

the last couple of weeks, the message ought to be very clear. The message is this: Members of the Senate are not willing to accept the extreme measures that have been proposed by the House. If those more extreme measures are added to the bill in conference, it is very unlikely that anything will ultimately pass.

It is critical, as we look to the conference report, that we keep this bill modest, that we not load it up with expansionist amendments, that we seek to ensure that what has been passed is all that comes back to the Senate.

I will say unequivocally that I believe this legislation will again be in trouble if it comes back vastly different from what it is right now. Many of us felt very strongly we could have improved upon this bill, especially with regard to punitive limits and with regard to the limitations on joint and several liability. For many of us who opposed the bill, there were provisions that we supported and would have liked to have been able to vote for, but, unfortunately, we could not resolve the issues that, in our view, were still too onerous to support.

But let me say, in spite of the fact that there was a very strong vote, that vote is directly dependent upon the degree to which the more extreme measures that were initially added are kept off the bill. We do not want to see them when this comes back. We will continue to fight this in a consequential way if they do come back, and I hope that that message was loud and clear.

I was very pleased with the comments made by both Senators ROCKEFELLER and GORTON yesterday as they commented about what they expect to see in conference. Senator GORTON said that he does not think there is one semicolon that is negotiable, and I think that is an accurate reflection of where the Senate stands.

So, indeed, we passed a piece of legislation today that may reflect the views of three-fifths of the Senate, but I think that it is a very tenuous victory, depending upon what may or may not occur in the conference report. So we look to that at some point in the future. But I must say that while those on both sides of the aisle who supported the legislation can claim victory, I think it is also important that they appreciate how tenuous that victory is and how important it is that we come back to the floor with something meaningful, something narrow and focused, and something that directly addresses the concerns raised on this floor for the last 2 weeks.

With that, I yield the floor.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

#### SIXTY VOTES NEEDED ON CONTROVERSIAL ISSUES

Mr. CHAFEE. Mr. President, I would also say to the distinguished Democratic leader, it appears around here if

there is anything controversial now, you need 60 votes to get it passed. Not a 51 vote margin, 51 to 49, it has to be 60 votes if the legislation is controversial; something new in the life of the Senate, but not entirely new, I will say that.

#### INTERSTATE TRANSPORTATION OF MUNICIPAL SOLID WASTE ACT

The Senate continued with the consideration of the bill.

Mr. CHAFEE. Mr. President, I call up S. 534.

The PRESIDING OFFICER. It is the pending business.

Mr. CHAFEE. Mr. President, I join with the Senator from New Hampshire, Senator SMITH, in presenting S. 534 to the Senate. This is legislation dealing with interstate waste and flow control authority.

I want to acknowledge Senator SMITH's efforts as chairman of the Environment and Public Works Committee's Subcommittee on Superfund, Waste Control, and Risk Assessment. Senator SMITH has taken the lead in drafting this legislation, targeting issues that went unresolved last year.

I also want to acknowledge the work of the distinguished ranking member of our committee, Senator BAUCUS, for his help in the framing of this legislation which we will now be discussing over the next day or so.

Mr. President, this legislation is straightforward and attempts to deal with the issues of interstate waste and flow control, balancing the interests of the States that import waste, trash that comes into States for disposal, and the exporters, States that do not have landfills or incinerators and thus ship it out. We try to deal with communities with outstanding revenue bonds as they deal with the issues of construction of waste facilities the local individual who dispose of his or her garbage.

This bill includes three titles. Title I deals with interstate waste and is similar to the bill approved by the Senate last year. I would like to stress that. The interstate waste portion is one that was approved unanimously by this Senate last year.

Title II focuses on flow control, which we will discuss in a few minutes. And title III reinstates the ground water monitoring exemption for small landfills in the municipal solid waste landfill criteria.

Let me turn to title I. This is a very contentious area. Indeed, I guess we have dealt with this, on and off, over the past 5 years. And no one has been more ardent in trying to get this problem solved than the distinguished Senator from Indiana, Senator COATS.

Now, on interstate shipments, the bill before us, as I say, is similar to S. 2345, which was approved unanimously last year by the Senate.

I want to make it clear that the bill before us deals exclusively with the transport, across State borders, of mu-

nicipal solid waste. That is what we are talking about. We are not talking about restrictions on hazardous waste or industrial waste or even construction and demolition debris. Those items involve an entirely different set of problems and would require different approaches than we are dealing with here.

We are dealing here with municipal solid waste, sometimes referred to as MSW; what the rest of us, in layman's terms, would call garbage or trash.

Specifically the bill provides the following. There is an import ban. A Governor may, if requested by the affected local community, as designated by the Governor, ban out-of-State municipal solid waste at landfills or incinerators that did not receive out-of-State waste in 1993.

Now, this gets a little bit complicated, but these are provisions that we have worked out with Governors and municipalities, particularly the ones that cross borders.

So the first point is there can be an import ban that the Governor can impose, if he is requested by a local community and if that community did not receive out-of-State waste in 1993. Or he can impose this same ban at those facilities that received municipal solid waste in 1993 but are not in compliance with applicable Federal or State standards. So there is a power in the Governor. Now that is an import ban.

Further, a Governor may unilaterally freeze out-of-State waste at 1993 levels at landfills and incinerators that received waste during 1993 and are in compliance. In other words, the Governor can put a clamp on limiting it to the amount that came in in 1993, at those levels.

Now, there is an export ratchet, likewise. A Governor may unilaterally ban out-of-State waste from any State exporting more than 3.5 million tons in 1996. This declines to 3 million tons in 1997 and 1998, drops to 2.5 million tons in 1999 and the year 2000, 1.5 million tons in the year 2001 and 2002, and 1 million tons in 2003 and every year thereafter. So the Governor has this power to ban out-of-State waste coming from a State that is exporting very substantial amounts. That is the power in the importing State Governor.

There is also another ratchet. A Governor may unilaterally restrict out-of-State waste imported from any one State in excess of certain levels.

There is a cost recovery surcharge provision. States that imposed a differential fee on the disposal of out-of-State waste on or before April 3, 1994, are allowed to impose a fee of no more than \$1 per ton.

So there is that \$1-per-ton limitation, a differential that a State can impose, as long as the differential fee is used to fund solid waste management programs.

What we are dealing with all through here are the limitations that are imposed by the commerce clause of our Constitution. The bill we are dealing