stretch of view, Social Security reform could include a tax cut measure, perhaps in the interest of raising some retirement benefit that someone might have?

Mr. DOMENICI. No, unequivocally no.

Mr. LAUTENBERG. So it could only be used for Social Security reform, which would mean what?

Mr. DOMENICI. It means any programmatic reform that the Congress of the United States passed and a President signed that increases the longevity of the trust fund and makes the Social Security program available for longer periods of time, increasing the solvency of the fund and guaranteeing the payments.

Mr. LAUTENBERG. I thank the Senator.

Mr. DOMENICI. Let me close this. If nobody objects, we can vote 30 seconds early.

I thank everybody for their participation. From my standpoint, I wish we had a reform-Social-Security package before us. That is my wish. But since we do not, we ought to leave the money there until we do. I hope everybody understands it is easy to make excuses; it is hard to come up with things that will really lock this money up. We have one before us today.

I yield back my time. And obviously, the yeas and nays have been ordered; have they not?

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The legislative assistant read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the pending amendment No. 254 to Calendar No. 89, S. 557, a bill to provide guidance for the designation of emergencies as part of the budget process:

Trent Lott, Pete V. Domenici, Ben Nighthorse Campbell, Jeff Sessions, Kay Bailey Hutchison, Craig Thomas, Slade Gorton, Chuck Hagel, Spencer Abraham, Thad Cochran, Pat Roberts, Conrad Burns, Christopher S. Bond, John Ashcroft, Jon Kyl, and Mike DeWine.

VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on amendment No. 254 to Senate bill 557, a bill to provide guidance for the designation of emergencies as part of the budget process, shall be brought to a close?

The yeas and nays are required under the rule. The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from New York (Mr. MOYNIHAN) is absent due to surgery.

I further announce that, if present and voting, the Senator from New York (Mr. MOYNIHAN) would vote ''no.''

The yeas and nays resulted—yeas 54, nays 45, as follows:

[Rollcall Vote No. 90 Leg.]

YEAS—54

Abraham	Fitzgerald	McCain
Allard	Frist	McConnell
Ashcroft	Gorton	Murkowski
Bennett	Gramm	Nickles
Bond	Grams	Roberts
Brownback	Grassley	Santorum
Bunning	Gregg	Sessions
Burns	Hagel	Shelby
Campbell	Hatch	Smith (NH)
Chafee	Helms	Smith (OR)
Cochran	Hutchinson	Snowe
Collins	Hutchison	Specter
Coverdell	Inhofe	Stevens
Craig	Jeffords	Thomas
Crapo	Kyl	Thompson
DeWine	Lott	Thurmond
Domenici	Lugar	Voinovich
Enzi	Mack	Warner

NAYS—45

Akaka	Edwards	Levin
Baucus	Feingold	Lieberman
Bayh	Feinstein	Lincoln
Biden	Graham	Mikulski
Bingaman	Harkin	Murray
Boxer	Hollings	Reed
Breaux	Inouye	Reid
Bryan	Johnson	Robb
Byrd	Kennedy	Rockefeller
Cleland	Kerrey	Roth
Conrad	Kerry	Sarbanes
Daschle	Kohl	Schumer
Dodd	Landrieu	Torricelli
Dorgan	Lautenberg	Wellstone
Durbin	Leahy	Wyden

NOT VOTING—1

Moynihan

The PRESIDING OFFICER. On this vote, the yeas are 54, the nays are 45. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

UNANIMOUS-CONSENT REQUEST—S. 96

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate now turn to the consideration of Calendar No. 34, S. 96 regarding an orderly resolution to the Y2K problems.

The PRESIDING OFFICER. Is there objection?

Mr. HOLLINGS. I object.

Y2K ACT—MOTION TO PROCEED

Mr. LOTT. I now move to proceed to S. 96, and send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the motion to proceed to Calendar No. 34, S. 96, the Y2K legislation:

Trent Lott, John McCain, Rick Santorum, Spencer Abraham, Judd Gregg, Pat Roberts, Wayne Allard, Rod Grams, Jon Kyl, Larry Craig, Bob Smith, Craig Thomas, Paul Coverdell, Pete Domenici, Don Nickles, and Phil Gramm.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. LOTT. Mr. President, I regret having to file a cloture motion on this important piece of legislation. However, we need to have a vote on Monday afternoon so that Members will be here. We can have committee meetings hopefully Monday and Tuesday.

We have a number of very important issues that need to be considered by committees. We need to move forward on the now two supplemental appropriations requests that we have. So we are going to have a vote on Monday in any case.

But also I think this is very important legislation in and of itself. It is important that we get up and get started on the discussion. I had hoped we could actually work on it today and tomorrow. But because of the NATO meeting and the congestion and the concerns about access to and from the Capitol, we will not be in session on tomorrow. That gives the Members who are working together—Senator MCCAIN I know is working with others, Senator BIDEN, Senator DODD—time to try to work out some of the remaining problems on this legislation.

We can go forward with this cloture vote on Monday afternoon. Or, if something is worked out where it is not necessary, we could still vitiate the cloture vote.

We need to get this done. This is urgent. The clock is ticking. We are moving towards 2000. This liability, this problem, is hanging over us like a sword. I think it is important that we go forward. I hope that next week—Tuesday or Wednesday, certainly—we will be in the substance of the bill and we can get to a final conclusion on the substance.

I encourage Members on both sides of the aisle to work together to see if we can't resolve this issue and move it on into conference.

I thank Senator MCCAIN, Senator HATCH, and Senators from both sides who have been working on it.

Having said that, I ask unanimous consent that Friday be considered the intervening day under the provisions of rule XXII.

The PRESIDING OFFICER. Is there objection?

Mr. KERRY addressed the Chair.

Mr. LOTT. Mr. President, if I could, if there was not an objection, I would be glad to yield to the Senator from Massachusetts for a question.

May I confirm that there is not an objection to that request?

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

Mr. LOTT. Mr. President, I would be glad to yield to the Senator from Massachusetts.

Mr. KERRY. Mr. President, I thank the majority leader for yielding. I simply wanted to inform him, I wasn't on the floor at the moment the objection was raised to the Senate proceeding as Senator MCCAIN hoped to do.

I want to say that I had a discussion with Senator MCCAIN, Senator DODD,

Senator HOLLINGS, and others. A bona fide effort is being made right now to work with the technology community as well as with the legal community. I think there is the capacity to come together around some form of compromise.

I thank Senator MCCAIN for his leadership on this. I think it may be possible within hours to come together around something.

