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.

CLOTURE MOTION

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The 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. 89, S. 577, a bill to provide guidance for the designation of emergencies as a part of the budget process.

Trent Lott, Pete Domenici, Ben Nighthorse Campbell, Jeff Sessions, Kay Bailey Hutchison, Craig Thomas, Slade Gorton, Chuck Hagel, Spence Abraham, Pat Roberts, Thad Cochran, Conrad Burns, Christopher Bond, John Ashcroft, Jon Kyl, and Mike DeWine.

Mr. LOTT. Mr. President, for the information of all Senators, this cloture vote will occur on Friday of this week. The time will be announced after consultation with the Democratic leader, unless it is vitiated because of intervening agreements or decisions that are made. All Senators will be notified of that exact time.

CALL OF THE ROLL

In the meantime, I ask consent that the mandatory call for the quorum under rule XXII be waived.

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

MOTION TO RECOMMIT

Mr. LOTT. I move to recommit the bill with instructions to report back forthwith, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 296

Mr. LOTT. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Mississippi (Mr. LOTT) proposes an amendment numbered 296 to the instructions of the LOTT motion to recommit.

Mr. LOTT. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

(The text of the amendment is printed in today's RECORD under ''Amendments Submitted.'')

Mr. LOTT. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 297 TO AMENDMENT NO. 296

Mr. LOTT. Mr. President, I send a second-degree amendment to the motion to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Mississippi (Mr. LOTT) proposes an amendment numbered 297 to amendment No. 296.

Mr. LOTT. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

(The text of the amendment is printed in today's RECORD under ''Amendments Submitted.'')

ORDER OF BUSINESS AND THE Y2K ACT

Mr. LOTT. Mr. President, I regret that we have to use this procedure. But we are hoping that we can see an agreement reached with regard to Y2K. I know there is a bipartisan effort underway on this important issue. It is timely. I hope that Members will work together this afternoon and tonight, and that we can find a way to come to a conclusion on it.

The Social Security lockbox also is an issue that we think is very important which we need to be talking about and find a way to actually achieve that goal. This will give us an opportunity to discuss that some more.

I want to say to Senator DASCHLE publicly what I have been saying to him privately. It is not my intent, and I will not be used to prevent a discussion in a reasonable period of time—we talked about week after next—with regard to school violence, how you deal with that. I think it is appropriate after a reasonable period of time to have a debate and have votes on amendments. I suggest that we would do it on the Justice bill. If for some reason that bill is a problem, we will find some other vehicle, and I am sure there will be amendments with a lot of different ideas of how we try to deal with this problem.

I am not sure we can solve what has happened in Colorado here. But we will have a chance to have a discussion and have a debate and have amendments.

I said to Senator DASCHLE that we are going to do that, and he and I will work together to find a way to do it and to have amendments dealing with school violence.

I don't want this to become a laundry list of all kinds of other issues. But the Senate needs to be heard, and needs to have an opportunity to debate and vote on those issues dealing with school violence. How we try to address that—we will find a way to get that done.

I yield the floor.

Mr. DASCHLE. Mr. President, just for a question for the leader to clarify, yesterday I think the understanding was that it would be his intent to bring this bill to the Senate floor 2 weeks from yesterday.

Is that the current intention?

Mr. LOTT. That is my intention. To give you an example of what might happen, though, it is possible that the supplemental appropriations bill would be ready that day. It depends on when the House acts and when the Senate is able to get to it. If we have to do it a day earlier, or a day later, I don't want the Democratic leader to think it would have to be something he and I agree on. Barring something that might happen, we will do it on that Tuesday.

Mr. DASCHLE. I thank the majority leader.

Mr. LOTT. I yield the floor.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER (Mr. SANTORUM). The minority leader is recognized.

Mr. DASCHLE. Mr. President, I want to comment on developments over the last couple of days in particular, and the vote that we just had specifically. There are two issues here. I want to touch on both of them.

The first issue has to do with our desire to reach some accommodation, some agreement on Y2K. I have said it publicly and privately, I think this is a serious issue. I believe there is a way with which to resolve this matter. But I don't think it does any of us any good, or the industry any good, or our country any good to pass a bill out of the Senate knowing it will be vetoed. I don't know why we would do that.

I have heard the argument, ''Well, we can clean it up in conference.'' Mr. President, I don't know why we don't clean it up here. We have as clear a letter as any I have ever seen from this administration which says the current draft will be vetoed. I don't know how you get any more definitive than this.

If we were serious—and I really believe that there are a number of serious and well-intentioned Senators who want to see this resolved—I think this is the test of seriousness, because I believe that the Senators who truly want to see an accomplishment rather than an issue will take this letter seriously.

I am very hopeful that in the not too distant future we will see some final agreement that will allow us to vote on an overwhelming basis on this issue. I want to support it. Most of us will support it.

Mr. WYDEN. Mr. President, will the minority leader yield for a quick moment?

Mr. DASCHLE. I am happy to yield to the Senator from Oregon.

Mr. WYDEN. Mr. President, I thank the leader for yielding. I want to thank him for his patience in an effort to try to make this legislation responsible and fair to prevent damage to our economy.

I also want to tell him that we have made exceptional progress in the last couple of hours, particularly in dealing

with the number of those issues that were raised in the administration's letter.

I really commend Senator DODD for all of his efforts. As you know, he is the senior Democrat on the Y2K Committee. He has done yeoman's work over the last couple of hours, particularly on the issue of punitive damages, which is the issue raised by this administration, and also on evidence standards to make sure that you are fair to the consumer and to the plaintiff. Senator DODD has worked very closely with the chairman of the Commerce Committee and myself, Senator HATCH, Senator FEINSTEIN. It is a bipartisan group.

We are going to continue to work in the spirit that the leader has talked about. As a result of the progress in the last few hours, I think we have gone a considerable distance toward meeting the leader's objective.

I thank the leader for yielding me the time, and also for his patience in this effort.

Mr. DASCHLE. I thank the Senator from Oregon.

Mr. President, there are a number of people—Senator WYDEN, Senator MCCAIN, Senator HOLLINGS, Senator EDWARDS, Senator DODD, Senator KERRY, Senator ROBB—as the Senator has noted, who deserve great credit for moving this process along. There are a number of Senators who are actively engaged in an effort to bring this matter to closure. I am very hopeful we can do that.

Let me talk about the second matter, the procedural question. Senator KENNEDY offered an amendment, as is his right, through the recommittal motion simply because he has no other recourse. This is illustrative of an array of frustrations the Democratic Caucus has about the procedure used in each and every instance in which a bill has come to the floor this session of Congress. This is the 28th of April and we have yet to have one amendable vehicle on the Senate floor.

I have a great deal of affection for the majority leader, but I must say, I think he should have run for Speaker because I really believe he would be more comfortable as Speaker. I have said that to him, and I think he would acknowledge he would much rather have a Rules Committee in the Senate than the current rules. When I become majority leader, maybe I will have that same feeling.

However, in the Senate, we have always prided ourselves on open, free debate. We lay a bill down, offer amendments, have tabling motions, have second-degree amendments, and we have a debate. We call ourselves the most deliberative body in the United States, if not in the world, and I believe we have a right to that distinction. How can we be deliberative when every time we bring a bill to the floor, we fill the parliamentary tree, denying anybody a right to offer an amendment?

There is a pent-up frustration and a pent-up pressure to have the opportunity to vote, to have the opportunity to offer amendments on key questions. This happened to be the minimum wage. The distinguished senior Senator from Massachusetts said he will pull the amendment if we can reach some agreement, if we can get some final solution here in solving the problem of Y2K. If we can solve it and if we can reach agreement, he will pull this amendment. He made that request and that offer. That is more than I get on many occasions. I have to thank the Senator for that.

However, we will continue to see as many challenges and as many significant breakdowns in the effort to reach, with some comity, a solution procedurally and a solution substantively of the issues we want to address in the Senate as long as we fill the tree on each and every occasion.

We just did the Social Security lockbox. What happened? The majority leader filled the tree and, in filling the tree, once again denied the minority the right to offer even a single amendment.

I am very hopeful we can resolve this matter, but the way to resolve it is to do what we are supposed to do, to do what we are paid to do around here. We come to the Senate with ideas. We come to the Senate with a bona fide appreciation of the differences of opinion that exist in the Chamber, even within our own caucuses. I am exasperated, frustrated, mystified that here in the Senate we are not allowed an opportunity to have a free and open debate. If amendments are undesirable, table the amendments; if the amendments can be improved, improve them with a second-degree. But to deny Democratic Senators—and even Republican Senators, for that matter—the chance to amend a bill is not acceptable.

