

and completely investigate the conduct of such elections where the integrity and result of the election is legitimately called into question. The minority is refusing to allow—in fact, is actively obstructing—the Senate from conducting a thorough and complete investigation of the election in Louisiana.

If the minority wishes to prevent the Senate from living up to its duty regarding this election contest, and wishes to prevent the Senate from considering these important matters that I have noted and to shut down the Senate, then the minority must assume the responsibility for the consequences. Mr. President, good faith and cooperation is a two-way street. We believe that it is important to conduct and complete this election investigation in a thorough and complete manner. We are bound and determined that the investigation will be completed despite obstructionist tactics. I urge the minority to recognize the importance of this subject and the essential place that good faith plays in this legislative process. I urge the minority to assist us in completing this important investigation and to work together with us in good faith to address the many other subjects which are important to the American people.

I will sum it up this way. This is not the way to get the investigation by the Rules Committee concluded. In fact, it will cause difficulty and will probably delay it. The goal is not—there is no way we could just say, OK, it is over right now. The intent of the chairman is to have a hearing, to see what evidence they have found during the August recess, and I presume to have a meeting at some point to decide what action, if any or none, is to be taken. We will conclude this. We have had to proceed, frankly, without the cooperation of the Democrats. I have been in Congress 25 years. I have never, never, ever before seen one party or the other, either party, walk out on a committee's investigation or activities, even though there have been many, many investigations, several in which I was involved.

When I can look my colleagues in the Senate and the American people in the eye and say we have looked at this and we have found out as best we could—with the lack of help from the FBI, for instance, in most instances—we have concluded what happened or did not happen, and we in good conscience can say that, when I can do that, then we will conclude it. I can't do that right now.

But rather than engaging in extended debate at this time, there will obviously be other opportunities to do that and—

Mr. WARNER. Mr. President, could I have, say, a minute and a half?

Mr. LOTT. Mr. President, I will yield the floor at this point, but I do hope we can be brief so we can get the committee started.

Mr. WARNER. I will be brief. I thank the majority leader. I thank both leaders.

The PRESIDING OFFICER (Mr. SANTORUM). The Senator from Virginia.

Mr. WARNER. I want to assure the Senate that I said in Louisiana, as I concluded the second hearing—and we had a total of 4 days of hearings—it would be my intention to come back and recommend to the Rules Committee and the leadership of the Senate that I have another hearing, at which time we will assess in specific the voluminous amount of record material now in our possession from the gambling industry and that within a period of perhaps a week after that I would schedule a second meeting, at which time I would give to the full Committee on Rules all of the evidence, my own assessment, and then entertain such resolutions as I or other members may wish to submit.

That I think can be done within a 3-week period of time, as I roughly outlined this morning to my distinguished leader. But I decided on that schedule 10 days ago.

Now, I say to you that thus far there has been no evidence which, in the judgment of this Senator, has impugned Senator LANDRIEU, but that is not the underlying issue. It is whether or not there were other factors in this election which could have affected the outcome as a consequence of criminal fraud. And I have said, much to the discouragement of many, that thus far, after the first hearing in Louisiana, there was no body of evidence which I felt could meet that burden.

I cannot make the same statement after the second hearing in Louisiana, because I haven't had the opportunity to assess four boxes of information. But we are proceeding, although handicapped, as expeditiously as we can. I have always been absolutely objective and fair about my pronouncements in this case and my assessment of the evidence. But until such time as we have looked in every area where potentially that quantum of fraud which could have affected the outcome of the election might have occurred, I cannot say this investigation would be complete. I do believe the work that needs to be done under my leadership can be concluded in the third week of September.

RECESS

Mr. LOTT. Mr. President, I renew my request that the Senate recess until the hour of 4:30.

There being no objection, the Senate, at 2:12 p.m., recessed until 4:30 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. HAGEL].

DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 1998

The Senate continued with the consideration of the bill.

AMENDMENT NO. 1079, AS MODIFIED

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I ask unanimous consent that Senators STEVENS and GRAMS be added as cosponsors to amendment No. 1079 to S. 1061.

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

Mr. SPECTER. Mr. President, I ask unanimous consent I be permitted to speak for up to 3 minutes on the pending D'Amato amendment.

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

Mr. SPECTER. Mr. President, I support the amendment by Senator D'AMATO to add funding for the support services for seniors to the additional funding. They perform a very vital service as places for seniors to gather and to have their meals and to carry out the purposes of the legislation to improve the quality of life in the golden years; and especially in the context where senior benefits have come under such attack, so much concern that I heard, for example, in my travels through Pennsylvania, where there is concern about the solidity of Social Security and what is happening with Medicare. I believe it is a wise course to make an allocation from administrative costs across the board, to add the funding in the D'Amato amendment.

We have funded, last year, some \$300,556,000. The administration made a request to cut that funding to \$291,375,000. Our Senate markup, agreed to by Senator HARKIN and myself in our committee and in the full committee, was \$305,556,000. So, instead of dropping the amount by more than \$9 million as the administration had requested, we put an additional \$5 million in. On reflection, hearing the arguments of the Senator from New York, Senator D'AMATO, I think that the addition of this \$40 million is well placed, so I lend my voice in support of the pending amendment.

Mr. President, I note the presence of the Senator from New York on the floor. I see him reaching for the microphone.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. Mr. President, let me thank the chairman of this committee, Senator SPECTER. As I indicated before, this is a most difficult, difficult task, the management of scarce resources for Labor, Health, and Human Services, with the demands from the various communities for additional funding for medical research, the scarceness of resources, and the difficult time in the allocations. His support is greatly welcomed in this area. I am deeply appreciative.

Mr. GREGG. Mr. President, as Chairman of the Aging Subcommittee, I have spent a great deal of time concentrating on how to improve the ways the nutrition programs and senior services that are part of the Older Americans Act. I appreciate the work of the Senator from New York on this related funding issue.

In March 1995, I was pleased to have New Hampshire meals provider Debbie Perou-Hermans come to Washington to testify before the Aging Subcommittee; she emphasized the role these programs play for our seniors in New Hampshire and across the Nation. I also know that what we accomplish through the funds spent on other senior services—such as supporting congregate centers, transportation services, and health programs and counseling—is vital to the meeting the requirements of this population.

I think it is important to note, in addition, that this program has several other important qualities: The Older Americans Act requires the States to invest in these critical services; it has a great track record for leveraging private funds; and it generally makes its services available to all seniors, many of who are suffering from the challenges of social isolation, not just those in financial need. Need wears many faces in America.

I believe that we should work hard to ensure that the benefits are maximized through more flexibility in the funding of needed services, to be certain that the decisions about how and where these dollars are being spent are made at the State and local level. That will be the goal of the reauthorization bill that I am assembling which will be based on the bill I introduced in the 104th Congress.

However, I would like to quickly ask a question of my colleague from New York, Senator D'AMATO. You stated in your introductory remarks that your goal is to increase the availability of services to our seniors through the infusion of this additional \$40 million. But I do not note any specific assignment of these funds. Would the Senator clarify again for me his intention to ensure that these dollars are spent on services that are proven to be effective and efficient, and not to pad the administrative accounts over at the Administration on Aging, or to allow them funds to try new things?

Mr. D'AMATO. I would like to assure the Senator from New Hampshire that my intention is to put this \$40 million in to those services that we know are making the lives of our seniors healthier and more independent. Indeed, at the same time this amendment seeks to bring more resources into effective services for the elderly, it also reduces funding from administrative accounts. I share the Senator's interest in both getting needed services to our seniors and in reducing overhead costs.

Mr. GREGG. Then I am pleased to have the opportunity today to support the Senator from New York's increase

in funding to the services provided by the Older American's Act.

Mr. SPECTER. Mr. President, I think we are ready to proceed now to the vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New York, amendment No. 1079, as modified.

The yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Alaska [Mr. MURKOWSKI] is necessarily absent.

Mr. FORD. I announce that the Senator from New Mexico [Mr. BINGAMAN] and the Senator from Ohio [Mr. GLENN] are necessarily absent.

The result was announced, yeas 97, nays 0, as follows:

[Rollcall Vote No. 216 Leg.]

YEAS—97

Abraham	Feingold	Lugar
Akaka	Feinstein	Mack
Allard	Ford	McCain
Ashcroft	Frist	McConnell
Baucus	Gorton	Mikulski
Bennett	Graham	Moseley-Braun
Biden	Gramm	Moynihan
Bond	Grams	Murray
Boxer	Grassley	Nickles
Breaux	Gregg	Reed
Brownback	Hagel	Reid
Bryan	Harkin	Robb
Bumpers	Hatch	Roberts
Burns	Helms	Rockefeller
Byrd	Hollings	Roth
Campbell	Hutchinson	Santorum
Chafee	Hutchison	Sarbanes
Cleland	Inhofe	Sessions
Coats	Inouye	Shelby
Cochran	Jeffords	Smith (NH)
Collins	Johnson	Smith (OR)
Conrad	Kempthorne	Snowe
Coverdell	Kennedy	Specter
Craig	Kerrey	Stevens
D'Amato	Kerry	Thomas
Daschle	Kohl	Thompson
DeWine	Kyl	Thurmond
Dodd	Landrieu	Torricelli
Domenici	Lautenberg	Warner
Dorgan	Leahy	Wellstone
Durbin	Levin	Wyden
Enzi	Lieberman	
Faircloth	Lott	

NOT VOTING—3

Bingaman Glenn Murkowski

The amendment (No. 1079), as modified, was agreed to.

Mr. D'AMATO. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. SPECTER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1071

Mr. KERREY. Mr. President, I believe that in order to achieve a goal, we must set the goal, commit the necessary resources to reaching the goal, and establish a method for measuring our progress toward that goal. Voluntary national testing would enable us to reach our goal of raising the achievement levels of America's children.

I oppose the Coats Amendment because it deprives parents, school administrators, teachers, and students of the information needed to continue the work of constructive education reform. Funding for the development, planning,

implementation, and administration of voluntary national testing for individual students in mathematics and reading is important for several reasons. Requiring a Federal statute would impede cooperative efforts to ensure that children in every State have the necessary knowledge and skills to be competitive in today's highly mobile and globally conscious society.

Put simply, we need voluntary testing because we cannot ascertain where we are going if we do not know where we are.

Parents need to know how their child's educational achievement level in reading and mathematics compares with that of other children nationwide. Because families are relocating with increasing frequency these days, children need to feel confident that they can perform at a consistent level of achievement even though they may change school districts. These tests would empower parents by providing them with the same information that Members of Congress receive from National Assessment of Educational Progress. Parents deserve to know this information so that they can make the best decisions regarding their child's well-being. Also, there is considerable public support for national testing. A recent Phi Delta Kappa/Gallup poll showed that 67 percent of Americans favored using standardized national tests to measure the academic achievement of students.

Furthermore, there is a demand for the tests among teachers, principals, State school officials, and school boards. States and school districts with over 20 percent of fourth- and eighth-graders in the Nation have committed to using the tests. Let me stress that committing to voluntary national testing does not mean committing to a national curriculum. Local education authorities will determine how to use the results. The tests simply give them the tools to do their jobs better.

Mr. President, we in Congress should be doing all that we possibly can to ensure that America's children have the very best opportunity to excel in a technologically advanced 21st century. But we have to know where our children stand so that we can move forward. Research has shown that high academic standards generate high academic performance. Our children deserve no less.

Mr. DOMENICI. Mr. President, I rise in support of the bill, S. 1061, the Labor, Health and Human Services, Education and related agencies appropriations bill for fiscal year 1998.

The bill provides \$236.4 billion in new budget authority and \$188.6 billion in new outlays for programs of the Departments of Labor, Health and Human Services, and Education and related agencies.

When adjustments are made for prior-year outlays and other completed actions, the bill as adjusted totals \$286.3 billion in budget authority and \$285.2 billion in outlays for fiscal year 1998.

The committee-reported bill is within the subcommittee's revised 602(b) allocation just filed with the Congress' return.

There are several items for which the Senator from New Mexico would like to express appreciation. One item is continued funding for Hispanic Serving Institutions. With a slight increase over the 1997 level, the bill retains this program as separate from the Strengthening Institutions program. In addition, I appreciate the committee's willingness to continue funding PATH grants for the homeless.

I continue to be concerned about the practice of providing a \$300 million contingency fund for LIHEAP that must be designated as emergency spending to be released. These expenses, in most cases, can be anticipated and should be addressed through the regular appropriations process.

I am especially pleased, that within the funding for the Centers for Disease Control, the committee has provided an \$18 million increase for diabetes, including the establishment of a "community-based intervention project in Gallup, New Mexico."

As you know, this is an historic year in which we have set forth a plan to balance the budget in 7 years. The authorizing committees have completed a very difficult task in implementing this historic bipartisan budget agreement. I am pleased that the Appropriations Committee is attempting to live within funding and priority proposed in this agreement.

A concern I continually have, is the reduction of mandatory spending within appropriation bills. When mandatory savings are included in appropriations bills, it is generally to offset discretionary spending, instead of deficit reduction. In particular, the subcommittee has reduced the cap on the Social Services block grant by \$255 million for fiscal year 1998.

Overall, I am supportive of the work of the committee and I urge my colleagues to support this bill.

Mr. President, I ask unanimous consent that a table displaying the Budget Committee scoring of the bill be placed in the RECORD.

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

S. 1061, LABOR-HHS APPROPRIATIONS, 1998, SPENDING
COMPARISONS—SENATE-REPORTED BILL
(Fiscal year 1998, in millions of dollars)

	De- fense	Non- de- fense	Crime	Manda- tory	Total
Senate-Reported Bill:					
Budget authority	79,558	144	206,611	286,313	
Outlays	75,926	65	209,167	285,158	
Senate 602(b) allocation:					
Budget authority	79,558	144	206,611	286,313	
Outlays	76,009	65	209,167	285,241	
President's request:					
Budget authority	73,025	60	206,611	279,696	
Outlays	74,571	48	209,167	283,786	
House-passed bill:					
Budget authority	79,869	144	206,611	286,624	
Outlays	75,935	64	209,167	285,166	
SENATE-REPORTED BILL COMPARED TO:					
Senate 602(b) allocation:					
Budget authority					

S. 1061, LABOR-HHS APPROPRIATIONS, 1998, SPENDING
COMPARISONS—SENATE-REPORTED BILL—Continued
(Fiscal year 1998, in millions of dollars)

	De- fense	Non- de- fense	Crime	Manda- tory	Total
Outlays		-83			-83
President's request:					
Budget authority	6,533	84			6,617
Outlays	1,355	17			1,372
House-passed bill:					
Budget authority	-311				-311
Outlays	-9	1			-8

Note: Details may not add to totals due to rounding. Totals adjusted for consistency with current scorekeeping conventions.

Mr. SPECTER. If I may have the attention of my colleague.

The PRESIDING OFFICER. The Senate will be in order.

Mr. SPECTER. I believe Senator MCCAIN is prepared to offer an amendment.

Mr. MCCAIN. Mr. President, may I inquire of the distinguished managers of the bill, do they intend to dispose of the pending amendment, or is it agreeable to them to set aside the pending amendment for the purpose of proposing an amendment?

Mr. SPECTER. Mr. President, I ask unanimous consent that the pending amendment be set aside so that the Senator from—

Mr. NICKLES. Reserving the right to object, since that is my amendment.

I ask the Senator, you want unanimous consent to set our amendment aside for how long?

Mr. SPECTER. For the Senator from Arizona to present his amendment.

Mr. NICKLES. How long would that take?

Mr. MCCAIN. I do not know, since I do not believe that the amendment will be agreed to by some Members.

Mr. NICKLES. Then I will object, with great respect for my friend and colleague from Arizona, because I think we are going to need to dispose of the amendment that I have offered. Senator KENNEDY has offered a second-degree amendment. We have talked about it. We negotiated about it. We tried to figure out what it would mean. We keep getting different opinions.

So my guess is, I think we will have to at some point move to table Senator KENNEDY's amendment, find out where the votes are, and dispose of my amendment. I would hate to have to wait longer and longer. So I would just as soon move ahead with our amendment.

Mr. SPECTER. Mr. President, I had suggested setting aside the amendment to move to Senator MCCAIN on the theory a little more time might find some resolution. But if the Senator from Oklahoma thinks not, it is his prerogative to proceed with his amendment.

Mr. NICKLES. How long would it take?

Mr. MCCAIN. In response to the Senator from Oklahoma, I am not sure how long it would take because I am not sure how strong the disagreement would be with the amendment.

AMENDMENT NO. 1082

Mr. NICKLES. Mr. President, I love my colleague from Arizona. And I

think my amendment is somewhat the same. I thought maybe we would be able to dispose of our amendment in a short period of time and have a clear vote on our amendment that would try to make sure that taxpayers would not have to pay for the Teamsters' election twice.

Senator KENNEDY came up with a very clever amendment, and I am still trying to figure out what the net impact would be. I still do not know. I have the greatest respect for my colleague. That is one of the reasons I am not sure I want to agree to his amendment. I have a great desire to work with my colleague from Massachusetts, but in the last 2½ hours I still have not been able to determine, if we adopted his second-degree amendment, who would pay for the Teamsters' election.

Therefore, Mr. President, I think, after consulting with others, that I will debate the Kennedy amendment. At some point I will move to table the Kennedy amendment. Then we can dispose of our amendment and proceed to the amendment of the Senator from Arizona and dispose of the bill.

Mr. GRAMM. Can we get a time limit on the debate before the tabling motion?

Mr. NICKLES. I am prepared to move to table the amendment. I would like to speak for a few minutes, Senator KENNEDY would probably like to speak for a few minutes, and the Senator from Texas probably would like to speak for a few minutes. I will not move to table at this point, but it is my intent to move forward rather expeditiously to bring this to closure.

Mr. President, let me make a couple comments.

Mr. President, is our amendment pending before the Senate?

The PRESIDING OFFICER. The amendments are pending in the first and second degree.

Mr. NICKLES. Mr. President, for the information of our colleagues, so everyone can understand what the Nickles amendment is and what the Kennedy amendment is—and we will be voting on a motion to table the Kennedy amendment and, hopefully, a motion on the underlying Nickles-Jeffords amendment.

The Nickles-Jeffords amendment is this: Taxpayers should not have to pay for the Teamsters' election twice.

Mr. President, in 1989, the consent decree said that there will be an election in 1991 and said that the Teamsters would pay for it. They did. They had a successful election. It had oversight and management by the Government, but it was paid for by the Teamsters. It was deemed to be a good election.

The 1996 election had oversight and management by the Federal Government, and it was also paid for by the Federal Government. The overseer of the election, though, said there was some fraud, said there was some corruption, and said in her opinion we needed to have a new election. She has

now petitioned a judge, and the judge will be ordering a new election.

My point being, it is not the taxpayers' fault that there was fraud. That came from the Teamsters. I do not have any qualm on who is elected or who is not elected. That is not my issue. Somebody, I think, said, "You're trying to influence an election." Far from it. That is not my decision. My decision is to protect taxpayers. Taxpayers should not have to pay for it again.

The estimates of the cost are \$22 million. I heard subsequent to that that it will be well over \$22 million. I heard estimates up to \$28 million, \$30 million. My point is, we should not have to pay for it again. We paid for it once. It was not U.S. taxpayers that had the corruption. That happened to come from within the union. They hired some consultants, and they funneled money to various campaigns. We should not have to pay for that. That is not the taxpayers' fault.

So what would our amendment do? Our amendment basically says you can have a rerun election and, if the Teamsters do not have the money, the Federal Government can pay for it; just that the Federal Government has to be paid back.

So to me it is eminently fair. It does not have any influence, saying, "This group is favored over another group." It does not say anything in the wording—my colleague from Massachusetts said this has something to do with the UPS strike. That is totally hogwash. There was an abuse in dealing with the UPS strike. That was the fact that the overseer knew there was corruption in the election, knew it during the strike, but did not let the rest of the country know. This is one of the most important strikes, but that does not have anything to do with it.

My point being, if there is another election, let the Teamsters pay for it. These happen to be individuals who make good money. Almost all elections in the country are paid for, if you are talking about union elections, are paid for by the union. And they should be paid for by the union. This is not that big a deal. There are 1.4 million members. I think a little less than 500,000 people voted in the last election. I think they can pay for it. The average payroll of the Teamsters can well afford this, so they should pay for it. If they do not have the money, the taxpayers can pay for it, and the taxpayers can be paid back with interest. It is only fair.

Is it consistent with the consent decree of 1989? Yes, it is. The consent decree of 1989 said that the Teamsters would pay for the 1991 election and that the taxpayers would pay for the 1996 election. It did not say taxpayers pay for a 1996 rerun if there is corruption in the election.

Some people would like—and I believe Senator KENNEDY's position would be: Well, let's leave that up to a judge. We will let a judge decide whether

taxpayers have to pay for it or not. The consent decree was silent. It didn't say who would have to pay for a rerun if there's corruption in the election.

