

defects that are of consequence while keeping those with no real injury from using the court system to extort settlements out of companies that have done them no real harm. And the provision keeping plaintiffs with contractual relationships with defendants from seeking through tort actions damages that their contracts don't allow them to get will make sure that settled business expectations are honored and that plaintiffs get precisely—but not more than—the damages they are entitled to.

I think it is critical for everyone to recognize that the bill we have before us today is not the bill that Senator MCCAIN first introduced or that was reported out of the Commerce Committee. Because of the efforts of the many of us interested in seeing legislation move, the bill has been significantly narrowed. For example, a number of the provisions changing substantive state tort law have been dropped. Provisions offering a new "reasonable efforts" defense have been dropped. The punitive damages section has been altered. And, instead of a complete elimination of joint liability, we now have a bill that holds those who committed intentional fraud fully jointly liable, that offers full compensation to plaintiffs with small net worths and that allows partial joint liability against a defendant when its co-defendants are judgment proof—precisely what most of us voted for in the context of securities litigation reform.

I understand that there are those who still have concerns about some of the remaining provisions in the bill. To them and to the bill's supporters, I offer what has become a cliché around here, but has done so because it is truly a wise piece of advice: let us not make the perfect the enemy of the good. Y2K liability reform is necessary—in fact critical—legislation that we must enact. Those of us supporting the legislation must be open to reasonable changes necessary to make the bill move, and those with legitimate concerns about the bill need to work with us to help address them. I hope we can all work together to get this done.

#### CLOTURE MOTION

The PRESIDING OFFICER. All time for debate has expired. 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 provisions of Rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the pending amendment to Calendar No. 34, S. 96, the Y2K legislation:

Senators Trent Lott, John McCain, Rick Santorum, Spence Abraham, Judd Gregg, Pat Roberts, Wayne Allard, Rod Grams, Jon Kyl, Larry Craig, Bob Smith, Craig Thomas, Paul Coverdell, Pete Domenici, Don Nickles, and Phil Gramm.

The PRESIDING OFFICER. The question is, Is it the sense of the Sen-

ate that debate on amendment No. 267 to S. 96, the Y2K legislation, 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. REID. I announce that the Senator from New York (Mr. MOYNIHAN) is absent due to surgery.

I further announce that, if present and voting, the Senator from New York (Mr. MOYNIHAN), would vote "no."

The PRESIDING OFFICER (Mr. ALLARD). Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 52, nays 47, as follows:

[Rollcall Vote No. 95 Leg.]

#### YEAS—52

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

#### NAYS—47

|          |            |             |
|----------|------------|-------------|
| Akaka    | Edwards    | Lieberman   |
| Baucus   | Feingold   | Lincoln     |
| Bayh     | Feinstein  | Mikulski    |
| Biden    | Graham     | Murray      |
| Bingaman | Harkin     | Reed        |
| Boxer    | Hollings   | Reid        |
| Breaux   | Inouye     | Robb        |
| Bryan    | Johnson    | Rockefeller |
| Byrd     | Kennedy    | Sarbanes    |
| Cleland  | Kerrey     | Schumer     |
| Cochran  | Kerry      | Shelby      |
| Conrad   | Kohl       | Specter     |
| Daschle  | Landrieu   | Torricelli  |
| Dodd     | Lautenberg | Wellstone   |
| Dorgan   | Leahy      | Wyden       |
| Durbin   | Levin      |             |

#### NOT VOTING—1

Moynihan

The PRESIDING OFFICER. On this vote, the yeas are 52, the nays are 47. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The majority leader.

#### UNANIMOUS-CONSENT REQUEST

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate now resume consideration of S. 96, and the last amendment pending to S. 96 be modified with the changes proposed by Senators DODD, WYDEN, HATCH, FEINSTEIN, BENNETT, and Senator MCCAIN which I now send to the desk. And I send a cloture motion to the desk to the compromise amendment.

The PRESIDING OFFICER. Is there objection?

Mr. HOLLINGS. Most respectfully, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. LOTT. Mr. President, for the information of all Senators, this cloture vote would have occurred, if consent had been granted, on Monday on the so-called compromise worked out among the chairman and Senator DODD, Senator FEINSTEIN, and others as mentioned above.

Let me say, I appreciate the effort of the chairman. I appreciate the effort, the work, and the willingness to try to find an adequate solution by Senator WYDEN. And Senator FEINSTEIN has been involved, and a number of others, Senator DODD, obviously.