I am hopeful we can find a way to resolve this. If we can't, I will put the Senate on notice that we will use other recourses if we have to. I don't want to have to do that. However, there are ways to respond, to reciprocate, if we are going to be gagged. Committees are meeting with our approval; we don't have to do that. There is an array of other tools we can use to demonstrate our frustration, and we will resort to those if we have to.

I hope we can come to a point where we don't have to do this. We can take up issues that are offered in good faith, debate them, amend them, dispose of them. We can do that on Y2K as we are doing today. We can do that on a lot of other issues, and we must.

Mr. REID. Mr. President, will the Senator yield?

Mr. DASCHLE. I am happy to yield to the Senator.

Mr. REID. I can speak only of your predecessor, the Democratic leader, Senator Mitchell. I know during one Congress he used this procedure one time during a 2-year period. This has been used, to my knowledge, on every bill that has been brought up this session; is that true?

Mr. DASCHLE. Unless there is a unanimous consent agreement, it has been used on virtually every occasion.

Mr. REID. My understanding is this procedure, when the Democrats were in the majority, was used rarely; is that true?

Mr. DASCHLE. I do not have the statistics the majority leader referred to. The majority leader showed me the list of occasions when filling the tree was something that Democrats resorted to when we were in the majority. We go back to 1977 to find the first time, and we have only used it, according to his own list, on a handful of occasions since 1977. Over the last 20 years, Democrats may have used this procedure 5 times—5 times in 20 years.

This procedure has been used five times in 1999. We will have a lot more to say about the extraordinary utilization of this concept of filling the tree and how undemocratic and unfair it is to the process and to the institution itself. We have to find a way to fix it.

Mr. SCHUMER. Will the majority leader yield? Pardon me; wishful thinking on my part. Will the minority leader yield?

Mr. DASCHLE. I am happy to yield to the Senator.

Mr. SCHUMER. I recently ran for the Senate. One of the main reasons I ran was the ability of Members to amend bills. I have always admired the Senate for this. The House has become nasty and partisan. It has basically shut down.

I want to thank the minority leader for voicing the frustration that so many Members have. During the impeachment proceeding, we worked together. Since then, it seems to me that comity is gone. There is no ability for Members on either side of the aisle who have ideas to offer them. We may lose them.

The frustration that so many felt in the wake of Littleton—we had ideas which we thought wouldn't solve the problem but might ameliorate or reduce the chances of future Littletons—of not being able to offer those amendments was enormous.

Has the process thus far this year evolved so we are virtually no different from the House?

Mr. DASCHLE. We have created a Rules Committee of one. I think it is unfortunate. They have a Rules Committee in the House. Constitutionally, the House was designed differently than we are. We don't need a Rules Committee in the Senate. Somebody made the comment, I think it was the distinguished assistant Democratic leader, the reason our Senate is so family friendly is that we are not doing anything. If we did something, maybe we would not be so family friendly.

I think it is time we do something, we try to resolve these matters. Let's move on and allow Senators the opportunity to express themselves in amendments.

Mrs. BOXER. Will the Senator yield?

Mr. DASCHLE. I will be happy to yield to the Senator from California.

Mrs. BOXER. This is for a question. I appreciate the Democratic leader taking to the floor. I want to use this opportunity to ask him a particular question.

The Democratic leader and the Democratic caucus have an agenda of issues. The Republican leader and the Republican caucus, they have their agenda of issues. This is good. This shows the people our vision for this country. One of the things that occurred when the Senator from Massachusetts offered the minimum wage increase as an amendment here, or asked the bill be recommitted so we could vote for it, was that the majority leader was very unhappy with this and said something to the effect—I am not quoting verbatim, but something to the effect—he even used the word ''tragedy''—it was a tragedy this was occurring on this bill and that this is not a time for one party to put forward its political agenda.

I ask my leader this question: Isn't it totally appropriate that each side here, Republicans and Democrats, has a chance to put forward their political agenda? The Senator from New York talked about his race. I had a race that was very difficult. I can assure my friends on both sides of the aisle, it was based on real issues. It was not some theoretical race. It was about the minimum wage, it was about the Patients' Bill of Rights, it was about equal pay for equal work, it was about the environment, yes, and schools and education.

So the question is, I would love to ask my leader what he thinks about our agenda, whether it is pressing? I think the majority leader said this bill is timely. It is; that is true. But is our agenda not timely as well?

Mr. DASCHLE. The Senator from California raises a very good question. Absolutely, our purpose is to present our agenda. That is why we are here.

That does not mean to the exclusion of the Republican agenda. Obviously, we ought to have a good debate about both agendas. But you need that debate. You need that opportunity. How do you have that debate? Not just by talking but by offering legislative proposals: the minimum wages, Patients' Bill of Rights, school construction, Social Security, Medicare reform. Those are the things we are here to vote on and work on, and we need the opportunity to do that.

We can do it the easy way or the hard way. We can do it by allowing amendments and having a good debate, by having some agreement about what the schedule will be, or we can force these issues by offering amendments and by having to defeat cloture and by doing all the procedural things we have had to do now for so long. By the time we set aside all the procedural time we have spent, we could have had a good debate on the minimum wage or the Patients' Bill of Rights.

The majority leader has said we will bring up the Patients' Bill of Rights. He just said we will bring up minimum wage. He has now said we will bring up juvenile justice. So we are making progress. But I think the time has come to drop this procedural stampede that we find every time on the part of the majority when we want to offer amendments. We have to quit trying to steamroll these bills without offering due opportunity to all Members to offer amendments.

I know the Senators from Massachusetts and Arizona are waiting to speak, and I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER (Mr. CRAPO). The Senator from Arizona.

Mr. MCCAIN. Mr. President, I would like to first comment on the remarks by the Democratic leader, who is a very old and dear friend of mine going back many years. I appreciate his frustration and concern. I think he made a very eloquent point here.

I point out to my good friend, there is a bit of frustration on this side, too. There is no better example than what is happening right now. We have this bill on Y2K, which is time sensitive if there ever was one, if there was ever a definition of a time-sensitive piece of legislation. We have had it on the floor for 4 days and we cannot get a single amendment, not one single amendment up on your side of the aisle for debate and voting. I say to the Senator, the distinguished Democrat leader, that is what also breeds frustration on this side. Then the majority leader has to file a cloture motion.

The Senator hearkened back to previous years when his party was in the majority. I have to tell you, most of the bills we took up, we put up amendments. Those amendments were either tabled or agreed to or modified, and we went forward. On this bill right here, we have not had a single amendment. I begged for the last 4 days: Please come forward with an amendment. In all candor, on that side of the aisle the leader has said: On this bill, all I want to do is kill the bill. All I want to do is kill the bill. Then we are forced to go ahead with a cloture motion and a cloture vote.

My point to the distinguished Democratic leader is, maybe we ought to all draw back a little bit, go back to a period of time where perhaps we were proposing amendments on both sides and they were allowed. I agree with the distinguished Democratic leader that we should have these issues raised, I hope in a timely fashion, such as the distinguished Democratic leader has sought to do.

I know what the staff is now whispering in the Senator's ear: ''We filled up the tree.'' We filled up the tree because we did not want to take up minimum wage. We wanted to move forward with this bill.

I understand and appreciate the passion the Senator from Massachusetts has about minimum wage. I do not mind debating the bill. But I would also like to get this bill done, which is time sensitive on January 1 of the year 2000. Why there would not be a single amendment—as soon as we filled up the tree I said I would be glad to agree by unanimous consent we take up any amendment that is germane to this bill. I think that would be appropriate.

In 4 days, there has not been a single amendment. I am not saying the responsibility is all on that side of the aisle or on this side of the aisle. I hope we can work out an orderly process. But it frustrates me and the people, the small-, medium- and large-size business people all over America who are facing this crisis, when we seem to be stuck without even considering a single amendment on the bill.

So I hope the Democratic leader in his frustration, which is understandable, would also understand that occasionally there is frustration on this side of the aisle as well. Having been in both the minority and the majority, I understand, I think, the frustrations that are felt there on that side of the aisle.

I would like to make one additional comment. I want to express my appreciation to Senator DODD for his efforts on this bill; Senator HATCH, Senator FEINSTEIN, Senator WYDEN, and Senator BENNETT. As we know, Senator DODD and Senator BENNETT chaired a very important special committee on the Y2K issue. They have done a tremendous job. So they have been heavily involved in this legislation.

Senator FEINSTEIN and Senator HATCH have had a longstanding involvement, and I am very grateful to them for their constructive contributions to this bill. We have had many hours of meetings trying to work out very difficult aspects of this issue. Thanks to Senator DODD's leadership, along with that of Senators HATCH and FEINSTEIN, WYDEN and BENNETT, I think we have an agreement that we will be able to move this issue forward.

