

in the heating and air conditioning business. He installed new units in houses I sold, serviced them, and built a business to be one of the best in the United States of America.

I know him because when our community was in need of facilities for our young people, Earl Smith took time from his business, raised money, and supported the construction of the East Cobb YMCA, today a shining gem in Georgia.

I know him because when our county was in a significant political disaster with an absence of leadership and faced with unparalleled growth and unparalleled difficulty, Earl Smith volunteered and went and qualified for office, ran and was elected as chairman of the county commission and took a county that had grown from 197,000 to 400,000, and now is almost a million; met the needs of its wastewater treatment; met the needs of its electric power generation; met the needs of its roads and transportation system; and even brought about public transportation to this growing and burgeoning community.

He did it during tough political times, but he did it because he was a man of dedication to his community and a man who never ever quit.

Today, a man who has done all those things—built a great business, served in the civic clubs, worked in his church, built a YMCA, a man in the autumn of his life could do many things on beaches or in the mountains—decided there was one more mission. So he took the lead in raising \$140 million to build the Cobb Energy Performing Arts Center in suburban Atlanta in Cobb County near the Galleria Center, a facility upon which ground was just recently broken, and in less than 2 years will be completed to be the finest urban performing arts center in the United States of America.

So today on the Senate floor, I rise for this brief moment to pay tribute to a man who has given countless hours, countless dollars, countless efforts and all of his being to make his community better.

On November 7, when the community comes together to honor him, if I can't be there in spirit, these words will be there so that he knows not only does his community recognize him, but on this day on the floor of the Senate we pay tribute to Earl Smith of Cobb County, GA.

I yield the floor.

The PRESIDENT pro tempore. The Senator from South Dakota is recognized.

Mr. DORGAN. If the Senator will yield, I ask unanimous consent to be recognized following the presentation by the Senator from South Dakota in morning business for such time as I may consume.

The PRESIDENT pro tempore. Is there objection? Without objection, it is so ordered.

The Senator from South Dakota.

COUNTRY-OF-ORIGIN LABELING

Mr. JOHNSON. Mr. President, I rise today to discuss an issue over which I am outraged, the continued delay of mandatory country-of-origin labeling and the manner in which this issue has continually been addressed.

Mandatory country-of-origin labeling was authorized in the 2002 farm bill and signed into law by this President. This program is widely supported not only by about 85 percent of our Nation's consumers but also overwhelmingly by our Nation's producers.

This program is not only a consumer right-to-know issue, it is a valuable marketing tool for ranchers and farmers.

During consideration of the fiscal year 2004 Agriculture appropriations measure, the Senate passed a sense of the Senate supporting mandatory country-of-origin labeling, or COOL. The House version of the spending measure included a 1-year delay for meat and meat products.

During closed door consideration of the omnibus spending measure, the Republican House leadership was successful in inserting a 2-year delay for all commodities covered under the mandatory COOL Program with the exception of fish and shellfish.

This secretive, closed-door process was outrageous at that time. The omnibus package was settled behind closed doors, with no input from COOL supporters.

Then, in the fiscal year 2006 Agriculture appropriations bill, the House version included, once again, a 1-year delay for meat and meat products covered under mandatory COOL.

The Senate, speaking in support of a mandatory program, included \$3.1 million for an audit-based compliance program to cover implementation costs. I repeat, a \$3.1 million appropriations for implementation.

This small spending level, which was requested by the Bush administration for program implementation, only served to show how grossly the Department of Agriculture overestimated implementation costs for COOL.

On Tuesday evening, House Republican Chairman BONILLA convened a conference committee on which I serve, meeting on the most recent agricultural spending measure.

For those of us who expected an open discussion on outstanding items, we were sorely and entirely mistaken.

The chairman recessed that meeting subject to the call of the Chair without ever discussing COOL or indicating when we would reconvene.

Instead of an open discussion on this outstanding item, instead of any up-or-down public vote, the chairman simply modified, singlehandedly, language on the final report to include a 2-year delay—behind closed doors yet again, pushing back mandatory implementation, this time until September 30, 2008.

Let me repeat: The Senate Agriculture appropriations bill contained no delay in country-of-origin labeling;

in fact, it included funding for implementation.

The House Agriculture appropriations bill called for a 1-year delay. That happened behind closed doors without the benefit of debate, without the benefit of a vote. The chairman actually inserted language calling for a 2-year delay, kicking this program over into the next farm bill, essentially a do-over on the last 2002 farm bill in which we initially made the law of the land country-of-origin labeling for meat and meat products.

This is truly outrageous. It is the purpose of a conference committee to discuss outstanding items in an open manner, not to change policy in back-room deals, in closed-door discussions in the dead of the night.

