

maybe others, that we would be utilizing some of these dollars to promote litigation in this bill. That has never been our intent. There is nothing in this bill that would do that.

Because it was possible that some small percentage of these dollars could be used for that purpose, there were concerns raised by the amendment. Senator HARKIN has modified his amendment with language that would explicitly prohibit any of the funds provided under this bill from being used for purposes of litigation. It does not, however, otherwise affect the use of existing funds.

That being the case, our friends on the Republican side have withdrawn their objection to this amendment. I urge its adoption as modified.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2912), as modified, was agreed to.

Mr. DODD. I move to reconsider the vote and move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DODD. I think we have done some good work. I thank Senator MCCONNELL and his staff. We are going to be breaking for the weekly luncheons by both caucuses. I think we have adopted some six amendments this morning, debated the Harkin amendment, and modified that. We are getting this list down. I am beginning to think we might actually be in a position to adopt this legislation by this evening.

We are going to be talking over lunch to see if we can't work out these amendments. Staffs will meet over the luncheon period to see if we can resolve some of the differences. But I thank the individual Senators for their cooperation. Senator MCCONNELL and I are grateful for their cooperation.

When we come back, there will be a special order period between 2:15 and 3:15, but after that we will be back on this bill—I believe that is the case—in which case we will try to line up some amendments to be debated at that time so we can move the product along a little further.

I see my friend and colleague from Arkansas who is here, I believe, not just to listen to the Senator from Connecticut but he may have something to say. I yield the floor.

Mr. HUTCHINSON. I ask unanimous consent to speak up to 2 minutes as in morning business.

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

(The remarks of Mr. HUTCHINSON pertaining to the introduction of legislation are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. DODD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WELLSTONE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. WELLSTONE. Mr. President, I ask unanimous consent to speak as if in morning business.

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

Mr. WELLSTONE. Mr. President, I ask unanimous consent to speak for 10 minutes even though it may be a few minutes beyond 12:30.

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

Mr. WELLSTONE. I was afraid you might object, Mr. President.

#### THE BERMUDA TRIANGLE TAX LOOPHOLE

Mr. WELLSTONE. Mr. President, S. 565 is a very important piece of legislation. It is good work. I thank Senator DODD and others for their good work. But there are some other issues that are hanging over us like a big cloud.

In particular, I am talking about the Federal budget. On February 5, the President sent us a blueprint for this next decade. I have to say that it is a pretty bleak picture. There are cuts in job training programs during hard economic times. There is a 50-percent cut in 7(a) programs to small businesses that leveraged, for example, \$1 billion in my State of Minnesota over the last 5 years, in hard economic times.

There is an inadequate education budget. I don't know whatever happened to the language "leave no child behind," but I know we are now getting a tin cup budget. We don't have the money for prekindergarten. We don't have the money for afterschool programs. At the same time we have the tax cuts for the top 10 percent of families with incomes of \$297,000 and over. At the same time we want to eliminate the alternative minimum tax. At the same time, in the energy bill, we want to give tax cuts maybe to the tune of \$28 billion to oil companies that had \$40 billion in profits last year.

We are going to have to make some choices. Do we put children and education first? Do we put these big corporations and more tax breaks and tax loopholes for these big corporations first? Do we put veterans first? Or are we going to have Robin-Hood-in-reverse tax cuts for the top 1 percent of the population? Are we going to balance the budget to be fiscally responsible, or are we going to be taking the money out of the trust funds?

I ask unanimous consent that this article from the New York Times be printed in the RECORD.

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

[From the New York Times, Feb. 18, 2002]

U.S. CORPORATIONS ARE USING BERMUDA TO SLASH TAX BILLS

(By David Cay Johnston)

A growing number of American companies, encouraged by their financial advisers, are

incorporating in Bermuda to lower their taxes sharply without giving up the benefits of doing business in the United States.

Insurance companies led the way, but now manufacturers and other kinds of companies are following. Stanley Works, for 159 years a Connecticut maker of hammers and wrenches, is among the latest with plans to become a corporation in Bermuda, where there is no income tax. The company estimates that it will cut its tax bill by \$30 million a year, to about \$80 million.