So I ask again if we could agree on amendments. I understand there are about 20 pending, about 10 of them by the distinguished ranking member of the Commerce Committee. If we could narrow down those amendments, agree to them and agree to have votes, then we could vitiate the cloture vote tomorrow and get this thing done.

Unfortunately, so far there has been no agreement, there has been no amendment brought up, and there has been no time agreement. I again plead with the other side, if we are really interested in passing this legislation, let's go ahead, agree we stand ready to agree to the amendments and the time agreements on all of those amendments.

Mr. President, again I want to make clearly understood the great respect and affection I have especially for the distinguished Democratic leader. I understand his frustrations. We felt them when we were in the minority, and I hope all of us together can have more comity in this entire process so we can do the people's business.

Mr. WYDEN. Will the Senator yield?

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

Mr. KENNEDY addressed the Chair.

Mr. WYDEN. Mr. President, does the Senator from Arizona still have the floor?

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I know others have been here, but I have been here for 2½ hours waiting to speak on the amendment which I offered. While I see my friend from Oregon, I do not intend to take a very long time, but I would like to be able to speak about that issue.

First of all, just to review where we are, I want to identify myself with the good remarks of my friend from South Dakota, Senator DASCHLE.

Mr. President, I ask unanimous consent that we have printed in the RECORD the majority leader's schedule for April and for May.

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

The following is a list of legislative items the Senate may consider between now and the Memorial Day recess. As always, this is not an exclusive list and is in no particular order.

Supplemental Conference Report
Kosovo Funding
Y2K
Ed-Flex Conference Report
Safe Deposit Lockbox
Budget Reform
FAA
Commerce/Justice/State Appropriations
Financial Modernization
Flag Burning
Bankruptcy
Satellite Users
Water Resources
State Dept. Authorization
Dod Authorization

Mr. KENNEDY. In April and May, we have the supplemental conference report, Kosovo funding, Y2K, Ed-Flex, safe-deposit lockbox, budget reform, FAA, Commerce-Justice-State appropriations; financial modernization, flag burning, bankruptcy, satellite users, water resources, State Department authorization, DOD authorization.

Mr. President, do you know what is not on that? Any possible opportunity to debate an increase in the minimum wage.

We were effectively shut out from any opportunity last year.

We raised the issue, and we had to follow a similar process to bring that issue before the Senate. We were denied that opportunity. It is a very simple and fundamental issue of fairness and equity to those who are some of the hardest workers in America—11 million hard-working Americans, who go to work every single day, who work 40 hours a week, 52 weeks a year, and at the end of the year bring home what is less than a poverty wage in the United States of America.

Forty-five Members of the Senate have asked this body for an opportunity to address this issue so that we can have economic justice for the workers of this country, and what has been the response? Is there any opportunity to look down the road and say, ''In another week, or 2 weeks, or 3 weeks, you will have that opportunity''? No. The answer is no, you cannot have an opportunity to raise the minimum wage. You cannot even bring that to floor of the Senate.

I have heard a lot of talk about courtesy and about how bills are made here. What about courtesy toward the hard-working men and women who are making a minimum wage, who cannot put bread on the table or pay their rent? Or, courtesy toward the proud working woman we heard from just yesterday who said that she has been unable to go to see her two daughters in the last 3 years because when you make the minimum wage, you cannot afford to take a bus across the country to see them. How about courtesy to them, Mr. Leader, how about courtesy to them? Don't they count? Shouldn't they be on the agenda?

Mr. President, I find these arguments rather empty in trying to establish priorities here. I am sympathetic to trying to reach out with legislative solutions to the problems we have before us, but we have been denied any opportunity to do anything about these 11 million Americans earning the minimum wage.

And it is not only on the issue of the minimum wage. Last year we brought up an issue that is on the minds of every working family in this country, and that is the Patients' Bill of Rights—a very fundamental idea—that the medical profession, and not an accountant in the insurance companies, ought to be making the decision affecting families. That is the heart of the Patients' Bill of Rights. And we were denied the opportunity to consider it on the basis of the merits. We were denied the opportunity to even have a hearing.

I hope all of those voices that were out here talking about ''undermining the spirit of the Senate'' will go back and talk to the chairmen of those various committees and say: Give them a hearing, report a bill out, get it to the floor of the Senate, so we can make sure that we are going to have clinical trials available to women who have breast cancer or to children who have other dreaded diseases; to make sure people are going to have a specialist when they need it; to make sure people are going to be able to get treated at the nearest emergency room; to make sure, if someone has some particular illness or sickness, they are going to get the right prescription drugs, not just what is on an ordinary formulary.

It is not very complicated, not very revolutionary, not very dramatic. It is not our agenda, not the Democratic agenda. It is the agenda of 100 agencies of doctors, nurses, and consumers of this country who say this is what we need to protect your children, to protect your wives, and to protect your loved ones.

But where is it on this agenda? Where do we have the opportunity to debate these issues? Where do we even have the opportunity to say that we will be willing to enter into a time agreement, say, 3 days? We take days and weeks on some issues around here, but are not even given the opportunity to have time-limited debate on these issues, which are of such vital importance to the men, women, and children of this country.

Just tell us, majority leader, when we can debate these issues. Give us Mondays and Fridays when we are not voting. Give us those days when the Senate has not been working. We will take any time. We will take Mondays and Fridays. We will take nighttimes. We will take any time. But give us the time, and put these issues on the agenda, because they are on the agenda of every family.

But no. We are denied the opportunity to debate these issues: ''It is not on our agenda, Senator. Don't insult us on our side by trying to bring this measure up on the floor of the Senate this afternoon. Don't inconvenience the majority that have an agenda here this afternoon. No, you cannot speak, Senator; you cannot speak here this afternoon on your particular amendment. No, no, we are not going to let you do that.''

Mr. President, it is the best reason I know why we ought to change this body, why we need men and women in this body who are going to say that an increase in the minimum wage is deserved. An increase in the minimum wage is a women's issue—Sixty percent of those recipients of the minimum wage are women. It is a minority issue—nearly 4 million African-American and Hispanic workers would benefit from an increase in the minimum wage.

Mr. President, this is something that cries out for fairness. The American people support it. But, no, we cannot even debate the issue.

I am beginning to believe that the majority refuses to bring it up because they do not want to vote. We know what is going on, all the whispers: ''Don't let them bring up the minimum wage on the basis of the merits because it's going to be painful for us.''

But how much pain does it cause those individuals who are trying to provide for their families tonight? How much pain are they going through?

Still, we heard words on the floor this afternoon about courtesy to the body. We were told about this is not the way of doing business, this is not how laws are made. I was reminded by another Republican leader, we ought to be showing good faith, that this is a tragedy but that it is irrelevant material.

You tell the 11 million people who are trying to survive on the minimum wage that this is what has happened to their purchasing power.

We have heard in the wake of the Littleton tragedy about the importance of parents spending time with

families. When you are working two or three jobs at the minimum wage, how much time do you have to spend with your children? That is the testimony these people are giving. They do not have the time to spend with their children.

Do you know what the payroll for the United States of America is a year? It is $4.3 trillion. Do you know what the impact of this increase in the minimum wage would be? It would be three-tenths of 1 percent of that, and we hear that it is going to add to the problems of inflation, that we are going to throw a lot of people out of work. Mr. President, $4.3 trillion, and we are talking about 50 cents a year for more than 11 million people. Come on.

If you do not want to vote for it, do not vote for it. Let's take it to the American people and see who they want to represent them. But no. Just read the schedule. No matter how much we try, Senator DASCHLE has not been able to bring those measures before the Senate.

Mr. REID. Will the Senator yield for a question?

Mr. KENNEDY. Let me make a final comment, and then I will be glad to yield.

Mr. President, I underscore my support for Senator DASCHLE. I mentioned very briefly yesterday in our Democratic caucus that just before I came to the Senate, you did not get a vote in the Senate unless you got the nod from the majority leader.

But something took place in the 1960s. We had a movement within this Nation to strike down the walls of discrimination. People said, ''This is an important issue.'' The two places these issues were debated and considered were the federal court—the 5th Circuit—and the Senate. The debate on the war also took place in the Senate—and later, on the environment, disability rights, and other issues of crucial importance to our country. The Senate has been the repository for debate about the Nation's concerns.

One thing that every Senator understands is that everyone is equal in this body. So I cannot accept what the majority leader is saying: ''I make the decisions on this agenda. And no one else.'' That isn't what this body is about.

