

“(3) EVIDENCE CONCERNING ABILITY TO PAY.—In any proceeding in which the Commission may impose a penalty under this section, a respondent may present evidence of the ability of the respondent to pay such penalty. The Commission may, in its discretion, consider such evidence in determining whether such penalty is in the public interest. Such evidence may relate to the extent of the ability of the respondent to continue in business and the collectability of a penalty, taking into account any other claims of the United States or third parties upon the assets of the respondent and the amount of the assets of the respondent.”

(b) UNDER THE SECURITIES EXCHANGE ACT OF 1934.—Section 21B(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78u-2(a)) is amended—

(1) by striking the undesignated matter immediately following paragraph (4);

(2) in the matter preceding paragraph (1), by inserting after “opportunity for hearing,” the following: “that such penalty is in the public interest and”;

(3) by redesignating paragraphs (1) through (4) as subparagraphs (A) through (D), respectively, and adjusting the subparagraph margins accordingly;

(4) by striking “In any proceeding” and inserting the following:

“(1) IN GENERAL.—In any proceeding”;

(5) by adding at the end the following:

“(2) CEASE-AND-DESIST PROCEEDINGS.—In any proceeding instituted under section 21C against any person, the Commission may impose a civil penalty, if the Commission finds, on the record after notice and opportunity for hearing, that such person—

“(A) is violating or has violated any provision of this title, or any rule or regulation issued under this title; or

“(B) is or was a cause of the violation of any provision of this title, or any rule or regulation issued under this title.”

(c) UNDER THE INVESTMENT COMPANY ACT OF 1940.—Section 9(d)(1) of the Investment Company Act of 1940 (15 U.S.C. 80a-9(d)(1)) is amended—

(1) by striking the matter immediately following subparagraph (C);

(2) in the matter preceding subparagraph (A), by inserting after “opportunity for hearing,” the following: “that such penalty is in the public interest, and”;

(3) by redesignating subparagraphs (A) through (C) as clauses (i) through (iii), respectively, and adjusting the clause margins accordingly;

(4) by striking “In any proceeding” and inserting the following:

“(A) IN GENERAL.—In any proceeding”;

(5) by adding at the end the following:

“(B) CEASE-AND-DESIST PROCEEDINGS.—In any proceeding instituted pursuant to subsection (f) against any person, the Commission may impose a civil penalty if the Commission finds, on the record, after notice and opportunity for hearing, that such person—

“(i) is violating or has violated any provision of this title, or any rule or regulation issued under this title; or

“(ii) is or was a cause of the violation of any provision of this title, or any rule or regulation issued under this title.”

(d) UNDER THE INVESTMENT ADVISERS ACT OF 1940.—Section 203(i)(1) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-3(i)(1)) is amended—

(1) by striking the undesignated matter immediately following subparagraph (D);

(2) in the matter preceding subparagraph (A), by inserting after “opportunity for hearing,” the following: “that such penalty is in the public interest and”;

(3) by redesignating subparagraphs (A) through (D) as clauses (i) through (iv), respectively, and adjusting the clause margins accordingly;

(4) by striking “In any proceeding” and inserting the following:

“(A) IN GENERAL.—In any proceeding”;

(5) by adding at the end the following:

“(B) CEASE-AND-DESIST PROCEEDINGS.—In any proceeding instituted pursuant to subsection (k) against any person, the Commission may impose a civil penalty if the Commission finds, on the record, after notice and opportunity for hearing, that such person—

“(i) is violating or has violated any provision of this title, or any rule or regulation issued under this title; or

“(ii) is or was a cause of the violation of any provision of this title, or any rule or regulation issued under this title.”

(e) TREBLED PENALTIES IN SEC ACTIONS AGAINST AIDERS AND ABETTORS.—Section 20(e) of the Securities Exchange Act of 1934 (15 U.S.C. 78t(e)) is amended by adding at the end the following: “The maximum monetary sanction that otherwise would be permissible in an action brought pursuant to the Commission’s authority under this subsection shall be trebled if the Commission finds on the record that the party on which the penalty is to be imposed is not subject to any private action under the securities laws for the conduct that is the subject of the action.”

