

2993, with Senator KOHL to give the Federal Trade Commission, FTC, and the Department of Justice, DOJ, the ability to effectively enforce antitrust laws concerning contract and payment arrangements between drug companies which could hurt consumers.

Unfortunately, no action was taken on that Leahy-Kohl bill, and the newspapers are now full of articles about allegations that Shering-Plough paid \$90 million to generic drug manufacturers to delay sales of a low-cost generic drug taken by heart patients.

While these allegations have yet to be resolved for those particular companies, this story highlights the need to pass legislation to prevent this type of problem from happening in the future.

If Dante were writing *The Inferno* today, he might well have reserved a special place for those who engage in these anti-consumer conspiracies.

The Federal Trade Commission deserves credit for exposing this problem, during last Congress and this Congress. Under the bill we are introducing today, companies are required to give the FTC and the Justice Department the information they need to prevent manufacturers of patented drugs—often brand-name drugs—from simply paying generic drug companies to keep lower-cost products off the market.

These deals which prevent competition hurt senior citizens, hurt families, and cheat healthcare providers.

These pharmaceutical giants and their generic partners then share the profits gained from cheating American families.

The companies have been able to get away with this by signing secret deals with each other not to compete. Our bill, the “Drug Competition Act of 2001”, will expose these deals and subject them to immediate investigation and appropriate action by the Federal Trade Commission or the Justice Department.

This solves the most difficult problem faced by federal investigators: finding out about the improper deals. This bill does not change the so-called Hatch-Waxman Act, it does not amend FDA law, and it does not slow down the drug approval process. It allows existing antitrust laws to be enforced by ensuring that the enforcement agencies have information about no-compete deals. The same confidentiality requirements will still apply to the FTC and to DOJ, as under current law.

The issue of making deals which prevent competition was addressed in a New York Times editorial titled, “Driving Up Drug Prices,” published on July 26, 2000. The editorial noted that even though the FTC “is taking aggressive action to curb the practice. It needs help from Congress to close loopholes in federal law.”

This bill is that help, and the bill slams the door shut on would-be violators by exposing the deals to our competition enforcement agencies.

Under current law, manufacturers of generic drugs are encouraged to chal-

lenge weak or invalid patents on brand-name drugs so that consumers can enjoy lower generic drug prices.

Current law grants these generic companies a temporary protection from competition to the first manufacturer that gets permission to sell a generic drug before the patent on the brand-name drug expires.

This approach then gives the generic drug manufacturer a 180-day head start on other generic companies.

That was a good idea. The unfortunate loophole that has been open to exploitation is the fact that secret deals can be made that allow the manufacturer of the generic drug to claim the 180-day grace period, to block other generic drugs from entering the market, while, at the same time, getting paid by the brand-name manufacturer for not selling the lower-cost generic drug.

The bill we are introducing today will shut this loophole down for companies who want to cheat the public, but keeps the system the same for companies engaged in true competition with each other. This bill would give the FTC or the Justice Department the information they need to take quick and decisive action against companies driven more by greed than by good sense.

It is important for Congress not to overreact to these outrages by throwing out the good with the bad. Most generic companies want to take advantage of this 180-day provision and deliver quality generic drugs at much lower costs for consumers. We should not eliminate the incentive for them to do that.

Instead, we should let the FTC and DOJ look at every single deal that could lead to abuse so that only the deals that are consistent with the intent of that law will be allowed to stand.

We look forward to suggestions from other Members on this matter and from brand-name and generic manufacturers who will work with us to make sure this loophole is closed.

We are pleased that Congressman WAXMAN will introduce a companion bill in the House of Representatives. I look forward to working with him and with the other cosponsors in this effort.

I ask unanimous consent that a brief summary of the Drug Competition Act be printed in the RECORD.

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

SUMMARY OF THE DRUG COMPETITION ACT OF 2001

The bill facilitates Federal Trade Commission and Department of Justice confidential review of agreements between brand-name drug manufacturers and potential generic competitors so that they can more efficiently enforce existing antitrust laws.

The bill covers brand-name drug manufacturers and generic manufacturers that enter into agreements regarding the sale or manufacture of a potentially competing generic equivalent (of any particular brand-name drug).

In cases where those agreements could have the effect of limiting sales of that ge-

neric-equivalent drug, or could limit the research or development of that competing generic, both (or all) companies are required to file the texts of those agreements with the Federal Trade Commission and with the Attorney General within 10 business days after the agreement is executed.

Failure to file may result in a civil penalty of not more than \$20,000, per day. The Act would take effect 90 days after enactment.

No existing time limits, requirements, or patent or drug approval systems are affected by this limited filing requirement. The bill does not amend the Sherman Act, other antitrust laws, the Federal Trade Commission Act, the Hatch-Waxman Act or other generic drug laws, the Federal Food, Drug and Cosmetic Act, or any patent or drug safety law.