The Senate Democratic leader, Senator DASCHLE, indicated in a very positive and constructive way his willingness to try to work with the majority. This is the way it has been for 36 of the 37 and a half years I have been here—when Democrats have been in the majority and when Republicans have been in the majority. But never in that time have we had the leadership saying that one Senator is a lesser Member of this body than another. And that is what is being said, when a Member is denied the opportunity to raise important issues of conscience or of concern to their constituency.

They may be able to deny that opportunity on a particular measure. They may be able to prevent someone from speaking for 2½ hours, as they did today. They may eat up another hour of time, as they did this afternoon by having a live quorum. That is all part of this process. You can play this nice or you can play it rough.

I like to believe, as someone who takes a sense of pride in being able to work together with Members on both sides of the aisle, that we have been able to make a difference. That is what the Senate should be about. But if they are going to play it the other way, let them just understand that we can play it that way too.

I suggest my colleagues go back and read the little book by Jim Allen. Senator Allen had this place tied up for 7 months—an individual Member of the Senate. If they are not going to work this out in a way that respects individual Members, they cannot expect Members to respond in the positive tradition of this great institution.

Every Member on both sides of the aisle wants to honor that tradition. That is what I want to see. Hopefully we can, through the leadership of Senator DASCHLE and Senator LOTT, proceed in that way for the remainder of this session.

I am glad to yield.

Mr. REID. I ask the Senator: You have talked about minimum wage. It is true, is it not, as you have said, that 60 percent of the people who draw minimum wage are women? Is that true?

Mr. KENNEDY. The Senator is correct. Sixty percent.

Mr. REID. For 40 percent of all of these women who draw minimum wage, that is the only money they get for themselves and their families; is that true?

Mr. KENNEDY. That is correct.

Mr. REID. The Y2K problem is something you and I acknowledge we should resolve; is that true?

Mr. KENNEDY. Absolutely.

Mr. REID. But tell me, isn't it true—you have been the lead Democrat on the Judiciary Committee; you have been on that committee for many years that is looking to litigation which will transpire as a result of computers not working properly after the year 2000 hits? Is that true?

Mr. KENNEDY. The Senator is correct again.

Mr. REID. Even though we both acknowledge it is more important legislation, would the Senator tell me why it is important in April of 1999 that that legislation be completed prior to a bill that would give the 12 million people who are desperately in need of a minimum wage increase?

Mr. KENNEDY. I know there may be some who differ, but I think we could pass the minimum wage and the Patients' Bill of Rights and the Y2K in a relatively short period of time and do the country's business. As it is we cannot do the country's business, as the Senator has pointed out, if we can never even reach the minimum wage or the Patients' Bill of Rights.

In the meantime, we are told by my good friend from Arizona—I wish he were here—that he is frustrated because we have not had an amendment all week. Well, you know what he is saying? ''We haven't had an amendment that the majority can agree to all week.'' He said right here on the floor, ''We haven't had an amendment all week.'' Well, the rest of that sentence is: ''that he will permit, to be offered.''

That is not what this place is about. I really am quite surprised that a Member of the Senate would interpret the rules that way.

Mr. REID. Will the Senator yield for another question?

Mr. KENNEDY. Yes.

Mr. REID. The Senator outlined graphically the Patients' Bill of Rights. And it is important that we do something about that. But is it not also true, in relation to the Patients' Bill of Rights, that all over this country managed care entities are dropping senior citizens?

Mr. KENNEDY. The Senator is absolutely correct.

Mr. REID. There are senior citizens now who have chosen to go off Medicare, who are now without any managed care, without any ability to get health care; is that right?

Mr. KENNEDY. That is right.

Mr. REID. There are some who say, once you go off Medicare, then you can't go back on for a certain period of time.

And now there are hundreds of thousands of them in the country who have been dropped from the managed care entities. Don't you think our doing the Patients' Bill of Rights is important to the senior citizens of this country?

Mr. KENNEDY. The Senator is correct. An opportunity to debate the prescription drug issue is also important to our senior citizens. I know the Senator is home just about every weekend, and I am sure that when he meets with senior citizens they raise, in an almost unanimous chorus, their concerns about prescription drugs. I daresay they think we ought to be addressing that issue in the Senate.

When I go home and meet with workers, they are concerned about the minimum wage, they are concerned about the Patients' Bill of Rights, they are concerned about prescription drugs. Sure, the legislation before us is important, but then I look at this agenda and wonder, where are the issues the people at home care about?

It is important that we have the opportunity to debate and discuss these issues. We are denied that opportunity now.

Mr. REID. One last question I will ask the Senator.

Based on your experience and my experience, is it a fair statement to say that on our agenda items we may not win every one of them, we may not prevail on every one of them, but wouldn't it be nice, I ask the Senator, to be able to debate the issue of the minimum wage, the Patients' Bill of Rights, the

other things we believe are important? Win or lose, wouldn't it be great if we could have the opportunity to explain to the American people and the Members of this Senate why we feel strongly about an issue?

Mr. KENNEDY. I could not agree with you more, Senator. And, tragically—tragically—the Republican leaders were able to kill the effort to consider the minimum wage here today. I do not know why they will not even give us an opportunity to debate and vote on the merits of the issue.

I hope that we are able, through the efforts of our leader working with the majority leader, to agree on a process that gives these issues, and others that are important to our colleagues, their day on the floor of the Senate.

Mrs. BOXER. Would the Senator yield for a brief moment?

Mr. KENNEDY. I will be glad to yield.

Mrs. BOXER. I will be very brief.

I have been on the floor with the Senator for 2 and a half hours.

Mr. KENNEDY. I know the Senator has.

Mrs. BOXER. And I am proud that I was able to take that time to do it, because by my presence I wanted to show the support I feel for what he is trying to do. I am a person who represents the Silicon Valley, the high-tech people. I want to solve the Y2K problem. I know my friend is a leader on technology in his State.

We want to do the right thing. I have praise for his colleague, Senator KERRY, who I think is doing a terrific job, working to come up with a solution some of us would prefer and, by the way, the administration prefers.

I want to pick up on this notion of time sensitive, because it is time sensitive that we do this. It doesn't have to be done today or next week, but it is time sensitive. Certainly, we have to do it in time to resolve the problem.

But there are a lot of things that are time sensitive. Isn't it time sensitive when a family can't pay the bill? Isn't it time sensitive when, as the Senator says, a woman can't afford to take a Greyhound bus to see her children? Isn't it time sensitive that under current law a 12-year-old can walk into a gun show and buy, essentially, a semi-automatic assault weapon? There are a lot of things that are time sensitive.

In many ways, it is as if the majority leader has the corner on what is time sensitive. As my friend says, it depends on who you talk to.

Frankly, the people I am talking to must be similar to the people you are talking to. These are bread-and-butter issues. It is safety in schools. It is a Patients' Bill of Rights, the quality of health care, many, many issues, Medicare, Social Security, that we want to take up, in addition to the business issues that the majority leader wants to take up.

I ask my friend, isn't time sensitive a term that we could apply to all of the issues that are on the agenda of the Democrats here in the Senate under the leadership of Leader DASCHLE?

Mr. KENNEDY. Let me answer very specifically on the time-sensitive aspect. If we do not increase the minimum wage now to 50 cents this year and 50 cents next year, next year the real value of the $5.15 minimum wage will be $4.90. So they are going to be worse off. Even with the 50 cent increase, as the Senator can tell from this chart, we are still below what we were during the 1960s, all during the 1970s, and up through the 1980s, in terms of purchasing power. This last increase was supported by Republicans and Democrats alike.

Yes, this is time sensitive, because the people who are living on the minimum wage are not just holding where they are, they are going down. This is at a time when our nation is experiencing the greatest economic prosperity in the history of the world. But we evidently don't have time to debate and act on this.

I yield to the Senator from Illinois.

Mr. DURBIN. If the Senator will yield for a question, after I voted, I left the floor before the rollcall was announced on the Senator's efforts to bring the minimum wage issue to the floor. Does the Senator recall the vote total that was announced?

Mr. KENNEDY. We were 55 in favor to 44.

Mr. DURBIN. So it was 55——

Mr. KENNEDY. Senator MOYNIHAN is necessarily absent. It would have been 55 tabling and 45 against tabling. Every Member of the other side of the aisle was for denying the opportunity to consider this and everyone on this side of the aisle thought we ought to at least consider it.

Mr. DURBIN. So it was a straight party-line vote——

Mr. KENNEDY. The Senator is correct.

Mr. DURBIN. Against considering an increase in the minimum wage.

Mr. KENNEDY. The Senator is correct.

