we ought to defeat this amendment. Therefore, Mr. President, I commend my colleagues for their sincerity, but after a consultation with and on behalf of the majority leader I move to table the amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be.

The yeas and nays were ordered.

Mr. LUGAR. The vote, I understand, Mr. President, will occur after the first vote that is now set for 5:30; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. LUGAR. I thank the Chair.

TRUTH IN EMPLOYMENT ACT

The PRESIDING OFFICER. Under the previous order, the hour of 5 p.m. having arrived, there will now be 30 minutes for debate equally divided in relation to S. 1981. The Senators from Arkansas and Massachusetts control the time.

Mr. HUTCHINSON addressed the Chair.

The PRESIDING OFFICER. The distinguished Senator from Arkansas is recognized.

Mr. HUTCHINSON. Thank you, Mr. President.

I think we have before us a bill that is very important and well worth the time that we have taken debating it on the floor of the Senate today. This bill deals with the unconscionable practice of some labor unions today to send paid salts or unpaid salts into a business under the guise of working for that employer but when the real intent is to wreak economic damage and ultimately bring a business and employer to his or her knees.

Salting is the calculated practice of placing trained union agents in a nonunion workplace whose primary purpose is to harass, disrupt company operations, apply economic pressure, increase operating and legal costs, and ultimately put the company out of business.

Mr. President, the Truth in Employment Act simply inserts a provision in the NLRA freeing an employer from the requirement of employing ''. . . any person who is not a bona fide employee applicant, in that such person seeks or has sought employment with the employer with the primary purpose of furthering another employment or agency status.'' In other words, an employer is not required to hire an employee whose primary—primary purpose—I emphasize, whose primary purpose in applying for a job is not to work and benefit the company.

Participation in union activities or an in-house employee organizing committee would not constitute employment or agency status. It simply allows employers to not hire overt salts and to give employers recourse against covert salts—those who would come in surreptitiously.

The bill also specifically protects the rights of bona fide employees to self-organization, labor organization membership, and collective bargaining.

Let me just take a moment to emphasize what this bill will not do, because it has been so grossly mischaracterized by those who want to see this practice continue in the American workplace.

No. 1, it does not undermine legitimate rights or protections. Employers will gain no ability to discriminate against union membership and activities or activities, or activities in other organizations. It only seeks to stop the destructive practice of salting; that is all.

No. 2, it does not prevent union organizing or other types of organizing, such as women advocacy groups or a day-care program in the workplace. It does not prevent women and minorities from advocating their rights. It does not change the definition of ''an employee'' and what an employee is.

It does not overturn the decisions of the Supreme Court. It does not overturn the decision of Town & Country Electric, Inc., which stated that paid union organizers can fall within the literal, statutory definition of ''employees.''

It does not create a system of blacklists. And it does not promote mind reading or mind control, as some of my colleagues would suggest.

Salting is not a product of my imagination, it is a very great reality in the workplace today.

Jack Allen, previously of Thomasville, GA, provided an account of his experiences to Representative ALLEN BOYD of Florida, where he currently is employed. Allen Electric was founded by his father in 1947. He eventually took over the company.

Mr. Allen's family-owned business, passed down from his father, eventually sank under the heavy financial weight of legal expenses—expenses incurred because he tried to defend himself against fraudulent discrimination charges by union salts.

Mr. President, this legislation will prevent others from suffering the injuries that Mr. Allen suffered—the loss of his family company, the loss of all his hard work, the loss of his reputation.

I think it is wrong for us, under current law, to compel employers to hire someone who comes into the workplace with the goal of disrupting, destroying, and eventually bankrupting their employer. That is wrong. This is a modest piece of legislation that takes a small step in restoring balance and fairness in employee-employer relations. I ask my colleagues to support this motion to invoke cloture.

I reserve the remainder of my time and yield the floor.

Several Senators addressed the Chair.

Mr. KENNEDY. I yield my colleague 7 minutes.

Mr. WELLSTONE. I thank my colleague.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, I say to my good friend—he is a good friend—Senator HUTCHINSON, I have looked through the language, and under the section dealing with protection of employer rights—maybe there should be another time my colleague should bring this bill to the floor because this bill, in its present form, would allow an employer not to hire someone who might simply have an interest in joining a union. It is that ambiguous.

I say to my colleague that while this isn't his intention, it sort of reminds me—you cannot have such broad language. It is sort of like the days a long time ago—it is not the intention of my colleague from Arkansas; and I think my colleague from Massachusetts would appreciate this—where the Irish had a hard time getting jobs because people assumed, ''They might very well come in there and organize a union.'' We cannot go back to those days.

Or as I look at this piece of legislation, you have a situation where maybe an employer would not hire a minority for fear that that minority, based upon her past experience, might come into the workplace and say to other people, ''Listen. We're not getting a fair shake.'' Or the same thing can hold true with someone who has been active in the National Organization for Women, and the argument might be, ''We don't want to hire such a person because, again, they might engage in the kind of activity that we would prohibit.''