But in light of this objection, I do not intend to bring this bill back before the Senate until consent can be granted by the Democrats. And if it is predicated on agreement that we open this up for every amendment in the kitchen, then it is over. Or until we get a commitment that we are going to get the votes for cloture and get a reasonable solution to this problem, I think it would be unreasonable for me to waste the Senate's time with any further debate or action on this amendment.

We need to do this. We can do it. But I am prepared now—if everybody is ready, we will just say it is over, the trial lawyers won, and we will move on to the next bill. But I am willing to be supportive of Members on both sides of the aisle who, acting in good faith, want to get this done.

We should do it. This is a reasonable approach. There is no reason we should use the Y2K computer glitch as an opportunity for a litigation bonanza. I am a lawyer, and everybody in this Chamber knows I have relatives who would be very interested in this. But I am interested in what is fair and what is right. We need to do this. The negotiations have happened. Concessions have been made. But, frankly, I am ready to move on to something else, unless we can get this done. So I do not intend to do anything else until we hear some solution to this problem.

I yield the floor.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The Democrat leader.

Mr. DASCHLE. Mr. President, I am disappointed with the announcement just made by the majority leader. I think, as others have already indicated, that we have made extraordinary progress in the last couple of days. That would not have happened without Senator DODD, Senator WYDEN, Senator KERRY, Senator MCCAIN, and a number of other Senators who have been very involved in bringing us to this point.

I am disappointed, as well, that there was an objection to returning to the Y2K bill, because we were making real progress toward improving the bill. I believe that negotiations have delivered progress, even though more improvements will be needed. I support proceeding back to the Y2K bill. I support keeping the negotiations going. I want a bill. I think we will get a bill. I think it is important we get a bill.

I also think, however, that there were unfortunate decisions made by the majority about how we consider legislation on the floor. We are negotiating all of this off the floor. I would much prefer to have a good debate and offer amendments. The amendment tree is filled. We are not able to offer a Democratic amendment—relevant or not relevant. So we are relegated to negotiating off the floor. And we are making progress even in that context. I only wish we would recognize in this Chamber all the rich tradition of debate in the Senate and we would have the opportunity to offer amendments and debate them, dispose of them, and move on.

Senator MCCAIN has suggested that. So I am not necessarily accusing the manager of any effort to keep us from having those amendments. But I will say this. We will not be gagged when it comes to our ability to offer amendments. It is religion. And it ought to be religion on both sides. It is a fundamental question about fairness, about rights, and about any one Senator's opportunity to participate fully in the debate and consideration of any important legislation.

So I am frustrated that the tree is full. I am frustrated that we are not able to move this process forward in the normal, open process under which we should consider any bill, especially this one. But I am also hopeful that we will come to some resolution. I am hopeful that we will find compromise. I know we will pass this legislation before long.

I yield the floor.

Mr. MCCAIN addressed the Chair.

The PRESIDING OFFICER. Senator MCCAIN is recognized.

Mr. MCCAIN. Mr. President, could I first say, before Senator DASCHLE leaves the floor, that having been in the minority for the first 7 years or 8 years I was here, I certainly have sympathy with his frustration. The great strength of the Senate is that not only does every Senator have the right to be heard but the minority does also. But I also think Senator DASCHLE realizes that if we allow any amendment on any subject with extended debate, then the body does not move forward.

I have not seen a better relationship than the one that exists between Senator DASCHLE and Senator LOTT. It is one of friendship and it is one of cooperation. I think the legislative accomplishments which have been achieved during Senator LOTT's and Senator DASCHLE's stewardship have been incredibly impressive, really.

I think perhaps it would be best for us to recognize that there is virtue on both sides of the argument, especially in light of, for example, yes, the tree is filled, but I did state, and the majority leader stated, we would be glad to vitiate one of those parts of the tree so that we could take up relevant amendments. I think that was made clear. So with the tree filled, there was the opportunity to debate relevant amendments.

I also comment that, as Senator DASCHLE pointed out, it is not really best to have all of this progress done off the floor in negotiations. I can't express a deep enough appreciation to Senator DODD, Senator WYDEN, Senator FEINSTEIN, Senator HATCH, and Senator BENNETT for their efforts, and others, and those of Senator KERRY of Massachusetts. From a personal standpoint, I express my sympathy for Senator DASCHLE's frustration. But at the same time, I do believe we could have moved forward with debate and votes on this issue.

I really appreciate his comments about his commitment to seeing this bill pass, because we really do have to pass this legislation. We will engage in further negotiations. But between now and early next week, what I would sincerely hope is that all of us—the majority leader and Senator DASCHLE would urge all of our colleagues to get together, come up with a set of amendments, as we usually do when this process comes to an end, come up with a set of relevant amendments, a time period associated with it, and get this thing done so we do not have to have another cloture vote and not have this very vital issue addressed.