Tyco International, a diversified manufacturer with headquarters in Exeter, N.H., says that being a Bermuda corporation saved it more than \$400 million last year alone. Other companies that have incorporated in Bermuda or plan to do so include Global Crossing, a Beverly Hills, Calif., telecommunications company; Ingersoll-Rand and Foster Wheeler, both New Jersey industrial manufacturers; Nabors Industries, a Texas company that is the nation's largest oil well services company; and Cooper Industries, a Houston manufacturer of industrial equipment.

Becoming a Bermuda company is a paper transaction, as easy as securing a mail drop there and paying some fees, while keeping the working headquarters back in the United States.

Bermuda is charging Ingersoll-Rand just \$27,653 a year for a move that allows the company to avoid at least \$40 million annually in American corporate income taxes.

The company is not required to conduct any meetings in Bermuda and will not even have an office there, said its chief financial officer, David W. Devonshire.

"We just pay a service organization" to accept mail, he said.

Kate Barton, an Ernst & Young tax partner, said that incorporating in Bermuda "is a megatrend we are seeing in the marketplace right now." Many corporations that are planning the move have not yet announced it, she said.

In a Webcast to clients, Ms. Barton cited patriotism as the only potentially troubling issue that corporations consider before moving to Bermuda, and she said that profits trumped patriotism.

"Is it the right time to be migrating a corporation's headquarters to an offshore location?" she asked. "And yet, that said, we are working through a lot of companies who feel that it is, that just the improvement on earnings is powerful enough that maybe the patriotism issue needs to take a back seat to that."

The White House has said nothing about these moves and their effect on tax revenues. Mark A. Weinberger, chief of tax policy in the Treasury Department, said the moves to Bermuda and other tax havens showed that the American tax system might be driving companies to make such decisions. "We may need to rethink some of our international tax rules that were written 30 years ago when our economy was very different and that now may be impeding the ability of U.S. companies to compete internationally."

But others have expressed concern about the trend. Senator Charles E. Grassley of Iowa, the ranking Republican on the Senate Finance Committee, expressed alarm. "There is no business reason for doing this, other than to escape U.S. taxation. I believe the Finance Committee needs to investigate this activity."

There is no official estimate of how much the Bermuda moves are costing the government in tax revenues, and the Bush administration is not trying to come up with one.

A Bermuda address is being recommended by many legal, accounting and investment advisers. Stanley Works, for example, relied on Ernst & Young for accounting advice,

Skadden Arps Slate Meagher & Flom for legal advice, and Goldman, Sachs for investment advice.

Ingersoll-Rand's top tax officer, Gerald Swimmer, said all of the major investment houses and accounting firms had presented the idea to his company. Ingersoll-Rand expects its worldwide income taxes to fall to less than \$115 million from about \$155 million annually.

Many companies looking for tax havens abroad are choosing Bermuda because it is close, its political system is stable and it uses a legal system similar to that of the United States. But some, like Seagate Technology, the California maker of computer disk drives, have gone to the Cayman Islands and other places.

Insurers have also flocked to Bermuda to escape most insurance regulations, including how much money they must hold in reserve to pay claims.

Since companies that move to Bermuda usually keep their main offices in the United States, they continue to have all the security provided by the American government, the legal system and the courts.

But by moving to Bermuda, their income from outside the United States becomes exempt from American taxes. Also, when the American company borrows from its Bermuda parent, the interest it pays creates a deduction that reduces U.S. taxes, but there is no tax on the interest earned by the Bermuda parent.

These companies say they are moving because their worldwide tax rates are higher than those of foreign competitors. Stanley Works expects its worldwide tax rate to fall to 23 percent to 25 percent of profits, down from 32 percent now, said Gerard J. Gould, Stanley's vice president for investor relations.

Another company, Cooper Industries, expects to lower its worldwide income tax bill to \$80 million from about \$134 million.

