on the floor of the U.S. Senate, effectively you are wiping out their efforts to play by the rules. Men and women who have served in Vietnam, have been working since childhood, who have children of their own, playing by the rules—but, nonetheless, the big company comes in, planning to expand its trucking operation, trying to get an inside deal, trying to get an inside advantage. One company benefits and its name is Federal Express, and we are being asked to go ahead and continue with that, which is no more technical than a man in the moon.

CRS recognizes it, the administration recognizes it, the House Members who are members of this committee recognize it. And any fair reading of the history of this measure and the actions that were taken would understand that as well.

These workers, and thousands more like them, deserve better. They deserve the right to decide for themselves whether and how they want to organize and deal with their employer. They should be allowed to join with other Federal employees in their area to form a union to protect their interests. There is no reason whatever for Congress to intervene on the side of management to block that effort.

Make no mistake about it, that is what this is about, tilting the scales for management. That is what the purpose is, to give them a leg up against those workers. Federal Express is determined to deny these Pennsylvania workers and other groups of employees in other States across the country the right to organize on a local basis. That is what this antiworker rider is all about.

So, I say: Shame on Federal Express for their pursuing this, and on our Members of Congress, in the final hours, for including it. Let us fight to reject cloture and reject this special interest rider, and permit employees of this company to decide for themselves whether and how to bargain with their employer.

The aviation bill will pass in a second once this antilabor rider is removed. There is no threat whatever to the aviation bill. The Republican Senate is knee deep in Republican hypocrisy as Republican Senators talk about the importance of the aviation bill. We all agree on its importance.

What we don't agree on is that this bill should be used by the Republican leadership in the House and the Senate to sneak through into law a special interest antiwork payoff to Federal Ex-

press at the expense of the corporation's deserving, long-suffering employees.

Few things more vividly illustrate the antiworker bias of the Republican Congress than this shameful antiworker rider. Republicans say, "Who cares about a handful of truck drivers in Pennsylvania?"

We reply, "We do. Democrats do. Democrats are on their side."

We make no apology fighting for them against this shameful Republican maneuver. Those Pennsylvania workers are a symbol of what is wrong with this Republican Congress. A farewell gesture by the Republican-controlled Congress as we adjourn for the election is to try to enact a law, one more in their long line of antiworker proposals. The American people understand what happens here. There will be two votes on this issue: one is on Thursday in the Senate, and another on election day in communities across this country.

Mr. President, as I mentioned, these will be the final actions that will be taken by the Congress, and in thinking about this particular measure and listening to those who hold a different position, I was thinking back over the period of the last 2 years and what has been the record with regard to working families by the leadership in the House and Senate of the United States.

I step back to the early part of this Congress, to the period in February and March of a year ago, and see one of the first actions that was being put forward in the Congress and the Senate of the United States was the repeal of what we call the Davis-Bacon Act. That is to use a prevailing wage, whatever the average wage is in a particular labor market area, on the building of Federal construction, so that the fact the United States is contracting in a particular geographic area will not either raise or depress the wages of working families. That applies to the construction industry, which is the second most dangerous industry—mining, No. 1, construction, No. 2.

The average wage across the country and in my State of Massachusetts under the Davis-Bacon work for construction workers is \$27,500—\$27,500. I was asking myself, what do our Republican friends have against workers who are working in one of the most dangerous occupations making \$27,500, individuals who have acquired skills, have gone through various training programs? What is it about those workers, given the range of different challenges that we are facing in this country, what is it about those workers in the construction industry that we are going to say, "We're going to undermine and we're going to make sure they are not even going to average \$27,500."

Nonetheless, that effort was made not just once, not just twice, not just three times, but on a whole series of pieces of legislation. They added the repeal of Davis-Bacon to the National Highway System, and we blocked that.

Then they tried to include the repeal of Davis-Bacon in their budget bill in 1995, but, once again, we forced them to remove it.

Time in and time out, not just to raise this issue and let the Senate judge it and then say, "All right, so the decision has been made that we are not going to repeal it," but relentless—relentless—to try to undermine working families that are going to make \$27,500 in the construction industry.

So we said, "All right, that is just the beginning. That is just the first program." But it was just about that time that we had the Republican budget, and the Republican budget was going to provide over a 10-year period an additional \$4 trillion for what would be considered corporations and individual tax benefits. There was only going to be one area where there were going to be tax increases—\$4 trillion for companies and the wealthiest individuals, but only \$20 billion of raising the taxes.

One could say, "Look, out of all of those tax loopholes, certainly we ought to be able to find \$20 billion in there." I can think of several of them. They come to mind now about the issues of deferral or title transfer, and other items, which are just gimmicks which work to an unfair advantage for those who take advantage of them.

We thought we might be able to recover the \$20 billion. The answer to that was no. The Republican leadership wanted to increase the taxes on working families, again, by reducing the earned income tax credit. Who benefits from the earned income tax credit? Workers who make below \$28,000 who have children. They are the principal beneficiaries. As the income goes down, they are able to participate in the program, and it is actually phased out at about \$30,000. Here we have a \$20 billion tax increase on working families that are below the \$30,000.

Cutting back on construction workers, cutting back on workers who have children with the earned income tax credit.

Mr. President, it did not take long right after that when I, Senator DASCHLE, and a number of our colleagues—my colleague, Senator KERRY, Senator WELLSTONE, Senator LEVIN, and many others—introduced an increase in the minimum wage for working families, for individuals who work 40 hours a week, 52 weeks of the year.

Since the late 1930's, Republicans and Democrats have come together to make sure those people who are going to work are going to be able to acquire sufficient income so they do not live in poverty. We were going to honor work in America.

In 1980, a family of three was at the poverty line. But over the last 5 years, we have lost the purchasing power. It is at a 40-year low. All we wanted to do was to try and bring that purchasing power just about close to what the poverty line would be for a family of three.

All we found out was the strong opposition of the Republican leadership.

This is what House Majority Leader DICK ARMEY said on January 24, 1995:

I will resist any increase in the minimum wage with every fiber in my being.

This is what the Republican whip, TOM DELAY, said:

Working families trying to get by on \$4.25 an hour don't really exist.

Well, Mr. DELAY, why don't you talk to the approximately 4 million families that got the 50-cent addition yesterday?

The increase in the minimum wage is a woman's issue. Sixty-six percent of those who get the increase in the minimum wage are women. It is a children's issue, because of the millions of children living in families that are dependent on that increase in the minimum wage. It is an adult issue. Seventy-seven percent of those who receive it are adults.

Mr. President, not according to our Republican leadership. Here is our Republican conference chairman, JOHN BOEHNER:

I'll commit suicide before I vote on a clean minimum wage bill.

And so they went on, refusing to permit at least our committee to have a hearing on the increase in the minimum wage so we could review whether it is inflationary or whether there is going to be a job loss. Important studies indicate in a number of instances an expansion of the job market, because more people, who had gotten out of the job market, will come back because they want to participate because they think it is well worth their efforts to work at that figure. We wanted to have a hearing to put some of those issues to rest, but we were denied even an opportunity to have the hearing.

Then we came to the floor, and time in and time out, the Republican leader, Senator Dole, resisted every single effort that we made in order to get a minimum wage increase scheduled on the floor of the U.S. Senate and went to extraordinary heights to make sure we were not going to get it.

We finally did get it, and after we got it, what did the Republican leadership try to do? Tried to reduce it, No. 1, and delay its implementation, No. 2. It was supposed to go into effect July of this last year. It went in effect in October. There were talks about trying to do it in mid-January or February.

You know, the interesting reason why it was that time was so that the large commercial stores could have the lower wages during the Christmas period. That was the reason. Thinking about working families? Thinking about those people that are out there trying to make a living? That was the position with regards to working families.

That is why, Mr. President, when we are coming with the last action of this legislation, many of us are not surprised of the virtual uniform support for this provision on the other side and the virtual Republican unanimity in the House of Representatives. We have

seen what that record has been and what value they have placed on the interests and the grievances of working families—working families.

Another area, of course, that they have great interest in the working families is the—

Mr. STEVENS. Will the Senator yield?

Mr. KENNEDY. I would like to continue.

Mr. STEVENS. I think the Senator's time has expired some time ago.

Mr. KENNEDY. I asked consent to be able to proceed, and I was granted consent to be able to proceed.