Or you might get into a situation where you do not want to hire someone—I think we have had that discussion before—who might come in and, because of her background—she is an activist—''My gosh, she might come in and start organizing with other women and say, 'You know what? We ought to be going to our employer and saying this ought to be a more family-friendly workplace. We need good child care here.' ''

This is a piece of legislation which is so broad in its application and so ambiguous, I say to my friend from Arkansas, that this is an enormous step backward.

I only have a few minutes, and if I get more time we can go to debate, but I just want to simply say that I think the direction we ought to go in—because the truth about this Truth in Employment Act is that it just takes us back decades. It is unacceptable.

I have a piece of legislation that I have introduced called the Fair Labor Organizing Act. Let us talk about, What is the truth when it comes to the imbalance of power between employers and employees right now? If there is going to be a focus on how parents or a parent can do their best by their kids—in which case, they do their best by our country—then part of the focus is going to be on living-wage jobs. That speaks to the right of people to organize and bargain collectively, to earn a

decent living, and give their children the care they know their children need and deserve. This piece of legislation goes exactly in the opposite direction.

Now, the Fair Labor Organizing Act—and I would love to have support from my colleague on this—says three or four things. It says, first of all, let us talk about what is going on, the reality, the truth of what is going on right now. It says, first of all, that when it comes to organizing, companies do not get to give captive-audience speeches; the employees, the workers, also are going to have a right to hear someone from the union. Free flow of information.

The second thing it says is that companies—let's talk about the truth. The truth is that, right now, there are too many companies that hire union-busting consultants and illegally fire people. Some 10,000 people a year are illegally fired because they want to do nothing more than join a union, have some power, bargain for a decent wage and do well for their families. What the Fair Labor Organizing Act, which I have introduced, says is that if a company does that, it is not going to be profitable for them to do that any longer. They are going to pay serious back pay. There are going to be serious fines on them.

The third thing we say in this legislation is that even if people are lucky enough to be able to organize a union and aren't fired while they are trying to do so, then all too often companies just stonewall and refuse to sign a contract, in which case they will go to binding arbitration, mediation.

I say to my colleague from Arkansas that if, in fact, we want to talk about truth in employment, then we ought to deal with the truth of the matter, which is right now we have egregious examples of people being illegally fired, not able to organize, not able to bargain collectively, and this legislation goes in exactly the opposite direction.

This has very little to do with truth in employment. This has a whole lot to do with basic first amendment rights. This has a whole lot to do with giving those companies—I hope there are not too many, and I don't think there are; unfortunately, there are more than I wish there would be—a huge loophole whereby they simply don't have to hire somebody who potentially might have an interest to join a union, or she calls on her colleagues to join a union. It is unacceptable. You can't have a piece of legislation passed with this kind of mandate. We can't give companies a mandate not to hire women, not to hire minorities, not to hire activists who might want to join a union or want other members to join a union, not to hire men or women who want to fight for more child care. That is what this legislation does. Bring back another piece of legislation which doesn't have this kind of language and I will support it. But tonight I come to the floor to say to my colleagues that there should be an overwhelming vote against this piece of legislation.

How much time do I have left?

The PRESIDING OFFICER. The Senator has 20 seconds.

Mr. WELLSTONE. I yield the remainder of my time.

The PRESIDING OFFICER. The Senator from Massachusetts has 7 minutes 44 seconds, and the Senator from Arkansas has 10 minutes 30 seconds.

Mr. HUTCHINSON. Mr. President, I yield 4 minutes to the distinguished assistant majority leader, Senator NICKLES from Oklahoma.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. NICKLES. Mr. President, first, I wish to compliment my colleague from Arkansas for bringing this bill to the floor. I urge my colleagues to vote in favor of it. In response to my colleague from Minnesota, I think he should read the legislation. In reading the legislation, the protection of employer rights, section 8(a) of the NLRA is amended on line 22 to read:

> Nothing in this subsection shall be construed as requiring an employer to employ any person who is not a bona fide employee applicant, in that such person seeks or has sought employment with the employer with the primary purpose of furthering another employment or agency status: *Provided*, That this sentence shall not affect the rights and responsibilities under this Act of any employee who is or was a bona fide employee applicant, including the right to self-organization, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in other concerted activities for the purpose of collective bargaining. . . .

Mr. President, under the legislation my colleague from Arkansas has, an employee can come in, and if they want to help organize or participate in the collective bargaining process, they can do so. But they have to have the primary purpose of employment, of working with the employer. It can't be to circumvent and say, no, we want to work full time for the union, even to the destruction of the company.

Unfortunately, that happens today to some companies that might be nonunion. The organizers who are trying to unionize the company sometimes say, ''We would rather destroy that company if they are not going to be union.'' I will read you one comment that was in the International Brotherhood of Electrical Workers' organizing document on how to use salting techniques:

> Phase 3 is infiltration, confrontation, litigation, disruption, and annihilation of all nonunion contractors. If we cannot get inside and organize, then we must disrupt the operations of the nonunion contractor.

