

If Yucca Mountain is designated the primary repository for high-level nuclear waste, transportation of this hazardous material throughout the country will increase significantly. However, to date, the Department of Energy has not decided upon any plan on how to move this material to the repository. It is another in a long line of uncertainty surrounding the Yucca Mountain proposal. How will the material be moved? By train? By barge? By truck? What kind of security will be involved? There is not a single answer to any of these questions. Congress needs those answers before signing off on this plan.

We need a long-term solution to the problem of securing nuclear waste, and Yucca Mountain may ultimately prove to be a scientifically sound solution. But before we make a final decision on a repository which must have a 10,000-year life span, we must have absolute certainty of the suitability of Yucca Mountain. The safety of citizens for thousands of years to come depends on our prudence and careful deliberation.

With these concerns in mind, I voted against this proposal.

Mr. MURKOWSKI. Madam President, let me recognize the action by the Senate and thank those who participated in the debate, and Senator REID, Senator ENSIGN. I certainly understand and appreciate the position they have taken. I thought the discussion and presentation throughout the debate was certainly evidence of their concern for the State of Nevada.

On the other hand, this has been with us for a long time, 20 years. I think the Senate has acted responsibly today.

Let me thank certain staff members who have done a great deal of work. I will be very brief: Colleen Deegan, Jennifer Owen, Brian Malnak, Josh Bowlen, Macy Bell, Jim Beirne, our chart man, Joe Brenckle; and on the majority: Sam Fowler, Bob Simon, and of course Senator BINGAMAN.

Many others worked so diligently. We want to thank those in the industry who assisted in bringing this matter to the attention of all Members, encouraging that we act in a prudent manner, with dispatch. I most appreciate the two leaders who are recognizing that we can take the time today to dispose of this matter.

I yield the floor.

The PRESIDING OFFICER. What is the will of the Senate?

Mr. SARBANES. Parliamentary inquiry: What is the pending business?

#### PUBLIC COMPANY ACCOUNTING REFORM AND INVESTOR PROTECTION ACT OF 2002—Continued

The PRESIDING OFFICER. The clerk will report the pending business.

The assistant legislative clerk read as follows:

A bill (S. 2673) to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Com-

pany Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes.

Mr. SARBANES. What is now pending before the Senate?

The PRESIDING OFFICER. The Miller amendment, No. 4176.

Mr. SARBANES. I ask for the regular order.

Mr. GRAMM. May we have order, Madam President.

The PRESIDING OFFICER. Members will take their conversations off the floor of the Senate.

Mr. SARBANES. There is a procedural question following the Miller amendment. We have been discussing that. We may be able to resolve it, but we need to do that overnight.

I call for the regular order which, as I understand it, would take us back to the Leahy amendment, with the McConnell amendment pending to Leahy?

The PRESIDING OFFICER. The Senator is correct.

Mr. SARBANES. I call for the regular order.

#### AMENDMENT NO. 4175

The PRESIDING OFFICER. The amendment is now pending. The Senator from Massachusetts.

Mr. LEAHY. Will the Senator yield for a question? We are on, am I correct, the Leahy amendment which was pending to it the McConnell amendment?

The PRESIDING OFFICER. That is correct.

Mr. LEAHY. I thank the Senator from Massachusetts.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. As I understand it, the matter before the Senate now is the McConnell amendment; am I correct?

The PRESIDING OFFICER. That is correct.

Mr. KENNEDY. Madam President, this amendment of the Senator from Kentucky is what we call around here and everywhere a poison pill amendment intended to prevent serious action on corporate accountability. Just as a few Republicans sought to stop campaign finance reform with similar amendments, now they are trying to block action to make executives accountable. The lack of corporate responsibility in the United States has undermined the credibility of our markets and devastated the retirement savings of millions of Americans.

This widespread abuse of corporate power has jeopardized our Nation's economic recovery and hurt the legitimacy of our fundamental institutions. We must not call for the obstructionism of Senate Republicans. Instead, we must heed the call of the American people and insist on bold ac-

tion this week to ensure that corporations are made accountable and that workers and investors are protected against these abuses.

The Leahy amendment, which my Republican colleagues seek to block, was unanimously approved by the Judiciary Committee in April. It includes critical measures to strengthen the ability of Federal prosecutors to detect, prevent, and prosecute corporate fraud. It makes acts of document shredding and corporate fraud punishable by 10 years in prison. It lengthens the statute of limitations for victims of security fraud.

Finally, the bill directs the U.S. Sentencing Commission to review criminal penalties for obstruction of justice and corporate fraud.

