

of the six BCS conference champions had at least one regular season loss—three of them had two or more. Two non-BCS teams—Utah and Boise State—were undefeated after the 2008 regular season. In addition, Texas Christian University, another non-BCS team, had only one loss and was higher in the BCS rankings than two of the conference champions with automatic berths. Yet of these three teams, only Utah was invited to play in a BCS game.

These are the disadvantages non-BCS teams must face just to get into one of five prestigious BCS bowl games. While mere participation is an uphill battle, the system makes it virtually impossible for a non-BCS team to win the national championship. The BCS relies on a combination of polls and computer formulas to determine its rankings. For decades, these polls have almost invariably tended to favor teams from the bigger BCS conferences, evidenced by the fact that no team from an outside conference has finished a season atop a major college football poll since 1984. So unless a team from a non-BCS conference begins the season with a very high national ranking in the polls, they stand virtually no chance of getting ranked high enough to play in the championship game, even if they go undefeated. This system excludes teams like this year's Utah team, which began the season unranked and spent the season shocking opponents and exceeding expectations, from national championship contention.

The flaws of the BCS system might not be so bad if it helped to clear what traditionally had been a muddled national championship picture. But unfortunately, that is not the case. In at least 6 out of the last 10 years, there has been substantial controversy over the selection of the teams to play for the championship. So the system is not only biased, but ineffective as well.

Mr. President, the BCS system is anti-competitive, unfair, and, in my opinion, un-American. I am not just saying that because my team was treated unfairly. I am making the case that many teams are not treated fairly. In no other sport in this country are champions selected by arbitrary and biased polls and computer ranking systems. Much worse, the BCS ensures that the millions of dollars paid to the participants of these prestigious games remain concentrated among a few elitist conferences. Such exclusionary practices put teams from non-BCS conferences at a monetary, recruiting and competitive disadvantage. This may not only be unfair in the normative sense, it may very well violate our nation's antitrust laws.

In 1984, in *NCAA v. Board of Regents of the University of Oklahoma*, the Supreme Court determined that NCAA is not exempt from the requirements of the Sherman Antitrust Act. That being the case, college football, like most other industries in this country, must conduct business in a manner that does

not intentionally stifle competition or systematically favor specified competitors. Specifically, in the words of the Sherman Antitrust Act, no "contract, combination, or conspiracy" may be undertaken to exclude competitors.

In my opinion, it is quite probable that the BCS violates the Sherman requirements. In 2003, I chaired a series of Judiciary Committee hearings to investigate the antitrust implications of the BCS. I stated at that time that I believed the BCS was anticompetitive and in dire need of reform. Shortly thereafter, the BCS added another bowl game and, to some extent, expanded the field of eligibility. However, as this past season demonstrates, these changes leave much to be desired in terms of fairness and competition. Utah Attorney General Mark Shurtleff shares this view and is consulting with lawyers and investigators to determine whether the BCS system constitutes an antitrust violation. Indeed, it appears that litigation over this matter may be on the horizon. Also, on at least two separate occasions, President Obama has publicly stated his concern about the fairness of the BCS and his hope to see the creation of a playoff system. Therefore, it is not unreasonable to predict that a Justice Department investigation into the potential antitrust violations of BCS will be forthcoming.

Mr. President, I would prefer that reforms take place without putting the matter before the courts. In addition, given the many problems facing our nation, I hope that the Justice Department will not have to get involved in this issue. And while some have proposed a legislative fix, this also would not be my preferred solution, though ultimately, this may end up being the only effective means of addressing these problems. Instead, I would hope that those with the power to change or eliminate the BCS, including NCAA President Myles Brand as well as the university presidents and the conference commissioners in the BCS conferences, will hear the public outcry against the BCS and voluntarily work to reform the system to ensure that, as in every other American sport, championships are decided on the field and not in arbitrary polls and computer calculations. While a playoff seems like the most natural solution, other means may be available.

That said, I want to say that I believe the University of Utah football team are champions in the truest sense of the word. They won on the field against worthy competition in a year when literally everyone else proved unable to do so. Once again, I want to congratulate University President Michael Young, Coach Whittingham and every member of the team for what proved to be an exhilarating and tremendous season. I also congratulate other teams that qualified for bowl games who were winners and deserve certainly the plaudits of all of us.

