allowed into manufacturing, they would be much more likely to buy existing manufacturing operations than to start new ones. This is particularly true for switch manufacturing, which is very capital intensive. If the Bell companies refuse to supply software to independents, they can prevent the independents from providing new services. Then the Bell companies could market such services to the small company's large customers, emphasizing that the small company was unable to offer the service.

The concern we have is that the Bell companies could divert the traffic of selected large customers to their own facilities. This would leave behind costs that remaining residential customers would have to absorb through higher rates. A Bell company also could use this leverage if it wanted to acquire a neighboring small independent in a growing area. It could further its acquisition objective by depriving the target company of technology, thus stimulating consumer complaints to regulators.

Small and rural companies are also worried that a Bell company could acquire an existing manufacturer, change the product line to meet Bell plans and needs, and cease to support equipment and software installed by small companies. If new software is not made available, a rural company might have to choose between installing a new switch or depriving its subscribers of new services.

Third, our amendment would require the Bell companies to engage in joint network planning, design and operations.

S. 173 undercuts joint planning and widespread infrastructure availability because it only requires the Bell companies to: First, inform other local telephone companies about their deployment of equipment; and second, report changes to protocols and requirements. The bill's requirements are too little too late. They will not lead to a nationwide, information-rich telecommunications infrastructure.

Small companies need a voice in the process to assure that the network is designed, implemented and operated jointly by all.

Small companies need a voice in the process to assure that the network is designed, implemented and operated jointly by all local telephone companies to meet the goal of nationwide access to information age resources.

Finally, our amendment calls for strong district court enforcement procedures, including damages. S. 173 provides only for FCC common carrier authority, which proved inadequate to remedy past refusals to provide equipment to small local telephone companies. If independents do not have the ability to go to district court with their complaints, they cannot reasonably have any confidence that the essential safeguards will be effective.

We are currently discussing this amendment with the authors of the bill and we hope we can include this as part of the package we bring to the floor. I urge my colleagues to support this amendment to ensure that rural companies have reasonable, enforceable and continuing access to the equipment and joint network planning they need so that all Americans, urban and rural alike, can share in a nationwide, information-rich telecommunications network.

TELECOMMUNICATIONS EQUIPMENT RESEARCH AND MANUFACTURING COMPETITION ACT

The PRESIDING OFFICER (Mr. REID). Under a previous order, the hour of 3 p.m. having arrived, the Senate will now proceed to the consideration of S. 173, which the clerk will now report.

The legislative clerk read as follows:

A bill (S. 173) to permit the Bell Telephone Companies to conduct research on, design, and manufacture telecommunications equipment, and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on Commerce, Science, and Transportation, with amendments; as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italics.)

S. 173

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Telecommunications Equipment Research and Manufacturing Competition Act of 1991".

SEC. 2. FINDINGS.

The Congress finds that the continued economic growth and the international competitiveness of American industry would be assisted by permitting the Bell Telephone Companies, through their affiliates, to manufacture (including design, development, and fabrication) telecommunications equipment and customer premises equipment, and to engage in research with respect to such equipment.

SEC. 3. AMENDMENTS TO THE COMMUNICATIONS ACT OF 1934.

Title II of the Communications Act of 1934 (47 U.S.C. 201 et seq.) is amended by adding at the end the following new section:

"REGULATION OF MANUFACTURING BY BELL TELEPHONE COMPANIES

"SEC. 227. (a) Subject to the requirements of this section and the regulations prescribed thereunder, a Bell Telephone Company, through an affiliate of that Company, notwithstanding any restriction or obligation imposed before the date of enactment of this section pursuant to the Modification of Final Judgment on the lines of business in which a Bell Telephone Company may engage, may manufacture and provide telecommunications equipment and manufacture customer premises equipment, except that neither a Bell Telephone Company nor any of its affiliates may engage in such manufacturing in conjunction with a Bell Telephone Company not so affiliated or any of its affiliates.

"(b) Any manufacturing or provision authorized under subsection (a) shall be conducted only through an affiliate (hereafter in this section referred to as a 'manufacturing affiliate') that is separate from any Bell Telephone Company.

"(c) The Commission shall prescribe regulations to ensure that—

"(1) such manufacturing affiliate shall maintain books, records, and accounts separate from its affiliated Bell Telephone Company which identify all transactions between the manufacturing affiliate and its affiliated Bell Telephone Company and, even if such manufacturing affiliate is not a publicly held corporation, prepare financial statements which are in compliance with Federal financial reporting requirements for publicly held corporations, file such statements with the Commission, and make such statements available for public inspection;

"(2) consistent with the provisions of this section, neither a Bell Telephone Company nor any of its nonmanufacturing affiliates shall perform sales, advertising, installation, production, or maintenance operations for a manufacturing affiliate; except that institutional advertising, of a type not related to specific telecommunications equipment, carried out by the Bell Telephone Company or its affiliates shall be permitted if each party pays its pro rata share;

"(3)(A) such manufacturing affiliate shall conduct all of its manufacturing within the United States and, except as otherwise provided in this paragraph, all component parts of customer premises equipment manufactured by such affiliate, and all component parts of telecommunications equipment manufactured by such affiliate, shall have been manufactured within the United States;

"(B) such affiliate may use component parts manufactured outside the United States if—

"(i) such affiliate first makes a good faith effort to obtain equivalent component parts manufactured within the United States at reasonable prices, terms, and conditions; and

"(ii) for the aggregate of telecommunications equipment and customer premises equipment manufactured and sold in the United States by such affiliate in any calendar year, the cost of the components manufactured outside the United States contained in the equipment does not exceed 40 percent of the sales revenue derived from such equipment;

"(C) any such affiliate that uses component parts manufactured outside the United States in the manufacture of telecommunications equipment and customer premises equipment within the United States shall—

"(i) certify to the Commission that a good faith effort was made to obtain equivalent parts manufactured within the United States at reasonable prices, terms, and conditions, which certification shall be filed on a quarterly basis with the Commission and list component parts, by type, manufactured outside the United States; and

"(ii) certify to the Commission on an annual basis that for the aggregate of telecommunications equipment and customer premises equipment manufactured and sold in the United States by such affiliate in the previous calendar year, the cost of the components manufactured outside the United States contained in such equipment did not exceed the percentage specified in subparagraph (B)(ii) or adjusted in accordance with subparagraph (G);

"(D)(i) if the Commission determines, after reviewing the certification required in subparagraph (C)(i), that such affiliate failed to make the good faith effort required in subparagraph (B)(i) or, after reviewing the certification required in sub-

paragraph (C)(ii), that such affiliate has exceeded the percentage specified in subparagraph (B)(i), the Commission may impose penalties or forfeitures as provided for in title V of this Act;

"(ii) any supplier claiming to be damaged because a manufacturing affiliate failed to make the good faith effort required in subparagraph (B)(i) may make complaint to the Commission as provided for in section 208 of this Act, or may bring suit for the recovery of actual damages for which such supplier claims such affiliate may be liable under the provisions of this Act in any district court of the United States of competent jurisdiction;

"(E) the Commission, in consultation with the Secretary of Commerce, shall, on an annual basis, determine the cost of component parts manufactured outside the United States contained in all telecommunications equipment and customer premises equipment sold in the United States as a percentage of the revenues from sales of such equipment in the previous calendar year;

"(F) a manufacturing affiliate may use intellectual property created outside the United States in the manufacture of telecommunications equipment and customer premises equipment in the United States;

"(G) the Commission may not waive or alter the requirements of this subsection, except that the Commission, on an annual basis, shall adjust the percentage specified in subparagraph (B)(i) to the percentage determined by the Commission, in consultation with the Secretary of Commerce, as directed in subparagraph (E);

"(H) no more than 20 [per centum] *percent* of the equity of such manufacturing affiliate shall be owned by its affiliated Bell Telephone Company and any affiliates of that Bell Telephone Company;

"(I) any debt incurred by such manufacturing affiliate may not be issued by its affiliates, and such manufacturing affiliate shall be prohibited from incurring debt in a manner that would permit a creditor, on default, to have recourse to the assets of its affiliated Bell Telephone Company's telecommunications services business;

"(J) such manufacturing affiliate shall not be required to operate separately from the other affiliates of its affiliated Bell Telephone Company;

"(K) if an affiliate of a Bell Telephone Company becomes affiliated with a manufacturing entity, such affiliate shall be treated as a manufacturing affiliate of that Bell Telephone Company within the meaning of subsection (b) and shall comply with the requirements of this section; and

"(L) such manufacturing affiliate shall make available, without discrimination or self-preference as to price, delivery, terms, or conditions, to all local telephone exchange carriers, for use with the public telecommunications network, any telecommunications equipment manufactured by such affiliate so long as each such purchasing carrier—

"(A) does not either manufacture telecommunications equipment, or have a manufacturing affiliate which manufactures telecommunications equipment, or

"(B) agrees to make available, to the Bell Telephone Company affiliated with such manufacturing affiliate or any of the other affiliates of such [company,] *Company*, any telecommunications equipment manufactured by such purchasing carrier or by any entity or organization with which such carrier is affiliated.