Again, I also say that these amendments are important. I know the Senator from South Carolina feels very strongly about many of them. But it is time, really, that we started going through that process, even though we are bringing the bill down today.

Again, I express my appreciation to Senator FEINSTEIN, Senator WYDEN, and Senator DODD on this very important issue.

Mr. President, I yield the floor.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The minority leader.

Mr. DASCHLE. Mr. President, I just want to ask unanimous consent that a list of amendments in the 103rd Congress—the last Congress, of course, that the Democrats were in the majority was the 103rd Congress. I would be remiss if I did not submit for the RECORD right now a list of amendments that were not relevant that were offered by Republicans to legislation during the 103rd Congress. There were at least 19 nonrelevant amendments offered, and this may not be the complete list. We may update this as time goes on.

This issue of relevancy is interesting because it was never an issue in the 103rd Congress. Nonrelevant amendments were added. That list details a number of things. In fact, the manager of the bill today, Senator MCCAIN, had a nonrelevant amendment on the motor voter bill that would have allowed certain rescission authority on the part of the President. The Senator from Arizona also offered a nonrelevant amendment to the unemployment compensation bill in December, 1993. The amendment was to eliminate the Social Security earnings test.

The ability to offer nonrelevant amendments has been part of the con-

sideration and deliberation of legislation here in the Senate for every Congress, including the 103rd Congress when we were in the majority.

Mr. President, I ask unanimous consent that this list be printed in the RECORD.

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

#### GOP NON-RELEVANT AMENDMENTS—103RD CONGRESS

| Vote No.         | Date     |   |
|------------------|----------|---|
| 9                | 2/4/93   | Family and Medical Leave (H.R. 1, P.L. 103-3)—Mitchell motion to table Dole, et al., perfecting amendment to Dole, et al., amendment (as amended by Mitchell amendment—Vote No. 8): Directs Congress to conduct thorough review of all executive orders, DOD directives, and regulations of military departments concerning appointment, enlistment, and retention of homosexuals in armed services before July 15, 1993; specifies that all such orders, directives or regulations in effect on January 1, 1993, shall remain in effect until review is completed, unless changed by law; requires President to submit any change to this policy to Congress as bill; and sets forth expedited procedures for Senate and House floor consideration. (62-37)                                      |
| 27 <sup>1</sup>  | 3/10/93  | Motor Voter (H.R. 2)—McCain motion to waive Budget Act to permit consideration of McCain et al., amendment: Permits President to rescind all or part of appropriations bill if he determines, and notifies Congress within 20 days, that rescission would help balance Federal budget and not harm national interests; deems rescinded budget authority canceled unless Congress passes disapproval bill and overrides expected Presidential veto; and contains expedited procedures for Senate floor consideration. (45-52)  |
| 109              | 4/29/93  | Department of Environmental Protection (S. 171)—Glenn motion to table Nickles-Reid, et al., modified amendment: Requires Comptroller General and GAO to prepare impact statement to accompany each bill, resolution, or conference report before it may be reported or considered by either House of Congress that describes legislation's impact on economic growth and employment, on State and local governments, on ability of U.S. industries to compete internationally, on Federal revenues and outlays, and on gross domestic product; requires Executive Branch agencies to prepare such impact statements to accompany their proposed and final regulations; and requires brief summary statement if aggregate effect of legislation is less than \$100 million or 10,000 jobs. (50-48) |
| 120 <sup>1</sup> | 5/13/93  | RTC Funding (S. 714, 103-204)—Gramm motion to waive Budget Act to permit consideration of Gramm-Mack-Brown amendment: Extends discretionary spending caps and sequestration for Defense, International, and Domestic budgetary categories through FY 1998. (43-53)  |
| 160 <sup>1</sup> | 6/22/93  | Supplemental Appropriations, 1993 (H.R. 2118, P.L. 103-50)—Roth motion to waive Budget Act to permit consideration of Rom, et al., amendment: Provides capital gains tax cut indexed for inflation, 150 percent depreciation expense increase, \$2,000 tax deductible IRA for all taxpayers, jobs tax credit for new hiring, repeal of luxury taxes, and passive loss reform for real estate, and offsets cost by eliminating Federal retirement lump sum benefit, freezing domestic discretionary spending for five years, reducing Federal employment by 150,000, and imposing Medicare secondary payor reform and reducing Federal aid for mass transit. (39-59)   |
| 197              | 7/20/93  | Hatch Act Reform (H.R. 20, P.L. 103-94)—Sasser-Glenn motion to table Domenici, et al., modified amendment: Expresses sense of Senate that President should submit supplementary budget as required by law no later than July 26, 1993. (56-43)  |
| 206              | 7/22/93  | National Community Service (H.R. 2010, 103-82)—Moseley-Braun motion to table Helms amendment: Extends design patent for insignia of United Daughters of Confederacy for 14 years. (48-52)   |
| 207              | 7/22/93  | National Community Service (H.R. 2010, 103-82)—Bennett motion to reconsider vote No. 206 by which Senate failed to table Helms amendment: Extends design patent for insignia of United Daughters of Confederacy for 14 years. (76-24)   |
| 208              | 7/22/93  | National Community Service (H.R. 2010, 103-82)—Moseley-Braun motion to table Helms amendment: Extends design patent for insignia of United Daughters of Confederacy for 14 years. (75-25)   |
| 327              | 10/26/93 | Emergency Unemployment Compensation (H.R. 3167, 103-152)—Hutchison motion to waive Budget Act to permit consideration of Hutchison-Shelby, et al., amendment: Eliminates retroactivity of Tax increase on upper income individuals; makes effective date of estate and gift tax rates August 10, 1993; cuts discretionary spending caps for agency and departments operating expenses by \$36 billion over three years; and exempts DOD expenses from these cuts in FY 1994. (50-44)  |