I want to eliminate the question mark. I want to make sure that taxpayers do not pay for it. It is that simple. Why leave it to the determination of a judge? I do not think the judge has—frankly, if the judge reads the consent decree, there is nothing in the consent decree that would indicate taxpayers should pay for a 1996 rerun. But why leave it ambiguous? Let us just say, wait a minute, if we are going to have a rerun, fine, let the Teamsters pay for it, and, if necessary, if they do not have the money, the U.S. taxpayers pay for it, but they have to be repaid.

I think our amendment is eminently fair. I wish my colleague from Massachusetts had not second-degreed it. It is confusing. His amendment looks innocuous, but we do not want to turn it over to the courts. Therefore, at the appropriate time, after a couple of our colleagues have spoken on the amendment, I will move to table the Kennedy amendment.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER (Mr. ABRAHAM). The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, we are mindful now that we are only a few short days from the time that the UPS strike was resolved and settled, and settled in a way which benefited many thousands of workers. There are 186,000 workers that were involved, and there was important progress made in the areas of pensions and part-time work. There was great progress made in a number of different areas which we may or may not have an opportunity to discuss here this evening.

But, quite frankly, Mr. President, I doubt whether this amendment would be before us if we had not seen the success of the Teamsters as a result of a collective-bargaining process. We saw 15 days where the Nation was focused on the issue about whether the workers of UPS were going to participate in the extraordinary kinds of successes that UPS was involved in. Americans around the country responded to the fact that many of those that had been on part-time were not having part-time mortgages, part-time payments in terms of food bills, part-time payments in terms of children's clothing bills. Finally, the UPS and the Teamsters worked out an agreement. It was important for those working men and women.

There are some here, some here in the Senate who just cannot stand the fact that workers were able to have their rights considered and to have their rights resolved in a positive and constructive way. And there are those who just want to somehow get back at these workers, somehow get back at them. I believe here we are seeing some attempt to try to do so by the mischievousness of this particular amendment.

The amendment which I have proposed is an amendment to the Nickles amendment that does not require the American taxpayers to pay. The Senator from Oklahoma believes that the judge does not have the authority to require the payment for the election by the taxpayers. All the amendment that I have offered is saying is that if the consent agreement does not require it, it does not have to be expended; if it does require it, we are not going to take any action that is going to interfere with a judicial process and a consent agreement that was signed under the Bush administration, was initiated by a Republican, Mr. Giuliani, in New York, was ratified by the Attorney General, Mr. Thornburgh, who is on record in strong support of this agreement.

This agreement is still applicable. As a matter of fact, the respondents are required, under the Southern District Court, to file their briefs on September 19—on September 19. This is a court order that is in effect at the present time. All we are saying in support of the amendment that I have offered is, let us not interfere with the court order that was established in 1989 that was agreed to by the participants. It is part of a judicial process and procedure.

What we are basically asking, under the Nickles amendment, is that we are going to interfere with a legitimate judicial procedure. All my amendment says is, let the judicial procedure flow as it was designed and agreed to at an earlier period of time. That is the extent of my amendment. We are not requiring, in my amendment, that taxpayer money be used. We are not saying that it will not be used. We are saying, whatever the judge, under that consent agreement in 1989, understood that agreement to be, that we will not interfere with it.

But that is not satisfactory to Senator NICKLES. He wants to rig, evidently, or change the consent agreement. We believe that the consent agreement ought to be maintained for the reason that consent agreements are put into place and agreed to by the different parties. When the consent agreement goes in and the different parties agree, we do not see that they agree on one day and the next day we are going to have interference with that particular agreement. That is really what is at issue.

Here is Rudolph Giuliani, in 1988, saying, "Today the U.S. Government is bringing a lawsuit to attack and reverse, once and for all, a major American scandal." This is not an issue that is just brought up today. This has been the result and consent agreement from a long, long history which I reviewed earlier in the debate.

Richard Thornburgh said, "This settlement, which union leaders agree to today, culminates 30 years of efforts"—30 years of efforts—"by the Department of Justice to remove the influence of organized crime within the

Teamsters Union," and then indicates support for it. Thirty years of effort and the consent agreement in 1989.

We have seen a continued consent agreement, as these cases are going on to the Southern District Court today. The briefs are required by September 19. So this issue is very much alive, Mr. President.

All we are saying in support of our amendment, which is basically an add-on to the Nickles amendment, all our amendment says is nothing in this section under the Nickles amendment shall be construed to apply to the expenditures required by the consent decree in the *U.S. v. International Brotherhood*. We do not say you are going to have to pay for them. We don't say you will have to pay part of them. We don't say that they are not going to or we are going to restrict the judge. That is effectively what we are basically attempting to do with this particular amendment.

Mr. President, I think there are strong reasons for accepting this amendment. I will speak just for a few more moments on this particular issue. Mr. President, as I mentioned, in 1988, the Justice Department under President Bush sued the Teamsters Union under the racketeering laws, and the U.S. attorney who prosecuted the case was Rudolph Giuliani, another Republican, who now, of course, is the mayor of New York City. In 1989, Mayor Giuliani negotiated a resolution to the suit with the Teamsters that imposed sweeping reforms on the union.

A critical part of the election reform was the supervision of all aspects of the union elections by a court-appointed election official. Thus, the consent decree establishes the position of election officer and gave the officer substantial authority to regulate the entirety of the electoral process. Under the consent order the expenses of the 1991 Teamster election were borne by the union itself, including the expenses of the election officer.

But the 1996 election was different as to that election. The consent order stated the union defendants consent to the election officer at Government expense to supervise the 1996 election. The election officer and all parties to the suit complied with this provision of the consent decree. The Republican refusal to appropriate funds for fiscal year 1996 for the Labor and Justice Department forced the election officer to seek a court order requiring the Justice Department to fund the critical preelection activities. The Justice Department and union joined in the election officer's request for that order which ultimately was granted in October of 1995. Ultimately, however, the funding was obtained and the election was conducted. Protests were filed with the election officer to resolve them and an opinion issued late last month. In that opinion, the election officer found that misconduct by consultants to one candidate required that the election be rerun. The officer specifically declined

to find wrongdoing by any officer or member of the union and noted that President Carey had conducted himself throughout the investigation in a manner inconsistent with guilt.

So, there is a judicial finding and conclusion that there has been no conclusion to this current election and has not been certified and therefore the election officer maintains the jurisdiction.

In accordance with this decision, the election officer did not certify the 1996 election. She did, however, apply to the Federal court for an order requiring that the election be rerun. That application is pending. The parties' briefs will not be filed until September 19 and the court will not rule until after that time. The court may order that the election be rerun or it may not. It may require the Government to fund the election officer's supervision of the election or it may require the union to do so or it may require each party to bear some part of the cost. Let me repeat that: The court may order the election be rerun or it may not. It may require the Government to fund the election officer's supervision of that election or it may require the union to do so. Or it may require each party to bear some part of the cost. We do not know that. We do not know that. That still has to be resolved.

Under the Nickles amendment it would prejudice that. All we are trying to do is say we had the agreement in 1989. It is under active consideration before the Southern District Court of New York and we should do nothing that is going to affect that agreement which has been agreed to by all the principle parties and negotiated under the previous administration.

The point is we do not know how the court will rule. But this amendment would tell the court that regardless of its ruling the Government will not be permitted to fund the election, even if the consent order requires the Government to pay, this amendment will refuse to permit that. Thus the amendment would interfere with an ongoing judicial process.

That is, basically, the issue. Are we going to permit legislative interference in an ongoing judicial process? It is as simple as that. Moreover, the amendment would renege on an agreement that a Republican-controlled Justice Department entered into 8 years ago by repudiating part of that agreement. The amendment would order the Government to subject itself to a contempt proceeding, and that is an outrage and an untenable result.

Why do those on the other side of the aisle seek to achieve this result? It can only be because they want to punish the Teamsters Union for their tremendous success in the recent UPS strike. That is what is at the bottom of this, make no mistake about it. Does anybody think if they had not been successful in that strike we would be considering this here? It is a basic, fundamental assault on the fact that they

were able to negotiate some protections for part-time workers and for pension rights for workers. There are those in this body and in this country that cannot stand that. They want to give those workers a comeuppance. That is really what is at issue here. That is what is being attempted, to try to interfere with this judicial process.

That strike resulted in significant improvements for 185,000 workers at UPS. It sensitized the entire Nation to the gross abuses in many work forces that forced hard-working men and women into part-time jobs with lower wages and lower benefits than they deserve.

Let me highlight a few of the achievements of the Teamsters in the UPS strike: 10,000 new full-time jobs by combining existing low-wage part-time positions. That is in addition to the full-time opportunities that are normally created through growth in the company, retirements or people leaving for other reasons. Pension increases that are the same or better as the increases the company had already said it would make, but under the Teamster pension plan, not a company-controlled pension plan. Under the Teamster's central pension fund, a UPS worker could retire at 30 years with a pension of \$3,000 per month, 50 percent more than the current amount. Limits on subcontracting—to replace some contractors with UPS workers, so that as UPS grows, full-time UPS jobs grow as well. Wage increases of \$3.10 an hour for full-time plus an extra dollar an hour for part-time workers. That may not sound like a lot to the Members of this body but that is important for working families. Safety protections for workers who handle heavy packages may not sound important to a lot of people around this body but that is important for a lot of workers who are handling those heavy packages. The list goes on, and the list goes on.

Our Republican colleagues seem to think that the Teamsters deserve to be punished for these gains and I think the union deserves praise.

Mr. President, I believe, for the reasons I have outlined here, this is a consent decree, that the consent decree is still active, that there is pending action that is before the Southern District Court, and the amendment which I introduced would effectively accept the Nickles amendment but it would indicate there would be no interference with any decision that is going to be made by the judge in that decree that will be forthcoming, and the outcome of which we do not know.

Let me mention, Mr. President, some of the observations of the Judge, David Edelstein, approving the consent decree.

Just over two months ago I signed a consent decree between * * * Teamsters and the government. The decree contains an acknowledgment by the Teamsters leadership that there are severe shortcomings in the way it has conducted its affairs in the past, and it embodies the standards by which the leadership of the * * * Union should conduct its affairs in the future. * * *

These goals alone, however, are merely statements of good intentions—and we all know where those can lead. Without a dedicated effort to put these ideals into practice, the good intentions will become empty promises and unfulfilled hopes. * * * The public has a significant stake in the outcome of the decree. The IBT exercises vast power and cuts across every segment of society—political, social, and economic. It affects every aspect of our lives. Such power must be insulated against corruption and criminal elements and must be reserved for legitimate use to achieve legitimate ends.

* * * The conditions that have necessitated and justified such unprecedented measures are extreme. The remedy therefore is necessarily extreme. The court expects that all parties involved—the union, the government, and the three individuals I am about to appoint—live up to the spirit and letter of the laws and Constitution of the United States as well as the consent decree.

Mr. SPECTER. Could we enter into a time agreement, say, with the vote at 6 o'clock?

Mr. KENNEDY. I do not expect we would go beyond 6 o'clock but I am reluctant just to enter into it at this time since there are Members that indicated to me they wanted to speak and indicated they would like to speak, but I don't anticipate we would go beyond 6 o'clock.

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

Mr. WELLSTONE. A point of inquiry.

Mr. KENNEDY. I yield for a question.

Mr. WELLSTONE. As I understand what the Senator from Massachusetts is saying in reply or in response to the Senator from Pennsylvania is that we want to try and finish but there are some other Senators that want to speak and the Senator is right, I would like to speak.

I think it is a shame we did not have an agreement. We should have. This is a very reasonable second degree, I think, but I want to make it clear to my colleague from Pennsylvania I would like to speak, and I can be relatively brief.

Mr. SPECTER. I make an inquiry as manager of the bill to see if we can move it along.

We have quite a number of amendments. I would like to speak for 5 minutes. If the Senator from Minnesota wishes to speak for 5 minutes, he can get a sequencing. It would be helpful.

Mr. GRAMM. I assume we will go back and forth?

Mr. SPECTER. And perhaps agree to limit speeches to 5 minutes, if that is acceptable.

Mr. KENNEDY. Mr. President, as I indicated, I have talked to some Senators who wanted to speak. I do not anticipate going beyond 6 o'clock. I cannot speak for them at the present time.

After Senator WELLSTONE speaks, I can make inquiries of the Senators and inform the Chair.

Mr. SPECTER. I thank my colleague from Massachusetts.

Mr. KENNEDY. So, here we have the Republican administration that is committed to this consent decree. We have the consent decree still active in the southern district court requiring the

submission of various briefs, a judge that is going to make a judgment based upon those briefs, and the facts as have been found on the recent election. We do not know what the terms of the pronouncement is going to be in terms of the judge, and all we are saying in the Kennedy amendment is that we are not going to interfere with the judgments of that judge in fulfilling the consent decree requirements that were agreed to by all parties, that go back over a long period of time, some 30 years of involvement, and we are not going to prejudice that, tonight, to interfere with a judicial proceeding.

That is, basically, what the effect of the Kennedy amendment would be as a perfecting amendment to the Nickles proposal.

Mr. President, I find it difficult to see how a President of the United States, if this were to go through and to pass and to be actually accepted in the committee in the conference report, how a President of the United States could sign this appropriation that would have a legislative intrusion in terms of a consent decree that had been agreed to and honored by all of the parties.

It seems to me that this would be a clear interference by the legislative body into the judicial consent decree and would certainly be subject to a Presidential veto. It is of that importance and of that consequence. I hope my amendment will be agreed to. Just to repeat it, all we want to say is that nothing in this section—which would be the Nickles amendment—should be construed to apply to expenditures required by the consent decree. We are not saying what they may be, what they might not be, whether they would be or would not be. But all we are saying is that we would not interfere with the consent decree. It is as plain and as clear as can be, Mr. President. I hope the amendment will be accepted.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, let me review what the issue is before the Senate and make it clear that there is nothing confusing about the Kennedy amendment. The objective of the Kennedy amendment is to require the taxpayer to pay for yet another union election.

Now, let me go back to the facts and then delineate where I believe Senator KENNEDY drifts far afield from the facts. I also want to respond to this assertion about UPS, which borders on violating rule XIX of the U.S. Senate.

Now, first, let me begin with the consent decree. Because of corruption in the Teamsters, we entered into a consent decree which resulted in the taxpayers paying for the 1996 Teamsters election. The taxpayers spent \$22 million. The person appointed to oversee the election, having been paid \$300,000 to \$400,000, a couple of weeks after it was known that we clearly had violations in the election, now, belatedly, has raised questions.

Now, my point and the point of the Nickles amendment is that we agreed to pay for the election, and we paid for the election. The point is that we did not get the election that we paid for. Perhaps the amendment of Senator NICKLES should demand that we get our \$22 million back because the same corruption we were trying to stop apparently occurred again.

Now, nothing in the Nickles amendment interferes with the consent agreement, except that the Nickles amendment makes it clear that the Constitution of the United States does not give a judge the power of the Federal purse. The Nickles amendment says we paid for an election we didn't get, and we are not paying for another election. The judge can require another election, which I assume he will do. But under the Nickles amendment, he will have to require the Teamsters to pay for the election. We have already paid for one election and we didn't get it. I hope while he is at it, he will fire everybody who drew these salaries to oversee an election through which they slept.

Now, as for the UPS strike having anything to do with this amendment, that assertion violates rule XIX of the U.S. Senate. We are impugning the motives of people offering this amendment. If I stood up on the floor of the Senate and said that this amendment was offered by a Democratic Senator because the Democratic Party colluded with the Teamsters Union, I would be subject to rule XIX, and rightly so. I would never do that. And to come to the floor of the Senate and suggest that Senator NICKLES' amendment has anything to do with anything other than stopping the purchase of another election when we didn't get the first one we paid for is outrageous. I was on the verge of raising rule XIX on that assertion. I think it assaults the dignity of the Senate to try to impugn the motives of people who are offering serious amendments.

Now, with regard to the judge, the Nickles amendment doesn't restrict the judge. The judge can order a new election; he can fire the people who didn't do their jobs the first time; and the judge can set out the parameters of the new election. But under the Nickles amendment, the judge cannot say to the taxpayer: You already paid for an election you didn't get and we are going to make you pay for another election.

All the Nickles amendment does is assert the power of Congress to expend money. It says to the judge and the courts that we are passing a law that says we already paid for our election and any future election will have to be reimbursed. The cost that the Federal taxpayer should incur in overseeing that election will have to be reimbursed by the beneficiaries, the members of the union, who, hopefully, will get an honest election in the future.

We had a consent decree; the Federal Government has lived up to the consent decree. We spent \$22 million for an

election that we did not get. We were supposed to have gotten an honest election, but apparently did not. The question is: Are we going to do it again? I think it is a very clear vote.

We attempted to have an honest election once, which we did not get, even after the taxpayer paid \$22 million. Now the person who was given the responsibility of overseeing that election says that a fair election did not occur. Should we be forced to pay again? The Nickles amendment says no. I think the American people would say no.

So the Kennedy amendment puts this back in the hands of the court. And, basically, his argument is, let a Federal judge appropriate and expend another \$22 million if he chooses. The Constitution is very clear about who has the power of the purse. The Nickles amendment, totally within the consent decree, simply says that we paid to have an honest election, but we didn't get what we paid for. Quite frankly, I would vote for an amendment that demanded our \$22 million back. But the point is that the Nickles amendment simply says that if another election is ordered, which it almost certainly will be, the beneficiaries of the election pay for it. So it does not interrupt the consent decree.

We have lived up to our end of the bargain, but the participants in the election and the overseers did not live up to their end of the bargain. This is a question of whether you want the taxpayers to fund a second election when the first election was apparently fraudulent. The Nickles amendment says no; the Kennedy amendment says yes, but does it indirectly by saying let's let the judge take the rap for requiring us to pay for the election the second time.

I say this is an issue the Congress should decide. We have the constitutional responsibility to spend or not spend money. I say buying one election you didn't get is one too many. I support the Nickles amendment, and I hope people will vote to defeat—by voting to table—the Kennedy amendment so that we can vote on the Nickles amendment, which simply says that we paid for an honest election, we didn't get it, and we are not paying for a second one. That is the issue. It is as clear-cut as it can be, and hiding behind some black-robed official who does not have the inconvenience of having to run for reelection and having to answer to voters for spending their money, I don't think is a way the U.S. Senate, as the greatest deliberative body in the world, should be acting.

This is a clear-cut choice, and the choice is: No more money to pay for elections that don't seem to be held fairly.

I yield the floor.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, my colleague from Texas wants to focus on

the black-robed judges, but I think his analysis is a bit ahistorical. Rudolph Giuliani, former U.S. attorney, 1988: "To date, the United States Government is bringing the lawsuit to attack and reverse once and for all the major American scandal." Richard Thornburgh, Attorney General, March 14, 1989—not a black-robed judge: "This settlement, which union leaders agreed to earlier today, culminates 30 years of efforts by the Department of Justice to remove the influence of organized crime within the Teamsters Union."

This was an agreement with a Republican administration. The second-degree amendment here, the Kennedy amendment, simply says, nothing in this section shall be construed to apply to expenditures required by the consent decree in United States versus The International Brotherhood of Teamsters. My colleague from Oklahoma wants to say there isn't anything in his amendment that goes against this consent agreement. If so, this second-degree amendment should be acceptable. We should not even be having this debate.

Now, I heard what my colleague from Texas said about the need to not be personal. I won't be. Let me make a different kind of argument. When, all of a sudden and unrelated to the bill on the floor, there is an amendment that goes after a consent agreement that goes back to the actions of a Republican administration, and when that all-of-a-sudden move on the Senate floor follows only a few short weeks from a very inspiring and successful effort on the part of the Teamsters to collectively bargain, and when this effort, unrelated to the bill on the floor all of a sudden comes up just a few short weeks after many people in the country are saying, thank goodness there is a focus on trying to have full-time jobs as opposed to part-time jobs, thank goodness there is a focus on living-wage jobs, thank goodness those of us who are hard-pressed and struggling to earn a decent living and raise our children well are going to have a chance, I think this is the wrong time for such an extraordinary move.

I don't think we can decontextualize what we do on the floor of the Senate. It would be a little foolish to believe that, whatever the intentions are of colleagues, people in the country, many working families, union or non-union, won't look upon this effort as just payback. That will be the perception. That is the way it looks in terms of the chronology of this. That is the way it looks in terms of the timeliness of this. That is the way it looks in terms of this action by the Senate, following up on the successful effort on the part of a union to bargain collectively.

Finally, once again, it is such an extraordinary move to go against an agreement that a Republican administration was a part of and to take this extraordinary, and I think really very imprudent, action. Senator KENNEDY's

second-degree amendment is reasonable. It just says—and I will finish—nothing in this section shall be construed to apply to expenditures required by the consent decree. Whatever those expenditures are or are not, this amendment just says, look, we don't come out here on the floor—it is not in the dark of night, but all of a sudden—with this kind of major move, and I think this is an extremely reasonable second-degree amendment. I hope my colleagues will support it.

Mr. KENNEDY. Will the Senator yield?

Mr. WELLSTONE. I am pleased to yield.

Mr. KENNEDY. We have taken the time to go through the various aspects in the consent decree that was agreed to, the agreement, in terms of the allocation of resources, some of which was spelled out in the consent decree. Let me mention, reading specifically, and I will—I ask unanimous consent that the full consent decree be printed in the RECORD.