Today, Americans are outraged by the endless corporate scandals, and Congress must act to hold corporate crooks fully accountable and to restore confidence in our markets.

Defeating the "poison pill" amendment offered by Senator MCCONNELL is the first step toward that goal. Senator MCCONNELL's amendment would put America's workers in double jeopardy. The amendment puts new requirements on workers' representatives, despite the fact that these officials currently face disclosure and reporting requirements which surpass those of public companies.

This amendment would subject small local unions with annual receipts of only \$200,000, which are already subject to labor reporting requirements, to the same SEC reporting requirements as large public companies which typically have resources in the millions.

The reality is that union finances are already more heavily regulated than those of most public companies. The Department of Labor under current law can investigate and audit union financial records at any time, including conducting random audits. There is no comparable requirement for public companies today.

There are many other examples of current labor laws requiring much stricter disclosure by unions than the SEC requires of publicly traded companies. Unions have to list every employee who receives more than \$10,000. But the SEC does not require this of companies. Unions have to provide more detailed information regarding their loans than do public companies under SEC requirements. Unions have to provide more detailed lists of their investment today than do public companies under the SEC requirements.

The list goes on and on and on.

For over 40 years under labor laws, union officials have been required to certify the annual financial reporting of their unions under penalty of perjury.

The McConnell amendment certification requirement ignores the safeguards that already exist under our labor laws. Union officials are already subject to criminal penalties, which include jail time for willfully failing to

file reports, or knowingly making false statements, or willfully concealing documents. Union officials who violate these provisions are subject to jail time as well as substantial fines.

It is misguided to apply SEC requirements and penalties which were designed for publicly traded companies to not-for-profit groups such as unions. Even the Department of Labor recognizes this.

Don Todd, Deputy Assistant Secretary in charge of the Department's Union Reporting Office, wrote last August regarding SEC requirements that the Department of Labor does not have the expertise to provide more than a very general overview of this complex area of law. Why in the world would we want to force the labor unions to comply with SEC filing requirements when the relevant oversight agency doesn't understand this area of the law?

The bottom line here is that the Republicans fear corporate responsibility. They know the American people are outraged by the endless series of corporate scandals that are hurting workers, retirees, and our economic recovery. Rather than admit the scope of corporate corruption and the urgency of criminal penalties for corrupt executives proposed by Senator LEAHY, the Republicans are seeking to poison the well. If we allow this, the American people will never forgive us for passing up this unique opportunity to bring accountability to corporate executives. Corporate criminals must be made to pay for their misdeeds.

I urge my colleagues to vote against the McConnell amendment.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Madam President, first of all, let me point out something. Senator MCCONNELL's amendment changes nothing in the Leahy amendment. The adoption of Senator MCCONNELL's amendment does nothing to change the Leahy amendment. I understand that Senator MCCONNELL tomorrow is going to come over and speak at great length on his amendment. But I don't want anyone to be deceived as to what the amendment is about.

The amendment has nothing to do with the Leahy amendment in terms of its adoption in any way delaying or changing the Leahy amendment.

The Senator from Kentucky has proposed a simple proposition that I believe is unassailable logically. That proposition is we are going to put penalties on filing false reports by corporations, and we are going to in the process send people to prison for it. I support that provision. I think there are probably 100 Members of the Senate who support that part of Senator LEAHY's amendment.

The Senator from Kentucky simply asks the question: Why don't we require that labor unions, when they submit financial statements once a year, have them audited by CPAs? Second, why don't we have them sign those reports and be accountable for their accuracy?

I am sure that people who do not want unions subjected to transparency and to accountability are going to say: Well, this is an effort to circumvent requirements on corporate America. Nothing could be further from the truth. This amendment does not strike the Leahy amendment. It simply adds a simple provision to it that applies parallel standards to unions.

Senator KENNEDY says this neglects existing law. The point is that the existing law is not very strong. Many unions don't even submit these reports. You could argue on the corporate side that we already have a body of law; why are we writing new laws? We are writing new laws because we need stronger and better laws. We have a bipartisan consensus that we do it.

Also, Senator KENNEDY says the veracity of these reports should follow under another jurisdiction. We are talking about accounting. We are talking about accuracy in reporting. We are talking about transparency. We are talking about accountability. Surely union members, in reading a report, should have the same confidence that it is valid, that a certified public accountant who is subject to high ethical standards wrote the report, and that the president of the unions certifies it, and that the president is going to be held accountable if it doesn't meet the standards we are setting.

Let me just summarize, since we are going to debate this amendment tomorrow, by saying:

No. 1, this amendment does not change the Leahy amendment. If you are for the Leahy amendment, that is fine.

