

Rosa Parks as she confronted injustice and inequality; and

Whereas in 1988 Rosa Parks said: "I am leaving this legacy to all of you . . . to bring peace, justice, equality, love and a fulfillment of what our lives should be. Without vision, the people will perish, and without courage and inspiration, dreams will die—the dream of freedom and peace": Now, therefore, be it

*Resolved by the Senate* That the Senate honors the life and accomplishments of Rosa Parks and expresses its condolences on her passing.

#### ANTITRUST CRIMINAL INVESTIGATIVE IMPROVEMENTS ACT OF 2005

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 250, S. 443.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 443) to improve the investigation of criminal antitrust offenses.

There being no objection, the Senate proceeded to consider the bill.

Mr. KOHL. Mr. President, I rise in support of the Antitrust Investigative Improvements Act of 2005, a bill I am cosponsoring with Senators DEWINE and LEAHY. This important measure will give the antitrust criminal enforcers at the Department of Justice a vital tool to investigate, detect, and prevent antitrust conspiracies. It will allow the Justice Department, upon a showing of probable cause to a Federal judge, authority to obtain a wiretap order for a limited time period to monitor communications between those suspected of engaging in illegal antitrust conspiracies.

The current Federal criminal code lists over 150 predicate offenses for which the Justice Department may obtain a wiretap during the course of a criminal investigation. These offenses include basic white collar crimes such as mail fraud, wire fraud, and bank fraud. However, under current law, if the Government is investigating a criminal antitrust conspiracy, such as a scheme to fix prices to consumers, the Government cannot obtain a wiretap of the suspected conspirators. This inability to obtain wiretaps unquestionably severely handicaps the detection and prevention of such conspiracies. Only with the consent of a member of the conspiracy who has already agreed to cooperate with the Government may the Government surreptitiously record the meetings of the conspirators.

There is no logical basis to exclude criminal antitrust violations from the list of predicate offenses for a wiretap. A criminal antitrust offense, such as price fixing, is every bit as serious—and causes every bit as much financial loss to its victims—as other white collar crimes, such as mail fraud or wire fraud. A price-fixing conspiracy raises prices to consumers, stealing hard

earned dollars from citizens as surely as does a salesman promoting a bogus investment from a "boiler room" or, indeed, a thief with a gun. Moreover, by its secret nature as an agreement among competitors, such a conspiracy is likely harder to detect than a fraudulent offering over the phone or through the mail. A properly issued wiretap, therefore, is even more necessary to detect criminal antitrust conspiracies than other white collar offenses.

Detecting, preventing, and punishing criminal antitrust offenses are one of the principal missions of the Justice Department's Antitrust Division. Such offenses are punished severely with corporations facing fines of up to \$100 million and individuals subject to jail terms of up to 10 years for each offense. Indeed, last year we passed legislation raising criminal penalties to these new levels. Yet, despite the damage these conspiracies do to the economy and individual consumers, our law enforcement agencies lack the one vital tool essential to uncover these secret conspiracies—the ability to obtain a wiretap to monitor communications between the suspected conspirators upon a showing of probable cause. This legislation will remedy this defect by granting to our law enforcement officials the necessary means to protect consumers and end illegal antitrust conspiracies.

I urge my colleagues to join with me in supporting this legislation.

Mr. LEAHY. Mr. President, earlier this year I was pleased to join the chairman and ranking member of the Judiciary Committee's Subcommittee on Antitrust, Competition Policy and Consumer Rights, Senators DEWINE and KOHL, on the introduction of the "Antitrust Criminal Investigative Improvements Act of 2005, ACIIA. Today, I am even more pleased to see the Senate pass this bill. This is important legislation, and I hope that it will receive the speedy vote in the House of Representatives that it deserves. Once the President signs it into law, the Department of Justice will finally have another vital tool to enforce antitrust laws—wiretap authority to investigate and prosecute criminal antitrust violations.