Mr. STEVENS. When was that?

Mr. KENNEDY. When I started.

Mr. STEVENS. I don't remember the Senator being granted extra time. I was very indulgent. The Senator has been speaking for 40 minutes.

Mr. KENNEDY. I don't believe it has been that long.

Mr. STEVENS. I have not spoken on this issue now for 2 hours.

Mr. KENNEDY. I was here at 2 o'clock. And we know, at least in the earlier time, you indicated that you were prepared to see that I was going to be able to be given time.

Mr. STEVENS. That is true.

Mr. President, isn't the Senator from Alaska entitled to half of his time?

Mr. KENNEDY. I ask for the regular order, Mr. President, to be able to proceed.

The PRESIDING OFFICER. The Senator from Massachusetts is acting 10 minutes over his time. And I am not aware of the consent before I took the Chair.

Mr. KENNEDY. Well, Mr. President, as we found out earlier in the afternoon—I mean, the Senator from Alaska has pointed out—my good friend and colleague, Senator HOLLINGS, spoke using other time yesterday, and using, allegedly, our time today under the interpretation that was made on this. I had understood that I was going to be able to have the chance to speak. And I will ask for 10 more minutes to be able to conclude my remarks.

Mr. STEVENS. I do not have any objection if the Senator wants additional time, but I would like some time now. I mean, I thought this was equally divided. The Senator has spoken for now almost an hour this afternoon. It is very interesting, a Democratic campaign speech, Mr. President. But I have not heard much about the bill before us for the last 40 minutes.

So I do not have any problem giving the Senator extra time to speak on the bill, but why should I listen to this bunch of stuff that is going on over here that is not true? We can speak all night and half run the campaign from here. We are the only ones listening to the campaign here. But I have been hearing about nothing but a bunch of stuff about taxes.

Mr. KENNEDY. Regular order.

The PRESIDING OFFICER. If I could interject here, the Chair asks that Members to address other Members through the Chair.

The Senator from Massachusetts has made a request to be granted 10 more minutes. Do I hear an objection?

Mr. STEVENS. I object, unless after this Senator gets to use some of his time.

Mr. KENNEDY. I withdraw the request, Mr. President.

Mr. STEVENS. I ask unanimous consent that the Senator from —

Mr. KENNEDY. I asked earlier to be able to proceed without interruption. I was granted recognition for that. I would ask, is the Chair going to respect that or not going to respect it? I will be glad to abide by whatever the Chair says. I intend to sometime be able to make this talk, whether it pleases the Senator from Alaska or not. I intend to make it. And I know that he might not want to hear it. But I will be glad to do it at one time or the other.

The PRESIDING OFFICER. If the Senator from Alaska would withhold, the Chair is not aware of any arrangements prior to my tenure in this chair. The Chair advises, the Senator from Massachusetts has gone 9 minutes over his time, and he has asked for 10 more minutes, and I did hear objection.

Mr. KENNEDY. Mr. President, I withdraw the request.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. STEVENS. I ask to be added to the Senator's time that he has previously been allowed such time as he seeks now, 10 minutes.

Is that what the Senator seeks?

Mr. KENNEDY. I am not making any—I will take my chances when I—I know the rules of the Senate, and I will get a chance to speak tonight. I will take my chances and get the floor when I can.

Mr. STEVENS. That is what I am afraid of.

Mr. KENNEDY. That is too bad.

Mr. STEVENS. I have no desire to be here all night because the Senator is piqued now.

I want to ask how much time he wants so we have some understanding. We were supposed to have 3 hours equally divided. We had 3 hours equally divided. How much more time does the Senator want?

Mr. KENNEDY. Such time as I might use. And I yield the floor at the present time.

Mr. HOLLINGS. Mr. President, I would like in on this discussion.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. When the Senator from Alaska and the Senator from Massachusetts have completed, I think I ought to be able to answer the charges about my amendment.

The PRESIDING OFFICER. Who seeks recognition?

Mr. STEVENS. How much time does the Senator seek now?

Mr. HOLLINGS. Ten minutes.

Mr. STEVENS. Mr. President, first, let me ask unanimous consent that the time of the Senator from Massachusetts be extended for 10 minutes.

The PRESIDING OFFICER. Is there objection?

Mr. KENNEDY. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. STEVENS. How much time does the Senator wish?

Mr. KENNEDY. I appreciate the sincerity of the Senator's inquiry on this, but I will take—under the rules of the Senate, I will be able to get recognition at an appropriate time. I will take such time as I will use. We were all set to have an hour and a half divided, as we did yesterday, Senator. We would have finished this whole debate at 5 o'clock. And then we have had the jiggling of what I consider rules by skewing the time between those that either favor the amendment or not. I know the Senator has a different time. But since that has been the case, I know my rights under the Senate rules. And at the appropriate time I will regain the floor and complete my statement.

Mr. STEVENS. Mr. President, I again read, "on Wednesday, October 2, there be 3 hours for debate only, to be equally divided between the two leaders." And we are trying to do that. I would be willing to, in view of the misunderstanding, to extend that time for the Senator from Massachusetts. But as I understand it, this is the only debate today. Maybe the Senator knows something I don't know. But at the present time, the Senator from Massachusetts objects to the extension of time to meet his needs.

I will yield 10 minutes to the Senator from South Carolina.

The PRESIDING OFFICER. The Senator from South Carolina is recognized for 10 minutes.

Mr. HOLLINGS. I thank the Senator.

Mr. STEVENS. Will the Senator withhold for just a minute?

Mr. HOLLINGS. Yes.

Mr. STEVENS. Let me try it this way.

Mr. President, I ask unanimous consent that the Senator from Massachusetts be given the time following the time that the Senator from South Carolina has asked, equal to the time that the Senator from South Carolina uses—it's 24 minutes, I understand.

The PRESIDING OFFICER. Is there objection?

Mr. KENNEDY. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. STEVENS. I yielded time to the Senator from South Carolina time.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, aside from the procedure, the allocation of time where you can't even move at this particular point to satisfy the distinguished Senator from Massachusetts, let me refer immediately to the chart that is behind the Senator.

As you know, irrespective of the time allocation, Mr. President, the subject allocation was clear. And the subject allocation was an amendment by the Senator from South Carolina governing

Federal Express or express companies in the Federal Aviation Authorization Act.

And if the TV could go around, they could come right to this, "Why? Pay for tax cuts for the rich, help Republican special interests." "Republican attack on the middle class, slash Medicare, slash education, slash college opportunities, slash wages for working families."

I think, Mr. President, of the octopus method of defense, whereby the octopus, once cornered, squirts out this dark ink around the waters and then escapes within his own dark ink. I can tell you here and now by the references of the—and I quote—"Republican special-interest provision" that nothing could be further from the truth. Nothing could be further from the truth.

This Senator from South Carolina has been a Democrat since 1948.

I am not yielding to the Senator from Massachusetts on who is the Democrat and what is the Democrat's proposal. I proposed this, I proposed it proudly, I proposed it fairly, and exactly as the Senators and House members on the committee, by a vote of 8-6, would have it proposed, and by a majority vote in the U.S. House of Representatives, and has been approved.

I am not coming here with this talk about the Republican special interest provision, "Shameful Republican maneuver." I put it in there. Why is it important? To answer the question of the Senator from Wisconsin, it is a matter of honor. We made the mistake. Federal Express did not make a mistake. Federal Express did not ask for anything. I was told that we left out the reference "express company" inadvertently—not at the time we voted; it was after we voted. This particular ICC Termination Act, back in December, and after it was voted out, Mr. President, in the drafting of the final measure that we automatically signed, it was eliminated as I related earlier.

To come up with an antiworker charge, an issue of fairness and fundamental justice and all of that—they are ready to vote everything else. They are holding it up, after they moved to postpone, after they asked the entire report be read, and then make again the categorical statement, "No court has held Federal Express as an express company under the Railway Labor Act."

Well, we have some U.S. court decisions since commencing operations 23 years ago, and I ask unanimous consent that this listing, Mr. President, be printed in the RECORD.