The question the Senator from Kentucky poses is, should similar parallel requirements be imposed on unions that issue a financial statement annually, and should they have to be certified by a certified public accountant? And should the president of the union have to sign the report as the president of a corporation does? Should they be held liable if the report is not accurate and if they knowingly file an inaccurate report?

That is the question.

No. 2, it seems to me it is perfectly reasonable. You might be for it, and you might be against it, but you can't say it has anything to do with trying to undo the Leahy amendment.

It seems to me that if you are against it, you have to explain why unions should not be required to meet high standards in filing reports.

I haven't spoken on the Leahy amendment. It is my understanding we are going to be debating it tomorrow. I would like to simply outline what is in the amendment that I am for and what is in the amendment that I am against. I can do it very briefly.

If people knowingly and willfully violate the law, I support putting them in prison. The President has proposed doubling the sentence. I am for that. I hope at some point the administration will give us legislative language to im-

plement the changes the President proposed today. I am hopeful that on a bipartisan basis we can adopt it on the floor of the Senate as part of this bill.

If we do not have time to do it, I have every reason to believe there will be bipartisan support to make those changes and those additions, those strengthening amendments in conference.

There is only one part of the Leahy amendment to which I object. Unfortunately, it is a very important part of the amendment that no one is focusing on when they are talking about the Leahy amendment. In fact, I would move that we simply accept the Leahy amendment except for this small but important provision.

I remind my colleagues that in 1995, on a bipartisan basis, we adopted the Private Securities Litigation Reform Act, legislation that basically amended securities laws to deal with the whole issue of predatory strike suits where one law firm was filing 80 percent of the lawsuits against corporate America and we had a reform of corporate liability. That bill was adopted on a bipartisan vote. It is the only bill that we overrode President Clinton's veto on in 8 years in office.

One of the reforms was to set statute of limitations requirements that basically paralleled the securities acts from the 1930s. What we said is, if you want to file a lawsuit, you have to do it within a year of when you know there was a violation or within 3 years of when the violation occurred.

The whole point of statute of limitations is, that beyond some point it is very difficult to maintain records. You do not know what happened. People's memories fade. People die. This was part of this important reform.

The Leahy amendment effectively throws out the 1 year and the 3-year statute of limitations and adopts a 5-year limitation. Now, he claims it is a 2-year and 5-year, but the 2 year applies only if you can prove that the person who filed the lawsuit knew that the violation occurred outside of the 2 years. I would assert that is virtually impossible to prove.

It is interesting, in statute of limitations, where you are saying you have to act on a timely basis because people do not have knowledge after periods of time expire, under this, you have to have enough knowledge to prove that they knew, which I think is a standard that could not possibly work. No one really believes it could work.

So the reality is, we are striking the 1-year and the 3-year statute of limitations in the securities litigation reform bill, and we are substituting a 5-year statute of limitations for it. That is a provision that I oppose. Every other part of the Leahy amendment I support. I personally would be willing to see it accepted by unanimous consent save that one provision in the bill. I think it is an important provision.

But I want people to know, as we go into the debate, that my support for

the McConnell amendment has nothing to do with the Leahy amendment; it simply has to do with having been convinced that there is logic to the McConnell position.

If we are trying to get transparency in financial reporting, if we are trying to hold people accountable, if we want honest numbers, it seems to me the logical place would be to start with Government, which we have not done. But the second point, it seems to me, is to apply the same standard to business and to labor. That is what McConnell has done.

Tomorrow we will have the debate on it, but I wanted to outline what the amendment did and did not do and my position on the Leahy amendment.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Madam President, I am prompted to enter this debate by the comments of my colleague from Texas. You cannot evaluate the parallelism of the McConnell amendment without evaluating the requirements that are now imposed upon labor unions under the Labor-Management Reporting and Disclosure Act of 1959. The argument that this is logical is only if you drop out of the picture or the context the fact that the unions are now under extensive reporting requirements in the law, requirements that significantly exceed, in many respects, anything that is required of corporations.

Now, the Department of Labor has the authority to conduct audits of labor unions.

Mr. KENNEDY. Will the Senator yield on that point?

Mr. SARBANES. Yes.

Mr. KENNEDY. According to the statute, it can conduct those audits randomly, as I understand. Does the Senator agree with me that these audits can be done randomly? According to the statute, it says right here, in section 601(a):

The Secretary shall have power when he believes it necessary in order to determine whether any person has violated . . . any provision of [the legislation] . . . to make an investigation and in connection therewith. . . .

And they may enter such places to inspect such records and accounts in question.

