

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 rule-making 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 litiga-

tion 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 rule-making 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 inde-

fensible. 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

failed to pacify determined guerrilla opposition.

The Nazi campaign was called Operation Punishment, reflecting Adolf Hitler's rage against Yugoslav partisans who overthrew their own government after Belgrade made a pact with Berlin. The campaign was well-named—Yugoslav civilians were attacked with an intensity far beyond anything NATO would contemplate.

In the end, though, the Wehrmacht took plenty of punishment. And five decades later, the campaign offers lessons for any force reckoning to do battle with the hardy "South Slavs" who plagued the German army in a costly guerrilla war.

When NATO first studied ground troop options last fall, Clinton administration planners cited the German experience as one reason to rule out ground troops as an option in the Kosovo crisis.

"We always look at historic campaigns—that's something we always do" when planning a deployment, said Maj. Shelly Stellwagen, an Army spokeswoman. But she cautioned, "History alone is not enough—you've got to look at the big picture."

After insisting for weeks that no plans for ground troops were in the works, top Clinton administration officials now concede that some contingencies were studied and that plans could be activated quickly if NATO decided on ground assault. U.S. lawmakers, frustrated with the continuing ethnic cleansing in the Kosovo province of Yugoslavia despite a three-week NATO air campaign, are pushing a resolution to authorize ground troops.

Pentagon planners said they were careful not to overdo the comparison of two markedly different armies fighting with different equipment in different political contexts. Moreover, Yugoslavia today constitutes a country less than half the size of the one the German army invaded in 1941. But the difficulty of the terrain and the stubbornness of the Yugoslav people remain powerful common denominators, they said.

The German invasion force of nearly 200,000—a figure some U.S. officials have cited as necessary to invade Yugoslavia today—fluctuated after 1941 from a low of 60,000 to a high of 700,000. Through it all, the German were never able to quell the multiple and dogged Yugoslav resistance forces.

An official U.S. Army history of the campaign, written in the early 1950s, contained a warning for any future force contemplating challenging Yugoslavia on the ground.

"The success achieved by the (Yugoslav) guerrillas against the Germans . . . strengthened considerably the tradition of resistance to foreign occupation forces," the Army history concluded. "There is little doubt that a foreign invader today, whether from East or West, would be confronted with a formidable task of pacification following a successful campaign against the regular forces of the Balkan nations."

As Hitler planned Operation Barbarossa, the German invasion of the Soviet Union, he wanted to secure his southern flank by neutralizing Greece. To do that he needed Yugoslavia's cooperation, and in early 1941 he thought he had it.

But Hitler badly misjudged the sentiments of the Yugoslav people.

A coup in March 1941 toppled Yugoslavia's royal government, setting a precedent that undoubtedly influences the thinking of Yugoslavia's current leadership: Governments that cave in the foreign pressure will be ousted from within.

Hitler, in a rage, ordered the carpet-bombing of Belgrade.

Hitler's War Directive No. 25 said, "The ground installations of the Yugoslav air force and the city of Belgrade will be de-

stroyed from the air by continual day and night attacks." The strikes began 58 years ago this month, on April 6, 1941.

The Germans aimed specifically at killing civilians during 48 hours of near-continuous bombing. Hitler wanted to spare Yugoslavia's factories for his own use. NATO, by contrast, has been seeking to avoid civilian casualties while aiming at destroying Yugoslav military and weapons installations. The Germans used 1,000 attack and escort aircraft in those 48 hours. NATO has employed 700—soon to be 1,000—strike and support aircraft in three weeks of attacks.

Estimated death tolls from the Nazi bombing range widely, but published German and American estimates put the total as high as 17,000.

The German ground invasion consisted of a dozen divisions—roughly 180,000 troops—supplemented by forces from Bulgaria and Italy. German forces completed their conquest of the Balkans in 11 days.

But the lightning conquest only began Germany's troubles in the Balkans.

Despite brutal tactics, summary executions and wholesale burning of villages, German forces assaulted guerrilla strongholds again and again only to see the rebels slip into the hills and forests. By mid-1943, the U.S. Army history recounted, "It was obvious that more German troops would be required if the Balkans were to be held."

Total German forces peaked at 700,000 at the beginning of 1943, though many of these troops were either green or battle-weary veterans resting from the Russian front. No precise casualty figures exist for German forces in Yugoslavia.

Belgrade fell to the westward-marching Russians on Oct. 20, 1944.

POLAND, HUNGARY AND CZECH REPUBLIC

Mr. VOINOVICH. Today we have three new members in NATO—Poland, Hungary, and the Czech Republic.

I have long been an ardent supporter of what we use to call "the Captive Nations." There are many events that I remember as mayor of Cleveland and Governor of Ohio where we celebrated the resolve of these people to one day taste the freedoms that we have here in America.