That is a quote. I understand they have now taken that out of their organizational manual. But, in essence, they want to infiltrate and do everything they can to disrupt, and that means filing untold numbers of unfair labor practices. That means filing untold numbers of OSHA complaints, and any other thing to disrupt the company and make them an unsuccessful organization. Unfortunately that happens.

I have a letter from one of my small companies in Oklahoma, dated May 29, 1998. He is telling a story and talking about filing false and incorrect reports with the NLRB:

> We hired an attorney to represent us in these proceedings. Each time, we had proof, and sometimes outside witnesses, to prove our side of the story.

It goes on and on and on and talks about harassment. So I compliment my colleague from Arkansas. I think he is exactly right. I urge my colleagues to vote in favor of this bill.

Mr. President, I have two editorials. One is dated June 8 of this year, from the Daily Oklahoman, entitled ''Salt, Not Light.'' It repeats the real essence of this legislation, why it is needed. Also, I have one that was in today's Washington Times, entitled ''Pass the Salt Reform.'' It is dated Monday, September 14.

I ask unanimous consent to have these printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Daily Oklahoman, June 8, 1998]

SALT, NOT LIGHT

At a recent congressional hearing the owner of a non-union electrical contracting firm explained that his company had been hit by 85 unfair-labor-practice complaints since 1985, all dismissed as frivolous.

One came from a worker who'd been fired for refusing to wear his hard hat on his head. ''He would strap it to his knee and then dare us to fire him because he said our policy stated only that he had to wear the hard hat—it (the employee manual) didn't say where he had to wear it,'' said John Gaylor of Carmel, Ind.

The worker was a ''union salt'' sent to harass a non-union business. Gaylor's firm is a favorite target of the International Brotherhood of Electrical Workers (IBEW). He budgets $250,000 a year to fight frivolous complaints.

''Union salting'' is a serious problem for small businesses. Union members are sent to disrupt productivity. According to the IBEW's organizing manual, the idea is to ''threaten or actually apply the economic pressure necessary to cause the employer to . . . raise his prices, to recoup additional costs, scale back his business activities, leave the union's jurisdiction, go out of business and so on.''

It's big labor's version of guerrilla warfare, and it should be stopped. In March the U.S. House passed a bill to free employers from having to hire anyone who seeks a job to pursue interests unrelated to their own. The bill would require the National Labor Relations Board (NLRB) to decide complaints related to union membership within a year. It would mandate reimbursement for attorneys fees and other costs if NLRB sues a small company and loses.

The Senate should follow the House's lead. Congress also should reject Bill Clinton's nomination (AFL–CIO lawyer Laurence Cohen) to be the NLRB's general counsel. Cohen is the father of union salting and as such is the wrong choice for the NLRB, which is supposed to be a non-partisan arbiler in labor-management conflicts.

[From the Washington Times, Sept. 14, 1998]

PASS THE SALT REFORM

The story goes that a small Dallas electrical company of about 30 employees won a

bid for work on a school construction project and ran an ad inviting workers to apply. When a local electricians' union responded to the ad, as Rep. Sam Johnson described the incident in debate earlier this year, their hiring blew the company's fuse.

The union members, he said, ''staged small strikes by leaving the job for three or four hours but returning just before they could be replaced. They also sabotaged the electrical work and went on to file close to 50 grievances against the company, eventually driving it out of business.''

What the company didn't know was that it had hired ''salts,'' union members sprinkled into non-union companies with the goal not of organizing them along union lines but of sabotaging them financially. It's an increasingly popular way for Big Labor to beat non-union firms with which it can't compete.

As one former salt testified, ''Salting has become a method to stifle competition in the marketplace, steal away employees and to inflict financial harm on the competition. Salting has been practiced in Vermont for over six years, yet not a single group of open-shop electrical workers have petitioned the local union for the right to collectively bargain with their employers.''

What makes this practice particularly effective is, first, that as of now it is perfectly legal and, second, salts can win even when they lose simply by running up a company's legal bills with frivolous charges filed with the National Labor Relations Board, the Occupational Safety and Health Administration and other federal agencies. Among the casualties to date: a Carmel, Ind., firm that faced 96 charges, all of them dismissed, but has run up $250,000 in legal bills trying to defend itself; a Cape Elizabeth, Maine, company that faced 14 charges, all dismissed after spending $100,000 in legal bills; a Clearfield, Pa., firm faced with as many as 20 charges, all but one dismissed, but a $75,000 legal bill plus lost time that eventually forced it out of business after 38 years.

Companies faced with this kind of extortion fear they can't afford to win. Given the choice of pyrrhic financial victory or paying off the salts and settling the case for less, many choose to settle.