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

FEDERAL EXPRESS IS COVERED BY THE RAILWAY LABOR ACT—THE TECHNICAL CORRECTION DOES NOT CHANGE THAT STATUS

Since commencing operations 23 years ago, Federal Express and its employees consistently have been determined by the federal courts, the National Mediation Board and the National Labor Relations Board to be

subject to the RLA. See e.g., *Chicago Truck Driver, Helpers and Warehouse Workers Union v. National Mediation Board*, 670 F.2d 665 (7th Cir. 1982), *Chicago Truck Drivers, Helpers and Warehouse Workers Union v. National Labor Relations Board*, 599 F.2d 816 (7th Cir. 1979); *Adams v. Federal Express Corp.*, 547 F.2d 319 (6th Cir. 1976), cert. denied, 431 U.S. 915 (1977); *Federal Express Corp.*, 22 N.M.B. 57 (1995); *Federal Express Corp.*, 22 N.M.B. 157 (1995); *Federal Express*, 22 N.M.B. 215 (1995); *Federal Express Corp.*, 22 N.M.B. 279 (1995); *Federal Express*, 20 N.M.B. 666 (1993); *Federal Express*, 20 N.M.B. 486 (1993); *Federal Express*, 20 N.M.B. 404 (1993); *Federal Express*, 20 N.M.B. 394 (1993); *Federal Express*, 20 N.M.B. 360 (1993); *Federal Express*, 20 N.M.B. 7 (1992); *Federal Express*, 20 N.M.B. 91 (1992); *Federal Express Corp.*, 17 N.M.B. 24 (1989); *Federal Express*, 17 N.M.B. 5 (1989); *Federal Express Corp. and Flying Tiger Line, Inc.*, 16 N.M.B. 433 (1989); *Federal Express Corp.*, 6 N.M.B. 442 (1978); *Federal Express*, N.L.R.B. Case No. 22-RC-6032 (1974); *Federal Express*, N.L.R.B. Case No. 1-CA-22,685 (1985); *Federal Express*, N.L.R.B. Case No. 1-CA-25084 (1987); *Federal Express*, N.L.R.B. Case No. 10-CCA-17702 (1982); *Federal Express Corp.*, N.L.R.B. Case No. 13-RC-14490 (1977); *Federal Express*, N.L.R.B. Case No. 13-CA-30194 (1991). The charges filed with Region 13 in Chicago, Case No. 13-CA-3019 and Region 1 in Boston, Case No. 1-CA-22,585 were withdrawn after we presented the above evidence of our jurisdictional status.

The National Mediation Board (NMET) recently ruled on Federal Express RLA status by stating unequivocally that "Federal Express and all of its employees are subject to the Railway Labor Act." *Federal Express Corporation*, 23 N.M.B. 32 (1995).

The term "employer" under the National Labor Relations Act excludes "...any person subject to the Railway Labor Act." 29 U.S.C. §152 (2). Excluded from the definition of "employee" under the National Labor Relations Act is "...any individual employed by an employer subject to the Railway Labor Act..." 29 U.S.C. §152 (3). The Railway Labor Act defines "carrier" as "... (including) every common carrier by air engaged in interstate or foreign commerce..." 45 U.S.C. §151, First and §181. Federal Express is a common carrier by air engaged in interstate and foreign commerce, and is certificated pursuant to Section 401 of the Federal Aviation Act.

That interpretation of the statute consistently has been applied by the NMB. Section 201 of the RLA, 45 U.S.C. Section 181, provides that the Act "shall cover every common carrier by air engaged in interstate and foreign commerce . . . and every air pilot of other person who performs any work as an employee or subordinated official of such carrier or carriers, subject to its or their continuing authority to supervise and direct the manner of rendition of his service." (Emphasis added). In accordance with that legislative directive, anyone employed by an air carrier engaged in interstate or foreign commerce is covered by the RLA. As was explained in *REA Express, Inc.*, 4 N.M.B. 253, 269 (1965):

"It has been the Board's consistent position that the fact of employment by a "carrier" is determinative of the status of all that carrier's employees as subject to the Act. The effort to carve out or separate the so-called over-the-road drivers would be contrary to and do violence to a long line of decisions by this Board which embrace the policy of refraining from setting up a multiplicity of crafts or classes. As stated above, there is no question that this particular group are employees of the carrier."

The United States Court of Appeals for the District of Columbia Circuit noted in regard to the NMB's *Federal Express* case that "the NLRB had 'never' asserted jurisdiction over" (Federal Express)." *United Parcel Service,*

*Inc. v. National Labor Relations Board*, 92 F.3d 1221 (D.C. Cir. 1996). Federal Express has participated in five union representation elections conducted under the auspices of the National Mediation Board, the most recent in 1995, and presently is participating in a sixth RLA election.

The Ninth Circuit Court of Appeals in *Federal Express Corp. v. California Public Utilities Commission*, 936 F.2d 1075, 1978 (9th Cir. 1991), cert. denied, \_\_\_\_\_ U.S. \_\_\_\_\_, 119 LEd.2d 578 (1992) found:

"The trucking operations of Federal Express are integral to its operation as an air carrier. The trucking operations are not sonic separate business venture; they are part and parcel of the air delivery system. Every truck carries packages that are in interstate commerce by air. The use of the trucks depends on the conditions of air delivery. The timing of the trucks is meshed with the schedules of the planes. Federal Express owes some of its success to its effective use of trucking as part of its air carrier service."

That court also stated:

"Federal Express is exactly the kind of an expedited all-cargo service that Congress specified and the kind of integrated transportation system that was federally desired. Because it is an integrated system, it is a hybrid, an air carrier employing trucks. Those trucks do not destroy its status as an air carrier. They are an essential part of the all-cargo air service that Federal Express innovatively developed to meet the demands of an increasingly interlinked nation."

It clearly has been established that Federal Express is a carrier subject to the Railway Labor Act. Its employees are likewise subject to the Railway Labor Act. No court or agency has ever determined that Federal Express or any of its employees are subject to the National Labor Relations Act.

Mr. HOLLINGS. Mr. President, citing just a few, *Chicago Truck Driver, Helpers and Warehouse Union*, 670 F.2d 665 in the 7th circuit; *Chicago Truck Drivers, Helpers and Warehouse Workers Union v. National Labor Relations Board*, 599 F.2d 816. Go right on down the list, *Adams v. Federal Express Corporation*, 547 F.2d 319, Federal Express Corp. 22 N.M.B.—that is not the court decision, but I can continue to cite them.

Court after court, board after board, and on the contrary, the distinguished Senator from Massachusetts refuses to acknowledge the truth, refuses to acknowledge that fact, and continually, the first day, yesterday, and now again today, stating, and I listened to him clearly, "No court has held Federal Express as an express company under the Railway Labor Act."

Absolutely false. Mr. President, that is the whole point about the modification here—this is a technical amendment. This is an important amendment. It was an important error because it was very, very clear, the intent, as I read from the ICC Termination Act of 1995 conference report the following sentence: "The enactment of the ICC Termination Act of 1995 shall neither expand nor contract coverage of employees and help employers by the Railway Labor Act." So they were covered at that particular time. They were covered under a 5-year proceeding, under that Philadelphia case, finally found unanimously on November 22, 1995, and we said our intent was not to change it. Through the

drafting error, we found out, months later, in 1996, that it was changed.

They do not ever ask and they do not want to find out. Mr. President, there is a letter relative to the Office of Management and Budget. They got a spurious one from the Congressional Research Service. Now, October 2, 1996, Franklin D. Raines says:

Congress deleted express companies from the scope of the Railway Labor Act last year in the Interstate Commerce Commission Termination Act believing that the last express company went out of existence years ago.

Where did he get that? I was there. You were there. Come on. We said specifically, "The enactment of the ICC Termination Act of 1995 shall not expand nor contract coverage of employees and employers by the Railway Labor Act."

So he never called me. I could have told him, as far as I know, it was an innocent mistake. He says, "This particular Hollings amendment and the FAA was agreed to without a hearing or public debate." Where was the public debate? Where was the hearing? Where was the Members' knowledge? At least the Members know of my particular amendment. We never knew of the dropping of the language there. So they want to get so official there "that could result in a significant shift of the relationship."

Why do they not call you up and find out what really went on, and why the positive interest? They continue to make these false statements. The Railway Labor Act was not to be modified in any way and the board has decided when they continue to say it has not decided, why it is as important a matter, I reiterate again and again, a personal matter with us and members of the committee that we would correct this. It is not for any special interest corporation. Federal Express had nothing to do with it when it was knocked out, and it certainly does not have anything to do with it other than trying to help me get some votes, I hope, now, but it is not being done for them; it is being done for our particular consciences. Maybe some in the Senate do not have any conscience left anymore.