STATEMENTS ON SUBMITTED RESOLUTIONS—APRIL 5, 2001

SENATE RESOLUTION 66—EXPRESSING THE SENSE OF THE SENATE REGARDING THE RELEASE OF TWENTY-FOUR UNITED STATES MILITARY PERSONNEL CURRENTLY BEING DETAINED BY THE PEOPLE'S REPUBLIC OF CHINA

Mr. THOMAS (for himself, Mr. KERRY, Mr. WARNER, Mrs. FEINSTEIN, Mr. MURKOWSKI, Mr. BIDEN, Mr. LUGAR, Mr. SMITH of Oregon, Mrs. CLINTON, Mr. BROWNBACK, Mr. BAUCUS, Mr. ROBERTS, Mr. NELSON of Florida, Mr. LIEBERMAN, Mr. KENNEDY, Mr. DODD, Mr. TORRICELLI, Mr. CORZINE, Mr. McCONNELL, Mr. LEVIN, Mrs. BOXER, Mr. WELLSTONE, Mr. DASCHLE, Mr. ROCKEFELLER, Mrs. CARNAHAN, Mr. CONRAD, Mrs. MURRAY, Mr. THURMOND, Mr. CRAPO, Mr. DORGAN, Mr. BAYH, Mr. CAMPBELL, Ms. CANTWELL, Ms. COLLINS, Mr. EDWARDS, Mr. KOHL, Mr. HUTCHINSON, Mr. FITZGERALD, Mr. INOUYE, Mr. JOHNSON, and Ms. SNOWE) submitted the following resolution; which was referred to the Committee on Foreign Relations:

Mrs. CLINTON. Mr. President, I rise in support of Senator THOMAS' resolution, which calls for the immediate release of the crew members of the EP-3E that was forced to make an emergency landing at the Lingshui, Hainan airbase on April 1st. Securing the safe return of the crew and their aircraft is a top priority for our country and this resolution makes that clear.

And I know that I speak for my constituents when I say that I am deeply concerned about the safety of the twenty-four U.S. crew members who are being held in China. My thoughts and prayers are with all of them and their family members, including the family of Kenneth Richter, a Navy cryptographer and native of Staten Island, New York.

We are fortunate to have brave men and women like Kenneth Richter serve our country. It is a reminder of how the courage and hard work of those in our armed forces help to keep America free and secure.

All Americans stand as one behind the President as our nation presses for

the immediate release of our people and our aircraft. There is absolutely no justification for their detention for one minute, let alone so many days.

STATEMENTS ON SUBMITTED RESOLUTIONS—APRIL 6, 2001

SENATE RESOLUTION 68—DESIGNATING SEPTEMBER 6, 2001 AS “NATIONAL CRAZY HORSE DAY”

Mr. JOHNSON submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 68

Whereas Crazy Horse was born on Rapid Creek in 1843;

Whereas during his lifetime, Crazy Horse was a great leader of his people;

Whereas Crazy Horse was a warrior and a military genius and his battle strategies are studied to this day at West Point;

Whereas Crazy Horse was a “Shirt Wearer”, having duties comparable to those of the United States Secretary of State;

Whereas it was only after he saw the treaty of 1868 broken that Crazy Horse defended his people and their way of life in the only manner he knew;

Whereas Crazy Horse took to battle only after he saw his friend, Conquering Bear, killed and only after he saw the failure of the Federal Government agents to bring required treaty guarantees such as food, clothing, shelter, and necessities for existence; and

Whereas Crazy Horse was killed at Fort Robinson, Nebraska, on September 6, 1877, when he was only 34 years of age: Now, therefore, be it

Resolved, That the Senate—

(1) designates September 6, 2001, as “National Crazy Horse Day”; and

(2) requests that the President issue a proclamation calling on the Federal Government and State and local governments, interested groups and organizations, and the people of the United States to observe the day with appropriate programs, ceremonies, and activities.

Mr. JOHNSON. Mr. President, I rise today to introduce a resolution that will commemorate the life of Crazy Horse. Crazy Horse was a great leader of his people, and the designation of September 6 will be the ultimate commendation for his bravery and contribution to Native Americans.

Crazy Horse was born on Rapid Creek in 1843. He was killed when he was only 34 years of age, September 6, 1877. He was stabbed in the back by a soldier at Fort Robinson, Nebraska, while he was under U.S. Army protection. During his life he was a great leader of his people. Crazy Horse was warrior and a military genius. His battle strategies are studied to this day at West Point.

Crazy Horse was bestowed with the honor of becoming a Shirt Wearer. This honor is comparable to duties like that of the Secretary of State.

Crazy Horse defended his people and their way of life in the only manner he knew, but only after he saw the treaty of 1868 broken. He took to the warpath only after he saw his friend Conquering Bear killed; only after he saw the failure of the government agents to bring

required treaty guarantees such as food, clothing, shelter and necessities for existence. In battle the Sioux war leader would rally his warriors with the cry, “It is a good day to fight, it is a good day to die.”

