

proposed and never before have so many expressed such strong reservations about the dangers to competition posed by such a merger.

The Board must discharge its responsibility to protect competition and in this case to do so, it must condition approval of the proposed merger with mandatory divestiture of the parallel lines created as a result of the merger to an independent rail competitor.

This condition is essential to approve the proposed merger. Granting trackage rights alone is not sufficient to protect competition. In reviewing this question, the Board should consider the following:

First, the proposed merger would leave two railroads in the West, the combined UP-SP and the BN-Santa Fe, with control of 90 percent of the rail traffic in the West, resulting in reduced competition, higher shipping rates, and reduced service.

Second, the proposed merger will cause many shippers to go from three carriers to two, and many more from two carriers to only one. The Department of Justice's review estimates over \$6 billion in shipping traffic would be affected by this reduced competition.

Third, oddly enough, the competitive harm in this proposed merger is two times the competitive harm of the proposed Santa Fe-Southern Pacific merger proposed and rejected in the mid-1980's.

It is not surprising that numerous shipping groups have publicly opposed the merger in its present form and favor divestiture to solve the competitive problems. These groups include the Society of Plastics, the NIT League, and the Gulf States of Texas and Louisiana. The American Farm Bureau, National Grange, and National Farm Bureau are among the many agriculture groups opposed to the merger and requesting conditions other than the BNSF-CMA agreement. Divestiture of parallel tracks and facilities will result in preservation of competitive options for all shippers who would otherwise see reduction in competition from two carriers to one, and for a significant number who would go from three to two.

Mr. President, last fall I joined with the chairman of the House Small Business Committee, Congresswoman JAN MEYERS, in convening a joint session of our Small Business Committees, to hear from small shippers who have been affected by mega-mergers like this in the past and who know what the consequences of this proposed merger, if approved in its current form, will be for them in the future. They were unanimous. They know that only actual, real competition protects them from the serious consequences of being captive to a single shipper. They have come out in droves to voice their fears in their public filing to the Board. Their interests collectively must be protected.

Because of the intense interest in these parallel lines by competing car-

riers, divestiture would not force the applicants to sell any of these lines for less than their market value. Divestiture allows the merger to go forward and gives the UP and SP the benefits of end-to-end efficiency and the administrative-corporate consolidation that they want while protecting competition for shippers.

Unfortunately, the trackage rights solution to these serious threats to competition will not resolve the problems. Even with added access, competitors operating over lines controlled by an aggressively competitive owner are inferior to the owner of the line who uses control of access to place the competitor at a serious disadvantage. Trackage rights alone do not constitute available competition, only access to actual moving traffic does. That can be achieved only by mandatory divestiture of parallel lines.

The Departments of Justice, Transportation, and Agriculture oppose the current proposed merger due to these competitive problems. Numerous shippers groups and many of the affected States have voiced concerns as well. Mr. President, I believe Congress wants the Board to discharge its duty to protect competition. We will see this decision as the crucial test whether it will or will not.

Congress explicitly recognized divestiture as a viable condition available to the Board when it passed the ICC Termination Act creating the Surface Transportation Board. Congress specifically wrote divestiture into the new law with this need in mind. Divestiture to the highest bidder certainly promotes free-market competition. The Board clearly has this authority and should use it to protect competition. •

FINAL REPORT BY THE SPECIAL COMMITTEE TO INVESTIGATE WHITEWATER

• Mrs. MURRAY. Mr. President, yesterday, after 13 months, 51 hearings, 159 witnesses, thousands of pages of documents, and nearly 2 million taxpayer dollars, the Special Committee To Investigate Whitewater concluded its work.

Our committee found no instance in which the President or the First Lady have acted unethically, illegally or abused their power.

Mr. President, the special committee released two varying reports yesterday: A Republican majority report and a Democratic minority report. Our committee started its work in true bipartisan fashion. Unfortunately, as the investigation repeatedly failed to produce any substantive or legitimate wrongdoing by the President, the majority veered the committee down a path of partisan politics and speculation. As a result, our bipartisan teamwork broke down. It disintegrated to a point that two separate reports are needed in order to report our findings as clearly as possible.

The biggest failing of this committee, however, was our failure to keep

faith with the American people. For months, I reminded our committee of the importance of being credible and of the need to maintain the confidence of the American people. Constituents in my home State often expressed their displeasure with our committee's partisan politics. And they told me they no longer trusted our committee to find the truth in a fair and impartial manner.

Mr. President, we were charged with the mission of finding all of the facts relating to the President's relationship with Whitewater and related matters. That's what the American people wanted us to do. That is what they expected us to do. Unfortunately, the majority decided to make allegations first, and find the facts second. If the facts failed to support the allegations, the majority simply discarded the facts.

