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PROCEEDINGS AND DEBATES OF THE 106th CONGRESS, FIRST SESSION

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Senate

(Legislative day of Friday, May 14, 1999)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Almighty God, Lord of our lives and Sovereign of our beloved Nation, we humbly confess our need for Your supernatural power. Thank You that You do not tailor our opportunities to our abilities, but rather give us wisdom, strength, and vision to match life's challenges. We surrender the pride of thinking that we can make it on our own resources. We are totally dependent on You. We could not think a thought, give dynamic leadership, or speak persuasively without Your constant and consistent blessing. You are the Source of all we have and are. We praise You for the talents, education, and experience You have given us, but we know that You alone can provide the insight, innovation, and inspiration we need so urgently to meet the problems we face. You have told us there is no limit to what You will do to empower leaders who trust You completely and give You the glory. We commit this day to glorify You in all that we say and do. In Your all-powerful name. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able acting majority leader, Senator MCCAIN, is recognized.

SCHEDULE

Mr. MCCAIN. Mr. President, this morning the Senate will resume debate on the motion to proceed to the Y2K legislation. At 9:45 this morning the Senate will proceed to a rollcall vote on invoking cloture on the motion to proceed to that bill. If cloture is invoked, debate will continue on the motion to proceed. If cloture is not invoked, the Senate will begin a period of morning business for 1 hour under the control of Senator HELMS to commemorate the life of Admiral Bud Nance.

Attempts to come to a reasonable time agreement to finish the juvenile justice bill will be made during today's session of the Senate. However, until such an agreement is made, the Senate will resume debate on the motion to proceed to the Y2K bill. As a reminder, the Senate will recess for the weekly party caucus luncheons from 12:30 to 2:15.

I thank my colleagues for their attention.

Y2K ACT—MOTION TO PROCEED

The PRESIDENT pro tempore. The clerk will report.

The legislative assistant read as follows:

Motion to proceed to the consideration of S. 96, a bill to regulate commerce between and among the several States by providing for the orderly resolution of disputes arising out of computer-based problems related to processing data that includes a 2-digit expression of the year's date.

The Senate resumed consideration of the motion.

The PRESIDING OFFICER (Mr. FRIST). The Senator from Arizona is recognized.

Mr. MCCAIN. I thank the Chair.

In about 10 minutes, we are going to have another vote on cloture so that we can proceed to the very important Y2K liability bill, S. 96. The word is out that the Democrats will now again refuse to move forward with passage of this legislation. Last time, the excuse was, as I understand it from the Democrat leader's remarks, that they were not allowed to propose amendments to the pending legislation so this was some form of protest. Now I am told the excuse will be—and we will find out—because the juvenile justice bill has not been completed.

The entertaining aspect of that rationale is that while complaining about not being able to move forward on the juvenile justice bill, they still won't agree to amendments and time agreements so we could dispose of the juvenile justice bill.

What this is really all about is that there is a strong aversion on the part of the American Trial Lawyers Association to this legislation. That aversion is manifesting itself by preventing us from moving forward with this very important legislation.

Small, medium, and large businesses in America, high-tech firms all over America, have written or contacted us as to the importance of this legislation. I recently received a letter signed by some 130 high-tech companies in America. I would like to read it.

This is from the Year 2000 Coalition. Actually, this letter was addressed to Senator KERRY, not to me. It says:

The Year 2000 Coalition, a broad-based multi-industry business group, is committed to working with the Senate to enact meaningful Y2K liability legislation. We fully support S. 96 sponsored by Senator McCain, with amendments and revisions agreed to by Senators Wyden, Dodd, Hatch, Feinstein and Bennett, as the most reasonable approach to curtail unwarranted and frivolous litigation that might occur as a result of the century date change.

While we appreciate any effort that further demonstrates the bipartisan recognition of the need for legislation, the Coalition does not support the Y2K bill that is being circulated in your name and believes it detracts from the sponsors of S. 96 effort to build support for their bill. We urge you to support S. 96 that is now pending before the Senate. Your vote in favor of cloture is important to bring the bill to the floor and allow the Senate to address the challenge of Y2K confronting all Americans. A vote in favor of S.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

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96 is a vote in favor of Y2K remediation instead of litigation.

A very impressive list of, I believe, 130 companies and corporations around America, a pretty impressive group of corporations that, I would say, represents a substantial portion of America's economy, that is concerned about this issue and wants us to move forward.

I had honestly believed that after the demonstration of solidarity last week on this issue on the part of my friends and colleagues on the other side of the aisle—I took the Democrat leader at his word. He said we will move forward; we will have a bill; we want to work together on this.

Apparently, that is not going to be the case this morning. If it is not the case, then, obviously, I will do whatever the majority leader dictates as to what the Senate calendar will be.

Mr. LOTT. Mr. President, will the Senator yield briefly? I don't know the time situation.

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

Mr. LOTT. Mr. President, how much time do we have?

The PRESIDING OFFICER. The Senator has 45 seconds remaining.