"(3)(A) The Commission shall prescribe regulations to require that each Bell Telephone Company shall maintain and file with the Commission full and complete information with respect to the protocols and technical requirements for connection with and use of its telephone exchange service facilities. Such regulations shall require each such [company] *Company* to report promptly to the Commission any material changes or planned changes to such protocols and requirements, and the schedule for implementation of such changes or planned changes.

"(2) A Bell Telephone Company shall not disclose to any of its affiliates any information required to be filed under paragraph (1) unless that information is immediately so filed.

"(3) When two or more carriers are providing regulated telephone exchange service in the same area of interest, each such carrier shall provide to other such carriers timely information on the deployment of telecommunications equipment.

"(4) The Commission may prescribe such additional regulations under this subsection as may be necessary to ensure that manufacturers in competition with a Bell Telephone Company's manufacturing affiliate have ready and equal access to the information required for such competition that such [company] *Company* makes available to its manufacturing affiliate.

"(c) The Commission shall prescribe regulations requiring that any Bell Telephone Company which has an affiliate that engages in any manufacturing authorized by subsection (a) shall—

"(1) provide, to other manufacturers of telecommunications equipment and customer premises equipment, opportunities to sell such equipment to such Bell Telephone Company which are comparable to the opportunities which such Company provides to its affiliates;

"(2) not subsidize its manufacturing affiliate with revenues from its regulated telecommunications services; and

"(3) only purchase equipment from its manufacturing affiliate at the open market price.

"(d) A Bell Telephone Company and its affiliates may engage in close collaboration with any manufacturer of customer premises equipment or telecommunications equipment during the design and development of hardware, software, or combinations thereof relating to such equipment.

"(e) The Commission may prescribe such additional rules and regulations as the Commission determines necessary to carry out the provisions of this section.

"(f) For the purposes of administering and enforcing the provisions of this section and the regulations prescribed thereunder, the Commission shall have the same authority, power, and functions with respect to any Bell Telephone Company as the Commission has in administering and enforcing the provisions of this title with respect to any common carrier subject to this Act.

"(g) The authority of the Commission to prescribe regulations to carry out this section is effective on the date of enactment of this section. The Commission shall prescribe such regulations within one hundred and eighty days after such date of enactment, and the authority to engage in the manufacturing authorized in subsection (a) shall not take effect until regulations prescribed by the Commission under subsections (c), (d), and (e) are in effect.

"(h) Nothing in this section shall prohibit any Bell Telephone Company from engaging, directly or through any affiliate, in any manufacturing activity in which any Company or affiliate was authorized to engage on the date of enactment of this section.

"(i) As used in this section:

"(1) The term 'affiliate' means any organization or entity that, directly or indirectly, owns or controls, is owned or controlled by, or is under common ownership with a Bell Telephone Company. Such term includes any organization or entity (A) in which a Bell Telephone Company and any of its affiliates have an equity interest of greater than 10 percent, or a management interest of greater than 10 percent, or (B) in which a Bell Telephone Company and any of its affiliates have any other significant financial interest.

"(2) The term 'Bell Telephone Company' means those companies listed in appendix A of the Modification of Final Judgment, and includes any successor or assign of any such company, but does not include any affiliate of any such company.

"(3) The term 'customer premises equipment' means equipment employed on the premises of a person (other than a carrier) to originate, route, or terminate telecommunications.

"(4) The term 'manufacturing' has the same meaning as such term has in the Modification of Final Judgment as interpreted in United States v. Western Electric, Civil Action No. 82-0192 (United States District Court, District of Columbia) (filed December 3, 1987).

"(5) The term 'Modification of Final Judgment' means the decree entered August 24, 1982, in United States v. Western Electric, Civil Action No. 82-0192 (United States District Court, District of Columbia).

"(6) The term 'telecommunications' means the transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received, by means of an electromagnetic transmission medium, including all instrumentalities, facilities, apparatus, and services (including the collection, storage, forwarding, switching, and delivery of such information) essential to such transmission.

"(7) The term 'telecommunications equipment' means equipment, other than customer premises equipment, used by a carrier to provide telecommunications services.

"(8) The term 'telecommunications service' means the offering for hire of telecommunications facilities, or of telecommunications by means of such facilities.".

The PRESIDING OFFICER. Does the Senator from South Dakota seek recognition?

Mr. PRESSLER. Mr. President, I would like to speak briefly on this bill, if I could?

The PRESIDING OFFICER. The manager of the bill.

Mr. FORD. Mr. President, I do not mind. It is a little bit out of order to speak on an amendment before the bill has even been brought up, but I will be glad to yield to the Senator from South Dakota, if he wishes to proceed.

The PRESIDING OFFICER. The Senator from South Dakota is recognized.

Mr. PRESSLER. Mr. President, as I mentioned earlier, I am certainly not going out of order in a way. Since the Chamber is empty, I thought I might use this opportunity to further speak on the amendment I shall be offering, which is of great importance to small, independent telephone companies and to rural cooperative companies.

A number of these small and rural telephone companies have contacted me to express their concerns about

being shut out of the process. The purpose of the amendment to be offered by myself and other Senators is to do three things, which we feel would help to correct this problem.

Our goal is universal service, and without universal servcie as a fundamental premise of our national telecommunications policy, we in rural and small city parts of the country feel we may be left behind in the advancing information age.

It has occurred to me that both our inner cities and our small cities have something in common. They are frequently left out of the telecommunications advances. For example, only recently was Washington, DC, wired for cable TV. The same problem has been true of rural areas and small cities and towns.

The companies that provide these services want to provide them the very affluent suburbs, the heavily populated suburbs, and everybody forgets about the more difficult to serve areas. In 1934 we passed the Communication Act which established the concept of universal service. To be consistent with this concept, companies would take some very rich routes, but they would also take some very poor routes. That is how we built our national communications system.

So universal telephone service is something that we are very, very concerned about. This includes not only telephone service but also service that fiber optic cable will bring in the future; also service to small-town hospitals, to small-town libraries, to farms and ranches so that they can participate in the information.

The manufacturing restriction relaxation envisaged in S. 173 should be accompanied by some very clear language protecting these smaller cities and rural telephone providers.

As I have said, our amendment would require the Bell Company to make software and telecommunications equipment available to other local exchange carriers without discrimination or self-preference. For example, a small, independent company or a rural telephone co-op might be sold a switch or some other piece of telecommunications equipment but then not be able to buy the software necessary to upgrade that equipment. They would be at the complete mercy of the regional Bell operating companies. That should not be the case.

The bill, S. 173, requires Bell company affiliates to make equipment available only to other local telephone companies and only for use with the public telecommunications network. Other local telephone companies must make available any telecommunications equipment they or any of their affiliates manufacture, to any Bell company that sells them equipment and to any of their affiliates for any use.

Second, our amendment, as I have mentioned, would require the Bell companies that manufacture equipment to continue making telecommunications equipment available, including software, to other local telephone companies so long as reasonable demand for it exists. I emphasize this is a reasonable demand. S. 173 contains no requirement to maintain availability to satisfy the reasonable continuing demand of other local telephone companies.

Small and rural companies are concerned that if the Bell companies are allowed into manufacturing, they would be more likely to buy existing manufacturing operations than start new ones. This is particularly true for switch manufacturing.

The third area, and perhaps the most important one, deals with joint network planning, design, and operations. I might say, before going into that, that the small and rural companies are also worried that a Bell company could acquire an existing manufacturer to change its product line to meet Bell plans and needs and cease to support equipment and software installed by small companies. If that software is not made available, a rural company might have to choose between installing a costly new switch or depriving its subscribers of new services.

Fourth, our amendment would require the Bell companies, to engage, as I mentioned, in joint network planning and design. This may be controversial to some, but the small, independent telephone companies and the telephone cooperatives should be a part of the planning process.

Some might ask, Why do we need this provision? So that we do not have the regional telephone companies just dictating policy. I think our small companies and co-ops, however, should be at the table. Their voices need to be heard. Otherwise, they will be forced to do exactly what they are told, and that is not in the public interest.

Small companies need a voice in the process to assure that the network is designed, implemented, and operated jointly by all. I have emphasized this before. We have been in consultation with many of the smaller telephone companies and co-ops in preparing these amendments.

So at the appropriate time I shall offer these amendments, and I look forward very much to the debate on this bill.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. FORD. Mr. President, today the Senate is considering S. 173, the Telecommunications Equipment Research and Manufacturing Competition Act of 1991. This is an important bill which I hope my colleagues will join me in supporting. This bill removes the manufacturing restriction on the regional Bell operating companies imposed by the modification of final judgment. Let me note at the onset that this bill does not address the other restrictions imposed on the Bell companies regarding information services or long distance services.

Senator HOLLINGS, chairman of the Commerce Committee introduced S. 173 on January 14, 1991, and it now has 25 cosponsors. A hearing was held on the bill on February 28 of this year. S. 173 was approved overwhelmingly by the Commerce Committee on March 19, 1991, by a vote of 18 to 1. During last Congress, a similar version of this bill, S. 1981, was also introduced in May 1990 by Senator HOLLINGS and two hearings were held on the bill by the Commerce Committee. S. 1981 was approved by the Commerce Committee on a voice vote.

