

that building. Unfortunately, a couple of the perpetrators came from my side of the Hudson River. But we searched until we found the people, just as we did in Oklahoma. We searched until we found the people. We can't push buttons and instantly solve these crimes that are planned by crazies, master-minded by people who have lots of skills in the wrong areas.

We do our share; we really do. I think it is unfair to cast a net. Yes, I disagree with the decision on the vote of the U.N., but I trusted this administration, I trusted our Government to say, OK, the reason we don't want to do it is to create a further imbalance, to further enrage the Palestinian young people, to further the violence that is going on there. We have hopes for peace. Our mission is peace, not to make more war.

So while we disagree—in hindsight it is always easy to disagree—the fact is, President Clinton picked up bag and baggage, went there overnight to try to bring the parties together. He is not disengaged by a longshot. We are not taking the Palestinian side in any issue. We are friends of Israel, but we are also cognizant that the Palestinians are humans. We don't want harm brought to them, either.

I am sorry to get so passionate about this, but I have strong views and I just disagree with our colleague from Oklahoma.

Mr. NICKLES. Mr. President, I didn't hear total disagreement. I think I heard my colleague say he agreed with me that the administration should have vetoed the U.N. resolution that strongly condemned Israel and was silent about Palestinian violence. We agree.

I think he also said he agreed with me that we should be very assertive in trying to find those people responsible for the Khobar Towers, for that bombing that was so damaging, that killed 19 Americans, wounded a couple hundred others. We haven't had success. He is critical of the Saudi Government. So am I.

The point being, our language and our rhetoric in some cases has exceeded our results. When we had two American embassies that were bombed, what did we do? We lobbed a few cruise missiles. We don't know if those hit the people who were directly responsible or not.

The point is, if you are going to hold people accountable, you want to hold the people who are directly accountable for committing the crime against American citizens who killed American citizens, and we haven't done that in the two latest cases of terrorism. Frankly, if you don't hold them accountable, I think that sends a bad signal.

I would agree with my colleague from New Jersey, we should certainly hold people accountable for the U.S.S. *Cole*. Likewise we should hold people accountable on Khobar Towers and on American embassies, and that hasn't happened yet. That was my point.

THE AGRICULTURE CONFERENCE REPORT

Mr. NICKLES. Mr. President, I want to comment on the Agriculture conference report that just passed overwhelmingly today in the Senate. It already passed the House and it will be going to the President to be signed. In my opinion, there are a couple of provisions in this bill that really should not have been included and are serious mistakes that may come back to haunt Congress or will require Congress to change their actions.

One of them deals with private contracts. I happen to believe very strongly in private contracts. I came from the business sector, the private sector. When Congress interferes in private contracts, it ought to have a good reason. It ought to know what it is doing. Frankly, it should hardly ever do so. In this case, we put some language in this bill that I venture to say very few of our colleagues—maybe only a couple—even know it exists or what its ramifications will be.

There is language in the Agriculture conference report that doesn't deal with Agriculture but deals with reimportation of drugs. Yes, we debated reimportation language on the Senate floor, but we didn't debate this contracting issue.

Senator JEFFORDS offered an amendment dealing with reimportation of drugs. However, the amendment offered by Senator JEFFORDS contained some serious flaws, which led me to oppose the amendment. For example, the original Senate language included a provision that would have established two separate standards for drugs that were sold in the United States. One standard, which is current law, with regard to drugs that are manufactured and sold in the U.S. And a separate, and in my opinion, inferior standard for drugs that are imported or reimported into the U.S. Fortunately, the conference agreement corrected the flaws of the original Jeffords language and will require that all drugs, including those imported by businesses other than the manufacturer, must fully comply with Section 505 of the Federal Food, Drug and Cosmetic Act. This means that every importer must ensure that all safety standards which are included in a new drug approval application (NDA) are fully met for every drug which is imported into the U.S. Additionally, the conference agreement retained Senator COCHRAN's amendment that perfected and improved the Jeffords amendment to require that the Secretary ensure that if drugs are imported, U.S. safety standards will be used to ensure that these drugs pose no risk to the public health and that consumers will benefit from any potential savings prior to this law going into effect. I supported the Cochran amendment and I am pleased that this bill included that language.