Mr. LOTT. Mr. President, I yield myself some of the leader time if necessary. I thank Senator MCCAIN for his continuing effort on this important legislation.

I wonder how many people or how many Senators think the solution to the year 2000 computer problem is litigation, lawsuits. I don't believe most Senators believe that is the answer. I know the American people don't believe that is the answer. What they want is a solution. They want us to do everything we can to help small business men and women and the computer industry, everybody, address the problem. If we don't get it done by the year 2000, they certainly don't want lawsuits to be the solution.

That is what is at stake. I have acted in good faith. I know Senator MCCAIN has. I was assured last week by Senator DODD of Connecticut that they were ready to go forward, that a number of Democrats would join the overwhelming Republican vote to support getting cloture.

I want to emphasize this is on the motion to proceed. People need to understand that. This apparently is going to be an effort by the Democrats to block even taking up the bill to deal with this Y2K litigation problem.

This is the second time in 3 weeks political games are being played with a very serious issue. If that is the way it is to be, I want the American people to understand the Democrats do not want a solution. They want to play games with this bill and they want litigation. That is what really is at stake.

As majority leader, I have to try to deal with a lot of important issues, including the juvenile justice bill, supplemental appropriations for disasters, the situation in Kosovo, bankruptcy legislation, Department of Defense authorization, a whole long list of bills. We can't keep bringing up this bill or other bills. So this is it until somebody shows me that there is a good-faith effort.

As far as having votes on alternatives, I think Senator MCCAIN and other managers would be glad to do that. If somebody has an alternative proposal—by Senator KERRY, Senator DASCHLE —fine, let's vote on that. But to just block even the consideration of this bill I think is very questionable action.

I hope the Senator will find a way to deal with this. At some point, if somebody shows me they are ready to go and we go to the substance and we have the votes to pass it, fine. Otherwise, the Democrats have on their shoulders the fact they have killed the Y2K legislation. Let them explain it to the businesspeople of this country, the men and women who have small businesses and to the computer industry, because that is where the problem is.

I yield the floor.

Mr. MCCAIN. Mr. President, I ask unanimous consent the letter to Senator KERRY from the Year 2000 Coalition and the letter to me be printed in the RECORD.

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

YEAR 2000 COALITION,
May 12, 1999.

Hon. JOHN MCCAIN,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR MCCAIN: On behalf of the Year 2000 Coalition, we are writing to express our strong support for S. 96, the Y2K Act. The attached letter was delivered to Senator Kerry this afternoon.

The Year 2000 Coalition strongly supports legislation that would encourage cooperative problem solving outside the courtroom in order to alleviate Y2K-related problems that occur. We believe S. 96 would create a legal framework to protect both plaintiffs and defendants, and prevent this unique situation from triggering a crisis in our economy and our legal system.

Sincerely,

Aerospace Industries Association.
Airconditioning & Refrigeration Institute.
Alaska High-Tech Business Council.
Alliance of American Insurers.
American Bankers Associations.
American Bearing Manufacturers Association.
American Boiler Manufacturers Association.
American Council of Life Insurance.
American Electronics Association.
American Entrepreneurs for Economic Growth.
American Gas Association.
American Institute of Certified Public Accountants.
American Insurance Association.
American Iron & Steel Institute.
American Paper Machinery Association.
American Society of Employers.
American Textile Machinery Association.
American Tort Reform Association.
America's Community Bankers.
Arizona Association of Industries.
Arizona Software Association.
Associated Employers.
Associated Industries of Missouri.
Associated Oregon Industries, Inc.
Association of Manufacturing Technology.
Association of Management Consulting Firms.
BIFMA International.
Business and Industry Trade Association.
Business Council of Alabama.
Business Software Alliance.
Chemical Manufacturers Association.
Chemical Specialties Manufacturers Association.
Colorado Association of Commerce and Industry.
Colorado Software Association.
Compressed Gas Association.
Computing Technology Industry Association.
Connecticut Business & Industry Association, Inc.
Connecticut Technology Association.
Construction Industry Manufacturers Association.
Conveyor Equipment Manufacturers Association.
Copper & Brass Fabricators Council.
Copper Development Association, Inc.
Council of Industrial Boiler Owners.
Edison Electric Institute.
Employers Group.
Farm Equipment Manufacturers Association.
Flexible Packaging Association.
Food Distributors International.
Gypsum Association.
Health Industry Manufacturers Association.
Independent Community Bankers Association.
Indiana Information Technology Association.
Indiana Manufacturers Association, Inc.
Industrial Management Council.
Information Technology Association of America.
Information Technology Industry Council.
International Mass Retail Council.
International Sleep Products Association.
Interstate Natural Gas Association of America.
Investment Company Institute.
Iowa Association of Business & Industry.
Manufacturers Association of Mid-Eastern PA.
Manufacturer's Association of Northwest Pennsylvania.
Manufacturing Alliance of Connecticut, Inc.
Metal Treating Institute.
Mississippi Manufacturers Association.
Motor & Equipment Manufacturers Association.
National Association of Computer Consultant Business.
National Association of Convenience Stores.
National Association of Hosiery Manufacturers.
National Association of Independent Insurers.
National Association of Manufacturers.
National Association of Mutual Insurance Companies.
National Association of Wholesaler-Distributors.
National Electrical Manufacturers Association.
National Federation of Independent Business.
National Food Processors Association.
National Housewares Manufacturers Association.
National Marine Manufacturers Association.
National Retail Federation.
National Venture Capital Association.
North Carolina Electronic and Information Technology Association.
Technology New Jersey.