Does the current underlying legislation permit the SEC to conduct random auditing of public entities?

Mr. SARBANES. The auditing is done by the independent public accountants.

Mr. KENNEDY. The point I am making is, at the current time, the Department of Labor can conduct an independent audit at any particular time on any occasion, according to the Labor-Management Reporting Act.

Beyond that, it has the provision:

Every labor organization shall file annually with the Secretary a financial report signed by its president and treasurer or corresponding principal officers containing the following information. . . .

And it lists all of that information. It already exists.

Mr. SARBANES. Will the Senator yield on that point?

Mr. KENNEDY. Yes.

Mr. SARBANES. The Senator from Kentucky says they are not filing these reports. What are the Secretary of Labor and the Department of Labor doing, because they have the power to make them file their reports. In fact, they can impose penalties, as I understand it, including not only fines but also imprisonment for the failure of union officials to meet the requirements under the statute.

My dear colleague from Texas says, well, look, this thing is on all fours. This is what we are doing to the corporations. And all the McConnell amendment does is it does it to the unions. Now, who could be against that?

But let's look at what is already being done to the unions. Let's look at the requirements under which they already have to function. Let's look at the powers that the Department of Labor and the Secretary of Labor have with respect to this matter.

Mr. GRAMM. Will the Senator yield?

Mr. SARBANES. Certainly.

Mr. GRAMM. You can make the same argument the SEC has the power to audit any company in America today. Any exchange they are a member of has the power to audit them today. We are saying we need better, stronger, more powerful laws. We need better reporting. People need better information.

All the Senator from Kentucky is saying is, why don't we apply the same thing to the reports that are filed by labor unions.

Mr. SARBANES. Will the Senator yield?

Mr. GRAMM. Yes. You have the floor.

Mr. SARBANES. Has the Senator examined, with any care, the reporting requirements and the other matters that govern labor union reporting under the Labor-Management Reporting and Disclosure Act?

Mr. GRAMM. Only to the degree that I can say that all the arguments that are being made, saying we do not need to improve reporting, are arguments that someone could make with regard to corporate America. They are already subject to random audits by the SEC. They are already subject to random audits by exchanges. I am not making that argument because I do not believe it.

Mr. SARBANES. What about the requirement on unions that they list the employees whose total of salaries and other disbursements exceed \$10,000, including position, gross salary, allowances, and disbursements? What about that requirement that is imposed on the unions to make that kind of disclosure? Where is a comparable disclosure in that regard with respect to corporations?

Mr. GRAMM. Will the Senator yield?

Mr. SARBANES. Certainly.

Mr. GRAMM. I say, if the Senator wanted to offer an amendment to im-

pose that, he certainly could. And I will stop asking him to yield, but let me make this point.

Mr. SARBANES. To impose it on corporations, you support that?

Mr. GRAMM. If you offer that amendment, I would have to read it. I probably wouldn't.

Mr. SARBANES. All right.

Mr. GRAMM. But the point I am making is, we are talking about two things. One thing that you have to have is a CPA do the audit, and, two, the president of the union and the president of the company has to sign the report. They are liable if they knowingly are misleading people. Those are the only two things the McConnell amendment does.

I just can't see what is wrong with it and why it doesn't make sense. Not that there is anything wrong with that part of the Leahy amendment; I support that part of the Leahy amendment. I just don't understand why this does violence to organized labor. It seems to me it makes perfectly good sense.

Mr. SARBANES. I simply say that a statutory structure has been worked out for labor which is quite extensive and exceeds in many respects anything that applies to corporations. You can't make a judgment about whether you should do anything additional to the unions until you examine carefully what is already required from them under the existing statutory scheme. That is not happening here.

Mr. DODD. Will my colleague yield for a question?

Mr. SARBANES. I yield.

Mr. DODD. It occurs to me as well, in this bill, we are not requiring for all businesses these requirements. These are for businesses that have to file with the SEC.

Mr. SARBANES. That is right, which is a limited universe.

Mr. DODD. It is a limited universe. My point is, we are not talking about every entity that conducts business for profit. We excluded the overwhelming majority of businesses that are private entities, that have no filing requirements with the SEC. Our colleague from Wyoming felt very strongly about this point, that we only deal with public companies, the 16,000 public companies.

Let me ask my colleague this question: Is a labor union a for-profit business or are they a different kind of an entity? I have always understood a labor union was not a business and therefore to require of the labor union that which we require of a for-profit company that is required to file with the SEC seems to be mixing apples and oranges. There is no parallelism here at all.

Mr. SARBANES. The Senator is absolutely correct. The unions ought to have reporting requirements and they ought to file.