A more cynical exploitation of ''worker rights'' is hard to imagine, but it has been hard to reform existing law. By just a two-vote margin along party lines earlier this year, the House of Representatives approved reform amid much clucking about the Republican Party's anti-worker tendencies.

Today, the Senate is scheduled to take up the matter with a vote to shut off debate on the issue. The focus of the debate is legislation introduced by Arkansas Sen. Tim Hutchinson that attempts both to protect the right to organize and to prevent its abuse. The bill specifies that any bona fide job applicant, union or non-union, is entitled to all the rights and responsibilities that go with the job (i.e., to join a union, to bargain collectively and so on). But if the applicant has sought employment with the primary purpose of promoting the agenda of some other organization or business, a company is not required to employ him. Put another way, if the applicant would not have sought the job but for his union mission, then he is a salt not entitled to the usual worker rights.

By passing such a law, the Senate would protect not just companies but taxpayers whose money covers the cost of agency hearings and other administration that results from union salting. Workers might have a better opportunity to air legitimate grievances, too. It's time to put union on a low-sodium legislative diet. It's time to pass the salt reform.

Mr. KENNEDY. Mr. President, as I understand it, we have 7 minutes.

The PRESIDING OFFICER. The Senator from Massachusetts has 7 minutes 41 seconds.

Mr. KENNEDY. Mr. President, I yield myself 4 minutes.

First, let's remind ourselves of what this legislation is all about. Its purpose is to say to American workers who are qualified for a job that they will be denied employment if they have an intent to try to organize co-workers in nonworking areas and during nonworking hours.

Very clearly, you can't have it both ways. You can't say we are really not trying to overturn the Town and Country case. All you have to do is look at what the testimony was before our committee. Every single person who supports this bill wants to reverse that case.

Second is the idea that these workers are going in to destroy the company. What good does it do to organize if they are there to destroy it? That makes no sense. The claim makes no sense.

Mr. President, it is very clear what the court holdings are. First of all, if a company doesn't want to hire individuals who are paid by a union to organize the workforce, which has been a protected right for over 60 years, all the company has to do is set a blanket rule barring all other employment. That solves the problem—do it for those who are paid by the union, and for those who are going to be moonlighting. That solves the problem. We don't need legislation, Mr. President—they can do that today.

Mr. President, the court decisions also make plain that you can fire any employee who neglects their duties. If workers are disruptive on the jobsite, current law allows them to be fired.

Supporters claim that these workers won't do their jobs, but instead will file phony charges with government agencies. But the law allows companies to recover attorney's fees if an unjustified charge is pursued.

Mr. President, we have to look at what is the issue. The issue is fundamental. It is whether we in this country are going to permit workers who have the ability to do the job, and who are performing their job—whether we are going to muzzle them, to blacklist them and say under no circumstances can they go out there and try to persuade workers to join a union.

If the company finds out that they are going to be organizing a union, they can go ahead and fire them. That is what this language says—go out there and fire them right away.

Mr. President, this applies not just to those individuals who hold an employment status with a union, but those who hold an ''agency status.'' What in the world does that mean? I will tell you what it means. That means, for example, of the 100 top CEOs in the restaurant industry, there isn't a single woman—not one, not a single woman. Do you understand that—in the restaurant industry, of the top 100 CEOs, none is a woman? So workers go in and say, ''We want to break the glass ceiling in the restaurant industry.'' Under this bill, the employer can say ''Oh, no. Oh, no. You have another thought in mind. You may need this job. You may want this job. You may do it very well. But if you intend to try to do something about equal pay for women, try to do something about a child care program, try to do something to break the glass ceiling, oh, no. Oh, no.'' These workers can be fired by the employer as well.

This is a continuation of the effort that we have seen in the last 3 years to attack working families' income, and the rights of working families to represent themselves and try to persuade individuals to be part of their union. If they don't choose to be, so be it. If they do choose to be, so be it as well. But you are denying them that opportunity to choose.

Mr. President, we have to ask ourselves now on a Monday night why we are debating this particular issue when we have a Patients' Bill of Rights ready to go. We could be debating those issues which are of such basic, fundamental importance and significance to families in this country.

I withhold the rest of my time.

Mr. HUTCHINSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. HUTCHINSON. Mr. President, it is a little frustrating for me because there could be nothing more unambiguous than the language in this bill. As often as somebody wants to get up and yell and scream and have a tirade about this being disruptive of workers' and union members' rights and the rights to organize, if you simply read the bill, it says unambiguously and very forthrightly that there is nothing in this bill that will interfere with ''. . . a bona fide employee applicant, including the right to self-organization, to form, join, or assist labor organizations, to bargain collectively through representation of their own choosing, and to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection.''

Mr. KENNEDY. Will the Senator yield on my time? Who is going to make that decision? The employer is going to make that decision.

The PRESIDING OFFICER. The Senator from Arkansas has the time.

Mr. HUTCHINSON. I will be glad to yield for a question, not a speech.