Mr. President, there was another point. They keep on talking, all that about Davis-Bacon and minimum wage. I was going to come in and get the good Government award because I voted for Davis-Bacon, and I believe the Senator from Massachusetts was trying to give me the good Government award and get on my good side, but it had nothing to do with this particular amendment.

A list of the board of directors of Federal Express is here and we find that Howard Baker, the former majority leader on the other side of the aisle, and George Mitchell, the former majority leader on this side of the aisle are among the current board—I do not believe they would go along with that particular picture of a Federal Express truck, unfair or antiworker corporation.

I have so many things to go down and begin to correct because they are just running a touchdown in the wrong direction, part of a broader agenda, and all of these things that they put in, they have yet, since the very beginning, given me the name of the Senator or the name of the House Member that knew about this particular mistake being made.

This letter, as indicated from OMB that we thought the term express company was out, a staffer over there at the ICC apparently thought that, and that is why he left it out. It was not any part of our staff, it was not any Senator, it was not any House Member, it was not any hearing, it was never discussed. Does not anyone feel, as a matter of honor, we ought to correct the mistake?

It is not technical or superfluous. It is important. You can see how they are trying to roll the U.S. Congress, how many in here with fairness and tax cuts for the rich and Republican special interests and making it a partisan thing, so we can get a partisan vote if we cannot get the 60 votes to go to cloture. It is an embarrassment. They just do not have the facts on their side. They do not have the truth on their side. They do not have the decisions on their side.

Their rights, the rights of all workers, have been protected over the many, many years, long before the Senator from Massachusetts came and the Senator from South Carolina came. But they are trying a political gimmick here with news conferences and workers, and going down the list of the workers.

I thanked the Senator from Arizona yesterday. He happened to be attendant to the particular cases. He went down to those workers. I can't keep up with the number of workers they continue to bring. I guess with over 120,000 workers the world around, they can find a few. But the "best of the best" labeling of the 100 best companies to work for in America puts Federal Express at the very top in every regard. It is an outstanding company. They have nothing to do about taking advantage. I have something to do about not being taken advantage of and correcting the mistakes that were made, never heard, never discussed, never talked about, and put it where it is. So this crowd can't come in here rolling with their getting letters written from OMB. They have political power. I know their influence. They have influence over the CRS. The poor lawyer can write, except for the sentence he was asked about. Some say he ought to be fired from the Congressional Research Service, saying it was done intentionally, when the language says affirmatively, word for word, it wasn't done.

The PRESIDING OFFICER (Mr. GORTON). The time yielded to the Senator has expired.

Mr. HOLLINGS. I thank my colleague from Alaska.

I yield the floor.



Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I intend to get back now to talking about the bill that is before us. I am saddened that the Senator from Massachusetts has seen fit to attack the Republicans on the floor because of the situation we are in right now. As my friend from South Carolina said, the amendment being objected to by the Senator from Massachusetts is the amendment of the Senator from South Carolina. It is not a Republican plot. I don't know what all that stuff is over there. As a matter of fact, I don't think it complies with the rules. You can have billboards, as I have here, of a certain size, in order to illustrate a point pertaining to the matter pending before the Senate, which is the FAA bill.

In any event, Mr. President, I want to make sure that everyone understands this is probably the most far-reaching bill in the history of the United States dealing with aviation security and safety. It is a bill that, if it does not become law, is going to make us next year go back to square one and start the process all over.

Meanwhile, any tragedies that happen in this country, in terms of aviation safety or security, are going to be laid right at the feet of the people who prevent this bill from becoming law. There is a possibility that tomorrow a point of order will be raised against the bill even if we shut off debate, on the basis of the scope of this conference report.

In the conference report, we have included a series of matters that we thought were absolutely essential to the outcome of this process. The President appointed a commission. It was called the Gore Commission. That commission represented a series of things. In the things that were recommended, we have tried to include in this bill provisions that were in either the House bill or Senate bill to respond to the Presidential Commission on Airport Security and Safety.

For instance, there is the child pilot safety provision, Mr. President. That is title VI of this bill. I spoke earlier today about the family assistance provision, which was H.R. 3923. That is title VII of this bill. They are beyond the scope of the conference, there is no question about it. It takes the forbearance of the Senate to pass the bill that the House has already passed, recognizing the emergency that exists in our country coming out of recent tragedies in the aviation field.

Now, we have in this bill a provision that requires the FAA to study and report to Congress on whether some security responsibilities should be transferred from airlines to airports. That is in section 301. The FAA is directed now to certify companies that provide security screening. No longer is that going to be just an airport activity. It is an FAA responsibility now. We have provisions to bolster weapons and explo-

sive-detection technology. Money for that is in the appropriations bill that passed now. It passed on Monday. The authorization to spend the money is in section 303. Unless the bill passes, that will not be done. There will not be explosive-detection facilities at our airports until Congress gets around to passing the bill again in the next year—hopefully. It has taken us 2 years to get it in this Congress. I predict that it will take at least 18 months in the next Congress to get back to this point.

This bill requires that background and criminal history records checks be conducted on airport security screeners and their supervisors, on those people, airport security screeners and supervisors. In other words, we are not going to let the fox in the henhouse in terms of the security of the aviation facilities.

We require the FAA to facilitate the interim deployment of currently available explosive-detection equipment. That means they will do it immediately. It is going to happen immediately if this bill passes.

We require the FAA to audit the effectiveness of criminal history records checks and encourage the FAA to assist in the development of the passenger-profiling system. We permit the Airport Improvement Program and passenger facility charges funds to be used for safety and security projects at airports. That is direct availability of funds for that purpose.

The FAA and FBI must develop an aviation security liaison agreement. They must lay out in advance how they are going to work together on security problems. FAA and FBI must carry out joint threat assessments of high-risk airports. That begins immediately when this bill passes. There is money in the appropriations bill to do it. It requires the periodic assessment of all airport and air carrier security systems, and it requires a report to Congress on recommendations to enhance and supplement screening of air cargo.

Mr. President, this bill is absolutely essential to the future security of our airports and our airway systems.

Further, let us talk about aviation safety. This bill reiterates in section 401 that safety is the highest priority of the FAA. It facilitates the flow of FAA operational and safety information primarily. It authorizes FAA to establish standards for the certification of small airports so as to improve safety at those airports.

The NTSB and FAA must work together to improve the system for accident and safety data classification so as to make it more accessible and consumer friendly. It requires the sharing of pilots' employment records between former and prospective employers to ensure that marginally qualified pilots are not hired. That is one of the basic defects in our laws today. This mandates that a new employer has the right to the pilots' records from all prior employers. Now, Mr. President, if there is any reason, above all, to pass

the bill, it is right there, title V: No more defective pilots being hired by someone who does not know of the prior record of the pilot.

This will discourage attempts by child pilots to set records or perform other aeronautical feats. Unfortunately, that is required because of the recent problem we had with regard to a child pilot. Beyond that—look at this, Mr. President—this provides the authority to expend \$1.46 billion on airports through this AIP program. That money can't be spent until this bill passes.

I have a whole list of things that are underway, Mr. President—underway now—and they are items that ought to proceed. I want to put some of them in the RECORD. Let me talk about some of them.

In northwest Arkansas there is a grant for the replacement of a commercial service airport. If these funds are not available the new regional airport will cease until grant funds are made available in the early next year.

In Reno at Lake Tahoe, the international airport there, they have completed a major parallel runway. But they have to have additional funds in order to complete that runway, and that must be available in the next 30 days.

They are in this bill.

The Sacramento International Airport just completed reconstruction of another parallel runway system. The immediate need is for the entitlement and discretionary funds to pay the debt for that process.

In other words, that can't be finished.

Over in Rhode Island at Providence, the Teddy Green State Airport, there is money in this bill. And if it is not available immediately the Rhode Island Airport Corp. will suffer financial hardship, and cash flow problems, if this grant is not made by the end of this first quarter of fiscal year 1996.