Mr. LOTT. That is certainly my hope. It is encouraging that the Senator from Massachusetts would say that.

Mr. HOLLINGS. Will the distinguished Senator yield?

Mr. LOTT. Yes. I am happy to yield to the Senator from South Carolina.

Mr. HOLLINGS. We are trying to work out the matter of the quorum call that is required with, of course, the vote on Monday. I would have to object to dispensing with that call for a quorum on Monday, and maybe we can change it by the end of the afternoon. I am trying to check around right now.

The Senator from Arizona doesn't mind, does he?

Mr. MCCAIN. No. I will always do what the Senator from South Carolina says.

(Laughter.)

Mr. LOTT. Did the Senator from South Carolina have anything further he wanted to say?

Mr. HOLLINGS. No. That is all.

Mr. LOTT. Then I will go ahead and ask unanimous consent that the cloture vote occur at 5 p.m. on Monday, and that the mandatory quorum under rule XXII be waived.

Mr. HOLLINGS. I object to the mandatory waiver of the quorum call.

The PRESIDING OFFICER. Objection is heard.

Mr. LOTT. Of course under the request that has already been agreed to and under the rules of the Senate, we will have a vote on Monday afternoon. It is just a question of time. I know there is an effort here to try to set the schedule at a later time.

I remind Senators that I wrestle with this all the time. For every two Senators you are trying to protect who won't get here until 6, you are hurting a couple of Senators who may have to leave at 5:30. This is a very delicate dance.

Mr. HOLLINGS. I understand. That is why we are calling around now trying to work it out with the leader. He just hasn't gotten it worked out yet.

Mr. LOTT. I hope the Senator would keep in mind that we are going to be squeezed on both ends. We will try to work out a time that benefits the maximum number of Senators. But if you go into the night beyond 6 o'clock, you have all kinds of problems on the other side of the issue.

With that, I yield the floor. Mr. President, we are ready to proceed with the debate on the issue.

Mr. MCCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, obviously I am disappointed that we did not proceed to S. 96. I am encouraged by the comments of the Senator from Massachusetts and others. The Senator from Oregon and I are continuing to have a dialog also with the Senator from Connecticut, Mr. DODD, and, of course, with the distinguished Democrat on the committee, Senator HOLLINGS.

So I hope we can come to some agreement. I am given occasionally to flights of rhetoric, but the fact is, this is a very, very serious issue and one that we really cannot delay too much longer. The clock is ticking. We need to move forward. There may be some differences. I don't think anybody believes that we need to do something destructive.

This problem is critically important. The potential for litigation to overwhelm the judicial system for the most egregious cases involving Y2K problems is very real. Litigation costs have been estimated as high as $1 trillion. Certainly the burden of paying for litigation will be distributed to the public in the form of increased costs in technological goods and services.

The potential drain on the Nation's economy and the world's economy from fixing computer systems and responding to litigation is staggering. While the estimates being circulated are speculative, the costs of making the corrections in all the computer systems in the country are astronomical. Chase Manhattan Bank has been quoted as spending $250 million to fix problems with its 200 million lines of affected computer codes. The estimated costs of fixing the problem in the United States ranges from $200 billion to $1 trillion. The resources which would be directed to litigation are resources that would not be available for continued improvements in technology-producing new products and maintaining the economy that supports the United States position as a world leader.

Time is of the essence. If the bill is going to have the intended effect of encouraging proactive prevention and remediation of Y2K problems, it has to be passed quickly. This bill will have limited value if it is to be passed after the August recess. I urge my colleagues to vote for cloture on Monday when we move forward with that.

I have a number of letters, studies, and a lot of information I will present when we move to the bill. I will be very clear. From the technology network, we have letters of support from Cisco Systems, Intel, Microsoft, American Online, Merrill Lynch, Novell, Adobe Systems, Alexander Ogilvy Public Relations Worldwide, Platinum Software, American Electronics Association, Marimba, Inc., NVCA, Kleiner Perkins Caulfield & Byers, LSI Logic—the list goes on and on.

This is an important issue to the high-tech industry in America. It is very important. It is of critical importance as to how these corporations that are leading the American economy are able to proceed with the business of business rather than the business of litigation.

I hope all of my colleagues will support this legislation and that we can move forward. As the Senator from Connecticut will state, we still have differences but we are working hard on working those out with the Senator from Oregon, the Senator from Massachusetts, and of course, the much esteemed Senator from South Carolina, Mr. HOLLINGS.

I see my other colleagues would like to make comments on this very important issue. I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, I'll be brief because I know my colleagues from Oregon and South Carolina and others may want to speak on this. I think there is a need to try to come up with some legislation to minimize what could be runaway litigation in this Nation. There have already been some 80 lawsuits, many of them class action lawsuits, filed on the Y2K issue.

I think all of my colleagues are aware that the leaders asked Senator BENNETT of Utah and myself to chair this Special Committee of the Senate to examine the Y2K problem. We have been working for well over a year. We have had some 17 hearings in which we have invited various sectors of our economy —both private and public—to give their assessment of how the remediation efforts are progressing and the condition of our institutions. Both of us, I think, feel confident that things are progressing well, that we are not going to have as much of a problem as we thought a few months ago, but that there still could be difficulties. Y2K issues internationally may be a much greater problem than those here at home.

There is a report out which has been sent to each and every Senate office, which I encourage our colleagues to take a look at to get a sense of how the issue is progressing. It is an open-ended question whether we are going to have a whole new area of litigation here—unwarranted litigation—which could destroy some small companies that lack the capacity to take on the kind of predatory lawsuits that too often do more damage than good.

Simultaneously, I adamantly oppose any legislation to try to use this issue as a way of rewriting the tort laws of the country. This ought not to be that kind of vehicle. There is a legitimacy to the Y2K problem, but no one should think it possible to take advantage of the Y2K problem to achieve tort reform beyond the scope of the actual problem. I don't think our colleagues would support it—at least not a majority, and the legislation, if it managed to get through Congress, would be vetoed. As the Senator from Arizona pointed out, we would have failed in our obligation to try to do something in an intelligent, thoughtful, common-sense way

that legitimately deals with the issue presented by the Y2K problem without going overboard and doing, as some have suggested, a lot more damage than good.

I am hopeful we can work something out here. Senator WYDEN has been working on it. I know the Senator from South Carolina has strong interests in this issue, as he has on so many other issues. We can find some common language here. My hope is that we will enjoy broad-based support in the Congress, achieve the desired effects, and provide some real assistance in the face of this potential problem that lurks 253 days from today, which begins the new millennium.