Before I describe this legislation in more detail, I want to thank Senator HOLLINGS for this important legislation. The Senator from South Carolina has worked very hard on this legislation over the last 2 years. It is only through his initiative and leadership that the bill has reached the floor of the Senate. This work also has resulted in the inclusion of language to address the concerns of this country's communications workers—to promote the manufacturing or telecommunications equipment in the United States. I believe that this bill will be good for the U.S. workers while at the same time enhancing this country's international competitive standing in the communications equipment market.

S. 173 permits the regional Bell operating companies to manufacture and provide communications equipment. At the same time, S. 173 recognizes that the Bell companies continue to occupy a dominant position in the local telephone service. The bill thus includes a variety of strong safeguards to protect against cross-subsidization and self-dealing. In conducting their manufacturing activities the Bell companies must comply with several safeguards, including the following:

NO JOINT MANUFACTURING

To prevent collusion, the Bell companies cannot manufacture in conjunction with one another. The bill requires that the Bell companies create seven independent manufacturing entities that will compete with each other as well as with existing manufacturers.

SEPARATE AFFILIATES

The Bell companies must conduct all their manufacturing activities from separate affiliates. The affiliate must keep books of account for its manufacturing activities separate from the telephone company and must file this information publicly.

NO SELF-DEALING

First, the Bell company may not perform sales, advertising, installation, production, or maintenance operations for its affiliate; second, the Bell company must provide other manufacturers an opportunity to sell to the telephone company comparable to that which it provides to its own affiliate; and third, a Bell company may only purchase equipment from its affiliate at the open market price.

NO CROSS-SUBSIDIZATION

The Bell company is prohibited from subsidizing its manufacturing operations with revenues from its telephone services.

DISCLOSURE OF NETWORK INFORMATION

The Bell company must file with the Federal Communications Commission [FCC] full and complete information concerning the telephone network immediately upon revealing any such information to its manufacturing affiliate.

In addition, Mr. President, S. 173 includes a compromise agreement between the Bell companies and the Communications Workers of America [CWA] regarding the domestic manufacturing provision. This compromise provision requires: First, that the Bell companies conduct all their manufacturing in the United States; and second, that a certain percentage of the components they use be manufactured in the United States. Both the Bell companies and CWA support this provision and support S. 173.

Passage of this legislation is critical for a number of reasons: One of the most important is international competitiveness. The U.S. position in high-technology industries is in decline on a number of fronts. U.S. research and development expenditures as a percentage of GNP lag behind Japan and West Germany, for instance. The Bell companies spend far less of their revenues on R&D than the average high technology firm.

The regional Bell operating companies have tremendous assets and experience that could benefit the U.S. international competitive position significantly, if they are allowed to manufacture. The Bell companies earn over $80 billion in annual revenues, control over one-half the Nation's entire communications assets, and provide 80 percent of the Nation's local telephone service. Lifting the manufacturing restrictions would give the Bell companies increased incentives to conduct research and development. If their researchers develop a new or cheaper product, they can profit from that research by bringing it to market. The Bell companies also are likely to provide seed money to many small entrepreneurs who otherwise would seek capital from foreign sources.

In closing, Mr. President, I again thank Senator HOLLINGS and all of the members of the Commerce Committee for their work on this legislation. Today we have before us legislation that will help the United States regain its lead as a manufacturer of advanced telecommunications equipment. I urge all of my colleagues to support this legislation.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. ROBB). Without objection, it is ordered.

Mr. METZENBAUM. Mr. President, I rise in open opposition to S. 173. I will be making an extension statement on this bill tomorrow, but today I want to very briefly outline my position on the bill.

S. 173 eliminates the manufacturing restriction contained in the AT&T consent decree. In itself, that is an extraordinary step. The Congressional Research Service has indicated that the Senate has rarely, if ever, piece of legislation that overrides an ongoing judicial consent decree.

The purpose of this legislation is to allow the Baby Bells to manufacture the switches and transmission equipment which are the backbone of their local telephone monopolies. In my view, the effect of this bill will be to hurt consumers and reduce competition.

Many people think this bill is just a battle between AT&T and the Baby Bells over market share in the equipment market. If that were the case, I would not be standing here on the floor and I would not be standing on the floor tomorrow. AT&T and the Baby Bells are all big companies. They can take care of themselves. But the fact is that this issue is of critical importance to anyone who pays a telephone bill every month.

Make no bones about it, this is a consumer issue. History has demonstrated that consumers get hurt whenever the local phone monopolies can make the equipment which is used in their telephone networks. That is why AT&T was broken up in the first place. The Bell operating companies simply bought equipment from their manufacturing affiliates, paid inflated prices and shifted excess costs on to consumers, and the regulators were powerless to prevent such abuses. If we pass this bill we will be inviting history to repeat itself.

The Bell's incentive and ability to use monoploy power in an anticonsumer and anticompetitive manner has not changed and the regulators' ability to prevent such abuses has not improved. That is why the antitrust courts have continued to uphold the manufacturing restriction, even as they have loosened other parts of the consent degree.

So this bill is all risk for consumers and no benefit. The Bell monopolies are the only parties that are sure to benefit from this bill. There is nothing in S. 173 for the consumers. That is why every major consumer group in the country, all the State utility consumer advocates, and the AARP oppose this legislation.

The reason our Halls around here have been filled with Baby Bell lobbyists is they know they can make more money if they can go into this related activity of manufacturing. Today there is a restriction. When and if this legislation becomes law, there will be no such restriction. There will be some limitations but they will not be sufficient to protect the consumer. And the Baby Bells will again be in the position that AT&T was in some years ago before the matter was in the courts.

There are claimed safeguards in S. 173 which the proponents claim will prevent anticonsumer and anticompetitive abuses. I say to my colleagues in the Senate, they simply will not be effective. Have no question about it, the suggested protections that are in the bill will not protect the consumers and will not keep the Baby Bells from being able to go forward and manufacture and pass on those costs to the consumers.

I am frank to say I have drafted a number of amendments designed to reduce the harm that would be caused by this legislation. If those amendments are not adopted, or to least a substantial portion of them, then this Senate will have passed a piece of legislation that I believe would be very anticonsumer; that would cause telephone rates to increase in the years ahead of us.

I hope when those amendments come before the Senate the managers of the bill will look at them, see whether they are fair, see whether there is equity, see whether it is just; accept some of those amendments. I do not think we can make a bad bill into a good bill, but we certainly can make this bill into a much better bill than it is by accepting some or all of the amendments I will be proposing.

My colleagues should judge this bill according to a simple standard. Based upon our understanding of history, monopoly behavior, and the effectiveness of regulatory oversight in the telephone industry, will this bill be of benefit to both consumers and competition? I believe the answer to that question is no. And I urge my colleagues to oppose the bill and support the amendments I will submit.

I believe otherwise the American consumer will once again bear the burden, and the Bell operating companies will find themselves in the position that AT&T was formerly in, and they will able to raise prices to the American consumer. Certainly, economic times at present are not such that that is warranted.

I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

Mr. FORD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. DOMINICI. Mr. President, the United States is witnessing the beginning of a new era in telecommunications. Innovative technologies are breaking into the market in a wide range of areas from fiber optics to consumer products. Yet, while the U.S. communications industry is spending more on research and development than ever before, we lag behind other leading nations in percentage terms. Large European and Japanese firms increased their research and development spending by 25 percent last year, while the United States' leading communications manufacturer has increased its spending by less than 6 percent.

For the long-term best interest of this Nation, it is critical that we loosen the chains that currently bind regional Bell operating companies [RBOC's] from investing in research and development. Currently there is little market incentive for RBOC's to compete in the research and design of new telecommunications technologies although they control more than half of the industry resources. S. 173 is a significant vehicle for directing valuable telecommunications resources into promoting U.S. competitiveness and trade.

I would be remiss, however, if I failed to comment on my opposition to a particular provision of S. 173 that I believe is inconsistent with the intent of the legislation as a whole. The domestic manufacturing and content provision, while admirable in concept, is anticompetitive in practice. As the consent decree that restricts the RBOC's from manufacturing communications equipment illustrates, often times, unnecessary protections become inefficient barriers.

By requiring the RBOC's to manufacture only in the United States, and to use only component parts manufactured here—subject to certain limited exceptions—this provision of S. 173 seriously undermines our Nation's fundamental goal of achieving free and open trade in telecommunications equipment markets both here and abroad.

Additionally, enactment of the domestic content requirements gives our foreign trading partners a handy excuse for closing the door on U.S. manufactured goods, just when it has finally been opened. These provisions will set a poor precedent for other nations that look to the United States for guidance on trade policy matters.

S. 173 offers a unique opportunity to create new jobs, stimulate technological development, sharpen the U.S. competitive edge, increase the liquidity of financial resources for use by small communications manufacturers, and enhance efficiency. S. 173 accomplishes these feats without Federal funding, but rather by utilizing a tool which is at the heart of the American democracy, the market system.

Mr. HATCH. Mr. President, I support enactment of S. 173, the Telecommunications Equipment Research and Manufacturing Competition Act of 1991.

I believe it is time for Congress to assert its role in setting telecommunications policy for this nation. In doing so, Congress should acknowledge the impressive advances of the telecommunications industry in the last 10 years and assure that such technological advances continue. The best way I know how to achieve this goal is through competition.