Mr. DODD. Correct.

Mr. SARBANES. Those have been put into law. There are extensive authorities in the Secretary of Labor and the

Department with respect to the unions—quite extensive authorities, I might add.

We have established one statutory framework to control the reporting requirements and disclosure on the part of unions, which is a completely separate universe from what we are trying to address in this legislation.

The Senator is absolutely right. It is in a sense apples and oranges. You are dealing with two different universes, and you have established two different statutory frameworks within which to address that.

Mr. DODD. If the Senator from Texas were interested in creating a sense of uniformity, I could see him offering an amendment—I wouldn't agree with it—which would require that all businesses that are conducting their operations for profit be subjected to an accounting standard that was equal. Again, my friend from Wyoming would strenuously object to such an amendment. I would as well because of the reasons that smaller companies just could not possibly afford the costs associated with that. But to suggest somehow that a nonprofit organization ought to be subjected to the same rules as a for-profit public company where shareholders and so forth are involved is stretching logic.

I appreciate my colleague yielding.

Mr. SARBANES. It is obvious that one of the distinctions we sought to make in the underlying bill that is before us is that when a company becomes public, you then have an investor interest that has to be protected. Otherwise, manipulation destroys investor confidence and affects the confidence in our capital markets. That is the issue we are confronting now and the impact it is having on the economy.

That was the universe we tried to deal with in this legislation. We were very careful that the legislation does not apply to most businesses in America and doesn't apply to most accountants in America, since most of them don't audit public companies.

Mr. GRAMM. Will the Senator yield?

The PRESIDING OFFICER (Mr. DAYTON). The Senator from Texas.

Mr. GRAMM. I remind my colleagues that in some 40 States in the Union, you can't work unless you are a member of a union. If unions are not public organizations, when you have mandatory requirements, I can't work in Maryland in an area that is unionized without either joining the union or paying union dues. To suggest that unions are somehow private when you have mandatory membership I think won't hold water.

Mr. SARBANES. If the Senator would yield, you don't have mandatory membership. You may have a requirement that you pay a union fee, but the union then has an obligation, if you are in a union shop, to represent you in the collective bargaining efforts and with grievances, and so forth and so on. So the union has to, in effect, provide you

a service for the fact that you get charged that fee.

Mr. GRAMM. I am not saying you are not getting anything for it. I am just saying that it is mandatory, and I don't see how you cannot say that unions are public institutions.

Secondly, why do we require CPAs to do audits of companies? We can't audit every company in America. We don't have enough resources. So you try to get a system where the auditor has some degree of responsibility for helping to enforce the standards. I don't see why you wouldn't have CPAs required to do the audits of unions.

I was handed this by Senator McCONNELL's staff. I am sorry he had an appointment tonight, but the OLMS, which does the compliance audits, did a high of 1,583 audits in 1984. Last year, that was only 238. So I don't know why you wouldn't want a union that has mandatory membership to have its reports done by CPAs who we are holding to a high standard in this bill. That is all I am saying.

Mr. SARBANES. What is the explanation by the Department of Labor for this rather stunning drop in the number of audits? Was it from 1,500 to 200 in 1 year's time or 2 years' time?

Mr. GRAMM. It is from 1984 to 2001.

I would say on that issue, if the Senator will yield, that the President's 2003 budget asked for an additional \$3.4 million for 40 full-time positions. It will be very interesting to see if we provide the money for them to have it.

Mr. SARBANES. That is the way to go at this problem; otherwise, it seems to me that the Department of Labor needs to do the job that it has been charged to do. I think that is what those figures amply demonstrate.

I am gratified that the administration's budget is seeking more money in order to meet these responsibilities, but that is where it ought to be done.

Mr. GRAMM. My final point—and I appreciate the generosity of the chairman—it seems to me the most fundamental requirement is if you are going to make a public report and you have mandatory membership so you are a public institution, you ought to have a certified public accountant do that report and sign that they have done it.

We have decided—I think it is one of the best things in our bill; whatever bill is adopted will have it—to require the heads of companies to sign these reports. I don't know why you wouldn't want the head of the union to sign these reports.

Mr. SARBANES. Would the Senator support a provision that required all companies with annual receipts of \$200,000 or more to meet all of these auditing requirements?

Mr. GRAMM. I would if the companies were companies that people had to do business with. If we had anything equivalent in the marketplace to a provision that said you have to buy things from this company or you can't buy them, which in essence we do in States that don't have right-to-work laws; we

say that you have to pay the union dues in order to work—you don't have to join, but you have to pay the dues—I think when you have that mandatory element, having to report publicly is logical.