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

[U.S. District Court, Southern District of New York, Order 88 CIV. 4486 (DNE)]

UNITED STATES OF AMERICA, PLAINTIFF, v. INTERNATIONAL BROTHERHOOD OF TEAMSTERS, CHAUFFERS, WAREHOUSEMEN AND HELPERS OF AMERICA, AFL-CIO, ET AL., DEFENDANTS.

Whereas, plaintiff United States of America commenced this action on June 28, 1988, by filing a Complaint seeking equitable relief involving the International Brotherhood of Teamsters, AFL-CIO (hereinafter, "the IBT"), pursuant to the civil remedies provisions of the Racketeer Influenced and Corrupt Organizations ("RICO") Act, 18 U.S.C. §1964; and

Whereas, the Summons and Complaint have been served, answers filed, and pretrial discovery commenced by and between the parties; and

Whereas, plaintiff United States of America and defendants IBT and its General Executive Board, William J. McCarthy, Weldon Mathis, Joseph Trerotola, Joseph W. Morgan, Edward M. Lawson, Arnold Weinmeister, Donald Peters, Walter J. Shea, Harold Friedman, Jack D. Cox, Don L. West, Michael J. Riley, Theodore Cozza and Daniel Liguoritis (hereinafter, the "union defendants") have consented to entry of this order; and

Whereas, the union defendants acknowledge that there have been allegations, sworn testimony and judicial findings of past problems with La Cosa Nostra corruption of various elements of the IBT; and

Whereas, the union defendants agree that there should be no criminal element or La Cosa Nostra corruption of any part of the IBT; and

Whereas, the union defendants agree that it is imperative that the IBT, as the largest trade union in the free world, be maintained democratically, with integrity and for the sole benefit of its members and without unlawful outside influence;

It is hereby ordered and decreed that:

A. Court Jurisdiction

1. This Court has jurisdiction over the subject matter of the action, has personal jurisdiction over the parties, and shall retain jurisdiction over this case until further order of the Court.

2. Upon satisfactory completion and implementation of the terms and conditions of this order, this Court shall entertain a joint motion of the parties hereto for entry of judgment dismissing this action with prejudice and without costs to either party.

B. Duration

3. The authority of the court officers established in paragraph no. 12 herein shall terminate after the certification of the 1991 election results by the Election Officer for all IBT International Officers as provided in this Order, except as follows:

(1) The Election Officer and the Administrator shall have the authority to resolve all disputes concerning the conduct and/or results of the elections conducted in 1991 under the authority granted to them under paragraph 12(D) herein, and the Investigations Officer and the Administrator shall have the authority to investigate and discipline any corruption associated with the conduct and/or results of the elections to be conducted in 1991 under the authority granted them under paragraph 12 (A) and (C) herein, so long as said investigation is begun within six months of the final balloting.

(2) The Investigations Officer and the Administrator shall have the authority to resolve to completion and decide all charges filed by the Investigations Officer on or before the date on which the authority granted to them under paragraphs 12 (A) and (C) herein terminates the authority pursuant to subparagraph (3) below.

(3) The role and authority provided for in paragraphs 12 and 13 of this Order regarding the Investigations Officer and the Administrator and their relationship with the Independent Review Board shall terminate not later than nine (9) months after the certification of the 1991 election results.

(4) As used herein, the date referred to as "the certification of the 1991 election results" shall be construed to mean either the date upon which the Election Officer certifies the 1991 election results for all IBT International Officers or one month after the final balloting, whichever is shorter.

C. Status of the Individual Union Defendants

4. The union defendants herein remain as officers of the IBT, subject to all of the terms herein, including the disciplinary authority of the Court-appointed officers, described in paragraph 12(A) herein.

D. Changes in the IBT Constitution

5. The portion of Section 6(a) of Article XIX of the IBT Constitution that provides, "Any charge based upon alleged conduct which occurred more than one (1) year prior to the filing of such charge is barred and shall be rejected by the Secretary-Treasurer, except charges based upon the non-payment of dues, assessment and other financial obligations," shall be and hereby is amended to provide for a five (5) year period, running from the discovery of the conduct giving rise to the charge. This limitation period shall not apply to any actions taken by the Investigations Officer or the Administrator.

6. Section 6(a) of Article XIX of the IBT Constitution shall be deemed and is hereby amended to include the following: "Nothing herein shall preclude the General President and/or General Executive Board from suspending a member or officer facing criminal or civil trial while the charges are pending."

7. Immediately after the conclusion of the IBT elections to be conducted in 1991, Section 8 of Article VI of the IBT Constitution shall be deemed and hereby is amended to provide that a special election be held whenever a vacancy occurs in the office of IBT General President, pursuant to the procedures described later herein for election of IBT General President.

8. Article IV, Section 2 of the IBT Constitution shall be deemed and is hereby amended to include a new paragraph as follows:

"No candidate for election shall accept or use any contributions or other things of value received from any employers, representative of an employer, foundation, trust or any similar entity. Nothing herein shall be interpreted to prohibit receipt of contributions from fellow employees and members of this International Union. Violation of this provision shall be grounds for removal from office."

9. (a) The IBT Constitution shall be deemed and hereby is amended to incorporate and conform with all of the terms set forth in this order.

(b) By no later than the conclusion of the IBT convention to be held in 1991, the IBT shall have formally amended the IBT Constitution to incorporate and conform with all of the terms set forth in this order by presenting said terms to the delegates for a vote. If the IBT has not formally so amended the IBT Constitution by that date, the Government retains the right to seek any appropriate action, including enforcement of this order, contempt or reopening this litigation.

E. Permanent Injunction

10. Defendants William J. McCarthy, Weldon Mathis, Joseph Trerotola, Joseph W. Morgan, Edward M. Lawson, Arnold Weinmeister, Donald Peters, Walter J. Shea, Harold Friedman, Jack D. Cox, Don L. West, Michael J. Riley, Theodore Cozza and Daniel Liguoris, as well as any other or future IBT General Executive Board members, officers, representatives, members and employees of the IBT, are hereby permanently enjoined from committing any acts of racketeering activity, as defined in 18 U.S.C. §1961 *et seq.*, and from knowingly associating with any member or associate of the Colombo Organized Crime Family of La Cosa Nostra, the Genovese Organized Crime Family of La Cosa Nostra, the Gambino Organized Crime Family of La Cosa Nostra, the Lucchese Organized Crime Family of La Cosa Nostra, the Bonnano Organized Crime Family of La Cosa Nostra, any other Organized Crime Families of La Cosa Nostra or any other criminal group, or any person otherwise enjoined from participating in union affairs, and from obstructing or otherwise interfering with the work of the court-appointed officers or the Independent Review Board described herein.

11. As used herein, the term, "knowingly associating," shall have the same meaning as that ascribed to that term in the context of comparable federal proceedings or federal rules and regulations.

F. Court-Appointed Officers

12. The Court shall appoint three (3) officers—an Independent Administrator, an Investigations Officer and an Election Officer—to be identified and proposed by the Government and the union defendants, to oversee certain operations of the IBT as described herein. The parties shall jointly propose to the Court at least two persons for each of these three positions. Such proposal shall be presented to the Court within four weeks of the date of the entry of this Order, except that for good cause shown such period may be extended by the Court. Except as otherwise provided herein, the duties of those three officers shall be the following:

(A) DISCIPLINARY AUTHORITY.—From the date of the Administrator's appointment until the termination of the Administrator's authority as set forth in paragraph 3(3) herein, the Administrator shall have the same rights and powers as the IBT's General President and/or General Executive Board under the IBT's Constitution (including Articles VI and XIX thereof) and Title 29 of the United

States Code to discharge those duties which relate to: disciplining corrupt or dishonest officers, agents, employees or members of the IBT or any of its affiliated entities (such as IBT Locals, Joint Councils and Area Conferences), and appointing temporary trustees to run the affairs of any such affiliated entities. The Investigations Officer shall have the authority to investigate the operation of the IBT or any of its affiliates and, with cause,

(i) To initiate disciplinary charges against any officer, member or employee of the IBT or any of its affiliates in the manner specified for members under the IBT Constitution and,

(ii) To institute trusteeship proceedings for the purpose and in the manner specified in the IBT Constitution.

Prior to instituting any trusteeship proceeding the Investigations Officer shall notify the General President of the Investigations Officer's plan to institute said trusteeship proceeding and the basis therefor and give the General President ten (10) days to exercise his authority pursuant to the IBT Constitution to institute such trusteeship proceedings. If the General President timely institutes such proceedings and/or a trusteeship is imposed, the Investigations Officer and the Administrator shall have authority to review any action thus taken by the General President and/or any trusteeship imposed thereafter and to modify any aspect of either of the above at any time and in any manner consistent with applicable federal law. If the General President fails to institute trusteeship proceedings within the ten-day period prescribed herein, the Investigations Officer may immediately proceed in accordance with the authority specified above.

When the Investigations Officer files charges, the following procedures shall be observed:

(a) the Investigations Officer shall serve written specific charges upon the person charged;

(b) the person charged shall have at least thirty (30) days prior to hearing to prepare his or her defense;

(c) a fair and impartial hearing shall be conducted before the Administrator;

(d) the person charged may be represented by an IBT member at the hearing; and

(e) the hearing shall be conducted under the rules and procedures generally applicable to labor arbitration hearings.

The Administrator shall preside at hearings in such cases and decide such cases using a "just cause" standard. The Investigations Officer shall present evidence at such hearings. As to decisions of the IBT General Executive Board on disciplinary charges and trusteeship proceedings during the Administrator's tenure, the Administrator shall review all such decisions, with the right to affirm, modify or reverse such decisions and, with respect to trusteeship proceedings, to exercise the authority granted above in this paragraph. Any decision of the Administrator shall be final and binding, subject to the Court's review as provided herein. For a period of up to fourteen (14) days after the Administrator's decision, any person charged or entity placed in trusteeship adversely affected by the decision shall have the right to seek review by this Court of the Administrator's decision. The Administrator shall also have the right to establish and disseminate new guidelines for investigation and discipline of corruption within the IBT. All of the above actions of the Administrator and Investigations Officer shall be in compliance with applicable Federal laws and regulations.

(B) Review Authority.—From the date of the Administrator's appointment until the certification of the IBT elections to be conducted in 1991, the Administrator shall have

the authority to veto whenever the Administrator reasonably believes that any of the actions or proposed actions listed below constitutes or furthers an act of racketeering activity within the definition of Title 18 U.S.C. § 1961, or furthers or contributes to the association directly, or indirectly, of the IBT or any of its members with the LCN or elements thereof:

(i) any expenditures or proposed expenditure of International Union funds or transfer of International Union property approved by any officers, agents, representatives or employees of the IBT,

(ii) any contract or proposed contract on behalf of the International Union, other than collective bargaining agreements, and

(iii) any appointment or proposed appointments to International Union office of any officer, agent, representative or employee of the IBT.

In any case where the Administrator exercises veto authority, the action or proposed action shall not go forward. The Administrator, upon request of the IBT's General President or General Executive Board, shall, within three (3) days, advise the IBT's General President and/or General Executive Board whichever is applicable, of the reasons for any such veto. For a period of up to fourteen (14) days after the Administrator's decision, the IBT's President and/or General Executive Board shall have the right to seek review by this Court of the Administrator's decision. The Administrator may prescribe any reasonable mechanism or procedure to provide for the Administrator's review of actions or proposed actions by the IBT, and every officer, agent, representative or employee of the IBT shall comply with such mechanism or procedure.

(C) Access to Information.—(i) The Investigations Officer shall have the authority to take such reasonable steps that are lawful and necessary in order to be fully informed about the activities of the IBT in accordance with the procedures as herein established. The Investigations Officer shall have the right:

(a) To examine books and records of the IBT and its affiliates, provided the entity to be examined receives three (3) business days advance notice in writing, and said entity has the right to have its representatives present during said examination.

(b) To attend meetings or portions of meetings of the General Executive Board relating in any way to any of the officer's rights or duties as set forth in this Order, provided that prior to any such meeting, the officer shall receive an agenda for the meeting and then give notice to the General President of the officer's anticipated attendance.

(c) To take and require sworn statements or sworn in-person examinations of any officer, member, or employee of the IBT provided the Investigations Officer has reasonable cause to take such a statement and provided further that the person to be examined receives at least ten (10) days advance notice in writing and also has the right to be represented by an IBT member or legal counsel of his or her own choosing, during the course of said examination.

(d) To take, upon notice and application for cause made to this Court, which shall include affidavits in support thereto, and the opportunity for rebuttal affidavits, the sworn statements or sworn in person examination of persons who are agents of the IBT (and not covered in subparagraph (c) above).

(e) To retain an independent auditor to perform audits upon the books and records of the IBT or any of its affiliated entities (not including benefit funds subject to ERISA), provided said entity receives three (3) business days advance notice in writing and said entity has the right to have its representa-

tives present during the conduct of said audit.

(ii) The Independent Administrator and the Election Officer shall have the same rights as the Investigations Officer as provided in sections (a), (b), (c) and (d) of A, herein.

(iii) The Independent Administrator, Investigations Officer and Election Officer shall each be provided with suitable office space at the IBT headquarters in Washington, D.C.

D. IBT Election.—The IBT Constitution shall be deemed amended, and is hereby amended, to provide for the following new election procedures:

(i) The procedures described herein shall apply to elections of the IBT's General President, General Secretary-Treasurer, International Union Vice Presidents, and international Union Trustees;

(ii) Delegates to the IBT International convention at which any International Union officers are nominated or elected shall be chosen by direct rank-and-file secret balloting shortly before the convention (but not more than six months before the convention, except for those delegates elected at local union elections scheduled to be held in the fall of 1990), and with all convention Candidate election voting by secret ballot of each delegate individually;

(iii) Delegates shall nominate candidates for eleven (11) Regional Vice Presidents, as follows: Three (3) from the Eastern Conference, three (3) from the Central Conference, two (2) from the Southern Conference, two (2) from the Western Conference, and one (1) from the Canadian Conference. In addition, there shall be nominated candidates for five (5) Vice Presidents to be elected at large. All duly nominated Vice Presidents shall stand for election conducted at local unions on the same ballot and time as the election of General President and General Secretary-Treasurer, as provided herein;

(iv) At such an International convention, after the nomination of International Union Vice Presidents and election of Trustees, all delegates shall then vote for nominees for the offices of IBT General President and Secretary-Treasurer;

(v) To qualify for the ballot for the direct rank-and-file voting for IBT General President, Secretary-Treasurer, and Vice President, candidates must receive at least five (5) percent of the delegate votes at the International convention, for the at large position, or by conference for regional positions, as the case may be;

(vi) No person on the ballot for the position of IBT General President may appear on the ballot in the same election year for the position of Secretary-Treasurer; and further no member shall be a candidate for more than one (1) Vice President position;

(vii) No less than four (4) months and no more than six (6) months after the International convention at which candidates were nominated, the IBT General President, General Secretary-Treasurer and Vice Presidents shall be elected by direct rank-and-file voting by secret ballot in unionwide, one-member, one-vote elections for each at large position, and conference wide, one-member one-vote elections for each regional position;

(viii) All direct rank-and-file voting by secret ballot described above shall be by in-person ballot box voting at local unions or absentee ballot procedures where necessary, in accordance with Department of Labor regulations; and

(ix) The current procedures under the IBT Constitution for filling a vacancy between elections in the office of General Secretary-Treasurer, International Trustee, and International Vice President shall remain in effect.

The Election Officer shall supervise the IBT election described above to be conducted

in 1991 and any special IBT elections that occur prior to the IBT elections to be conducted in 1991. In advance of each election, the Election Officer shall have the right to distribute materials about the election to the IBT membership. The Election Officer shall supervise the balloting process and certify the election results for each of these elections as promptly as possible after the balloting. Any disputes about the conduct and/or results of elections shall be resolved after hearing by the Administrator.

The union defendants consent to the Election Officer, at Government expense, to supervise the 1996 IBT elections. The union defendants further consent to the U.S. Department of Labor supervising any IBT elections or special elections to be conducted after 1991 for the office of the IBT General President, IBT General Secretary-Treasurer, IBT Vice President, and IBT Trustee.

At the IBT 1991 International Convention, the delegates shall be presented with these aforesaid amendments for vote; provided further that nothing herein shall be deemed or interpreted or applied to abridge the Landrum-Griffin free speech right of any IBT officer, delegate or member, including the parties hereto.

(E) REPORTS TO MEMBERSHIP.—The Administrator shall have the authority to distribute materials at reasonable times to the membership of the IBT about the Administrator's activities. The reasonable cost of distribution of these materials shall be borne by the IBT. Moreover, the Administrator shall have the authority to publish a report in each issue of the *International Teamster* concerning the activities of the Administrator, Investigations Officer and Election Officer.

(F) REPORTS TO THE COURT.—The Administrator shall report to the Court whenever the Administrator sees fit but, in any event, shall file with the Court a written report every three (3) months about the activities of the Administrator, Investigations Officer and Election Officer. A copy of all reports to the Court by the Administrator shall be served on plaintiff United States of America, the IBT's General President and duly designated IBT counsel.

(G) HIRING AUTHORITY.—The Administrator, the Investigations Officer and the Election Officer shall have the authority to employ accountants, consultants, experts, investigators or any other personnel necessary to assist in the proper discharge of their duties. Moreover, they shall have the authority to designate persons of their choosing to act on their behalf in performing any of their duties, as outlined in subparagraphs above. Whenever any of them wish to designate a person to act on their behalf, they shall give prior written notice of the designation to plaintiff United States of America, and the IBT's General President; and those parties shall then have the right, within fourteen (14) days of receipt of notice, to seek review by this Court of the designation, which shall otherwise take effect fourteen (14) days after receipt of notice.

(H) COMPENSATION AND EXPENSES.—The compensation and expenses of the Administrator, the Investigations Officer and the Election Officer (and any designee or persons hired by them) shall be paid by the IBT. Moreover, all cost associated with the activities of these three officials (and any designee or persons hired by them) shall be paid by the IBT. The Administrator, Investigations Officer and Election Officer shall file with the Court (and serve on plaintiff United States of America and the IBT's General President and designated IBT counsel) an application, including an itemized bill, with supporting material, for their services and expenses once every three months. The IBT's

General President shall then have fourteen (14) business days following receipt of the above in which to contest the bill before this Court. If the IBT's President fails to contest such a bill within that 14-day period, the IBT shall be obligated to pay the bill. In all disputes concerning the reasonableness of the level or amount of compensation or expense to be paid, the Court and parties shall be guided by the level of payment as authorized and approved by the IBT for the payment of similar services and expenses.

(I) APPLICATION TO THE COURT.—The Administrator may make any application to the Court that the Administrator deems warranted. Upon making any application to the Court, the Administrator shall give prior notice to plaintiff United States of America, the IBT's General President and designated IBT counsel and shall serve any submissions filed with the Court on plaintiff United States of America, the IBT's General President and designated IBT counsel. Nothing herein shall be construed as authorizing the parties or the Court-appointed officers to modify, change or amend the terms of this Order.

G. Independent Review Board

Following the certification of the 1991 election results, there shall be established an Independent Review Board (hereinafter, referred to as the "Review Board"). Said Board shall consist of three members, one chosen by the Attorney General of the United States, one chosen by the IBT and a third person chosen by the Attorney General's designee and the IBT's designee. In the event of a vacancy, the replacement shall be selected in the same manner as the person who is being replaced was selected.

(a) The Independent Review Board shall be authorized to hire a sufficient staff of investigators and attorneys to investigate adequately (1) any allegations of corruption, including bribery, embezzlement, extortion, loan sharking, violation of 29 U.S.C. §530 of the Landrum Griffin Act, Taft-Hartley Criminal violations or Hobbs Act violations, or (2) any allegations of domination or control or influence of any IBT affiliate, member or representative by La Cosa Nostra or any other organized crime entity or group, or (3) any failure to cooperate fully with the Independent Review Board in any investigation of the foregoing.

(b) The Independent Review Board shall exercise such investigative authority as the General President and General Secretary-Treasurer are presently authorized and empowered to exercise pursuant to the IBT Constitution, as well as any and all applicable provisions of law.

(c) All officers, member, employees and representatives of the IBT and its affiliated bodies shall cooperate fully with the Independent Review Board in the course of any investigation or proceeding undertaken by it. Unreasonable failure to cooperate with the Independent Review Board shall be deemed to be conduct which brings reproach upon the IBT and which is thereby within the Independent Review Board's investigatory and decisional authority.

(d) Upon completion of an investigation, the Independent Review Board shall issue a written report detailing its findings, charges, and recommendations concerning the discipline of union officers, members, employees, and representatives and concerning the placing in trusteeship of any IBT subordinate body. Such written reports shall be available during business hours for public inspection at the IBT office in Washington, DC.

(e) Any findings, charges, or recommendations of the Independent Review Board regarding discipline or trusteeship matters

shall be submitted in writing to an appropriate IBT entity (including designating a matter as an original jurisdiction case for General Executive Board review), with a copy sent to the General President and General Executive Board. The IBT entity to which a matter is referred shall thereupon promptly take whatever action is appropriate under the circumstances, as provided by the IBT Constitution and applicable law. Within 90 days of the referral, that IBT entity must make written findings setting forth the specific action taken and the reasons for that action.