I believe, and most of my colleagues will agree, that there were few instances where the White House could have produced documents faster or answered questions more quickly. In its attempt to be careful and cautious, the White House ultimately ran into perception problems. The White House looked as if it was covering up the truth. Once all the information was gathered, we learned the White House had not acted improperly—rather in many cases it was as open and forthcoming as possible. In no way did the White House act to obstruct justice or attempt to impede this committee's investigation.

The majority granted the special committee \$400,000 to extend our hearings well beyond our original February deadline. Nearly 4 months later, our committee conducted only 10 more hearings. This track record makes it very clear to me that we could have concluded our work by the original deadline, and that the majority simply intended to continue these hearings further into the Presidential election season.

Now, after finding no wrongdoing by the President in relation to the subject at hand—Whitewater and Madison Guaranty—the Majority has leaked reports that it intends to pursue perjury charges on three of the President's aides and advisers. This is a clear attempt to move attention away from the fruitless investigation by creating a new allegation. Like many of the smoking guns that amounted to no more than squirt guns, it again appears to be another effort to make news where there is no news, and to make political noise in an election year.

Our committee spent nearly \$2 million to examine the facts. The Resolution Trust Corporation [RTC] spent nearly \$4 million conducting an independent investigation clearing the Clintons of any wrongdoing. And the independent counsel has spent more than \$26 million on its ongoing investigation. Including the House committee hearings, nearly \$40 million of public money has been spent to bring all relevant information into the open.

The final reports put to rest the suicide of Vince Foster, concluded the Clinton White House did not interfere with RTC and Department of Justice investigations, and discovered then-Governor Clinton did not misuse his power to influence State regulators.

It is time for us to move beyond this political issue. It is time for Congress to address the issues that really concern the American people. When I go home people ask me what Congress has done to preserve their quality of life, what Congress has done to improve our education system, and what Congress has done to improve our health care delivery system. I can count on one hand the number of times somebody asked me about Whitewater over the past 2 years.

As a member of the Special Whitewater Committee, I took my job seriously. I understood the importance of our committee, and I stand by the minority report. Our report studies the facts very carefully, and after compiling all of the facts we made our conclusions accordingly. I urge all interested parties to read this report, and I am hopeful it completes the mission we were instructed to pursue. ●

TRIBUTE TO JIM SMITH

● Mr. MCCONNELL. Mr. President, I rise today to pay tribute to a Kentucky businessman whose success allowed him to give something back to Kentucky. Jim Smith, who passed away May 31, was one of western Kentucky's most successful self-made businessmen.

Mr. Smith, the youngest of eight children, dropped out of school in the 10th grade. After being involved in several construction company partnerships, he struck out on his own and turned one bulldozer into a multi-million dollar construction business. Jim Smith Construction Co. built most of the major highways in western Kentucky. He also expanded into other areas, including coal, transportation, a hotel, and a restaurant.

A close friend and business partner, David Reed, was quoted in the Paducah Sun as saying, "Those of us who know Jim well realize immediately the void his passing will mean, not only to us personally but to all of western Kentucky." Former Kentucky Gov. Julian Carroll said of Mr. Smith, "I've known him as a friend, a businessman, a citizen of the community, a Christian * * * but of all the roles that Jim filled in his life, the one that he relished the most, and agonized over the most, was being the father of four sons." Even though he was wealthy, Mr. Smith required his sons to work and earn their living.

Mr. Smith is survived by his wife, Sandy; four sons, Mike, Rex, Chris, and Steve; two stepchildren, Joelle Smith and Joel Weaver; three brothers, Hiram, Hugh, and Bill Smith; and three sisters, Geneva Youngblood, Imogene Riggs, and Lucille Wade. I would ask that my colleagues join me in honoring this extraordinary Kentuckian. ●

HIDDEN HUMAN TOLL OF GAMBLING

● Mr. SIMON. Mr. President, in all the discussion about the problems of gambling in the United States, most of us in those discussions use statistics.

What we frequently fail to understand are the human beings involved in the addiction.

Ken Adelman, the former head of The Arms Control and Disarmament Agency and now a columnist who is nationally syndicated, recently had a column in the Washington Times that told about a cousin of his.

It tells in simple, graphic terms why we need a commission to look at this problem.

I don't know how many personal cases I have heard of since introducing the bill on the commission, but it is enough to encourage me to fight for its creation, and I hope my colleagues will have the good sense to pass the measure and create the commission.

I ask that the Washington Times column be printed in the RECORD.