NPES, The Association of Suppliers of Printing, and Publishing, and Converting Technologies.
Optical Industry Association.
Printing Industry of Illinois-Indiana Association.
Power Transmission Distributors Association.
Process Equipment Manufacturers Association.
Recreation Vehicle Industry Association.
Reinsurance Association of America.
Securities Industry Association.
Semiconductor Equipment and Materials International.
Semiconductor Industry Association.
Small Motors and Motion Association.
Software Association of Oregon.
Software & Information Industry Association.
South Carolina Chamber of Commerce.
Steel Manufacturers Association.
Telecommunications Industry Association.
The Bankers Roundtable.
The Chlorine Institute, Inc.
The ServiceMaster Company.
Toy Manufacturers of America, Inc.
United States Chamber of Commerce.
Upstate New York Roundtable on Manufacturing.
Utah Information Technology Association.
Valve Manufacturers Association.
Washington Software Association.
West Virginia Manufacturers Association.
Wisconsin Manufacturers & Commerce.

YEAR 2000 COALITION,
May 12, 1999.

Hon. JOHN F. KERRY,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR KERRY: The Year 2000 Coalition, a broad-based multi-industry business group, is committed to working with the Senate to enact meaningful Y2K liability legislation. We fully support S. 96 sponsored by Senators McCain, with amendments and revisions agreed to by Senators Wyden, Dodd, Hatch, Feinstein and Bennett, as the most reasonable approach to curtail unwarranted and frivolous litigation that might occur as a result of the century date change.

While we appreciate any effort that further demonstrates the bipartisan recognition of the need for legislation, the Coalition does not support the Y2K bill that is being circulated in your name and believes it detracts from the sponsors of S. 96 effort to build support for their bill. We urge you to support S. 96 that is now pending before the Senate. Your vote in favor of cloture is important to bring the bill to the floor and allow the Senate to address the challenge of Y2K confronting all Americans. A vote in favor of S. 96 is a vote in favor of Y2K remediation instead of litigation.

Sincerely,
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Airconditioning & Refrigeration Institute.
Alaska High-Tech Business Council.
Alliance of American Insurers.
American Bankers Association.
American Bearing Manufacturers Association.
American Boiler Manufacturers Association.
American Council of Life Insurance.
American Electronics Association.
American Entrepreneurs for Economic Growth.
American Gas Association.
American Institute of Certified Public Accountants.
American Insurance Association.
American Iron & Steel Institute.
American Paper Machinery Association.
American Society of Employers.
American Textile Machinery Association.
American Tort Reform Association.
America's Community Bankers.
Arizona Association of Industries.
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Construction Industry Manufacturers Association.
Conveyor Equipment Manufacturers Association.
Copper & Brass Fabricators Council.
Copper Development Association, Inc.
Council of Industrial Boiler Owners.
Edison Electric Institute.
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Farm Equipment Manufacturers Association.
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Metal Treating Institute.
Mississippi Manufacturers Association.
Motor & Equipment Manufacturers Association.
National Association of Computer Consultant Business.
National Association of Convenience Stores.
National Association of Hosiery Manufacturers.
National Association of Independent Insurers.
National Association of Manufacturers.
National Association of Mutual Insurance Companies.
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National Housewares Manufacturers Association.
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Reinsurance Association of America.
Securities Industry Association.
Semiconductor Equipment and Materials International.
Semiconductor Industry Association.
Small Motors and Motion Association.
Software Association of Oregon.
Software & Information Industry Association.
South Carolina Chamber of Commerce.
Steel Manufacturers Association.
Telecommunications Industry Association.
The Bankers Roundtable.
The Chlorine Institute, Inc.
The ServiceMaster Company.
Toy Manufacturers of America, Inc.
United States Chamber of Commerce.
Upstate New York Roundtable on Manufacturing.
Utah Information Technology Association.
Valve Manufacturers Association.
Washington Software Association.
West Virginia Manufacturers Association.
Wisconsin Manufacturers & Commerce.

Mr. MCCAIN. Mr. President, I will have more to say after the vote.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I hope we do not lose sight of the fact we are on the threshold of being able to do something very important for this country. Those of us on this side of the aisle recognize we must do something with Y2K, and we will.

The fact of the matter is, we are now debating one of the most important issues we face in this Congress. That is, What are we going to do with violence in our schools, violence in our society generally?

We could complete this juvenile justice bill in the next day or two. Amendments have been winnowed down to where we just have a handful. If we stick to the substance of the bill, we could have something very important for the American people. I hope we are allowed to go forward with this juvenile justice bill.

