

think these are pretty accurate costs. I will be very interested maybe CBO will have a chance to do it. Maybe if we would legislate correctly and not just have a new proposal on the floor, we would have a chance for CBO to score it, not through e-mails saying that we think it is no new net cost but have them give a State-by-State. Then we could be more thorough in our analysis and in our description. And if someone highlights a couple of columns and leaves out a couple of columns, that can be brought out in the debate.

Unfortunately, we did not have that time afforded to us the way this bill was brought to the floor and the way we were considering serious alternatives.

I appreciate my colleague saying, wait a minute, maybe this is not complete. There should have been a column that shows some offsets. But I am absolutely certain that some States would lose millions upon millions of dollars, maybe in the hundreds of millions of dollars. And some States would be real net losers.

There might be some that have some better reimbursement from the Federal Government. In fact, it may be for some of the States that are wealthier, that have more generous programs, we are going to pick up the cost of their doing the program which was a previous State program. Maybe that is an offset.

But I hope, and I think my colleague would agree—or wouldn't you agree—that we should have a more thorough cost analysis by the relevant agencies, whether it is OMB, Labor-HHS, or CBO, when we discuss programs of this significance and the significant impact it would have on our States?

Mr. GRAHAM. I completely agree. I think we should have an analysis that includes both the debit and the credit side of the accounting ledger so we will be able to make an informed judgment as to what the real economic consequences of our decisions will be.

Mr. NICKLES. I thank my colleague.

Mr. GRAHAM. I think on that note of common agreement I wish to thank my friend from Oklahoma for having allowed me to ask him a few questions earlier. I hope he has a very good August recess, and I look forward to seeing him back here on the day after Labor Day, refreshed and ready to complete this session of the Congress.

Mr. NICKLES. I thank my colleague.

MOTOR VEHICLE FRANCHISE CONTRACT ARBITRATION FAIRNESS ACT

Mr. REID. Mr. President, we leave for the August recess having accomplished a lot. When we return in September however, we really have our work cut out for us. It is not simply the annual appropriations bills and completed conference reports we must take up and pass. One measure of particular interest to the Senator from Nevada is S. 1140, the Motor Vehicle Franchise Con-

tract Arbitration Fairness Act. The Judiciary Committee approved this bill back in October 2001. It enjoys 64 bipartisan cosponsors and both the majority and minority leader have indicated their desire to consider this legislation. I am hopeful that any concerns over its merits can be resolved over the August recess so that we can move it expeditiously upon our return.

CONSTITUTIONAL AMENDMENT TO PROTECT THE PLEDGE OF ALLEGIANCE AND THE NATIONAL MOTTO

Mr. LOTT. Mr. President, on June 27, the Senate voted 99 to 0 to pass S. 2690 to reaffirm the reference to "One Nation under God" in the Pledge of Allegiance and the National Motto "In God We Trust." Today, to be absolutely sure that the Nation's courts abide by the original intent of our Founding Fathers, I am proposing an amendment to the Constitution of the United States that would make it clear that the establishment clause in the first amendment was never meant to be construed in a manner that would prevent schools from leading our children in reciting the Pledge of Allegiance simply because it contains the words "under God."

The Senate and the House of Representatives—and the vast majority of the American people—have all expressed their outrage at the decision by the Ninth Circuit Court of Appeals on June 26 that reciting the Pledge of Allegiance in school is unconstitutional because it includes the phrase "under God." People are still understandably stunned and find it not only unbelievable, but indefensible.

The fact that two Federal circuit judges were capable of making such an absurd decision points up, once again, how vitally important these Federal judicial appointments are in guiding not only the Nation's present, but its future as well. Judges are important at every level, but particularly at the appellate court—the circuit court—level.

And this may not be the end of such shocking decisions. There have been reports that similar court challenges will be made to the use of the National Motto "In God We Trust" on our currency and to references to God in our official oaths of office. It is simply incomprehensible that so many Federal judges are so quick to find that the Constitution protects the right of child pornographers to debase society while at the same time requiring the removal of every last vestige of God from the public forum.

It is easy for us all to say the Pledge of Allegiance with gusto and mean it, but we need to look behind this latest decision—and examine how and why it came about. And America's voters need to understand that these Federal judgeships, and who fills them, do make a difference in the kind of society that not only will we live in, but our children's children will live in as well.