In Philadelphia, there is a runway under construction;

In Ithaca, NY, another runway construction;

Albany, NY, construction;

Clarksburg, WV;

Buffalo, NY;

Right here in Washington, the Metropolitan Washington Airport Authority;

Danville, VA;

Roanoke, VA;

The State airport in Baltimore;

Charlottesville, VA;

Out in Portland;

In Denver;

And, the Seattle-Tacoma Airport which is very familiar to people from my State and the occupant of the chair.

Mr. President, this is a national bill. It is money that is spent from a trust fund. It does not come from the Treasury. It comes from the trust fund. In order to take money out of the trust fund it must be specifically authorized. And this is the authorization right here. This is the bill before us.

If a point of order is made tomorrow against this bill and allows the bill to be destroyed, the whole conference report falls—the whole conference report.

From there on, you can only operate by unanimous consent; unanimous consent. This whole bill will then be dependent upon unanimous consent. Any one Senator can say, "No. I do not want go along."

Now we have three or four Senators right now who say they don't want the bill to go forward as it is. And we are flying people back here from all over the country to get 60 votes. We will get 60 votes to stop this filibuster.

That is what it is. It is a filibuster against FAA security and safety legislation because of one small provision, and the Senator from South Carolina stated what it is. It is to correct an error that was made when a bill was passed here last December.

Under the circumstances, all this business—I am a very patient man normally. At least I think I am. Some people may disagree. But I think I am patient with regard to expressions of opinion here on the floor. But I never thought I would come out here and listen to this campaign speech from the Senator from Massachusetts when we agreed to 3 hours equally divided today to debate this conference report.

Suddenly, it has developed into a campaign debate. If it is to continue, I am going to call for the campaign people to come out here and conduct the debate. I was prepared to debate this bill, and the reason this bill must become law.

I want to say, Mr. President, in all seriousness now, if this bill is to be destroyed by a point of order on a technicality tomorrow, we are going to be around I think a long time next year, and we are going to be hearing the charges that will come out of the terrible calamity that will happen in the event there is another serious airline crash, and we end up with the same laws—the same inadequate laws—trying to deal with them. Because that has been the problem—whether it is the ValuJet in Florida or the crash over New York, these crashes now are involving so many different problems; problems of recovering the remains of the aircraft from deep water off our shores, or to try to get it out of a terrible swamp down in Florida, and all of the various problems particularly of the victims.

I think I am about ready.

What is the time situation?

The PRESIDING OFFICER. The Senator from Alaska has 13 minutes and 50 seconds remaining. The Senator from Massachusetts has no time remaining.

Mr. STEVENS. Does the Senator from South Carolina wish any more time?

Mr. HOLLINGS. Just a minute.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. I thank the distinguished Senator because on the subject here, the point of order, I remind all of

my colleagues. That is what is required under this unique session that we had here in the U.S. Congress this year. We could not complete our work on six of the very important appropriations bills. Many of the provisions here early on Monday and all of Tuesday were included. I got upset with all kinds of provisions that never appeared in the House side and never appeared in the Senate side.

So I am very careful not to roll anybody, or pull any tricks. And I am rather taken aback that they are trying to talk and use the expression "blackmailing," and everything else, when that is exactly what has occurred—all through the very organized Senator trying to say "blackmail" this body. And the reason the Senator from Alaska has all of this documentary evidence up here to help the Republican special interests is to, by cracky, do their dead level best to make it a partisan issue when it is not; and making it a partisan issue requiring some 60 votes; all the time clothing themselves as being so reasonable; so interested in issues of fairness; fundamental justice; and, all of that. They are clothing themselves in those garments, and then come around and gut you. We know what is going on.

With respect to pay—and then I will yield—the statement was made earlier that the young lady, or someone, who had not had a pay raise in 7 years took me aback. So I called. And I will now read what was delivered to me by Federal Express, and I quote.

The average pay growth of the entire FedEx work force with over 1 year of service, including over 30,000 couriers, has exceeded 50 percent over the last 8 years, and has averaged in excess of 6.5 percent per year over that same time period. The officers of Federal Express are excluded from this calculation.

So the smearing of the corporation—the company—the smearing of the sponsor with the charge of "blackmail" and "jamming" it, and running around the end, and trying to pull the rug out in the middle of the game, those are all smear tactics. They know it. They know I wouldn't engage in it. I am taking exception to it as strongly as I know how.

We will stand here with the rest of them because we have the truth on our side. Hopefully the truth will prevail tomorrow in spite of these labels and machinations that go on here trying to adulterate the process. That is what they are trying to do because they don't have fairness on their side.

We are not changing any fundamental law with the Hollings amendment in the FAA bill. Rather, we are restoring the parties to where they are, we think, at the moment, but certainly where they were in December of last year before this drafting error was made at the time of the termination of the Interstate Commerce Commission.

I thank the distinguished Senator.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I am informed that approximately 75 percent of our people who travel between cities in this country now go by air. In my State, as I have said before, over 75 percent of the communities in my State can be reached only by air. No one, I think, here is more sensitive to the problems of aviation safety and security than those of us from Alaska. It is an area one-fifth the size of the United States. We literally are one-quarter the size of the continental United States. When you look at our problems in terms of aviation, we live and sleep and some of our people are born and many of them die on airplanes. We have to have aviation security. I have worked long and hard on this bill. We have had some disagreements over funding of the future expansion and modernization of our airports and airway system, but I must tell the Senate there has never been a disagreement in our committee that we had to have a bill this year. It has to be done.

When we got in conference and we started adding other issues—as I have said, we added the victims rights, victims assistance legislation, the rights of families legislation, we added a couple other items here and the measure obviously was opened beyond the original scope. The Senator from South Carolina offered his amendment. I believe it was the last amendment to be adopted—

Mr. HOLLINGS. Right.

Mr. STEVENS. In the conference, and it was adopted. There was a debate on it but an overwhelming vote, bipartisan vote in the conference.

I have to tell the Chair I never suspected that we were going to have this kind of delay on this bill. To me and to the people I represent, it is the most important bill of the whole Congress. I thought that the fishing legislation, extension of the 200-mile limit bill, the Magnuson Act was important—I still think it very important—but this bill affects the lives of every Alaskan several times a week. I cannot tell the Senate how strongly I feel about getting it passed, and how sad I am to learn that in all probability there is going to be a point of order raised on this bill tomorrow.

Incidentally, we must have 60 votes here tomorrow, and we are sending throughout the country alerts to everyone to come back and vote. I think there is an obligation of all Senators to be here, but obviously it is going to take at least 60 here tomorrow to terminate this filibuster. If the filibuster is not terminated, obviously the conference report fails. If the point of order is granted, obviously, the conference report fails also. It is not going to be an easy thing to explain to the country if we are not able to pass this bill.

So, again, I urge Senators to come back, that they be informed about this bill, to understand what it is. It is not part of the chart that is behind the Senator from Massachusetts. It has

nothing to do with taxes or any Republican attack on anybody. It is the most serious bill in the aviation era that has ever been passed by Congress. I hope it becomes law.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. STEVENS. 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. STEVENS. Mr. President, I ask unanimous consent there now be 30 minutes under the control of Senator KENNEDY, 30 minutes under the control of Senator HOLLINGS, and 30 minutes under the control of Senator NICKLES, and following the conclusion or yielding back of the time, the Republican whip be recognized to make appropriate consents for the Senate to adjourn until 9 a.m. on Thursday.

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

The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I yield myself 20 minutes.

Mr. CHAFEE. I wonder if the Senator will yield?

The PRESIDING OFFICER. Does the Senator from Massachusetts yield?

Mr. KENNEDY. I will be glad to yield for a question. We have had some exchange on the question of how we are going to proceed now. If it is agreeable, I would like to take just a few moments. We have been working through this process.

Unless it is a brief comment, I think I will proceed.

The PRESIDING OFFICER. The Senator from Massachusetts has the floor.

Mr. KENNEDY. Mr. President, I do not want to take the additional time to repeat the fundamental core issue, whether this was the technical amendment or whether it was a substantive amendment. I think that case, although there is a difference in the expression of the Members on our side on this issue, particularly the Senator from South Carolina and myself, I will let the record stand. I think the independent evaluation by the Congressional Research Service, the administration's own position, the different statements made by the Members of the House of Representatives, and the history of the debate on this issue, the conclusions that one can draw from the conference committee when that measure was addressed—all indicate quite clearly that the measure was dropped with the abolition of the Interstate Commerce Commission. And since there had not been any entity that lived up to the old railroad—REA requirements, it was an anachronism and was effectively dropped. I think that case, hopefully, has been made to the satisfaction of the Members.