I hope this helps to bring this matter to a head. I hope we can change this system that is an unjust system.

I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. WHITEHOUSE. Mr. President, let me say, first, what a pleasure it is to hear the distinguished Senator from Utah speak about his beautiful State and his beloved Utes.

EXECUTIVE COMPENSATION AND THE BAILOUTS

Mr. WHITEHOUSE. Thank you, Mr. President. I have a different topic today. This speech is about a stove, a jet, and \$40 billion.

The stove belonged to Margarita Fuentes, and a local deputy sheriff in Florida repossessed it for the finance company. The case went all the way to the Supreme Court, and became the famous case of *Fuentes v. Shevin*, which every first year law student has to read.

The court held that you couldn't take away Ms. Fuentes' stove, not without giving her a hearing; that she had a constitutional right to a hearing. The court stated:

[T]he constitutional right to be heard is a basic aspect of the duty of government to follow a fair process of decision-making when it acts to deprive a person of his possessions.

Important rule: The finance company may well have been right about the stove, but the sheriff still cannot take property without due process.

That is the stove. Now the jet.

Citigroup has received billions and billions in Federal funds—\$45 billion in preferred stock purchases alone—to prevent Citigroup from failing. What did they do? Bought a \$50 million French-made luxury private jet.

It took the new Secretary of the Treasury to personally talk them out of it, with a helpful push from our colleague, Senator LEVIN. And that's not all. Here's how Maureen Dowd reports they spent the money on executive office furnishings at Merrill Lynch, just bought by Citigroup:

... big-ticket items included curtains for \$28,000, a pair of chairs for \$87,000, fabric for a "Roman Shade" for \$11,000, Regency chairs for \$24,000, six wall sconces for \$2,700, a \$13,000 chandelier in the private dining room and six dining chairs for \$37,000, a "custom coffee table" for \$16,000, an antique commode "on legs" for \$35,000, and a \$1,400 "parchment waste can."

A lot of executive compensation goes to the same executives who led their companies into this mess, while reaping vast sums.

For example, Wells Fargo, which received \$25 billion in bailout money, is planning layoffs but is keeping its CEO and chairman who were paid \$12.5 million and nearly \$23 million in 2007, respectively.

JP Morgan received \$25 billion in bailout money, but is keeping its CEO who was paid \$28 million in 2007.

Capital One bought and closed GreenPoint mortgage—1,900 layoffs, 1,900 families where someone lost a

job—received about \$3.5 billion in bailout money, and is keeping its CEO who was paid more than \$73 million in 2007.

And this week's New York Times reports that despite "crippling losses, multimillion dollar bailouts and the passing of some of the most important names in the business," an estimated \$18.4 billion in bonuses were paid out to Wall Street employees in 2008—the sixth highest total in history—in what was most certainly not the sixth best year in Wall Street's history.

In other words, firms on the brink of extinction that were saved only by the U.S. taxpayer still saw fit to reward people who created the mess with over \$18 billion for their performance this past year. President Obama rightly called this shameful.

So that jet is symbolic of a Wall Street culture of unrestrained self-indulgence that now, because of the bailouts, begins to happen at public expense and shows no signs of abating.

And now we come to the \$40 billion.

According to an analysis by the Wall Street Journal, the executive-deferred compensation obligations of bailed out Wall Street firms amount to more than \$40 billion. As shown on this chart: Banks Owe Billions To Executives. Financial giants getting injections of Federal cash owed their executives more than \$40 billion for past years' pay and pensions as of the end of 2007, a Wall Street Journal analysis shows.

By the way, this whole executive-deferred compensation scheme is nothing but a big tax dodge to begin with.

Banks participating in the bailout program carried these obligations on their books, and the cash from our bailout is being used to pay them, or will be used to pay them. Mr. President, \$40 billion in taxpayer dollars will end up in the pockets of the very executives who tanked those firms.

How much is \$40 billion? Here is how it breaks down State by State based on population.

If you are the Governor of California, you can look forward to \$4.780 billion as your State's share of that \$40 billion bailout.

