

Having said that, I make note of the fact that the Dow is down again today. I do not believe the primary problem in the markets today is the disease we are fighting. The primary problem we have now is fear about the absurd prescription of the doctor. I believe there is concern that in this frenzy, things are going to be done that will have a long-term negative impact on the capital market.

If you take the bill the House has already passed and the Senate bill as it is now, and you take the President's position reiterated yesterday by the Secretary of the Treasury, we have the makings of a good bill that can be broadly supported.

I reiterate my hope and desire that we bring this debate to a close. We could, by unanimous consent, have a vote on cloture today. We could deal very quickly with germane amendments. We could pass this bill tonight, and next week we could be going to conference. That would be prudent policy.

We are going to have a lot of amendments offered, if my list is indicative, that if anyone really believed they would be adopted, would be terribly frightening to investors.

The PRESIDING OFFICER. The Senator's 2 minutes has expired.

Mr. GRAMM. I ask unanimous consent for 1 additional minute.

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

Mr. GRAMM. If anybody took this list of amendments seriously, they would not be willing to risk thousands, millions, or billions of dollars. But they should not take this list seriously because these amendments are not going to become law.

The sooner we bring this debate to an end, the sooner we pass this bill in the Senate, the sooner we go to conference, the sooner we put together a bill that will represent a compromise, the more certainty there will be on Wall Street and the quicker we will rebuild equity values in America and rebuild confidence in our market.

I urge my colleagues, let's move ahead. Nothing good is going to happen today to this bill. Nothing bad is going to happen either, I make that clear, but it will not be clear to people watching this debate. The sooner the debate ends, the better off we will be. The sooner we get to conference, the sooner we will have a bill. That cannot come soon enough to suit me.

The PRESIDING OFFICER. Who yields time?

The Senator from Kentucky.

Mr. MCCONNELL. Mr. President, I expect shortly my amendment will be tabled. That will be further evidence that there is not a majority of the Senate willing to confront the issue of either union corruption as we discovered yesterday or, in the case of the amendment about to be voted on, plaintiff's lawyer misconduct.

The underlying amendment, the Edwards-Enzi amendment, addresses the

issue of corporate counsel, defense counsel misconduct, and it seemed only appropriate to me that we deal with the other side of the equation; that is, the lawyers who represent plaintiffs in Federal claims and in Federal courts.

This is a long overdue matter to be dealt with. If not now, when? My good friend from Maryland said this is an inappropriate bill to deal with it, so I suggested maybe he would support me in bringing up my matter freestanding with a time agreement; he smiled, but clearly the answer was no.

Mr. SARBANES. Will the Senator yield?

The answer was no. I didn't smile. I said no and smiled along with it.

Mr. MCCONNELL. Mr. President, I respectfully correct the observation, in case the Senator from Maryland misunderstood. I didn't doubt that his answer was no. He doesn't want to deal with this at any point, ever—not now, not tomorrow, not ever.

The issue before the Senate is whether it is appropriate to deal with client misbehavior when they are representing plaintiffs, as well as when they might be representing defendants.

My amendment is very simple. I would love to have gone further. My amendment does not cap fees, does not cap damages. It simply deals with the following: Providing, for the client, information about the arrangements under which the client is retaining the lawyer at the beginning, in the middle, and at the end of the case so the client fully understands the terms of the arrangement; second, that there be a 45-day bereavement rule established 45 days after the occurrence of the accident where the victims and their families would not be harassed by those seeking to represent them. It is just a 45-day bereavement rule which we already did under Federal law for airplane accidents.

I hope this amendment will be adopted. It is very reasonable and very appropriate to this bill.

I yield the floor.

The PRESIDING OFFICER. Who yields time? The Senator from Maryland.

Mr. SARBANES. Mr. President, what is the time situation? I have 2 minutes?

The PRESIDING OFFICER. The Senator from Maryland has 2 minutes and the Senator from Wyoming has 2 minutes. The Senator from Maryland.

Mr. SARBANES. Mr. President, I urge my colleagues to table this amendment. I do not know what amendment the Senator from Kentucky will come with next out of his grab bag, but he has obviously got a whole set of pet projects that he has been husbanding there in his committee and that he will seek to offer. They are not relevant to this legislation.