Mr. KENNEDY. Who is going to make the decision?

Mr. HUTCHINSON. The NLRB will make the decision, because the employee has the right to file that complaint and go to the NLRB. But the burden of proof will be different. It will be the NLRB attorney who certifies that he was a bona fide employee applicant and not someone who went in for the purpose of destroying that company.

I would like to yield 3 minutes to my distinguished colleague from Colorado.

The PRESIDING OFFICER. The distinguished Senator from Colorado is recognized.

Mr. ALLARD. Mr. President, I thank the Senator for yielding.

Mr. President, I am rising in support of Senate bill 1981, the Truth in Employment Act.

I agree with my colleague from Arkansas that we do protect the right of employees to organize under the National Labor Relations Act. The problem is that we have small businesses out here that are being harassed and their businesses are being disrupted. I want to take a minute to explain to you or relate an incident that happened in Denver, CO. It is a real life story of what happened.

This businessman, who happened to be an electrical contractor, saw a van pull up in front of his business. Seven union organizers jumped out of the van, ran into his office, and they applied for a job with the business. They had their videotape running. When all was said and done, he hired some of them and put them to work. When all was said and done, when all the harassment was done, and all of the later procedure and everything, there was a considerable amount of cost to the company in management time as well as actual dollars. It ended up that there were approximately 19 frivolous and sometimes false charges with the National Labor Relations Board. Each one of those charges was eventually dropped. However, the company had already dedicated 500 management hours to deal with problems created by these salting workers and suffered financial losses of more than $1 million.

This is not workers' rights, this is going out and harassing your competition. It is going out and disrupting another company that is trying to compete in the fair marketplace. It doesn't have anything to do with jobs. What it ends up doing is costing the consumer. You and I, as consumers of electricity, will have to pay more electrical rates because of this type of activity that increases the cost of providing the services that consumers end up utilizing.

I think this is a good bill. I am rising in support of it. I urge my colleagues to support this. I think my colleague from Arkansas is doing the right thing. I believe that we are protecting the rights of employees. What we are doing is eliminating the harassment and the unnecessary cost to the employer.

I yield the remainder of my time.

Mrs. BOXER. Mr. President, I oppose the bill before us—S. 1981—because it would ban a perfectly legal and protected activity which was upheld in 1995 by a unanimous Supreme Court decision. The bill would ban ''salting,'' which occurs when efforts are made by union supporters to gain employment with nonunion employers to organize their fellow employees during nonworking hours.

This bill, I believe, is an attack on the working men and women of this country who choose to exercise their legal rights. For the first time since the enactment of the National Labor Relations Act (NLRA), employers could refuse to hire workers or could terminate workers who sought or obtained employment because they intended to engage in organizing activities.

Although the proponents of S. 1981 contend the bill merely prevents employers from being forced to hire union organizers, the actual impact of this bill would be significantly broader. For example, under S. 1981, employers could refuse to hire pro-union applicants even if they were not paid union organizers. In addition, an employer could deny employment to an applicant whose goal was to further ''another employment or agency status.'' Agency status, however, is not defined. What does it mean? Since it is not defined, it could include any number of things, including the ability of women to try to organize for an on-site day care center.

The proponents of S. 1981 also contend the bill is necessary in order to prevent workers from gaining employment for the purpose of destroying an employer's business. I agree, of course, that an employer should not be forced to hire a worker who seeks employment with the intention or purpose of destroying the employer's business. In fact, however, employers already have tools at their disposal to deal with employees who are disrupting an employer's business or who are not properly carrying out their job responsibilities. Such workers can be disciplined or even discharged.

S. 1981 goes far beyond that. It says that any worker who applies for a position and has the intention of organizing a union can be denied employment even if that worker has no relationship with a union.

The NLRA currently prohibits the discharge of employees who attempt to organize. Nothing in S. 1981 ensures that this protection will continue. This is important because if S. 1981 were enacted, an employer could claim that a recently hired employee who had begun to speak to fellow workers about the need for a union had applied for the job with that purpose, giving the employer the legal right to fire such an employee.

The right to organize is a basic freedom guaranteed to our American workers and I strongly support it. S. 1981, unfortunately, does not. It would diminish the rights of America's workers, and weaken the protections in the NLRA for them. It is anti-worker and anti-union, and it should be defeated.

Mr. BOND. Mr. President, I urge my colleagues to vote for cloture so that the Senate may proceed to consideration of S. 1981, The Truth In Employment Act. As an original cosponsor of the bill, I applaud Senator HUTCHINSON for his efforts to restore balance to our federal labor laws. S. 1981 would prohibit the controversial practice of some unions called ''salting,'' while maintaining the right of all workers to choose whether or not to be represented by a union.