Senator BENNETT and I have spent the last year serving on a Senate committee totally devoted to the Y2K issue. We've held 18 hearings exploring every sector of our economy that might be affected by the Y2K problem, including financial institutions, utilities, healthcare, telecommunications, and business. Throughout this year one thing has been made abundantly clear. Wherever the Y2K problem exists next year, litigation will follow.

Americans have become accustomed to living in a litigious society. The occasional abuses of the legal system that come along arise from problems that are limited in scope. As a result, the numbers of lawsuits related to those problems are limited, and our legal system and economy continue to function notwithstanding these occasional abuses. But the Y2K problem is not limited in scope. Potentially, any business in the country might be swept into the Y2K problem, either because it is itself not prepared or because a firm it depends upon is not prepared. Just six weeks ago the committee reported that as many as 15 percent of the businesses in this country will suffer Y2K-related failures of some kind. Even now we read that small and medium-sized businesses across the globe are not taking the necessary steps to become Y2K-compliant, and many think they don't have a Y2K problem. Since businesses are interconnected these days, just one failure in one business may generate cascading failures that may then generate numerous lawsuits.

It has been suggested that as a result of Y2K, the United States could easily find itself witnessing a huge surge in litigation. This potential litigious bloodletting could have long-term consequences on the economic well-being of our country. Various experts, including the Gartner Group from my own state of Connecticut, have estimated that the costs of litigation may rise to $1 trillion, a phenomenal figure. Such a massive amount of litigation has the potential to overwhelm the court system, disrupting already-crowded dockets for years into the next millennium. We must be careful that an avalanche of lawsuits does not smother American corporations and bury their competitive edge. A maelstrom of class action lawsuits could have long-term consequences on the American economy and the American people. The rush to file lawsuits might curb the future economic development in a number of different sectors. Moreover, all of the money that would be set aside this year by businesses for legal expenses associated with the Y2K problem, both as defendants and as plaintiffs, cannot be spent on fixing the Y2K problem. As we heard in our hearing on this issue, both large and small businesses are concerned that the fear of litigation later is preventing them from solving problems now.

For this reason, I have long believed that the Congress could perform an essential service to the nation's economy by developing legislation that would encourage companies, in the first instance, to solve their own Y2K problems instead of going to court right away, and to curtail the inevitable frivolous litigation that accompanies any national problem. We should not force businesses to choose between spending money on remediation or spending money on preparing for litigation. An alternative to this choice is reasonable litigation reform.

Within the Banking Committee, I am on record for supporting significant securities litigation reform. Our 1995 bill, which was passed, despite veto by the White House, spoke to definitive and repetitive litigation abuse. At that time the legal system was no longer an avenue for aggrieved investors seeking justice and restitution. Instead, it had become a pathway for a few enterprising attorneys to manipulate legal procedures for their own profit. This profit came at the expense and the detriment of legitimate companies and investors across the nation. The crucial factor driving securities reform legislation was a specific, clear-cut pattern of abusive litigation. In the case of Y2K, however, we don't yet know what abuses might arise.

In other words, I have strongly supported litigation reform efforts in the past. But clearly we need a bipartisan, narrowly crafted, well-structured, and easily understandable bill. As with securities litigation reform, the need for Y2K litigation reform arises from a national problem amenable to a narrow, tailored solution, such as the bill I introduced.

I have great concerns that the bill before us today does not represent the narrow, tailored solution to the Y2K problem that I believe is necessary. It contains broad provisions tantamount to massive tort reform, which should be saved for another day. The Y2K problem should not be used as an excuse to pile on these broad measures. I think we can all agree on what we'd like a bill to do; indeed, the bill before us today and the Hatch-Feinstein bill contain many of the same provisions as are in my bill. I take issue, however, with a few provisions in both of these bills that I veiw as unnecessary window dressing for interests unrelated to the Y2K problem.

First, the bill before us places caps on punitive damages except where the defendant acted intentionally. Nothing inherent in the Y2K problem requires that this be done. No state allows for the award of punitive damages unless the defendant has acted in some egregious manner. Defendants who have behaved responsibly will not be assessed punitive damages, and defendants who have behaved egregiously should not be rewarded by limiting the amount of punitive damages which they might be required to pay. My bill does not cap punitive damages because it is not necessary to do so.

Second, the bill before us places caps on the personal liability of officers and directors, those individuals with the ultimate responsibility for the management of their firms. For years now Senator BENNETT and I have done everything possible to get upper management, including officers and directors, not only to pay attention to the Y2K efforts of their firms but to become directly involved and responsible for those efforts. After a lot of hard work in this area, our efforts have finally paid off and most upper management of major firms have appropriately shouldered these responsibilities. To come in now and place caps on the personal liability of officers and directors would set back our efforts to get management's attention on this issue. Passing such caps gives these ultimate decision-makers less incentive to maintain their active involvement in Y2K remediation efforts. A related provision in the bill that raises the standard of proof for such individuals for many tort actions gives them the same excuse. My bill does not contain such provisions because I believe they are an excessive solution to an uncertain problem.

What my bill does do is provide the narrow, tailored provisions I think necessary to address the problem presented by the spectre of Y2K litigation. Just as the other two Y2K liability bills introduced in the Senate do, my bill provides for a 90-day cooling off period to allow businesses to work out their Y2K problems together before they are forced to go to court. Just as the other bills do, my bill places a duty to mitigate damages on all parties which gives them an incentive to seek out solutions to their own Y2K problems. Just as the other bills do, my bill discourages frivolous litigation by including specific pleading requirements and a requirement that defects alleged in class action lawsuits by material. Just as the other bills do, my bill rewards companies that have taken steps to become Y2K compliant by allowing for a reasonable balance between proportionate liability and joint and several liability.

While I strongly believe that a Y2K liability bill is necessary, I have great concerns about this Y2K liability bill in its present form. No one wants to see a solution to this problem more

than I do, but I am not willing to compromise efforts to solve the Y2K problem to satisfy unrelated interests, nor am I willing to trade in the Y2K problem only to get a litigation problem down the road. While we are rushing to solve the Y2K problem and the policy issues therein, we should above all strive to enter the next century with a sense of vision, and this vision should include a prudent analysis of the looming challenges of potential Y2K litigation. I assure you that no one wants to begin the next millennium by trading a vision of the future for a subpoena.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Mr. President, I will be very brief. I know the Senator from South Carolina has important remarks to make this morning.