GOP NON-RELEVANT AMENDMENTS—103RD  
CONGRESS—Continued

| Vote No.         | Date     |  |
|------------------|----------|--|
| 337 <sup>1</sup> | 10/27/93 | Emergency Unemployment Compensation (H.R. 3167, 103-152)—Gramm motion to waive Budget Act to permit consideration of Gramm amendment: Reduces discretionary spending caps for FY 1994-98 by amount comparable to savings achieved from termination of superconducting super collider. (58-39)  |
| 338 <sup>1</sup> | 10/27/93 | Emergency Unemployment Compensation (H.R. 3167, 103-152)—McCain motion to waive Budget Act to permit consideration of McCain amendment: Eliminates Social Security earnings test for individuals age 65. (46-51)   |
| 339              | 10/28/93 | Emergency Unemployment Compensation (H.R. 3167, 103-152)—Nickles-Shelby amendment: Creates point of order against any bill, amendment, joint resolution, motion, conference report or amendment between House and Senate which increases taxes retroactively and provides for waiver by affirmative three-fifths vote of all Senators, during time of war, or after adoption of joint resolution declaring that military conflict in which U.S. is engaged is serious threat to national security. (40-56)   |
| 28               | 2/8/94   | Goals 2000: Educate America Act (H.R. 1804, 103-227)—Helms amendment: Prohibits use of funds by DOE or HHS to support or promote distribution or provision of, or prescription for, condoms or other contraceptive devices or drugs to unemancipated minor without prior written consent of parent or guardian. (34-59)  |
| 36               | 2/9/94   | Emergency Earthquake Supplemental Appropriations, 1994 (H.R. 3759, P.L. 103-211)—D'Amato amendment, as amended: Extends to December 31, 1995, or date on Resolution Trust Corporation (RTC) is terminated, whichever is later, statute of limitations for RTC to file civil lawsuits for certain tort actions responsible for thrift failure. (95-50)  |
| 44               | 2/10/94  | Emergency Earthquake Supplemental Appropriations, 1994 (H.R. 3759, P.L. 103-211)—Byrd motion to table McConnell-Dole-Nickles amendment: Expresses sense of Senate that report and related documents pertaining to disclosure of Bush Administration files should be made available to Congressional Offices with legitimate oversight interests; confidentiality of report should be protected by Congress until Office of Inspector General (OIG) releases and OIG should report in writing to Majority and Republican Leaders why such procedures were not observed in release of OIG report entitled "Special Inquiry into the Search and Retrieval of William Clinton's Passport File" and his reason for declining to prosecute case. (55-39)   |
| 53               | 3/10/94  | National Competitiveness (H.R. 820)—Glenn motion to table Wallop, et al., modified amendment: Requires agencies to submit regulatory flexibility analysis of all proposed regulations. (31-67)   |
| 251              | 8/2/94   | Improving America's Schools (H.R. 6, P.L. 103-382)—Biden motion to table Gramm-Dole amendment: Expands Federal jurisdiction to all State crimes of violence and drug trafficking where gun is used and provides for minimum penalties for illegal use of firearm; permits waiver of these penalties for drug offenses under specifically defined circumstances; establishes mandatory minimum sentence for distribution and trafficking of drugs by person under age 18; permits admission of evidence of previous assault or child molestation offense in criminal or civil cases involving these offenses; and requires attorney for government to disclose such to defendant at least 15 days before scheduled date of trial or at such later time as court may allow for good cause. (55-44) |
| 268              | 8/10/94  | DOJ Appropriations, 1995 (H.R. 4650, P.L. 103-335)—Inouye motion to table Helms amendment (to Committee amendment): States sense of Senate that major health care reform is too important to enact in rushed fashion, and Congress should take whatever time is necessary to do it right deferring action until next year in order to give Congress and American time to obtain, read, and consider all alternatives, unless Senate has had full opportunity to debate and amend proposal after CBO estimates have been made available. (54-46)  |