''Salting'' is a controversial tactic that typically involves a union instructing its agents to apply for jobs with non-union employers. If these agents, or ''salts,'' are not hired, then the union immediately files unfair labor practice charges with the National Labor Relations Board (NLRB) alleging discriminatory hiring. If the salt is hired, he or she attempts to convince the other employees to join the union, tries to generate unfair labor practices, and initiates complaints with other federal agencies like OSHA and EPA. Some unions have made it clear that if organizing is unsuccessful, then the goal is to drive non-union companies out of business to lessen competition for unionized businesses.

S. 1981 would amend the National Labor Relations Act (NLRA) to ensure that no employer is required to hire an applicant or retain an employee whose primary purpose is to disrupt the workplace through harassment, increased costs, and frivolous complaints at the direction of a union or other employer. Last Congress, the Committee on Small Business received testimony on salting and the use of such campaigns by some unions to harass and intimidate non-union employers and employees.

So one denies that unions have the legal right to organize non-union workers. The problem arises when a union directs its members and business agents to gain access to a workplace not only to organize, but to harass. In the situations I have heard about in Missouri and around the country, salting campaigns involve abuse of the NLRB's procedures in an effort to put small companies out of business. For instance, over a two-year period, the NLRB at the instigation of the unions filed 48 unfair labor practice charges against a small construction contractor in Missouri. Although 47 of the charges were later thrown out by NLRB and one settled for a few hundred dollars, the employer was forced to incur $150,000 in legal fees to mount its defense. During this period, the union never sought a representational election so that employees could vote for or against joining the union. Salting campaigns can also include destruction of property, tampering with equipment, and general harassment of the non-union workforce by the union salts applying to the companies with the intention of disrupting the workplace or producing NLRB charges.

As Chairman of the Committee on Small Business, I am sensitive to the concerns raised by small businesses about the effects our laws and regulations have on their ability to operate. S. 1981 provides a common sense solution to a nonsensical situation. While I support the right of workers to organize, S. 1981 would restore the balance intended between the rights of workers and of employers. Under S. 1981, only employees and applicants seeking work

in good faith would be entitled to the protections provided under the NLRA. In 1995, the Supreme Court ruled that current law does not distinguish union salts from employees engaged in traditional organizing activities protected under the NLRA. S. 1981 does not overturn the Court's decision, but would amend the law to recognize the distinction between salting activities to cause economic harm to the employer versus legitimate organizing. S. 1981 retains the prohibition on employers' discriminating against bona fide employee applicants exercising their protected rights under the NLRA. I believe S. 1981 would restore the balance intended.

On March 26, 1998, language identical to S. 1981 passed the House of Representatives as part of H.R. 3246, the Fairness for Small Business and Employees Act of 1998. While the House bill passed by a narrow 202–200 vote, it is time the Senate gave full and careful consideration to this issue. I urge my colleagues to join me in voting for cloture.

Mr. FEINGOLD. Mr. President, I rise in strong opposition to S. 1981, the so-called ''Truth in Employment Act'' and urge my colleagues to do so as well.

Mr. President, this legislation is an affront to the American worker. It opens the door to abuse of good workers and unfair job termination. This measure would undermine a worker's right to organize, to seek better working conditions, to work to reduce racial tension, and to seek higher wages and better benefits. This measure seeks to undermine and penalize most every action an employee might take to improve the lot of workers.

In a unanimous 1995 decision, NLRB versus Town and Country, the United Sattes Supreme Court held that a ''union organizer is an employee, with all the protections of the National Labor Relations Act (NLRA), if acting as a union organizer does not involve abandonment of his or her service to the employer.'' This legislation makes a mockery of the Court's decision by requiring that workers be, what it calls, ''bona fide'' job applicants and by subjecting workers to an outrageous test of motivation as a condition of enjoying the protection of the NLRA rights. This bill provides a legal shield to employers who refuse to hire applicants who are union members or who have worked for an organized employers.

Mr. President, its not my intention to stand here telling the business community of this country that they do not have the right to terminate union employees for cause or that they must hire only applicants who claim a union affiliation. In my eyes, anyone who does not produce quality work product or who consistently ignores the rules of the workplace should face the threat of termination. Along those lines, any applicant who does not have the skills or experience to perform a job well should not be hired and the law today does not require that any unqualified person even be considered for a job. Mr. President, that's just common sense—that's just fair. This bill, the deceivingly named ''Truth in Employment Act,'' is not fair.

Mr. President, since being elected to the Congress, the Senate majority has used every possible opportunity to attack worker rights. They have used a variety of vehicles, ranging from their anti-overtime bills, to repeated efforts to water down OSHA requirements, to their opposition to an increase in the minimum wage or any expansion of the Family Medical Leave Act. This latest measure is just the latest in a long history of anti-worker legislation presented to us by the majority party.

This bill is blatantly anti-union, anti-worker and anti-American. I urge my colleagues to stand up for the ordinary American workers in their state. I urge my colleagues to vote ''no'' on this harmful measure.

Mr. HUTCHINSON. Mr. President, might I inquire as to the amount of time on each side?