I have joined with Senator MCCAIN in cosponsoring this legislation that comes before the Senate, after voting against the bill that came out of the Senate Commerce Committee. I have done so because there have been at least seven major changes made in the legislation after it came out of committee so that now when it comes before the Senate it is a balanced bill. It is a bill, in my view, that will ensure that innocent consumers are fully protected while at the same time helping to prevent the kind of chaos we could have in our economy if we have scores and scores of unwarranted lawsuits as a result of the Y2K problem.

As we all know, the Y2K issue is not a partisan issue. It affects every computer system that uses date information, every piece of hardware, every piece of an operating support system and all software that uses date-related information. Our goal ought to be to try to bring about Y2K compliance. That is our principal focus. The Senate is already on record in that regard. At the same time, we ought to put in place a safety net to ensure that innocent consumers, particularly small businesses, will have a remedy and will not see their businesses devastated.

I wrap up my brief remarks this morning by outlining a few of the changes that Senator MCCAIN and I worked on with Senator DODD, Senator FEINSTEIN, Senator LIEBERMAN, and others, so that the Senate has a sense of the many changes that have been made to ensure consumers get a fair shake and that are in the bill before the Senate today.

The first that I think is particularly important is we will make sure there is a sunset provision in this legislation. The original bill contained no sunset provision. There were some who said this is just opening up brand new areas of tort law that are going to exist forever, this is just a backdoor effort to hot wire the legal system and ensure that we are restricting liability suits in the future. That is not the future. There is a sunset date to ensure that we are addressing just legitimate problems that have come about as a result of the Y2K failures.

Second, and another area I feel so strongly about, is we ensure, when there are really egregious, outrageous offensive instances of conduct in the private marketplace, fraudulent conduct, that punitive damages will still be available. It is important to us that there not be new preemptive Federal standards in that area. That has been done.

Next, we have made changes with respect to the principle of joint liability. This is especially important where you have defendants who are involved, again, in committing these outrageous acts, essentially fraudulent acts. That is kept in place as well.

So I do believe this is a bill that is targeted specifically at the kinds of problems that are going to be seen if we do not pass a balanced, responsible piece of legislation. This involves business-to-business activity. I suggest to some of our colleagues this has nothing to do with personal injury issues. If someone is injured, for example, as a result of an elevator accident because computers have broken down, and is maimed or killed, all of those personal remedies will lie.

So those are briefly some of the changes since the bill came from committee. We have seen, again, the Senate wants to work in a collegial way on this. My good friend from South Carolina and I have had several spirited discussions on this issue in recent days. He feels very strongly about it. My part of the country has looked at technology as a big part of our economic future. We want to come up with a responsible, balanced bill.

The Senator from Connecticut and I have put on the desks of all Democratic Members of the Senate today a letter which outlines a number of the changes that have been made. We heard earlier Senator KERRY is pursuing some discussions as well. So I am hopeful between now and next week we can have a bipartisan bill that is balanced, that comes before the Senate and builds on the work Senator MCCAIN and I have tried to do since the partisan vote in committee. I look forward to working with my colleagues towards that end, and I yield the floor.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, with respect to the Y2K problem, it is very interesting to note, the problem has been prepared for technologically, by the very groups they say the bill is to protect, for 30 years. They have the technology. There is no hocus-pocus about that.

I wish everyone would look back about 4 weeks ago and pull out of an edition of Business Week an extensive article to the effect that the market force is working. Large businesses, the GEs, the Ford Motors, the Xeroxes, the IBMs and everybody else, working with their suppliers down the line, have long since put them on notice. I do not have my file with me, but the drop dead date is the end of this particular month, April 1999, where you still have several more months to comply. But the market, knowing the technology is there, knowing of course you are going to be facing this, is trying to, like a Paul Revere, wake the town and tell the people. And they have been doing it. We did it last year, on a bipartisan basis, when we said: ''Wait a minute, if we cannot work these problems out, we will be slammed with antitrust.'' We got together quickly, the Senator from Connecticut and others, and on a bipartisan basis we passed that measure. Everything has been working fine.

I spoke earlier this year—I do not want to mislead—I spoke with my friend, Mr. Andy Grove of Intel, who is very much concerned about proportionality. But other than that, we spent a good hour in my office talking about large computerization and everything else. That community knows. They are way ahead of lawyers and lawsuits, I can tell you that, as the business leaders.

William Gates—Bill Gates, out at Davos, Switzerland, at the conference, said there was no problem. And this past week the New York Times wrote a summary article on the Y2K problem.

Mind you me, this is the middle of April 1999, months ahead, of course, of January 2000. They said people are moving along and everything else. You see, it is a practical problem. There is a bunch of old equipment on hand. Every automobile dealer faces this every year because they are going to bring out another model. So they all know about bringing out new models and everything else like that. Of course the new model needed for 2000 is the Year 2000-compliant model.

But what happens is that a side group has come in, upon this particular concern and interest, not at all interested in the Y2K. We could win this debate hands down on Y2K. But they are interested in distorting the tort liability laws of America. They have been about it and I have been with them for 20 years. There is a wonderful gentleman named Victor Schwartz with the National Association of Manufacturers, and he sends me a wonderful Christmas greeting, thanking me for the wonderful year he has had, because I keep his clients current as long as we can continue to defeat product liability.

But now we have another gentleman who has come over to the Chamber of Commerce named Tom Donohue, and I know him well. I worked with him in the Truckers'. He is coordinating this conspiracy. There is a great problem. ''We have legitimate business folks in the computerization business who are going to front for us. We don't want to argue about taking away the rights of trial by jury that we have beat upon.'' They don't want to have to take on the Association of State Supreme Court Justices and everything else of that kind. ''We want to talk about Y2K, Y2K, Y2K, crisis, crisis, crisis.'' And they even act like there is one, 7 months ahead of time.

My little State of South Carolina just reported they would be compliant in July of this particular year, 1999. If South Carolina can get ready, everybody and anybody can get ready by the year 2000, I can tell you that. But they come in under the auspices of a crisis, to try to change punitive damages, try to change trial by jury, try to change joint and several liability—they are trying to change it all. Anywhere they can get a foot in the door for this particular precedent by this particular Congress under the general phraseology ''tort reform,'' they think they are home free. And I am afraid they would be.

The truth of the matter is, under the present legal system of the States', we are having the finest, most booming economy you have ever seen. The stock market has gone over 10,000, the interest rates are low, the unemployment rate is about the lowest it has ever been in 30 years, and right on down the list. So what you are finding out, right to the point, is that there is not a problem. Business is doing well.