Throughout recent history, a memorial commemorating the life of this great warrior is under construction in my state of South Dakota. I would like to take these efforts one step further and designate September 6, 2001, the 124th anniversary of Crazy Horse’s death, as “National Crazy Horse Day.”

I urge my colleagues to join me in the commemoration of this great hero.

SENATE RESOLUTION 69—RESOLUTION CONGRATULATING THE FIGHTING IRISH OF THE UNIVERSITY OF NOTRE DAME FOR WINNING THE 2001 WOMEN’S BASKETBALL CHAMPIONSHIP

Mr. BAYH (for himself and Mr. LUGAR) submitted the following resolution; which was considered and agreed to:

S. RES. 69

Whereas the University of Notre Dame women’s basketball team won its first national championship by defeating the tenacious Purdue University Boilermakers by the score of 68-66;

Whereas for the first time in NCAA women’s basketball history, two teams from the same State appeared in the championship game;

Whereas Ruth Riley, named the Final Four’s outstanding player and a native of Macy, Indiana, led the University of Notre Dame with 28 points and made 2 free throws with 5.8 seconds left in the game to secure a victory;

Whereas Niele Ivey battled back from a sprained left ankle and scored 12 points for the Irish;

Whereas the Fighting Irish, coached by Muffet McGraw, finished their season with a 34-2 record;

Whereas the high caliber of the University of Notre Dame Women Fighting Irish in both athletics and academics has advanced the sport of women’s basketball and provided inspiration for future generations of young female athletes; and

Whereas the Fighting Irish’s season of accomplishment inspired euphoria across the basketball-loving State of Indiana: Now, therefore, be it

Resolved,

SECTION 1. CONGRATULATING THE UNIVERSITY OF NOTRE DAME WOMEN’S BASKETBALL TEAM.

(a) IN GENERAL.—The Senate congratulates the Fighting Irish of the University of Notre Dame for winning the 2001 NCAA Women’s Basketball Championship.

(b) TRANSMITTAL.—The Secretary of the Senate shall transmit a copy of this resolution to the president of the University of Notre Dame.

SENATE RESOLUTION 70—RESOLUTION HONORING THE AMERICAN SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS FOR ITS 135 YEARS OF SERVICE TO THE PEOPLE OF THE UNITED STATES AND THEIR ANIMALS

Mr. DURBIN (for himself and Mr. SMITH of New Hampshire) submitted

the following resolution; which was considered and agreed to:

S. RES. 70

Whereas April 10, 2001, is the 135th anniversary of the founding of The American Society for the Prevention of Cruelty to Animals (“ASPCA”);

Whereas ASPCA has provided services to millions of people and their animals since its establishment in 1866 in New York City by Henry Bergh;

Whereas ASPCA was the first humane society established in the western hemisphere;

Whereas ASPCA teaches children the character-building virtues of compassion, kindness, and respect for all God’s creatures;

Whereas the dedicated directors, staff, and volunteers of ASPCA have provided shelter, medical care, behavioral counseling, and placement for abandoned, abused, or homeless animals in the United States for more than a century; and

Whereas ASPCA, through its observance of April as Prevention of Cruelty to Animals Month and its promotion of humane animal treatment through programs on law enforcement, education, shelter outreach, poison control, legislative affairs, counseling, veterinary services, and behavioral training, has provided invaluable services to the people of the United States and their animals: Now, therefore, be it

Resolved,

SECTION 1. HONORING THE AMERICAN SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS.

(a) IN GENERAL.—The Senate honors The American Society for the Prevention of Cruelty to Animals for its 135 years of service to the people of the United States and their animals.

(b) TRANSMITTAL.—The Secretary of the Senate shall transmit a copy of this concurrent resolution to the president of The American Society for the Prevention of Cruelty to Animals.

SENATE RESOLUTION 71—EXPRESSING THE SENSE OF THE SENATE REGARDING THE NEED TO PRESERVE SIX DAY MAIL DELIVERY

Mr. HARKIN submitted the following resolution; which was referred to the Committee on Governmental Affairs:

S. RES. 71

Whereas the Postal Service has announced it may consider reducing its six-day mail delivery service to five days, ending Saturday home delivery to offset a projected budget shortfall;

Whereas the six-day mail delivery is an essential service that U.S. citizens have relied on since 1912, particularly those working families who depend on their paychecks to arrive in the mail on time;

Whereas many senior citizens only have one source of income through their Social Security checks, which arrive in the mail and any delays would make it difficult for them to purchase items such as food and medicine; and

Whereas ending Saturday home mail delivery will result in inevitable delays in mail delivery and an increase in costs for employee overtime to control the back-up of mail: Now, therefore, be it

Resolved, That it is the Sense of the Senate that it is strongly opposed to the elimination of Saturday home and business mail delivery and calls on the United States Postal Service to take all of the necessary steps to assure that six-day home and business mail delivery not be reduced.