The benefits of the AT&T divestiture have included, for example, the ability of consumers to choose from among several providers of long distance service. The divestiture has, however, resulted in some problems. One of these problems is that a significant portion of the American telecommunications industry is effectively banned from contributing to the advance of technology. This ban is inhibiting the development of new services by telephone companies.

Mr. President, to an important extent, the seven regional Bell operating companies have been forbidden from competing in a number of markets. Whatever case may have existed 10 years ago for these lines of business restrictions, it seems to me the competitive nature of the industry today has convincingly undermined the case for some, if not all, of the restrictions. Still, the restrictions remain. In this, I share the frustration of the Bush administration, which also supports removal of the ban on the regional Bell companies' ability to engage in manufacturing.

As a result of this ban:

American telecommunications research and development has been slowed;

Innovation has been retarded, and American businesses interested in working with the regional Bell companies—businesses now able to work with and receive funding from foreign companies—are severely hamstrung in their ability to do so.

S. 173 will inject more competition into the marketplace by permitting the regional Bell companies to enter the manufacturing field. This bill cleared the Commerce Committee with overwhelming bipartisan support, 18 to 1. I commend Senators HOLLINGS and DANFORTH, chairman and ranking Republican, for their leadership in this matter.

THE NEED FOR S. 173—CHANGED CIRCUMSTANCES

AT&T was broken up by the 1982 consent decree entered in the Department of Justice's antitrust case initiated in 1974. The Department of Justice obtained provisions in the consent decree banning the divested regional Bell companies from manufacturing or providing telecommunications equipment and from manufacturing customer premises equipment. The Justice Department apparently feared that if the regional Bell companies were allowed to enter the manufacturing field, they would discriminate against other equipment manufacturers by providing them poorer access to their network and denying them information about network changes. Moreover, there was concern that the regional Bell companies would underprice their manufacturer competitors by overcharging ratepayers buying local telephone services from their regulated monopolies, and by using that revenue to cross subsidize their manufacturing activities.

Whatever the merits of this barrier to market entry may have been in 1982—and the merits were doubtful even then—changed circumstances clearly call for its removal today.

MARKETPLACE CHANGES

In 1982, one company made the vast bulk of decisions on purchasing telecommunications equipment. Now, seven regional Bell companies and private buyers and carriers not delivering local exchange service also buy large amounts of telecommunications equipment.

Moreover, there are many other suppliers of telecommunications equipment to these regional Bell companies and the other buyers of such equipment. No one regional Bell company's purchases are likely to be anticompetitive. We have vigorous competition in equipment markets, including large companies that have the advantage of economies of scale and scope. Why keep these seven regional Bell companies out of the market?

As Assistant Attorney General for Antitrust, James Rill said in a May 21, 1991, written statement to the Senate Judiciary Committee:

> Removal of the manufacturing restriction in all probability will have significant procompetitive benefits. It is critical that the nation's telephone companies be able to take advantage of and participate in the rapid technological changes that affect this industry. It is well-recognized that the [regional Bell companies] would be formidable competitors in the telecommunications equipment market, and they would be expected to apply their considerable expertise and efficiency in the development of innovative products to the benefit of American consumers. Removal of the manufacturing restriction would permit the [regional Bell companies] to design or work more closely with independent manufacturers to design equipment to best meet their own needs and those of other carriers and customers. This in turn would facilitate the efficient development and implementation of new services—especially exchange services to support the developing information service markets.
>
> Removal of the manufacturing restriction also would permit elimination of the current waiver process under the AT&T decree for such activities. That process currently

delays, deters or frustrates outright the provision by the [regional Bell companies] of new products and imposes unnecessary burdens on the industry, the Department, the courts and the American public.

In light of the potential for significant competitive benefits if the [regional Bell companies] are permitted to enter telecommunications equipment and customer premises equipment markets and the absence of significant risk of anticompetitive abuses, the administration believes that the manufacturing restrictions should be eliminated as soon as possible.

CURRENT BAN'S ADVERSE IMPACT ON R&D; AMERICAN COMPANIES

Mr. President, this bill has been described by some opponents as anticonsumer. I believe more competition in the telecommunications manufacturing field is proconsumer. I draw my colleagues' attention to the testimony of the Department of Commerce before the Commerce Committee in support of the removal of the manufacturing restrictions. There, the Department of Commerce stated:

Elimination of the manufacturing restriction will help promote increased telecommunications R&D in this country, and it should also have an impact on related infrastructure development. A 1989 National Telecommunications and Information Administration study found this restriction hampers R&D, not only for the Bell companies themselves, but also for other entities desiring to work with the Bell companies to manufacture telecommunications equipment. The restriction has impaired both the pace at which innovations are being brought to the market and the overall cost of that process.

Mr. President, this impairment of research and development activity hurts consumers by slowing down innovation and increasing the cost of new products and services when they are developed. It also harms America's global competitiveness. As the Commerce Department testified:

U.S. competitiveness could be fostered by permitting the Bell companies to serve as a source of "seed" capital for smaller U.S. manufacturing companies, and also to enter joint manufacturing ventures themselves. In some cases, entrepreneurial U.S. companies have had to turn to foreign firms as a source of funding or expertise.

The testimony of Mark C. Smith, president and CEO of Adtran, Inc., before the Senate Judiciary Committee, is instructive in this regard and gives life to the points made by the administration. Mr. Smith's company has over 200 employees in Huntsville, AL. Adtran designs and manufactures digital loop transmission equipment for telephone companies.

Mr. Smith testified that the manufacturing ban imposed on the regional Bell companies, "as currently interpreted, weakens both my [regional Bell company] customer base as well as their ability to communicate their needs. The ban reduces competition by removing the normal free flow of information between the small entrepreneur looking for the unfulfilled needs of his customers." The regional Bell companies really cannot contribute to Adtran's research and development efforts, a problem other American entrepreneurs also face. Adtran's 50 product design engineers are not able to communicate freely with the regional Bell companies in order to design equipment to meet their needs. Yet, Adtran is able to work with its other customers, including foreign customers, and receive research and development funds from them, in order to meet their equipment needs. Mr. Smith noted that the regional Bell companies, his biggest group of customers, "are having difficulty in ensuring the timely introduction of new technology in digital services for business applications."

S. 173 WILL FOSTER INNOVATION FOR PERSONS WITH DISABILITIES

In addition, Mr. President, with respect to fostering innovation, let me note that the Americans With Disabilities Act is a broad mandate for access for persons with disabilities. In the telephone context, however, it only does so in a minimum way. ADA mandates the use of intrastate and interstate dual-party relay systems utilizing operators to translate text from telecommunication devices for the deaf, TDD's, to voice and vice versa to allow a TDD user to converse with a user of a standard telephone. Unleashing the regional Bells would spur innovation generally, including the design and development of services for persons with disabilities. What form might these innovations take? The best way to find out is by letting the regional Bell companies into the manufacturing market. Let me cite, however, the May 21, 1991, statement of Deborah Kaplan, director of the Technology Policy Division of the World Institute on Disability:

There is no technical reason that the networks of the future cannot be designed with "electronic curb cuts," features that permit use by everyone including persons with disabilities. These design features would allow voice output or voice synthesis for people who cannot read enlargeable text, both visual and auditory prompts, multiple modes of input to accommodate people with limited or no dexterity, variable speed command and control systems, and variable sound output to accommodate people with hearing impairments.

Implementation of these features as standard user options will result in many unforseen benefits and applications for the public at large, just as with the original [sidewalk] curb cuts. Just as curb cuts made life easier for far more than the wheelchair riders who pressed for them, this kind of network flexibility will produce all kinds of benefits for the public at large.

It is no surprise that Ms. Kaplan endorsed S. 173 because increasing competition will foster innovation and further the interests of the large market consisting of Americans with disabilities.

FEAR OF CROSS-SUBSIDIZATION AND DISCRIMINATION MISPLACED

Finally, Mr. President, I believe the fears that the regional Bell companies will abuse their entry into the manufacturing field are misplaced. I have already mentioned the competitive nature of that market.

Let me also note that the antitrust laws will still apply to the regional Bells in their manufacturing capacities—with both private scrutiny by competitors and Government scrutiny as well.

Let me respond to the concern that the regional Bell companies will use rates paid by users of their local telephone monopolies in their manufacturing activities. While Federal and State oversight is never 100 percent perfect, I respectfully submit that such concern is much overstated. It is the mission of regulatory agencies to keep telephone rates low. They closely scrutinize rate increase requests and efforts to attribute costs from unregulated activities to the rates paid by local telephone users. Moreover, as Federal Communications Commission Chairman Alfred Sikes and Assistant Attorney General Rill have testified, the FCC has improved rules pertaining to cost accounting and allocation that should check the regional Bell companies if they seek to undertake anticompetitive cross subsidies of their unregulated manufacturing activities with local telephone ratepayer fees.

Similarly, I respectfully submit that the concern that a regional Bell company may buy inferior equipment or pay inflated costs to its manufacturing affiliates is unlikely to be realized. Current FCC regulations, for example, govern such affiliate transactions. Federal and State regulators can deny excessive equipment costs.