In fact, the analysis done in this particular debate over 20 years has found it has not been greedy trial lawyers bringing fanciful suits with no substance whatsoever, just harassing. Mr. President, the good trial lawyer has no time for that nonsense. He does not get paid until he wins. He has to prevail. He has to come to court, he has to prove his case by the greater preponderance of evidence. He has to get not just 5 or 6 votes, he has to get all 12 votes. Then he has to go through the obstacle course of an appeal to the Supreme Court. Why? Because corporate America continues to get paid as long as the clock runs.

It is a tragic thing that has been occurring in the system of jurisprudence in America, because I practiced law for 20 years and I practiced representing businesses, incorporated and otherwise, but predominantly on the trial side with poor clients. I did not get a recovery unless the client got a recovery.

I was against continuances, against motions, against more depositions, against more discoveries. You see that mahogany-wall, oriental-rug crowd down here. There are 60,000 registered to practice in the District of Columbia trying to fix your vote and my vote, just fixing juries. They will never get to the courtroom. They sit around and tell the clients: Come on, computer industry, we can change the tort system so we can take away the rights of the very group, Mr. President, that it is supposed to protect—mainly small business.

They have the National Federation of Independent Businesses. That is the small business group that the law now protects. Instead, under the bill as proposed, a small business owner will have to wait 90 days before he or she could bring proceedings in court to recover damages. They know at the very beginning what is contracted for and what is wrong, but this requirement is going to delay them, increasing the time and costs of the suit. Then you have to prove various other measures by one of the highest standards of proof, almost like in a civil case. In cases where a party generally is required to prove by a preponderance, they seek to have the standard to be clear and convincing.

I say that advisedly because with this particular system, as it has worked out over the years—come to South Carolina. We had tort reform, but I have, they say, the competitive businesses. I am bringing in the Hondas, the BMWs, as well as the expansion of the GEs and other industries from all over the United States and the world coming into South Carolina where we have a civil statewide tort system.

Actually, these contracts are under the Uniform Commercial Code and ought to be tried on a contract basis. But, no, they do not want to even talk about the defect in the entire measure. The measure is not needed. The measure is misguided. The measure is an adulteration of the system, and bringing it to the Federal level, trying to tell the States—and that is what I hear from the other side of the aisle, that the people back home know best, they keep quoting Jefferson to me, less Government, let the States operate and everything else of that kind. They do that until they get something for big business. Now they want to come in and make sure they can have that clock run, that they can make a fortune, and the little man cannot even afford to bring his particular action.

I have every objection in the world to this measure. I do not mind compromising. I have always dealt with that particular approach for the almost 50 years now that I have been in public service. But I can tell you what this is. This is not Y2K. They have everybody running all around. Look at the morning Washington Post and you will see the different people. It is like: ''Sooey, pig, you come, we got them, we're going to get you to do this, get them to do that,'' and take the person who has made the contract—and right now they can look at their contract and see what is what in April 1999, months ahead of January 1.

They know whether they have the bad model or the right contract, and they know what is going to be required. This really allows an industry to offload all the old stuff and then come in with an adaptation next year that is going to cost over and above the particular computer.

It is bad business. It really distorts the jury system and the tried-and-true system of American jurisprudence. That is why I had to object, because I have been busy on this other farce, this so-called lockbox that allows everybody to have the key but the poor Social Security crowd that is bringing about the surplus. There is not any question about that farce that is going on. They are just trying to make for a TV short in next year's campaign. We are going to make TV spots and show the inaccuracy of it. That is exactly what we have been doing, paying down public debt with Social Security money, thereby running up, up, up and away the Social Security debt. When you pay down someone else's debt with your money, you incur an indebtedness increase in your own program, namely Social Security.

There we are. They are trying their best to ram it through on Y2K, and they are all going around oozing and goozing how reasonable we are and we are trying to work this out. It ought to be killed dead in its tracks. Anybody who is looking out for the individual rights of the small businessman, the little doctor, the little law firm—any little business person who does not keep a lawyer on retainer and they have an instrumentality, namely a computer, that they say is ready to comply, and then they find out it does not comply, that is a breach of contract under the Uniform Contract Code. They can bring that action. Mr. President, unless there is a fraudulent breach, it does not come under tort law, it comes under the contract law.

Incidentally, it is businesses suing businesses. That is the big logjam. Any study, any research done with respect to the actual increase in the volume of lawsuits in America will find businesses suing businesses. I am exhibit 1 on this particular issue, for the main and simple reason, we worked for 4 years to get through the 1996 Telecommunications Act. Once we got it through, rather than businesses doing what they said, namely competing, they all started with their lawyers: It was unconstitutional, take it up to this court—they have all been in court. Why? The ratepayers are paying for the lawyers. It does not cost them any money, and they are going around buying up each other, combining rather than competing.

They have a legal game going, which is in some measure the same thing they had going with AT&T that caused Judge Greene to break it up. It seems to me that we are going to have to break it up again. That is what we are looking at now with the FCC: getting a drop-dead date for them to comply with the law that they wrote.

They do not want to comply. They want to combine. They want to use their monopolistic powers with their lawyers in business. But it is not the poor little injured party in court with a jury trial that is at issue, generally speaking, with respect to Y2K. It is the downtown crowd that is scaring up clients and scaring up fees and scaring up activity against the States.

The States have their own laws. The State of Illinois is well regarded as a place of high jurisprudence, and they do not need the Federal Government coming in and telling them how to protect the little man. Here, under the auspices of protecting the little man, we are going to take away his rights and drag him out, as if he had a lawyer

waiting. It is to discourage the little man's day in court. That is why we will be watching it very closely.

I don't know that this one will be worked out. In all reality, I think we can get the votes—not necessarily on the matter of proceeding. We do not mind proceeding, we are just trying to get the time. We can get the votes on the cloture to kill this measure.

If the computer industry is really serious about it, there may be some compromise, but for this particular Senator, I have no plans at all of compromising on the fundamental constitutional rights of a trial by jury and what the States have developed over many, many years, which is the finest business environment that exists in the world today. Nothing is hurting them. I do not have any of these foreign industries coming in and saying, ''But, Senator, we're worried about product liability, we are worried about joint and several, we are worried about trial by jury, we are worried about all these other punitive damages.'' You do not hear that until you can get politicians running for national office, and then they put it in the polls.

Under ''Henry V,'' Shakespeare said, ''Kill all the lawyers.'' Of course, it was the biggest compliment. The only way that individual rights and freedom could not be sustained is to kill off the crowd that was going to protect individual rights and freedom. So it really was the greatest of all compliments. It was not that they were against lawyers, but they knew how to start anarchy. So that is what they told Dick the Butcher when they shouted, ''Kill all the lawyers.''

That is what you have on Monday when we get to the regular debate. We will see which lawyer crowd we are going to kill off.