If you are, as the wonderful new Presiding Officer is, from Colorado, you can look forward to \$636 million as your State's share of deferred executive compensation for Wall Street.

If you are from Missouri, as is the distinguished Senator in the Chamber, you are looking at \$768 million as Missouri taxpayers' share of the \$40 billion bailout.

Generally, when a company goes into bankruptcy, the executives who are owed the \$40 billion in deferred compensation would have become general unsecured creditors and have to wait in line with other such general unsecured creditors.

Experts report that in most cases this means losing all deferred compensation or recovering pennies on the dollar. Executives at Lehman Brothers, which was allowed to go into bankruptcy, will probably lose out on their deferred compensation.

By contrast, nothing has been done to address the deferred compensation obligations of Citigroup, Goldman Sachs, Bank of America, JP Morgan, and other banks that have been given a lifeline.

As shown on this chart, you will see the estimated debt to executives at Goldman Sachs is actually bigger than the capital injection. It is an astonishing sum of money.

I should throw in my own home State of Rhode Island. We are a small State. Here is our share of it: \$140 million. That is our entire budget for our two 4-year State colleges for a year—the entire State budget for them; \$140 million out of Rhode Island to pay for \$40 billion in tax-dodged, deferred executive compensation.

As people who are on the floor will recall, that is more than the entire program we spent so many hours fighting about for the U.S. auto industry. Remember that. That was sort of \$18 billion to \$35 billion. This is \$40 billion, and nobody is even talking about it. And we fought for days about whether to support our own domestic auto industry.

Well, I think the jet shows that the Wall Street culture of lavish self-indulgence is not likely to change. But something very important has changed, and that is the taxpayers are now starting to pay for it, and they are not going to stand for it for long.

If something is going to change, we in Congress have to change it; we need to do it now, and we need to do it in a way that sticks. That's where Ms. Fuentes' stove comes in.

The constitutional right to be heard is a basic aspect of the duty of government to follow a fair process of decision-making when it acts to deprive a person of his possessions.

That is the case of Ms. Fuentes' stove.

If it takes due process before poor Ms. Fuentes can have her stove taken away, then it takes due process before certain adjustments can be made to the obscene and grotesque executive compensation paid for by bailouts.

It takes some due process before anything can be done about this \$40 billion in executive-deferred compensation.

Without a due process forum, we have unilaterally disarmed the powers of Government that can make those adjustments. That is a choice we make to unilaterally disarm the powers of Government that could do something about the \$40 billion.

I submit if we don't make some reasonable adjustments, that failure will so damage public credibility and faith in the entire exercise; in addition to being profoundly unfair, in fact, that it will eliminate or diminish our ability to manage the crisis. People will not want to hear any longer from us.

The ordinary due process forum for troubled companies, bankruptcy court, is not the best forum for this, for the very reasons that corporations need rescue: they serve a public utility for

us in the economy. But the fact that they provide that vital public utility function is no reason to say these other things cannot also be adjusted. That does not mean they should not have to change their ways.

As I said, the only way to change their ways, it appears, is to make them change. So, I will shortly be filing legislation to create a Temporary Economic Recovery Oversight Court, a forum that could provide due process, short of a full bankruptcy filing, and empower Government to take reasonable steps to restrain the lavish self-indulgences to which these masters of the universe have become accustomed. I am also exploring other ways of addressing this critical issue.

But I encourage colleagues of mine who are interested in this issue to talk to me about how we can make this right. There are technical issues. If anybody is interested, please contact me. I think this is a bipartisan issue. I do not think a Republican is any happier about \$40 billion in deferred executive compensation coming out of the public fisc than a Democrat, and if we do not take action, the swelling river of the righteous and proper anger of the American people will rise up, and overswell its banks. I have lived through difficult economic situations in Rhode Island, where public anger overswelled its banks. It is not a good place to be.

The people's confidence in their Government's ability to treat them fairly will be justifiably compromised, and we will have lost their confidence, the old-fashioned way: We will have earned it.

The poet William Blake spoke of times when we should not let our sword sleep in our hand. American Government gives us a vital sword, one that can trim away the lavish excesses of the lotus years, and treat all Americans fairly, not create a favored taxpayer-supported Wall Street class that is treated differently than workers in Michigan and elsewhere. I submit we must not let that sword sleep in our hands.