The concern that a regional Bell company might impede competition by keeping information about local network exchanges from competitor manufacturers is met by FCC rules requiring timely disclosure of network design information. Further, current manufacturers of telecommunications equipment are already key actors in the design of regional Bell networks. They will likely be aware of planned changes in any event. Of course, a regional Bell company is likely to purchase at least some of its own manufacturing products. Such partial vertical integration occurs in many industries and generally fosters competition.

The bill contains even more safeguards. For example, the bill precludes one regional Bell company from engaging in manufacturing with another regional Bell company. Further, a regional Bell company must perform any manufacturing through a separate affiliate and may not engage in any sales, specific advertising, installation, and similar functions for the manufacturing affiliate. Indeed, the Bush administration feels the bill's safeguards go too far.

CONCLUSION

I urge my colleagues to open the door to further competition by supporting S. 173 and removing the manufacturing ban imposed on the seven re-

gional Bell companies. Let's help American companies innovate and compete in world markets.

MORNING BUSINESS

Mr. FORD. Mr. President, I ask unanimous consent that there be a period for morning business, with Senators permitted to speak therein.

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

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. McCathran, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

WAIVER OF CERTAIN SECTIONS OF THE TRADE ACT—MESSAGE FROM THE PRESIDENT—PM 53

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with accompanying papers; which was referred to the Committee on Finance:

To the Congress of the United States:

I hereby transmit the documents referred to in subsection 402(d)(1) of the Trade Act of 1974, as amended (19 U.S.C. 2432(d)(1)) ("the Act"), with respect to a further extension of the authority to waive subsections (a) and (b) of section 402 of the Act. These documents continue in effect this waiver authority for a further 12-month period.

I include as part of these documents my determination that further extension of the waiver authority will substantially promote the objectives of section 402. I also include my determination that continuation of the waivers applicable to the Republic of Bulgaria, the Czech and Slovak Federal Republic, the Soviet Union, and the Mongolian People's Republic will substantially promote the objectives of section 402. The attached documents also include my reasons for recommending the extension of the waiver authority, and for my determination that continuation of the waivers currently in effect for the Republic of Bulgaria, the Czech and Slovak Federal Republic, the Soviet Union, and the Mongolian People's Republic will substantially promote the objectives of section 402. My determination with respect to the waiver applicable to the People's Republic of China and the reasons therefor is transmitted separately.

I note that the extension of the waiver applicable to the Soviet Union will apply to Estonia, Latvia, and Lithuania. This in no way affects the long-standing U.S. policy of not recognizing the forcible incorporation of Estonia, Latvia, and Lithuania into the Soviet Union or our support for the right of the Baltic States to reclaim their independence.

GEORGE BUSH.

THE WHITE HOUSE, *June 3, 1991.*

MESSAGES FROM THE HOUSE RECEIVED DURING ADJOURNMENT

ENROLLED BILL SIGNED

Under the authority of the order of the Senate of January 3, 1991, the Secretary of the Senate, on May 24, 1991, during the adjournment of the Senate, received a message from the House of Representatives announcing that the Speaker has signed the following enrolled bill:

H.R. 2127. An act to amend the Rehabilitation Act of 1975 to extend the programs of such act, and for other purposes.

Under the authority of the order of the Senate of January 3, 1991, the bill was signed on May 24, 1991, during the adjournment of the Senate, by the President pro tempore [Mr. BYRD].

ENROLLED BILLS SIGNED

Under the authority of the order of the Senate of January 3, 1991, the Secretary of the Senate, on May 30, 1991, during the adjournment of the Senate, received a message from the House of Representatives announcing that the Speaker has signed the following enrolled bills:

H.R. 232. An act to amend title 38, United States Code, with respect to veterans programs for housing and memorial affairs, and for other purposes;

H.R. 831. An act to designate the Owens Finance Station of the United States Postal Service in Cleveland, Ohio, as the "Jesse Owens Building of the United States Postal Service"; and

H.R. 2251. An act making dire emergency supplemental appropriations from contributions of foreign government and/or interest for humanitarian assistance to refugees and displaced persons in and around Iraq as a result of the recent invasion of Kuwait and for peacekeeping activities, and for other urgent needs for the fiscal year ending September 30, 1991, and for other purposes.

The enrolled bills were subsequently signed on today, June 3, 1991, by the Acting President pro tempore [Mr. FORD].

MEASURES PLACED ON THE CALENDAR

The following bills were read the second time, and placed on the calendar:

H.R. 7. An act to amend title 18, United States Code, to require a waiting period before the purchase of a handgun; and

S. 1151. A bill to restore an enforceable Federal death penalty, to curb the abuse of habeas corpus, to reform the exclusionary rule, to combat criminal violence involving firearms, to protect witnesses and other participants in the criminal justice system from violence and intimidation, to address the problem of gangs and serious juvenile offenders, to combat terrorism, to combat sexual violence and child abuse, to provide for drug testing of offenders in the criminal justice process, to secure the right of victims and defendents to equal justice without regard to race or color, to enhance the rights of crime victims, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-1277 A communication from the Administrator of the Environmental Protection Agency, transmitting a draft of proposed legislation to amend and extend the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, for two years; to the Committee on Agriculture, Nutrition, and Forestry

EC-1278. A communication from the Administrator of the Environmental Protection Agency, transmitting a draft of proposed legislation to amend the Federal Insecticide, Fungicide, and Rodenticide Act to provide for the collection of certain fees by the U.S. Environmental Protection Agency to the Committee on Agriculture, Nutrition, and Forestry.

EC-1279. A communication from the Assistant Secretary of Agriculture (Science and Education), transmitting pursuant to law, the 1989 annual report on the Food and Agricultural Sciences; to the Committee on Agriculture, Nutrition, and Forestry.

EC-1280. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report on the President's third special impoundment message for fiscal year 1991; pursuant to the order of January 30, 1975, as modified on April 11, 1986, referred jointly to the Committee on Appropriations, the Committee on the Budget, the Committee on Armed Services, and the Committee on Foreign Relations.

EC-1281. A communication from the Assistant Secretary of the Army (Manpower and Reserve Affairs), transmitting a draft of proposed legislation to amend titles 10, 14, and 37, United States Code, relating to the promotion, separation, and mandatory retirement of warrant officers of the armed forces, to establish the grade chief warrant officer, W-5, and for other purposes; to the Committee on Armed Services.

EC-1282. A communication from the First Vice President and Vice Chairman of the Export-Import Bank of the United States, transmitting, pursuant to law, a report with respect to a transaction involving United States exports to the Republic of Indonesia; to the Committee on Banking, Housing, and Urban Affairs.

EC-1283. A communication from the Secretary of Housing and Urban Development, transmitting, pursuant to law, the annual report on the Congregate Housing Services Program for calendar year 1989; to the Committee on Banking, Housing, and Urban Affairs.

EC-1284. A communication from the Chairman of the Interstate Commerce Commission, transmitting, pursuant to law, certain legislative proposals adopted by the

To be spoken—
That this nation under God
Shall have a new birth of freedom
And that government, of the people
By the people, and for the people
Shall not perish from the earth
We just want to say thank you
For we can hold our heads up high
Yes you have brought us all together
Under one big sky
We thank you Norm and Colin
You showed our nations pride
That we will all remember, until the day we die
So let sing . . . God Bless America

A COMMUNICATION TO THE PRESIDENT OF NICARAGUA

Mr. McCAIN. Mr. President, today Senators DOLE, KASTEN, MACK, CRAIG, DURENBERGER, SMITH, SYMMS, HATCH, and I sent a letter to the President of Nicaragua, Dona Violeta Barrios de Chamorro. We wrote to inform President Chamorro of our concern over her government's recently concluded contractual arrangement with Reichler and Soble, attorneys at law.

I ask unanimous consent that the letter be made a part of the RECORD following the conclusion of my remarks.

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

U.S. SENATE,
Washington, DC, May 24, 1991.

Her Excellency DONA VIOLETA BARRIOS DE CHAMORRO,
President, Republic of Nicaragua.

DEAR MADAME PRESIDENT: We have recently been informed that the Nicaraguan Ministry for the Presidency has concluded a contract with Reichler and Soble, Attorneys at Law for the expressed purpose of representing Nicaragua's position on the civil war in El Salvador to members of the United States Congress. As members of Congress, we wish to make clear how disturbed we are that the freely elected government of Nicaragua would seek the services of Mr. Paul Reichler, principal partner of Reichler and Soble, and formerly the de facto spokesman of the Sandinista National Liberation Front.

We are among the most faithful supporters of Nicaraguan democracy. For many years, in a variety of public fora, our support of Nicaraguan democrats, as well as our personal support for you, required us to endure Mr. Reichler's unswerving defense of the Sandinistas' brutal repression of the cause for which you have dedicated your life. We are gravely disappointed that your government would now engage Mr. Reichler to represent to us your position on the question of El Salvador.

Of all the issues of mutual interest to the United States and Nicaragua, we cannot think of one where Mr. Reichler would be a less credible spokesman. We understand that Mr. Reichler has the right to represent your government, and that your government has the right to employ Mr. Reichler. We do not wish to interfere in the sovereign affairs of your country.