I yield the floor.

Mr. LEAHY. Mr. President, the sweeping terms of the bill before us are not justified. Senator MCCAIN's substitute, like the underlying bill, unfortunately, remains a wish list for special interests that are or might become involved in Y2K litigation. The broad liability limitations in the legislation risk rewarding irresponsible parties at the expense of the responsible and the innocent. That is not fair or responsible.

I cannot support such one-sided legislation that restricts the rights of American consumers, small business owners and family farmers who seek redress for harms caused by Year 2000 computer problems.

I remain open to continuing to work with interested members of the Senate on bipartisan, consensus legislation that would deter frivolous Y2K lawsuits and encourage responsible Y2K compliance. In my judgment, today's bill would more likely have the opposite effect. It proposes sweeping liability protection that will encourage more Y2K litigation and discourage curing Y2K problems.

The right approach is to fix as many of these problems ahead of time as we can. Ultimately, the best defense against any Y2K-based lawsuit is to be Y2K compliant.

Let me offer a few examples how this bill would restructure the laws of the 50 states and cause great harm to the nationwide effort to fix our Y2K computer problems in 1999.

First, this bill provides special liability protection to directors and officers of companies involved in Y2K disputes. Why are we doing this? Directors and officers are already protected by the business judgment rule, which has been adopted by each of the 50 states. How will this special legal protection for corporate directors and officers affect the well-established precedents interpreting the business judgment rule in our states?

Moreover, every director and officer of a corporation has standard insurance coverage to protect him or her from personal liability in the course of their duties. Will insurance companies reap windfall profits from this special legal protection for corporate directors and officers? Or should insurance companies rebate the premiums they have charged for existing insurance coverage for corporate directors or officers because it might be superfluous now? Who knows? But these questions will be hot spots for future litigation if this bill becomes law.

Providing special Y2K liability protection to the key decision makers in a company at this juncture sends the wrong message to the business community.

We want to encourage these key decision makers to be overseeing aggressive year 2000 compliance measures. Instead, this bill says to corporate officers and directors: ''Don't worry, be happy.''

I want those corporate officers motivated to fix their company's Y2K problems now. After their corporation is Y2K compliant and they have worked with their suppliers and customers and business partners and we have avoided Y2K problems is the time to be happy.

Second, this bill caps punitive damages to 3 times the amount of compensatory damages or $250,000, whichever is greater. If the defendant is a small business, then $250,000 is the ceiling for any punitive damage award.

These punitive damages caps again send the wrong message to the business community by protecting the bad actor, instead of rewarding the responsible business owner.

The bill contains an exception to these punitive damages caps if a plaintiff can prove by clear and convincing evidence that the defendant intentionally defrauded the plaintiff. This exception will prove meaningless in the real world because no one will be able to meet this high and specific standard for proving the injury was specifically intended. How in the world is a plaintiff going to prove some intentionally tried to injury him or her in a Y2K case? Get real.

Punitive damages are awarded only in cases of outrageous conduct. If a business takes responsible steps to become Y2K compliant, it will not be subject to punitive damages. These caps on punitive damages, like many other parts of the bill, discourage responsible Y2K remediation efforts.

Indeed, by limiting punitive damage to a dollar figure, $250,000, these special legal protections may encourage some companies to analyze the costs and potential risks of Y2K noncompliance and make the calculated business decision not to make the investment needed to come into compliance. The same type of calculation, for example, apparently made by Ford in the exploding Pinto gas tank case.

A cost-benefit approach does not fix a corporation's Y2K problems, but only leads to more litigation. Litigation with punitive damages caps may, in the judgment of the company's accountants, be worth enduring if it costs less than Y2K compliance.

Third, the bill severely restricts the amount of damages that an innocent plaintiff can recover from a guilty defendant by abolishing joint and several liability in most cases. The exceptions to this proportionate liability are so complex that they invited more litigation, not less.

This proportionate liability may unfairly penalize innocent consumers and small businesses and reward irresponsible companies.

For example, a small business forced to shut down temporarily because of a Y2K computer malfunction may not be able to recoup all of its losses under proportionate liability if it fails to identify all the responsible parties that caused that Y2K problem. As a result, that small business may be forced to file for bankruptcy because of its limited resources. Why is the innocent small business owner, who may not know and should not know all the responsible parties in the manufacturing chain of a non Y2K compliant product, forced to go out of business?

Moreover, this bill's many federal preemptions of state contract and tort law are all one-sided. The bill's provisions benefit only defendants, not plaintiffs, in Y2K disputes.

The bill raises the standards of proof from a preponderance test to a clear and convincing test for plaintiffs to prove negligence and other torts claims without any corresponding responsibility on defendants. The bill adds new state of mind requirements on plaintiffs to prove tort claims without any corresponding responsibility on defendants.

The bill also greatly expands the jurisdiction of the federal courts to consider Y2K cases under its class action provisions—an approach soundly rejected last month by Chief Justice Rehnquist and the Judicial Conference. The Judicial Conference found that shifting Y2K cases from state courts ''holds the potential for overwhelming the federal courts, resulting in substantial costs and delays.''

In addition, the Judicial Conference concluded ''the proposed Y2K amendments are inconsistent with the objective of preserving the federal courts as tribunals of limited jurisdiction.'' I ask unanimous consent that a letter from the Judicial Conference opposing this expanded federal court jurisdiction be printed in the RECORD.

Finally, the bill adds a sunset date of January 1, 2016, according to the latest public draft. A bill that stays effective for the next 17 years is not narrow in scope. This sunset date is not reasonable. Is this bill intended to cover year 2015 computer problems?

I agree with Assistant Attorney General Eleanor Acheson who testified at the Judiciary Committee hearing a few weeks ago on similar Y2K liability legislation that ''this bill would be by far the most sweeping litigation reform measure ever enacted.''

So why do we need these sweeping litigation reforms to address year 2000 computer problems? I don't know. The proponents of this legislation have offered no solid evidence to justify these sweeping provisions.

There is no reasonable justification for the sweeping liability protections in this bill because these protections are not reasonable. This bill overreaches again and again. It is not close to being balanced.

Worst of all, this bill as presently drafted would preempt the consumer protection laws of each of the 50 states and restrict the legal rights of consumers who are harmed by Y2K computer failures. Why is this bill taking away existing protections for the ordinary citizen?

We all know that individual consumers do not have the same knowledge or bargaining power in the marketplace as businesses with more resources. Many consumers may not be aware of potential Y2K problems in the products that they buy for personal, family or household purposes.