I see the manager of this bill who has done such an outstanding job. I yield to the Senator from Vermont.

Mr. LEAHY. Mr. President, the Senate has considered S. 254 for portions of five days. The first day we were prevented from offering any amendments until almost 3 p.m. in the afternoon. When I tried to offer a first Democratic amendment, the underlying amendment to which it was offered was withdrawn and we started all over. Finally, we were able to offer amendments alternating back and forth across the aisle.

Three amendments were debated and voted on Tuesday evening and my law

enforcement amendment was offered and left pending overnight. On Wednesday we continued to offer amendments on an alternating basis through the day and voted on four more amendments.

The Senate fell into a pattern of tabling amendments offered by Democrats only to see those amendments come back as Republican sponsored amendments that were then adopted. Thus, after rejecting the Leahy law enforcement amendment we saw an amendment offered by Senator ASHCROFT to add back several of its measures and had the McCain amendment on these same matters offered and withdrawn.

Unquestionably the Senate hit a real snag on this bill when it rejected, on a virtual party line vote, the Lautenberg amendment and we saw first the Craig amendment and then Hatch-Craig II seeking to reclaim ground on the gun show amendment. Senator SCHUMER and I tried to point out problems with the Craig amendment only to be told that we were wrong on Wednesday night and right the morning after the amendment was adopted.

On Wednesday the Senate had under consideration eight amendments through the day and voted on four of those. On Thursday the Senate voted on four more amendments and debated the Schumer Internet gun amendment and Hatch-Craig II on gun shows.

On Friday, despite the plans of many Senators to travel to the Balkans and others to be away on other business, we continued debating and voting. There were two additional votes and six additional amendments were offered for debate with votes to be scheduled this week.

It was also on Friday that the Majority Leader attempted to leave this juvenile crime bill and move off onto other matters. By my calculation, it was after the Senate had been permitted only the equivalent of three days on the juvenile crime bill spread over the course of four calendar days. If I recall correctly, the Senate spent almost that amount of time, a couple of years ago, renaming Reagan National Airport.

Indeed, the Majority Leader filed cloture on his motion to proceed to S. 96 immediately after moving to proceed back to that bill and abandon Senate efforts on the juvenile violence legislation. It is that vote that is now approaching. It is that vote that will determine whether we abandon our effort to craft a juvenile violence bill or not. I urge all Senators to stay the course and not abandon this effort.

Rather I would urge that we adopt the words of the Majority Leader from Friday when he said: ''Give it a reasonable time, give it full debate, have reasonable amendments, and then vote.''

No one can seriously claim that Democrats are being dilatory or filibustering this bill. We have proceeded promptly from the moment the Majority Leader called it up for debate and proceeded to offer amendments from the earliest opportunity. I marvel at comments by the sponsors of the bill that it should have been passed with one day's consideration.

The fact is that the bill was not the product of Judiciary Committee action but was introduced by the Majority Leader and the Chairman and five other Republicans from the Judiciary Committee this January and placed directly on the Senate calendar. The sponsors objected to its being referred to the Judiciary Committee and thereby prevented it.

It has sat on the Senate Calendar since January, without hearings, without an opportunity to be considered by the Judiciary Committee, and without any opportunity for any Democrats to offer improvements or amendments to it.

It should not go unnoticed that in spite of the fact that they drafted the bill, so far Republican cosponsors of the bill have sponsored 10 of the 13 Republican-offered amendments to it—the bill's sponsors have sponsored 10 of the Republican amendments so far. It is disingenuous for Republicans to seek leave to revise, reedit and amend their own bill and deny Democrats a fair opportunity to help shape that legislation through the amendment process. How about a commensurate opportunity for others to offer amendments to that work product, too?

The Senate last week had 13 roll call votes on amendments, Senator HATCH accepted one and the Senate accepted one on a voice vote after a tabling motion failed. We have adopted seven amendments by roll call votes, including the two Craig amendments, and tabled five amendments by roll call votes. We were making progress on the bill and I was gratified to hear the encouraging words of the Majority Leader on Thursday.

By last Friday, we had whittled the 89 likely Democratic amendments down by almost half and we have continued working to reduce them. On Friday we reached agreement on a finite list of possible amendments of which there were over 40 reserved not for Democrats but for Republicans.

I have been working on a managers' package with Senator HATCH and believe that one should be ready to be accepted today that will go a long way toward reducing the remaining amendments on both sides and clearing the way to concluding Senate action on this measure. I hope that Senator HATCH will continue to work with me to offer that package without further delay.

After acceptance of that managers' amendment, I expect the remaining Democratic amendments will number less than a dozen, probably less than 10, and maybe less than that. Thus, if all the Democrats in the Senate could just have the opportunity to offer a number of amendments equal to the number of amendments offered so far by three of the original Republican sponsors of the bill, that would likely conclude Senate consideration of the bill and we could move to a vote on final passage.

From all that Senator HATCH has been saying since Sunday, after offering amendments on Friday and Monday, the Republican side has only another three amendments to offer. It would be a shame for the majority to pull the bill now.