Mr. President, I just want to add, this measure, with all respect to the comments that have been made around

here, has been out there in a number of forms over the period of this last Congress, being pursued by Federal Express, by the Republican leadership, BUD SHUSTER over in the House of Representatives and later it was put forward by the Senator from South Carolina.

But there were more than three or four instances where this was attempted by Republican leadership in the House of Representatives. The final action on this legislation came to 203 Republicans for the bill, 15 Democrats; 168 Democrats, 30 Republicans, so it is 218 to 198, the overwhelming majority of the Democrats opposed; the overwhelming majority of the Republicans in support. I believe that is what we are going to see tomorrow. So, whether it was advanced by the Republicans or Democrats in the caucus—clearly this is a provision that is strongly, strongly supported by our Republican friends.

I want to just finally point out, as I was mentioning earlier, we should not be surprised that it is being so strongly supported by our Republican friends because I feel that the fundamental issue is the issue of fairness and equity to these workers who are trying to follow precedent as truck drivers and to be considered under the National Labor Relations Act. They were following that precedent. The precedent most visible, I think, for most of us, was UPS, where the truck drivers are effectively doing the same thing. They are the principal competitor, as well as the Post Office. And there, the truck drivers are considered under the National Labor Relations Act. The issue is whether these truck drivers will be able to be so considered. The purpose of this amendment is to make sure that they are not.

That is the bottom line on this. By not covering them, we see what the authority and the power is of Federal Express in dealing with their employees. I reviewed earlier in the day, some really extraordinary instances of grievances that Members have. I will put in the RECORD as well the pay rates that are significantly different from those that have been advanced.

Nonetheless, if the workers were so happy the company would not have to worry about having a union for them. That is the bottom line.

If everything is hunky-dory, they are not going to go ahead. That is what happens around here. It is only when there are legitimate grievances focused on pay and other grievances that there is a consideration of a union. All we are saying is let the workers make that judgment and make that decision and don't foreclose them. That happens, we believe, to be the current state of the law, and with this action, the interest of those workers would be circumvented, would be compromised. It is not the Senator from Massachusetts. We have had the CRS, the administration has said it, and those members of the Transportation Committee in the House have reaffirmed it.

Mr. President, I wanted to take a final few moments to put this into some kind of perspective.

Should we be surprised that the overwhelming majority, in this instance it will be the Republicans in the Senate, as it was in the House, are supporting a provision that would effectively undermine the legitimate interests and rights of those truckers? Should we be surprised with it?

The point I was making earlier in the presentation is I don't think we should be surprised when we look at what the record has been over the period of these last 2 years on economic issues, minimum wage, EITC, other issues affecting income, the Davis-Bacon Act, or whether it has been the interest of workers versus the powerful special interests when we came to opening up the pensions.

Here are legitimate funds paid in by workers, and the corporate world is trying to get its hands into those pension funds. We have seen the abuses in the 1980's and the attempt, again, that was being made, in spite of votes here in the U.S. Senate saying we shouldn't do it, to open up those pensions to the corporate raiders. That is a matter of fact. Senators might not want to listen to this. Senators might disagree with this fact. But the fact of the matter is, we took action here in the U.S. Senate that would have compromised the savings of workers. We have compromised their income, and we have compromised their savings they put away for a life's dream.

Then we came back to issues that would have affected their health, their safety, and, under the fine leadership of Senator KASSEBAUM, I thought we had a bipartisan effort, virtually unanimous by our committee, unanimous here, eventually, on the floor, and we were delayed a period of 8 months before we were even able to bring this measure up.

Who would that measure have affected? Working families playing by the rules, paying the premiums, that might have some preexisting condition and might want to go to another job or to be able to continue the payment of their premiums and retain their insurance to deal with some of the most important things. Who was delaying that? Many of the major insurance companies at the cost of the workers.

That has been the history, Mr. President. Our friends on the other side might not want to hear it, they might not like it, but that happens to be the record.

When we had a bipartisan effort to do something about mental health under the leadership of Senator DOMENICI and Senator WELLSTONE, it was passed here on the Kassebaum-Kennedy bill.

Who weighed in against that provision in terms of mental health? The insurance industries. And who would have benefited from it? Working families. Who would have benefited from the leadership that Senator BRADLEY showed in trying to deal with the, I

think, unfortunate restrictions that are placed upon expectant mothers and their babies after delivery and putting a time limitation of 24 hours, 48 hours with more complicated births. Who would benefit? It would be the mothers in working families, the wives in working families. Who opposed it? The insurance industry.

Our friend and colleague, the Senator from New Jersey, had difficulty with that, and eventually it was accepted in the final hour.

Whether it has been on what we call the baby bill, or whether it has been on mental health, or whether it has been even on the proposal Senator WYDEN advanced to try and remove the gag on the doctors in this country in HMO's to give consumers full information—who are the consumers? Workers. Who is on the other side? The insurance industry. Because of the resistance we had on that, the proposal of Senator WYDEN was not agreed to.

All I am pointing out is time in and time out, over this period of time, whether it is working families, children of working families with the large cuts in the education programs—who benefits from those programs? It is the sons and daughters of working families. They are the ones who qualify for the Pell grants or the Stafford loans.

You have to be under a certain income. It can get as high as about \$62,000, if you have three or four children in school. But it is, basically, for the children of working families to try and permit them to go. Nonetheless, we saw the cutbacks on the Pell grants and the cutbacks in the loan programs.

Whose children are going to benefit? It is the sons and daughters of working families.

We have the assault on the incomes, wages of workers, we saw the reduction in the education program, we saw the reduction of Medicare, which would have meant \$2,400 per couple over a period of 5 years they would have had to pay out, and if they weren't able to pay it under Social Security, who would have ended up paying it? It would have been the working families who want to make sure their parents have some degree of respect and dignity.

It is with regard to cuts in the income of working families, the cutback in Medicare, or increase in the premiums of copays and deductibles, which, if the senior can't pay for it, will be paid for by those working families. There were even cuts in the Medicaid Program. We have 18 million children on Medicaid; 4.5 million under the Republican proposal would have been knocked off Medicaid. Two-thirds of the children on Medicaid have parents who are working. They are the poorest of the poor.

What is going to happen with those cuts? It slashes the wages to working families, a slash in college, slash in education, slash in Medicare, for what? To pay for the hundreds of billions of dollars in tax cuts. For whom? For the wealthiest individuals. That happens to

be the fact. There are people on the other side who don't want to hear it. There were attempts to silence us on this side of the aisle from making those speeches. That was true yesterday, when my good friend, Senator MCCAIN, said, "We don't have to listen to this, we don't want to listen to it," and left the floor. Or the attempt to try and silence us here on the floor this afternoon. Those are the facts. Our Republican friends may not want to hear it, but those are the facts.

To come back to the core issue, what we are talking about is the legitimate interests, rights, and grievances of those workers in Pennsylvania, and we referred to those earlier. Should we be surprised that in the final hours, we are going to give short shrift to those workers based upon what has been the Republican leadership in the House and the Senate over this period? We should not be surprised, Mr. President. We should not be surprised.

Should we speak for those individuals? I think that we should speak for those individuals.

Should we support the FAA conference report? Sure, we should support it. The Senator from Alaska knows we could call up a clean bill, and it would pass in 5 minutes—5 minutes. No one has to come back. That issue is resolved. Turn the lights down in the U.S. Senate and let's go back and have the debate with our constituents across the country on what kind of future the American people want to support.

Do they want someone who is going to represent working families, or do they want someone who is going to be involved in the special interests? We do not have to bring all our Members on back. All we have to do is have the clean bill, take the conference report without those provisions that undermine the legitimate interests of working families in Pennsylvania. We could have passed that, and we would not be here this evening.

But, oh, no. We are not going to do it that way. We are just going to insist that those provisions are going to be included in any provision. "We don't care whether you're going to stay here or not and speak for them." I have welcomed the opportunity to speak for those families.

I think they have rights and they have interests, and they are entitled to someone to speak for them. I welcome the opportunity, and I consider it an honor to be able to speak for them.

Mr. President, I ask unanimous consent that a letter and a news release from Public Citizen detailing the practices of Federal Express and their impact on public safety be printed in the RECORD.