(f) The Independent Review Board shall monitor all matters which it has referred for action if, in its sole judgment, a matter has not been pursued and decided by the IBT entity to which the matter has been referred in a lawful, responsible, or timely manner, or that the resolution proposed by the relevant IBT entity is inadequate under the circumstances, the Independent Review Board shall notify the IBT affiliate involved of its view, and the reasons therefor. A copy of said notice shall be sent by the Independent Review Board, to the General President and the General Executive Board.

(g) Within 10 days of the notice described in paragraph (f) above, the IBT entity involved shall set forth in writing any and all additional actions it has taken and/or will take to correct the defects set forth in said notice and a deadline by which said action may be completed. Immediately thereafter, the Independent Review Board shall issue a written determination concerning the adequacy of the additional action taken and/or proposed by the IBT entity involved. If the Independent Review Board concludes that the IBT entity involved has failed to take or propose satisfactory action to remedy the defects specified by the Independent Review Board's hearing, after notice to all affected parties. All parties shall be permitted to present any facts, evidence, or testimony which is relevant to the issue before the Independent Review Board. Any such hearing shall be conducted under the rules and procedures generally applicable to labor arbitration hearings.

(h) After a fair hearing has been conducted, the Independent Review Board shall issue a written decision which shall be sent to the General President, each member of the General Executive Board, and all affected parties.

(i) The decision of the Independent Review Board shall be final and binding, and the General Executive Board shall take all action which is necessary to implement said decision, consistent with the IBT Constitution and applicable Federal laws.

(j) The Independent Review Board shall have the right to examine and review the General Executive Board's implementation of the Independent Review Board's decisions; in the event the Independent Review Board is dissatisfied with the General Executive Board's implementation of any of its decisions, the Independent Review Board shall have the authority to take whatever steps are appropriate to insure proper implementation of any such decision.

(k) The Independent Review Board shall be apprised of and have the authority to review any disciplinary or trusteeship decision of the General Executive Board, and shall have the right to affirm, modify, or reverse any such decision. The Independent Review Board's affirmation, modification, or reversal of any such General Executive Board decision shall be in writing and final and binding.

(l) The IBT shall pay all costs and expenses of the Independent Review Board and its staff (including all salaries of Review Board

members and staff). Invoices for all such costs and expense shall be directed to the General President for payment.

(m) The Investigations Officer and the Administrator shall continue to exercise the investigatory and disciplinary authority set forth in paragraph 12 above for the limited period set forth in paragraph 3(3) above, provided, however, that the Investigations Officer and the Administrator may, instead, refer any such investigation or disciplinary matter to the Independent Review Board.

(n) The IBT Constitution shall be deemed and hereby is amended to incorporate all of the terms relating to the Independent Review Board set forth above in this paragraph. This amendment shall be presented to the delegates to the 1991 Convention for vote.

H. Indemnification

13. The IBT shall purchase a policy of insurance in an appropriate amount to protect the Administrator, the Investigations Officer, the Election Officer and persons acting on their behalf from personal liability for any of their actions on behalf of the IBT, the Administrator, the Investigations Officer or the Election Officer. If such insurance is not available, or if the IBT so elects, the IBT shall indemnify the Administrator, Investigations Officer, Election Officer and persons acting on their behalf from any liability (or costs incurred to defend against the imposition of liability) for conduct taken pursuant to this order. That indemnification shall not apply to conduct not taken pursuant to this order. In addition, the Administrator, the Investigations Officer, the Election Officer and any persons designated or hired by them to act on their behalf shall enjoy whatever exemptions from personal liability may exist under the law for court officers.

I. IBT Legal Counsel

14. During the term of office of the court-appointed officers, the IBT General President shall have the right to employ or retain legal counsel to provide consultation and representation to the IBT with respect to this litigation, to negotiate with the appropriate official and to challenge the decisions of the court-appointed officers, and may use union funds to pay for such legal consultation and representation. The Administrator's removal powers and authority over union expenditures shall not apply to such legal consultation and representation.

J. Non-Waiver

15. To the extent that such evidence would be otherwise admissible under the Federal Rules of Evidence, nothing herein shall be construed as a waiver by the United States of America or the United States Department of Labor of its right to offer proof of any allegation contained in the Complaint, Proposed Amended Complaint, declarations or memoranda filed in this action, in any subsequent proceeding which may lawfully be brought.

K. Application to Court

16. This Court shall retain jurisdiction to supervise the activities of the Administrator and to entertain any future applications by the Administrator or the parties. This Court shall have exclusive jurisdiction to decide any and all issues relating to the Administrator's actions or authority pursuant to this order. In reviewing actions of the Administrator, the Court shall apply the same standard of review applicable to review of final federal agency action under the Administrative Procedure Act.

L. Future Practices

17. The parties intend the provisions set forth herein to govern future ITT practices in those areas. To the extent the IBT wishes

to make any changes, constitutional or otherwise, in those provisions, the IBT shall give prior written notice to the plaintiff, through the undersigned. If the plaintiff then objects to the proposed changes as inconsistent with the terms and objections of this order, the change shall not occur; provided, however, that the IBT shall then have the right to seek a determination from this Court, or, after the entry of judgment dismissing this action, from this Court or any other federal court of competent jurisdiction as to whether the proposed change is consistent with the terms and objectives set forth herein.

M. Scope of Order

18. Except as provided by the terms of this order, nothing else herein shall be construed or interpreted as affecting or modifying: (a) the IBT Constitution; (b) the Bylaws and Constitution of any IBT affiliates; (c) the conduct and operation of the affairs of the IBT or any IBT-affiliated entity or any employee benefit fund as defined in ERISA or trust fund as defined by Section 302(c) of the Labor Management Relations Act, as amended; (d) the receipt of any compensation or benefits lawfully due or vested to any officer, member or employee of the IBT or any of its affiliates and affiliated benefit fund; or (e) the term of office of any elected or appointed IBT officer or any of the officers of any IBT-affiliated entities.

N. Non-Admission Clause

19. Nothing herein shall be construed as an admission by any of the individual union defendants of any wrongdoing or breach of any legal or fiduciary duty or obligation in the discharge of their duties as IBT officers and members of the IBT General Executive Board.

O. Future Actions

20. Nothing herein shall preclude the United States of America or the United States Department of Labor from taking any appropriate action in regard to any of the union defendants in reliance on federal laws, including an action or motion to require disgorgement of pension, severance or any other retirement benefits of any individual union officer defendant on whom discipline is imposed pursuant to paragraph 12 above.

P. Limits of Order

21. Nothing herein shall create or confer or is intended to create or confer, any enforceable right, claim or benefit on the part of any person or entity other than to the parties hereto and the court-appointed officers established herein. As to the undersigned defendants hereto, this order supersedes the order of the Court entered on June 28, 1988, as thereafter extended.

Q. Execution

22. Each of the undersigned individual defendants has read this order and has had an opportunity to consult with counsel before signing the order.

March , 1989.

DAVID N. EDELSTEIN,
U.S. District Judge.

Consented to: Benito Romano, United States Attorney, Southern District of New York, One St. Andrew's Plaza, New York, New York 10007, Attorney for Plaintiff, United States of America.

By: Randy M. Mastro, Assistant United States Attorney, Mudge Rose Guthrie, Alexander & Ferdon, 16 Maiden Lane, New York, New York 10038, Attorneys for Defendants IBT and its General Executive Board.

By: Jed S. Rakoff, James T. Grady, Esq., General Counsel, International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, AFL-

CIO, 25 Louisiana Avenue, N.W., Washington, D.C. 20001.

By: James T. Grady, Esquire.

Defendant William J. McCarthy;
Defendant Joseph Trerotola;
Defendant Joseph W. Morgan;
Defendant Arnold Weinmeister;
Defendant Donald Peters;
Defendant Walter J. Shea;
Defendant Harold Friedman;
Defendant Jack D. Cox;
Defendant Michael J. Riley;
Defendant Theodore Cozza;
Defendant Daniel Liguoritis.

Mr. KENNEDY. "The union/defendants consent to the election officer, at Government expense, to supervise the '96 elections."

And then it reviews this. It says "at Government expense."

If we are to take the Nickles—this is in the consent decree. This is not the judge reaching this. This is the Republican Justice Department, under Attorney General Thornburgh, agreeing to this, and where they had made that kind of commitment and agreement. All we are saying is, in any kind of new election, we don't know exactly what they are going to recommend, but we do not want to restrict or affect that consent decree by interfering with legislative action.

Mr. WELLSTONE. I say to my colleague from Massachusetts that I would agree. That is why I find it hard to understand why there can't even be an agreement here on the floor of the Senate because I think the position that the Senator takes is very reasonable, and I think it is important to have this consent decree as part of the Record for that very reason.

Mr. President, I will yield the floor, if my colleague wants to speak. If that is what he really wants to do, I am pleased to yield the floor.

Mr. SANTORUM. Mr. President, I have a question for the Senator from Minnesota. It is not about the subject matter at hand. It is about this rather disturbing assertion by the Senator from Minnesota and the Senator from Massachusetts about the motives behind the Nickles amendment. It is disturbing. And I think the Senator from Texas is right when he said that in fact this borders on a violation of rule XIX.

Let me make a statement. And then I would like the Senator to respond.

Mr. WELLSTONE. If the Senator will yield, why doesn't he put the question to me first?

Mr. SANTORUM. Let me put the information out, and then I would like the Senator to respond to it. I can do it in the form of a question. But the Senator from Minnesota makes the assertion that this comes right on the heels of a Teamsters strike when they were successful in negotiating some changes in their contract. The Senator talks about the chronology. Let's also talk about the chronology of when Barbara Zack Quindel, who is the overseer of the election, came out with her order following the strike. That didn't occur 3 months ago. That didn't occur 6 months ago. It occurred 3 or 4 weeks

ago over the break. The first opportunity for us to address this issue is this bill.

To suggest that we somehow waited until after this Teamsters strike to do this is ridiculous. The timing is perfectly appropriate. It is appropriate because it is the first legislative opportunity to address this issue after the overseer ruled on the election. If we waited 6 months and there happened to be a strike and we happened to come forward with this after that successful strike by a union, then you can make the argument. But that is not what is happening here.

To suggest and imply and impugn the integrity of the Senator from Oklahoma and his motives I think is really below the dignity of this Senate given the chronology that the Senator from Minnesota is well aware of. I hope that given that knowledge—and maybe he did not have that knowledge—but given the knowledge that this in fact was right after this decision was handed down by the overseer of the election, and that this was in fact timely, and had nothing to do with the Teamsters strike, in fact one might add that the fact that Ms. Quindel sat on this report for a couple of weeks might have had something to do with the Teamsters strike. But that is not the issue here. What is at issue is the Senator from Oklahoma addressed this issue expeditiously right after the decision was made on the first legislative vehicle to do so. And I think any other construction of motivation really does not hold water very well.

So I would be pleased with a response, given that information.

Mr. WELLSTONE. I would be pleased to respond. I know the majority leader wants to respond.

First of all, if the Senator was listening carefully, I said, whatever the intention, it just seemed to me that it is hard contextually with what we do from what is happening outside the Senate. And I think it is a big mistake to do this. I think many people will view this as nothing less than an effort to retaliate.

That is my position. Whether or not I am right or wrong, I say to my colleague from Pennsylvania that the proof will be in the pudding. We will see how people in the country respond. We will see what interpretation people put on this. I think it is a big mistake. I think this is a real overreach.

As I tried to do in this debate, I went back through the history of this. I make it crystal clear. Richard Thornburgh, in this settlement of March 14, 1989, which union leaders agreed to earlier today, said culminates 30 years of efforts by the Department of Justice to remove the influence of organized crime within the Teamsters Union. We are saying in the second-degree amendment that nothing that we do should be construed to apply to expenditures.

Don't overreach, and don't take an imprudent action, and don't try to

overturn this. That is profoundly mistaken.

That is my argument. And that will continue to be my argument, irrespective of what some of my other colleagues believe.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. LOTT. Mr. President, I have never seen so many red herrings in my life. We should be flying a flock. This is not about the recent Teamsters strike at UPS, although clearly that strike injured millions of Americans and small businessmen and women. And I heard a lot of those concerns while I was home. I had a lot of calls in my offices pleading for help in some way. "Please find a way to help end this strike because of what it is doing to us as individuals and small businesses."

It is not about a union or a particular union. I have had a good relationship with individual teamsters over the years. When I practiced law I represented the longshoremen, the boiler-makers, and every other union you can name.

No. What is this really about? This is about fairness for the American people. That is why this amendment has been offered and why it is so important. The taxpayers of America are paying for union elections. Do we want that? I don't think my constituents know that, and they would be horrified to know it. That is what this is all about. Paying for the Teamsters to hold an election has not happened once. It has happened twice. The question now is, Will it happen a third time because of fraudulent elections, or is it in fact a bill the American people have to foot in perpetuity?

I've heard a great deal of talk about a consent decree. I am not impressed that a judge said that the people of this country, the taxpayers, should pay for union elections. I am not impressed, whether it was a Republican or a Democrat administration, or which Justice Department went along with it. This is wrong.

When the people find out the truth of what is going on here, they will be in an uproar because we should not be paying for private union elections.

So that is the remarkable thing about this situation. That is why this amendment has been offered—to set up a process to stop taxpayers' money being used to conduct union elections; and more importantly, it sets up the process for taxpayers' money to be repaid.

That is one of the key components of the amendment of the Senator from Oklahoma. It says that there will be a process whereby the Teamsters, if, in fact, taxpayer dollars are involved, will have to pay back in an agreed-to process with a plan to repay the cost of these elections. The taxpayers of America paid \$22 million for the last Teamsters' election; that is \$45 per Teamster vote.

As the Washington Times noted, "the taxpayers were monumentally ripped

off." It turns out there was a fraudulent election. And now there is an indication, well, a judicial official might decree that the taxpayers should have to pay the Teamsters again. This is a horrible procedure. This is a horrible precedent. I don't care what union it is; what business it is. We shouldn't be paying for these kind of elections, and certainly not without some process to get the taxpayers repaid for what they have put into this process.

The Nickles amendment puts an end to this nonsense. It allows the Federal Government to continue the fight against corruption in the Teamsters Union but says the teamsters have to pay the American people back for the privilege of an honest election. For heaven's sake. Nothing could be more fair than that.

Last month, a Federal election official determined that "corruption"—this is a quote—"in the Teamsters remains a major problem." Citing "extraordinary" and "egregious improprieties," the Federal election officials threw out the Teamsters election. We didn't have anything to do with that. That is what the Clinton administration is saying about this. Taxpayers paid for what turned out to be a stolen private election.

Somehow or other the Justice Department, which was supposed to be overseeing this process, let someone in the Teamsters steal an election right from under its nose with the taxpayers paying the tab for the election. Guess what? Now they are saying, "Well, we don't know but maybe we will have to have another election, and maybe the taxpayers should pay again." Ridiculous. It is time that we stopped this.

The Clinton FBI, not the Republican Congress, alleges that there was an intricate money laundering scheme pouring thousands of dollars from the union treasury into union president Ron Carey's campaign.

Ladies and gentlemen, my colleagues: This is a travesty. It is a travesty that these elections are fraudulent again and again. People around here forget that the Teamsters have even been thrown out of the AFL-CIO in the past for such corruption. Now you add to that equation more taxpayer funding. This won't sell in America.

The Nickles amendment should be adopted.

I yield the floor.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, the issue now pending exists on complexity on a number of levels.

I agree with the remarks just made by our distinguished majority leader that the American people ought not to pay for union elections. It is an open question as to how the consent decree was entered into when it was, and why the U.S. Government entered into that consent decree. But that is what we face at the present time.

My view is that we have a question of judicial authority here which is para-

mount, and it is a matter for the court to decide under our doctrine of separation of powers.

We are very premature in what we are doing here on two scores.

One is there has been a recommendation for a new election, which, as I understand the record, has not yet been approved in the court. This is a complicated matter. There are lots of complexities on it. But my understanding is that it has not been approved by the court. And then the court under any expected interpretation would come to the conclusion that this is a new election, and not to be paid by the Treasury of the United States under the pre-existing arrangement. That election has already been paid for. But essentially this a matter for the court to decide. And there would be ample time for the Congress to turn down an appropriation in the future on the basis that is not an appropriate matter to be paid for by taxpayers' money. But on this state of the record, it is my view that it is a judicial matter, and not a matter of the Congress.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I am constrained to follow the statement that is made by Senator SPECTER, the chairman of the subcommittee. It is my understanding also that the election officer's recommendation has not been approved by the court. I share the consternation of many people here about the timing of that election officer's report of her findings concerning that Teamster election.

It is clear that under the existing situation there is no order of the court. Even the court hasn't even considered that recommendation, if we have one who has exercised severe bad judgment in terms of the timing of the announcement of her finding. And it is apparent that she could be overruled as to even her findings. But the main thing is that this is a bill that has nothing in it pertaining to this matter.

There now comes another one of our cause celebre riders that could well lose the product of this bill.

Mr. President, we have 14 appropriations bills to pass by this Senate before September 30, 13 bills coming out of conference, and one continuing resolution. That says that if we can't send them all to the President and get them signed before the 30th, there will have to be a continuing resolution in any event. In addition to that, we have this bill and two other bills to pass.

We are really going to be in appropriations every day during this period of September.

I have great respect for my friend from Oklahoma. But I have to say the time to deal with this issue is when and if the administration asks Congress for money to pay for this election. We don't even know that there is going to be a new election. If the court rules there is to be a new election,

there is no authority in the Department of Justice or the Department of Labor to use existing funds for that election. They will have to come up here with a supplemental request. That is the time we should deal with it.

I have to say that it is my feeling, very frankly, as chairman of the committee, that I would rather risk a supplemental—an issue where we disagree with the administration—than risk the whole year's bill. To my knowledge, this is the only issue that would lead this bill to be subject to a veto.

So I really have to say, as I did to my friend from Oklahoma, that I disagree with the Senator from Massachusetts, too; that I don't think his amendment is necessary, the amendment in the second degree. And I don't think it is timely to raise the Nickles amendment now.

What we need to do is get on with our work and get this bill passed. We still have the Interior bill, we have the District of Columbia bill, and then we have all 13 bills to pass as conference reports, and then we have to pass a continuing resolution. And it has a conference report, too.

So, if we want to be here all year working appropriations, then we can spend our time on these riders again. For me, there is no necessity for the second kick of a mule. I got kicked the last time we had this problem on that supplemental. I don't see any reason to go through it again.

I urge the Senate not to approve these riders that are controversial. Every one of them has something we would like to have settled. And, if they are noncontroversial and we can work them out, we should do it. But this is a controversial matter. It is, obviously. I am told that the Department of Labor believes it is cheaper to pay for the supervision of the election rather than to have to deal with many complaints on the next election, if one is ordered.

So this is a very complicated issue.

From my point of view, it is not involved in this bill before us. I respect my good friend from Oklahoma in terms of his views about that election officer, as I have said, and the timing of the release, but there is nothing before us yet. The court has not approved that report. We are dealing with speculation as to whether there will even be another election. So why tie up this bill and tie up the Senate on an issue that is premature, Mr. President, and I urge the Senate to join me in voting against both my friend from Massachusetts and my friend from Oklahoma.

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I heard the comments of my colleague from Alaska, but basically what he is saying is we should not tell the Department of Labor how to spend money. In this appropriations bill we appropriate money for the Department of Labor. In this case they appropriated about \$22 mil-

lion—admittedly it came from the Department of Labor and the Department of Justice—to conduct this last election. And they did a pretty crummy job. We paid millions of dollars and we ended up with a corrupt election.

I do not want that to happen again. We talk about adherence to the consent decree that was agreed to in 1989. I think my original amendment is in adherence to the 1989 consent decree, because it said that the Teamsters will pay for the 1991 election. They paid for it. And guess what. There was no complaint that it was a corrupt election. They paid for it themselves. You know what. People are a lot more frugal with their own money. They are less likely to steal from their own members. They are less likely to be corrupt maybe with their own members' money than they would be with taxpayer money.

So we had a 1991 election. Mr. Carey won. Fine. And I don't know that anybody—there was an overseer in the 1991 election. They did not allege fraud in that. So the 1991 election was done by the Teamsters. They paid for it. They should have paid for it. They had a good election. No one said a thing. The 1996 election the taxpayers paid for.

I will admit I did not know we paid for it until I read about it. And when did we read about it? Well, the overseer of the election, she announced during, or after the UPS strike—and that is the only thing UPS has to do with this—she waited until after the UPS strike to announce that there was fraud and that her recommendation would be that we need a new election. Mr. Carey only won by a few thousand votes. She said that maybe there were hundreds of thousands of dollars that were funneled in his direction and so she thought a new election was warranted.

Fine. Let there be a new election. I am just saying in the new election taxpayers should not pay for it. We did not pay for the one in 1991. It was a clean election. We paid for the one in 1996 and there was corruption. A lot of money was moved around. Let's make sure, if we have an election in 1998, it is not a corrupt election.