In spite of the filing of the Republican motion to pull this bill and move back to the Y2K bill that was debated last month, Democrats have continued offering amendments, when permitted by the Republican majority. Unfortunately, Republican objection last Friday prevented Senator LAUTENBERG from offering his amendment in an effort to get a final vote on the language to be used in the context of gun show sales after Hatch-Craig II modified that language for a second time. I trust that there will be progress on that front today as we proceed and that other Democratic amendments will be allowed to be offered.

It is my understanding that the next two amendments to be offered should be Democratic amendments, since we concluded Monday's session with two Republican amendments in a row.

To date, after the filing of the cloture petition to end action on the juvenile violence bill and move off it and back to a debate on Y2K liability protection for certain businesses, there have been 13 amendments offered and now pending and awaiting Senate votes. As many amendments were offered on Friday and Monday as were voted upon on Tuesday, Wednesday, Thursday and Friday. It is hard to see how anyone could say that we are not making progress and not making a strong good faith effort on this measure.

Let me put this debate in its proper context. In the last Congress, the Judiciary Committee considered S. 10, a juvenile crime bill, and the predecessor to this measure. When Senator HATCH refers to years of work on S. 254, he is referring to the work we did to improve S. 10 in the last Congress. The Judiciary Committee met on six separate occasions to consider 52 amendments to S. 10—40 amendments were adopted by unanimous consent and 12 amendments were considered by roll call votes.

As I have noted, the bill before us today, S. 254, was never considered by the Senate Judiciary Committee. The sponsors bypassed the Judiciary Committee. Democrats never had the chance in Committee to debate it, to offer amendments to S. 254 or to improve it. Is it any wonder that Democrats have amendments to this bill and would like an opportunity to be heard on the important subject of juvenile violence? Democrats' first opportunity to improve this bill is during this Senate floor debate.

Also recall that when Democrats were in the majority and Republicans in the minority in 1994, there was a rather full debate on crime legislation.

The Senate considered the 1994 crime bill for 12 days over three weeks, and considered 99 amendments to the 1994 crime bill.

Let us keep focused on the task of completing consideration of this juvenile violence bill without moving the Senate off onto other matters and abandoning this important effort. Does anyone really believe that the consideration of liability limited Y2K legislation is more important this month than completing Senate action on a juvenile violence bill? I urge a no vote on the Republican cloture motion and ask Republicans then to join with Democrats to continue to work to complete action on the juvenile violence bill.

We are improving the bill by means of this Senate debate. Senator HATCH and I are agreeing to include suggestions from Senators from both sides of the aisle in a managers' amendment that should be accepted today. We have made and are making excellent progress. The Senate should be allowed to complete its work on this important legislation.

We were pleased when the Majority Leader honored his commitment, made during the previous Senate debate on the Y2K bill, S. 96, to take up this measure as a vehicle for youth violence amendments. It would be ironic if we now abandoned that effort to return for a second time to the debate on Y2K legislation before being given an opportunity to complete action on this measure. The Senate should reject cloture on the motion to pull the juvenile violence bill and continue our important work on this measure.

Mr. President, we have not spent a great deal of time on the juvenile crime bill. I think we spent the same amount of time renaming the National Airport. We spent only a fraction of the time on the last crime bill when the Democrats controlled the Senate because of the time taken by the Republican side. There were 99 amendments on that crime bill, I point out.

The fact of the matter is that we can pass a good juvenile crime bill or we can give into a powerful lobby.

I have been a gun owner since I was 14. I trained my children in the use of guns. I come from the only State in the Union with no gun control laws, but I tell you right now my duty is first and foremost to the Senate, not to a gun lobby. I believe Senators should determine the schedule on this bill, not the gun lobbies. Senators should vote this bill up or vote it down, not have it withdrawn at the behest of any lobby, even one as powerful as the gun lobby.

We worked all weekend—all weekend—and we have removed most of the amendments pending.

I point out that so far the Republicans who cosponsored the bill, sponsored 10 of the 13 Republican amendments to this bill. We have taken longer to vote on at least one amendment to accommodate Senators who were out, some for a fundraiser, than we did on the debate on that amendment.

We reached on Friday an agreement on a finite list of possible amendments. We have a possible managers' package that could do this. We can finish this bill. I think if we want to do the actual work, we will get it done.

I reserve the remainder of my time.

Mr. BOND. Mr. President, I rise today to address the Y2K Act from my perspective as the chairman of the Senate Committee on Small Business. The choice presented by this legislation is clear—if you are a supporter of small business in America, you must support this legislation and vote for cloture so that the Senate may proceed on this bill.

One of the highest priorities of the small business community for this Congress is that we establish procedures to resolve disputes efficiently arising from the Y2K computer problem. The consequences that may arise from this problem are as yet unknown. However, small family-owned businesses are understandably concerned that their companies may be in danger either from the problem itself or from suits brought by trial lawyers concerned only with the fees they can obtain from settlements.