America's antitrust laws play a critical role in protecting consumers and ensuring a fair and competitive marketplace for business. Congress's first antitrust law, the Sherman Antitrust Law, was enacted in 1890 to prohibit abusive monopolies and restraints of trade. Since that time, enforcement of the antitrust laws has benefited consumers through lower prices, greater variety, and higher quality products and services. But antitrust criminal offenses have been somewhat anomalous in the law, for they have not qualified for judicially approved wiretaps. The ACIIA will add criminal price fixing and bid rigging to the many crimes that are already "predicate offenses" for wiretap purposes. There are over 150

offenses that currently qualify for judicial approved wiretaps. These "predicate offenses" under Title III of the Omnibus Crime Control and Safe Streets Act, include crimes of lesser impact and significance than criminal antitrust violations. The ACIIA will ensure that the Department of Justice has the tools commensurate with the seriousness of the violations.

Under current law, the Department of Justice must often rely on the FBI or other investigative agencies to obtain evidence. While the Justice Department may engage in court-authorized searches of business records, it may only monitor phone calls of informing parties or the conversations of consenting parties. In light of the seriousness of economic harms caused by violations of the Sherman Antitrust Act, the inability of the Department of Justice to obtain wiretaps when investigating criminal antitrust violations makes little sense. The evidence that can be acquired through wiretaps is precisely the type of evidence that is essential for the successful prosecution and prevention of serious antitrust violations. This bill equips the Department of Justice investigators and prosecutors the opportunity to zealously enforce the criminal antitrust laws of the United States.

Mr. FRIST. Mr. President, I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

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

The bill (S. 443) was read the third time and passed, as follows:

S. 443

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Antitrust Criminal Investigative Improvements Act of 2005".

#### SEC. 2. AMENDMENT OF PREDICATE CRIMES FOR AUTHORIZATION FOR INTERCEPTION OF WIRE, ORAL, AND ELECTRONIC COMMUNICATIONS.

Section 2516(1) of title 18, United State Code, is amended—

(1) in subparagraph (q), by striking "or" after the semicolon;

(2) by redesignating subparagraph (r) as subparagraph (s); and

(3) by adding after subparagraph (q) the following:

"(r) any criminal violation of section 1 (relating to illegal restraints of trade or commerce), 2 (relating to illegal monopolizing of trade or commerce), or 3 (relating to illegal restraints of trade or commerce in territories or the District of Columbia) of the Sherman Act (15 U.S.C. 1, 2, 3); or"

#### ORDERS FOR WEDNESDAY, OCTOBER 26, 2005

Mr. FRIST. I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:30 a.m. on Wednesday, October 26. I further ask that following

the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved, and the Senate then proceed to a period for morning business for up to 30 minutes, with the first 15 minutes under the control of the minority, and the final 15 minutes under the control of the majority.

I further ask that the Senate then resume consideration of H.R. 3010, the Labor-HHS appropriations bill.

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

### PROGRAM

Mr. FRIST. Mr. President, tomorrow the Senate will resume consideration of that Labor-HHS appropriations bill. Just a few moments ago I filed cloture on that bill. Senators who are serious about offering germane amendments should work with the bill managers to schedule floor consideration just as quickly as possible. We are on track, the track that we set out last week, to finish the bill this week. I encourage Senators to vote for cloture in order to speed passage of this, the very last, the final appropriations bill for this year.

### ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. FRIST. If there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 6:53 p.m., adjourned until Wednesday, October 26, 2005, at 9:30 a.m.

### NOMINATIONS

Executive nominations received by the Senate October 25, 2005:

#### THE JUDICIARY

AIDA M. DELGADO-COLON, OF PUERTO RICO, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF PUERTO RICO, VICE SALVADOR E. CASELLAS, RETIRED.