Robert Willens, a tax expert at Lehman Brothers, said that "any company with a decent amount of foreign income will see its tax rate fall dramatically" by moving its nominal headquarters to Bermuda.

"But the political considerations sometimes prevail," he added, "and companies are understandably reluctant to do something like this because it will not necessarily be properly construed in the marketplace. It may be seen as not patriotic and in the wake of Sept. 11, that is not a good posture for a company."

Mr. Willens said that he had personally presented the Bermuda idea to some companies and that the idea had been turned down for just that reason. "The companies most willing to do this are not household names," he said, "but Stanley Works is verging on a household name."

Mr. Gould said Stanley Works, whose products can be found in many home toolboxes, had not received a single complaint that it was being unpatriotic. Only a few shareholders complained, he said, and all were longtime shareholders who will owe taxes on their capital gains if the deal is approved by two-thirds of the Stanley Works shareholders.

The Internal Revenue Service has ruled that shareholders must pay taxes on any increase in the value of their shares between the date they bought them and the date the company incorporated in Bermuda, even if they do not sell the shares. The government designed this rule to place a price on what it calls tax-motivated expatriation.

With the stock market depressed, Mr. Willens noted, interest in moving to Bermuda is up because fewer shareholders would owe capital gains. And even when a move to a tax haven occurs, the company is not re-

quired to report to the I.R.S. on the holdings of each stock owner. Only the integrity of individual taxpayers ensures that the taxes are paid, as is the case with any tax on capital gains.

"I am sure a few get missed," Mr. Willens said with a chuckle.

Peter L. Baumbusch, an international tax lawyer with Gibson, Dunn & Crutcher in Washington, said current tax law discriminated against existing multinational corporations with headquarters in the United States.

David A. Weisbach, a University of Chicago professor of tax law, said the corporate moves to Bermuda should prompt Congress to review the American corporate tax regime, which was established when American companies sold primarily to the domestic market and few foreign companies had a major presence in the United States.

"Should we be taxing worldwide income or not?" he asked. "That is the really hard question."

Representative Charles B. Rangel of New York, the ranking Democrat on the House Ways and Means Committee, said the patriotism question also needed to be debated.

"Some companies flying the Stars and Stripes renounce America when it comes to paying their taxes," he said. "They choose profits over patriotism. So far, the Bush Treasury Department has shown no interest in stopping these corporate moves, or even drawing attention to them. Supporting America is more than about waving the flag and saluting—it's about sharing the sacrifice. That's true of soldiers, citizens, and it should be true of big companies, too."

Mr. WELLSTONE. Mr. President, it is in this context that I read from this article of last week about a new Bermuda Triangle for big businesses where the tax bill goes in, but the check never comes out. The article is entitled, "U.S. Corporations Are Using Bermuda To Slash Tax Bills." It reveals that a number of prominent U.S. corporations using creative paperwork have transformed themselves into Bermuda corporations purely to avoid paying their fair share of U.S. taxes. These new Bermuda companies are purely shell companies. They are shell corporations. They have no staff. They have no offices. They have no business activity in Bermuda. They exist for the sole purpose of shielding income from the IRS.

Let me give you a few examples.

Ingersoll-Rand is paying Bermuda approximately \$28,000 in fees to save itself \$40 million in taxes. Stanley Tools intends to recharter in Bermuda and save themselves \$30 million a year. Tyco International saved \$400 million last year in taxes. The list goes on and on.

Small businesses in Detroit Lakes, MN, or Mankato, MN, or in Minneapolis-St. Paul, MN, or in Duluth, MN, cannot avail themselves of the Bermuda Triangle. They cannot afford the big-name tax lawyers and accountants to show them how to do their books Enron style, but they probably wouldn't do it anyway, because the small businesspeople in Minnesota do not want to renounce their citizenship, they do not want to renounce their patriotism, and they want to pay their fair share of taxes as everybody else does.

So I say to Senators, as we look at these budget priorities, we are going to have to decide what we are going to be doing. Are we going to go after these tax scofflaws? Are we going to have fair tax relief? Are we going to save Social Security or let them get away with this? This is really outrageous.