<sup>1</sup> 3/5ths majority.<sup>2</sup> 2/3rds majority.

Mr. DASCHLE. Mr. President, I yield the floor.

The PRESIDING OFFICER. Is the Senator from Texas seeking recognition?

The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, the distinguished majority leader alluded to the fact that he had relatives that were trial lawyers. That puts me in the position of qualifying to even speak. Let me first say that I am proud to be a trial lawyer. No trial lawyer has called me or talked to me about this bill. They don't need to. They know and understand.

Now, what happens is, when you grow up in a small town, you get a varied experience. I am also known as a good business and corporate lawyer. I represented a grocery chain that had 125 Piggly Wiggly stores all over, and we were sued for antitrust. I won that going all the way to the Supreme Court.

I know about frivolous suits. I represented the local transit company, the South Carolina Electric and Gas. Every November, somehow everybody slipped down on the bus. They got their arm caught in the door. They tripped up on the floor. They were small cases, but the attorneys who preceded me handling them didn't want to try them. It is Christmastime, New Year's.

I backed them all up. We tried them all. We won them all. I saved that corporation millions of dollars. I am the first southern Governor to get a AAA credit rating from Standard & Poor's and Moody's. I know about business responsibility.

Now, we trial lawyers have had the fortune to represent people who have been dying of asbestosis, and then we have the young ladies who had the breast implants, and then moved to the tobacco. But here now for a change it is trial lawyers. We are beginning to get credibility. We are representing small businesses, with \$20,000 in their pockets or more. You don't go down and buy a computer for \$20. And small business people are buying that instrument. I wish they would read Business Week. I wish they would listen to Kaiser Permanente in California, how they are absolutely opposed to this particular bill, and that it would hurt the health industry. I wish they would read the record whereby the individual doctor came from New Jersey. He said he had—I can't remember the exact name so I don't want to refer to it incorrectly—a supplier. He bought the computer in 1996, and the salesman bragged about how it was going to be Y2K compliant. It would last for over 10 years and on and on.

And then he found out last year that it wasn't compliant. You see, you don't have to wait until January 1. This is an important point for the Senate to understand. You don't have to wait for January 1.

This is all political applesauce. You don't have to wait until January 1, when you go in and buy a computer, and everybody who reads the newspaper and anybody with \$20,000 in their pocket knows now the Y2K problem.

He asked that it be fixed, and they did not even answer when he called a couple of times. Then he wrote a letter. And after a couple of months passed, he decided that he had to get a lawyer. He was told that it would be \$25,000. Now, mind you me, he only paid \$16,000 for the computer, but it would be \$25,000 to make it Y2K compliant.

So as a result, they brought the suit, and somehow it got on the Internet. The next thing you know, this particular supplier had 17,000 doctors simi-

larly situated. And immediately the supplier said, oh, yes, we will fix it for free and even pay the lawyers' fees to get out of this thing. But that is the cost/benefit of some of these businesses.

We have been into this tort thing. We have the Uniform Commercial Code. We have the States. No State attorney general is running around saying we need a national approach and to do away with 200 years of history of the Constitution under the 10th amendment, and tort law and all the trial codes of America. The State of Colorado has a good bill, not like this incidentally, which brings me to the real point about negotiating.

The crowd that says this is nonnegotiable has been running around trying to pick up votes. That is what the negotiation has been about. I just read the amendment to the amendment to the amendment. When it first started, even chambers of commerce said, this is too violating and we are not going to get away with this. They actually opposed the bill when it was first introduced. Then they got this McCain bill. Then they got the McCain-WYDEN bill. Then they got the amendment, and now we have the amendment to the amendment. It showed how objectionable it was.

It is tricky. They are still plying downtown. Tom Donahue has been out in the hall saying what we will go with.

This is a political exercise. There is not a national need for Y2K legislation, as the Washington Post just this morning said. The communities know and understand. This is certainly not a conservative newspaper. I have introduced it. "Liability legislation for the Y2K problem can await the Y2K."