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

OCTOBER 2, 1996.

DEAR SENATOR: Tomorrow you will vote on an amendment to the Federal Aviation bill that will limit the ability of Federal Express workers to organize under the labor laws.

This amendment has not been subject to any hearings or legislative debate but is a last minute add-on to the conference report.

We urge you to vote against cloture for the following reasons:

(1) If this anti-labor amendment passes, Federal Express workers will have no ability to organize to protect their safety on the highways. This is a particularly critical issue because in 1995 Federal Express (and some other companies) rammed through an amendment to the National Highway System (NHS) legislation that eliminates all federal motor carrier safety requirements for most of the trucks their employees drive—10,001 to 26,000 pound trucks. Among the highway safety standards that were abolished are hours-of-service, driver qualifications, equipment standards, and inspection requirements. This amendment was opposed by the insurance industry, highway safety organizations, the fire fighters and the Administration. Without the ability to organize for their own protection, and with a hole blown through the fabric of federal motor carrier safety requirements, these workers lives literally are on the line.

Between 1991 and 1994, the fatal injuries and crashes involving trucks in this vehicle class increased by 50% with 1,400 people killed in 1994 and thousands injured. In addition to the operators of these trucks, of course, the public at large is also at risk. UPS opposed this amendment on the NHS bill because many of the federal safety requirements are already part of their labor contracts.

(2) This is not the first time or the second time that Federal Express has used last-minute tactics to gain passage of controversial amendments to law. In the 1990 aviation authorization bill, with no hearings, exemption from local noise requirements for aircraft were pushed through. In the 1994 aviation authorization bill, Federal Express was involved in getting preemption of state regulation of truck prices, routes and services through the Congress with no hearings in the Senate where the amendment was added to an unrelated bill and only a last minute hearing in the House during the conference negotiations. State officials were outraged at the way this was maneuvered. In 1995, motor carrier safety standards were eliminated for Federal Express type trucks in the National Highway System legislation. In 1996, the anti-labor provision Federal Express seeks to get enacted in the aviation authority conference report is the most recent in a long string of such maneuvers.

These issues are major public policies that deserve appropriate hearings and evaluation. The public is already angry about the way wealthy business interests dominate the congressional decision-making process. This history of Federal Express sponsored legislation, combined with the millions of dollars it spends each year on lobbying, campaign contributions, and providing air transportation services to key members of Congress, undermines our democratic system. Federal Express has a long history of opposition to government regulations. But when they want to block their employees' efforts to form a union and gain an unfair advantage over their competitors, the sky's the limit on money and political muscle they will use to get their own customized regulatory protection made into law.

(3) There have been concerns raised on the Senate floor about the need to pass the aviation bill for protection of public safety. But many Americans also will be endangered if Federal Express workers cannot negotiate safety protections (now that federal rules are abolished) as do the UPS workers. And the limits on Federal Express workers will be permanent while the aviation system will

merely experience a small delay and it is already fully appropriated. Please remember as many people die on the highway every day as die in one airline crash.

(4) The labor amendment on the aviation bill which overrules pending litigation should be fully debated in the labor committees of the Congress and subject to the same review and procedural rules that most legislation receives. If this means that the House of Representatives has to return to Washington to repass a clean aviation bill, that is a small price to pay. Hopefully, it would discourage future manipulation of this sort.

In sum, for the safety of Federal Express drivers and the driving public at large, for fairness and integrity of the legislative process, and for the workers of the Federal Express company, we urge you to vote against the cloture petition and pass a clean, unadulterated federal aviation bill.

Sincerely,

JOAN CLAYBROOK.

[From the Public Citizen, Oct. 2, 1996]

PUBLIC CITIZEN SUPPORTS EFFORT TO BLOCK SWEETHEART DEAL FOR FEDERAL EXPRESS; COMMENDS SENATOR KENNEDY'S PRINCIPLED STAND

WASHINGTON, DC, October 2.—The consumer advocacy group Public Citizen today applauded Senator Edward M. Kennedy's (D-MA) efforts to block an attempt to add a special "Federal Express protection" clause that was slipped into the Federal Aviation Reauthorization bill.

"Federal Express has a long history of opposition to government regulations," said Joan Claybrook, president of Public Citizen. "But when they want to block their employees' efforts to form a union and gain an unfair advantage over their competitors, the sky's the limit on money and political muscle they will use to get their own customized regulatory protection made into law."

Federal Express is one of the most active lobbying companies in Washington, and this attempt is a text-book example of how Washington works to benefit fat cats at the expense of ordinary citizens. In the first six months of this year alone, Federal Express reported lobbying expenses of \$1,149,150 and the use of nine outside lobbying firms. And Federal Express backs up its lobbying with generous campaign contributions. In the 1993-94 election cycle, Federal Express gave over \$800,000 to 224 candidates for federal office. And it's given well over half a million dollars to members of Congress so far in the 1995-96 election cycle, with \$543,000 reported to the Federal Election Commission as of July 1, 1996. And just to make sure the major political parties don't forget Federal Express, they've given at least \$159,900 in soft money to the Republican National Committee, and at least \$100,000 to the Democratic National Committee.

To make sure its voice is heard in the Capitol, the FedEx board of directors includes high political profile members such as Former Senate Majority Leader George Mitchell, former Senator Howard Baker and former DNC Chair Charles Manatt. There are also reports of Federal Express making its corporate jets available to members of Congress and other political figures, and accepting the equivalent of commercial air fare as payment. Public Citizen is currently asking Senators and their staff to disclose any use of Federal Express aircraft for their personal, official or campaign travel.

Federal Express has used its political clout lobbying muscle and its campaign contributions to get numerous special provisions inserted into various legislation. In 1995, Federal Express was able to get exemption from federal motor carrier regulations for its de-

livery trucks in the National Highway System legislation. This exemption for trucks from 10,000 to 26,000 pounds was granted even though the number of fatalities from crashes of trucks in this size range increased by 50% from 1991 to 1994, when 1400 people died.

The exemption of these delivery trucks from federal motor carrier standards leaves Federal Express drivers and other motorists less protected. If the drivers had union representation, they could address safety concerns in contract negotiations. Federal Express now wants regulatory aid to make that possibility more difficult for employees to achieve.

In other years Federal Express used language slipped into aviation bills to win exemptions from state noise requirements and exemption from state price, route and service regulations. The stage for the current eleventh-hour battle was set earlier this year when Congress rejected similar amendments.

"What we are seeing is simply another flagrant example of a politically active and well-connected corporation trying to use its influence and connections to make an end run around the legislative process," concluded Claybrook. "Federal Express is trying to get its special interest protection written into law without hearings, discussion or debate. Fortunately, Senators Kennedy, Harkin, Simon, Feingold and others who support working families are making sure the public knows exactly what is going on, and we commend them for it."

Mr. KENNEDY. Mr. President, on tomorrow we have, as I understand it, an hour of time before the vote, which will be evenly divided. I would like to ask the Chair now, who controls, just so I will know what steps, if any, to be taken this evening to be given assurance that at least those who are opposed to this amendment will have an equal time with those who are in favor of the amendment. What is the understanding of the Chair at the present time?

The PRESIDING OFFICER. The vote on the motion to invoke cloture on the conference report will occur at 10 a.m. on Thursday. There will be 1 hour of debate to be equally divided between the majority leader and the minority leader prior to the cloture vote, with the mandatory quorum call under rule XXII waived.

Mr. KENNEDY. Well, Mr. President, I am satisfied that both the majority and minority leader will work out an arrangement to ensure that the time divided will be fairly divided between those who support and those who oppose.

So I have no further requests. I thank the Members for the opportunity to make these presentations here this afternoon, and I look forward to tomorrow and hope that we can, by assuring that we are not going to gain the cloture—I hope that right after that we, if we are successful, will move to a clean bill and pass it overwhelmingly. I have every expectation that by noontime the House will be willing to accept it, as they have at other times actions which we have taken on this measure, and that we will have done justice to many workers who have been playing by the rules of the game.

The PRESIDING OFFICER. Does the Senator wish to reserve the remainder of his time?

Mr. KENNEDY. I will reserve it.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Under my allotted time I want to make certain that I relinquish at least 5 minutes to the Senator from Rhode Island, who has been waiting to speak on an entirely different subject. So if the Chair will counsel me. But I do not think I am going to take but about 10 to 15 minutes here.

