

to compete, must not be turned upon when he wins."

For Microsoft and the rest of our domestic high-tech industry, it may be too late to heed Judge Hand's warning.

Whatever justification the Justice Department used for its actions against Microsoft, the real measure of success in the Microsoft case is how it affects American consumers and the American economy.

From their perspective, the verdict is clear: The Justice Department's suit against Microsoft is bad for consumers, bad for high-tech markets, and bad for the country.

Mr. President, our anti-trust laws are unlike health and safety regulations. Their purpose isn't to protect the physical well being of citizens, but rather their pocketbooks.

Like other forms of economic regulation, a successful effort requires two conditions. First, there must exist a market failure. Second, the government must be in a position to fix that market failure.

The case against Microsoft fails both conditions. Our domestic computer markets are working just fine. For thirty years, they have been characterized by falling prices, rising performance, and increased choice:

According to the Commerce Department, quality-adjusted prices for computer memory chips have declined 20 percent per year since 1985;

A chip that sold for \$1778 in 1974 cost just 47 cents in 1996; and according to the CBO, software prices have been falling between 3 and 15 percent per year on average.

Meanwhile, new products are being introduced every day. There are currently over 25,000 applications designed to run on Windows, yet the fastest growing segment of the market includes so-called "Microsoft-Free" applications.

Mr. President, I am one of the most computer illiterate members of the United States Senate, but I can pull airline flight information off the internet faster than anybody here. I use my Palm Pilot to do it. The Palm Pilot doesn't have any Microsoft products in it. You can browse the internet with your cell phone too. Again, no Microsoft.

And just recently, Linux-based software writer Red Hat announced a partnership with Dell Computer to accelerate the commercial adoption of the Linux operating system. This new system would compete directly with Windows-based computers.

Lower prices, better performance, increased choice—Mr. President, there is no market failure in our domestic computer industry. To suggest otherwise doesn't pass the laugh test.

Nor does the suggestion that consumers are better off following Judge Jackson's ruling. All the evidence suggests just the opposite.

One unique aspect of today's economy is that America's consumers are also America's owners. Fully one-half

of American families own stock in American companies. Those families have been hurt by the Microsoft case.

On April 3, Judge Jackson issued his finding of law. That day, the Nasdaq stock index crashed. It fell a record 349 points. That's a loss to Americans of about \$450 billion—or about 5 percent of our national income.

Gone, in one day.

Mr. President, a basic premise of anti-trust action is to defend consumers. We want to protect competition, not competitors.

Yet, in the Microsoft case, it was the competition that pointed the finger. Actual consumers were notably absent. So how did the markets treat Microsoft's competition following Judge Jackson's ruling? Poorly.

Of the companies that testified against Microsoft—Intel, IBM, Compaq, Oracle, AOL, Sun Microsystems, Intel, Apple, and Gateway—only one saw its stock rise in the month following the Judge's ruling. Every other stock had dropped, some by as much as 30 percent.

This decline is no coincidence. According to a study recently published in the *Journal of Financial Economics*, whenever the government's antitrust suit has scored a victory against Microsoft, an index of non-Microsoft computer stocks falls. When Microsoft wins a round, those computer stocks rise.

Judge Jackson may have ruled against Microsoft, but the markets have ruled against government interference in the New Economy.

Mr. President, the only monopoly consumers need to worry about in the Microsoft case is the monopoly government regulation has over private industry.

Having stood on the sidelines while American's high-tech community led the American economy into the twenty-first century, the government is now stepping in and telling those same corporations how to run their business.

Economic regulation used to be popular in Washington, DC. At one point in the late 1970s, the federal government controlled the pricing and market access of all our transportation industries—trucking, airlines, rail, and pipeline—as well as the energy industry.

Today, those regulations are gone, and we are all better off. The last twenty years of economic growth and prosperity demonstrates that those regulations did the economy more harm than good.

In many ways, our anti-trust laws are the last toe-hold of economic regulation in the federal code.

Unfortunately, it's a growing toe-hold. The number of investigations by the Justice Department under our anti-trust laws has exploded in recent years, rising from 134 in 1995 to 276 in 1997.

Which begs the question, who's next?

Now that the Justice Department has been turned loose, who are the other innovative companies that might want

to ensure that their lawyer's retainers are fully paid?