Mr. DURBIN. Well, I want to ask the Senator: We are considering on the floor S. 96, the so-called Y2K bill, which is designed to protect businesses. And good, compelling arguments can be made about protecting businesses. But doesn't this vote suggest that the majority party feels that we should not be discussing help for working families, those in the lower income categories who are falling behind even as they go to work every single day trying to raise their families? That is how I read that vote. It is loud and clear.

Mr. KENNEDY. As mentioned earlier, it is not just today that we have been refused an opportunity to debate it. I have in my hand what the leadership has provided as the schedule for all of April and all of May. We are coming to the end of April now, but there are still several items that haven't been finished in April, and all of May. And nowhere on this do we have any indication that we will have the opportunity to debate either a minimum wage increase or a Patients' Bill of Rights.

If the Senator remembers, we were denied the opportunity to debate both of those issues at the end of last year as well, and we received assurances from the majority leader that the Patients' Bill of Rights would be considered in an early part of this session. We have had the markup in our Health and Education Committee, but still there is no priority on that particular issue.

So the Senator is right. Not only can we not consider that today, but it doesn't seem that it will be possible for consideration at any time in the foreseeable future.

Mr. DURBIN. If the Senator will yield, yesterday we were prepared on the floor to offer an amendment relative to school violence, to try to prevent a repeat of the tragedy that we saw in Littleton, CO, and in Jonesboro, AR, Pearl, MS, West Paducah, KY, and so many other places. I believe the Senator and I came away with the understanding from the majority leader, Senator LOTT, that, yes, within 2 weeks we would have our opportunity to consider those issues and some legislation to deal with them.

I ask the Senator from Massachusetts, there is a concern as well about teachers and the President's proposal to try to have more classroom teachers and a smaller student/teacher ratio in grades kindergarten, 1, 2, and 3; is that scheduled to be considered under any schedule that the Senator from Massachusetts has seen?

Mr. KENNEDY. No, it is not, Senator. You have identified something which is enormously important and that is the increasing evidence that the smaller the schools—schools where every schoolteacher knows the name of every child in the school, and knows the parents—and the smaller the classrooms, the greater the reduction in incidences of hall rage, and other types of school violence. This, it seems to me, would be worthy of debate and discussion. If we spent some time, knowing that we will debate that, went back to our States and listened to schoolteachers and parents for a few days and then came back and talked about these types of issues, perhaps we could do something that might be useful.

Mr. DURBIN. One last question to the Senator—and I thank him for his patience in responding—all of us are concerned about Littleton, CO, and what happened there and school violence in general. There isn't a parent in America who isn't sensitive to that today.

The suggestion of a smaller classroom and more personal attention to children in the early stages of their development suggests to me the possibility of spotting a child's problem at an early stage and perhaps dealing with it successfully rather than having this child pushed through the mill, ignored, perhaps not given the personal attention they need.

It strikes me that there are so many different pieces to this, whether it is the guns that make these troubled kids so dangerous to so many other people, or the fact that there are troubled children who are not getting the personal attention they need.

I join with the Senator from Massachusetts. I hope we can return to an agenda that really identifies the priorities of America's families. It is important to talk about Ed-Flex. It is important to talk about Y2K. But for goodness sake, before we leave at the end of the year, shouldn't we talk about the issues that families talk about when they are sitting around the table or around the family room watching television?

I salute the Senator. I hope he will continue with his efforts.

Mr. KENNEDY. I thank the Senator.

Mr. President, I yield the floor.

Mr. WYDEN addressed the Chair.

The PRESIDING OFFICER (Mr. ABRAHAM). The Senator from Oregon.

Mr. WYDEN. Mr. President, I will be brief. I know my friend from North Carolina wants to speak as well.

First, as one who strongly supports Senator KENNEDY on this matter of raising the minimum wage, I think he knows that I have worked since my days as codirector of the Gray Panthers to make sure that senior citizens would get prescription drug coverage.

I want him to know that I look forward to working closely with him on these issues. I will, before the Senator leaves the floor, talk about why this Y2K issue is so important to those low-income seniors, and on a point that the Senator from Massachusetts has led the fight on. I want to do this briefly.

Mr. KENNEDY. If the Senator will yield, I am quite familiar with what he is talking about—health care and some of the other issues that make a difference. I represent a State that is proudly one of the leaders in this area, and I look forward to hearing what the Senator has to say.

Mr. WYDEN. I thank my colleague. I will make this point very briefly. One of the key concerns that senior citizens now have is the problem of taking prescription drugs in the proper way. We have learned a great deal, for example, about how billions of dollars are wasted as a result of seniors not being in a position to get good information about drug interactions.

One of the ways that we are best able to tackle that problem, and save billions of dollars, in order to make sure that seniors have their needs met in terms of prescriptions is to get some of this information online. This is now just beginning to be done. I submit that it is a perfect example of how we should not be pitting the issues relating to Y2K against those affecting low-income citizens.

I think the Senator from Massachusetts is absolutely right with respect to minimum wage, and I just say that on the basis of even the example I have given with respect to drug interactions among the elderly, and the billions of dollars that are wasted as a result of people not being in a position to take their medicine in a proper fashion. That is an example of how this Y2K issue really does affect all citizens—even on the question of pay. If the computers break down, it is going to be hard for folks to get their paychecks early next year.

So I think the Senator from Massachusetts is absolutely right with respect to the need to raise the minimum wage. And I share his view on the need to help seniors with respect to their prescriptions. But I do think that this question of addressing the Y2K issue in a responsible kind of way is beneficial to all Americans, regardless of their income, in our country.

I appreciate the courtesy of the Senator from North Carolina. I want to wrap up with a couple of comments with respect to issues that Members of my party may have about the Y2K legislation. For example, there are a number of Senators on the Democratic side of the aisle who have been concerned about the question of punitive damages. Well, in the last few hours, we have made substantial progress on this issue. I happen to believe that it is critically important that when you engage in egregious conduct, you be in a position to send a very powerful message with respect to punitive damages on these questions of fraudulent activity.

In the last couple of hours, a great deal of progress has been made with respect to this issue. Senator DODD, in particular, deserves a great deal of credit. These changes that have been made in the last couple of hours with respect to punitive damages respond directly to what a number of Democratic colleagues have gotten from the administration this morning.

The other issue I would like to touch on that was mentioned as well by a number of our colleagues on the Democratic side deals with the question of evidentiary standards. I think it is clear that we do need evidentiary standards that are fair to consumers and are fair to plaintiffs. In the last couple of hours, again, for Democrats looking at this issue, a substantial amount of progress has been made, largely due to the efforts of the Senator from Connecticut. I am very pleased to be able to report that those changes have been made as well. Democratic Senators, I think, will be pleased with some of the other changes as well. I know that early on—and I think this was a concern that the Senator from North Carolina, who has been such a valuable addition to the Senate, had raised—the bill that came out of committee talked about a very ill-defined defense for defendants, essentially saying if they engage in a reasonable effort, that would in some way provide them with a defense from wrongful conduct. That, too, has been eliminated.

So I am very hopeful that Members on this side of the aisle will look at the progress that has been made in the last couple of hours. I want it understood that I very much want to work with the Senator from North Carolina on the points that he, I know, is going to raise in connection with this legislation. I want to see this bill go forward. I believe there is a coalition on both sides of the aisle that is now prepared to continue to work in a constructive kind of way to get this legislation done.

As one who feels strongly about an increase in the minimum wage, as one who feels that this Y2K legislation, properly done, has the opportunity in it for us to help lower health care costs and make sure seniors don't have these drug interactions that hurt them and waste billions of dollars, I hope that in the name of trying to address both of those issues the Senate will move forward in a bipartisan way.

I will just wrap up, Mr. President, by asking unanimous consent to have printed a letter from the American Bar Association on this legislation.

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

AMERICAN BAR ASSOCIATION,
GOVERNMENTAL AFFAIRS OFFICE,
Washington, DC, April 28, 1999.

Senator RON WYDEN,
U.S. Senate,
Washington, DC.

DEAR SENATOR WYDEN: In listening to yesterday's Y2K debate on the Senate floor, we at the American Bar Association were surprised to hear that you and Senator Sessions believe the ABA has issued a report saying, among other things, that the Y2K litigation could affect billions and billions of dollars of our economy. I can assure you that the ABA has not issued a report estimating litigation costs of the Y2K problem and has not taken any position on the pending Y2K legislation. I understand that your misunderstanding comes from the reading of a Backgrounder prepared by the Progressive Policy Institute which cites in turn from an article in the *Newark Star-Ledger*.