In those days, I often wondered if I would ever witness a free Poland or a free Hungary or other nations that used to be dominated by the then-Soviet Union. This morning I attended a reception sponsored by the Polish American Congress where Prime Minister Buzek shared with me that he wondered if it would happen in his lifetime that the would see a free and independent Poland—going from the iron curtain to solidarity to NATO.

And let me say—it's just wonderful that these nations now have self-determination and they are making great progress politically and economically from where they were 20 or even 10 years ago.

I am very proud that I was one of those who encouraged the inclusion of these three nations into the NATO alliance.

And as NATO opened its arms to these three nations, I hope NATO will open its arms to take-in the Republic of Slovenia as a member. This would be an additional of particular importance considering the events happening in Kosovo today.

SLOVENIA

I strongly support the NATO membership of the Republic of Slovenia.

As many of my colleagues know, a large number of the countries of central and eastern Europe who formerly were considered "Warsaw Pact" nations have struggled economically and politically in the years since the collapse of the Soviet Union.

The former Yugoslavia, with whom we are now at war with, has been one of our greatest foreign policy challenges in recent years.

However, despite facing many of the same challenges that have hampered other states, Slovenia has emerged as the one state in the Balkans that has established itself as the model of our democratic ideals. Slovenia possesses a stable political system, has committed to free market principles and has modernized their armed forces. It is clearly a beacon in the region.

I believe that Slovenia's involvement in NATO would powerfully underscore to the other nations of the region that reforms bring rewards, and that full acceptance by the international community is a real and attainable goal.

Further, and I think this is important, I believe that the Alliance would be strengthened by Slovenia's participation.

And let me just add that I know that my colleague, Senator ROTH has been a champion for the inclusion of Slovenia in NATO and I would be remiss if I did not mention his efforts in that respect.

CANDIDACY FOR NATO

NATO's 1995 Study on Enlargement laid out the general guidelines to be used by NATO member governments during the consideration of additional members.

Candidates must have five qualifications:

- (1) free-market economies;
- (2) a democratic political system based on the rule of law;
- (3) a commitment to the norms of the Organization for Security and Cooperation in Europe (OSCE), including resolution of ethnic and territorial disputes with neighboring countries;
- (4) civilian control over militaries; and
- (5) the ability to contribute to NATO's collective defense as well as to NATO's new missions.

Since gaining independence from Yugoslavia in 1991, Slovenia has met all of these obligations and has surpassed the standard set for NATO membership established with the invitation of Poland, the Czech Republic and Hungary to the NATO Alliance.

(1) FREE-MARKET ECONOMY

Slovenia has committed to a market economy and enjoys the highest per capita Gross Domestic Product (GDP) in central and eastern Europe. This has given them the highest international credit rating in the region.

In a further indication of Slovenia's economic development, the European Union, EU, began membership talks with Slovenia in March of 1998. A November 1998 Commission report indicated that Slovenia "can be regarded

as a functioning market economy." Clearly, Slovenia has met this candidacy requirement.

(2) DEMOCRATIC POLITICAL SYSTEM

Slovenia has a vibrant parliamentary democracy characterized by peaceful and meaningful political debate. Elections are free, fair, and open. There is an independent judiciary.

As the U.S. State Department's Report on Human Rights Practices for 1998 mentioned, "the press is a vigorous institution" and "in theory and practice, the media enjoy full freedom in their journalistic pursuits."

Further, the Report states that "the Government respects the human rights of its citizens, and the law and judiciary provide adequate means of dealing with individual instances of abuse." Slovenia has met the NATO candidacy requirement.

(3) COMMITMENT TO OSCE

With regards to Slovenia's role in the international community thus far, it is a member of the Organization for Security and Cooperation in Europe, OSCE, the Council of Europe, NATO's Partnership for Peace and Euro-Atlantic Partnership Council, the World Trade Organization, the International Monetary Fund as well as the World Bank.

Property rights concerns that had existed with Italy were resolved in 1996 with the Association Agreement between Slovenia and the European Union. Slovenia has again met the NATO candidacy requirement.

(4) CIVILIAN CONTROL OVER MILITARY

Since Slovenia had not fielded a military prior to its independence, ensuring civilian control was not as problematic as it might have been otherwise.

Specifically, the armed forces are controlled by the civilian defense minister while the legislative branch plays an oversight role. The NATO candidacy requirement has been met.

(5) ABILITY TO CONTRIBUTE TO NATO'S COLLECTIVE DEFENSE AND MISSIONS

While Slovenia has more than exceeded the other requirements for NATO membership, there have been some criticisms regarding its ability to contribute to NATO's collective defense as well as future NATO missions.

Slovenia's population is just under 2 million people. This reality limits the viable size of its armed forces.

In response to this challenge, Slovenia has focused on developing a professional force that is smaller in size than many of the NATO aspirants but which may be more effective in the field.