Intel: With a market share of 80 percent, Intel is by far the leader in sales of the microprocessor market for PCs. While this lead seems reasonable, since Intel invented the first microprocessor in 1971, innovation isn't a defense in anti-trust law. Intel's profit margins have exceeded 20 percent for the past five years.

AOL: With almost 25 million online subscribers, AOL is the clear worldwide leader in online services. Investor Research says: "The service has continued to make significant gains in the number of customers, despite charging a monthly fee of \$21.95 that is higher than the industry's standard fee of \$19.95." Do higher fees indicate monopoly rents?

Cisco: Cisco Systems is the world's largest supplier of high performance computer internetworking systems. It supplies the majority of networking gear used for the internet. According to Investor Research: "Demand for switches is being driven by a need for greater bandwidth by corporate users: Cisco dominates this market." Mr. President, the term dominates is bad in the anti-trust world.

EBAY: EBAY operates the world's largest person-to-person online trading community, with more than 10 million registered users and 3 million items listed for sale. You can purchase antiques, coins, collectibles, computers, memorabilia, stamps, and toys on EBAY from other individuals. Profit Margins: 70 percent plus. Seven Zero.

One irony in the Microsoft case is that Netscape, the frequently cited "victim" in the case against Microsoft, was in 1996 clearly a monopoly player in its own right, with over 80 percent of the browser market. Now, Netscape is owned by AOL, another monopoly-sized player.

America's high tech community used to shun government interference. They would be smart to continue to do so. The companies that encouraged the Microsoft lawsuit made a Faustian bargain. Now that the government has focused on this industry, it may be difficult to turn its attention elsewhere.

That's too bad. The case against Microsoft has hurt the high tech community where it counts—in its pocketbook. But the full cost of this ill-advised attack remains to be seen. Right now, America stands alone atop the New Economy. Increased government intervention is a good way to ensure that dominance doesn't last.

#### THE TRUTHFULNESS, RESPONSIBILITY AND ACCOUNTABILITY IN CONTRACTING ACT

Mr. ROBB. Mr. President, I am pleased to be joined by several of my colleagues in support of the Truthfulness, Responsibility and Accountability in Contracting Act, or the TRAC Act. We look forward to dropping our bill when the Senate returns from the July 4th recess.

The TRAC Act simply stated, seeks the best value for the federal dollar. Its main objectives are instituting public-private competition and tracking costs. My colleagues and I agree that improvements to service contracting should be made, and this bill is one way to achieve that.

Our bill directs federal agency certification before entering into new contracts. These standards include establishing agency-wide reporting systems to report contracting efforts; requiring public-private competition; and reviewing contractor work and recompetiting that work if appropriate.

Why the new standards? So we can better ascertain what the federal government is spending for government services. David Walker, Comptroller General for the General Accounting Office, stated recently in a June 1st Washington Post piece by David Broder that "... it is not clear that the remaining federal employees are capable of monitoring the cost and quality of the outsourced activities." The ability to monitor costs is essential if the Congress is to exercise proper oversight of federal funds spent to carry out services by either contractors or federal employees.

We also want to ensure an even playing field between contractors and federal employees when competing for work. The public-private competitions required by the TRAC Act will determine how best the federal government can save money on its many critical services. Our bill doesn't guarantee any pre-determined outcome in a public-private competition, but rather ensures that these competitions occur.

Contractors have historically played a role in delivering government services and will continue to do so. Therefore, our bill will allow the federal agencies to see who completes work most effectively, regardless of who delivers the service.

#### EXPIRATION OF CHAPTER 12 OF THE BANKRUPTCY CODE

Mr. GRASSLEY. Mr. President, at this time, I am seeking recognition in order to call to my colleagues' attention something that will happen today. At midnight today, bankruptcy protections for family farmers will disappear. Chapter 12 of the Bankruptcy Code will expire. And America's family farming operation will be exposed to foreclosure and possible forced auctions. I think this will be a clear failure on the part of the Congress and the President to do their duty. How did we get here? After all, the Senate and House have passed bankruptcy reform bills which made chapter 12 permanent. But a small minority of Senators who oppose bankruptcy reform have apparently decided that they would rather see America's family farmers with no last-ditch safety net than let the House and Senate even convene a conference committee in order to get the two bills reconciled.

But even with these stall tactics, the House and Senate have met informally to resolve the bankruptcy bills. The informal agreement, of course, will make chapter 12 permanent. If we were allowed to pass this bill, America's family farmers would never again face the prospect of having no bankruptcy protections.