I thank the Presiding Officer and yield the floor.

THE PRESIDING OFFICER. The Senator from Missouri.

(The remarks of Mrs. MCCASKILL pertaining to the introduction of S. 360 are printed in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mrs. MCCASKILL. Mr. President, I yield the floor and I suggest the absence of a quorum.

THE PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

TRIBUTE TO DR. JOHN LOGAN

Mr. McCONNELL. Mr. President, I rise today to honor a well-respected Kentuckian, Dr. John Logan. Mr. Logan's outstanding dedication to Kentucky history is truly immeasurable as is his devotion to the Commonwealth itself.

Recently the Gleaner in Henderson, KY, published a story highlighting Dr. Logan's new book about the extraordinary history of Methodist Hospital in Henderson, KY. The story highlights not only Dr. Logan's allegiance to the medical industry but his unknown talents as an archivist. Dr. Logan was able to compile such a vast amount of research for his new book because, as he says, he "lived" it. Having been involved with the hospital since 1962, Dr. Logan has certainly seen his share of history firsthand. Without Dr. Logan's remarkable efforts to preserve history, the triumphant story of this great Kentucky institution would be lost forever.

Mr. President, I ask my colleagues to join me in honoring Dr. Logan as a true patriot and Kentuckian whose legacy will forever be remembered, and I further ask unanimous consent to have the full article printed in the CONGRESSIONAL RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Gleaner, Jan. 17, 2009]

TIME TO TELL THE STORY: LOCAL PHYSICIAN ADMINISTERS DOSE OF HISTORY WITH NEW BOOK ON METHODIST HOSPITAL

(By Judy Jenkins)

It wasn't so much a want as it was a need. And it wasn't so much a need as it was a deep conviction that time wouldn't wait forever and something important could be lost.

That's why, five years ago, Dr. John Logan began a long-contemplated project that required the patience of a saint, more than a few detective skills, and the excavation of nearly half a century of his own memories.

The result, just off the press, is the 192-page "History of Methodist Hospital, Henderson, Ky., 1948-2008."

The hardcover volume, published by McClanahan Publishing House, Inc. of Lyon County, Ky., is chock full of photographs and doesn't merely chronicle the development of the hospital from a simple, one-story brick building with 12 doctors and 35 employees to the towering complex it is today.

It also pays tribute to the legions of people of all ages, races and socio-economic backgrounds who have done everything from polishing the floors and baking the bread to utilizing space age diagnostic technology and performing life-saving procedures.

"I decided it was time to tell the story," says John, who has served as the hospital's medical director for 22 years, been president of the medical staff, and completed 19 terms as chief of the medical staff.

His thought, he said, was, "If I don't tell it, it's gone."

He couldn't let that happen because "It's a great story. That this hospital all these years has survived across the river from hospitals twice our size. That says we're doing something right."

Because he has been associated with the hospital since 1962 and has witnessed its growth and advancements, he didn't have to spend all of his time in a basement room with dusty boxes of scrapbooks and loose clippings.

"I've LIVED the research," he said, grinning.

He came to this area as a brand new physician, hanging out his shingle in Sebree in his wife Jackie's home county.

Probably no one in his native Edmonson County had expected him or his brother Tom to become doctors. Their family was thick with attorneys, but the siblings opted to follow the medical path.

John's mentor was a country doctor named Sidney Farmer, who hired him at age 14 to clean his offices. When John got a driver's license, he drove Farmer to make house calls.

A year after the youthful family practitioner came to these parts, he was introduced to a dynamic 31-year-old named Charles "Chuck" Jarrett, who had accepted the post of Methodist Hospital executive director.

Chuck, who was a former Marine and "a dreamer" who had the unique ability to persuade others to dream with him, soon was plotting a tall, gleaming modern hospital on that hill off Twelfth and Elm Streets.

When he died, far too young, in 1973, the institution had four sprawling wings and was just as he had envisioned it.

Since that time, his successors Ron Chapman and Bruce Begley have kept the dreams alive and the hospital is flanked by a North Tower and South Tower.

In his book, John fleshes out what otherwise could be the bare bones of history. For instance, he relates that in addition to being a popular veteran pediatrician and hunter, Dr. John Jenkins is a pig farmer.