The small businesses concerned with Y2K litigation are located on Main Streets all across America, not just Silicon Valley. They are this country's mom and pop groceries, its dry cleaners and its hardware stores. The National Federation of Independent Businesses, the nation's largest small business association, strongly supports this legislation. The NFIB surveyed its members and found that an overwhelming 93% support capping damage awards for Y2K suits. The small business community is speaking with a unified voice in support of Y2K liability legislation and we should not ignore that voice.

I have heard during the debate that enactment of this bill will harm small businesses. That simply is not the case. By merely reading the bill, it is apparent that small businesses will benefit greatly from its provision. So that we may dispel the myths surrounding this bill once and for all, it is important to point out several of the provisions of this legislation that small women and family-owned businesses will find particularly helpful.

First, the legislation encourages alternative dispute resolution for Y2K lawsuits. This will help small businesses tremendously. According to the Gartner Group, an international consulting firm, more than $1 trillion will be spent on litigation relating to the Y2K problem. Lawsuits are likely to occur up and down the supply chain. That is, if the supplier of a family-owned business has a Y2K failure that impacts its abilities to serve its customers, it may have a lawsuit on its hands. That business, to recoup its losses, may then be forced to turn around and sue its supplier, which very well may also be a small business. The supplier then will sue someone else to recoup its losses. The litigation cycle is never-ending and small businesses have the most to lose.

A good example of a small business that may be caught in this cycle of litigation is a constituent of mine who owns a small medical supply company that provides oxygen to patients. He has already determined he has a Y2K problem with his computers and is diligently trying to correct the problem. The Health Care Financing Administration has even required him to create a booklet to provide to customers regarding the steps he has taken to become Y2K compliant. If his suppliers or vendors have a Y2K failure and he cannot supply needed oxygen to his customers, he may very well be subject to lawsuits that could cost him his company. This is the type of situation we must prevent from occurring.

Women-owned and family-owned businesses are the most vulnerable from costly litigation, either as plaintiffs or defendants, because they don't have the time to devote to it and don't have excess revenue to afford it. In addition, small businesses do not want to sue companies with which they have long-standing relationships and whose survival is tied to their own. Therefore, encouraging resolution of disputes outside of the courtroom is of great assistance to these businesses.

Second, the legislation requires plaintiffs to provide defendants with notice prior to filing a complaint and allows defendants 60 days to correct Y2K problems suffered by the plaintiff. Encouraging mitigation and prompt settlement of claims allows small women-owned and family-owned businesses to recover quickly from business disruptions and, most importantly, allows small businesses to continue doing business. As I stated before, many of these businesses do not have the cash flow to engage in long, drawn-out disputes, if they want to stay in business. This provision will allow small women-owned and family-owned businesses to focus on correcting their problems and continuing in business. This is what small businesses want to do and what Congress should encourage.

The bill also establishes punitive damage limits for suits against small businesses. The bill provides that under most circumstances a small business defendant cannot be subject to punitive damages greater than 3 times the compensatory damages awarded or $250,000, whichever is less. I don't believe that anybody can reasonably suggest that this provision will not help the small women-owned and family-owned businesses. Other than the obvious affect the cap will have, placing a limit on punitive damages will allow plaintiffs in meritorious suits to recover their actual damages quicker. Moreover, the cap will decrease the number of frivolous lawsuits that small businesses may have to face, as unscrupulous attorneys will realize that large settlements will not be forthcoming.

It is also important to point out what this bill will not do. It will not prevent a small business from availing itself of the judicial system when it has been wronged by another party's actions related to the Y2K problem. The bill does not affect the enforcement of written contracts nor does it prevent a small business from bringing a lawsuit alleging negligence or other grounds based in tort law. The bill merely establishes a procedure to efficiently remedy disputes and preclude a feeding-frenzy on the part of unscrupulous plaintiff's attorneys attempting to earn their fortune from the Y2K problem.

Earlier this year, Congress passed Y2K legislation that I authored to provide small businesses with the means to fix their own computer systems. The next step is to discourage frivolous suits and permit small women-owned and family-owned businesses to resolve Y2K disputes without costly litigation. The bill now before the Senate is a bipartisan compromise that will accomplish this objective without adversely affecting lawsuits that have merit.

I believe that the choice is clear. If you are a supporter of small women-owned and family-owned business and you want to see them continue as the economic engine that runs this country, you must support this legislation and vote in favor of cloture so that the Senate may proceed on this bill.

Mr. LEAHY. What is the parliamentary situation?

The PRESIDING OFFICER. The Senator from Vermont has 2 minutes 42 seconds, and the Senator from Arizona has 16 seconds.

Mr. LEAHY. Mr. President, I will yield 30 seconds.

Mr. SESSIONS. Mr. President, I had a question: Could we reach a time agreement? We could certainly cut debate on any amendments from this side, I think, to a very short time, and then we ought to be able to reach a time agreement.

The majority leader would allow this bill to come up and we could have the votes that the Senator would like to have, but we need an ending date. We cannot go on with the ''walking'' filibuster that puts all the agenda of this Congress on hold because of an unlimited time debate.

Could we do that?