Mr. SARBANES. They do have to report publicly. They are now required to report publicly under the legislation that governs reporting and disclosure. The Senator is speaking as though there are no such requirements.

The fact of it is that there is an elaborately developed framework. Now, the Department of Labor may not be carrying it out fully, as the statute would require. They may be falling short in that regard, but if that is the case, the way to remedy the situation is to provide the resources to the Department of Labor and call upon them to do their job.

Mr. GRAMM. Mr. President, this is Mr. McCONNELL's amendment, and I will let him debate it. But the whole purpose of having CPAs, the whole purpose of having licensing and the taking of oaths is we cannot audit every company by the Government. I am pleased to say that nobody has proposed to have the Government take over the auditing function. We have proposed to strengthen the CPA process and impose higher standards because that is really our fundamental line of defense.

I just don't understand. It seems to me this would be a logical amendment to take. It only says two things: When unions file a report, it has to be done by a CPA. You have a mandatory membership of unions in some 40 States, and they are public institutions. Secondly, the president of the union, as the president of the company, ought to have to verify the veracity of the statement and be liable if he knowingly is certifying it when he knows it is not valid. I mean you are not holding him accountable if somebody has not told him the truth.

Senator McCONNELL is going to present case and verse of all of the problems. I don't know the problems, but it seems to me that when we are trying to improve reporting and improve transparency and improve accountability, the simple proposal that when unions file their annual report, as corporations do, a CPA should prepare the report—I just cannot imagine not requiring that.

Secondly, the president of the union ought to have to sign the report and be accountable if he knowingly is saying something that is not true.

Finally, the argument that there are other requirements—well, there are more requirements on corporate America. We just concluded there were not enough. So Senator McCONNELL is simply saying while you are improving one, improve both. If I were a member of a union, I would like having certified by a CPA a report showing how my money was spent. I think it would give me more confidence. I would think if the rank-and-file union members in my State would vote on this, there would

be an overwhelming vote for it. I don't even know why we are debating this. This is sort of a no-brainer, in my opinion. But my opinion may not be the majority opinion.

I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. DURBIN. Mr. President, I agree with the Senator from Texas, this is a no-brainer amendment because I cannot quite understand why we would be establishing a standard here for labor unions. It reminds me of when I was raising my kids and my wife and I had to give one of our children medicine that they didn't want. My daughter would say: I would feel a lot better if my brother had to take it, too. That is what we are having here—businesses faced with corporate corruption. Frankly, we have people on the Senate floor saying, as painful as it is for us to make more disclosures, we would feel better if you could also hurt the labor unions while you are at it. Is that what this is about—to try to find a parity of pain between business and labor? I didn't think so.

The point made by the Senator from Maryland is that labor unions already face extraordinary reporting requirements in a law that has been in place for 43 years—requirements not made of many businesses. In the McConnell-Gramm amendment, it suggests that if your labor union has receipts of \$200,000 a year, they are going to add a new burden to the labor unions—even beyond this 43-year-old law.

I listened closely as the Senator from Maryland explained the bill before us. He has worked closely with the Senator from Wyoming to make sure it just applies to public corporations, where there is public investment in stockholders and where there is an item of public trust involved. That is understandable.

So if I would stand before the Members here and say, if you really believe in transparency and disclosure, you ought to apply these requirements to every business in America, many people would say that is an onerous and unnecessary burden; it goes beyond the issue of public trust; now you are going after every business, large and small. That is what the McConnell-Gramm amendment does when it comes to labor unions. They say if a labor union has receipts of \$200,000, they have a brandnew set of requirements. The Senator from Texas says these unions are public institutions, they should not be treated as if they are private. Well, they are not. They are subject to the 1959 Labor-Management Reporting and Disclosure Act.

The thing that also concerns me is that many requirements of the labor unions under current law are far stricter than what is required under the SEC for public corporations. I cannot understand why we would want to increase the burden on labor unions when the issue appears to be, at Enron, not a union problem but a business problem.

The issue at Enron had to do with members of the board of directors being paid—according to the Governmental Affairs recent report—\$350,000 a year to serve on the board and, frankly, missing it completely, or didn't report it when things were being done that defrauded stockholders, pensioners, and ultimately cost employees their jobs.

That, I thought, was what this debate was about. Instead, we are talking about right-to-work and labor unions. I am sorry, but I don't think people across America believe the problems of Enron and WorldCom and Global Crossing had anything to do with labor unions. They didn't. They had to do with corporate greed and corruption.