Specifically, Mr. President, when the distinguished Senator from Massachusetts ends up on this important thing with pay for tax cuts, help Republican special interests, and all those other things—they are removing the charts now—talking about mental health, Pell grants, anything and everything to make it a partisan issue, I have learned in the early days, like my black friends, how to interpret.

I will never forget the story they had in the earliest days in politics when we used to have the literacy tests given. The poor black presented himself at the polls to vote. The poll watcher says, "Here. Here. Read this," and showed him a Chinese newspaper. He took that newspaper, and he turned it up there, and he then turned it around, and then he turned it on the side, and everything else. He said, "I just read it." He said, "What does it say?" He said, "No poor black is going to vote in this State today."

I read the Senator from Massachusetts. He knows that truth and the facts and the conscience is on the side of the Senator from South Carolina. What he is saying—translated—is, this is horrendous Republican conduct concurrent with the contract, like they said to the black male, and doesn't take care of mental health, Davis-Bacon, minimum wage, Pell grants, all these other things, so that the substantial Democrat vote needed for the cloture vote in the morning will stay home.

I know substantial Democrat votes who listened and have told me that they will support this opportunity to correct the mistake.

Let me emphasize, that it was a mistake. They try, in the opinion of the CRS, to say it was intentional or in the opinion of the Office of Management and Budget to say that it was intentional. But we read time and time again—every time I have to continue to turn to it—I said, here is the intent, if you really want the intent. Because we all agreed the enactment of the ICC Termination Act of 1995 shall neither expand nor contract coverage of employees and employers by the Railway Labor Act.

So according to intent, nothing was changed. But now they come and say it was. So I said, "Well, like me, why don't you try to find a Senator who suggested it? Why don't you try to find a House Member who even discussed it? Why don't you find anybody in that conference or before or after who suggested it? Then some staffer may say,

"Oh, I remember my Senator or my Congressman wanted to make sure." Not to be found whatsoever.

The truth is that the counsel at the ICC, which does not certify express carriers like Federal Express air carrier, where 85 percent of their packages are carried by air, intimated since the Railway Express Agency had gone bankrupt and their rights had been transferred, there was no need for the language.

But they all now agree, 2 months later in 1996, when we learned about it, it was an inadvertence, because it was a hotly contested thing over a 5-year period in the Philadelphia case used by the distinguished Senator from Massachusetts.

The distinguished Senator from Massachusetts says that here the poor workers are right in the middle of trying to get their rights and are being cut off at the pass by the Senator from South Carolina. Not at all. Their rights are the same as under that 5-year case on November 22, 1995, under this particular amendment.

What we are trying to do is make sure that all rights of all parties, as expressed in the ICC Termination Act, are unchanged, neither expanded nor contracted.

So we are not pulling the rug out. On the contrary, we are preventing the rug from being pulled out. We are not changing the rules of the game. On the contrary, we are trying to prevent the rules from being changed after the game. For what it was is, on November 22, by a unanimous opinion of the National Mediation Board, Federal Express was an express carrier under the Railway Labor Act. It was not until December 15 that we marked up that conference report on the termination of the ICC. That is wherein they dropped the two words, "express company." That is wherein the ambiguity is, in spite of the expressed intent. That is the ambiguity that the Hollings amendment intends be corrected.

I am proud, because we have used that device ad infinitum here this particular week in the adoption of six appropriations bills. And matters included in those bills were never in the House, never in the Senate, included for the first time, and we voted overwhelmingly for them. So do not come with procedure and technicality.

Not a special interest in the sense of giving a corporation something they never had. A special interest in the light of the truth. The truth is a special interest of the Senator from South Carolina. It is a matter of honor and conscience. When we found this mistake was made on our watch, we wanted to make every reasonable effort to make sure it was corrected.

Don't give me about hearings. The mistake was made without any hearings, without any discussion, without any knowledge. So we need not have any hearings or knowledge now. However, we did have knowledge. We did argue it in the conference. We voted 8

to 2 on a 4-to-1 vote to include it. It passed the House, and has been ready to pass the Senate since the beginning of the week, except for the motion to postpone, the requirement of the reading of the bill, for all of these machinations where they say they are not for filibuster and are engaging in a filibuster.

That is not the matter of an issue never litigated. The Teamster case in 1993 which I referred to in the RECORD stated that it had nothing to do with Federal Express, but in a unanimous opinion by the National Labor Relations Board, an opinion by the chairman stating that the United Parcel Service has 92 percent of their packages delivered on the ground, did not qualify, in contrast, as Federal Express has since its initiation or beginning in 1973.

On the contrary, it is entirely different, quoting the Teamster lawyer, "As night and day." But they come with the oozing argument, trying to get the foot in that door—what is the matter; United Parcel Service operates under the rules, why cannot Federal Express? Federal Express is operating under the rules. It has operated under the rules. There is no court decision other than holding it should operate under the rules of the Railway Labor Act.

Yet, my distinguished colleague from Massachusetts continues to say again and again and again there is no court decision finding that Federal Express is an express company to operate under the Railway Labor Act. He could not show me one decision when I asked. I asked for the grounds. Where is the decision that he finds otherwise? It is not an issue unstudied.

We formed the Dunlop Commission here at the beginning of the year under the former Secretary of Labor under President Carter, and that commission found that the provisions of the Railway Labor Act should not be changed. I emphasize the fact that Mr. Doug Fraser, former president of the United Auto Workers, was a member of that commission.

Now, Mr. President, there is no reason to waste the time of the Senate here about Federal Express being antilabor. We know Howard Baker, the former majority leader, is not antilabor. We know George Mitchell, former majority leader on this side of the aisle, is not antilabor. They are both on the board. I put in more good Government awards for recognition for Federal Express than you could possibly imagine—continuous—over the years.

In "the 100 Best Companies To Work for in America," they rated at the top in every respect for workers' rights, good housekeeping, for working men. Who is the best company for working women? They won that. For minorities, for Hispanics, in any particular regard, you find Federal Express is diligent, working, growing, and paying.

I finally have to put in, when we heard we had not had a pay raise; to

the contrary, for the past 8 years, all Federal Express workers, including 30,000 couriers—not including their board members, but including 30,000 couriers—all have received an average of 6.5 percent over the past 8 years or over a 50-percent increase in their wages. That is the fact. No use to come out here and slam and paste antiworker signs with a big old Federal Express truck on them and begin a diatribe against the Republican Party. That is the worst performance I have ever seen.

I yield 5 or 10 minutes to the distinguished Senator and reserve the balance of my time.

Mr. CHAFEE. First of all, I want to thank very much the distinguished Senator from South Carolina for letting me proceed.

I ask that I might proceed for 8 minutes as in morning procedure.

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

#### RETIRING SENATORS

Mr. CHAFEE. Mr. President, there are 13 Senators who have chosen not to run for reelection. Each one I consider a friend. With each one, I have had extremely enjoyable experiences—whether it be traveling abroad, as with HOWELL HEFLIN; working on the centrist coalition, as with HANK BROWN, BILL COHEN, NANCY KASSEBAUM, SAM NUNN, and AL SIMPSON; long hours spent together on the Finance Committee with BILL BRADLEY and DAVID PRYOR; friendly times in this Chamber with BENNETT JOHNSTON, PAUL SIMON, and JIM EXON; a long time friendship that goes back over 30 years with MARK HATFIELD; and working together for our State with CLAIBORNE PELL.

CLAIBORNE PELL has been here the longest, 36 years. His splendid achievements on behalf of education will long be recognized for their benefits, not just to millions of young people, but also to our Nation.

His years on the Foreign Relations Committee have been devoted to obtaining treaties to foster a long term peace.

Our Nation's cultural life has been enhanced by his originating the National Endowment for the Arts. By any measure, his Senate career has been a splendid one.

It is always risky to single out any individuals from a star studded group such as the 13 who are retiring, but I would like to make a few additional comments regarding six of those with whom I have worked especially close.

The first five Senators I will mention were for the past 4 years in our bipartisan mainstream coalition and our bipartisan centrist coalition. We spent scores of hours together in room S-201 here in the Capitol working together to forge legislation first on health care and then on the budget.

Ever since BILL COHEN came to the Senate, he and I have exchanged views on legislation. I've listened especially