Here we are again trying to deal with an issue that is relevant. I suggest to the distinguished Senator from Kentucky that he allow the second-degree amendment staffer to take the week-

end off so we do not have to continue to go through this exercise of being confronted with these second-degree amendments not relevant to the legislation. We have important legislation to deal with here. We have some good amendments pending out there. This repeated effort to just gum up the works is difficult to understand.

In any event, I urge my colleagues on the vote that is shortly to come to vote to table the McConnell amendment.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. ENZI. Mr. President, we have, I think, before us, about 60 amendments. I join my ranking member, the Senator from Texas, in his comments about how we need to get this bill done as quickly as possible. The stock market is dropping. It may be because of what we are doing. It may be because of the need to have this bill done. Either way, getting this bill done will give some assurance to the stock market both that we are not dabbling in it anymore, and that we have completed our work and have provided a solution.

As a result—and I regret that it is on this amendment with my friend from Kentucky—I will begin making tabling motions on amendments that do not have a direct aspect to the bill. I also would be doing that to amendments that put specific accounting language into the bill, even if it is relevant. This bill is not designed to put in specific accounting language; it is designed to set up a process for getting to specific accounting language. That is a very fine distinction and a very important one if we want to have the kind of stock market and the companies that we envision.

With those comments, at this time I move to table the McConnell amendment.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The majority leader.

Mr. DASCHLE. I ask unanimous consent we be permitted 1 minute to make an introduction.

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

INTRODUCING THE HONORABLE PAT COX, PRESIDENT OF THE EUROPEAN PARLIAMENT

Mr. DASCHLE. Mr. President, one of the privileges accorded the majority leader is the opportunity to welcome and introduce our fellow legislators from the European Parliament. This is a tradition that was begun in 1972, and has continued every year since.

I find it especially meaningful, because although the Atlantic Ocean separates us from our European friends, we are connected by a belief in the rule

of law, and a commitment to the betterment of the people we serve, and the world we share.

This afternoon I have the distinct honor of introducing The Honorable Pat Cox, President of the European Parliament. This is an exciting time of growth and change in the European Union, and as President of the European Parliament, Pat Cox has been instrumental in fostering greater European unity and advocating for EU expansion.

As Europe becomes ever more unified, the extension of EU membership to free and democratic nations will be crucial to ensuring that diversity and pluralism accompany unification. In the face of persistent disputes among EU nations and political factions, President Cox has not wavered in his support for expansion, or in his denouncement of far right politicians who do not express the views of most Europeans. For that, we are all grateful.

Mr. President, Mr. Cox will be available to meet our Senate colleagues here on the floor during this vote.

Let me, on behalf of the U.S. Senate, welcome President Cox.
(Applause.)

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

AMENDMENT NO. 4200

The PRESIDING OFFICER (Mr. CARPER). The question is on agreeing to the motion to table amendment No. 4200. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS), the Senator from Ohio (Mr. VOINOVICH), and the Senator from Idaho (Mr. CRAPO) are necessarily absent.

I further announce that if present and voting the Senator from North Carolina (Mr. HELMS) would vote "no."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 62, nays 35, as follows:

(Rollcall Vote No. 172 Leg.)

YEAS—62

| | | |
|----------|-----------|-------------|
| Akaka | Dorgan | McCain |
| Allen | Dubin | Mikulski |
| Baucus | Edwards | Miller |
| Bayh | Enzi | Murray |
| Biden | Feingold | Nelson (FL) |
| Bingaman | Feinstein | Nelson (NE) |
| Boxer | Graham | Reed |
| Breaux | Hagel | Reid |
| Byrd | Harkin | Rockefeller |
| Cantwell | Hollings | Sarbanes |
| Carnahan | Inouye | Schumer |
| Carper | Jeffords | Shelby |
| Chafee | Johnson | Snowe |
| Cleland | Kennedy | Specter |
| Clinton | Kerry | Stabenow |
| Collins | Kohl | Thompson |
| Conrad | Landrieu | Torricelli |
| Corzine | Leahy | Warner |
| Daschle | Levin | Wellstone |
| Dayton | Lieberman | Wyden |
| Dodd | Lincoln | |

NAYS—35

| | | |
|-----------|------------|------------|
| Allard | Fitzgerald | McConnell |
| Bennett | Frist | Murkowski |
| Bond | Gramm | Nickles |
| Brownback | Grassley | Roberts |
| Bunning | Gregg | Santorum |
| Burns | Hatch | Sessions |
| Campbell | Hutchinson | Smith (NH) |
| Cochran | Hutchison | Smith (OR) |
| Craig | Inhofe | Stevens |
| DeWine | Kyl | Thomas |
| Domenici | Lott | Thurmond |
| Ensign | Lugar | |

NOT VOTING—3

| | | |
|-------|-------|-----------|
| Crapo | Helms | Voinovich |
|-------|-------|-----------|

The motion was agreed to.