TRIBUTE TO CHARLES KOTHE

Mr. NICKLES. Mr. President, on June 19, the people of Oklahoma, and many others around the world lost a great servant and friend with the passing of Charles Kothe. He was 89. Charles Kothe, a long time Tulsa resident and nationally recognized attorney who specialized in labor law, was born October 12, 1912. Kothe received his B.A. degree from the University of Tulsa in 1934 and his J.D. degree, with honors, from the University of Oklahoma in 1938. In his Tulsa based law practice he served as labor relations counsel to companies in various industries throughout the country.

During his six year tenure as Vice President of Industrial Relations at the National Manufacturers Association he authored two books on labor relations and conducted seminars on Title VII of the Civil Rights Act. He was personally commended for this activity by President Lyndon Johnson, and later served as an advisor to Secretaries of Labor Mitchell, Goldberg, and Wirtz. In 1990, he was appointed by the White House to serve as a member of the Federal Service Impasses Panel.

In business, he was an Officer and Director of several corporations, including T.D. Williamson, Inc.; Coburn Optical Co.; and Macnick. Known as a compelling speaker, he appeared as the keynote speaker at conventions and conferences across the Nation. He was named Tulsa Citizen of the Year in 1946, was named as a Distinguished Alumnus of the University of Tulsa, and is listed in the United States Junior Chamber of Commerce Hall of Fame.

He taught labor law at the University of Tulsa and was Dean of the Oklahoma School of Business Accountancy and Law. He also served as Director of Civil Rights and Human Resources in the Graduate School of Business at Oral Roberts University and was the founding Dean of the O.W. Coburn School of Law. For more than 25 years, he taught the Christian Fellowship Class at First Presbyterian Church and later actively served at Boston Avenue Methodist Church. He was very involved with the National Prayer Breakfast here in Washington.

Beyond his credentials and recognitions, Charles Kothe displayed a profound commitment to a cause much greater than himself. This commitment is evident in the life of Janet, his wife of 65 years and in their 4 children and 7 grandchildren. It is evident in the lives of the students that he trained in the rigors of law, many of whom would have not had the opportunity to study but for his encouragement and support. It is evident in his numerous efforts to use the law as a tool for healing in the midst of conflict rather than solely as a means for retribution. You see, Charles Kothe believed that his purpose was rooted in the greatest commitment of Jesus: to love God with all his heart and soul, mind, and strength, and to love his neighbor as himself.

This ability to love and share God's love with others was his greatest gift, his greatest accomplishment, and his greatest legacy.

Many of his former students have spoken of his encouraging example, quick wit, unmatched humor, and how his influence is still felt in their lives today. Countless individuals were transformed by their relationship with Charles Kothe. Through these lives and because of Charles Kothe's influence on these lives, God will effect positive change in our world for generations to come. He will be greatly missed.

Let me conclude by stating that Charles Kothe's tenacious energy, tremendous intellect, and inspiring enthusiasm has undoubtedly influenced countless numbers across our great land. This scholar, this patriot, this man of God, this friend committed himself to our Republic as a prudent, optimistic, and faithful son. May his spirit live on.

AMERICAN SERVICEMEMBERS' PROTECTION ACT

Mr. LEAHY. Mr. President, I read with interest the statement that Representative HYDE made on July 23, 2002 about the American Servicemembers' Protection Act (ASPA) during House consideration of the conference report on H.R. 4775, the fiscal year 2002 Supplemental Appropriations bill for Further Recovery From and Response to Terrorist Attacks on the United States.

Although neither Mr. HYDE nor his staff were present during the negotiations on ASPA, he suggests that the House readily accepted section 2015, also known as the "Dodd-Warner amendment", which was unanimously included in the Senate-passed version of ASPA. I do not think it is necessary to engage in an exhaustive discussion of the legislative history of the Dodd-Warner amendment because it is clear on its face. And, the first rule of legislative interpretation is that one looks to the history only if a provision is ambiguous.

To the extent that the legislative history is relevant, I believe that I can comment on this issue, as I was involved with the drafting of the amendment and was an original co-sponsor. Moreover, I was involved in negotiations over section 2015 during the conference on the Supplemental, and my staff was actively engaged in discussion on this issue throughout.

Contrary to Mr. HYDE's suggestion that the House receded on section 2015 because it is ineffectual, the House understood that the effect of the Dodd-Warner amendment is to qualify provisions of ASPA, including sections 2004, 2006, and 2011, in cases involving foreign nationals. It was for that reason that the House conferees repeatedly and vigorously sought to remove all or part of it from the conference report.

Those present at the negotiations know that the House agreed to accept

the Dodd-Warner amendment only when the Senate agreed to drop its provision related to the United Nations Population Fund (UNFPA), which House supporters of ASPA strongly opposed.