I commend Senators SARBANES and ENZI for bringing to the floor a bill that addresses this in a straightforward manner. The McConnell-Gramm amendment wants to get us on another track to discuss other things. I find this interesting. There is no proposal that this new requirement be applied to any other organization than labor unions. I don't hear anybody coming before us and suggesting that the Boy Scouts of America should be subject to SEC filing. That is a large organization. They certainly have receipts beyond \$200,000. I don't hear the suggestion that associations and organizations like the Boy Scouts of America, or the American Legion—I don't want to go too far with this—or the Federalist Society should have more transparency and disclosure and, therefore, should be subject to SEC filings. Nobody brought that up. Is that part of the problem in America, the lack of confidence in our economy? Not at all.

The problem relates to corporations and businesses that have gone too far and lied to the stockholders and the American people. If we get off the track here and decide we are going to go after other battles to be fought, whether labor unions or other organizations, we have missed the point. I think this amendment misses the point.

Let me also say that the McConnell amendment holds labor unions to standards to which not even businesses are being held. In 1995, I happened to be a Member of the House when the so-called Newt Gingrich "Contract on America" came through. One of the things we did there, I am afraid, turned out to be a precursor to what we are going through today in what was known then as securities litigation reform. We basically said we think some of these plaintiff lawyers, class action lawyers, have gone too far and therefore we are going to protect many corporations from liability when it comes to securities transactions. I was 1 of 99 in the House of Representatives who voted against that bill and wanted to sustain President Clinton's veto. We did not prevail. We lost in the House and in the Senate.

It really, sadly, set the stage for where we are today. Another watchdog

was gone. Corporations such as Enron and WorldCom didn't have to worry about somebody bringing an action against them for securities misdeeds.

One of the things that was included in the 1995 law was to take away liability for aiding and abetting, in terms of rights of action, causes of action involving corporate fraud. We exempted a whole category of people who, up until that time, had been liable for aiding and abetting fraud. We said in the name of securities litigation reform, we would exempt this category of individuals.

Senator MCCONNELL comes up with this amendment and says: We want to reinstate that aiding and abetting liability, not for businesses, but we want to put it on labor unions. What is wrong with this picture? We are not imposing it on corporations despite all the scandals we have read about; instead, we are going to impose this new obligation on labor unions.

I am afraid, frankly, that is not a matter of public policy, it is a matter of retribution. I also think we should take a look at how many labor unions could be liable for this audit that is required. There are 70 national and international unions, but the McConnell-Gramm amendment would apply to 5,000 different unions, large and small, across America. It goes way too far.

The amendment certification requirements are also redundant. For more than 40 years, union officers have been required to sign annual financial reports, under penalty of perjury, attesting that the report's information accurately describes the union's financial condition and operations. That is a pretty reasonable standard for labor unions under current law.

We are trying to impose similar standards on corporations so when they file their accounting audit statements, someone puts their name on it and accepts responsibility for the truth and accuracy of the statement.

Frankly, I think Senator MCCONNELL and Senator GRAMM have this totally upside down. The problems we face—the corporate corruption, the lack of confidence in the economy, which even the President spoke about today—have nothing to do with labor unions. They really have to do with corporations that have an obligation to the public.

I believe the vast majority of businesses and corporations in America are run by honest people, working hard to make a profit to provide goods, services, and jobs to make America a better place. I do believe that. But there are some who have violated the public trust. The underlying bill addresses that. To bring in an argument now about imposing new obligations on labor unions not only misses the point completely as to why we are here this evening but misses the point about why we are facing this crisis in America.

I stand in opposition to the McConnell-Gramm amendment, and I hope all

of my colleagues will join me in remembering why this debate got started.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. CORZINE. Mr. President, I, too, wish to verbalize my opposition to this amendment that tries to draw in a completely extraneous item which has not been debated in the context of this bill in the 10 committee hearings we had with regard to putting together the Corporate Corruption and Investor Protection Act.

It has not been involved in any of the President's discussions about corporate abuse or fraud that we have heard discussed. It is not in any way related to the group of organizations with which we are attempting to deal, which are large, publicly traded corporations, and really ignores the fact that there is already a body of law that deals with union organizations and union officers with regard to their responsibility to their memberships and for their reporting requirements.

For a whole host of reasons, I do not understand how this even relates to the issue that is the fundamental part of the underlying bill, and there certainly is not any evidence in the marketplace of ideas and activities across America that would justify pulling labor unions by their actions into the fish net about which we are talking. This is about corporate corruption. It is about investor protection. It is about making sure corporate fraud is properly dealt with in the legal system, one that puts everyone on notice that they have serious responsibilities to certify that what is reported is real, and if it is not real, then people are held accountable.