SA 4172. Mr. DODD proposed an amendment to the bill H.R. 4173, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; as follows:

Amend the title so as to read:

“A bill to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail”, to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.”

NOTICE OF HEARING

COMMITTEE ON RULES AND ADMINISTRATION

Mr. SCHUMER. Mr. President, I wish to announce that the Committee on Rules and Administration will meet on Tuesday, May 25, 2010, at 10 a.m. to hear testimony on the nomination of William J. Boorman, of Maryland, to be the Public Printer.

For further information regarding this hearing, please contact Lynden Armstrong at the Rules and Administration Committee on (202) 224-6325.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mrs. SHAHEEN. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs, be authorized to meet during the session of the Senate on May 20, 2010, at 9:30 a.m., to conduct a hearing entitled “Examining the Causes and Lessons of the May 6th market plunge.”

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mrs. SHAHEEN. Mr. President, I ask unanimous consent that the Com-

mittee on Commerce, Science, and Transportation be authorized to meet during the session of the Senate on May 20, 2010, at 2:30 p.m. in room 253 of the Russell Senate Office Building.

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

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mrs. SHAHEEN. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate to conduct a hearing on May 20, 2010, at 9:30 a.m., in room SD-366 of the Dirksen Senate Office Building.

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

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mrs. SHAHEEN. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet during the session of the Senate on May 20, 2010, at 9:30 a.m. in room 406 of the Dirksen Office Building.

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

COMMITTEE ON FINANCE

Mrs. SHAHEEN. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on May 20, 2010, at 2:30 p.m., in room 215 of the Dirksen Senate Office Building, to conduct a hearing entitled “Clean Technology Manufacturing Competitiveness: The Role of Tax Incentives.”

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

COMMITTEE ON FOREIGN RELATIONS

Mrs. SHAHEEN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on May 20, 2010, at 9:15 a.m., to conduct a hearing entitled “NATO: Report of the Group of Experts.”

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

COMMITTEE ON THE JUDICIARY

Mrs. SHAHEEN. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate, on May 20, 2010, at 10 a.m., in SD-226 of the Dirksen Senate Office Building, to conduct an executive business meeting.

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

AD HOC SUBCOMMITTEE ON CONTRACTING OVERSIGHT

Mrs. SHAHEEN. Mr. President, I ask unanimous consent that the Ad Hoc Subcommittee on Contracting Oversight of the Committee on Homeland Security and Governmental Affairs be authorized to meet during the session of the Senate on May 20, 2010, at 10:30 a.m., to conduct a hearing entitled, “Counternarcotics Contracts in Latin America.”

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

SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT, THE FEDERAL WORKFORCE, AND THE DISTRICT OF COLUMBIA

Mrs. SHAHEEN. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs' Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia be authorized to meet during the session of the Senate on May 20, 2010, at 2:30 p.m., to conduct a hearing entitled "Balancing Act: Efforts to Right-Size the Federal Employee-to-Contractor Mix."

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

PRIVILEGES OF THE FLOOR

Mr. DODD. Mr. President, I ask unanimous consent that a committee intern, Robert Courtney, be granted the privilege of the floor for the duration of today's session.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

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

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

UNANIMOUS-CONSENT AGREEMENT—H.R. 4173

Mr. UDALL of Colorado. Mr. President, I ask unanimous consent that the order with respect to H.R. 4173 and the motions to instruct be modified to provide that the Senate consider the motions beginning at 4:45 p.m., Monday, May 24, and that the Senate proceed to vote on the motions after the use or yielding back of all time available for debate with respect to both motions, and that the other provisions of the previous order remain in effect.

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

INTERNATIONAL ORGANIZATIONS IMMUNITIES ACT EXTENSIONS

Mr. UDALL of Colorado. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 5139, which was received from the House and is at the desk.

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

The assistant legislative clerk read as follows:

A bill (H.R. 5139) to provide for the International Organizations Immunities Act to be extended to the Office of the High Representative in Bosnia and Herzegovina and the International Civilian Office in Kosovo.

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

Mr. UDALL of Colorado. Mr. President, I ask unanimous consent that the bill be read the third time and passed, the motion to reconsider be laid upon the table, with no intervening action or debate, and that any statements re-

lated to the bill be printed in the RECORD.