However, in conference, new language was added that was not in either the House bill or the Senate bill. It

wasn't in any of the language adopted on the Senate floor. This language states:

No manufacturer of covered products—[prescription drugs]—may enter into a contract or agreement that includes a provision to prevent the sale or distribution of covered products under this subsection.

What does that mean? Well, it means that this Congress could either abrogate or direct contracts which don't meet this new federal test. I think that is a serious problem. This could make it illegal for a patent holder to insert a clause into a private licensing agreement with a foreign distributor that prevents a foreign distributor from reselling that product for any reason.

This proposal could prohibit any private agreement that limits or restricts the sale of drugs, including quantities, territories, resale conditions, or other normal terms of commerce.

I think this Congress is inappropriately intruding into commerce in ways that we don't have any idea what we are doing, what the ramifications may be and may in fact be unconstitutional. But that's not all. Additionally, the language we have adopted would direct the U.S. Government to sanction companies that structure their business relationships with foreign distributors in a manner inconsistent with the legislation. A lot of these businesses have been doing business with people to resell their drugs, and we are going to say they are not doing it right so we can fine them. We may in fact require them to sell to anybody. Can they resell in any way they want to? Not according to this language. So a manufacturer can lose total control of its products and this may at some point result in a number of counterfeit drugs and other safety problems. How is this type of provision consistent with the basic concept of private property and freedom to contract? It is not. It really makes no sense. Have we had any hearings on this? No. If you restrict this kind of contract for pharmaceutical companies, why in the world can't you do it for any other contract? So somebody says, wait a minute; this just deals with pharmaceutical products. Frankly, if Congress can insert itself into contracting language, are we going to do the same thing on contracts between auto dealers or other private business.

There is a little bill floating around that would try to do that. We can do it on other contracts where maybe we deem we have superior wisdom to all the business groups out there or anybody who has a contract, that we know better. What does this language mean? What is its impact? We are going to go and give the authority to fine somebody if they don't comply. Wow. This is in an appropriations bill. It didn't come through the Judiciary Committee or a committee composed of people who work on contracts or work on judicial issues. We are setting up that kind of a program, and I am embarrassed for us to do that.

This type of legislating sets a horrible precedent for other businesses as well. It is not appropriate for this Congress to force American manufacturers to sell their products to consumers that they do not want to sell to under contract terms that the federal government approves. This type of requirement is unfair and lacks common sense. I predict it will raise serious constitutional questions as well and may interfere with the exercise of intellectual property rights. It is unfortunate that this language was included in this bill. I think this is a serious mistake.

It is somewhat similar to another mistake, in my opinion, included in this bill, which is title X, the continued dumping and subsidies offset. It is a brand new provision. It is a provision inserted in the Agriculture conference. It deals with subsidies and with dumping. Those are trade issues, trade sanctions, usually handled in the Ways and Means Committee in the House and the Finance Committee in the Senate. This didn't go through either. I will tell my colleagues this provision could not pass the Finance Committee. It could not pass the Ways and Means Committee.

This runs directly contrary, frankly, to free trade and the idea of trying to expand trade. This says if you have a dumping complaint, and if you happen to win, the benefits go back directly to that company, directly to the individuals involved. So there is a reward and incentive that if you file a dumping complaint and win, you will receive benefits. This encourages lawsuits on dumping because you can win the "lottery." Here they come. It doesn't make sense. It is probably not WTO consistent. This says "consistent with the rights under the World Trade Organization." I venture to say that it is not consistent with WTO rights in any way, shape, or form. It will probably be thrown out by the courts.

Why are we doing this? I am on the Finance Committee, and did we have a hearing on this? No, we did not. Did the Ways and Means Committee have a hearing on this? I don't believe so. But all of a sudden, it is inserted into a conference report which is not amendable. Some colleagues say they don't like this process. I don't like this process either. I think it is bad legislation. I think it can come back to haunt us, and we could be talking about hundreds and hundreds of millions of dollars from this provision alone.

Again, how many colleagues are even aware that this is in the bill? We have committees of jurisdiction, such as the Judiciary Committee, that should be dealing with contracts and they should have handled this contracting issue. My guess is that they would have scrubbed it and done a better job. The Finance Committee, which deals with trade, would totally reject this idea of rewarding people if they file successful dumping lawsuits.