The ABA had several programs on the Y2K issue at our 1998 Annual Meeting in Toronto and we had speakers at those programs representing all sites of the Y2K debate. In one program, presented by the ABA Section of Business Law's Committee on Corporate Counsel, there were seven speakers. One of the speakers, Jeff Jinnett, said that ''there has been considerable speculation in the legal and public press that the year 2000 computer problem will generate considerable amounts of litigation.'' He summarizes some of the speculation, including the views of one commentator, who had provided the estimate cited in the *Newark Star-Ledger*. Mr. Jinnett concluded in his speech that ''we can only speculate as to the actual litigation which will result from the Year 2000 computer problem and the cost of the ultimate litigation, since (a) no substantial litigation (other than the Produce Palace, Software Business Technologies, Symantec, Macola, and Intuit lawsuits, discussed below) has been reported to have occurred as of the date of this article based on the Year 2000 problem and (b) we do not know how much necessary Year 2000 corrective work will ultimately not be completed on time.'' In any event, the views he expressed are not those of the American Bar Association and should not be referred to as either our policy position or as coming from an ABA ''study'' ''report.''

We would appreciate it if you would do what you can to correct the record on this matter. If you have any questions, please let me know.

I will be sending a similar letter to Senator Sessions to let him know our views as well.

Thank you for any assistance you can provide on this matter.

Sincerely,

ROBERT D. EVANS,
Director.

Mr. EDWARDS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. EDWARDS. Mr. President, let me say to my friend, the Senator from Oregon, that I have great respect for him. He knows that. He has spent a tremendous amount of time and work on this project, along with Senator MCCAIN, for whom I also have tremendous respect, along with my great and dear friend, Senator DODD from Connecticut. All three have spent a tremendous amount of time on this issue.

I will say at the outset that, from my perspective, I do believe we need to provide the kind of support and help for the high-tech community in this country that it so richly deserves. It is a critical issue not only in Oregon but also in North Carolina. We take great pride in our high-tech community, particularly in the Research Triangle area of North Carolina. My problem is that I don't think this bill strikes a proper balance. I think it fails to do so in a number of ways. I will candidly admit that I am not fully familiar with some of the discussions and negotiations going on right now. We will have to see the final product. I only have the bill as it is before us now to discuss.

First, I think there is an enormous problem in doing at least one of the things that this bill does, which is to relieve, in some ways, businesses and corporations from accountability or responsibility, particularly in a day and age when we as Americans are saying to our children, to our families, that they need to be responsible for what they do. We need to be personally responsible and accountable for everything we do.

How do we say to the children and families of America that they are accountable and responsible, fully, for everything they do, while at the same time passing legislation in the Congress of the United States saying that a particular slice of corporate America is not fully accountable and responsible for what it does? I think the reality is that it sends a terrible message to our children and to our families. I think what they want to hear from us is that every American, every child, woman, family, parent and every business is, in fact, fully accountable and responsible for what they do, because we as Americans believe in personal responsibility and accountability.

Now, I want to talk about a couple of things by way of background. First, we are tinkering here with a civil jury system that has existed in this country for over 200 years. Whenever you tinker around the margins with a system with checks and balances, which has been at work for a long period of time, you create an enormous potential for trouble. That is exactly what this bill does.

The argument is made on behalf of this bill that it will decrease litigation, that it will help with this anticipated but still fictional litigation explosion.

The reality is that bill creates a morass of potential litigation. It creates new terminology. It creates new definitions, and it has descriptions of legal avenues that can be pursued that have not existed heretofore.

The jury system that we have in this country has been developed over a long period of time. There are many trial and appellate decisions that we can rely on and depend on.

This bill creates a whole new genre of litigation and appellate decisions. There will be enormous fights over some of the language in this bill. More importantly, one of the things this bill does is it dilutes the jury system. The reality is, if you believe in democracy, you believe in the jury system, because the jury system is nothing but a microcosm of democracy.

Speaking for myself, and I think speaking for most Americans, I have tremendous faith—in fact, I would go so far as to say I have a boundless faith—in the Americans who sit on juries all over this country every day who render justice and render fair decisions, fair to both sides, in any litigation. This bill dilutes the responsibility that we give those Americans.

I personally have more confidence in regular Americans, North Carolinians, farmers, bankers, people who work in stores, people who are engaged in all walks of life, who come in and sit on the jury, hear cases, and do what they think is right. I have more confidence in them than I do in us as a body trying to impose upon them what we think is fair and just across the board. Those juries hear the facts; they hear the circumstances from both sides, and they render justice. They do what they think is fair and right.

Anybody, as I said earlier, who believes and has confidence in Americans who sit on those juries, knows that the decisionmaking should stay right where it is—with the jury.

Let me talk for just a minute about this Y2K problem, because this is not a new problem. The history of this problem is, I think, greatly educational in terms of where we are.

If I could look at a chart, the title of this chart is ''Y2K. Why do today what you can put off 'til tomorrow?''

This is not a new problem.

I might add that, along with Senators DODD and BENNETT, I also serve on the Y2K committee. We have learned a great deal through the hearings that have taken place on that committee.

For example, in 1960, Robert Bemer, who was a pioneer in computer sciences, advocated the use of a four-digit rather than a two-digit date format. This is now 39 years ago—almost 40 years ago. One of the pioneers of American computer science said it is an enormous mistake to go to a two-digit system instead of a four-digit system.

In 1979, he wrote again, the same Robert Bemer, in a computer publication about the inevitable Y2K problems, unless this defect is remedied. He warned, ''Don't drop the first two digits. The program may well fail from an ambiguity in the year 2000.''

We have known about it for 40 years.

In 1979, 20 years ago, he is telling the industry you have to do something about this, and you have to do something about it now.

In 1983, an early Y2K-fix software was marketed and sold in this country which dealt with the Y2K problem. How many copies of that software were sold? Two copies of this software that addressed this problem were sold.

In 1984, just 1 year later, ''Computerworld'' magazine said, ''The problem you may not know you have,'' and they warned companies to start making modifications now—in 1984, 15 years ago.

In 1986, there was a publication by another computer magazine where IBM asserted:

> ''IBM and other vendors have known about this problem for many years. This problem is fully understood by IBM software developers who anticipate no difficulty in programming around it.''

Then in 1988, the National Institute of Standards and Technology said, ''NIST highly recommends that four-digit year elements be used''—11 years ago.

In 1989, the Social Security Administration's computer experts found that the overpayment recoupment systems did not work for dates after 2000, and realized that 35 million lines of code had to be reviewed.

Finally, in 1996, Senator MOYNIHAN requested the Congressional Research Service report on Y2K. It predicted widespread massive failures. He introduced legislation to create a special office for Y2K problems and to establish compliance deadlines. It died in committee.

Finally, in 1999, this year, Bill Gates blamed Y2K on those who ''love to tell tales of fear.'' At the same time, Microsoft was still shipping products that were not Y2K compliant.

My point is a simple one. This Y2K problem has been around for 40 years. Those folks who are involved in this business have known about it. The truth is that many of the people involved in the computer industry have worked hard at correcting this problem. They have addressed it in a very responsible way. Those people will have no liability and no responsibility from any failures that occur.

The people who I think make up a great deal of the high-tech industry, who have acted responsibly, who have recognized that this is a problem, who have gone out to the people who they

have sold their products to, and done everything in their power to correct this problem, those people have no responsibility. Under the current legal system, they have absolutely no responsibility. They can't be held responsible.

The people who can be held responsible are those who have known about this problem for 40 years and have done nothing to correct it, and, in fact, over the course of the last few years have continued to sell products that are not Y2K compliant, and are not concerned about the result. They have their product sold. They have their money in, and they have let the people who bought the product worry about the problem, or it would be dealt with later.

We have no business in this Senate providing protection for people who have engaged in that kind of behavior. That is exactly what this bill does.

It has a number of problems in it. Let me just talk about a few of them briefly.

First, my friend, the Senator from Oregon, mentioned a few minutes ago that he thought it was important for punitive damages that we be able to send a powerful message to those who had acted irresponsibly and recklessly.

This bill places enormous limits on punitive damages that can be awarded, punitive damages that under existing law—if this bill never goes anywhere, never passes, never becomes law, as I stand here today, businesses can only be held accountable for punitive damages if they have engaged in reckless, egregious, willful, sometimes criminal, conduct. It is the only circumstance in which a business can be held liable for punitive damages.

My friend, the Senator from South Carolina, who just joined us, is fully aware of that. We have an existing law that provides that protection.

''Joint and several liability'' are terms that lawyers use regularly. But they are critically important terms. The terminology that we hear used by my friend, Senator DODD, and Senator WYDEN, is ''proportionate liability.'' It is very important for the American people to understand what this bill will do to them if it passes.