I simply say that the priority for me, as a Senator, is to go after this "Bermuda triangle" boondoggle. The priority for me, as a Senator, is to go after these multinational corporations that will not pay their fair share of taxes. And the priority for me is to make sure that Senators vote so we can all be on record as to whether or not we want more loopholes, more tax breaks for multinational corporations so they do not have to pay their fair share of taxes, and, as a result, we do not invest in children and education.

We say we do not have money for affordable prescription drugs. We say there is no money for affordable housing. That is simply outrageous. We say we cannot help anybody with health security for themselves and their families.

There are three courses of action I will announce in the Chamber today:

No. 1, the letter to the Finance Committee, saying: I call upon you to basically do everything you can do to end this outrageous loophole of these multinational corporations setting up these sham offices in countries such as Bermuda and not paying taxes.

No. 2, I say to Senators that on the budget resolution, which will be coming up maybe this month—certainly next month—I am going to have an amendment which says: Find the savings from these big corporations that are not paying their fair share of taxes and are setting up these sham offices in countries such as Bermuda and put it into education and health care. We will have a straight up-or-down vote on that amendment to the budget resolution.

Then, No. 3, I want to send a Dear Colleague letter out to Senators, Democrats and Republicans alike. I definitely will introduce legislation. I do not have all the specifics down right now, but it seems to me, at a bare minimum, what we can say to these companies is: Look, you can set up some sham office in some other country as a tax dodge, but if you are doing most of your business in the United States of America, you are going to be taxed on the business you do here.

The second thing we can say to these companies is: You get all kinds of tax breaks, you get all kinds of Government help, the assumption being you are investing in our economy. But if you are going to set up these sham offices, if you are going to be involved in this tax avoidance, then you are not going to get any more of these breaks because, frankly, you are not being a good citizen corporation; you are acting a little bit too much like Enron. You are not being very patriotic when you are not willing to pay your fair

share of taxes. And, frankly, as Senators, we are sick of the tradeoff. We do not like going back to our States and saying to law enforcement: We are going to have to cut the COPS Program by 80 percent. We do not like to tell small businesses they are not going to have access to low-interest loans. We do not like telling our schools and our children there isn't going to be the money for education. We do not like telling elderly people: God knows for how long all of us who have run for office have promised there will be affordable prescription drugs, but, sorry, we do not have any money to do any of that for you. We do not like telling families who have no health insurance whatsoever: We cannot do anything to help you because we have some of these big corporations, these multinationals, that have done the opposite of being good corporate citizens and basically have set up these elaborate, disingenuous, dishonest, tax evasion schemes.

As a Senator from Minnesota, my priority is to make sure they pay their fair share of taxes. That is the very least we can ask of them.

Mr. President, other than that, I do not feel strongly about this issue.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WELLSTONE. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

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

#### RECESS

The hour of 12:35 p.m. having arrived, under the previous order, the Senate will now stand in recess until the hour of 2:15 p.m.

Whereupon, the Senate, at 12:35 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. CLELAND).

The PRESIDING OFFICER. The majority leader.

Mr. DASCHLE. Mr. President, I ask unanimous consent that Senator DURBIN be recognized after my remarks.

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

#### HONORING SENATOR TED KENNEDY ON HIS 70TH BIRTHDAY

Mr. DASCHLE. Mr. President, my old friend and teacher, Mo Udall, wrote a book called "Too Funny to be President" and dedicated it, in his words, "to the 3,000 Members of Congress, living and dead, with whom I served for nearly three decades."

It is true. We are all part of a continuum. In the history of our Nation, only 1,864 Americans have ever served in the Senate. Carved or penned into the drawers in our desks are the names of some of the giants—men such as Clay, Webster, Calhoun. But we don't have to open our desks or open a book

to see one of the greatest Senators ever to serve in this body. All we have to do is open our eyes. He is right here, at the same desk he has occupied now for the last 40 years.

I have been a Senator for 16 years. I count it as part of my good fortune that I have been able to call TED KENNEDY a colleague all of those years. I consider it an even greater privilege to call him my friend.