That is the purpose. This bill funds the Department of Labor for 1998. Let's make sure that taxpayer money is not used for this purpose.

Somebody says, well, is this in compliance with the consent decree. I will tell you the consent decree is silent on a rerun election. It does not say it. I read the consent decree two or three times. It does not say anything about a rerun. So maybe a judge would determine, well, maybe taxpayers should pay for it. Maybe a judge would not. But wait a minute. Congress is supposed to appropriate money, and we have opinions. If somebody says, well, we are violating, we are stamping out the consent decree, hogwash. The consent decree does not say it.

I did not request this, but there is a Congressional Research Service study dated May 1995, what would happen if

Congress—does Congress have the right to withhold the money? The answer is yes. I will read you the quote from CRS. I will ask unanimous consent to put the entire study into the RECORD. But it says:

Legislation enacted by Congress limiting or restricting the funds for the 1996 election would be a Federal law, and the Government parties would be bound to take appropriate action in reliance on that law.

What are the consequences to the Congress of not appropriating all the funds necessary to supervise the 1996 IBT elections?

There would appear to be no consequences to the Congress. The consent decree does not appear to obligate the Government to supervise the 1996 elections, either directly or indirectly. Rather, the decree embodies the consent of the union defendants to governmental supervision.

We had governmental supervision in 1991. We will in 1998. What I am saying is let's just not pay for the election. This is not a destitute group of individuals. These are people who do quite well. Great.

I read something; they average \$27 an hour, about \$50,000 a year. Fine. Why is the Federal Government paying for the election? We did not pay for the other election. We did not pay for the 1991 election. Why would we pay for a rerun of the election?

All I am trying to do is protect taxpayers' money. And my colleague is suggesting, well, maybe somebody is upset about the UPS settlement. That has nothing to do with it. I am offended by that allegation. That is totally ridiculous. All I am trying to do is protect taxpayers.

They had their strike. They had their settlement. And some people are running around saying, "great victory," and so on. So be it. I am just saying you are not entitled to another \$22 million of taxpayers' money. If the Teamsters pay for it—if it cost the Teamsters maybe less than half an hour to pay for their own election, they should pay for it.

I even went so far in the amendment to try to be fair. Some people said make sure you put in language that no Federal funds be used to conduct the election. You could use it to oversee the election, to supervise the election. We do that in Third World countries. We do that in new democracies, so maybe we would spend a little money to oversee the election.

I think that is fine, to have observers to try to monitor the election, to see that we would eliminate some of the corruption, but we had corruption when we had Federal funding because people took some of the Federal money and abused it. I am trying to make sure that does not happen again.

Do we have the constitutional right to do it? Absolutely. CRS said we do. The consent decree is silent on a rerun. Certainly we can do that. And my colleague from Alaska says the judge may not even agree. We had the overseer, who made \$300,000 or \$400,000 monitoring this election, find out it is corrupt, withholds that information until after

the UPS strike and then says, oh, yeah, we are going to have a new election. I didn't want to tell anybody during the strike because it might have influenced the strike one way or another. Oh, yes, but we need a new election.

I am saying fine. If they need a new election, I agree. If that's her recommendation, fine. I am saying taxpayers shouldn't pay for it. Very plain and simple. We can monitor it. We can try to make sure it is not corrupt. But we should not pay for it. It's that simple. We didn't pay for the 1991 election. They had a good election. Certainly we can allow an election in 1998, if there is to be an election, fine. My amendment wouldn't cost the taxpayers. I am trying to save the taxpayers money. So this amendment wouldn't cost anything.

The very thought of my colleague who said maybe the administration would veto it, wait a minute. You have an appropriations bill that is actually hundreds of billions of dollars. They are going to veto this bill because they want to protect the Teamsters from what? Paying for their own election. Give me a break. You have to be kidding. How special interest could this group be? I know I saw the Vice President with the Teamsters on Labor Day, with thumbs up, and so on. But surely they would not veto a bill that says this group, which is pretty well compensated at an average—I guess truckers are making something like, I don't know, \$27 an hour, wages and benefits—surely they say taxpayers that make a lot less than that should not be paying for their election when the consent decree does not say that. The consent decree is silent, frankly, on election reruns. I can't imagine that the administration would recommend vetoing a bill over something that special interest.

So, Mr. President, I think we have had adequate debate. I would just urge my colleagues to vote to table the Kennedy amendment, and I move to table the Kennedy amendment.

Mr. KENNEDY. Mr. President, will the Senator withhold for 2 minutes?

The PRESIDING OFFICER (Mr. BENNETT). The motion to table is not debatable.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

Mr. KENNEDY. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

The assistant legislative clerk continued with the call of the roll.

Mr. KENNEDY. 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. KENNEDY. I ask unanimous consent to be able to proceed for 4 minutes.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. KENNEDY. Just two brief comments. One with regard to the Congressional Research Service. It is not true that section O of the consent decree permits the U.S. Government to avoid its legal obligations under the decree, including its legal obligation to pay for supervision of the upcoming election.

Section O is a general savings clause retaining the right of the Government to seek remedies against the defendants for misconduct. It was never intended, nor can it be reasonably read, to override the remainder of the consent decree.

Under the overbroad reading of section O, the consent decree is meaningless—the parties would have agreed to nothing, because section O would always undermine the original understanding. This is an absurd reading of the provision.

It violates the basic rule of legal construction that meaning must be given to the entire text of the decree.

It has also been argued that under the decree the United States did not need to insist on supervision of the election and therefore need not pay for the election. This is also absurd—the United States did elect to supervise the election, and therefore must pay for the election. To say otherwise is to make the Federal Government a deadbeat; a party to litigation weaseling out of its legal duties.

Mr. President, Senator STEVENS said it best when he talked about bringing into this appropriation matters which are not directly related to the appropriations. I have here the statement of administration policy, September 2. I will read these provisions.

The administration understands that a number of controversial amendments may be offered, such as an amendment to prohibit the use of funds in the act for supervising the Teamster's election * * * The President's senior advisers would be forced to recommend that the President veto the bill.

There are other provisions but that I think supports what the Senator from Alaska has mentioned.

I had hoped that we could have tabled the whole proposal, and I would have supported it. But nonetheless we don't have that opportunity at this time, so I hope that the proposal of the Senator from Oklahoma to table the measure would not be agreed to. And if that were the case, I would not object to tabling the whole proposal and get on with the business of the appropriations.

I yield the floor.

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The motion to table is not debatable.

Mr. NICKLES. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Oklahoma to table the amendment. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Arkansas [Mr. MURKOWSKI] is necessarily absent.

Mr. FORD. I announce that the Senator from Ohio [Mr. GLENN] is necessarily absent.

The result was announced—yeas 56, nays 42, as follows:

[Rollcall Vote No. 217 Leg.]

YEAS—56

Abraham	Enzi	Lugar
Allard	Faircloth	Mack
Ashcroft	Frist	McCain
Bennett	Gorton	McConnell
Bond	Gramm	Nickles
Breaux	Grams	Roberts
Brownback	Grassley	Roth
Burns	Gregg	Santorum
Byrd	Hagel	Sessions
Campbell	Hatch	Shelby
Chafee	Helms	Smith (NH)
Coats	Hollings	Smith (OR)
Cochran	Hutchinson	Snowe
Collins	Hutchison	Stevens
Coverdell	Inhofe	Thomas
Craig	Jeffords	Thompson
D'Amato	Kempthorne	Thurmond
DeWine	Kyl	Warner
Domenici	Lott	

NAYS—42

Akaka	Feinstein	Lieberman
Baucus	Ford	Mikulski
Biden	Graham	Moseley-Braun
Bingaman	Harkin	Moynihan
Boxer	Inouye	Murray
Bryan	Johnson	Reed
Bumpers	Kennedy	Reid
Cleland	Kerrey	Robb
Conrad	Kerry	Rockefeller
Daschle	Kohl	Sarbanes
Dodd	Landrieu	Specter
Dorgan	Lautenberg	Torricelli
Durbin	Leahy	Wellstone
Feingold	Levin	Wyden

NOT VOTING—2

Glenn	Murkowski
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The motion to lay on the table the amendment (No. 1082) was agreed to.

Mr. NICKLES. Mr. President, I move to reconsider the vote by which the motion was agreed to, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1083 TO AMENDMENT NO. 1081

(Purpose: To limit the use of taxpayer funds for any future International Brotherhood of Teamsters leadership election)

Mr. CRAIG. Mr. President, I have a second-degree amendment which I send to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Idaho [Mr. CRAIG], for himself, Mr. NICKLES, and Mr. JEFFORDS, proposes an amendment numbered 1083 to amendment No. 1081.

Mr. CRAIG. Mr. President, this second-degree amendment—

The PRESIDING OFFICER. The clerk has not concluded reading.

Mr. CRAIG. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

Mr. KENNEDY. Objection. Can we have the reading of the amendment? It has not been distributed to the Members. It seems to me we ought to have the amendment read.

The PRESIDING OFFICER. The clerk will continue to read.

Mr. KENNEDY. May we have order?

Mr. WELLSTONE. Mr. President, may we have order, please?

The PRESIDING OFFICER. The point is well taken, the Senate is not in order. The clerk will continue to read.

The legislative clerk read as follows: Strike all after the word "Section" and insert the following:

(a) IN GENERAL.—Except as provided in subsection (b), none of the funds made available under this Act, or any other Act making appropriations for fiscal year 1998, may be used by the Department of Labor or the Department of Justice to conduct a rerun of a 1996 election for the office of President, General Secretary, Vice-President, or Trustee of the International Brotherhood of Teamsters.

(b) EXCEPTION.—

(1) IN GENERAL.—Upon the submission to Congress of a certification by the President of the United States that the International Brotherhood of Teamsters does not have funds sufficient to conduct a rerun of a 1996 election for the office of President, General Secretary, Vice-President, or Trustee of the International Brotherhood of Teamsters, the President of the United States may transfer funds from the Department of Justice and the Department of Labor for the conduct and oversight of such a rerun election.

(2) REQUIREMENT.—Prior to the transfer of funds under paragraph (1), the International Brotherhood of Teamsters shall agree to repay the Secretary of the Treasury for the costs incurred by the Department of Labor and the Department of Justice in connection with the conduct of an election described in paragraph (1). Such agreement shall provide that any such repayment plan be reasonable and practicable, as determined by the Attorney General and the Secretary of Treasury, and be structured in a manner that permits the International Brotherhood of Teamsters to continue to operate.

(3) REPAYMENT PLAN.—The International Brotherhood of Teamsters shall submit to the President of the United States, the Majority and Minority Leaders of the Senate, the Majority and Minority Leaders of the House of Representatives, and the Speaker of the House of Representatives, a plan for the repayment of amounts described in paragraph (2), at an interest rate equal to the Federal underpayment rate established under section 6621(a)(2) of the Internal Revenue Code of 1986 as in effect for the calendar quarter in which the plan is submitted, prior to the expenditure of any funds under this section.

(c) This section shall take effect one day after enactment of this Act.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, the second-degree amendment clarifies a few points in the first-degree amendment. As you noticed, the clerk read section (c) which merely discusses time of enactment and time in which the proposed amendment would take effect.

What we have here, of course, is the fundamental question that has been brought by the Senator from Oklahoma: Who should pay for the elections of a private union?

The question fundamentally put before this Senate is very simple for all of us. Should it be the taxpayers or should it in fact be the union? I think we are concluding here that it should be the union in this instance. The taxpayers have done what they should do in this instance and should do no more. I yield the floor.

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. I rise in support of the amendment offered by my colleague from Idaho.

Mr. President, let me just clarify again, some of our colleagues were not aware of the taxpayers' support for the last election. I told a couple colleagues—they said, "How much did we spend?" We spent \$22 million; some people said more. The union has 1.4 million members. A little less than 500,000 voted. And \$22 million is a lot of money. And a lot of money was wasted or maybe abused. It was abused, frankly, because it was taxpayers' money. That did not happen when it was their own union money. I mention, every other union in the country uses their own money for their own elections, as they should.

So, again, I urge my colleagues to adopt this amendment. This even says that we can still use taxpayers' money. If for some reason the Teamsters do not have the money, they can borrow money from the Federal Government. They just have to pay it back. It happens to be, in my opinion, consistent with the consent decree because the consent decree is silent. The word "rerun election" is not mentioned in the 1989 decree.

So what we are trying to say is, in future elections they should pay for it. We can still have Federal Government monitors. We can still have some oversight to try to make sure it is not abused, as that last election was. Taxpayers were abused as well as Teamsters last time.

So I urge my colleagues to support this amendment.

Mr. President, I ask for the yeas and nays on the amendment.

Mr. CRAIG. Would the Senator yield?

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. CRAIG addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Would the Senator from Oklahoma yield for a question?

Mr. NICKLES. Certainly.

Mr. CRAIG. Does your first-degree amendment prohibit the Government from overseeing the rerunning of an election?

Mr. NICKLES. The answer to the Senator's question is no. The Govern-

ment can have some oversight and be involved in monitoring the election, trying to make sure there is not corruption in the election. We should not have to pay for it.

Mr. CRAIG. In other words, if Teamsters were concerned, and there was at issue here corruption in the last election, and therefore a reelection to get rid of that corruption, or at least to have an outcome that all would be satisfied with, we could still have the Department of Labor and/or Justice involved in overseeing the rerunning of this election, and your amendment does not prohibit that?

Mr. NICKLES. The Senator is exactly right.

Mr. CRAIG. I thank the Senator.

Mr. NICKLES. Mr. President, one final comment.

We talk about this money, and people say, "Big deal." We are talking about \$22 million. The Federal subsidy for Presidential campaigns is what? \$71 million for a general election. That is the amount of money that Senator Dole received; that is the amount that Clinton-Gore received from the taxpayers. This is one-third as much. That amount of money was for the entire country. We are talking about 1.4 million people, and only 500,000 or less voted last time.

Should taxpayers be liable for \$22 million, or more? I do not think so. So this amendment tries to protect taxpayers. That is all it does. It tries to be fair to Teamsters and does not get involved in who should win in any way, shape, or form. It does not have anything to do with the UPS strike whatsoever.

The only involvement of the UPS strike was the fact that they found out there was a corrupt election, and that information was withheld until after the strike was over. I am just saying, let us just make sure that taxpayers do not get stuck again. We got stuck in 1996. It was a corrupt election. Let us not let it happen again for future elections.

Mr. President, I yield the floor.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, as two Senators have indicated, this is basically a restatement of the Nickles amendment. The Senator from Oklahoma indicated earlier in the course of the debate that he was not interested nor did he want to interfere with the consent decree that had been signed in 1989.

I offered an amendment to make sure that that would be the case, by neither requiring the payment of taxpayers' funds to be used in a subsequent election nor prohibiting funds to be used. The principal issue that is before the Senate is whether we are going to interfere with a judicial proceeding that is before the Southern District Court of New York in which briefs are required to be filed on September 17.

This agreement, this consent decree, is not the result of the Clinton administration or the Clinton Department of

Labor. This consent decree was initiated by Mayor Giuliani in 1988 and agreed to in the Federal District Court of New York in 1989 and approved by a Republican Attorney General. They understood the powers which were being included in that consent decree. They understood fully what was being agreed to. The record demonstrates that. We can have a chance to go through that in greater detail if there really is a question by the Members on that particular fact. They understood the range of authority and responsibility as a result of that particular agreement.

This was based upon some 30 years of various activities by the Teamsters and the resulting initiative by Mr. Giuliani, who was the U.S. attorney in New York trying to bring a resolution to a great deal of the challenges, the difficulties, and the corruption that had been a part of the Teamsters in the past.

So now we have had intervening activities under that consent decree. But that consent decree has not been concluded. As I mentioned, that consent decree is active, and it is very much alive.

I did not hear the voices of those who are so troubled this evening complaining about that consent decree in 1988 or 1989. I did not hear the voices that are speaking on the floor of the U.S. Senate tonight that are concerned about how the consent decree was going to be implemented, saying that we will agree to a certain part of the consent decree but we will not agree to other provisions of it. That was not the case.

The only initiative, and the new initiative, to somehow interfere with this consent decree comes 2 weeks after the UPS and Teamsters strike, which was a strike for some 15 days and which resulted in the protection of certain rights of American workers, the 185,000 workers that were working for UPS, and other rights in terms of part-time workers and other issues involving pensions.

There are those who say, "Well, this is completely coincidental. This is really just here today. We just feel it now in our bones that the fact that it is just after the successful UPS strike has nothing to do with it. And the indignity which has been demonstrated on the floor of the U.S. Senate to suggest that there might be some kind of correlation between the fact that this amendment is being offered now today, tonight on this appropriations bill, is startling to me." It speaks for itself. The facts speak for themselves. The facts speak for themselves. I think the Members in this body understand what is going on here.

As has been pointed out by Members on the other side—Members on the other side—this is a judicial process, judicial proceeding, and it should not be altered or changed. That was a Republican Senator, Senator SPECTER, who pointed that out very effectively and very well. And we have the statements of others on the other side. The

Senator from Alaska, Senator STEVENS, said we should be about the fact of having an appropriations and move the appropriations process forward and should not become involved in these extraneous issues.

There will be those comments later on, I am sure, probably not too long from now, about how some Members are delaying the completion of the appropriations bill, when we took an hour last night to consider the issues of fetal transplantation, which is an issue that has been debated and debated and debated and debated, in which this body had gone on record time and time again, and we debated that over the course of the morning, which was basically an extraneous issue, and now we have been debating over the course of the afternoon about this issue which is extraneous to the appropriations process and procedure.

The statement of the administration with regard to this legislation is very clear. I will read it again: Unfortunately, the administration understands that a number of controversial amendments may be offered, such as an amendment to halt the testing initiative, an amendment to prohibit the use of funds in the act for supervising the Teamsters' election.

That is what this amendment does. It effectively undermines the court's flexibility in terms of the supervision of the Teamsters election.

Mr. SARBANES. Would the Senator yield for a question?

Mr. KENNEDY. Yes.

Mr. SARBANES. Doesn't, in fact, this amendment undercut the consent decree? The consent decree leaves open, as I understand it, the possibility that the supervision of this election will be done by public funds. It does not say that it will be, but it leaves open that possibility. This amendment closes out that possibility. It closes out that possibility. That possibility was part of the consent decree. It was left to the judgment of the court whether, in fact, that remedy will be used. Is that not the case?

Mr. KENNEDY. The Senator is correct.

Mr. NICKLES. Will the Senator yield?

Mr. KENNEDY. With the understanding of the Justice Department that that may very likely or probably be utilized.

Mr. SARBANES. Wasn't this consent decree approved by the Justice Department?

Mr. KENNEDY. Approved by the Republican Justice Department under Secretary Thornburgh, who embraced and endorsed and supported it, this consent agreement, that was initiated by now Mayor Giuliani, who was the Republican U.S. attorney in New York City.

Mr. SARBANES. So this amendment—

Mr. KENNEDY. If I could further respond, the consent decree required, as of September 17, the submission of ad-

ditional briefs—September 17—to be submitted in the district court of New York on this very issue with regard to the recent election. This is a consent decree that is ongoing and is continuing.

What we are being asked is effectively to have legislative interference into a judicial proceeding. That case was made very clearly, I thought, and convincingly by Senator SPECTER and others, that there is a clear constitutional issue about separation of powers. I think it is very clear from the administration's letter that this will open this measure to a veto. I certainly believe that it should, since it is a clear violation of the separation of powers.

We were not either requiring, under the amendment that we had, that there be an expenditure of public funds or not. We are not trying to give guidance to the court to make a judgment. That judgment ought to be made on the basis of the facts and the briefs that are submitted to it.

Mr. SARBANES. Will the Senator yield further for a question?

Mr. KENNEDY. Yes.

Mr. SARBANES. It is my understanding that the consent decree left open that question and placed the power to decide it in the court; is that correct?

Mr. KENNEDY. The Senator is correct.

Mr. SARBANES. This amendment would, in effect, negate that aspect of the consent decree, would it not?

Mr. KENNEDY. The Senator is correct.

Mr. NICKLES. Will the Senator yield?

Mr. SARBANES. For a question.

Mr. NICKLES. If you read page 16 of the consent decree, it does not mention "rerun." We are not affecting or changing the consent decree in any way.

Mr. SARBANES. Yes, you are; because the consent decree opens the possibility that the court will require that the election be paid for with public funds. It does not say that it will, but it does not say that it will not. It leaves open that option to the court. You are denying that option by your amendment and, therefore, undoing the consent decree.

How do you expect people to enter into a consent decree?

Was it 30 years they spent trying to work out a consent decree, did the Senator say earlier?

Mr. KENNEDY. Thirty years that this was a matter.

Mr. SARBANES. A consent decree that was involved with the Bush administration, approved by Attorney General Thornburgh, actually carried out, I take it, by U.S. Attorney Giuliani at that point.

Mr. KENNEDY. That is correct.

Mr. SARBANES. Of the Southern District of New York.

Now we are coming with an amendment to undo this process.