The column follows:

[From the Washington Times, June 13, 1996]

HIDDEN HUMAN TOLL OF GAMBLING

(By Ken Adelman)

Stopping for a fund-raiser in Las Vegas last weekend, Bill Clinton solicited big gambling bucks, as has Bob Dole. Lost in the policy debate over state-sponsored gambling—via lotteries, casinos, horse races, whatever—is the personal dimension.

This hasn't been lost on our family, which has endured pain from my first cousin, Alby, becoming a compulsive gambler. At 15 years old, I should have sensed Alby's problem when our grandfather, Papa, took us on a trip abroad. The whole way Alby wanted to bet on whose room would have a higher number (Papa's or ours), whether our seats would be on the right or left side of the airplane, on anything really. He was—and presumably is, though I haven't seen him in years—an engaging and brilliant fellow. We never suspected the years of jail and a failed life gambling would bring.

Between prison sentences, beginning at age 16 or so, Alby would hit the track, poker tables, and sports events. No state lotteries had yet been established, so we can't blame them for our family woes. How much state-sponsored gambling, now dubbed "gaming," multiplies the number of Albys in America should be a key focus of the national commission on gambling, which Congress is now debating.

"The main ambitions I ever had were fantasies," Alby told me in 1975, when I spent six months researching his life. He poured his mathematical genius, personality and wit into gambling. Alby won big at times—\$10,000 in one day and \$7,700 in one race. But those triumphs were fleeting as all winnings went back into the game. The amounts were staggering, at least to me. Alby burned through more than \$1 million before turning 30. He squandered it all, as well as two marriages and a host of natural abilities.

Alby became attracted and then addicted to horse-racing while still in high school. "When you're at the track or when you're gambling, you're in a different world," he mused. "There's nothing else that matters until you walk into reality again. It's a dream world." Gambling became his trademark.

"When I won, I would have a lot of money in my pocket and flash it around. It was an

ego trip for me." And a macho thing, since compulsive gambling is mostly a man's disease. Unlike alcoholism or drug addiction, only 10 percent of compulsive gamblers are women.

But women become victims. One elderly landlady in New Mexico housed Alby and a buddy when they were 16. After they skipped out without paying rent, she wrote Alby's parents, "They were both good, likable kids." She missed them after Alby "left town like something from a cannon. He said he needed to return home on account of a death of a sister." No sister had died. Such began a life of lies.

Though having now spent more than half his life behind bars, Alby never considered himself a criminal. He trashed common convicts, especially armed robbers: "They're stupidest people in the world. They go to jail for 10 years for a hundred bucks when I can get \$50,000 with a pen in hand rather than a gun."

Like most compulsive gamblers, Alby abhors violence. None of his crimes involved guns, knives or physical assaults. They involved passing bad checks and schemes of every sort. Though non-violent, they still hurt others, especially family members. Alby's father bailed him out of jail and dangerous situations for several years before giving up. His grandfather lasted longer, but after Alby stole his prized stamp collection and World War I medals, he too gave up.

The burden falls too on friends and neighbors. Rummaging through family correspondence, I came across scores of sad stories. One came from the mother of a high school buddy who "loaned" Alby his coin collection but never got it back. "My son is a stranger to you but he is my only child and the most important person in the world to me," she wrote Alby's folks. "The coins he's been saving since he was little were his only concrete asset. They are now gone."

Though sharing an addiction, compulsive gamblers differ from drug and alcohol abusers. The gambling life is one of involvement and stimuli. Drug and alcohol addicts lead a life of withdrawal and passivity.

While gambling is as old as humanity itself—archaeologists have found a 4,000-year-old lamb bone used as dice—compulsive gambling is a relatively new affliction. Upward of 10 million compulsive gamblers in America—perhaps 10 times the number of drug addicts—may be increasing in numbers now. For state and local lotteries not only furnish the opportunity, but encourage "striking it rich" without any effort.

Alby's tragedy may become epidemic since legalized gambling has increased 2,800 percent over the past two decades. To grasp this danger, imagine the furor if state and local governments not only legalized drug sale and use but themselves sold and advertised drugs to the general public.

As Congress debates establishing a national commission on the effects of gambling, everyone has focused on the commission's subpoena powers. More critical would be a focus on the human toll gambling takes, on tales of wasted lives, like Alby's.

INS EMPLOYMENT VERIFICATION PILOT PROJECT

● Mr. KERREY. Mr. President, at the end of May, the Immigration and Naturalization Service and a consortium of meatpacking companies announced an innovative pilot project in which the companies will voluntarily verify the employment eligibility of noncitizens who seek employment.

I commend the meatpacking industry, specifically IBP and BeefAmerica