Mr. SARBANES. I move to reconsider the vote.

Mr. DASCHLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The majority leader.

AMENDMENT NO. 4269 TO AMENDMENT NO. 4187

(Purpose: To address procedures for banning certain individuals from serving as officers or directors of publicly traded companies, civil money penalties, obtaining financial records, broadened enforcement authority, and forfeiture of bonuses and profits)

Mr. DASCHLE. Mr. President, I have an amendment I send to the desk on behalf of Senator LEVIN.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Dakota [Mr. DASCHLE], for Mr. LEVIN, for himself, Mr. NELSON of Florida, Mr. HARKIN, Mr. CORZINE, and Mr. BIDEN, proposes an amendment numbered 4269.

Mr. DASCHLE. Mr. President, I ask unanimous consent reading of the amendment be dispensed with.

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

(The amendment is printed in today's RECORD under "Text of Amendments.")

Mr. DASCHLE. I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, this amendment is offered—and I thank the majority leader—on behalf of myself, Senator BILL NELSON, Senator HARKIN, Senator CORZINE, and Senator BIDEN.

Our amendment would grant the SEC administrative authority to impose civil fines on persons who violate securities laws, regulations, and rules. Now the SEC has to go to court, which is difficult and burdensome.

We, just the other day, decided we wanted to give the SEC the power to remove directors and officers from public companies who violate rules and regulations and laws without having to go to court.

Of course, those decisions administratively by the SEC are subject to an appeal. That is always true and always must be true. The same approach is essential relative to the imposition of civil fines. If the SEC is going to have power, without a lot of cumbersome, costly, and expensive procedures, to really take on those directors and those auditors who violate the law,

who violate rules and regulations, the SEC must have the same authority which other regulatory bodies have to impose civil fines.

A few examples: The Commodity Futures Trading Commission has authority to impose civil fines up to three times the monetary gain from a violation plus restitution of customer damages. The Department of Transportation can impose civil fines. The Consumer Product Safety Commission can impose civil fines. The Occupational Safety and Health Administration, OSHA, can impose civil fines. The Federal Communications Commission can impose civil fines.

As a matter of fact, the Securities and Exchange Commission can impose civil fines on some of the people it regulates—brokers. But unless we act today, there will be a great gap in the enforcement power of the SEC, a continuing gap. That gap is, it does not have the power, without legislation, to impose an administrative civil fine on auditors and members of boards of directors who violate rules and regulations in the law of the land.

Our amendment would give the SEC that authority to impose administratively civil fines on those people who violate our securities laws and regulations and rules. That includes officers, directors, and auditors of publicly traded companies.

I emphasize, these fines would be, and must be, subject to judicial review, as are the other SEC administrative determinations which they have authority to answer at this point. That is the first objective of the amendment.

Secondly, our amendment would significantly increase the civil fines the SEC can impose on law violators. I particularly thank Senator NELSON of Florida for highlighting the problem and supporting the inclusion of these provisions in the amendment.

The civil fines that currently can be imposed on broker-dealers administratively have maximum amounts that start at \$6,500 per violation. That is the maximum amount under the so-called tier 1 civil fine. If a broker-dealer now violates the securities laws under so-called tier 1 where there is a violation found, not yet proven to be fraudulent but a violation nonetheless, \$6,500 is the maximum fine under current law. Tier 2 for individuals is a \$60,000 fine. That is where you find fraud, deceit, manipulation, and deliberate or reckless disregard—\$60,000 for an individual for that violation.

It is laughable. The current structure of fines which can be imposed on those people who administratively can be subject to a civil action or civil fine by the SEC is so low, these fines are a joke. We are talking about people who frequently are walking away, lining their pockets, violating rules and regulations for millions of dollars, sometimes tens of millions of dollars. To have a system where the maximum fine under tier 1 is \$6,500 for an individual and under tier 2 is \$60,000 is just simply inadequate.