Mr. NICKLES. Will the Senator yield?

Mr. KENNEDY. I yield for a question.

Mr. NICKLES. I am happy to tell my colleague that in reviewing the consent agreement we did not undo anything. The consent decree does not say anything about a rerun election. It says that the Teamsters will pay for the 1991 election and it says taxpayers will pay for the 1996 election. It does not say anything about who will pay for a subsequent election. We are trying to clarify that.

We had 56 votes who say the taxpayers should not, that the Teamsters should. I think that is consistent with the consent decree.

I might mention, the CRS just studied this, and whose legal analysis I will refer to again, says the Congress has the right to do this, period.

Mr. SARBANES. I ask the Senator from Massachusetts, my understanding was that the 1996 election was never certified.

Mr. KENNEDY. The Senator is absolutely correct, so it is still an open question. That is a basic and fundamental point. That 1996 election has never been certified.

Mr. SARBANES. So the rerun they are talking about would in effect flow out of the 1996 election, does it not?

Mr. KENNEDY. The Senator is correct. It is not necessarily a requirement for a rerun. We do not know what the judge is going to require. The judge may require a rerun. The judge may not require a rerun. All we are saying is that we are not going to interfere in the prerogatives of the consent agreement which has been agreed to by the various parties who had a clear understanding about what the powers were for the various parties.

Mr. MCCAIN. Will the Senator yield?

Mr. KENNEDY. I yield.

Mr. MCCAIN. I am reminded of the words of the wonderful Mo Udall who said, "Everything on this subject that could possibly be said has been said, only not everybody has said it," and I wonder if we had any time that we might want to conclude this debate since I do have a couple of pending amendments that I would like to address tonight.

Could the Senator from Massachusetts give me an idea as to perhaps when we might be able to move on?

Mr. KENNEDY. As long as this matter is before the Senate I think we are going to have an opportunity to talk about it. There are more Members here now than there were earlier. I would not object to setting this aside to consider other measures. That is not my idea of delaying. If it were to be set aside, I would not object to that process.

However, if we are going to be on this amendment, there are both speakers and additional points that I think ought to be made.

Mr. MCCAIN. I thank the Senator.

Mr. KENNEDY. So, as the Senator from Maryland has pointed out, the court may order the election to be run or it may not. It may require the Gov-

ernment to fund part of the election of- ficer's supervision in some ways. It may be limited, maybe to that elec- tion, or it may require the union to do so, or it may require each party to bear some of the costs. All of that is out and all of that is possible.

The point is we do not know how the court will rule. We don't know how the court will rule, but this amendment now would tell the court that regard- less of its ruling, regardless of its rul- ing, the Government will not be per- mitted to fund any of the election. Even if the consent order requires the Government to pay for part of it, the amendment would refuse to permit that. Thus, the amendment would interfere with an ongoing judicial proc- ess.

Effectively, the amendment, I believe would force the Government to be in a position of reneging on this consent de- cree. It would, I believe, leave the Gov- ernment subject to a contempt cita- tion. I think you can make a strong case at that time if we were to take this kind of action that the Govern- ment itself would be liable to a con- tempt citation.

Mr. SARBANES. Will the Senator yield?

Mr. KENNEDY. I yield.

Mr. SARBANES. In fact, as I under- stand it, part of the consent order was a consent by the union to have the 1996 election supervised by an election offi- cer, is that not the case?

Mr. KENNEDY. That is correct.

Mr. SARBANES. Of course, part of that was that would be done at Govern- ment expense, to supervise the 1996 election? In other words, what the Gov- ernment was getting out of this at the time was continued supervision of Teamster elections, and part of the consent decree was that the super- vision of the 1996 election, extending well beyond the 1991 election, would be done at Government expense, is that correct?

Mr. KENNEDY. The Senator is cor- rect.

Mr. SARBANES. Now the consent de- cree remains silent on the question of a rerun of that election since it has not been certified. This amendment would, in effect, deprive the court of an option that is now available to it, an option that, in fact, was left open by the con- sent decree. This is simply undoing a consent decree. You will never get con- sent decrees.

The Bush Administration held out the accomplishment of this consent de- cree as a major achievement, is that not correct?

Mr. KENNEDY. The Senator is abso- lutely correct.

Mr. SARBANES. In 1989?

Mr. KENNEDY. Correct.

Mr. SARBANES. Did not the Presi- dent and the Attorney General hold it out as a major accomplishment?

Mr. KENNEDY. The Senator is cor- rect.

Mr. SARBANES. Now, our colleague from Oklahoma and others are trying

to undo the consent decree at a time, as I understand, that the court, 2 weeks from yesterday, will be receiving briefs on this very issue of the election, is that correct?

Mr. KENNEDY. The Senator is cor- rect.

Mr. SARBANES. If ever there was an instance of trampling in on the part of the Congress and in effect, undoing an arrangement that was very carefully and elaborately worked out and, in fact, done so by now Mayor Giuliani but then U.S. Attorney Giuliani in the Southern District of New York, ap- proved by the Department of Justice, headed by Richard Thornburgh, and held out by President Bush as a major accomplishment.

I thank the Senator for yielding.

Mr. KENNEDY. I thank the Senator for his comments because they make the case extremely well and effec- tively.

I suggest the absence of a quorum.

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

The bill clerk proceeded to call the roll.

Mr. NICKLES. 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. NICKLES. Several comments were made that we are vitiating the consent decree. Totally false. I will tell my colleagues, you can read the con- sent decree, it does not say anything about a rerun election. The consent de- cree did say that the Teamsters would pay for the 1991 election and taxpayers would pay for the 1996 election.

The Teamsters came out very well. They got a nice gift, \$22 million, maybe more, which is over about \$45, maybe \$50 per person as the cost to the tax- payers of this vote. That is pretty high. Some of us do not think we should do it again.

Maybe I was asleep at the switch in 1989. It happened. Nobody objected. And in 1991, since the Teamsters paid for it, it never came up. I was not aware of it until after the 1996 election and we found the abuse. It is an abuse on the Teamsters and on the taxpayers and should not be repeated. That is the reason we have the amendment before the Senate.

We do not vitiate the consent decree. We say in the future, judge, we know the consent decree is silent. It does not say who should pay for it.

Now, frankly, if you read the Con- stitution it says Congress shall have the power to appropriate money. It does not say "an unelected judge." It does not say a judge, where a consent decree is silent, has the power to go in and mandate something, like mandat- ing U.S. taxpayer funds. Some of us think elected officials should make that decision, not unelected judges.

We are stating that in the future if there is another election, let the Team- sters pay. This is not a group of indi- viduals that cannot afford it.

Mr. SARBANES. Will the Senator yield?

Mr. NICKLES. I am happy to yield to the Senator.

Mr. SARBANES. Does the Senator feel the election should be supervised by an election officer?

Mr. NICKLES. I tell my colleague my thought is it should be handled the way it was in 1991. We had Federal supervision and observation of the election in 1991 but the cost of the election was borne by the Teamsters.

Mr. SARBANES. But the consent to have an election officer was provided for by the Teamsters in the consent decree. Do you not ordinarily have an election officer to supervise an election?

The Senator says—

Mr. NICKLES. I have the floor.

Let me correct you. What I said, the way I hope it would be done is the way it was done in 1991. You had Federal supervision, you had Federal observers, you had Federal monitors, but you did not have taxpayers paying \$22 million for the election in 1991, and you had, in 1991, an election that had Federal observers stating that they thought this was a fair, clean election. That is what I want. I want the Teamsters to have a fair, clean election and I do not want the taxpayers to take another ride for \$22 million.

If we followed the thought that you and Senator KENNEDY have, you could have another corrupt election, taxpayers would be out another \$20 or \$30 million, an observer could receive another \$400,000 for saying, "Oops, it was corrupt again," and we could do it again and again and again.

Taxpayers have been taken for a ride once, we should not be taken for a ride again.

Mr. SARBANES. Will the Senator yield for a question?

Mr. NICKLES. I am happy to yield to the Senator.

Mr. SARBANES. Well, in fact, what the taxpayers got out of the consent decree was the use of the election officer for the 1996 election.

The Senator seems to proceed on the premise that having an election officer to supervise the election is the normal course of events. That is not the case. One of the things that was negotiated in the consent decree was getting an election officer for the 1996 election.

Let me read from the consent decree.

Mr. NICKLES. Is that a question?

Mr. SARBANES. I will ask a question.

"The union defendants consent to the election officer at government expense to supervise the 1996 IBT elections."

Now, that represented a major concession by the union in the consent decree to place themselves under an election officer. Part of the consent decree was, obviously if they were going to do that, that the costs of the election officer would be paid by the Government and you are undoing that aspect of the consent decree.

Mr. NICKLES. Mr. President, since I have the floor I will make a comment.

I am not undermining that because the consent decree touched two elections, for my colleagues' information. It touched the 1991 election and touched the 1996 election, and it did both elections differently. I hope my colleague will realize that, and if he reads the consent decree he will see that is the fact.

It said in 1991 the Teamsters paid for the election with some Federal supervision. In 1996 it said we will have Federal supervision and taxpayers pay for it. It does not say anything about a rerun. I am just saying on the rerun we should not pay for the election. We can still have supervision but we should not pay for it. That simple.

Mr. HARKIN. Will the Senator yield?

Mr. NICKLES. I am happy to yield to the Senator.

Mr. HARKIN. As I understand it, this election has not been certified. That has been brought out in the debate, and therefore we are still operating under the election of this year. As I understand it further, the Senator can correct me if I am wrong, that this finding of this election overseer now goes to a judge, the judge will make a decision as to whether or not to have a rerun of the election and, further, cannot that judge then decide who should pay for it, also?

Mr. NICKLES. I am happy to respond. The consent decree does not say who would pay for the next election. Now, the judge may interpret that the judge has the authority. I do not think they do, but that remains to be seen. What our amendment would do would be to clarify, "Judge, you can make your order, but Uncle Sam or the taxpayers are not going to pay for the next election."

Mr. HARKIN. Will the Senator yield? I have a question whether or not this is premature. Why not wait until the courts take their action and see what has happened before the Senate then operates. Obviously, it will happen in the next few weeks, I assume, and then the Senate can work its will after the judge makes a decision.

Would that not be a reasonable course to take?

Mr. NICKLES. I do not think so for this reason: One, because I think the Congress of the United States was elected to appropriate the money, not an unelected judge in New York; and, two, this is timely because this is an appropriations bill for 1998. If the election is ordered, it will be for 1998. I think, instead of allowing the Departments of Labor and Justice and this administration, who has very close ties with this particular union and might like to give them a \$22 million gift—I don't think we should do that. So in this bill we are appropriating for next year, I think we should make it very clear that the taxpayers got the shaft and so did the Teamsters out of this last \$22 million, and it should not happen again.

We clearly have the constitutional prerogative and right, as stated by CRS

and the Constitution, to control Federal funds. I think we should make it very clear that in any subsequent election the Teamsters should pay for their own election. Every other union in the country pays for their own elections. They should do so.

Incidentally, when you look at the 1991 election, which they paid for, it was a good election. Then look at the election where the taxpayers put in \$22 million; it was a corrupt election. That should tell you something. Federal funds don't automatically mean you are going to have clean elections. We can still have oversight. We have oversight in Third World countries where our Government is involved in bringing people in, whether it's President Carter or others, to help oversee and make sure elections are clean and upright.

Don't get me wrong. The Mafia has been very involved in the Teamsters, and they have been for decades. I want them to be out. I want the union to be clean. I want people to be able to vote and elect their representatives. It is kind of embarrassing, despite all this money, when you have a union of 1.4 million people and only 400-some-odd-thousand voted in the last election. I don't think the U.S. taxpayers should have to take the hit for paying for it to the tune of \$22 million.

Mr. KYL. Mr. President, will the Senator yield for a question?

Mr. NICKLES. I am happy to yield.

Mr. KYL. Let me ask this question of the Senator from Oklahoma. Since this is boiling down to a question of whether the taxpayers of the United States should pay for a union election or whether the union should pay for its own election, why was it that the consent decree that some of our colleagues seem to be focusing so much attention on was entered into in the first instance? Why was the U.S. Government involved in dealing with the Teamsters Union in the first instance? And why was it that a special officer to oversee the election had to be assigned for that, or the parties agreed to have that officer oversee the election to ensure that it would be a fair election? Why was the U.S. Government obligated to provide these funds for this labor union, for a private labor union election?

Mr. NICKLES. I will read a statement that came from the Department of Justice, on page 2: "Because of the deep entrenchment of La Cosa Nostra in the Teamsters electoral process, the consent decree gave the Government and the IBT the option to have the IBT election supervised by a court-appointed officer."

It is because of the mob influence that has been with this union for a long time. I want it to be out. Hopefully, it is out. Obviously, there was still some corruption in the last election, which had a lot of taxpayer funding. The fact that the taxpayers had funds in it didn't clean it up. That is my point.

Mr. KYL. If I could ask this question. So the reason that my constituents in

Arizona had to help pay for this union election is because of past fraud and alleged illegal conduct of the union. That is why they are having to pay for this union election, or why they paid for the last union election; is that correct?

Mr. NICKLES. That's correct. Obviously, the fact that they paid \$22 million didn't guarantee a clean election.

Mr. KYL. Obviously. The last question I ask is, why, if it is the union's elected officials' fault that the taxpayers had to spend this money in the first instance because they had allowed the fraud and alleged corruption to come into the union and tossed out the ability of the union to conduct its own election on behalf of its members, why, once the taxpayers paid for an election, should they have to pay for it a second time? The taxpayers didn't do anything wrong; it was the union officials.

Mr. NICKLES. I agree. That is the purpose of the amendment. We have a majority—I think we have one, or I believe we will have a majority when we vote, and I hope that we vote on the amendment in the not-too-distant future.

Mr. SARBANES. Mr. President, I want to respond to the questions put by the Senator from Arizona. The Senator seems to proceed on the premise that you are entitled to have an election officer to supervise a union election, although he referred to them as "private unions" and said, "Why are we paying for this with public funds?"

Now, the deal that was made in 1989 by the Bush administration and by Attorney General Thornburgh was that the 1991 election would be held with an election officer, paid for by the union. The Government obviously wanted to have an election officer in the picture in the next election, the 1996 election. But part of the consent decree was, if the election officer was going to be in the picture for the 1996 union election, the cost of that election was going to be paid for by the Government. Now, you all talk about how anxious you are to keep the influence of the mob out of the union. I certainly subscribe to that. But what you are doing by this amendment is you are setting up the possibility that the union can conduct its election without an election officer because it is out from under the consent decree. The consent decree required the 1996 election to be done with an election officer. That election has not been certified. It is that election about which there are questions, which the judge is now going to hear. Now, you are going to come in and, in effect, undo part of the consent decree. I simply point out to you that it carries with it the very high risk that an election officer will no longer be required. That is how the Bush administration got an election officer for the 1996 election, through the consent decree. They got it for 1991, and they got it for 1996.

The Bush administration obviously wanted an election officer in the 1996 election. They didn't want the Teamsters out from under the consent de-

cree altogether after the 1991 election. Part of the arrangement, in order to get the consent decree, was that the election officer would be, at Government expense, appointed to supervise the 1996 election. Now, that is the election that is in question. That is the election that has not been certified. I mean, you act as though the involvement of public moneys did not achieve a public objective.

What was the Bush administration thinking about, and what was Attorney General Thornburgh thinking about, to support a consent decree that provided that the Government would pay for the 1996 supervised election? Obviously, what they were thinking about is they would get an election officer to supervise the 1996 election, so they would carry the supervision of the Teamsters beyond the 1991 election.

Now you are coming in and you want to undo this arrangement. My view is, you are intervening in an established court procedure under the consent decree. Second—and I suggest that people stop and think about this very carefully—you are running the very high risk that you will enable the Teamsters to come out from under the consent decree, as far as having an election officer is concerned. The people on the other side will certainly say that other unions pay for their elections; the Government doesn't pay for their union elections. That is true. But they don't have an election officer to supervise it either.

In fact, the other side referred to this as private elections on the part of the union. Those private elections on the part of other unions are not supervised by election officers. With respect to the Teamsters elections, given the corruption we were trying to deal with, we thought it imperative to have an election officer. They got an election officer in 1991 for that election. The union paid for that election as part of the consent decree. But the Bush administration obviously wanted to supervise the next election as well, in order to ensure that they didn't revert back to past practices.

Part of getting an election officer for the 1996 election was that the Government assumed the cost of that supervision. Now, that election has not been certified. It still remains an open question, and that is the very matter on which the judge will be holding these hearings in less than 2 weeks' time. Now we come in here and are sort of, in effect, trespassing on this whole arrangement, portraying it as though there was no return to the Government for the arrangement. The Government got the use of election officers in order to supervise these elections. I mean, the Senator ought to want election officers to continue—

Mr. NICKLES. If the Senator will yield—

Mr. SARBANES. And not provide a way for the union to come out from under the consent decree and the election officer.

Mr. NICKLES. We had an overseer in the 1991 election, but it didn't cost \$22 million. We ought to be able to have one in the 1998 election and not have it cost taxpayers \$22 million. The overseer costs almost \$400,000 for that one position. That is a lot of money. I don't have too many constituents that make that kind of money—\$175 an hour. We had a lot of supervision and still had a corrupt election. We can still have supervision, but we should not pay for it. We had a clean election in 1991. We should not have to do this again in 1998.

Mr. SARBANES. I say to my colleague that that is not the consent decree which the Bush administration approved and which they presented forward as a major accomplishment. That is an interesting argument, but the Senator should have used it in 1989, at the time the Bush administration sanctioned this consent decree. Otherwise, you never would have had an election officer for the 1996 election. It is treated as though that is a normal course of events. That is a major part of the bargain that was reached in the consent decree, keeping an election officer. The other part of the bargain was that the Government would pay the cost for the supervised election.

Mr. BINGAMAN. Will the Senator yield?

Mr. SARBANES. I yield for a question.

Mr. BINGAMAN. It strikes me that the job of Congress is to appropriate funds for the Federal courts to administer justice as best they see fit. I am wondering why we are trying to wade in and specify how this particular Federal judge administered the implementation of the consent decree which has been entered in his court. It strikes me that we have Federal courts all over the country and we have consent decrees in place in hundreds, perhaps thousands, of cases all over the country. Here we are, singling out one of those cases and saying we are going to step in and specify how a Federal judge in the future should implement the administration of that consent decree. It just seems to me that we are micromanaging, in the worst possible way, and really stepping into an area that the Congress should stay out of.

We should get on with the business that we were given to do under the Constitution, which is to pass appropriations bills, and we should let the courts administer the cases that are before them. I ask the Senator from Maryland if he would agree with that basic view.

Mr. SARBANES. I think the Senator makes a very valid point, but I will take it a step further. By meddling into this, we may well make it possible for the Teamsters to come out from under the consent decree with respect to the use of an election officer to conduct the election.

I ask my colleagues on the other side, is that a result they want? Do they want the Teamsters to be able to

conduct an election without the use of an election officer?

Mr. NICKLES. I just say I would like to have it where we would have supervision, like in 1991. I don't think we have to give a \$22 million gift to the Teamsters to have an election. It is a big union and a nice group of people. They ought to be able to elect their leaders, and we should not have to give them a \$22 million gift in the process. We can do it like we did it in 1991.

Mr. SARBANES. I observe to the Senator that the only reason you got that supervision was because of the consent decree. The reason you had an election officer in 1991, and the reason you had one in 1996 was because of the consent decree. You don't automatically get election officers to supervise union elections. You are absolutely right, ordinarily union elections are paid for by the union. It is a private association. They pay for the elections. There is no election officer to supervise those elections.

Now, what the consent decree gave you was an election officer because the Government wanted to supervise the election as a way of rooting out corruption and the influence of the mob in the Teamsters Union. They got a consent decree and it gave them an election officer in 1991, and also gave them an election officer in 1996 because, obviously, the Bush administration didn't want to have just one election and then they are off the hook. They wanted to keep the supervision for the 1996 election. But in order to get that agreement and that understanding in the consent decree, they agreed to pay the costs of the supervision for the 1996 election, which is, in a sense, the election that is still before us, since it has never been certified.

Now you are coming in, and you want to in effect eliminate an option that is available to the judge in terms of carrying out the consent decree. My point is that is carrying with it the very high risk that you eliminate the election officer. Then that raises a question. Why do you want to eliminate the election officer to supervise the teamsters election? That brings us back to why we have the election officers to begin with. So that works the whole thing back full circle. This is a classic example of tramping in without fully thinking through what the consequences of doing so are.

As the Senator from New Mexico has pointed out, it intrudes into the judicial operation, clearly. But, beyond that, I think it carries with it a very high risk that you are going to be hoisted by your own petard here, and you are going to end up without an election officer, which is an essential part of the consent agreement that was reached which the Bush administration at the time trumpeted as a major accomplishment.

Mr. FORD. Mr. President, will the Senator yield for a question without losing his right to the floor?

Mr. SARBANES. I yield to the Senator.