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

The bill (H.R. 5139) was ordered to a third reading, was read the third time, and passed.

DECLARATION OF CONSCIENCE DAY

Mr. UDALL of Colorado. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. Res. 536, which was submitted earlier today.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 536) designating June 1, 2010, as "Declaration of Conscience Day" in commemoration of the 60th anniversary of the landmark "Declaration of Conscience" speech delivered by Senator Margaret Chase Smith on the floor of the United States Senate.

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

Ms. SNOWE. Mr. President, unwavering in principle and hewing always to her Maine roots and hallmark independence, Margaret Chase Smith exemplified the finest qualities of our great state of Maine which she represented with the highest distinction in the U.S. House of Representatives and the U.S. Senate. A true American political icon and esteemed stateswoman, she was and remains the embodiment of Maine's motto, *Dirigo* or "I Lead." And lead she did.

As I said 10 years ago, on the 50th anniversary of her groundbreaking remarks, in order to lead, one must first be able to follow—follow one's conscience, follow one's own ideals, and follow what you know in your heart to be right. In taking the path less travelled, Senator Smith became a truly distinguished leader, not just of her time, but for all time, and delivered what we remember as her signature contribution to America and the very freedoms we cherish.

Indeed, on this momentous occasion, we pay tribute to a political giant and legend, who rose from the most humble of beginnings to the highest corridors of power—the heights of which she never sought for personal gain, but rather in order to serve the state she loved and the Nation she revered. And we honor her uncommon courage in confronting a scourge no other Senator sought to challenge, which she demonstrated without equivocation on June 1, 1950.

During a time enveloped by a crucible of hatred and fear, it was Senator Margaret Chase Smith who became the first U.S. Senator to speak the words that much of America had been thinking to itself back in the dark spring of 1950—as Senator Joseph McCarthy made sensational and unsubstantiated charges that, through blatant opportunism, had turned him into a national celebrity.

But while her colleagues hid behind their silence, with her famous "Declaration of Conscience" speech, Margaret Chase Smith articulated the truth and, in so doing, courageously challenged a giant of demagoguery. Senator Smith stood and bravely defended what she termed "some of the basic principles of Americanism." She managed to accomplish in 15 minutes what 94 of her colleagues had not dared to do, prompting American financier and presidential adviser, Bernard Baruch, to say that, "had a man made that speech, he would have become the next President of the United States."

Margaret Chase Smith was a teacher, a telephone operator, a newspaper woman, an office manager, a secretary, a wife, a Congresswoman, and a U.S. Senator. She was a visionary of endless "firsts" . . . the first woman to be elected to both Houses of Congress . . . the first woman to be nominated for President by a major party . . . even the first woman to break the sound barrier in an F-100F Super Sabre Air Force jet.

But because of her bravery—both in politics and in life itself—she inspired millions of young girls, and became a role model for countless more women across America who never before thought they could aspire to any kind of public office. She certainly paved the way for Senator COLLINS and me—after all, who could have predicted that, one day, Maine would make history by electing two Republican women to serve concurrently in the U.S. Senate. That is why, as direct beneficiaries of Senator Smith's groundbreaking public service in the U.S. Congress, it is a tremendous privilege to introduce this resolution.

In the end, the measure of Senator Smith's life is in the standard of leadership established by her resonating words and powerful actions. We cannot begin to overstate the legacy she has bequeathed to us, the hallmark of which was her Declaration of Conscience speech. In the words of the ancient Greek, Aeschylus, she "was not to seem, but to be, the best." Simply put, she was and she will always be! Her example will forever illuminate this chamber and light our way.

Mr. President, I ask unanimous consent that Margaret Chase Smith's "Declaration of Conscience" speech be printed in the RECORD.

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

MARGARET CHASE SMITH
DECLARATION OF CONSCIENCE
June 1, 1950
(In the Senate)

Mr. President, I would like to speak briefly and simply about a serious national condition. It is a national feeling of fear and frustration that could result in national suicide and the end of everything that we Americans hold dear. It is a condition that comes from the lack of effective leadership either in the legislative branch or the executive branch of our government.