Mr. DASCHLE. Mr. President, before we vote, let me make a couple of points very clear.

The first point is that we have done everything I know how to cooperate on the juvenile justice bill. We have offered a finite list of amendments. We have worked with our colleagues to reduce that list. We have agreed to time limits. We have not second-degreed or filibustered any amendments on the other side.

As I say, we have done it all. We even offered to offer amendments on Friday and Monday. That was rejected by our Republican colleagues because they didn't want to debate those particular amendments on Friday and Monday, after the majority leader made it clear that he wanted to have a full debate on both of those days. We didn't have a full debate, but it wasn't the fault of Democrats.

So Members might understand my surprise when the majority leader, out of the blue, without any prior notification, filed this motion to proceed on Y2K. I am not sure why he is doing it today. I sense there are some on the other side who don't want to finish the bill, who would rather put the bill back on the calendar, for whatever reason, and who don't want to do it cleanly. They want to do it in an obfuscated way so our fingerprints are on removing the bill. They want our fingerprints on this bill as it is put back on the calendar.

We are not going to do that. We ought to stay on this bill until it is finished. We are getting closer. There is absolutely no reason why, this week—early this week—we couldn't finish this legislation, if we set our mind to doing so.

So we are going to oppose cloture today, not because we don't want to move to Y2K. I want to move to that bill, and I will support a motion to proceed to Y2K. I will do it and I hope we do it immediately, after this bill is completed. We don't need to file cloture on it. I will support it, a lot of our colleagues will support it. We want to get a Y2K bill passed. I hope we could do it in a way that would bring a 100–0 vote. I think we are negotiating in a way that could produce that result, but maybe I am too optimistic.

Let's take these things one step at a time. Let us ensure that we finish this bill before we move on to the next bill. And when we do, I will move on to the next bill and I will move on to the bill after that. We have to get our work done, but let's do it in an organized fashion.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona has 16 seconds.

Mr. McCAIN. Mr. President, I am amused and entertained by the remarks of the Democrat leader. All he has to do is agree to a time and date when the final passage of the juvenile justice bill would be voted on. He knows it. I know it. We know it.

He is using the same excuse he used last time—almost exactly—that he would move forward with the bill and we would have final passage. I congratulate him on his rhetoric.

CLOTURE MOTION

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

The legislative assistant 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 motion to proceed to Calendar No. 34, S. 96, the Y2K legislation:

Trent Lott, John McCain, Jesse Helms, Rod Grams, Connie Mack, John H. Chafee, R. F. Bennett, Larry E. Craig, Craig Thomas, Pete Domenici, Richard G. Lugar, Sam Brownback, Ben Nighthorse Campbell, Pat Roberts, Chuck Hagel, and Spencer Abraham.

VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on the motion to proceed to S. 96, the Y2K Act, shall be brought to a close?

The yeas and nays are required under the rule.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Kansas (Mr. BROWNBACK) is necessarily absent.

Mr. REID. I announce that the Senator from New York (Mr. MOYNIHAN) is necessarily absent.

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

The PRESIDING OFFICER (Mr. CRAPO). Are there any other Senators in the Chamber who desire to vote?

The yeas and nays resulted—yeas 53, nays 45, as follows:

[Rollcall Vote No. 120 Leg.]

YEAS—53

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

NAYS—45

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

NOT VOTING—2

Brownback	Moynihan

The PRESIDING OFFICER. On this vote, the yeas are 53, the nays are 45. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. LOTT. Mr. President, let me say again how disappointed I am that it appears the Senate did not want to deal with the question of the year 2000 computer liability problem. I think that is a devastating blow for business and industry in this country, big and small,

as well as the computer industry. If we do not do this, I predict by this time next year our courts will be clogged with lawsuits. I do not believe that is the answer to the problem.

ORDER OF BUSINESS

Mr. LOTT. So that Senators will know how we would like to proceed for the next hour or so, we want to have a special order in honor of and tribute to one of the finest staff members I have ever known in the 26 years I have been in Congress, Adm. Bud Nance.

PRIVILEGE OF THE FLOOR

Mr. LOTT. I ask unanimous consent that during the tributes to Admiral Nance all staff of the Foreign Relations Committee be granted floor privileges.

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

Mr. LOTT. It is anticipated that following those tributes, some time might be spent hearing further from Senators expressing their concern at and disappointment about the vote against cloture on the motion to proceed to the Y2K issue. Then we will work with the Democratic leadership and the managers of the juvenile justice bill to see how we can proceed on that bill after the policy luncheon hour or two hours. Hopefully, we could have some wrap-up debate on amendments that were offered Friday and Monday, because some of those amendments were offered and some debate was heard but the other side was not heard on that particular amendment, and it could have been from either side of the aisle. So some additional time might be needed for that, and I was thinking of maybe a series of stacked votes.

We have some 13 amendments that are pending. Hopefully, we would not have to have a recorded vote on all of those, but whatever number would be required, and then see if we can work for a way to complete the juvenile justice bill in a reasonable period of time with a reasonable number of amendments on both sides, and then go tomorrow, hopefully, not later than noon, to the supplemental appropriations bill, assuming the House passes that this afternoon or tonight.

