

after the gathering of their first harvest, set apart a special day for rendering thanks to God for the bounties vouchsafed to them.

In 1962, President John F. Kennedy asked the American people to "renew the spirit of the Pilgrims at the first Thanksgiving, lonely in an inscrutable wilderness, facing the dark unknown with a faith borne of their dedication to God and a fortitude drawn from their sense that all men were brothers."

So it is that we celebrate this unique American holiday, a day devoted to family, to country, and to God. It always has been. I pray it always will be a day for giving thanks. With the turmoil of the past year with our sons and daughters in far away lands putting their lives in danger, we still have so much for which to be thankful.

We can be thankful for the heritage of liberty bequeathed to us by our ancestors, and from whom we are entrusted to preserve for future generations of Americans.

Mr. President, we can be thankful for the wisdom and the foresight of our Founding Fathers, who bequeathed to us a form of government unique in history, with its three strong pillars of the executive, the legislative, and the judicial branches, each balanced and checked one against the other.

Like President Washington, we can be thankful for "the many favors of Almighty God," including a government that ensures our "safety and happiness."

And like President Lincoln, we can be thankful for the "gracious gifts of the most high God, who, while dealing with us in anger for our sins, hath nevertheless remembered mercy."

While we are saddened that there are so many young American men and women in uniform who will not be able to be with their families on this holiday, we can be thankful for their courage, thankful for their devotion to duty, and thankful for their service to our Nation.

We can be thankful for those men and women who, 383 years ago, had the courage, the faith, and the devotion to our Almighty Father, to God, to embark upon the most difficult and dangerous of journeys and face the darkest unknown so that they, and we, could worship freely.

We can be thankful, can we not, for the abundance of America, an abundance that includes an annual production of millions of turkeys, millions of pounds of cranberries and sweet potatoes and pumpkins.

Mr. President, a few minutes ago, I read from President Lincoln's Thanksgiving Proclamation of 1863. Permit me now to read from the 1863 White House Thanksgiving menu.

According to that menu, in 1863, the White House Thanksgiving dinner consisted of the following, and I quote from that menu: cranberry juice; that is good. How sweet it is, cranberry juice; roast turkey with dressing, cranberry sauce.

Look at that man sitting in the chair, presiding over this Senate. Yes, there he is. I can see his mouth is watering like mine is watering.

Sweet potatoes, creamed onions. Well, I like my onions just plain onions, not creamed, but that was on the menu. Squash, pumpkin pie, plum pudding, mince pie, milk, and coffee.

Does that sound familiar? How about it, does it sound familiar?

I hope my wife Erma is watching right at this moment because nobody in my lifetime can spread a table like my wife Erma. She has been spreading that table in my family now for 66 years, bless her heart.

But does it sound familiar? It sure sounds like the 2003 Thanksgiving menu at the Byrd house. Boy, how I look forward to it. I am getting hungry just thinking about it. I am getting hungry. How about that?

I hope that my listeners are getting hungry also, and thinking about the first Thanksgiving. The first Thanksgiving, how would you have liked to have sat with that incredible, intrepid band of men and women?

So I am going to stop talking now, and I am going to head home, before too long, for our great Thanksgiving meal with my wife Erma and our two daughters and their husbands and our five grandchildren, their spouses, and our three great-grandchildren and our little dog, Trouble.

Happy Thanksgiving, everyone. Happy Thanksgiving.

THE PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I note the presence of Senator BURNS. Does he wish to speak? I will tell him how long I will be.

Mr. BURNS. Mr. President, not on the Senator's time.

Mr. DOMENICI. I will only be a few moments.

#### GREAT ECONOMIC NEWS

Mr. DOMENICI. Mr. President, economic growth is the lifeblood of this country. Economic growth is what gets rid of deficits. Economic growth is what provides jobs. Economic growth is what causes investments. Economic growth is what gives our people hope.

Today, the Government just released news that our economy grew by an amazing 8.2 percent last quarter, up from an earlier estimate in the same quarter of 7.2 percent. I recall when it went up 7.2 percent. We were all saying: Isn't that fantastic? The economy is really booming.

Well, it turns out there is always an adjustment, and they made the adjustment. Frequently, the adjustment is downward. In this case, the adjustment is upward, an astronomical 8.2 percent growth in the domestic product last quarter. This means solid growth this quarter and into next year. This is a tribute to the resilient American economy and to the fiscal policy pursued by the President and the Republican-led Congress.

The naysayers, principally on the other side of the aisle, have been the ones saying we should not have cut taxes. Taxes create deficits. On everything the President chose to ask us to do about the economy, the naysayers said no. Now they have been proven wrong and we have the second basket on the floor in the nature of great big positive news for the American people. Even more important to the future, confidence among the American consumers soared. They know when things are going well. It soared to almost 92 percent, a full 10 percent gain from last month. We remember when we were all worried because it was extremely low, into 60 percent, and the naysayers were saying: It is all President Bush's fault. Well, if that is the case—it is 92 percent now—is that not his fault? Or is that not to his credit? I would think so.