We are off on the wrong track, and if we end up having too many of these diversionary tactics away from the underlying principles of what we are trying to accomplish, which is to have measured, reasonable, and thoughtful progress with regard to corporate responsibility, corporate accountability, accounting reform, and investor protection, public protection, then I think we are going to miss the opportunity to secure our economy, to secure the steps that are necessary for most people to restart this engine of investment that drives our economy. This is completely off point.

I hope my colleagues in the Senate will recognize it for what it is and move on, turn this down, and get on with the underlying amendment that Senator LEAHY has so appropriately brought to bear in this case.

I yield the floor.

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

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

#### MORNING BUSINESS

Mr. SARBANES. Mr. President, I ask unanimous consent that the Senate now proceed to a period for morning business, with Members allowed to speak therein for up to 5 minutes each.

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

#### LOCAL LAW ENFORCEMENT ACT OF 2001

Mr. SMITH of Oregon. Mr. President, I rise today to speak about hate crimes legislation I introduced with Senator KENNEDY in March of last year. The Local Law Enforcement Act of 2001 would add new categories to current hate crimes legislation sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred September 12, 2001 in Huntington, NY. A man, who was drunk, tried to run over a Pakistani woman in the parking lot of a shopping mall, according to police. The man then followed the woman into the mall and threatened to kill her for "destroying my country."

I believe that government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act of 2001 is now a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

#### ADDITIONAL STATEMENTS

#### RESTORATION AND REDEDICATION OF THE GEORGETOWN CIRCLE

• Mr. CARPER. Mr. President, today I recognize the rededication of "The Circle" in Georgetown, DE scheduled for July 19. Thanks to the great efforts and hard work of the citizens of Georgetown, this historic site has been restored to its original splendor.

The Circle was established in 1791 by an act of the Delaware General Assembly. Subsequently, the town of Georgetown was laid out around the Circle. While Delawareans knew of its historic and cultural significance, it was confirmed nationally in 1973 when The Circle was placed on the National Register of Historic Places.

Georgetown has long been famous for Return Day, a celebration that takes place every 2 years, 2 days after the state's general election. With the campaign behind them, voters and candidate's return to the Circle to enjoy parades, listen to music, and literally "bury a hatchet." We talk a lot in my State about working together, about putting aside partisan differences to cross party lines to get things done. This celebration at the Circle embodies that effort and commitment.

Over the years, the Circle fell to a state of disrepair. Once a place of stately honor, financial assistance was needed to return the Circle to its original state. The community of George-

town joined together and formed a committee to oversee the repairs and maintain the historic beauty of the site. The repairs were financed through a Transportation Enhancement Grant from the Federal Highway Administration, the Delaware Department of Transportation, and members of the Delaware General Assembly from Sussex County. Together, these groups were able to provide substantial funding for renovations. The residents of Georgetown should be praised for their commitment to restoring the Circle. With their initiative and dedication, future generations will be able to enjoy its rich history.

The July 19 rededication is a celebration of the community's collective efforts. Delaware's future will be built upon its rich history. We must work hard to preserve these symbols of our past to ensure that they are not forgotten. The citizens of Georgetown worked hard to ensure that the area's unique history will be preserved long into the future.●

#### HONORING WALTER JOHNSON

• Mrs. BOXER. Mr. President, I would like to take this opportunity to direct the Senate's attention to the life and achievements of Walter Johnson. Walter is the Secretary-Treasurer of the San Francisco Labor Council, a position he has held since 1985. He is a man of great compassion and determination. He is also, I am proud to say, a trusted friend and confidante.

On July 18, 2002, Walter is being honored by the San Mateo Central Labor Council for his lifetime of service. He certainly deserves it. He has been a leader in the Bay Area labor movement since the 1950s. He got his start with the Department Store Employees Union Local 1100 while working as a salesperson at Sears. Once in the union, it did not take him long to work his way up to be president and eventually secretary-treasurer, the top post.

Over the years, Walter has never wavered in his commitment to advancing the interests of working men and women and the larger community. He truly believes in social justice and equal rights. As the head of an organization comprised of 125 unions and 175,000 workers, he lives his beliefs every day.

When it comes to the lives and livelihoods of those he represents, he never lets elected officials forget that we work for the people, not the other way around. While this may make him an occasional irritant, it also makes him a constant inspiration.

Walter Johnson is the very embodiment of the labor movement in San Francisco and the Bay Area. If it seems like he has been there for years, it is because he has. Over the course of a half century, he always put the people first. It is high time he sat still long enough to let those he has helped return the favor.●