Mr. FORD. Can the Senator help me a little bit in the position that I find myself? We are sitting here with the Federal judges—almost 100 vacancies around the country. And they have to pass a litmus test before we can ever get them to the floor so we might approve them so that justice might be done and not delayed. Now we find this amendment before us saying that we want to interfere in the courts that are already there.

My fear is that democracy, as we know it, is being deleted, in my opinion, because of the meddling with the Federal courts and the delay of the appointment of judges and the interference of statutory provisions that would tell the judge what to do and what not to do. That is not what this country was founded on. It was founded on justice by judges, and you have the ability to go to court. Now we are saying you can't.

Am I right or wrong? Have I lost something here, or have I found something on which my fear might be substantiated?

Mr. SARBANES. I think the Senator is on a very important point. As the Senator from New Mexico said, you have the Congress coming in and trying to in effect dictate what the conclusions are going to be in the court proceedings—improper intrusion into the process, and a total lack of respect for the separation of powers. We are talking about a consent decree here. We are not even talking about a matter which is just in the initial stages of litigation in which we have traditionally shied away from intervening in saying it is a matter to be resolved by the courts. We have a matter here that was in extended litigation and which resulted in a consent decree entered into under an order of the court.

Now we are coming along and we are going to play around with this consent decree, and it is treated as though there is no downside to it. In other words, they say, "Well, we will not honor the consent decree that requires that we pay for the election but we will keep the election officer which was provided in the consent decree." Which is unprecedented. That is not the normal way you do an election with an election officer.

So they are going to keep the election officer. But they are going to deny the court the ability to handle the apportioning of the cost of that, which is apparent currently available to the court under the consent decree. You are playing with fire. The end result of this may be that the teamsters get out from under the consent decree, and they don't have to use an election officer in order to conduct their election.

If that is what you really want to do, I mean I think one ought to be explicit about it. I don't think that is desirable. The questions that have been raised about this election that just happened—and, you know, obviously, you want to be sure you have a fair election given the long history of this issue involving the Teamsters Union.

Mr. FORD. Will the Senator yield for an additional question?

Mr. SARBANES. Certainly.

Mr. FORD. Am I right if what I see here is that we are trying to say that this is a bad union here that is going to get taxpayer dollars to have an election? So, therefore, we are going to interfere. The issue is emotional. No question about it. But we are going to interfere with the courts, and we will diminish the courts. Isn't it time for thoughtful people to try to protect the judiciary here so that even though the question may be sensitive it may be a tough vote—we have had tough votes before. A lot of times they are not easy votes. But this is one I think we have to look beyond to the long-term harm that might be done to the judiciary.

Am I all wrong in this?

Mr. SARBANES. No. I think the Senator is absolutely correct. Just as the court is about to pass on this previous election and make some judgment as to what ought to be done with respect maybe to holding another election, we come along with this amendment, and in effect alter the consent decree.

What the Government got out of the consent decree was continued supervision of the Teamster election by an election officer. In order to get that for the 1996 election in the consent decree, the Government undertook to pay the costs of that election. Now people want to preclude that side of the bargain but they want to keep the election officer.

I am simply suggesting to them that they may lose the election officer as well and bring the Teamsters out from under the consent decree. I would think upon reflection that that is something they would not want to do. In fact, the consent decree very clearly states that the union defendants consent to the election of officers at Government expense to supervise the 1996 IBT elections.

This was a litigated matter. It was in the courts. In fact, the mayor of New York, the current mayor of New York, was then the U.S. Attorney, Rudy Giuliani, and this was the agreement they worked out as part of the consent decree, as part of this litigation. Now, it is suggested that, well, we didn't get anything for it. Of course, we got something for it. We got the continued supervision of these elections with an election officer. You don't ordinarily get that with union elections. Ordinarily the unions pay for the election. There is no election officer. The Government wanted an election officer. They wanted to supervise these elections. The union said pay for the '91 election. But they, obviously, want out from under it. In effect, the deal was if you are going to continue to supervise us with an election officer through the 1996 election, you are going to pay the costs of the 1996 election. This election we are talking about here is in effect a continuation of the 1996 election, and that one has not been certified.

So now we are playing, as it were, fast and loose with this consent decree.

The end result of it may be that you will get an unsupervised election throwing the whole thing right back. This thing was negotiated, as I understand it, after a long period of time with very intense and extended negotiations. And it was finally put in a place under the order of a U.S. district judge, and it was consented to by the U.S. Attorney. It was consented to by the U.S. Government, and consented to by the plaintiffs and by the defendant. In fact, there is a long list of signatures consenting to the consent decree. Otherwise, you would have been in litigation. You don't know what the outcome would have been.

At the time, I can recall President Bush declaring this a great success. I think it was an accomplishment by the Bush administration, by Attorney General Thornburgh. Now we come along, and we are undoing it here on the floor of the U.S. Senate.

Mr. WELLSTONE. Will the Senator yield for one comment in the form of a question?

Just to quote from Attorney General Thornburgh, who said on March 14, 1989, to back up the Senator's point, "This settlement, which union leaders agreed to earlier today, culminates 30 years' of efforts by the Department of Justice to remove the influence of organized crime within the Teamsters Union"—to go back.

Mr. SARBANES. This was Attorney General Thornburgh commenting?

Mr. WELLSTONE. That is correct.

Just one question, because the Senator has been on the floor and I have been listening very carefully. It initially started out as a debate. I expressed my concern that I thought whatever the intentions were—I said good intentions—on the part of the colleagues, but that I thought that you really couldn't talk about this except in the context of what has happened with the Teamsters, and I thought this was profoundly mistaken. But now, what the Senator has been doing as a lawyer is—I am a lay person. I have been listening very carefully. As I understand the Senator, what he is really saying is that the most serious part of this above and beyond my concerns is that it really does—as the Senator from Oklahoma said earlier, he didn't see this as being anything in contradiction with the consent decree—the Senator from Maryland is arguing that it is most certainly in contradiction, in which case it becomes a very dangerous intrusion into the judiciary.

Is that correct? Is that the legal principle here, and the government principle?

Mr. SARBANES. I say to the Senator, yes. That is correct. What my colleagues on the other side are failing to understand is the history out of which this consent decree arose. In other words, the Federal Government filed suit against the Teamsters alleging mob influence in the Teamsters, and it went through an involved presentation of what the issues were, the campaigns

of fear and extortion, and so forth and so on. That suit is pending. The Government then reaches a consent decree with the Teamsters. The matter never went to full-scale litigation. You don't know what the outcome of the litigation would have been. They reached a consent decree, and the Attorney General stated at the time, "This settlement, which union leaders agreed to earlier today, culminates 30 years' of efforts by the Department of Justice to remove the influence of organized crime within the Teamsters Union." And the observer goes on to note that the Teamsters signed a consent decree with the Federal Government to avoid a trial over a lawsuit. The union agreed to purge its mob connections and hold democratic elections. Then they discussed the supervision that was taking place with respect to the 1991 election. And the grumbling, in fact, on the part of some of the rank and file of the Teamsters is that the union no longer belonged to them, "their second-guessing of internal decisions that we make," et cetera, et cetera. "They are eliminating democracy to ensure democracy," one of these dissidents said.

We got that arrangement in order to supervise this election in order to try to root out this mob influence. Part of the consent decree was not only that you have a supervisor for the 1991 election but you have one for the 1996 election, which was a marked departure from how these things are handled.

My colleagues on the other side say, well, we don't pay for the elections of any other unions. That is quite true. No. We don't pay for them. We don't have election officers to supervise them either. We don't have them under a consent decree. There is a national purpose or objective to be achieved by rooting out the corruption that existed in the Teamsters Union. This consent decree negotiated by Mr. Giuliani, or by his associates, when he was a U.S. attorney in New York, approved by the Department of Justice, by Richard Thornburgh, the Attorney General, was an effort to accomplish that objective. In order to do that, we were able in effect to impose an election regime upon the Teamsters, not only for the 1991 election, the immediately next forthcoming election, but also for the 1996 election.

Mr. SESSIONS. Will the Senator yield?

Mr. SARBANES. Let me finish my point, and I will yield. Obviously, as part of the effort to extend out supervision beyond another 5 years out into the 1996 election, the Government undertook to pay the costs of the supervision of the 1996 election. But we got an election officer to supervise it. That is the election that is now in question. That is the election that is going to be under the scrutiny of the Federal District judge in New York. Now we are sort of messing with that situation without even beginning to have any full appreciation of what the consequences may be.

I yield for a question by my colleague from Alabama.

Mr. SESSIONS. I thank my colleague. In looking at the consent decree. We talked a lot about it. I think we should look at it and see what it actually says with regard to the effort in the 1991 election. What I read it to say—perhaps there is more than I read. But this is what I have. It says that the union defendants further consent to the United States Department of Justice supervising any IBT elections—any. They consent to them supervising any elections or special elections to be conducted after 1991 for the officers of the IBT, president, general secretary treasury, vice president, and trustees.

Mr. SARBANES. What point is the Senator making?

Mr. SESSIONS. I think it says that it gives the United States clearly the option to do so, and pay for that election or not. In fact, I have in my hand a memorandum of the U.S. Department of Justice which says just that—interprets it just that way. It says on page 2, "Because of the deep entrenchment of the La Cosa Nostra in the IBT's electoral process, the consent decree gave the Government the option to have the 1996 elections supervised by a court appointed officer."

Mr. SARBANES. That is right.

Mr. SESSIONS. I don't think we would be in violation of the decree to have the Government—and we speak for the Government, don't we?—say to them we don't intend to fund the second one.

Mr. SARBANES. Do you think you could have an election officer to that election?

Mr. SESSIONS. I think you have an option to.

Mr. SARBANES. How would you have an election officer?

Mr. SESSIONS. The U.S. Government, because of its concern about the mob influence of a union, protected itself with the right to assert, the right to provide an election officer in supervision, to supervise the election. So we don't have to exercise that option.

Mr. SARBANES. I say to my colleague, a distinguished former U.S. attorney in Alabama, the consent decree specifically says the union defendants consent to the election officer at Government expense to supervise the 1996 IBT elections.

Now, if you do not regard this election that is coming up as a continuation of the 1996 election, how are you going to get an election officer for it given the specific provisions that are in this consent decree?

Mr. SESSIONS. What page is the Senator on?

Mr. SARBANES. Sixteen.

Mr. SESSIONS. Are you reading the first full paragraph there? It doesn't say 1996 election. It says they consent to supervision of any election. That means obviously the United States did not intend to supervise all those elections. The United States only undertook to do so if it chose to do so.

Mr. SARBANES. If I could interrupt my colleague—

Mr. SESSIONS. That is what the Department of Justice, the Clinton Department of Justice, memorandum says, that it has the option. I think that's the most plain reading of it, and I suggest to you the union agreed to this reluctantly, preferring not to perhaps but because they had to. I just don't think that would be a fair interpretation of it. I think the most normal interpretation would be that they have the option to do so, and I think this body has the right to say we choose not to fund it. Let's not do it.

Mr. SARBANES. I say to my colleague, the consent decree I am looking at, in the first sentence of the first full paragraph on page 16 says, "The union defendants consent to the election officer, at Government expense, to supervise the 1996 IBT elections."

Mr. SESSIONS. Yes. But I think the option is the same.

Mr. SARBANES. That's the point.

Mr. SESSIONS. Let's look at what the Department of Justice memorandum says. The point of the Department of Justice memorandum about the 1996 election was that it concluded the Departments of Justice and Labor believed they should be involved in supervising the 1996 election.

Mr. SARBANES. That's right.

Mr. SESSIONS. And they chose to exercise that option. I think this body has the right to say we don't think we should exercise the next option; at least we are not going to fund it.

Mr. SARBANES. The Department wanted to supervise the 1996 election. They got the consent, they got it as part of the consent decree from the union to do so, but the costs of the election would be borne by the Government.

We ought to let the court decide what the consent decree means because, if you start playing around with a consent decree with respect to the cost of the election, the next thing you may discover is that you have let the Teamsters out from under the consent decree and you will not have an election officer, which was part and parcel of the arrangement that was made in the consent decree.

That is the point I am trying to make. You are running a very large risk here that you are going to lose your election officer to moderate and supervise these Teamster elections. And we have a strong public interest in preserving an election officer. Let the court decide what the consent decree means, and the court can then do it in a way that assures you that the Teamsters will not come out from under application of the election officer. That is the point.

Mr. SESSIONS. If the Senator will yield, I must say I am most impressed with the eloquence that the Senator has brought to this argument and has done remarkably well, I think, with not a lot to work with.

The Congressional Research Service has also indicated that:

Legislation enacted by Congress limiting or restricting the funds for the 1996 election would be a Federal law, and the Government parties would be bound to take appropriate action in reliance on that law.

What are the consequences to the Congress of not appropriating all the funds necessary to supervise the 1996 IBT elections?

There would appear to be no consequences to the Congress. The consent decree does not appear to obligate the Government to supervise the 1996 elections, either directly or indirectly. Rather, the decree embodies the consent of the union defendants to governmental supervision.

Basically, the union consented that they would allow themselves, their private entity, to be supervised as a consequence perhaps of, as part of, a settlement to avoid even more severe punishment that could have been enacted against them as a result of Mr. Giuliani's actions against that union. That would be to me the most logical interpretation of the agreement.

Mr. SARBANES. That's right. The union agreed to this as part of the consent. But the consent decree says the union defendants consent to the election officer, at Government expense, to supervise the 1996 IBT elections.

You are coming along and saying we want to keep the election officer—let me put this question to the Senator. Does the Senator want the Teamsters to be able now to go ahead and have a private union election without supervision, without an election officer?

Mr. SESSIONS. This Member says that I would oppose strongly any more funding of a \$22 million election, and I am prepared to vote against it in that regard.

Mr. SARBANES. Even if the consequence of that is that you have an unsupervised Teamster election because they are out from under the consent decree? Is that correct?

Mr. SESSIONS. They may be. That is right.

Mr. SARBANES. I do not agree with the Senator. I mean, I put this question earlier, and it is interesting now to have this discussion take this turn because now we are beginning to see apparently on the part of some Members, they are really prepared to countenance the notion of having an unsupervised Teamster election.

Mr. SESSIONS. If the Senator will yield—

Mr. SARBANES. In effect, we are repudiating the option of continued Government payment of the election as a way of in effect losing your supervision over the Teamsters election. I do not see how the Senator can take that position when questions have been raised about the validity of the 1996 election. This is the very thing that the court is going to be deciding up in New York, and we ought to let the court decide what the consent decree means.

I think this exchange just now is a pretty dramatic illustration of why we ought to let the court decide what it means because otherwise we are running the very high risk of exactly what the Senator said he would countenance

happening; namely, an unsupervised election. I am sure there are many Members who do not want an unsupervised election.

Mr. SESSIONS. If the Senator will yield, I do not think the legislation requires that. In 1991, we did not fund the elections but had supervision. I think we can have supervision through the Department of Labor or Justice. But we do not have to fund a \$22 million election.

Mr. SARBANES. It is not quite the same. I say to the Senator that is not the agreement that is embodied in the consent decree. This consent decree was not done by this administration. This consent decree was done by the Bush administration. Attorney General Thornburgh said about it, "This settlement, which union leaders agreed to earlier today, culminates 30 years of effort by the Department of Justice to remove the influence of organized crime within the Teamsters Union."

The Senator had service as a U.S. attorney, and you know when you agree to enter into a consent decree, you know, in effect, there is some give and take on both sides, and this was the arrangement that was made. It was done by Giuliani, approved by Thornburgh, trumpeted by President Bush as a success. I thought it was a success. I continue to think it is a success. And I certainly don't think we should run the risk here of undoing the consent decree by refusing to carry out the Government cost of the elections and lose the election officer as a consequence and allow the Teamsters to have an unsupervised election, and that is the fire you are playing with here.

What we really should do here is we should back off and let the court handle this matter. The court has a consent decree to administer. It has options. Under that consent decree, the court could, in effect, maintain supervision and not pick up the costs of it. But that is a matter for the court to do as it interprets the consent decree. If we try to do it on the floor as we are trying to do right now, we run the risk of upsetting this whole apple cart and the whole effort to purge the Teamsters and to get an honest union.

Mr. SESSIONS. I thank the Senator for yielding, and I just would disagree; I don't think the Government is required to conduct or fund this election, and I do not think we should.

Mr. HARKIN. Will the Senator yield for a question not even related to this at all? I would like to know if the Senator has any information or knowledge about how long we are going to be here this evening? I say that as the minority manager of this bill.

If we are not going to vote this evening—maybe someone on the other side could tell me. If we are not going to vote this evening, I think we ought to let Senators know so Senators can go home. It is now 8 o'clock at night. We have had a fairly spirited discussion and debate. I don't mean to limit debate or anything, but I think we ought

to have some information so that Senators can either stay around for a vote or at least go home to be with their families.

Does the Senator know anything about that?

Mr. SARBANES. No. This isn't my amendment. I am just responding to the offering of this amendment, which I think is a very bad idea and which I am trying to develop. Actually there is a benefit to be gathered by some discussion of this matter, which was illustrated by the exchange we just had, because it was clear that at least there are some Members who, in order to avoid the costs, are prepared to let the Teamsters have an unsupervised election and let them out from under the consent decree. I think that would be very bad.

Mr. HARKIN. I agree.

Mr. SARBANES. I think that would be a bad consequence.

Mr. HARKIN. I agree entirely with the Senator from Maryland.

Mr. SARBANES. And an undesired consequence.

Mr. HARKIN. I agree completely with the Senator.

Mr. SARBANES. I think we are running a risk with what we are doing on the floor of the Senate.

Mr. HARKIN. I am just thinking about what the procedure is going to be for the rest of the evening. There are only four or five Senators, six, in the Chamber. I hope we would have some information so the Senators could make plans.

Mr. SESSIONS. Will the Senator yield?

Mr. HARKIN. I do not have the floor. He has the floor.

Mr. SESSIONS. My understanding was that a vote was expected tonight but that a number of Senators had some things they wanted to say about this bill and were being provided the opportunity to do so. I am not aware that there is any agreement not to vote. I thought the agreement in fact was to vote.

Mr. SARBANES. Mr. President, I yield the floor.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, I say in response to my colleague from Iowa, I think there are Senators who want to speak on it. I don't know whether or not there will be time tonight in order to accommodate different people who want to comment on this amendment.

But as I understand it, and I will just try to summarize, there are two different sets of concerns I have. One set of concerns which I would repeat has to do not with the intentions of colleagues at all but has to do just with the sequence of events, the chronology. I just think that there is a great deal of discussion about what the UPS workers did. This was a Teamsters strike. There was a focus on the need

to have more full-time jobs as opposed to part-time jobs. There was a focus on living-wage jobs.

The interesting thing is that I think the public really rallied behind the UPS workers. I think that the public felt that what the workers were talking about, what this union was talking about, was how you earn a decent living and how you are able to give your children the care you know they need and they deserve.

I think that this amendment, the Nickles-Craig amendment, is such an overreach because now what we have, just on the heels of this successful effort on the part of Teamsters to bargain collectively, is an effort—and now I have listened to this; I am not a labor lawyer—but an effort which essentially overturns a consent decree which was extremely important and essentially says we are going to go right to the heart of the judiciary and go back to an agreement which goes back, what, 30 years or thereabouts. I am sorry, this was initially agreed to in—I had it before me. Might I ask the Senator from Massachusetts a moment, the original agreement with the Bush administration was in 1989?

Mr. KENNEDY. In 1989, yes.

Mr. WELLSTONE. In 1989. I have quoted Attorney General Thornburgh on this. The idea was, look, this was, as my colleague from Maryland has said, an unprecedented situation. We were talking about corruption. We were talking about workers who want to have a fair election. And we finally had, after 30 years, an agreement here.

Now, this election has not yet been certified. The Kennedy amendment made no judgment about expenditure of money. But the idea of essentially trying to overturn this consent agreement, to interfere directly with the judicial branch, to really preempt what kind of ruling a judge might make before any kind of ruling has been made, and to do this on an appropriations bill, is profoundly mistaken. It is not prudent. So there are a number of Senators who have come to the floor and have raised a whole set of questions.

The Senator from Kentucky, Senator FORD, raised some questions having to do with the judicial appointments being blocked here—now, yet, a kind of threat to interfere with the judicial branch of Government—and whether or not this just was not the kind of political interference which is very inappropriate. He made the point that he felt that, as a Senator, if you were going to make a wise decision about this you would have to be in opposition to this amendment.

Senator KENNEDY started out tonight talking about both the context of this, the UPS workers and the successful effort on the part of the Teamsters, and now this—what is this all about? Just raising questions about the timing of it. But, then, more important, or just as important, Senator SARBANES has been on the floor and he has, I think, provided many of us his view—I cer-

tainly include myself, and this was essentially the position I think the Senator from Pennsylvania has taken—which is this is just an overreach. I mean, to just try to overturn or basically contradict or subvert this consent agreement, to interfere with the judicial branch, is a profound mistake.

So, my colleague from Alabama is correct. The point was that there would be a vote after Senators had a chance to fully discuss this. But, from my point of view, there are now three sets of questions that have been raised that I think are extremely important. Other Senators may want to discuss this as well. Or we might be able to reach some kind of agreement as to how we proceed. But, I think this is something that, if the Senate is a deliberative body, then we need to be very deliberative about this.