But it is a political problem, if you can identify with Silicon Valley and get their money and get their votes. They collected 14 million last night and they have to perform. The rich expect a fight, and you have to show you are fighting. You don't care about Y2K and the person buying a computer and everything else of that kind. It is taken care of; it is a nonproblem.

Read Business Week, March 1 issue. All the blue chip corporations of America have notified their suppliers to be compliant by the end of April, this year, 7, 8 months ahead of time.

So we are talking about a problem that is a nonproblem. It is certainly not a Federal problem, but it is a national political problem between the parties.

Yes, some on this side think they can get in bed with the Silicon Valley boys who want a capital gains tax cut. They want estate tax cuts. We have heard it. The bills are running all around. That is the crowd that is shoving them. If we can just give them a little bit, I can go out and get a fund-raiser. That is what is going on.

When you refer to the trial lawyers, we trial lawyers are finally getting a little credibility. We are representing good, responsible, financially solvent

clients, not an injured party who is hurt from smoking or from a breast implant or dying from asbestosis and doesn't have any money, and can hardly pay the doctor, much less the lawyer. How are they going to get into court? Like I am committing some civic offense by representing them—Mr. President, I do not get a dime unless I win. What does winning mean? Winning means drawing the pleadings and negotiating, because I know you don't make money in court. But, by gosh, you might have to go to court.

And then you have to get the jurors. Then they will think of other things to get up on appeal. And I have to go all the way and pay all the expenses—investigation, court expenses, and everything else. That is the contingent fee process, so the indigent poor in this America can get their day in court. It has worked for 200 years.

It is not the crowd where we have former Senators still indebted, having been investigated, \$450 an hour, sitting down with the mahogany walls and the blooming Oriental rugs. I want a continuance. I want a continuance. No trial lawyer is frivolous. He doesn't want a continuance. He has to move it along. Like Senator McCAIN says, "Let's move it along." The trial lawyers are a move-along crowd. But when they see a fixed jury, then they say, wait, let's stop, look, and listen.

I earlier remarked on something here. Kenneth Starr is in the morning news trying to interview the jury after the verdict. We understand, from this particular charade, that you have to interview the jury before the verdict, because we are the jury and they are running around with all of these entities. I can't do it. The Chamber of Commerce, the Business Roundtable, NFIB—they are all running around—are you for tort reform? I am for tort reform. We have had it in South Carolina. It is a good bill. It practices there. I get in all the industries, and no businessman in my backyard is complaining. I have the best of the best. Give me the blue chips. I have GE, Westinghouse, BMW, Hoffman-LaRoche. Give me the best of the best.

I went out to Bosch not long ago. They make the antilock brakes for Mercedes and Toyota, and they have a contract for all GM. I asked the gentleman who was briefing us, "What about product liability on defective antilock brakes?" He said, "No, every one of these is numbered. We would know immediately where it went wrong." That is what trial lawyers have caused. They have caused the utmost care in production. You have quality care and you ought to be proud of it. That is how you get productive—not on a State tax cut or a capital gains tax cut.

Let the trial lawyers show you the way for quality production. We get on them when they give you a bad article. That is what we argued about here when they referred to the trial lawyers as if there is something wrong with

them. I am proud that we can be able to represent people with money for a change. So I am ready to stay here and object.

If there were some negotiations, it would be better while we move on some other legislation. They need to get a reasonable bill that doesn't change all the tort law or joint and several and these other things they have in there, where you just sue them and they say, "That part was made in India, so go out to New Delhi and see if you can find them"—come on. No small businessman or doctor has the wherewithal to do that. They have no recourse. They are trying to take away individual rights on a political bum's rush. I yield the floor.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. LOTT. Mr. President, there is a lot I would like to say in response to Senator DASCHLE's remarks and Senator HOLLINGS' remarks. Some of it would probably be better left unsaid, but I must comment.

Regarding amendments, I reiterate what Senator McCAIN, the manager of the legislation, said. Amendments that are relevant to this bill, germane to this bill, we ought to do that. That is why I left a window in the parliamentary procedure yesterday so we could do that. Unfortunately, the Senator from Massachusetts showed up and stuck in a totally irrelevant amendment, and I felt that that was an abuse of my good-faith effort. But we can still do that. If Senator DODD, Senator ROBB, or some other Senator has an amendment with regard to Y2K, OK, that is the way you legislate. But the idea that we are going to have a political legislative agenda dumped off on this bill, which is a very thinly veiled effort to kill the bill—that is really what is at stake here—any majority leader would be certainly unwilling to agree to that.

I offer this to Senators again: If we have relevant amendments, we will be glad to do that.