The kind of extraordinary growth I am talking about obviously cannot continue for years and years, perhaps not even for very many quarters, but it does mean that most estimates of growth for the year 2004 will prove to be pessimistic. They will prove to be too low. If we get a solid 3 and 3½ percent growth rate each of the next quarters for an entire fiscal year, then we will see Federal deficits also decline. Employment will increase and investments will improve.

The naysayers will be stuck. How will they answer all of these items of good news when employment starts coming down, which it already has but will come down more; when Federal deficits, instead of going up, which they run around talking about President Bush created, when everybody knows we have a huge expenditure for our military men and equipment because we have been in a series of warlike efforts from Somalia, Afghanistan, and now this one. Nothing can be done without spending a lot of money. But we are going to see the deficit come down if these growth numbers continue up.

Yes, we have all been worried about American business: Where is it going? First, we have to give American business some credit. I used the words "resilient economy" awhile ago. When there is a recession, American business takes action. They are not like us. They do not have all of the money to spend. They have to stop spending. They have to make changes.

They made changes. Guess what happened. Productivity went through the roof, and enormous productivity growth normally is accompanied by great GDP growth, and that has happened.

Now, it seems as if productivity growth is probably going to stop. They have taken about as much as they can out of their businesses, and now we are going to have the growth that will follow it, the job increases that will follow it, and the deficits that will diminish.

I close where I started, by saying it seems as if good news comes in bushels.

Good news comes not one thing at a time but two things and maybe three at a time, and the two pieces of great news are before us today. Let us hope there is more to come because, clearly, we are on the path upward.

I yield the floor.

#### CAN-SPAM ACT OF 2003

Mr. BURNS. Mr. President, as my good friend from New Mexico was pointing out some of the good news, I have some more. I ask that the Chair lay before the Senate a message from the House on S. 877.

The PRESIDING OFFICER laid before the Senate the following message:

S. 877

*Resolved*, That the bill from the Senate (S. 877) entitled "An Act to regulate interstate commerce by imposing limitations and penalties on the transmission of unsolicited commercial electronic mail via the Internet", do pass with the following amendment:

Strike out all after the enacting clause and insert:

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Controlling the Assault of Non-Solicited Pornography and Marketing Act of 2003", or the "CAN-SPAM Act of 2003".

#### SEC. 2. CONGRESSIONAL FINDINGS AND POLICY.

(a) FINDINGS.—The Congress finds the following:

(1) Electronic mail has become an extremely important and popular means of communication, relied on by millions of Americans on a daily basis for personal and commercial purposes. Its low cost and global reach make it extremely convenient and efficient, and offer unique opportunities for the development and growth of frictionless commerce.

(2) The convenience and efficiency of electronic mail are threatened by the extremely rapid growth in the volume of unsolicited commercial electronic mail. Unsolicited commercial electronic mail is currently estimated to account for over half of all electronic mail traffic, up from an estimated 7 percent in 2001, and the volume continues to rise. Most of these messages are fraudulent or deceptive in one or more respects.

(3) The receipt of unsolicited commercial electronic mail may result in costs to recipients who cannot refuse to accept such mail and who incur costs for the storage of such mail, or for the time spent accessing, reviewing, and discarding such mail, or for both.

(4) The receipt of a large number of unwanted messages also decreases the convenience of electronic mail and creates a risk that wanted electronic mail messages, both commercial and non-commercial, will be lost, overlooked, or discarded amidst the larger volume of unwanted messages, thus reducing the reliability and usefulness of electronic mail to the recipient.

(5) Some commercial electronic mail contains material that many recipients may consider vulgar or pornographic in nature.

(6) The growth in unsolicited commercial electronic mail imposes significant monetary costs on providers of Internet access services, businesses, and educational and nonprofit institutions that carry and receive such mail, as there is a finite volume of mail that such providers, businesses, and institutions can handle without further investment in infrastructure.

(7) Many senders of unsolicited commercial electronic mail purposefully disguise the source of such mail.

(8) Many senders of unsolicited commercial electronic mail purposefully include misleading information in the message's subject lines in

order to induce the recipients to view the messages.

(9) While some senders of commercial electronic mail messages provide simple and reliable ways for recipients to reject (or "opt-out" of) receipt of commercial electronic mail from such senders in the future, other senders provide no such "opt-out" mechanism, or refuse to honor the requests of recipients not to receive electronic mail from such senders in the future, or both.

(10) Many senders of bulk unsolicited commercial electronic mail use computer programs to gather large numbers of electronic mail addresses on an automated basis from Internet websites or online services where users must post their addresses in order to make full use of the website or service.

(11) Many States have enacted legislation intended to regulate or reduce unsolicited commercial electronic mail, but these statutes impose different standards and requirements. As a result, they do not appear to have been successful in addressing the problems associated with unsolicited commercial electronic mail, in part because, since an electronic mail address does not specify a geographic location, it can be extremely difficult for law-abiding businesses to know with which of these disparate statutes they are required to comply.