What happened on Wednesday was an incredibly corrupt process that failed the American public and failed the political process of our Nation. The chairman chose not to address COOL simply because he knew he would lose. It was easier to address this item behind closed doors and avoid any vote because of the broad bipartisan support in the Senate that this program enjoys.

It is because of the 2-year delay and the appalling process by which this open item was considered that I refused—I refused—to sign the conference report. It is because of this wrong doing that I will also vote against the conference report when it is considered by the full Senate.

Not only was the process by which this outstanding issue was considered absolutely corrupt, this delay yet again takes another stab at rewriting our farm bill. The farm bill, when signed into law, did not indicate an implementation date of September 30, 2008, for mandatory COOL. It specifically stated September 30, 2004.

In order to change this implementation date and rewrite farm bill policy, the majority leadership has had to hold two closed-door conferences to achieve its back-room goals.

The farm bill is a contract with rural America that needs to be honored—not modified, changed, not destroyed in closed, back-door dealings during the night.

The most recent debacle with COOL is yet another illustration of how House congressional leadership is failing rural America.

The Bush administration advocates stripping in excess of \$3 billion from this farm bill during the budget reconciliation process, weakening the essential safety net that we need, that our Nation needs to foster economic development in rural America, especially in time of weak commodity prices.

The President advocated reducing commodity payments and leaving producers in the cold. The President insisted last year that \$3 billion be cannibalized from the Conservation Security Program to fund a 2003–2004 either/or agriculture assistance disaster package.

I find this is wrong, considering the pending Doha WTO negotiations and this administration's platform on gutting programs.

All of these reductions were supported by the President despite the fact that the farm bill has come in at \$14 billion under the projected costs. Agriculture has already paid enough.

The administration advocated closing over 700 Farm Service Agency offices nationwide, including 24 percent of the offices in my home State of South Dakota. I know that other States also were subject to even larger percentage cuts of offices. Not only would the administration scrap or limit farm bill programs, the plan is it would make it more difficult for the producer to obtain information about the farm bill programs that are available, leaving producers too often to fend for themselves.

The administration has yet to issue disaster payments from over 1 year ago. Producers in my home State of South Dakota are still waiting for Livestock Assistance Program payments and the American Indian Livestock Feed Program payment. Even on the few payments that were issued, interest was not calculated properly, prompting a redo on parts of those payments.

Families have made financial decisions around this financial obligation. Congress did its part in passing the disaster package last year. The U.S. Department of Agriculture's computer software glitch excuse, quite frankly, wore thin many months ago.

These delayed payments are especially unacceptable considering that USDA already had a process for getting money to producers. The USDA selected a crucial agriculture disaster package to use, frankly, as a guinea pig for a new untested computer software program.

The USDA and President Bush, even after opening our markets to Canadian beef, opening the market to a tidal wave of Canadian beef and cattle, would propose to open our borders to Japanese beef even before we can secure that export market.

The Senate overwhelmingly passed an amendment to the agriculture spending measure but sent a strong message to this administration that the Department of Agriculture should not allow Japanese beef into the United States until Japan allows beef into that nation.

A group of 21 Senators in a bipartisan fashion also introduced a bill this week that would impose economic sanctions on Japanese beef unless Japan opens their borders to American beef.

American producers continue to lose \$3.14 billion a year while the Japan market stays closed, and the administration has yet to open Japan's borders to American beef.

This is another example of a flawed trade agenda that fails to work for the domestic U.S. agricultural producer.

I continue to hear from ranchers and farmers in South Dakota who are tired

of seeing unrealized promises in these trade deals. We buy the Japanese cars, we buy the Japanese electronics, but Japan has yet to comply with WTO, and Japan has yet to comply with scientific standards in accepting the safest and highest quality beef in the world from the United States.

The Department of Agriculture is not making certain our farmers can stay in the fold. The administration is undermining our family farmers at too many turns. The most recent action on mandatory country-of-origin labeling and the closed-door consideration that prompted this move is utterly unacceptable. The USDA worked with a majority of Members of Congress to delay mandatory COOL behind closed doors. The USDA's actions are just simply strong examples of how wrong the administration has been on too many agricultural issues.

The Department of Agriculture, it seems to me, is responsive primarily to the packing and processing industry, the large agribusiness conglomerates, instead of the family farmer and the family rancher.

I simply believe that our rural communities and agricultural producers can do better. I believe that America can do better than this backward, behind-closed-doors, in-the-dead-of-night process that has taken over this year's Agriculture appropriations conference report.

I yield the floor.

Mr. DORGAN. Mr. President, I was a member of the conference that the Senator from South Dakota just described. I, too, refused to sign the conference report this week. I think when Senator JOHNSON uses the term "outrage," it is a very appropriate word to describe what happened in that conference. That conference recessed at the call of the Chair. We never reconvened. And behind closed doors with some secret deal, the majority party decided to hear the siren call of the big packing houses and others, and they extended by 2 years the effective date of the time when the American people would finally figure out, by labels, where the meat they were eating would come from.