Mr. President, it is with regret that I say there are other aspects of this Ag-

riculture appropriations bill, which has grown substantially, that bother this Senator. We would end up passing a bill that increases budget authority over the President by 22 percent in outlays and 24 percent in budget authority. That bothers me. It bothers me when we see growth in the discretionary portion of this bill to that extent—to be growing at 24 percent I don't think is affordable or responsible. I could go on.

Also, there are expansions of entitlements. I remember earlier this year when we passed emergency assistance, and we busted that. We busted it big time. I understand there are a lot of problems. We had a drought as bad as anybody. Texas suffered from a drought and so did we. This is fiscally irresponsible, in my opinion. And because of the provision dealing with dumping and the abrogation of contracts, or the changing of contracts, and the total cost of this bill, regrettably, this Senator had to vote against the Agriculture conference report.

I see my colleague from Alabama is here. I am prepared to wrap up. How long does he wish to speak?

Mr. SESSIONS. Fifteen minutes.

Mr. NICKLES. I will give the Senator from Alabama the pleasure of closing the Senate then.

I yield the floor.

The PRESIDING OFFICER (Mr. BROWNBACK). The Senator from Alabama is recognized.

THANKING THE ASSISTANT MAJORITY LEADER

Mr. SESSIONS. Mr. President, the assistant majority leader is becoming the conscience of this Senate. It is a thankless task to say no on bills as popular as the Agriculture bill—something that was important for my State. I voted for it and I respect it. I think it is also important if we are going to have any respect for our ultimate budget requirements, the people in our leadership need to stand up and speak out, and I appreciate him doing so. He provides great leadership for us.

CONGRESS' OVERSIGHT RESPONSIBILITIES

Mr. SESSIONS. Mr. President, I am concerned that we as a Congress have not been as effective in our oversight responsibility as we should. I want to share some remarks on that subject in a minute. The distinguished assistant majority leader made some remarks about our failure to identify, prosecute, and hold to account individuals who have committed terrorist acts against American service men and women and citizens. That is an important issue. In fact, we have not been effective at it.

I remember when the attack was made on the Sudan pharmacy, the pill factory there. I remember the attack made on the facility in Afghanistan not long after that. The committee on which I serve had a hearing where the

Director of the FBI, Louis Freeh; former Director of the CIA under President Clinton, Mr. Woolsey; and Jean Kirkpatrick discussed that event.

Prior to that time, I had publicly stated that I did not believe President Clinton had utilized these attacks to distract attention from the domestic problems he was having at home. People were suggesting it was a "wag the dog" syndrome—an attack that may not have been justified but helped distract public attention from his own troubles. I said no about that. But I must admit after having heard at that hearing these distinguished Americans discuss how that attack was conducted that I was very troubled. I really did not believe it made a lot of sense to just lob missiles into a factory and hope that was justified factually; that it was a factory that may have had something to do with it; and, who would be injured. That kind of thing was very troubling, and certainly had no realistic impact or potential to hurt Bin Laden who may have been involved in that. In fact, he is under indictment now for terrorist acts.

Then in Afghanistan, we just shot off some missiles. We don't know whether or not anybody was hurt. That is all it was. So we retaliated. We had done something. We didn't really do anything. That is the fact. We really did not do anything. Nobody involved in that terrorist act that we know of to this day has been held to account because of it.

We have to be prepared to work hard to identify who was involved in those activities, and to do everything we can to arrest them and bring them into custody, and, if not and if they resist, to be able to take them out wherever they may be.

That is just the plain fact of it. Bin Laden, for example, has openly declared war on the United States. The attack on this vessel—the U.S.S. *Cole*—was more than just a terrorist attack. It was an act of war. We have every right, and we have a duty as any great nation does to defend itself and its ability to send its ships on the open seas, and to enter port in which it should be safe. We have every right, and we have a duty to respond to that. If we don't do so, who will be next? Who else will be hurt? I left the memorial service at Norfolk just today. It was a very moving ceremony with all of those sailors standing on the *Eisenhower*. When the Chief of Naval Operations for the Atlantic finished his speech, he said, "Remember the *Cole*." When the ceremony was over, one of those sailors on that great aircraft carrier yelled "Remember the *Cole*." It is our responsibility to remember those 17 who are no longer with us and the ones who are injured. We cannot allow this kind of activity time and time and time again, as Senator NICKLES said, to be carried out and nothing happen.

I am glad he talked about that. We need to do better.