Let me talk for a moment about what this bill does. It seems to be a little bit clouded by the debate. It provides time for plaintiffs and defendants to resolve the Y2K computer problems without litigation—without litigation. That sounds like a good idea to me. Those who think the solution to the problem in America is more lawsuits, I don't think they have been talking to the real world. I am a lawyer. But the idea that we ought to just have more opportunities to file lawsuits—I understand lawyers are calling the families of the poor victims in Colorado and saying, "Can we sue somebody for you?" That makes me sick to my stomach, that in this moment of grief, members of my profession would call and say, "Let me sue somebody for you."

No, the answer is not more lawsuits in America. The answer is solutions, opportunities for resolution, sanity, for

Heaven's sake. So we would like to have a process here where we don't always have to resort to litigation. Wonderful lawsuits. Great. I don't believe the American people want that.

This bill reiterates the plaintiff's duty to mitigate damages and highlights the defendant's opportunity to assist plaintiffs in doing that by providing information and resources. Does that make sense? Why, sure. It is giving them help to solve the problem. This is a unique problem, one we have never had before. Shall we rush to the courts? No. Should we try to find a way to resolve the problem for all concerned? Yes.

The bill provides for proportional liability in most cases, with exceptions for fraudulent or intentional conduct, or where the plaintiff has limited assets.

Are there legitimate causes for court actions? Yes. I don't have the extensive practice background that the distinguished Senator from South Carolina has, but I practiced a little law and I did some corporate work and some public defender work, and I filed some lawsuits because I thought they were necessary. I can remember a medical malpractice case that I thought was justified. Yes, there are cases, but they should be only after other avenues have been pursued where there is fraud or intentional misconduct.

This bill protects governmental entities, including municipalities, schools, fire, water sanitation districts from punitive damages. Should there be some general protection for the school districts from being sued? Sure.

The bill eliminates punitive damage limits for egregious conduct while providing some protection against runaway punitive damage awards. Do we need some protection here? You see lawsuits out here in some States for \$40 million, and it is totally inexplicable and, in my opinion, indefensible.

It provides protection for those not directly involved in a Y2K failure. And it is a temporary measure. We are not trying to have product liability reform on this bill or tort reform—although we ought to have both, in my opinion, and the sooner the better. I can't wait until we can get it done. But this is a temporary measure to deal with a temporary, one-time problem. It sunsets January 1, 2002.

I want to emphasize that it does not deny the right of anyone to redress their legitimate grievances in court.

What is at stake here? What is going on here? Some people don't want this bill at all, pure and simple. To the credit of the Senator from South Carolina, I don't think he has denied that. His goal is to defeat this bill. For every name of people out here in the hall on the business side, I can assure you there is somebody on the other side. But the idea that we are going to resort to the courts to solve all of the problems in America, and the insinuation that this bill is some sinister plot to block legitimate legal action, I just find that wrong.

I think it is a good effort. I hope we get it done. But I am willing to stand on this line right here. Those who just voted against cloture can live with it, as far as I am concerned, and they can explain it to their constituents—big businesses, small businesses, farmers, people who are going to get sued if we don't do this, when it is not even necessary.

So if this bill dies on this line, it is OK with me, because I think the blame is clear. But I am not going to be a part of shenanigans here, to have an agenda dumped on this bill that would result in killing it. We are not going to keep spinning our wheels. We are going to come up with a legitimate compromise solution, and we are going to vote and move or not—either way. If anybody in this Chamber thinks the solution to the Y2K problem is more lawsuits, I don't believe they have talked to the people in America.

Mr. KYL addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

(The remarks of Mr. KYL, Mrs. HUTCHISON, and Mr. HOLLINGS pertaining to the introduction of S. 912 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. HOLLINGS. Mr. President, let me thank the distinguished Senator from Texas. She is right on target. We have graduated over 2,000 agents from the finest school down there for Border Patrol agents. Two who trained there have already been killed.

I have visited from time to time. The matter of pay is the issue. We advertise and we solicit in the local area over the entire State—and nationally—and it is a pay problem.

I hope we can confront it.

Mr. President, I will say a word about the majority leader's rejoinder relative to this legislation.

He points out specifically that without litigation, we have time; it gives an avenue, gives 90 days in time, to fix the problem.

Mr. President, this Senator knows, rather than fixing the problem, they are trying to fix the defendants and see if, on a cost-benefit basis, they can move the problem out to India or some other supplier that is indigent or bankrupt or otherwise; that is what they do during the 90 days.