The reason I think this meat labeling is important, we label everything. We label T-shirts, shoes, shirts. Name it, we label it. Go to the grocery store, see what is labeled. Everything on the shelf is labeled. But then pick up a piece of meat and figure out if we know where it came from.

I held up a piece of steak on the Senate floor one day and said: I defy anyone to tell me where this came from. Then I read a report from an inspector who went to a plant in Mexico, inspected the plant—this is a plant shipping meat to this country. He said there were carcasses hanging in unrefrigerated rooms, with feces smeared on the carcasses, all ready to be thrown in the hopper to be cut up and the meat sent to American consumers. That is what he found, one in-

spection. By the way, they closed that plant. Then it changed its name, changed its ownership, reopened, and has never again been inspected.

That is why when one asks the question, How do you like your steak, the answer ought to be, I like my steak from places where it is healthy meat. We do not know where the healthy meat comes from unless we see a label to be able to determine where that meat comes from. That is why the Senator from South Dakota and I and others have fought so aggressively to get this meat-labeling law in place. It is now the law of the land. We have people making secret deals behind closed doors to try to shut it down, to prevent it from ever being implemented. That is what happened this week. That is why I refused to sign the conference report as well. I appreciate the effort of the Senator from South Dakota. There are about half a dozen of us who would not sign the conference report because this was an arrogant approach to make a secret deal behind closed doors that injures the consumers of this country. We should not put up with it.

Mr. JOHNSON. If I may ask a question of my colleague and my friend from North Dakota, does it not seem to the Senator that part of the reason we have lost essentially our entire export market for beef in America is in part because even countries that want to buy American beef, that understand we have the safest, highest quality beef in the world, are not confident that we are, in fact, selling them American beef? Their fear is that this may be Canadian, it may be Mexican, it may be Argentine. Who knows where this beef comes from in the United States because we are one of the few industrialized democracies in the world that do not have country-of-origin labeling in place for meat. That undermines the integrity of our sales abroad and further complicates our recapture of these lost export markets.

Does the Senator see that as one of the contributing factors to our loss of export market?

Mr. DORGAN. I do not think there is any question but that is the case. We do not have labeling of this meat; other countries do. So we have a homogenization of all kinds of meat that comes into this country, gets mixed here and there and everywhere.

The Senator from South Dakota said something very important. Our farmers and ranchers in this country raise beef, meat. We raise a healthy supply of meat. We inspect it. We have the healthiest supply of meat anywhere in the world. I think the lack of having country-of-origin labeling on the meat that is sold in this country hurts all of us. It hurts our consumers as they consume. It also hurts us in our ability to get into foreign markets, as my colleague has just described.

Once again, the big interests get the attention around here behind closed doors, outside of the view of the public. So we come out with legislation now

that says, well, not only is there a law that requires country-of-origin labeling, we will not allow that law to take effect. It has been in place for some while. We will extend for 2 years the excuse to allow the Department of Agriculture not to put it in effect. It is, as the Senator has used the term, an outrage. It is the wrong way for this Congress to legislate.

I thank the Senator from South Dakota for yielding.

Mr. JOHNSON. I yield the floor.

The PRESIDING OFFICER (Mr. ISAKSON). The Senator yields back.

The Senator from North Dakota.

ENERGY PRICES

Mr. DORGAN. Mr. President, today in *The Washington Post*, the question in the business section is: How Big Is \$9.9 Billion?

That happens to be the single quarter profit for ExxonMobil Oil Company. Pretty fortunate for this company to have a \$9.9 billion quarterly profit. That profit comes from people who are driving up to the gas pump, putting gasoline in their car; from people who are going to be heating their homes with home heating fuel, natural gas, and propane this winter.

So we have this spectacle of one industry with record profits, the highest in the history of the world. This is the largest profit of any corporation ever. The gain is here and the pain is elsewhere.

What does all of this mean? Well, I come from a State that is 10 times the size of Massachusetts in land mass. We have 642,000 people spread out in 10 Massachusettses. We are a Northern State, so it gets cold from time to time in the winter. We use home heating fuel and natural gas to heat our homes. Heating our homes is not a luxury; it is a necessity.

When we drive, we drive a fairly long ways. In fact, there is only one other State in which the per capita use of gasoline is higher than the State of North Dakota. It is Wyoming. We are fourth among all the States in all energy consumption, second in gasoline per capita.

I am told in New York City that if someone decides to take a vacation to go see some distant relative in Bayonne, NJ, 50 miles away, they plan it for some months. They put an emergency kit in their trunk. They put blankets in their car. They probably get their car serviced. They get the gasoline all topped off. They get all ready to go 50 miles to New Jersey to see their relatives. Why is it such a big deal? Because they do not travel very much, that is why. In our part of the country, we travel a lot. We drive a lot. It is not unusual to drive 100 or 200 miles to get a part for a combine or a tractor and then drive another 100 or 200 miles back. That is not a big deal.