Today it gives me enormous pleasure to join the rest of my colleagues in wishing my good friend a happy 70th birthday.

In his remarkable 1999 book "Edward M. Kennedy: A Biography," New York Times reporter Adam Clymer recounts a letter an 8-year-old TED KENNEDY received from his father.

It was 1940. Ambassador Kennedy was writing from war-torn London to his young son who had returned to America. He tells TED that he can hear the bombs exploding outside his residence. Then he writes:

I hope that when you grow up, you will dedicate your life to trying to work out plans to make people happy instead of making them miserable, as war does today.

Somewhere, I feel certain Joe Kennedy is looking down on his youngest son today, as he does every day, smiling. TED KENNEDY has indeed dedicated his life to trying to make people happy.

The great Irish playwright, George Bernard Shaw, wrote that "this is the true joy of life: to be used for a principle recognized by yourself as a mighty one . . ."

That is exactly what TED KENNEDY has done. For 40 years now he has used his great booming voice to speak for those who have none. There is no more passionate or effective advocate in this Senate for good schools for every child, decent, affordable health care for every American; there is no one in this body who has fought harder or longer to improve the living standards of working families and protect the basic civil rights of all Americans. He is a drum major for justice.

President Bush says the folks at the coffee shop down in Crawford were surprised to see him praise Senator KENNEDY for his invaluable help in passing the new education reform act. They shouldn't have been.

Since the day he arrived, TED KENNEDY has sought out those with views different from his own to see if together they could find principled compromise. He has never wavered in his principles. At the same time, he is a pragmatist who wants more than anything to get things done.

I remember 5 years ago when we created the Children's Health Insurance Program with strong bipartisan support. It was something Senator KENNEDY had worked on for years. After the vote, he came into my office, as he does sometimes with these victories, beaming. He looked so much like a proud, new father, I thought he might start handing out cigars. To everyone he passed he said, "Isn't it wonderful."

As he spoke about that victory, he didn't talk about how many votes his plan had received. He talked about how many children it would help. That is the kind of man he is. He doesn't care who gets the credit so long as people get the help.

Sometimes when I am in this Chamber, I look up to the gallery to see the people who have come here to see this great institution at work. I can always tell from their reactions when Senator KENNEDY has walked on the floor without even looking around. People sit up, heads turn. Almost always you see someone lean over and whisper to the person next to him or her: Look, TED KENNEDY.

He is, undoubtedly, the best known member of this body. Yet he remains a modest man—a worker among workers.

Within our caucus, he is very often the first one to work in the morning and the last person to leave at night.

No job is too small for TED KENNEDY. At the same time, no challenge is too big.

On civil rights, voting rights, education, disarmament and so many other critically important issues, Senator KENNEDY has not only picked up the fallen standard that his brothers John and Robert once carried. He has advanced that standard. He has done much of the work they hoped to do but couldn't.

There is another incident in Adam Clymer's book that may explain, in part, why TED KENNEDY has achieved so much in this Senate.

The year was 1965. TED and Robert Kennedy were serving together on the Labor and Public Welfare Committee. It was Robert Kennedy's first year in the Senate and TED's third.

One day, after they had waited hours to question a committee witness, Robert leaned over and whispered to his brother: "Is this the way I become a good Senator—sitting here and waiting my turn?"

TED said: "Yes."

Robert pressed: "How many hours do I have to sit to be a good Senator?"

TED answered: "As long as it takes, Robbie."

TED KENNEDY is a patient idealist. He understands that progress is a long march and he is willing to work as long and hard as it takes to move America forward.

Carved into the drawer of the desk in which he sits is the name of his other brother, John, who sat there before him and who, like Robert, was taken from him, and us, because of his commitment to public service.

Many people—perhaps most people—who had suffered such loss might withdraw from public service in fear or anger. They might conclude, rightly, that their family had given enough.

But not TED KENNEDY.

He has stayed and has done what his father hoped he would all those years ago. He has dedicated his life to trying to work out plans to make people happy.