The PRESIDING OFFICER. The Senator from Arkansas has 2 minutes, 59 seconds; the Senator from Massachusetts has 2 minutes, 31 seconds.

Mr. KENNEDY. Mr. President, we hope that this motion for cloture will not be passed. This is a very fundamental issue; that is, whether we are going to permit employers to get into the minds of potential employees who are qualified to do the job. If applicants are not qualified to do the job, they are not hired. It is not necessary to hire them.

This legislation permits any employer to say to any worker who comes into the shop, who is interested in trying to describe the benefits of a union, whether it be higher wages or child care facilities—to be able to say, ''No, we are not going to hire you.'' You know what is going to happen then. It is a decision that will be made by the employer. That decision then goes to the NLRB. Three years go by, and then the case comes to trial. What was in the mind of that particular employee? There is not any evidence of disruptive activities. The law gives employers many ways to police those. The fact of the matter is, the workers are trying to convince other workers to join the union, and not be disruptive—to demonstrate that there is a better opportunity for them by working through the company rather than being disruptive.

That is why we have scores of letters to indicate that this is something that is constructive and productive. This involves a very basic and fundamental issue, and that is whether, in our country, which has benefited so much from the development of collective bargaining, we are going to deny workers the chance to be able to gather together to represent their interests to improve the lives of their families.

Mr. President, I oppose this legislation and I urge my colleagues to oppose cloture on this motion.

Mr. HUTCHINSON addressed the Chair.

The PRESIDING OFFICER. The distinguished Senator from Arkansas is recognized.

Mr. HUTCHINSON. Mr. President, we likewise have scores of letters that have been submitted for the RECORD—small companies that are being destroyed by the terrible practice of salts. We have literally tens of thousands of names that have come in on petitions saying please pass something to protect small employers.

The Senator from Massachusetts has questioned the logic. Why would somebody go in to destroy a company? Why not organize the company? That is the whole point. These are companies that have not been willing to organize, or they could not get the support among the employees of that company to organize. So in desperation they go in not to organize, not to legitimately persuade employees to join a union and to collectively bargain, but to economically ruin and devastate the viability of a small company. Why are we compelling employers to hire people who do not want to work but want to destroy their company?

Imagine that salt who comes home at the end of the day, hired by the labor union to go in and economically destroy by filing frivolous complaints, to file OSHA complaints, or cause OSHA complaints, at the end of the day facing their wife who says, ''Honey, how did your day go?'' ''My day went great. I went out and helped to destroy the livelihood of my employer''—the American dream of what he has worked for for a lifetime. Imagine the employer going home at the end of the day, a small businessman, and his spouse says, ''How did your day go?'' ''Oh, great. I spent my day in court trying to defend myself against frivolous complaints that have been filed.''

It is not good for the employee or the employer. Many salts have come out of it and have said, ''I will not be involved in that kind of practice any more.''

I ask my colleagues this simple question, because I think it is simply an issue of common sense. Would you hire someone in your office, would you hire someone for your staff, who came in with the conscious, primary purpose of undermining everything you are working for—every legislative goal, every legislative agenda, every project in your State—and they are coming in for the purpose of undermining your role as a U.S. Senator? Would you hire that person? I think the obvious, commonsense answer—and the answer that we employ every day when we interview applicants—is no, we wouldn't do that. And yet, we are compelling small businessmen and women across this country to hire those who, they know in their heart when they come in, are going to disrupt the workplace and undermine the economic viability of the business and ultimately destroy them.

This legislation is modest. It is appropriate. I ask my colleagues to invoke cloture so that we can pass this

bill for the benefit of small business men and women across this country.

Mr. KENNEDY. Mr. President, I understand that I have 32 seconds remaining?

The PRESIDING OFFICER. The Senator is correct.

Mr. KENNEDY. Mr. President, this issue was considered by the Supreme Court of the United States with a number of Justices that were nominated by Republican Presidents, and it was decided 9 to 0—not 7–2, not 8–1, 9 to 0—to sustain the arguments that we have presented here this afternoon. The Senator wants to overturn that decision here this afternoon, and I hope that we will not do so.

The PRESIDING OFFICER. The time under the control of the Senator has expired.

Mr. HUTCHINSON. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 20 seconds remaining.

Mr. HUTCHINSON. This legislation does not overturn that Supreme Court decision, as I know. That court decision involved the issue of whether you could be a paid union employee and be a bona fide employee for another company, and you can't. This doesn't deal with that. This deals with the destructive practice of going in with the primary purpose of not organizing but destroying the employer.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. HUTCHINSON. Mr. President, I observe the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, the clerk will report the motion to invoke cloture.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provision of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the motion to proceed to Calendar No. 344, S. 1981, the salting legislation:

Trent Lott, Tim Hutchinson, Don Nickles, Lauch Faircloth, Paul Coverdell, John Ashcroft, Jim Inhofe, Susan Collins, Chuck Hagel, John Warner, Jeff Sessions, Connie Mack, Sam Brownback, Jesse Helms, Wayne Allard, Kit Bond.