To that end, Slovenia has set defense spending at 1.89 percent of its GDP—which I might add is a higher percentage than a number of current NATO member countries. Plans are in place to raise this to 2.3 percent by the year 2003.

Thus far, these monies have largely been spent on air defense, antiarmor weapons and communications equipment that are designed to be interoper-

able with existing NATO forces and equipment.

While Slovenia's forces are comparatively small in size, they have been actively involved in a variety of international operations over the years. Slovenia is involved in peacekeeping missions in Albania, the NATO-led Stabilization Force in Bosnia (SFOR) and United Nations efforts in Cyprus.

Finally, Slovenia has expressed its willingness to participate in any NATO deployment initiated to promote peace in Kosovo. Again, Slovenia has met difficult challenges to achieve NATO membership and has responded creatively and positively.

ECONOMIC INTEREST TO AMERICA

Let me point out that in addition to these strategic foreign policy concerns, there is a very real economic interest for the United States in bringing Slovenia further into the international community.

During the 1992 through 1997 time period, U.S. exports to Slovenia increased by 197 percent. Over the same period, Ohio's exports have increased a staggering 220 percent.

TRADE WITH OHIO

In an effort to further develop these trade ties, as Governor of the State of Ohio, I had the opportunity to lead two trade missions of business leaders to Slovenia in 1993 and 1995. Soon after these missions, Goodyear Tire & Rubber Company of Akron, OH, made the largest direct U.S. investment in Slovenian history. The inclusion of Slovenia in the NATO community would provide an important incentive for this type of trading relationship in the future.

CONCLUSION

Our nation is on a path to enlarge NATO and ensure that the freedom and prosperity that western Europe has enjoyed for decades spreads to the nations of central and eastern Europe.

With those goals in mind, we must support Slovenia's entrance into NATO. And there is no perfect time than this, the 50th Anniversary of ANTO summit to let the people of Slovenia, as well as the rest of Europe, know that their democratic changes, economic reforms and military modernization will be rewarded with full participation in the international community.

Mr. President, with your permission, I will make a statement in regard to one of Ohio's outstanding citizens who is celebrating his 80th birthday.

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

80TH BIRTHDAY OF CARL LINDNER

Mr. VOINOVICH. Mr. President, today, my dear friend, and one of Ohio's and America's most successful businessmen, Carl Lindner, is celebrating his 80th birthday. I extend to him my sincere best wishes.

Carl got his business start in 1940, founding United Dairy Farmers along

with his father and his brothers, Bob and Dick and his sister Dorothy.

From that first beginning, Carl Lindner fine-tuned his business acumen and has never looked back. As he says, "only in America." Today, he is chairman of the board and chief executive officer and founder of American Financial Group, one of our Nation's largest insurance firms.

He is also chairman of the board and CEO of Chiquita Brands International as well as the Great American Group of Insurance Companies.

He is active in a number of organizations and institutions in the Cincinnati area and in Washington.

He is the recipient of numerous awards and accolades—and there are a number of them—including the Golden Plate Award by the American Academy of Achievement in 1978. He is also a 33rd degree Mason and is the recipient of the Van Rensselaer Medal—one of only 14 people worldwide to receive such a distinction.

In 1998, he was awarded the Gourgas Medal, which is the most distinguished honor given by the Supreme Council of the Scottish Rite "in recognition of notably distinguished service in the cause of Freemasonry, country or humanity."

A religious man, Carl Lindner has given of himself to those of faiths other than his own. In 1989, the Hebrew Union College awarded Carl the Jewish Institute of Religion Interfaith Award. In 1995 he received the Jewish National Fund's International Peace Award—the highest international honor and award given by the Jewish National Fund.

Carl's civic and business accomplishments run the gamut, from the Friars Club's Centennial Award in 1985 to the National Council of the Boy Scouts of America's "Silver Beaver" award in 1995 to the Distinguished Service Citation by the National Conference of Christians and Jews.

He has also been inducted into the Greater Cincinnati Business Hall of Fame and the Junior Achievement National Business Hall of Fame. Further, in 1997, he received the Heritage Award from the Cincinnati Urban League.

Carl Lindner is also a great believer in quality education, and has devoted his time, energy and resources to encourage students and provide them with institutions in which to learn. His service and generosity have earned him three honorary doctorates from Judson College in 1983, the University of Cincinnati in 1985 and Xavier University in 1991. He was also presented with the Lincoln Award from Northern Kentucky University in 1993.

In addition, the College of Business Administration at the University of Cincinnati is housed in Carl Lindner Hall and the school has established the Carl Lindner Annual Medal for Outstanding Business Achievement and a new honors program—the Carl Lindner Honors-Plus program. Xavier University has dedicated the Carl Lindner Family Physics Building. Carl and his