

The legislative clerk proceeded to call the roll.

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 President, I ask unanimous consent that the order for the quorum call be rescinded.

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

PATENT REFORM

Mr. GRASSLEY. Mr. President, I wanted to address the issue of patent reform—a bill the Senate has already passed by an overwhelming margin. It is my understanding the House of Representatives is expecting to pass a patent reform bill the House wants, and in the process the House wants the Senate to agree very soon thereafter and do it without a formal conference.

I want my colleagues to understand why I hope the House-passed bill will contain a provision that was not in our Senate bill but passed unanimously out of the House Judiciary Committee.

The House committee report recognized that the “need to modernize patent laws has found expression in the courts” but that “the courts are constrained in their decisions by the text of statutes at issue.” That is from the House committee report.

The House Judiciary Committee amendment that passed unanimously resulted from a recent Federal court case that had as its genesis the difficulty that the FDA—the Food and Drug Administration—and the patent office face when deciding how to calculate Hatch-Waxman deadlines. The Hatch-Waxman law was a compromise between drug patent holders and the generic manufacturers. Under the Waxman-Hatch law, once a patent holder obtains market approval, the patent holder has 60 days to request the patent office to restore the patent term—time lost because of the FDA’s long deliberating process eating up valuable patent rights.

The citation for the case I am talking about is 731 F. Supp 2nd 470. The court case found:

the FDA treats submissions to the FDA received after its normal business hours differently than it treats communications from the agency after normal hours . . . when notice of FDA approval is sent after normal business hours, the combination of the patent trade office’s calendar day interpretation and its new counting method effectively deprives applicants of a portion of the 60-day filing period that Congress expressly granted them . . . an applicant could lose a substantial portion, if not all, of its time for filing a patent trademark extension application as a result of mistakes beyond its control . . . an interpretation that imposes such drastic consequences when the government errs could not be what Congress intended.

That is the end of the judge’s statement on why he ruled as he did in this particular case. Congress did not intend those drastic consequences that happen as a result of a difference between whether you are making an application to or an application from an agency. In other words, there should

not be any difference. Congress did not intend the consequences that come from such a different application of the law. So the court clarified the law so when FDA sends a notice of approval after normal business hours, the 60-day period requesting patent restoration begins the next business day. The House Judiciary Committee takes the court decision where common sense dictates: to protect all patent holders against losing patent extensions as a result of confused counting calculations.

I want to quote Ranking Member CONYERS of the House Judiciary Committee who sponsored the amendment and committee Chairmen SMITH who supported Mr. CONYERS. Ranking Member JOHN CONYERS stated during markup the amendment is needed to “remove what amounts to a trap and would clarify the term ‘business day’ . . . and so, our attempt here is to make the congressional effort at patent reform more clear, more efficient.”

Chairman LAMAR SMITH also advocated passage of this amendment during markup in the House Judiciary Committee. I will quote him.

I will recognize myself in support of the amendment. Now, the gentleman’s amendment—

Meaning the Conyers amendment—

clarifies the counting rules that are imposed on patent holders who must submit documents to the agency within statutory time limits. It has been established that the PTO has inconsistently applied these rules, which is not fair to various patent holders. The gentleman’s amendment tracks the recent court case decided in favor of a patent holder that originally applied for an extension 10 years ago. My understanding is that there are not scoring problems with this provision and I support it.

That is what Chairman LAMAR SMITH of the House Judiciary Committee said.

This is a commonsense amendment. It improves our patent system fairness through certainty and clarity, and I hope the House will leave that in their bill when it sends it over here to the Senate.

My interest in this amendment is because I opposed it 2 or 3 years ago when it was first brought up. Because of the court decision, I am convinced the different application of the 60-day rule is very unfair. As ranking member of the Senate Judiciary Committee, I want the House Judiciary Committee to know that several Republican and Democratic Senators have asked me to support the Conyers language as well.