We had an agreement with a Republican administration, the Bush administration, which really dealt with 30 years' history. It was important. It was an effort to root out corruption. We had an agreement that was, I think, a very important step forward. Now what we have is an effort to essentially overturn that agreement. Now what we have is an effort to directly intervene or interfere with the judicial branch. Now we have an effort, which I think on political grounds, and probably on constitutional grounds, though I am not a lawyer, I am not even sure that, from a constitutional point of view—I believe the Senator from Pennsylvania may have raised this question—we should even be doing this, and for that reason there are a number of us who have been out on the floor and have been speaking about this.

If other Senators want to speak, I have had an opportunity several times tonight to raise these concerns. Senator SARBANES was on the floor a long time. I think really zeroing in on what the implications of this are, just in terms of branches of Government and separation of powers and what our constitutional system is about, which I think are pretty important questions. And one more time, as a Senator from Minnesota who had a chance to see what these workers were able to do and who strongly supported, I think, the justice, the justice goals of the strike—I have raised concerns about. I don't think it looks good. I don't think it's the right thing to do for the Senate to be involved in such an overreach, taking such drastic action, which I think, unfortunately, certainly looks like—I don't know what the motivations are of Senators—that it is very connected to this UPS workers' strike.

Mr. President, I will not speak any longer on the floor of the Senate. I will yield the floor.

Mr. FORD addressed the Chair.

The PRESIDING OFFICER (Mr. HUTCHINSON). The Senator from Kentucky.

Mr. FORD. Mr. President, I questioned earlier the distinguished Senator from Maryland as to a real problem that I have as it relates to the

amendment that has now been submitted by the Senator from Oklahoma and the Senator from Idaho. My friend from Alabama, the junior Senator, has been a prosecutor. He has a great case. All of a sudden the Congress of the United States blows him out of the water because we don't believe what he is pursuing there is in the best interests of politics.

So, now we are confronted with a question that is in the courts and we are trying to make a judgment here to supersede what might be in the courts. Do we have a right to do that? I am sure we do. But in this Senator's feeling about this institution and this country, we have three separate branches. And those branches must set on their own bottom, as we would say down in west Kentucky. We should let them make their decision.

I think this is a very dangerous position. The emotion of the amendment is good. We have a big, bad union here that we don't want to spend any more taxpayers' dollars to see that they have a noncorrupt election. We want a noncorrupt election, but we don't want to spend any money. We made an agreement in 1989 under the Bush administration. There is no question about that. Let it be under President x's administration. The question still flies: Do we then, by our actions here, micromanage the courts? We are about a hundred judges short in this country now. The majority will not let those judges come to the floor. Maybe 1 or 2 or 3, hopefully 4 we might get out, with 35 to 50 being held hostage.

So, what we have done, what we are doing tonight, even though the image here is one thing, the end result is another. If there ever was a question that you must put aside, however you feel, I think it is important that we support the system that has made this country great. And that is not micromanaging the Federal courts.

One of the things the distinguished Senator from West Virginia has always attempted to do is follow the procedure and the precedent on the separation of powers. He just has helped take a piece of legislation through the courts on line-item veto. And we are getting ready to do it again. So the courts will make a decision on what this body has been able to do. Now we are trying to take the position that we want to do this ourselves, in lieu of what the courts are about to do.

I know the big bad union, and spending taxpayers' money and all that, is a pretty good issue. But, to me, to this Senator, there is a much deeper question as it relates to the three branches of Government and the strength of this great land of ours in that we are attempting now to usurp those things that we will go out and beat our chests about back to our constituents how great we have been doing to try to protect them as consumers, those in our States or districts, as our constituents. Yet we are tonight, in my judgment, trying to usurp the power of the judi-

ary. In my opinion, if I sign a contract, it ought to be valid. Then to have a valid contract canceled by the legislative body just doesn't seem to me to be in the right direction.

I hope my colleagues will look beyond the emotion of the question and be sure that their judgment does not usurp the strength and foundation of this great country.

I yield the floor.

The PRESIDING OFFICER. The distinguished majority leader.

Mr. LOTT. Mr. President, I would like to respond to some of the things that have been said, or questions that have been raised when I was off the floor a few moments ago. First of all, I think I just need to reiterate here what is at stake is taxpayers' money being used to pay for labor union elections where there has been a record of fraud and abuse. Yes, there was a consent degree in 1989. How long does it apply? In perpetuity? We had a fraudulent election, on which, to my absolute horror, \$22 million of taxpayers' dollars were spent. It turned out it had problems. The FBI has said so. The Justice Department has even said so. So now they say, oh, yes, let's have another one and let the taxpayers pay for that. So the American people understand very clearly here, this is taxpayers' money going to pay for labor union elections. Judges may or may not say that it ought to be done. All I have to say is, if judges are saying taxpayers' money should be used to pay for private sector, or labor union elections of any kind, I think it is time we take some action to say we are not going to allow that.

The second thing is, the question was raised, "Why don't we have some votes? Why doesn't somebody tell us when we will have some votes?" Hey, we are ready to vote. Let's vote on the Nickles amendment right now. The motion to table the amendment of the Senator from Massachusetts carried; 56 Senators voted to table that motion. I believe the Senate is ready to vote for the amendment of Senator NICKLES.

But, as we try to do around here, we try to accommodate everybody's schedules and their desire to be able to check with the administration or I don't know who. We could probably work out something, to have a vote on Senator NICKLES' amendment at some time certain other than tonight. He has indicated he would, perhaps, be willing to do that. But if anybody has raised any questions about why don't we vote, why isn't somebody saying what the schedule is going to be—if you want to vote, let's vote. If anybody wants to know that, any one of the Senators who have been speaking, I am ready to vote. That's what we ought to do. We already had a statement of the Senate on this issue. The Senate is concerned about use of taxpayers' money to pay for labor union elections.

But I have also been working on a whole series of things that I think would be fair to the Senate. Unfortu-

nately, our business was interrupted today. From 2 to 4, we had to go out so the Environment and Public Works Committee could have a hearing and begin a markup on the Superfund bill, a bill that the American people surely would be for, because it means improving the way that we clean up hazardous waste.

We all know now lawyers are cleaning up. They are doing fine. But we are not cleaning up any hazardous waste sites. We ought to have Superfund reform. And yet there was an objection made to the committee meeting, so we had to go out for 2 hours. We would not be here right now probably if it had not been for that 2-hour interruption. But when we take out 2 hours in the day, we are going to make up that 2 hours at night, or 3 hours.

I have spent a year trying to be sensitive to Senators' needs, to know what the schedule is going to be, to be with their families, to be with their children, to be with their dog, dogs, so we can have a life, but it takes cooperation on both sides.

I hope we won't start down that trail where we start these things that force us to be in session late at night. But if it's necessary, we will. That is why we are here now. I had offered a UC request, and I am going to ask for this unanimous-consent agreement that would allow us to not have any more votes tonight, not have any votes tomorrow, but have further debate on amendments on the very important Labor and Health and Human Services bill during the day tomorrow, with no votes; that we would come in on Monday, we would have more amendments on the Labor and Human Services appropriations bill with a vote at 5 o'clock, but only one at the request of the Democratic leader; and that we would get at the close of business Monday a final, finite list of all amendments pending to this appropriations bill. Both the managers would very much like for us to help them get that done. Then we would have other votes that might be pending from Friday or Monday on this bill Tuesday at 9 or 9:30. Then we would be able to wrap up the finite list, which is not that long. There are a couple controversial issues. I think we can get them worked out. Then we would have final passage on all amendments and the bill on Tuesday.

Then at 5 o'clock on Tuesday, we would go to the Food and Drug Administration reform bill at 5 o'clock, not have any votes on cloture tomorrow, not go through the cloture exercise. An overwhelming number of Senators on both sides of the aisle support this FDA reform bill. It was reported out of committee, I think, 13 to 2.

Mr. COATS. Fourteen to four.

Mr. LOTT. When we get to final passage, the vote on FDA is going to be 95 to maybe 5, maybe more. Ninety-five Senators want to vote on the substance of FDA reform. The American people want that. The American people want

to get a better system for approving drugs and medical devices and a more active and a more efficient FDA. We ought to give it to them. I believe the House is going to act on this. So it was a process to allow the Senators to continue on this bill, to get this bill completed, get FDA up in a reasonable way, and not have more votes tonight.

Senator KENNEDY has indicated he can't agree to that. The alternative then is this: We will have to pull down Labor-HHS tonight. We will then go to two votes on Federal judges tonight. We will vote in the morning at 9:45 on cloture. If we get cloture, then, of course, the Senator from Massachusetts and others perhaps can talk all day tomorrow if they want to. They can talk for 30 hours if they want to after cloture on the motion to proceed—on the motion to proceed now, I want you to know—to the FDA bill that over 90 Senators support.

Then on Monday, we will go back to Labor-HHS, and we will have a vote on two more judges Monday, perhaps even earlier in the day than we had indicated earlier, and then we will go to votes at 5 o'clock.

I mean, we are trying to get these things cleared. We are going to have recorded votes on them. I think plan A is in the best interest of the Senate and the American people, our time and efficient legislating. We can get our work done without unnecessary acrimony, without getting outdone by each other.

If the alternative is two votes tonight and a cloture vote in the morning at 9:45, inconveniencing unnecessarily—and, again, I am trying to accommodate people, we need to go a little later because some can't quite be here at 9:45, others at 10. We will have the vote at 9:45, and we are going to vote cloture. I just don't see why that is necessary. That is where we are.

I am going to make a unanimous-consent request on that in a moment and then go to judicial nominations. Does anybody have any comment or questions on that? I yield to Senator KENNEDY for a question.

Mr. KENNEDY. I know the Senator is going to make a proposal in just a moment. I do want to just point out for the Members the obvious, and that is that we have spent all day today debating two basic issues: One is the issue of fetal transplantation which, basically, has no position on this legislation, an issue that we have debated and debated and debated and which the Senate has voted on time and again and the outcome of which was fairly obvious. We took all morning to debate that.

All afternoon we have been debating the Nickles amendment which, as the Senator from Alaska has pointed out, is not really basic and essential to this appropriations bill, which the administration indicates it would very likely veto. So it has not been the Members on this side who have delayed the Senate from moving ahead. As one, among others, who is concerned about the Nickles amendment, I indicated that if

the leader wanted to set that aside and continue to vote on other measures this evening, there would be no objection on our side.

So I think that it is important to understand what the situation is. We are basically considering an item which is an antilabor item. It is raised in the wake of the successful UPS strike and, basically, is legislative interference on a consent decree which raises very important constitutional issues. So there should not be any surprise about that factor.

With regard to FDA reform, the Senator made a very good point about the Members being ready and willing to vote on the medical devices and the FDA reform. What the Senator didn't mention is the other provisions which apply to the cosmetic industry which effectively is going to preempt every State in this country from getting adequate warning in terms of health and safety in the utilization of cosmetics. We know it is a \$20 billion industry that for the last 20 years has been trying to get this achieved and have a preemption on issues relating to health and safety that primarily affect the American women in this country.

I am not going to be a part of rushing and ramrodding that particular provision through the U.S. Senate. And if I am the only one who votes against cloture tomorrow, I will take my time and explain in good time what we are being asked to consider. I have no regrets for insisting that we have a cloture vote. I indicated to the majority leader, if he wanted to have the cloture vote later at a more convenient time on Tuesday, Wednesday, or Thursday of next week, that is fine with me, absolutely, whatever he wanted to do to accommodate other Members.

Mr. LOTT. If I can claim my time.

Mr. KENNEDY. I ask recognition—

Mr. LOTT. On that particular point, I have been reasonable. I have put off scheduling.

Mr. KENNEDY. If I can finish my point and then I will be glad to yield, Mr. President.

Mr. LOTT. All right.

Mr. KENNEDY. But I have made that, so if Members didn't want to vote tomorrow, we could vote on this on Tuesday or Wednesday, give the majority leader an hour's notification to Members whenever that would come up any time Tuesday or Wednesday, but that has been rejected. We are going to be here for another 5, 6 weeks in this body. We have been attempting to negotiate these particular issues. I am very hopeful we will.

I want to vote for the medical devices and the pharmaceuticals. I commend Senator JEFFORDS and all of our colleagues on the committee for the excellent work that they have done. I think that measure is a very, very important measure. There are one or two items which I think would be addressed in terms of amendments, but on the issue of the cosmetics preemption of every State in the country in terms of health

and safety, that is an issue that is not going to go easily.

Mr. COATS. Will the majority leader yield?

Mr. LOTT. I will yield, since his name, I believe, was invoked earlier, for a response to that.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. COATS. I felt compelled to give the other side of the story. Yesterday, when I offered the fetal tissue amendment to the Parkinson's legislation, I had discussed the matter with Senator WELLSTONE. I had indicated I was willing to take a 20-minute time agreement on the amendment, 10 minutes on each side. I didn't want to do anything that unnecessarily delayed the bill. I was informed that it was not—it was acceptable to Senator WELLSTONE but it was not acceptable to Democratic Members who wanted to speak on the bill but didn't want to do it yesterday. That is within their rights. We could have proceeded. We didn't.

This Senator agreed to allow to be pulled over until this morning. I once again offered a time limit, and the time limit was not acceptable. So we essentially sat here for 2½ hours this morning listening to Members of the party of the Senator from Massachusetts oppose the amendment, which they have a right to do. But there was no delay initiated on the part of the Senator who offered the amendment, nor was there any delay on the part of the majority leader.

In regards to the FDA legislation, we were ready to go with that legislation before the recess, and it was the Senator from Massachusetts who prevented us from doing that. The Senator has every right to do that. If he has an objection to a part of the bill, he has a right to utilize the rules of the Senate to stop the bill from moving forward. But the facts are that the Senator doesn't have the votes. I didn't have the votes on some of my amendments. I didn't have the votes on fetal tissue, but I didn't stand here and insist the Senate stay in on a day when Members from both sides made plans and made travel plans just because I didn't have the votes or I couldn't get my way.

The Senator does not have the votes for the bill. He did not have them in the committee, and he does not have them on the floor. There is widespread support for the FDA reform bill, including the cosmetics provision which was voted on in committee. We had debate, and we voted on it in committee. The Senator didn't have the votes from the opposition party, didn't have the votes from his own party. He doesn't have the votes on this floor.

If he wants us to go through this exercise on a motion to proceed—this is just the procedure to start debate on the bill—why doesn't the Senator do what the rest of the Senators are doing, and that is, move forward on the bill, make your argument, have a vote, count the votes? If you win, you win; if you lose, you lose. But you can use the

rules of the Senate. It is a right to the minority. We have used it. If the Senator wants to do that, he has the opportunity to do that, but it inconveniences everybody else, and if you think it is going to change the result, maybe it is worth it, but if it is just to be obstinate or intransigent because you didn't win or your point of view isn't accepted by your fellow colleagues, it puts everybody else at a disadvantage. To imply the majority leader—

Mr. WELLSTONE. Will the Senator yield?

Mr. COATS. Or the Republicans have somehow conspired to deny the Senator from Massachusetts the right to make his point or to argue his point, my goodness, we have been hearing that over and over and over and over. We know what the Senator's position is. He has the right to argue it, and he has the right to delay it. Let's make sure it is not implied somehow there is some devious effort on the part of the Republicans to deny the Senator his opportunities.

Mr. WELLSTONE. Will the Senator yield?

Mr. LOTT addressed the Chair.

Mr. WELLSTONE. If the Senator will yield.

Mr. LOTT. If you will allow me to respond to some of the things the Senator from Massachusetts said. He asked for 1 minute to wrap up, and I need to respond, and then I will be glad to yield.

With regard to the amendment before us, it was offered at 5:05. An offer was made to limit the time on that to 30 minutes. I believe the managers of the bill were very content with that. An offer was made to limit speeches to 5 minutes on this issue. There was no desire to drag it out. So, again, to imply that we have been prolonging this is just not accurate.

Now, with regard to the Food and Drug Administration effort to make the bureaucratic FDA more responsive to the needs of the American people, this really affects quality of life and health care, and I know the Senator from Massachusetts cares a great deal about that. This is one way we can help them to get medical devices and pharmaceutical products available to the American people. The vote in the committee was 14 to 4. Usually when you have a vote in the committee and it is overwhelming in a bipartisan way, you bring it to the floor and you have debate, amendments, vote, and move on.

But somehow or other, I mean, some folks seem to think when you have a vote in a committee and lose, then the negotiations begin. The leader of both parties always has to be sensitive to that. I have allowed Senators on both sides of the aisle to continue negotiations on the foster care bill, on other bills, but I have been very patient on this. And I wanted a cloture vote on this back in July. I was told repeatedly, "Oh, we're about to get it agreed to, about to get it done." Every time we were about to get it done, the Sen-

ator from Massachusetts said, "Oh, no, there's something else here I want."

I think the Senator from Vermont has been doing the very best he can in the negotiations. I personally think he has negotiated too dang much. The vote in the committee was 14-4. Why are we negotiating on all this stuff? Let us bring it to the floor and let us vote.

So when I get this magnanimous offer: Oh, you can have a cloture vote next week, put it off another—I offered a UC that would have given the Senator from Massachusetts an opportunity to negotiate Friday, Monday, all day Tuesday, and go on the bill on Tuesday night. He said no. But if we wait until next Tuesday to have a cloture vote on the motion to proceed, then he may try to force us to have a vote on going to the bill itself later on on a cloture vote, and then we might someday, in another week or so, get to FDA. That is ridiculous. There has been enough time.

The Senate wants to vote on this issue, overwhelmingly, in a bipartisan way. The committee has spoken. On a cloture vote, on a motion to proceed, the requisite number of Senators will vote for cloture, I believe. So I mean, that is not very responsive. It is time we get to this issue. Make your case, offer your amendments.

On the cosmetic thing, I mean, the Senator from Massachusetts is defending and worrying about States rights. Boy, getting some role reversals around here, when he doesn't want us to even get an amendment and vote on it. He may have the merits on his side. If he does, let us hear them; we will vote.

But, you know, it is time that we move forward on Labor-HHS. It is time we vote on the merits of FDA reform. I cannot believe we want to further delay. Every day we delay on FDA reform, there is some other delay by the bureaucracy at that agency that denies the people of this country medical devices and pharmaceuticals that help them with their lives and lifestyles. And so we are not going to delay it any longer. We are going to get an agreement to go to the bill on Tuesday or we are going to have a cloture vote in the morning. And if the vote doesn't succeed, we will have another one. I think I have been more than reasonable, and so has everybody else.

UNANIMOUS-CONSENT REQUEST

Mr. LOTT. Mr. President, I ask unanimous consent that the following be the only amendments remaining in order to the Labor-HHS appropriations bill, other than the pending amendments, and they be subject to relevant second-degree amendments, and that all first-degree amendments must be offered prior to the close of business on Monday, September 8, other than the amendments designated as managers' amendments.

I further ask unanimous consent that following the disposition of the amend-

ments, the bill be advanced to third reading, and a vote occur on passage of S. 1061, and the bill remain at the desk. I further ask unanimous consent that once the Senate receives the House companion bill, the Senate proceed to its immediate consideration, and all after the enacting clause be stricken, the text of S. 1061 be inserted, the House bill be advanced to third reading, and passed, all without further action or debate.

I further ask unanimous consent that the Senate insist on its amendment, request a conference with the House on the disagreeing votes, and the Chair be authorized to appoint conferees.

I further state for the membership that any votes ordered with respect to the Labor-HHS bill on Friday and Monday, September 8, be postponed to occur at 5 p.m. on Monday, with one vote at that time, on a case-by-case basis. Thereafter, we will begin votes on Tuesday morning at 9:30.

I further ask unanimous consent the Senate proceed to S. 830 following the passage of the Labor-HHS appropriations bill—that is the Food and Drug Administration reform bill—but not earlier than 4 p.m. on Tuesday, September 9, to give the Senate plenty of time to continue to work on any agreements that they could come together on, and the cloture vote scheduled for Friday be vitiated.

That is the unanimous-consent request that I think is fair for all concerned. I urge that it be accepted.

The PRESIDING OFFICER. Is there objection?

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Reserving the right to object, Mr. President, I want to just point out that the person that sets the schedule is the majority leader. If the majority leader files the cloture motion on a Wednesday, we end up having the cloture vote on a Friday. That is what the majority leader has done. It was his decision. He has every right to. And that is what we have as the regular order that is before the Senate.

But effectively what the majority leader now is doing is asking a consent to vitiate what the regular order would be in terms of the cloture motion. I do not question that we are short on the votes and that there will be an overwhelming vote in favor of moving toward the bill. But the regular order is, as filed by the majority leader on Wednesday, for a cloture vote on Friday. He knew what he was doing. He knew what he was doing.

He was the one that set the vote for Friday. And so I find it somewhat difficult to accept easily the fact that somehow the burden ought to be on other Members because the Senator now does not want to move ahead and have the vote on Friday. He was the one that established that process and procedure and set in motion those procedures. And for the reasons that I have outlined earlier with regard to