However, as your supporters, we feel obliged to advise you that, at a time when you are seeking additional economic assistance from the United States, Mr. Reichler's representation of your government will harm rather than enhance your government's image with members of the United States Congress.

Sincerely,

John McCain, Robert Kasten, Larry Craig, Robert Smith, Orrin Hatch, Robert Dole, Connie Mack, David Durenberger, Steven Symms.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER (Mr. LIEBERMAN). Under the previous order, the hour of 11 a.m. having arrived, morning business is now closed.

TELECOMMUNICATIONS EQUIPMENT RESEARCH AND MANUFACTURING COMPETITION ACT

The PRESIDING OFFICER. The clerk will report the pending business.

The legislative clerk read as follows:

A bill (S. 173) to permit the Bell Telephone Co. to conduct research on, design, and manufacture telephone communications equipment, and for other purposes.

The Senate resumed consideration of the bill.

Mr. HOLLINGS. Mr. President, let me first thank my distinguished colleague, the senior Senator from Kentucky, Senator FORD, a very able member of our committee who took the floor in presenting this measure on yesterday. We appreciate his strong statement and understanding of the issue at hand and his tremendous help on yesterday in presenting it to the Senate.

I rise today to speak in favor of S. 173, the Telecommunications Equipment Research and Manufacturing Competition Act. This legislation is essential to the future competitiveness and economic security of the United States.

Mr. President, that is not a light statement. We have tried this approach of restrictions and often it is that we in the U.S. Congress think that when we get the domestic crowd controlled and restricted that we have control. We are not in control at all. And it becomes more and more dramatically demonstrated each day that passes.

I want to emphasize this to bring into focus the particular issue at hand because we are not running pell mell for a monopoly. In essence, we are going to be really struggling with the various amendments of a monopoly; namely, AT&T, which has been the principal opponent. They have a good deal going. They have long distance, almost exclusively.

What they do is, they manufacture and they deal with themselves, and all these amendments about self-dealing, all these amendments about content and various other things do not apply to them at all. And all the concerns of my consumer friends about the adverse effect if this bill passes on consumers has not occurred, of course, with AT&T and long distance rates which are regulated both at the Federal and State level, obviously regulated at the State level in the main and at the Federal level for the regional Bell operating companies.

But more than that, there is a tremendous dynamic competition, if you watch these Bell Cos. compete against each other. If I could, I would have changed the name of the Bell Cos.' to the Different Other Cos.' Let one be Bell and another one be Horn, and every instrument in the band, and call one the Drum Co. and one the Saxophone Co., to get the mentality of the U.S. Congress changed to the particular issue at hand.

We have tremendous competition going on. So much so, that with all $80 billion in the revenues of the seven operating companies, they go pell mell overseas, investing like gang busters, buying up New Zealand, buying up Mexico, buying up Argentina. They are putting in optic fiber from Moscow to Tokyo, and cellular phones in downtown Hungary.

And we are sitting back here in the U.S. Senate, saying, We are in charge, we know what we are doing and we have control of the market. No, market forces operate.

I had that debate here only last week with respect to fast track. And it was very difficult to get that idea through everybody's mind. As long as they understand that the Government is the most important element in that market force in international competition. Domestic content, for example. There will be many, many amendments made about domestic content. And we are forced, under the circumstances, on the one hand to meet that kind of competition.

They have domestic content in the home countries of all these foreign entities doing business in the United States. They have the domestic content provisions there. On fast track most people, as a result of the diligent work by the White House over a 7- to 8-month period, came with mind sets to this floor and they did not understand that what we had, in essence, was not a debate about free trade but fee trade. The fees are being paid as I am talking about free Mexico. And the foreign entities are moving in and paying the fees. It is an accepted procedure.

We have a Foreign Corrupt Practices Act. But that is the rule of the game. If you are a member of the Diet, you not only get your stipend, you have three or four companies that pay you on the side. That is not a Congress. Americans think everybody is just like us. You have to pay the mordida, in downtown Mexico now. And they are all doing it and they are all locating there. We are not losing jobs, we are losing entire industries. It was not free trade, it was fee trade. And all the reports said the little South Carolina Senator was worried about his textiles.

That worry is practically gone. We have passed the textile bill four or five

times and it has been vetoed each time. And we still struggle along.

Learning from that experience, I think it is very important, in this particular measure, to bring right into sharp focus what the situation is. The situation is, due to a consent decree back in 1984, the divestiture of American Telephone & Telegraph, we had eight companies, seven Bells and AT&T, and all were separated out under a modified final judgment, the MFJ.

It is very interesting to note, that AT&T at that particular time said they did not want to have any restrictions on any of the companies. I quote the AT&T general counsel. I also have a statement of Charlie Brown, the chairman of AT&T at the time:

I am against restrictions. I will be happy if nobody is restricted on anything. After this divestiture occurs, let the regional Bell Operating Cos. do what they want.

Well, the Justice Department did not agree with that. They had misgivings on antitrust, and they forbade the seven operating companies to get into information services, into long distance, and into manufacturing. This bill, S. 173, has no concern with information services and long distance. Long distance is out there and being operated and there is no petition or desire to get into that. Information services would be too complex and I do not think we would advance very far in all reality. But in manufacture, this Senator, and many of our other colleagues in the body, are very much concerned about the ineffectiveness, in fact, the reverse effect of this legislation on our economy, our investment, our research, our development—our remaining on the cutting edge of communications technology.

If you cannot make money out of it, then why invest in it and why not go to New Zealand, and go down to Argentina, and go down to Mexico, and go anywhere else? After all, you have stockholders and they are looking for returns. You want to be a forward-looking executive, a corporate head, and you want to make sure you get the best returns. And it is mandatory you do so in order to keep your rates down. So that is what we are doing.

Here is an entity; namely the U.S. Senate, with a Budget Committee and Finance Committee doing this, while everybody else is looking around for investment dollars. I have described the competition down in Mexico on fee trade already, investing $1 billion, Nissan announced; $1.5 billion for Volkswagen, $400 million from Hyundai—you can go right on down the list. Corporate America is on its financial heels. They are not investing. They are overextended at this particular moment.

Here we have some of the strongest corporate entities, financially strong, with money to invest, that are being forbidden to do so by a rather fanciful restriction that has not proved out. It cannot be restricted because others are coming in here and taking over the market, buying up the companies, advancing in the technology because they can do the research—we cannot do the research and development—and literally taking the remaining thing we have left with respect to our technology.

At least the Senators can concentrate on one. They cannot seem to get the broad picture of international trade. Let us hope they can get at least a picture with respect to communications technology, communications trade, communications manufacture, research and development, and keeping America strong; and, yes, keeping the consumers properly serviced with the advanced technology.

This bill is not against the consumers, as they are going to try to charge in some of these amendments. This is a proconsumer bill if there ever was one, if we want to really satisfy the consumers as they watch these other developments in France and everywhere else tie these things in and wonder why.

It is like our late friend, Senator Robert Kennedy said, "Some men see things as they are and wonder why, I see things that never were, and ask why not."

Here we are going out of business because of this restriction enforced by the Justice Department, in the original instance now, has gone by the board. The foreign entities have gone around the end. And it is not a small advance. I want the colleagues to understand. Here are the companies with home markets which have domestic content provisions, with financing and all.

We know the cartel provisions in Japan and the government-supports in all these other countries. They do not have a Glass-Steagall Act in Germany. The bank can be part of the business. The business is part of the bank. And we are losing construction contracts the world around.

Similarly, the aircraft industry is learning what France and the rest of them do over there, and the Europeans. EEC 1992, incidentally, is not orchestrating and organizing for free trade, they are organizing for the trade battle. As we are sitting back here, fat and happy, and dumb to boot, here is exactly what is going on.

I will take a little time of the Senate because this is the alarm that sounded to me when I realized how pervasive the invasion and takeover of our communications industry in America is, almost like fleas on a dog: Hitachi, Japan, manufacturing computers and telecommunications equipment in numerous facilities around the country. In April 1990, Hitachi announced their intention to acquire the U.S. computer peripheral maker, data products, for $160 million.

Matsushita operates eight plants in the United States. It expects to add more. It opened a seventh research laboratory in September of 1990 to develop airline passenger information and communications equipment. The ruling of Judge Greene, who has been administering this modified final judgment, has been interpreted on numerous petitions that we have made before the judge, to forbid, in reality, any research work.

Because if you do it, you can combine with some entity outside, but then you cannot test it, and whoever is doing the research work you cannot tell them why it did not test good, it was faulty, and they have to guess again and come back again. Of course, industry and business are too dynamic to put up with that nonsense, and they just do not have research.

So the research moneys are coming right in here from the foreign entities who are taking over. Fujitsu has a commitment and they capture a share of the U.S. digital central office switch terminal equipment market. They have developed a switch and advanced broad band capabilities. They want a 10-year, $17 million contract with the Telecommunications System of California, in Fresno. They have six research and development centers as well as manufacturing facilities in the United States. They have an $80 million telecommunications plant in Richardson, TX. Fujitsu North American Communications Manufacturing Operations will employ up to 4,500 by the year 2000, and they want to increase the product demand in the United States from 20 percent to 50 percent.