Let me give an example. A small business man—say a grocery store owner—buys a computer system that is necessary to run his business on a day-to-day basis. This is a family business. The system fails. As a result of the system failing, he is unable to keep his doors open over a period of 2, 3, or 4 months. All of these businesses operate on very short-term cash flow. They need money, and they need it on a daily basis. If they don't have it because the computer fails, they get run out of the business.

So we have this family-owned grocery store that has been run out of business because their computer system didn't work. Keep in mind, we are talking about a regular American who runs a business. These are not computer experts. They are not experts in lawsuits and litigation. They don't know what they are supposed to do.

In my example, they discover that three different companies participated in making their computer system. So they bring an action against those three companies to recover for the cost of what happened with their system and for the fact they have now been put out of business. Any fair-minded American would say if these companies knew about the problem, knew they had sold them a product that was defective, they ought to be held responsible for that.

Joint and several liability says each one of those companies can be held liable and responsible for what happened to this family grocery store. This bill says if for some reason one of those three companies is out of business, you can't collect against the other two. Maybe one of the three is an offshore company—which will be true on many occasions with respect to this kind of case—and you can't reach it. Then, because of this bill, you can't reach the other two. This bill says the innocent grocery store owner bears that share of the responsibility.

Joint and several liability, which has existed in this country for 200 years, exists for a very simple reason: It is just, and it is fair. We have a choice: Somebody is going to suffer this damage. Should the cost of this damage be paid by the absolutely innocent grocery store owner? Or should it be paid and shared by the defendants who were guilty? It is that simple. It is the guilty on one side, the innocent on the other.

The question is, Who is going to share in paying for the damage that has been done? Joint and several liability says that responsibility is borne by the guilty and is never to be borne by the innocent. That is the reason that system has existed.

This bill, first of all, essentially eliminates joint and several liability as a starting place. Then it sets up a complex—I am a lawyer and I can barely understand what it says—exception which creates certain circumstances where this grocery store owner can make an effort to collect some of his money from the other defendants if, in fact, there is an uncollectible defendant. But he has to jump through lots of hoops and he has to do it in 6 months, which is the time limitation. Having been in the trenches for 20 years doing these cases, it is almost an impossible task to finish the process of trying to collect in 6 months.

The bottom line is, it creates a very narrow exception and puts the burden entirely on the innocent party to jump through these hoops. It makes absolutely no sense. The system that exists in America and has existed for 200 years exists for a good reason. It has been fair and just for 200 years. It is fair and just now. There is absolutely no reason to change it. It makes no sense to change it.

Let me use the chart that my friend, Senator LEAHY, referred to earlier—and he did a beautiful job of that. Across the top of this chart is the present justice system. I want to emphasize for Americans who are listening that no computer company or high-tech company can be held responsible under existing law unless they have acted negligently or irresponsibly.

Under this jury system that we have in this country today, we have a very simple process. We go through the process of making a claim and seeing if they respond to the claim. If they don't, a lawsuit is filed, the case is eventually heard, and there is a result. Or, on the other hand, as happens in almost 99 percent of the cases, if the company recognizes that the problem was their responsibility, they pay for it. They settle the case, because they know they have a responsibility to pay for what they caused. So we have a quick, fair settlement or we have a fair trial. We have a system that is in place and has existed for 200 years and systems that work State by State.

I have to add to this, I don't know why we as a Senate and as a Congress think we are so much smarter than our State legislatures that have passed laws over many years and have court systems that deal with these problems. They are fully capable of addressing this problem. I personally believe if this were an issue, it could easily be addressed at the State level.

The reality is, the existing system that we have will work. It is simple. It is streamlined. And it will get a fair result for everyone concerned.

On the other hand, if we enact this morass that I have in my hand right now, what we will have is the biggest mess anybody has ever seen in the court system. First of all, all the cases are going to go to Federal court instead of State court. The National Judicial Conference has said the Federal judicial system is already overburdened before they ever get these cases. They don't have enough resources; they don't have enough judges. What we are about to do is dump an enormous pile of new cases in the Federal judicial system which they don't want and which they don't have the resources to handle.

We start this complicated process, and without going through all the details—Senator LEAHY has outlined it beautifully—it is one roadblock after another to the innocent party, the grocery store owner, the guy who was put out of business because his computer system wouldn't work and he had nothing to do with it. Every time he moves, he runs into another roadblock. He doesn't have the resources to fight this battle. It is a long and tortuous process that ultimately makes no sense.

We have a system that works. There is no reason to do this.

Let me give an example of problems we create in a bill like this. There is a provision in this bill that says in any lawsuit a defendant can raise Y2K as a

defense. If you have one business suing another business for a contract—no matter what the claim is about; it could be about anything—and the defendant says, wait a minute, this is a Y2K computer problem, all of a sudden you have triggered enormous, procedural, bureaucratic hurdles that have to be jumped through. The case goes into Federal court. We have this big mess. A tool has been created to complicate a simple lawsuit that could be over and resolved in very simple fashion.

I don't suggest for a minute that the people who crafted this bill don't have the very best intentions. I believe they do. I myself—and I only speak for myself—have no problem with the idea that we ought to try to provide incentives for people who are engaged in disputes to resolve those disputes. Alternative dispute resolution, I think, is fine. A cooling off, some period when these folks can talk to each other and try to work it out is fine. I think, if there is a problem, we want to promote discussion between the innocent person who bought the computer system and the people who make it. I think we want to do all of those things. Those are laudable goals. The problem is what we have here is an extremist version of a bill that takes away rights of the innocent party and creates enormous hurdles to that innocent party ultimately recovering.

I might add, I think this is unintentional. But the proposal makes the recovery of economic losses virtually impossible. Here is the reason. When I say economic losses, for example in my grocery store story, the recovery of the cost of the computer would not be considered an economic loss. But the fact that these folks have been put out of business and their grocery store is not in business anymore and they have lost the profits they would have made in their grocery store for X number of years, all because of an irresponsible computer maker that would be an economic loss. Well, in order to recover those economic losses that they had nothing to do with—they are totally innocent—in order to recover for those injuries, they have to have a written contract, or a contract that says they can recover under the terms of this bill.

Think about that. Use a little common sense here. How many Americans, small business men, who go out and buy a computer system have been thinking about: Well, I better make sure I have a written contract that says if my computer system fails I can recover my losses, my economic losses—my lost sales, my lost profits as a result? The reality is, to the extent there is any contract other than a handshake or walking in the store and buying the computer system, the contracts are drafted by the manufacturers, because they are the ones with the lawyers, a big team of lawyers. They draft these contracts. If anything, they are only signed by the purchasers. So the likelihood that these contracts are going to have any provision in them for the recovery of economic losses is almost nonexistent.

The bottom line is this. I think the intention of my colleagues, Senator MCCAIN, Senator WYDEN, Senator DODD—I have absolutely no doubt their intentions are only the best. They want to do exactly what they say they want to do, which is to create incentives for these high-tech companies to correct these problems and not to create, from their perspective, a morass of litigation.

The problem is this bill does not do that. I spent many years in the trenches, in courtrooms, fighting these battles. I can respectfully say that I have read the entire bill. It has numerous problems, including some of the ones I have described today. But I do believe we could fashion a bill, I say to Senator MCCAIN, who has just arrived—fashion a bill that would accomplish some of the things they want to accomplish, which is instead of going straight to litigation, have folks talking to one another, working out the problem, curing the problems with the computers. That is in everybody's best interests. I want that. I think all of us here in the Senate want that.

But it is my belief, having studied this bill and having studied it carefully—and I will concede I have not seen the most recent discussions because I don't think they have been put in writing yet—but the version we have before us now is completely unacceptable and creates many more problems than it cures. Instead of reducing litigation, I think in fact it creates a vehicle for not only trial litigation but appellate litigation that will go on for many years to come.

Mr. HOLLINGS. Will the distinguished Senator yield?

Mr. EDWARDS. Yes.

Mr. HOLLINGS. Mr. President, the Senator has come to the Senate not just as a practitioner, but as a brilliant one, as you can tell from his comments here on the floor of the Senate this afternoon.

Is it not a fact that what this really does is create disincentives to produce a good Y2K-compliant product—isn't that correct? If companies know they do not have to worry about making their products competitive and reliable, they have no incentive to make a good product. In fact, removing any threat of litigation will remove any need for technology companies and businesses to ensure that their products and systems are ready to handle the Y2K problem. I have been asked by none other than Jerry Yang, the head of the Internet company Yahoo, to oppose this bill, because Mr. Yang said he will use the fact that companies do not have Y2K-compliant computers when he competes with them.