CALL OF THE ROLL

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call under the rule is waived.

VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on the motion to proceed to S. 1981, the Truth in Employment Act, shall be brought to a close. The yeas and nays are required under the rule. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from New York (Mr. D'AMATO) and the Senator from Pennsylvania (Mr. SPECTER) are necessarily absent.

Mr. FORD. I announce that the Senator from South Carolina (Mr. HOLLINGS), the Senator from Maryland (Ms. MIKULSKI), the Senator from Illinois (Ms. MOSELY-BRAUN), and the Senator from New Jersey (Mr. TORRICELLI) are necessarily absent.

The yeas and nays resulted—yeas 52, nays 42, as follows:

[Rollcall Vote No. 266 Leg.]

YEAS—52

Abraham	Gorton	McConnell
Allard	Gramm	Murkowski
Ashcroft	Grams	Nickles
Bennett	Grassley	Roberts
Bond	Gregg	Roth
Brownback	Hagel	Santorum
Burns	Hatch	Sessions
Chafee	Helms	Shelby
Coats	Hutchinson	Smith (NH)
Cochran	Hutchison	Smith (OR)
Collins	Inhofe	Snowe
Coverdell	Jeffords	Stevens
Craig	Kempthorne	Thomas
DeWine	Kyl	Thompson
Domenici	Lott	Thurmond
Enzi	Lugar	Warner
Faircloth	Mack	
Frist	McCain	

NAYS—42

Akaka	Dorgan	Landrieu
Baucus	Durbin	Lautenberg
Biden	Feingold	Leahy
Bingaman	Feinstein	Levin
Boxer	Ford	Lieberman
Breaux	Glenn	Moynihan
Bryan	Graham	Murray
Bumpers	Harkin	Reed
Byrd	Inouye	Reid
Campbell	Johnson	Robb
Cleland	Kennedy	Rockefeller
Conrad	Kerrey	Sarbanes
Daschle	Kerry	Wellstone
Dodd	Kohl	Wyden

NOT VOTING—6

D'Amato	Mikulski	Specter
Hollings	Moseley-Braun	Torricelli

The PRESIDING OFFICER (Mr. ALLARD). On this vote the yeas are 52, the nays are 42. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. LOTT. Just to inform Members, we will have a second vote momentarily, but it will not be very long, I don't think. I believe the Democratic leader is going to have some brief remarks and then I have one Member who wants to have remarks printed in the RECORD, and Senator CRAIG wishes to make closing remarks on our side. So after a relatively brief period of time we will have another vote, and then that will be the last vote for tonight.

Again, I am going to talk to Senator DASCHLE, but I believe the next vote will be at 2:15 tomorrow afternoon, after the luncheon.

I yield the floor.

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 1998

The PRESIDING OFFICER. Under the previous order, the Senate will continue with the consideration of the bill.

The Senate continued with the consideration of the bill.

AMENDMENT NO. 3580

Mr. DASCHLE. Mr. President, I understand all time has expired on the pending amendment. I choose to use my leader time.

Mr. LEAHY. Mr. President, could we have order? The leader is entitled to be heard. The Senate is not in order.

The PRESIDING OFFICER. The Senate will please come to order. Senators will please take their conversations to the cloakroom. We would like to have quiet in the Chamber.

The minority leader is recognized.

Mr. DASCHLE. I thank the Chair, and I yield 2 minutes to the Senator from Montana.

Mr. BAUCUS. Mr. President, I thank my leader from South Dakota.

Mr. President, I think many minds on this amendment are already made up. I, just for a couple of minutes, would like to speak to those Senators who have not yet made up their minds. The point very simply is this: There are a good number of farmers and ranchers. I daresay most of them are in dire straits through problems and conditions that are no fault of theirs. They didn't cause them.

Prices for their products are way below cost of production, whether it is wheat, cattle prices, whatnot. For example, in my State of Montana, farmers are getting $2 a bushel. They subtract from that $1 a bushel for freight costs and that ends up $1 a bushel. The price of a loaf of bread in the supermarkets is pretty close to that. There is no way in the world a farmer can begin to make ends meet in these conditions, and that is true for most farmers.

The amendment before us is very simple. It just says take the cap off the loan rates just for crops that are harvested in 1998—not for next year, just 1998—to put a little bit of cash in farmers' pockets to help them pay the loans, to help them make the payments to the bank, to help them just a little bit. I must tell you, raising the caps is nowhere close to solving the problem. It is just a little bit.

Why are prices so low? Very simply, because of worldwide production, countries are subsidizing producing wheat.

Second, we are in dire straits because of the Asian crisis. Asia is not buying anymore.

Third, because the U.S. dollar is so high. Farmers didn't cause those problems, but farmers are facing those problems, and in some parts of the country, there is a drought, there is flooding, there is infestation of insects. They are stuck.