Consumers just go to the local store downtown or at the mall to buy a home computer or the latest software package. They expect their new purchase to work. But what if it does not work because of a Y2K problem?

Then the average consumer should be able to use his or her home state's consumer protection laws to get a refund, replacement part or other justice. During the Judiciary Committee consideration of similar legislation, I offered an amendment to allow consumers to do just that. I may offer a similar amendment on this bill.

Those of us in Congress who have been active on technology-related issues have struggled mightily, and successfully, to act in a bipartisan way. It would be unfortunate, and it would be harmful to the technology industry, technology users and to all consumers, if that pattern is broken over this bill.

I sense that some may be seeking to use fear of the Y2K millennium bug to revive failed liability limitation legislation of the past. These controversial proposals may be good politics in some circles, but they are not true solutions to the Y2K problem. Instead, we should be looking to the future and creating incentives in this country and around the world for accelerating our efforts to resolve potential Y2K problems before they cause harm.

Last year, I joined with Senator HATCH to pass into law a consensus bill known as ''The Year 2000 Information and Readiness Disclosure Act.'' We worked on a bipartisan basis with Senator BENNETT, Senator DODD, the Administration, industry representatives and others to reach agreement on a bill to facilitate information sharing to encourage Y2K compliance.

The new law, enacted six months ago, is working to encourage companies to work together and share Y2K solutions and test results. It promotes company-to-company information sharing while not limiting rights of consumers. That is the model we should use to enact balanced and narrow legislation to deter any frivolous Y2K litigation while encouraging responsible Y2K compliance.

I am continuing to work with Senators from both sides of the aisle to negotiate a narrow and balanced bill.

Unfortunately, this special interest legislation before us today is not narrow and it is not balanced.

I must oppose it.

Mr. President, I ask Unanimous Consent that a letter received by the Judiciary Committee from the Judicial Conference of the United States be printed in the RECORD.

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

JUDICIAL CONFERENCE OF
THE UNITED STATES,
Washington, DC, March 24, 1999.

Hon. ORRIN G. HATCH,
Committee on the Judiciary, U.S. Senate, Dirksen Senate Office Building, Washington, DC.

DEAR MR. CHAIRMAN: On behalf of the Judicial Conference of the United States, I write to transmit views with respect to pending year 2000 (''Y2K'') legislation. S. 461, as well as S. 96 and H.R. 775, seeks to promote the resolution of potentially large numbers of Y2K disputes. The federal judiciary recognizes the commendable efforts of Congress to resolve Y2K disputes short of full-scale litigation so as to alleviate the burden of such litigation on private parties as well as on federal and state courts. These are clearly laudable public policy objectives.

Some of the provisions, however, will affect the administration of justice in the federal courts. The Judicial Conference, at its March 16th session, determined to oppose the provisions expanding federal court jurisdiction over Y2K class actions in bills (S. 461, S. 96, and H.R. 775) currently under consideration by the 106th Congress. In addition, because the Y2K pleading requirements included in these bills circumvent the Rules Enabling Act, the Conference also opposes these provisions.

CLASS ACTIONS

These bills create no federal cause of action. Instead, they assume that plaintiffs will rely on typical state causes of action to provide relief in Y2K disputes. Under the bills, individual plaintiffs, as opposed to class action plaintiffs, can bring their tort, contract, and fraud suits in a state court where they will remain until resolved. While federal defenses and liability limitations established in the legislation may be raised in such litigation, the bills recognize that state courts are fully capable of applying these provisions and carrying out federal policy. This reliance on state courts, which today handle 95 percent of the nation's judicial business, follows the traditional allocation of work between the state and federal courts.

The provisions of these Y2K bills take a radically different approach to Y2K class actions—one that would effect a major reallocation of class action workloads. These bills create original federal court jurisdiction over any Y2K class action based on state law, regardless of the amount in controversy, where there is minimal diversity of citizenship—that is, where any single member of the proposed plaintiff class and any defendant are from different states. They also provide for the removal of any such Y2K class action to federal court by any single defendant or any single member of the plaintiff class who is not a representative party. While these bills do identify limited circumstances in which a federal district court may abstain from hearing a Y2K class action, it is unlikely that many actions will meet the specified criteria. The net result of these provisions will be that most Y2K class action cases will be litigated in the federal courts.

This assignment of the class action workload to the federal courts is particularly troubling because the Y2K problem may result in a very large number of class actions. While no one knows how many cases will be filed, Senator Robert Bennett, Chair of the Special Committee on the Year 2000 Technology Problem, has predicted that there could be a ''tidal wave'' of litigation resulting from Y2K problems. Given the nature of the Y2K problem, it is reasonable to expect that similar claims will often arise in favor of multiple plaintiffs against the same defendant or defendants. Thus, it can be expected that a substantial portion of these cases will be brought as class actions. Responding to class actions, regardless of where they are filed, will likely be a monumental task. If the current class action provisions remain in these bills, however, the important contribution the state courts would otherwise make to meeting this challenge will be lost, and the burden of the federal system will be correspondingly increased. The transfer of this burden of the federal courts holds the potential of overwhelming federal judicial resources and the capacity of the federal courts to resolve not only Y2K cases, but other causes of action as well.

Federal administration of these state-law class actions will impose other substantial burdens. By shifting state-created claims into federal court, the bills confront the federal courts with the responsibility to engage in difficult and time-consuming choice-of-law decisions. The *Erie* doctrine requires that federal district courts, sitting in diversity, apply the law of the forum state of determine which body of state law controls the existence of a right of action. The wholesale shift of state-law class actions into federal court makes this choice-of-law obligation all the more daunting as the sheer number of possible subclasses and relevant bodies of state law multiples. Some federal courts have taken the position that such multiplicity of law itself stands as a barrier to the certification of a nationwide class action. Even where a district court agreed to certify a class, it would have to make choice of law

and substantive determinations that would have no binding force in subsequent Y2K litigation in the states in question.

In addition to the potential adverse docket impact on the federal courts, the proposed bills infringe upon the traditional authority of the states to manage their own judicial business. State legislatures and other rulemaking bodies provide rules for the aggregation of state-law claims into class-wide litigation in order to achieve certain litigation economies of scale. By providing for class treatment, state policymakers express the view that the state's own resources can be best deployed not through repetitive and potentially duplicative individual litigation, but through some form of class treatment. The proposed bills could deprive the state courts of the power to hear much of this class litigation and might well create incentives for plaintiffs who prefer a state forum to bring a series of individual claims. Such individual litigation might place a greater burden on the state courts and thwart the states' policies of more efficient disposition.