I yield the floor and I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

THE ECONOMY

Mr. BOOZMAN. Mr. President, the latest unemployment numbers indicate that nearly 106,000 Arkansans are unemployed. This 7.7 percent unemployment rate is higher than when the so-called stimulus passed that President Obama and Majority Leader REID promised would produce jobs for hard-working Americans. Although this rate is below the national average, the numbers show that out-of-work Arkansans continue to struggle to find gainful employment.

What is more alarming is that the President and the majority here in the Senate are resisting real change and insisting on more of the same borrow, spend, and tax policies that have given us record unemployment and a sluggish economy.

In November, Americans gave a clear sign that job creation needs to be a priority. Unfortunately, the Senate majority and President Obama have failed to prove that this is at the top of the agenda. Time and time again, the Senate and our President add to the uncertainty that is stifling job creation. Commonsense legislation that would create the conditions for job growth is not brought to the floor. It is not because the Senate has more pressing issues. There is no excuse as to why the Chamber avoids voting on legislative and policy items that will provide real relief for the unemployed, such as the stalled free-trade agreements.

As news reports have pointed out over the past several weeks, the business in this body is progressing at a historically slow pace. As the Washington Post reported last week, “Quorum calls have taken up about a third of its time since January, according to the C-SPAN statistics.”

Americans are tired of the games. They need jobs, and it is our duty to help.

Linda from Mountain Home, AR, recently wrote to me asking the same thing millions of Americans want to know: “Where are the jobs?” She continued her e-mail asking what legislation Republicans introduced that will stimulate the economy and create jobs. I want to thank Linda for her letter and let her know my colleagues and I are on the side of the American worker, and that is evident by the legislation we have offered. These practical free market ideas will put Americans back to work, and, like the millions of Americans who are looking for jobs, we are anxious to vote on them and approve these measures.

In February, we introduced the REINS Act, of which I am a proud cosponsor. Too often, Federal agencies overstep their boundaries and enact expensive mandates that strangle investment and job creation without congressional approval. This commonsense legislation provides a check and balance between Congress and the executive branch and allows business to focus on growth instead of how to comply with burdensome regulations.

This starts with making changes to unfunded mandates by the Environmental Protection Agency. Unnecessary and burdensome regulations imposed on our businesses cost money and cost jobs. EPA has put a target on America's industrial, manufacturing, and agricultural job creators. Clean air, clean water, and conservation are all very important, but the heavy-handed regulations coming from this EPA have little or nothing to do with clean air or clean water. We are witnessing a Federal bureaucratic power grab on behalf of a radical, job-destroying agenda. These regulations are making food more expensive, energy more expensive, and gasoline more expensive, and they are driving jobs out of our country. Our competitors are taking our jobs and emitting far more pollution into our atmosphere and oceans than we would here in the United States. Again, it is all pain and no gain. As the administration works to drive up the cost of energy, they seem to forget that a prosperous country is a country that can invest in conservation and protect the environment.

The President still wants to blame his predecessor for our sluggish economy and lack of jobs. The blame game won't help the President politically, and it won't help turn our economy around. It is true that President Obama inherited a weak economy, but he made it worse. Before President Obama took office, the Federal Government was carrying out many policies that distorted the market and contributed to the meltdown. In 2008, we were spending too much money and running severe deficits. Now our deficit is three times as big. Sadly, President Obama has made each of our economic problems worse.

I believe it is important to provide American businesses with an equal opportunity to compete and succeed while opening new markets for American products. I strongly believe that when presented with a level playing field, American businesses and workers can outperform any in the world in terms of quality and value.

With three pending trade agreements on the table waiting for approval, we are wasting precious time and resources at our disposal to open foreign markets to U.S. products. The lack of action on the Colombia, Panama, and South Korea agreements is concerning. I believe we need to move forward as quickly as possible to ratify these policies. American companies and their workers are losing market share and are being denied valuable business opportunities. That is why one of the first pieces of legislation I cosponsored as a Member of the Senate was S. Res. 20, legislation that urges this Chamber to consider and approve the pending free-trade agreements with these countries.