The author says Jenkins once told him, "If I work very hard practicing medicine, I can almost cover my losses in pig farming."

John also writes about the late Dr. M.G. Veal, a fellow with a well developed sense of humor and hobby sideline as a trumpet player in several area bands. He smoked, though he knew better, and "His trademark was a cigarette with an inch of ashes hanging."

(I can vouch for that mischievous sense of humor. Once he passed me in the hospital lobby and loudly congratulated me. When I, confused, asked why he was congratulating me, he said, "I just heard that you're expecting your tenth child, Mrs. Jenkins!" Heads turned, believe me. For the record, I only had three kids at the time and the fourth and last was born a year later).

As I read the book, I was reminded of the tragic losses the hospital medical staff has suffered over the years.

Among them, the death of the young and much-revered Dr. W.B. Blue, who practiced in Henderson's East End. He died in a vehicular accident here.

And there was Dr. Elton House, who was reaching the height of his career when he drowned during an outing on Barkley Lake.

And Dr. Joe McGruder, who had brought so many babies into the world, lost his life while scuba diving on vacation.

John is proud of the fact that he unearthed photos of every Methodist Hospital physician—but one—who was on the original staff, or who had served at least 20 years.

His only failure was Dr. Ira Cosby, an original staff member who regularly made house calls and was never known to drive faster than 35 mph.

John and his faithful helpers searched high and low, contacting relatives and doing everything possible to come up with a likeness of the doctor, but had to admit defeat.

There are numerous photos of hospital employees who have made their own marks on the institution. They include the late Bill Beck, director of materials management. He was a soft-spoken man who never minded going above and beyond the call of duty to honor a request.

James "Rip" Van Winkle was like that too, and I don't recall an instance when the

late director of building and grounds left a room without relating an anecdote or witticism that had everyone laughing.

John himself could fill a book, but because space is limited we'll just say he played a major role in many things we take for granted here, including the spacious YMCA, the Henderson Fine Arts Center, the Depot/Tourism Center—and the hospital's Level II Neonatal Intensive Care Unit that makes it possible to care for most of the tiniest and sickest babies right here.

He's not happy about everything related to the hospital. It just irks him that while the facility regularly performs cardiac catheterizations and has a staff of 24 cardiologists as well as a dedicated telemetry unit, it hasn't yet been able to obtain a state Certificate of Need to permit angioplasty procedures or stent placements here.

He'll keep pursuing that, no doubt, as he has, at 71, no immediate plans to retire.

Nor does he plan a sequel to the history.

"I've done the first 60 years. Somebody else will have to do the next 60."

SPENCER COUNTY FFA DAIRY JUDGING TEAM

Mr. McCONNELL. Mr. President, I rise today to honor the Spencer County FFA Dairy Judging Team for winning the 2008 National FFA Dairy Cattle Judging Contest. This team is comprised of four outstanding young ladies: Whitney Owen, Cassandra Peterson, Kelli Smitha, and Michella White.

After countless hours spent preparing for the Kentucky FFA Dairy Judging Contest, they were awarded top honors at the State competition last August. The team then had the privilege of representing the Commonwealth at the 2008 National FFA Dairy Cattle Judging Contest in Indianapolis, IN, where they were again victorious.

Founded in 1928 as the Future Farmers of America, the group that is today known as the National FFA Organization brings together students, teachers, and members of the agribusiness community to promote agricultural education. In Kentucky, the National FFA Organization has over 15,000 members spread across 145 chapters. And over 24,000 Kentucky middle- and high-school students are enrolled in agricultural education programs.

Agriculture is obviously an important sector of the economy for my State, and I am proud of the many young people and adults who work with the National FFA Organization in Kentucky to ensure that the Bluegrass State remains at the forefront of agricultural education and innovation for years to come. Members are always recognizable during their visits to our Nation's Capitol by their distinctive blue jackets.

By securing a first-place finish at the national competition, the Spencer County FFA Dairy Judging Team now has the opportunity to represent America this summer at the International Dairy Judging Contest in Scotland. FFA is known for producing many of our Nation's future leaders, and I won't be surprised to see that trend continue