Federal jurisdiction over class action litigation is an area where change should be approached with caution and careful consideration of the underlying relationship between state and federal courts. The Judicial Conference Advisory Committee on Civil Rules has recently devoted several years of study to the rules in class action litigation. One outgrowth of that study was the appointment by the Chief Justice of a Mass Torts Working Group. The Working Group undertook a study which revealed the complexities of litigation that aggregates large numbers of claims and illustrates the need for a deliberative review of the issues that must be addressed in attempting to improve the process for resolution of such litigation. Such issues involve not only procedural rules, but also the jurisdiction of federal and state courts and the interaction between federal and state law. Y2K class action litigation implicates the same complex and fundamental issues that the Working Group identified. Even for familiar categories of litigation, these issues can be satisfactorily resolved only by further study. An attempt to address them in isolation, for an unfamiliar category of cases that remains to be developed only in the future, is unwise.

It may well be that extending minimal diversity to mass torts may be appropriate if accompanied by suitable restrictions. The Judicial Conference, for example, has endorsed in principle the use of minimal diversity jurisdiction in single-event, mass tort situations, like airplane crash litigation, and there may be other situations in which the efficiencies to be gained from consolidating mass tort litigation in federal courts are justified. Expansion of class action jurisdiction over Y2K class actions in the manner provided in the pending bills, however, would be inconsistent with the objective of preserving the federal courts as tribunals of limited jurisdiction and the reality that the federal courts are staffed and supported to function as tribunals of limited jurisdiction.

Judicial federalism relies on the principle that state and federal courts together comprise an integrated system for the delivery of justice in the United States. There appears to be no substantial justification for the potentially massive transfer of workload under these bills, and such a transfer would seem to be counterproductive. State courts provide most of the nation's judicial capacity, and a decision to limit access to this capacity in the face of the burden that Y2K litigation may impose could have significant consequences for the efficient resolution of Y2K disputes.

PLEADING REQUIREMENTS

S. 461, as well as S. 96 and H.R. 775, sets forth specific pleading provisions in Y2K litigation that would require a plaintiff to state with particularity certain matters in the complaint regarding the nature and amount of damages, material defects, and the defendant's state of mind. These requirements are inconsistent with the general notice pleading provisions found in the Federal Rules of civil Procedure (i.e., Rule 8), which apply to civil cases. The bills' provisions bypass the rulemaking provisions in the rules Enabling Act (28 U.S.C. §§2071–77). They have not been subjected to bench, bar, and public scrutiny envisioned under the Rules Enabling Act and are inconsistent with the policies underlying the Act, which the Judicial Conference has long supported.

Not only do the statutory pleading requirements bypass the Rules Enabling Act, they do so in a particularly objectionable way because they are contained in stand-alone statutory provisions outside the federal rules. This will cause confusion and traps for unwary lawyers who are accustomed to relying on the Federal Rules of civil Procedure for pleading requirements. It also would signal yet another departure from uniform, national procedural rules, following closely in the wake of similar pleading requirements contained in the Private Securities Reform Litigation Act.

On behalf of the federal judiciary, I appreciate your consideration of these views. If you or your staff have any questions, please contact Mike Blommer, Assistant Director, Office of Legislative Affairs (202–502–1700).

Sincerely,

LEONIDAS RALPH MECHAM,
Secretary.

MORNING BUSINESS

Mr. VOINOVICH. Mr. President, I ask unanimous consent that the Senate now proceed to a period of morning business with Senators permitted to speak for up to 15 minutes each.

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

Mr. VOINOVICH. I further ask unanimous consent that Senator BINGAMAN be recognized to speak following my remarks, but that before I speak, Senator STEVENS be recognized for a couple of minutes.

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

The Senator from Alaska.

BEYOND THE BOUNDS OF PROPRIETY

Mr. STEVENS. Mr. President, in the past several months when radio personalities—sometimes known as ''shock jocks''—have gone beyond the bounds of propriety, their employers have been quick to dismiss them.

For example, the Charlotte, NC, station just yesterday fired a radio talk show host who made an on-the-air joke about this week's tragedy in Littleton, CO. There was also a Washington, DC, station that immediately fired the ''Greaseman'' for his racist remarks after the tragic dragging death of a Texas man that we all remember.

Now in Chicago we learn of another one of these offensive on-the-air personalities who has stepped over the line. He made insulting remarks against Special Olympians. What he said about these brave athletes is indefensible. What he said was—and it bothers me even to repeat it—

Watch them run, watch them fall, watch them try to catch a ball. Olympics, Special Olympics. Watch them laugh, watch them drool, watch them fall into the pool. That's diving at the Special Olympics. And I know full well that I will burn in Hell, but those guys playing wheelchair basketball gotta be about the funniest—

And the expletive is deleted; they took that out—

thing I've ever seen in my life. [And it is all] at the Special Olympics.

Mr. President, these young men and women have overcome obstacles that we cannot understand. They deserve our applause and admiration. They should not be the targets of juvenile jokes on the public airwaves.

Instead, despite this disgusting display of ill-manners and bad taste, this radio station has refused to fire that shock jock.

Mr. President, I urge all of those who listen to this man in Chicago to call for his immediate dismissal.

I yield the floor.

NATO, KOSOVO AND SLOVENIA

50 YEARS OF NATO & KOSOVO

Mr. VOINOVICH. Mr. President, on Friday, the official recognition of the 50th anniversary of the North Atlantic Treaty Organization, NATO, will begin.

And even as the participants acknowledge 50 years of NATO achievements, a cloud of war hangs over the proceedings.

No doubt NATO's involvement today in Yugoslavia will be the most talked about topic among the attendees.

And as I have stated on this floor, I oppose the introduction of ground troops. I reiterate that opposition today.

As the members gather, it is my fervent hope that they will give their full devotion to those actions that can be done to prevent further bloodshed. I believe there is no greater challenge facing the United States, NATO, and the United Nations than finding a peaceful solution to this current crisis.

NATO must also look to the future to determine what its role will be in the world and what will be the responsibility of its respective members.

And, Mr. President, I would like to draw attention to a recent Washington Post article that gives an excellent historical reference for my colleagues and NATO on the perils of introducing ground troops into the Balkan region. I ask unanimous consent that this article be printed in the RECORD.

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

[From the Washington Post, Apr. 14, 1999]

U.S. NATO STUDY WWII YUGOSLAV REBELS

(By John Diamond)

WASHINGTON, (AP).—Pentagon and NATO officials considering ground troop options for Yugoslavia are studying the history of Yugoslav resistance during World War II, when hundreds of thousands of German soldiers