I ask unanimous consent, Mr. President, to print this summary of foreign investment and control in the RECORD.

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

FOREIGN COMPANIES ARE DOING WHAT AMERICAN COMPANIES CANNOT

Examples of foreign activity in U.S. markets closed to the Bell Holding Companies by the MFJ restrictions:

Hatachi (Japan), is implementing strategy designed to significantly increase its information systems manufacturing base in the U.S. Is manufacturing computers and telecommunications equipment in several facilities around the country, and has plans to begin extensive research and development activity by 1990s. In April 1990, announced intention to acquire U.S. computer peripheral maker Dataproducts for $160 million.

Matsushita (Japan), operates eight plants in the U.S. and expects to add more. Since 1983, has developed/acquired U.S. facilities to produce cellular mobile telephones, pagers, and computer systems components. Opened seventh U.S. research laboratory in September 1990 to develop airline passenger information and communications equipment. Other facilities are conducting research in areas such as speech recognition and synthesis, digital image processing and high density data recording, communications systems, advanced computers and high definition television.

Fujitsu (Japan), has recently made commitment to capture share of U.S. digital central office switch and ISDN terminal equipment market. Has been running U.S. trials on terminal equipment since 1988 and purchased U.S. computer peripheral maker Intelligent Storage in 1988. A Fujitsu digital

switching system is currently undergoing beta testing for U.S. market compatibility. Aiming for Bell operating company business in the ISDN and post-ISDN marketplace, Fujitsu has developed switch with advanced broadband capabilities. Fujitsu recently won a 10-year, $17 million contract to build integrated telecommunication system for California State University at Fresno.

Fujitsu has six research and development centers as well as communications equipment manufacturing facilities in the U.S. Began construction in Fall 1989 of $80 million telecommunications plant in Richardson, Texas scheduled for completion in 1992. New plant will be base for all Fujitsu North America's communications equipment manufacturing operations; will employ up to 4,500 by year 2000. Fujitsu wants to increase its product demand in U.S. from 20 percent to 50 percent by 1992. Company is also considering entering U.S. market for UNIX-based software applications; tentatively plans to open software development center in U.S. by mid-1991. Fujitsu is reportedly among several companies negotiating with AT&T to acquire minority stake in Unix Systems Laboratories, AT&T subsidiary that develops Unix computer operating systems and software.

Nippon Telegraph & Telephone (Japan), Japan's domestic telephone company, announced its entrance into rapidly growing $40 billion U.S. data communications services market in February 1990. Subsidiary, NTT Data Communications Systems Corporation, has opened offices in Jersey City, NJ; initial target will be Japanese companies doing business in U.S.; future targets are likely to be U.S. companies. NTT Data will manage, data transmission facilities, office phone systems, and develop private data network software for customers. Project is NTT's largest investment in U.S.; will initially be about $100 million. NTT Data employs 7,000 worldwide and had 1989 revenues of $2.7 billion. NTT also owns over 50 percent of NTT International which established Dynamic Loop Corporation in Delaware to invest in communications projects in U.S.

NTT is also the major investor in Alcoa Fujikura, a Spartanburg, SC joint venture that produces fiber-optic hardware for assembling communications networks.

NEC (Japan), has about 8 percent of North American office telephone switch/equipment market. It is dedicated to worldwide development of products and services that integrate computer and communications technologies. Operates four manufacturing plants in U.S. and in 1988 increased the capability of its specialized semiconductor design centers and added new facilities for developing communications systems software and home information systems technology. Opened new research facility in Irving, Texas in November 1989, the Advanced Switching Laboratory, that will develop broadband hardware and software for central office and customer premises equipment. ASL employed about 50 doctorate level engineers by mid-1990 and plan is to double that number. Lab is intended to become key source of software that drives NEC's advanced communications equipment; was based in U.S. because NEC believes U.S. still has superior software technology and wants to take advantage of it. NEC is reportedly among several companies negotiating with AT&T to acquire minority stake in Unix Systems Laboratories, AT&T subsidiary that develops Unix computer systems and software.

In May 1990, NEC opened a $25 million research facility in Princeton, NJ, where mostly American scientists will concentrate on basic research in physics and computer science, areas that are the foundation of advanced communications technologies. Facility is expected to employ about 100 persons, about half of whom will be researchers; several scientists already hired were previously with AT&T's Bell Labs.

Kokusai Denshin Denwa (Japan), established first U.S. subsidiary to market telecommunications products and services to American firms in Fall 1989. In addition to seeking new business, KDD America will coordinate operations of Telehouse International, New York-based firm of which KDD is largest shareholder with 25 percent. Telehouse is leading provider of super-secure, disaster-proof computer, communications, and data processing centers to the financial industry. It recently opened second facility, a $35 million center on Staten Island. (Except for 12 percent interest purchased by AT&T in May 1989 the rest of Telehouse is held by other Japanese firms.) KDD is also part owner of Infonet, California-based packet switch network company that provides value-added network products and services to global data communications market.

Nintendo (Japan), is developing interactive videogame and information service network for introduction into U.S. market by 1991. Network would link already popular Nintendo Entertainment System (NES) videogames for long distance game playing and access to other information services. Users would access main computer and software from anywhere in U.S. AT&T is expected to be partner in venture.

Ricoh (Japan), has aggressive plans to expand its U.S. business to point where 25 percent of its revenues are from this country. Company, which makes copiers, facsimile machines and other automated office and communications equipment, now does 15 percent of its business in U.S. Ricoh opened $2.5 million plant outside Atlanta, GA in October 1990 and plans to increase its manufacturing presence in U.S. over next few years.

Recruit Company (Japan), provides information management and telecommunications services in New York City area through subsidiary Recruit USA. Operates super-secure, disaster-proof data service centers in Newport, NJ and Staten Island serving customers primarily in the financial and banking industries. Dedicated fiber-optic network links centers to Manhattan.

Toshiba (Japan), began manufacturing telecommunications equipment for U.S. market in Irvine, CA in October 1989. Decision to move manufacturing from Japan is largely effort to avoid imposition of import duties if company is named in anti-dumping suit. Toshiba added 103,000 square feet to its plant in Irvine, CA to accommodate manufacture of PBXs and key systems. Irvine plant is also Toshiba's major U.S. personal computer assembly facility. In October 1990 Toshiba announced goal to assemble all computers it sells in U.S. in Irvine by 1993 and to increase local content from 25 percent to 40 percent. In effort to strengthen software development, particularly for its lap-top computers, Toshiba also plans to more than double number of software technicians in Irvine to 160 by 1993. Toshiba is reportedly among several companies negotiating with AT&T to acquire minority stake in Unix Systems Laboratories, AT&T subsidiary that develops Unix computer operating systems and software.

In April 1990, Toshiba America Consumer Products Inc. announced plans to open research center in New Jersey to develop high-definition television technology.

Mitsubishi (Japan), manufactures mobile telephones in U.S. through its subsidiary Mitsubishi Consumer Electronics, Inc. In November 1990, announced plans to double annual output at its Georgia plant to 40,000 mobile phones by March 1992.

Siemens AG (W. Germany), has launched concerted effort to increase its presence in U.S. by acquiring over 30 U.S. companies. Is concentrating on five high-growth areas: factory automation, office automation, telecommunications, semiconductor technology and diagnostic medical equipment. Major communications deals: purchased 80 percent interest in GTE's Communication Systems' Transmission Product Division (1986); acquired, for $165 million, full control of Tel Plus Communications, the largest U.S. independent interconnect company (1987); paid almost $1 billion for ROLM, IBM's telephone equipment manufacturing arm (1988). Purchase of ROLM increased Siemens' share of North American office-telephone equipment market from about 4 percent to over 20 percent; almost doubled its share of world market. Efforts to increase share of U.S. digital central office switch market are backed by 500-engineer research facility devoted to specialized software development.

In November 1990, Siemens and U.K.'s GPT Ltd. announced intention to merge the two companies; public telecommunications operations in the U.S. Joint venture between Siemens Communications Systems, Inc. of Boca Raton, FL, and Stromberg-Carlson Corp. of Lake Mary, FL, will be known as Siemens Stromberg-Carlson and will be North America's third largest public network supplier. Venture, which will have about 4,000 employees based largely in Florida, will design, develop, produce and market computerized public telephone switches, packet switching and tranamission systems.

Deutsche Bundespost Telekom (Germany), will open U.S. office to spearhead effort to transfer its already successful German videotext and value added network services to U.S. market. Is part owner of Infonet, California packet switch network company that provides value-added network products and services to global data communications market.

France Telecom (France), provides long distance data communications through Minitel Services Company (MSC is joint venture between Minitel USA and Infonet); MSC's "videotext network" is slated to eventually serve 150 cities in U.S. and Canada. Through U.S. subsidiary Minitelnet, France Telecom is offering over 10,000 videotext information services to U.S. including electronic directory services it publishes.

Alcatel NV (France), is launching strategy to develop and market intelligent network products worldwide. Gaining ground in American market is Alcatel's top priority; plans to reenter U.S. public switching market with broadband ISDN technology in mid-1990s. Recent acquisition of U.S. fiber and cable business makes Alcatel third largest supplier in U.S. In 1987, Alcatel NV began manufacturing key systems and PBXs in Corinth, MS.