That's right Mr. President, we have the power right now to give family farmers last-ditch protection against foreclosures and forced sales. But, some of our more liberal friends won't let that happen. Some members of this body have just decided to play political chess games with bankruptcy reform, and they're willing to use family farmers as pawns to be expended in pursuit of some larger goal.

Mr. President, with the sluggishness we have in the farm sector, I think it's just plain wrong to play games with family farmers. Senator LOTT and the Republican leadership have tried to move the bankruptcy bill repeatedly and have been stymied every step of the way. We need to help our family farmers, not play games with their futures. The opponents of bankruptcy reform have resorted to tactics which are morally bankrupt.

Mr. President, back in the mid-1980's when Iowa was in the midst of another devastating farm crisis, I wrote chapter 12 to make sure that family farmers would receive a fair shake when dealing with the banks and the Federal Government. At that time, I didn't know if chapter 12 was going to work or not, so it was only enacted on a temporary basis.

Chapter 12 has been an unmitigated success. As a result of chapter 12, many farmers who once faced total financial ruin are still farming and contributing to America's economy. As was the case in the dark days of the mid-1980s, some are again predicting that farming operations should be consolidated and we should turn to corporate farming to supply our food and agricultural products. As with the 1980s, some people seem to think that family farms are inefficient relics which should be allowed to go out of business. This would mean the end of an important part of our Nation's heritage. And it would put many hard working American families—those who farm and those whose jobs depend on a healthy agricultural sector—out of work.

But the family farm didn't disappear in the 1980s, and I believe that chapter 12 is a major reason for the survival of many financially troubled family farms. An Iowa State University study prepared by professor Neil Harl found that 85 percent of the Iowa farmers who used chapter 12 were able to continue farming. That's real jobs for all sorts of Iowans in agriculture and in industries which depend on agriculture. According to the same study, 63 percent of the farmers who used chapter 12 found it helpful in getting them back on their feet. In short, I think it's fair to say that chapter 12 worked in the

mid 1980s, and it should be made permanent so that family farmers in trouble today can get breathing room and a fresh start if that's what they need to make it. It's shameful that some Senators who know better are continuing to play politics and deny a fresh start to family farmers.

But the bankruptcy reform bill doesn't just make chapter 12 permanent. Instead, the bill makes improvements to chapter 12 so it will be more accessible and helpful for farmers. First, the definition of family farmers is widened so that more farmers can qualify for chapter 12 bankruptcy protections. Second, and perhaps most importantly, the House and Senate agreed to reduce the priority of capital gains tax liabilities for farm assets sold as a part of a chapter 12 reorganization plan. This will have the beneficial effect of allowing cash-strapped farmers to sell livestock, grain and other farm assets to generate cash flow when liquidity is essential to maintaining a farming operation. Together, these reforms will make chapter 12 even more effective in protecting America's family farms during this difficult period.

Mr. President, it's imperative that we keep chapter 12 alive. Before we had chapter 12, banks held a veto over reorganization plans. They wouldn't negotiate with farmers, and the farmer would be forced to auction off the farm, even if the farm had been in the family for generations. Now, because of chapter 12, the banks are willing to come to terms. We must pass the bankruptcy reform bill to make sure that America's family farms have a fighting chance to reorganize their financial affairs.

#### DISCLOSURE BY SECTION 527 ORGANIZATIONS

Mr. MURKOWSKI. Mr. President, throughout the rancorous campaign finance reform debate I have consistently argued that the only reasonable solution rests in increased disclosure and the active enforcement of current laws. For this reason, I voted in support of H.R. 4762—legislation requiring 527 organizations to disclose their political activities and supporters.

I want to unequivocally state, however, that I believe this bill is only the first step towards complete disclosure and accountability in campaign financing. Financing laws must be fair, and they must be universal. Disclosure requirements must be extended to other tax-free organizations as well, namely Internal Revenue Code 501(c) groups that have actively participated in local and national elections.

What is the benefit of disclosure laws if they do not apply to all? I suggest that unbalanced and incomplete restrictions will only enhance efforts to manipulate campaign financing laws. 527 groups will, essentially, be encouraged to pack up shop and re-emerge as 501(c) groups. Quickly, they will be able to continue their efforts to influence elections with limited disclosure requirements. Clearly, more reform must be done.