We do not need in law a 90-day waiting period before you can file. Nobody is filing immediately. Nobody wants to get to court. These businesspeople don't run down and get a lawyer. They do as the doctor did in his testimony before the Commerce Committee: He called and called, and he wasn't called back; then he wrote the letter; he spent \$16,000 for a computer, and in a year's time he had to pay \$25,000 just to be Y2K compliant.

We live in the real world. Why is this gimmick on all legal proceedings all of a sudden given a 90-day extension for fixing the problem? For an individual running a little corner grocery store

with a computer that goes down, if they call the company and don't have the money to make it Y2K compliant, in 90 days they are out of business. They are still waiting around while they are maneuvering with their lawyers.

These manufacturers who are sued have lawyers on retainer sitting up on the 32nd floor wondering when they can get off to play another golf game or when they can get another continuance. They think about how to stay out of the courtroom and how to get the clock running. It is a bad provision.

Let me agree with the distinguished majority leader and say I agree that no bill is needed. We find out after all of the debate, here comes the Washington Post that says, wait a minute, the market is fixing it now. On January 1, if there is a real problem that the States can't handle, there are courts in all the States, and if they can't handle it, we have a national problem, fine. But don't use Y2K as an instrument to distort the tort system and get through what they haven't been able to get through for the past 20 years.

I yield the floor.

#### GUIDANCE FOR THE DESIGNATION OF EMERGENCIES AS A PART OF THE BUDGET PROCESS

The PRESIDING OFFICER (Mr. BUNNING). The Senate will now resume consideration of S. 557, which the clerk will report.

The bill clerk read as follows:

A bill (S. 557) to provide guidance for the designation of emergencies as part of the budget process.

The Senate resumed consideration of the bill.

Pending:

Lott (for Abraham) amendment No. 254, to preserve and protect the surpluses of the social security trust funds by reaffirming the exclusion of receipts and disbursement from the budget, by setting a limit on the debt held by the public, and by amending the Congressional Budget Act of 1974 to provide a process to reduce the limit on the debt held by the public.

Abraham amendment No. 255 (to Amendment No. 254), in the nature of a substitute.

Lott motion to recommit the bill to the Committee on Governmental Affairs, with instructions and report back forthwith.

Lott amendment No. 296 (to the instructions of the Lott motion to recommit), to provide for Social Security surplus preservation and debt reduction.

Lott amendment No. 297 (to amendment No. 296), in the nature of a substitute.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I ask unanimous consent I be permitted to proceed as in morning business not to exceed 15 minutes.

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

(The remarks of Ms. COLLINS pertaining to the introduction of S. 913 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. The Senator from New Hampshire is recognized.

Mr. SMITH of New Hampshire. I thank the Chair.

(The remarks of Mr. SMITH of New Hampshire, pertaining to the introduction of S. 914 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. SMITH of New Hampshire. Mr. President, I ask unanimous consent for an additional 5 minutes.

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

#### TED GUY, AN AMERICAN HERO

Mr. SMITH of New Hampshire. Mr. President, I rise today to pay tribute to an American hero. We could use some heroes today, of all days, considering the last few days we have had in America. But I rise today to pay tribute to retired Col. Theodore Wilson Guy, United States Air Force, from Missouri. Ted Guy, nicknamed the "Hawk" by those who knew him best, was a genuine American hero. He was best known for having sacrificed his freedom for his country as a U.S. POW during the Vietnam war. But aside from being a hero, perhaps more importantly, Ted would say he was a husband, a father, a brother, and a friend to many, including myself. Last Friday, April 23, 1999, Ted passed away only 6 months after discovering symptoms associated with leukemia.

I will always remember Ted Guy for the encouraging faxes and e-mails he used to send to my office, especially during the investigation conducted by the Senate Select Committee on POW/MIA Affairs, which I cochaired in the early 1990s. I gained a lot of strength from those inspiring messages from this hero. Ted will never know, but I want his family to know how much those messages meant to me.

Ted felt strongly that our Government needed to do more to account for his missing comrades from the Vietnam war. He traveled at his own expense to Washington, DC, to the Halls of Congress, to make this point.

Ted was right to be concerned about our Government's handling of the issue of POWs and MIAs, and with his support, and the support of his fellow veterans and family members of POWs and MIAs, we have made significant progress in opening the books, declassifying the records, and pressing foreign governments for answers over the last decade.

However, as Ted continued to maintain up until his last days with us, there is still much work to be done with our accounting effort, and I, for one, am committed to seeing this issue through, in part because of people like Ted.

I commit to you, Ted, we will keep working. We owe it to you.

I say to the youth of America, if you want a role model to aspire to and to inspire you, they do not come any better than men like Ted Guy. When looking for a hero, oftentimes young people