Mr. HYDE also asserts that section 2015 "simply reiterates that this legislation does not apply to international efforts besides the International Criminal Court to bring to justice foreign national accused of genocide, war crimes, or crimes against humanity." As a former prosecutor and Chairman of the Senate Judiciary Committee, I appreciate the creativity of Mr. HYDE's argument. But he is trying to put a square peg into a round hole, and one would have to rewrite the provision to support his interpretation. The flaws in this interpretation are self-evident, if one simply reads the text of section 2015:

Nothing in this title shall prohibit the United States from rendering assistance to international efforts to bring to justice Saddam Hussein, Slobodan Milosovic, Osama bin Laden, other members of Al Qaeda, leaders of Islamic Jihad, and other foreign nationals accused of genocide, war crimes or crimes against humanity.

The language of this section is clear, and it is noteworthy that any iteration of the phrase "besides the International Criminal Court" does not appear anywhere in the text.

In fact, when Senator Dodd and I were drafting this amendment, I specifically added the phrase "and other foreign nationals accused of genocide, war crimes or crimes against humanity" to ensure that this section would apply to the International Criminal Court (ICC). The ICC currently has jurisdiction over these three crimes.

As I mentioned earlier, the importance of this phrase was not lost on the House, and opponents of the Dodd-Warner amendment tried repeatedly to nullify or remove it. It was even reported to me that, at the eleventh hour, House staff members sought, unsuccessfully, to insert the word "other" before the phrase "international efforts to bring to justice . . .", in an attempt to prevent the Dodd-Warner amendment from applying to the ICC and heavily qualifying portions of ASPA.

Another important phrase in section 2015 is: "Nothing in this title shall prohibit . . .", which makes unequivocally clear that no provision in ASPA prevents the U.S. from cooperating with the ICC in cases involving foreign nations.

No one disputes the fact that Congress has serious concerns about Americans coming before the ICC, which is the reason that ASPA was passed. During consideration of ASPA, Senator WARNER made that point clear:

This amendment would protect U.S. military personnel and other elected and appointed officials of the U.S. government against potential criminal prosecution by an international tribunal court to which the United States is not a party.

However, through the Dodd-Warner amendment, Congress sets a different

standard with respect to non-Americans. Congress wanted to be clear that the U.S. can cooperate with international efforts, including those by the ICC, to bring foreign nationals to justice for genocide, war crimes, and crimes against humanity, as Senator DODD pointed out during the Senate debate:

My amendment merely says that despite whatever else we have said, when it comes to prosecuting these people, we would participate and help, even though we are not a signatory or participant in the International Criminal Court.

This is precisely why the Senate unanimously accepted the Dodd amendment and why the lead sponsor of ASPA, Senator WARNER, joined as co-sponsor of the amendment.

I see that Chairman BYRD is here on the floor and I would ask if he agrees with my recollection of events that transpired during the conference negotiations on the Supplemental and my interpretation of the Dodd-Warner amendment.

Mr. BYRD. I agree with what Senator LEAHY has said about section 2015 of the Supplemental Appropriations bill. The House strongly resisted efforts to incorporate the Dodd-Warner amendment in the bill, and receded only in exchange for the Senate agreeing to drop a provision on UNFPA.

Mr. LEAHY. I thank the Chairman. I want to take this opportunity to say a few words about the importance of section 2015. A primary reason for the creation of the ICC is to remove the uncertainty and protracted negotiations surrounding the establishment of ad hoc tribunals to try those accused of genocide, war crimes, and crimes against humanity. In the future, the ICC may be the only venue for bringing to justice those accused of these heinous crimes.

The Dodd-Warner amendment simply ensures that the United States can assist the ICC, or other international efforts, to try foreign nationals accused of war crimes, genocide, and crimes against humanity. It is not difficult to think of a number of instances when it would be in the interest of the United States to support such efforts. For example:

What if 50 Americans, traveling overseas, are brutally killed by a suicide bomber and the ICC attempts to bring to justice the perpetrators of this horrendous act?

What if a group of terrorists commits war crimes against U.S. military personnel who are posted abroad and the ICC is involved with efforts to bring them to justice?

What if the ICC prosecutes some future Saddam Hussein, Slobodan Milosovic, or Osama bin Laden who is responsible for the deaths of thousands of people?

Would we want the President of the United States to be hamstrung by ASPA in these, or a number of other cases, and prevented from actively supporting efforts by the ICC to bring