#### IN THE COAST GUARD

##### *To be rear admiral*

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES COAST GUARD TO THE GRADE INDICATED UNDER TITLE 14, U.S.C., SECTION 271:

REAR ADM. (LH) JODY A. BRECKENRIDGE, 0000  
REAR ADM. (LH) ARTHUR E. BROOKS, 0000  
REAR ADM. (LH) JOHN E. CROWLEY, 0000  
REAR ADM. (LH) RICHARD R. HOUCK, 0000  
REAR ADM. (LH) RICHARD R. KELLY, 0000  
REAR ADM. (LH) DAVID P. PEKOSKE, 0000  
REAR ADM. (LH) FRED M. ROSA, 0000  
REAR ADM. (LH) TIMOTHY S. SULLIVAN, 0000

#### IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

##### *To be rear admiral (lower half)*

CAPT. FRANK THORP IV, 0000

#### IN THE ARMY

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY MEDICAL SPECIALIST CORPS UNDER TITLE 10, U.S.C., SECTIONS 624 AND 3064:

##### *To be colonel*

ROBINETTE J. AMAKER, 0000  
GEORGE A. DILLY, 0000  
BRENDA K. ELLISON, 0000  
ANN GREDIAGIN, 0000  
JOSEPH H. MOORE, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY VETERINARY CORPS UNDER TITLE 10, U.S.C., SECTIONS 624 AND 3064:

##### *To be colonel*

TERRY K. BESCH, 0000  
PERRY R. CHUMLEY, 0000  
CHERYL D. DICARLO, 0000  
CAROL L. EISENHAEUER, 0000  
GEORGE C. RENISON, 0000  
JOHN R. TABER, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY NURSE CORPS AND FOR REGULAR APPOINTMENT (IDENTIFIED BY AN ASTERISK(\*)) UNDER TITLE 10, U.S.C. SECTIONS 624, 531, AND 3064:

##### *To be colonel*

KIMBERLY K. ARMSTRONG, 0000  
MICHAEL K. BAYLES, 0000  
CHERYL E. CARROLL, 0000  
RHONDA L. EARLS, 0000  
LORRAINE A. FRITZ, 0000  
KATHRYN M. GAYLORD, 0000  
STEVEN F. \* GERTONSON, 0000  
BARBARA A. GILBERT, 0000  
STEVEN W. GRIMES, 0000  
ELIZABETH A. JOHNSON, 0000  
JIMMIE O. KEENAN, 0000  
TIMOTHY A. NEWCOMER, 0000  
DAVID D. PETERSON, 0000  
KATHLEEN R. RYAN, 0000  
ANN M. SAMMARTINO, 0000  
KELLY A. WOLGAST, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY MEDICAL SERVICE CORPS UNDER TITLE 10, U.S.C., SECTIONS 624 AND 3064:

##### *To be colonel*

RANDALL G. ANDERSON, 0000  
DONALD F. ARCHIBALD, 0000  
STEVEN G. BOLINT, 0000  
DAVID P. BUDINGER, 0000  
KYLE D. CAMPBELL, 0000  
BRIAN T. CANFIELD, 0000  
CHARLES E. CANNON, 0000  
SCOTT F. CASS, 0000  
LISA P. CHISHOLM, 0000  
JOHN M. COLLINS, 0000  
JOHN P. COLLINS, 0000  
DANIEL J. FISHER, 0000  
ALEXANDER GARDNER III, 0000  
DAVID G. GILBERTSON, 0000  
NEIL G. GLENESK, 0000  
MAX GROGL, 0000  
BRYANT E. HARP, JR., 0000  
SALLY C. HARVEY, 0000  
BRUCE E. HASELDEN, 0000  
CLAUDE HINES, JR., 0000  
MARSHA A. LANGLOIS, 0000  
WILLIAM J. LAYDEN, 0000  
POLLYANNE A. MARCIESKI, 0000  
THIRSA MARTINEZ, 0000  
BRUCE W. MCVEIGH, 0000  
MARK A. MELANSON, 0000  
JOHN R. MERCIER, 0000  
TALFORD V. MINDINGALL, 0000  
RAFAEL C. MONTAGNO, 0000  
JOSEPH A. PECKO, 0000  
JEROME PENNER III, 0000  
ANGELA PEREIRA, 0000  
MICHAEL P. RYAN, 0000  
HARRY F. SLIFE, JR., 0000  
EARLE SMITH II, 0000  
JOHN R. STEWART, 0000  
ROBERT D. TENHET, 0000  
JOHN H. TRAKOWSKI, JR., 0000