In terms of pain, the pain in States such as North Dakota and, yes, Wyoming and other States in our area of

the country is very significant related to these prices. This is not a pain that is spread evenly.

We have the highest amounts in history in the corporate treasuries of the oil companies, and then we have a huge pain for American consumers who are paying at the gas pump and are going to pay for home heating fuel.

I would like to put up a couple of charts to show what is happening: oil company profits. Let me make a point. I come from a State that produces oil. I do not wish the oil industry bad news. I support a number of things the oil industry does. I have supported an \$18 floor on marginal wells, using tax credits to bring the oil up to \$18 when necessary. I support opening up Lease 181 in the Gulf of Mexico for additional production. I support a number of things that the energy industry and the oil industry want.

When I see what is happening with the oil industry at the moment, I know that a year ago last January, the price of a barrel of oil was \$34.50 a barrel. Now it is almost \$30 above that. At \$34.50 a barrel, they were making the highest profits they had ever made. Now it is \$30 a barrel above that. What are the consequences of those increased prices? The consequences are enormous for American consumers. BP, one of the world's largest companies, 34 percent profit in the third quarter; ConocoPhillips, 89 percent profit increase in the quarter; ExxonMobil, 75 percent profit increase in the quarter, \$9.9 billion just for the one corporation.

The question might be asked, What is happening to this profit? Well, this is *BusinessWeek*. This is hardly some silly liberal rag. *BusinessWeek* says, Why isn't big oil drilling more?

It says:

Rather than developing new fields, oil giants have preferred to buy rivals—"drilling for oil on Wall Street."

Do my colleagues want to know where a lot of these profits are going, the record profits above last year? Buying back stock, hoarding cash, and drilling for oil on Wall Street. I have news for them. There is no oil on Wall Street. They are going to drill a dry hole on Wall Street.

The point of the *BusinessWeek* article is to point out that much of these profits are used to go buy others, to merge with others. We have now seen these huge, blockbuster mergers. We now have bigger oil companies than we have ever seen.

There are three things that affect the price of oil. I know we have a lot of free market advocates in Congress. I think the free market is wonderful. I do not think it is perfect. A 7-foot, 2-inch basketball player gets paid the same amount as 1,000 elementary school teachers? That is the marketplace, I guess. A short stop gets paid \$250 million. Judge Judy, that woman on television—I do not watch her much. Once in a great while, I tune in cruising the trials and she seems a little crabby to me, but Judge Judy makes 10 times, 20

times, or 30 times the amount of money that the Chief Justice of the U.S. Supreme Court makes. I guess that is the market system. I believe in the market system. The free market system makes a lot of sense, but there is no free market in oil at the moment.

There are three things happening with oil. One, there are the OPEC ministers sitting around a table because they were fortunate to find that on this little planet of ours, a substantial amount of the reserves of oil, the first, second and third largest reserves, exist under the sands of the Middle East. OPEC ministers sit around a table and decide quantity and price to the extent they can—especially quantity—and then the major oil companies, made larger and more muscular by blockbuster mergers, decide to use their raw muscle in the marketplace. Third and finally, the futures market, which is designed to provide liquidity for trading, has become a grand bazaar for speculation, an orgy of speculation. Those are the three elements that now give us a price of oil of over \$60 a barrel.

Sixty-six million U.S. homes are heated mainly with natural gas, and their heating bills this winter are going to be 48 percent on average; 60 percent in my part of the country—60 percent increase to heat one's home this winter at a time when the largest enterprises that sell the oil are filling their bank accounts and drilling for oil on Wall Street. Sound fair? It does not to me.

I have proposed a windfall profits tax, the proceeds of which would be rebated back to the consumers. This is not your mother's or father's windfall profits tax. We had one once before. It did not work very well. That was to bring money into the Federal Government. I do not propose that.

Last year, the average cost of a barrel of oil was \$40. In January, it was \$34.50. The average cost the entire year was \$40, and the energy industry, the oil companies, had the highest profits in their history. I propose that above that level of \$40 a barrel represents windfall or excess profits.

I propose further that the oil companies have two choices: If they decide to use all of that excess or windfall profit to invest back into the ground to explore for more oil or to build refineries above ground, then they would not pay a windfall profits tax. If they choose not to do that, if they choose to drill for oil on Wall Street, if they choose to buy back their stock and hoard cash, then they would pay a 50-percent excise tax on those windfall profits, the entire proceeds of which would be sent back to the American consumers.

Some say, if that would happen, the oil companies would simply drill less or explore for oil much less aggressively. No. In fact, the most significant incentive to get them to explore for more energy would be to avoid paying a 50-percent excise tax called the windfall profits tax that I have proposed. It