So, isn't it the fact that when you get this kind of obstacle course of legalities companies will say: We do not have to worry about the quality of the product or whether or not it is Y2K compliant, because by the time they can finally get to me, and everything else like that, on a cost/benefit basis it is better for me to get rid of all these old noncompliant models. I don't mind paying a few lawyers to protect me on these hurdles here. Isn't that the case?

Mr. EDWARDS. I believe that is the case for that small number of companies this is all about.

Mr. HOLLINGS. Right.

Mr. EDWARDS. I do believe, and I know my colleague will agree with me, that the vast majority of these companies are totally responsible. They want to cure these problems. And in fact, they will cure them, and as a result will never be involved in any of this process.

Mr. HOLLINGS. That is what ''Business Week'' just put out a month ago in its March 1 issue. The marketplace was taking care of what problems could ensue come January 1 of the year 2000. All of the blue chip corporations—grocery, manufacturers, automotive dealers—everybody is really concerned if they don't perform and have Y2K compliance, they are going to lose the business. The blue-chippers have come around and told their suppliers and distributors and everything else: Unless you become Y2K compliant, we are going to find a new sales force and distributors and otherwise to handle our product.

Really, that is the conclusion to which the ''Business Week'' article came. In fact, the Y2K problem is going to clean out the laggards and bring out nothing but good, quality producers. It is not going to be a problem come January 1, because the market is behaving effectively. We get extremes like this legislation because the Chamber of Commerce gets down there and starts talking about a trillion dollars' worth of lawsuits, and we see entities coming in not knowing really what is at issue.

The fact is, then having said that, they are way off base in the whole thing with respect to the market itself. And as the Senator indicates, the responsible producers in America, they are the best of the best because they are competing internationally with the Japanese and everything else. So we have the best producers and they will comply. They want to comply because that is good business. They don't want to get bogged down with lawyers and everything else like that.

But a few companies want to have the political crowd in Washington throw up an obstacle course for consumers and small businesses, so that those companies do not have to worry about making good, reliable, Y2K-compliant products.

Mr. EDWARDS. I agree with that, and I would add, based on my conversations with the high-tech companies that do business in North Carolina, I am totally convinced they will act responsibly, they will do what they are supposed to do, and I do not think those are the companies that this bill

addresses or that we are concerned about, in any event.

Mr. HOLLINGS. Isn't that the case? That is why you find the extremes of tort law provision in here, and joint and several? The drive really is not to take care of the Y2K problem but to take care of what they call the lawyer problem in business. It has brought about the most responsible production in the entire world. We have quality production. We have safe articles on the market. On product liability and everything else, they have been coming after us for 20 years. Now they have all joined together, of all people not to hurt, just injured individuals with bad back cases like you and I have handled, but on the contrary, little small businesses, individual doctors who have to have a computer and have to keep up with their surgery and everything else of that kind.

I cite that because that is the testimony we had before the Commerce Committee. An individual doctor, in 1996, bought a computer. They bragged how it was going to last for 10 years and be Y2K compliant. And instead of being Y2K compliant, it was not. He asked for it to be repaired. He went twice to do it. They told him, you might have bought it for $16,000, but it is going to cost you $25,000. He didn't have the $25,000 to make it compliant. He finally brought a lawsuit, and the computer industry on the Internet picked it up and before long he had $17,000 against this particular supplier. They came around immediately and said: We will do it for free for everybody and pay the lawyers' fees.

That is what we are trying to avoid. But I do congratulate the Senator on his very cogent analysis and commonsensical approach and experienced judgment that he has rendered here this afternoon on this particular issue.

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

Mr. HOLLINGS. I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I paid attention to the exchange. The Senator from North Carolina was not here. The Senator from South Carolina was here when we fought for 10 years on a little item called aircraft product liability. I know the Senator from South Carolina fought viciously against that. The whole world was going to collapse if we gave an 18-year period of repose to aircraft manufacturers for products they built and manufactured.

Now there are 9,000, at least, new employees, and we are building the best piston driven aircraft in the world, thanks to that legislation.

Ask any of the owners of those aircraft companies and those people who are working there. It is because we finally passed that bill over the objections of the American Trial Lawyers Association which fought it for 10 years.

Mr. HOLLINGS. Will the distinguished Senator yield?

Mr. MCCAIN. I will not.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Tuesday, April 27, 1999, the federal debt stood at $5,596,529,776,391.98 (Five trillion, five hundred ninety-six billion, five hundred twenty-nine million, seven hundred seventy-six thousand, three hundred ninety-one dollars and ninety-eight cents).

One year ago, April 27, 1998, the federal debt stood at $5,507,607,000,000 (Five trillion, five hundred seven billion, six hundred seven million).

Five years ago, April 27, 1994, the federal debt stood at $4,562,363,000,000 (Four trillion, five hundred sixty-two billion, three hundred sixty-three million).

Ten years ago, April 27, 1989, the federal debt stood at $2,754,734,000,000 (Two trillion, seven hundred fifty-four billion, seven hundred thirty-four million).

Fifteen years ago, April 27, 1984, the federal debt stood at $1,485,189,000,000 (One trillion, four hundred eighty-five billion, one hundred eighty-nine million) which reflects a debt increase of more than $4 trillion—$4,111,340,776,391.98 (Four trillion, one hundred eleven billion, three hundred forty million, seven hundred seventy-six thousand, three hundred ninety-one dollars and ninety-eight cents) during the past 15 years.

THE NORTHEASTERN DAIRY COMPACT

Mr. SESSIONS. Mr. President, I wish to express my support for a bill that was introduced yesterday by Senator JEFFORDS—the Northeastern and Southern Dairy Compact. This bill would reauthorize the Northeastern Dairy Compact and grant the consent of Congress for a Southern Dairy Compact. The Southern Dairy Compact, which has been passed by Alabama and 10 other southeastern States, authorizes an interstate Compact Commission to take whatever measures are necessary to assure customers of an adequate local supply of fresh fluid milk while encouraging the continued viability of dairy farming within the region encompassing the compact States.

The current milk marketing order pricing system does not adequately account for regional differences in the costs of producing milk; furthermore, the Federal milk marketing order system establishes only minimum prices for milk. Due to these inconsistencies in milk prices, surplus milk is flooding the southeast and shutting down the family dairy farmer. By design, the Federal program relies on State regulation to account for regional differences. However, milk usually crosses State lines, so courts have ruled that individual States do not have the authority to regulate milk prices under the interstate commerce clause of the U.S. Constitution. To account for these regional price differences, states can gain regulatory authority by entering into a compact. States are now joining these compacts to maintain their dairy industry and are asking us to approve of the legislation they have already passed in their respective states. The support at the State level has been overwhelming and unanimous and I am hopeful this body will adopt these compacts unanimously as well.

The compact benefits everyone. Farmers are assured of more stable milk prices, thereby affording them the opportunity for better planning and recovery of production costs. Consumers will benefit as prices for fluid milk stabilize in the supermarket. According to the USDA and GAO accounting figures, there was a 40 percent increase in the market price of fluid milk between 1985 and 1997. According to the Office of Management and Budget, the compact established in the Northeast in 1996 increased the income of dairy farmers by 6 percent while maintaining prices to the consumer at 5 cents/gallon below the national average price for milk. In addition, OMB found no adverse effect on states outside of the compact. The compact is a win-win piece of legislation.

Dairy farming is an important industry in my State of Alabama, and I am a strong supporter of the family farmer. Their hard work and dedication is at the heart of the greatness of this nation. In Alabama, there are more than 2,000 employees in the dairy industry supporting a $48 million payroll. Last year, the dairy industry in Alabama generated a total of $204 million in economic activity. However, recent production capacity has deteriorated and further decreases may push production past the point of no return. From 1995 to 1998, milk production in Alabama decreased by 26 million pounds. The establishment of the dairy compact will ensure fair prices to farmers so that they can maintain a profitable level of milk production. The creation of a compact will bring stability to an important industry in Alabama and all over the Southeast. Consumers will be assured of fair prices and farmers will be confident in their production decisions.

The States have voiced their concerns. The States have developed a solution. It is now our responsibility to stamp our approval onto the compacts which have been passed in States throughout the Northeast and Southeast.

FUELS REGULATORY RELIEF ACT

Mr. BURNS. Mr. President, I stand in support of S. 880, Fuels Regulatory Relief Act, to provide relief for small businesses and to increase security of information from potential terrorists. This bill will specifically exclude toxic flammable fuels from Section 112 of the Clean Air Act which requires businesses provide public information on stored flammable fuels and how they would respond to emergencies should a disaster occur.