On multiple occasions, President Obama expressed support for the implementation of all of these trade agreements in order to reduce our Nation's

deficit and create American jobs for American workers. So far, there is still a failure to act on any of these agreements.

Americans deserve legislation that will promote job growth, but one of President Obama's legislative cornerstones, health care reform, actually costs jobs. We were told ObamaCare would create 4 million jobs, but reality tells a different story.

According to the Congressional Budget Office, there will be 750,000 fewer jobs. This legislation is bad for business. That is why we voted to eliminate the onerous 1099 reporting requirements included in this flawed legislation.

I will continue to fight for a full repeal of this law as we seek meaningful health care reform that provides quality, affordable access for all citizens based on free market principles.

The simple truth is there are 14 million Americans out of work and millions more who have been forced into retirement or gave up looking for a job. These 14 million Americans are calling for our help, yet the majority and the administration continue to ignore their pleas.

We have a plan that is ready to move, and the practical free market ideas it is based upon will put Americans back to work. Let's show Linda in Mountain Home and the millions of Americans looking for a job that we are working to change the direction our country is headed and be a job creator.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SESSIONS. I ask that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. COONS). Without objection, it is so ordered.

THE ECONOMY

Mr. SESSIONS. Mr. President, I had the opportunity this morning to catch the CNBC program that had Jack Welch, former CEO of GE on, and I thought he made a number of valuable points. He is very worried about our economy. He believes we are facing serious troubles, and we need to take action to do something about it. As a corporate leader of great renown, one of the more respected corporate leaders in America at this time, he evidenced a real frustration at the lack of leadership this administration is showing with regard to our financial crisis.

He said a number of things. One of them was classic leadership, classic thought by a manager, a man who has managed a very large corporation worldwide with many moving parts. He said we have to have a strategy, and we have no strategy. I think that is correct. I do not believe the American people sense that this country is able to articulate a serious strategy to con-

front the difficulties with which we are now dealing.

He said everything needs to go through a screen, and in his opinion the screen should be what our strategy is and our strategy should be, in general, to create an economy that is productive, innovative, and growing; creating jobs, creating wealth, creating prosperity, and everything ought to be judged by that.

One of the points he mentioned was drilling for oil and gas in America. We have all kinds of government agencies here, all kinds of regulations and a permitorium, a blocking of the giving of permits, that has substantially reduced the ability of this Nation to produce oil and gas at home, a critical factor if we are going to be competitive and economically prosperous.

We need to quit buying so much abroad, sending wealth abroad, and keep it at home. He just threw that out as one of the things that would never get through a screen. Instead of helping this country to be more prosperous and create jobs and growth, it does just the opposite. Yet in this massive government, we take contradictory actions, and as a result we are muddling along at a very unhealthy rate, and the American people are worried about it.

Last week was the sixth consecutive week that the stock market fell. We were told in January, when things were progressing, that everything was just doing great and that we are creating a lot of jobs; we are creating jobs, and the market is doing better. But in fact it is not moving very well. If we read the financial pages, we see that the people who spend their lives dealing with the economic threats we face are uneasy about our future.

Just read those articles in Barron's that just came out over the weekend about the roundtable of worldwide economic experts. It was very troubling to me. Many of them had serious concerns about the future. Would we have a doubledip? Some seem to say yes. The Presiding Officer, Mr. COONS, is on the Budget Committee and knows the numbers we are dealing with and has heard the testimony that Mr. Bowles, former Chief of Staff for President Clinton, and Alan Simpson, in their Fiscal Commission Report, said we are facing the most predictable crisis in our history, and it could cause economic difficulties for us soon. Mr. Bowles said 2 years, give or take. Not just for our grandchildren, but soon.

This is why the experts say we have a problem. I do not believe we have from the White House any call to the kind of action necessary to alter the unsustainable debt trajectory we are on.

I do not think the American people fully understand, but they understood enough to punish the Congress in this last election. I am afraid they are going to punish us again because no Congress can defend itself from the criticism that we have presided over a government that is borrowing 40 cents