(12) The problems associated with the rapid growth and abuse of unsolicited commercial electronic mail cannot be solved by Federal legislation alone. The development and adoption of technological approaches and the pursuit of cooperative efforts with other countries will be necessary as well.

(b) CONGRESSIONAL DETERMINATION OF PUBLIC POLICY.—On the basis of the findings in subsection (a), the Congress determines that—

(1) there is a substantial government interest in regulation of commercial electronic mail on a nationwide basis;

(2) senders of commercial electronic mail should not mislead recipients as to the source or content of such mail; and

(3) recipients of commercial electronic mail have a right to decline to receive additional commercial electronic mail from the same source.

#### SEC. 3. DEFINITIONS.

In this Act:

(1) AFFIRMATIVE CONSENT.—The term "affirmative consent", when used with respect to a commercial electronic mail message, means that—

(A) the recipient expressly consented to receive the message, either in response to a clear and conspicuous request for such consent or at the recipient's own initiative; and

(B) if the message is from a party other than the party to which the recipient communicated such consent, the recipient was given clear and conspicuous notice at the time the consent was communicated that the recipient's electronic mail address could be transferred to such other party for the purpose of initiating commercial electronic mail messages.

(2) COMMERCIAL ELECTRONIC MAIL MESSAGE.—

(A) IN GENERAL.—The term "commercial electronic mail message" means any electronic mail message the primary purpose of which is the commercial advertisement or promotion of a commercial product or service (including content on an Internet website operated for a commercial purpose).

(B) TRANSACTIONAL OR RELATIONSHIP MESSAGES.—The term "commercial electronic mail message" does not include a transactional or relationship message.

(C) REGULATIONS REGARDING PRIMARY PURPOSE.—Not later than 12 months after the date of the enactment of this Act, the Commission shall issue regulations pursuant to section 13 further defining the relevant criteria to facilitate the determination of the primary purpose of an electronic mail message.

(D) REFERENCE TO COMPANY OR WEBSITE.—The inclusion of a reference to a commercial en-

tity or a link to the website of a commercial entity in an electronic mail message does not, by itself, cause such message to be treated as a commercial electronic mail message for purposes of this Act if the contents or circumstances of the message indicate a primary purpose other than commercial advertisement or promotion of a commercial product or service.

(3) COMMISSION.—The term "Commission" means the Federal Trade Commission.

(4) DOMAIN NAME.—The term "domain name" means any alphanumeric designation which is registered with or assigned by any domain name registrar, domain name registry, or other domain name registration authority as part of an electronic address on the Internet.

(5) ELECTRONIC MAIL ADDRESS.—The term "electronic mail address" means a destination, commonly expressed as a string of characters, consisting of a unique user name or mailbox (commonly referred to as the "local part") and a reference to an Internet domain (commonly referred to as the "domain part"), whether or not displayed, to which an electronic mail message can be sent or delivered.

(6) ELECTRONIC MAIL MESSAGE.—The term "electronic mail message" means a message sent to a unique electronic mail address.

(7) FTC ACT.—The term "FTC Act" means the Federal Trade Commission Act (15 U.S.C. 41 et seq.).

(8) HEADER INFORMATION.—The term "header information" means the source, destination, and routing information attached to an electronic mail message, including the originating domain name and originating electronic mail address, and any other information that appears in the line identifying, or purporting to identify, a person initiating the message.

(9) INITIATE.—The term "initiate", when used with respect to a commercial electronic mail message, means to originate or transmit such message or to procure the origination or transmission of such message, but shall not include actions that constitute routine conveyance of such message. For purposes of this paragraph, more than 1 person may be considered to have initiated a message.

(10) INTERNET.—The term "Internet" has the meaning given that term in the Internet Tax Freedom Act (47 U.S.C. 151 note).

(11) INTERNET ACCESS SERVICE.—The term "Internet access service" has the meaning given that term in section 231(e)(4) of the Communications Act of 1934 (47 U.S.C. 231(e)(4)).

(12) PROCURE.—The term "procure", when used with respect to the initiation of a commercial electronic mail message, means intentionally to pay or provide other consideration to, or induce, another person to initiate such a message on one's behalf.

(13) PROTECTED COMPUTER.—The term "protected computer" has the meaning given that term in section 1030(e)(2)(B) of title 18, United States Code.

(14) RECIPIENT.—The term "recipient", when used with respect to a commercial electronic mail message, means an authorized user of the electronic mail address to which the message was sent or delivered. If a recipient of a commercial electronic mail message has 1 or more electronic mail addresses in addition to the address to which the message was sent or delivered, the recipient shall be treated as a separate recipient with respect to each such address. If an electronic mail address is reassigned to a new user, the new user shall not be treated as a recipient of any commercial electronic mail message sent or delivered to that address before it was reassigned.

(15) ROUTINE CONVEYANCE.—The term "routine conveyance" means the transmission, routing, relaying, handling, or storing, through an automatic technical process, of an electronic mail message for which another person has identified the recipients or provided the recipient addresses.

(16) SENDER.—