I think it would be irresponsible for us to delay any longer than is absolutely necessary to take up this legislation. It has been pending too long. It is supposed to be an emergency, supposed to deal with disasters in Central America, in Kansas and Oklahoma, as well as the defense needs in support of our men and women who are flying bombing raids right now over Kosovo. It would be my intent, as soon as we receive it from the House, to go to that legislation. It is still my hope that we can complete juvenile justice in a reasonable period of time.

Mr. HATCH. Mr. President, I am extremely disappointed in the failure of the Senate to invoke cloture. I believe that there exists strong bipartisan support for the bill and it is a shame that the bill may die for partisan reasons. But the Democrats held firm on cloture. Sometimes party unity is a good thing, but in this case, it is a mistake.

The reason why it is a mistake is that the Y2K problem hurts America. What we face is the threat that an avalanche of Y2K-related lawsuits will be simultaneously filed on or about January 3, 2000 and that this unprecedented wave of litigation will overwhelm the computer industry's ability to correct the problem. Make no mistake about it, this super-litigation threat is real, and if it substantially interferes with the computer industry's ongoing Y2K repair efforts, the consequences for America could be disastrous.

Today we face the more immediate problem of frivolous litigation that seeks recovery even where there is little or no actual harm done. In that regard, I am aware of at least 25 Y2K-related class actions that are currently pending in courts across the country, with the threat of hundreds more to come.

It is precisely these types of Y2K-related lawsuits that pose the greatest danger to industry's efforts to fix the problem. All of us are aware that the computer industry is feverishly working to correct—or remediate, in industry language—Y2K so as to minimize any disruptions that occur early next year.

What we also know is that every dollar that industry has to spend to defend against especially frivolous lawsuits is a dollar that will not get spent on fixing the problem and delivering solutions to technology consumers. Also, how industry spends its precious time and money between now and the end of the year—either litigating or mitigating—will largely determine how severe Y2K-related damage, disruption, and hardship will be.

Let me talk about the potential financial magnitude of the Y2K litigation problem. The Gartner Group estimates that worldwide remediation costs will range between $300 billion to $600 billion. Other experts contend that overall litigation costs may total $1 trillion. Even if we accept the lower amount, according to Y2K legal expert Jeff Jinnett, ''this cost would greatly exceed the combined estimated legal costs associated with Superfund environmental litigation . . . U.S. tort litigation . . . and asbestos litigation.'' Perhaps the best illustration of the sheer dimension of the litigation monster that Y2K may create is Mr. Jinnett's suggestion that a $1 trillion estimate for Y2K-related litigation costs ''would exceed even the estimated total annual direct and indirect costs of all civil litigation in the United States,'' which he says is $300 billion per year.

These figures should give all of us pause. At this level of cost, Y2K-related litigation may well overwhelm the capacity of the already crowded court system to deal with it.

Thus, it is imperative that Congress should give companies an incentive to fix Y2K problems right away, knowing that if they do not make a good-faith effort to do so, they will shortly face costly litigation. The natural economic incentive of industry is to satisfy their customers and, thus, prosper in the competitive environment of the free market. This acts as a strong motivation for industry to fix a Y2K problem before any dispute becomes a legal one. This will be true, however, only as long as businesses are given an opportunity to do so and are not forced, at the outset, to divert precious resources from the urgent tasks of the repair shop to the often unnecessary distractions of the court room. A business and legal environment which encourages problem-solving while preserving the eventual opportunity to litigate may best insure that consumers and other innocent users of Y2K defective products are protected.

The Y2K problem presents a special case. Because of the great dependence of our economy, indeed of our whole society, on computerization, Y2K will impact almost every American in some way. But the problem and its associated harms will occur only once, all at approximately the same time, and will affect virtually every aspect of the economy, society, and government. What we must avoid is creating a litigious environment so severe that the computer industry's remediation efforts will slacken and retreat at the very moment when users and consumers need them to advance with all deliberate speed. What we must avoid is the crippling the high tech sector of our economy.

As chairman of the Federal Reserve Board Alan Greenspan recently noted, the tremendous growth of our economy is in large measure a result of productivity gains resulting from the computerization of our economy. America is unquestionably the high tech leader in the world today. Our technology is a major export item. Unless the Y2K bill is passed, the American high tech information industries and computer businesses will be swamped by an avalanche of lawsuits.

Mr. President, why kill the goose that lays the golden egg? Let the Senate vote on the underlying bill. Let the Senate vote on Democrat and Republican amendments. But let us vote on the merits of the bill. Leave politics aside. This issue is too important to be held hostage.

The excuse that the minority proffered is that the Y2K should not be brought up until the Juvenile Justice bill is completed. How ironic. I have been working around the clock to work on a time agreements for amendments to the Juvenile Justice bill. The minority has been delaying the Juvenile Justice bill and uses the delay as an excuse to vote no on cloture petition on a motion to proceed to the Y2K bill. That's called chutzpa.