Groupe Bull (France), agreed to purchase Zenith Data Systems for up to $635 million. Zenith Electronic's successful computer unit, Zenith Data Systems had 1988 sales of $1.4 billion; is largest seller of battery operated laptop computers in U.S. Acquisition will make Bull largest European computer company; it will gain market share in U.S. and Europe and be positioned to compete on global scale.

British Telecom (U.K.), wants to become leading information services company in U.S. by providing videotext and other information services through BT-Tymnet, company formed by consolidation of BT's Dial-

com unit and recently purchased Tymnet, Dialcom, Rockville, MD-based operation with marketing arms in U.K. and continental Europe, was purchased from ITT in 1986 and ranked as third largest e-mail provider in U.S. in 1987. BT has invested over $40 million to add new databases and advanced E-mail services to Dialcom service. It has enhanced service offerings by linking its U.S. and U.K. data centers via long distance communications; arrangement allows BT to offer all services to all users (whether in U.K. or U.S.) without incurring cost of duplicating software or databases. Dialcom counts among its customers the U.S. Congressional Correspondence System which provides electronic mail service to the Hill.

In July 1989, BT reached agreement with McDonnell Douglas to purchase Tymnet, the second largest U.S. provider of value-added network services with annual revenues of about $250 million. Purchase price was reportedly $335 million. The acquisition of Tymnet gave BT a vast U.S.-based network linking over 750 U.S. cities and more than 30 countries. In addition to the network, sale also included McDonnell Douglas' e-mail and electronic data interchange systems, which substantially strengthened BT's already formidable position in the U.S. electronic services market.

BT is also aiming to penetrate North American computer/communications systems integration market. It plans to develop, manufacture and market broad range of data communications equipment through Herndon, VA based subsidiary BT Datacom. (Formerly Mitel Datacom, unit of Mitel, Canadian company in which BT has 51 percent interest). Products will include fiber optic LANs, computer integrated telephony products, PCs and terminals. BT is backing entry into U.S. data communications market with over $30 million research and development effort.

BT's purchase of 22 percent stake in McCaw Cellular Communications Inc. gave it access to 30 percent of U.S. mobile communications markets, including cellular radio, paging and digital cordless communications. Through this venture BT can offer statewide automatic cellular services, a service Bell company cellular operations cannot provide, at considerable competitive disadvantage, due to MFJ interLATA restrictions. BT also purchased 80 percent of Metrocast paging from Metromedia Telecommunications and plans to spend over $21 million in system expansion, operations and marketing plans.

Cable & Wireless (U.K.), provides long distance telephone service throughout U.S. through owned and leased facilities. By almost doubling capacity of U.S. portion of its "Global Digital Highway," Cable & Wireless has coast-to-coast network that is more than 90 percent fiber optic and has access to 80 percent of U.S. business population with equivalent of 27 million miles of high quality circuit capacity. Long distance traffic over this network increased by 21 percent to over 630 million minutes. In December 1989, C&W began 100 percent digital end-to-end private line service in California for in-state data transmission. Company has been targeting services primarily to business customers, but plans to begin marketing more aggressively to residential customers.

In November 1990, Cable & Wireless reached an agreement to acquire Washington, D.C.-based Alba Data Technology, also known as DataAmerica. Acquisition of DataAmerica network will enable C&W to offer services such as electronic mail and electronic data interchange. C&W also purchased long distance portion of GTE Telemessengers voice messaging business in January 1991. Together, acquisition move C&W closer to goal of offering end-to-end enhanced data networking services in U.S. and globally.

Hawley (U.K.), paid $715 million for American District Telegraph (ADT), leader in U.S. security products and services (including remote electronic security information services).

L. M. Ericsson (Sweden), has assets in U.S. of only about $320 million but has about 5 percent of U.S. PBX equipment and multiplexer market and is aiming for 10 percent. Ericsson is becoming player in integrated communications systems business. In Spring 1989 was awarded $3 million contract to install integrated voice and data transport network for State University of New York health center; other installed systems include California State University and University of Massachusetts.

Ericsson is very active of U.S. market for cellular system infrastructure equipment, primarily switching. In 1989, formed joint venture with GE to produce cellular phones, mobile radio products and Mobitex mobile data communications systems. Venture, known as Ericsson GE Mobile Communications, Inc., is 60 percent owned by Ericsson, 40 percent by GE. In late 1989, Ericsson established new company, Ericsson Mobile Data, Paramus, NJ, to supply, install and maintain Mobitex system. Ericsson is partner in American Mobile Data Communications venture to build and operate first nationwide 2-way all-digital Mobitex mobile radio network, linking top 50 U.S. specialized mobile radio systems.

October 1990 announcement of major order received from McCaw Cellular and Lin Broadcasting made Ericsson leading supplier of cellular equipment in U.S., surpassing Motorola and AT&T. With new order, to replace Motorola equipment in New York-New Jersey area, Ericsson will have cellular systems in nine of America's 13 largest cellular markets; approximately 2.3 million U.S. cellular subscribers will be served by Ericsson equipment.

Ericsson GE Mobile Communications opened research and development center in Research Triangle Park, NC in late 1990. R&D center will develop and commercialize digital cellular telephones and base stations for the North American market. Initially employing about 50 American and Swedish engineers, center is expected to grow over next several years.

Elsevier (Netherlands), owns several traditional and electronic publishers in U.S. Holdings include Congressional Information Service, which specializes in U.S. government and congressional information publications and databases, and real estate data companies Real Estate Data and Damar. Growth of U.S. operations (32 percent increase in American publishing revenues between 1987 and 1988) prompted formation of two new business groups: Elsevier Information Systems and Elsevier Business Press.

VNU BV (Netherlands), owns Disclosure, one of largest and most widely available U.S. business information database publishers.

N.V. Philips (Netherlands), generates 20 to 30 percent of total revenues through U.S. sales, mostly of consumer electronics. Plans to aggressively increase its stake in U.S. to about 50 percent by concentrating on improving its standing in information technologies markets; will increase already significant U.S. manufacturing base accordingly. Philips is largest European manufacturer of semiconductors and has healthy stance in U.S. market via acquisition of Signetics.

Thyssen-Bornemisza Inc. (Monaco), owns Predicast, one of largest and most comprehensive U.S. business and defense information database publishers.

International Thomson Organization Ltd (Canada), established presence in U.S business information services market through acquisition of U.S. service and software firms. In 1988, acquired Business Research Corp. developer of IvestText and First Call (leading on-line financial database and equity research network) and Technical Data Corp., publisher of financial information and developer of software for institutional investment community. Companies are grouped with other holdings under "International Financial Networks Group" known as "Infinet."

EXAMPLES OF FOREIGN COMPANY ACTIVITY IN U.S. MARKETS CLOSED TO THE BELL HOLDING COMPANIES

Company, country, U.S. business activities

Hitachi, Japan, manufacturing computers and telecommunications equipment.

Matsushita, Japan, manufacturing electronic and communications equipment; research and development of computer & communications technologies.

Fujitsu, Japan, research and development of digital central office switch technolog; manufacturing communications equipment; software development.

NTT, Japan, data communications services; fiber optic hardware.

NEC, Japan, manufacturing computers, semiconductors; communications equipment, and integrated systems; research and development of communications systems software and home information systems technology

KDD, Japan, telecommunications products and services; secure computer, communications, data centers; packet switch network, value-added network services.

Nintendo, Japan, interactive information service network.

Recruit, Japan, information management and telecommunications services.

Toshiba, Japan, manufacturing telecommunications equipment sofware development.

Ricoh, Japan, manufacturing office & communications equipment.

Mitsubishi, Japan, manufacturing telecommunications equipment.

Siemens AG, Germany, manufacturing of wide range of telecommunications/automation equipment; communications research and development.

Deutsche Bundespost, Germany, marketing videotext packet switch network, value-added services.

France Telecom, France, long distance data communications; videotext information and directory services; packet switch network, value-added network services.

Groupe Bull, France, manufacturing computer equipment.

Alcatel NV, France, manufacturing telecommunications equipment.

British Telecom, U.K., electronic database/information services; nationwide value-added network; computer/communications systems integration and equipment manufacturing; interLATA automatic cellular services.

Cable & Wireless, U.K., long distance telephone service throughout U.S.; enhanced data network services.

Hawley Group, U.K., remote electronic security services.

L.M. Ericsson, Sweden, manufacturing of communications equipment; integrated communications network systems; digital public mobile data network; digital cellular research and development.

Elsevier, Netherlands, electronic and traditional publishing; U.S. government/congressional information online databases.

VNU BV, Netherlands, electronic and traditional publishing; U.S. business and; financial databases.

N.V. Philips, Netherlands, manufacturing of electronic/microelectronic equipment and components.

Thyssen-Bornemisza, Monaco, electronic publishing/information services; U.S. business and defense information database.

Int'l Thomson Org., Canada, electronic and traditional publishing; on-line financial database and equity research network; software development for institutional investment community.

Mr. HOLLINGS. I thank the distinguished Chair, and I will continue to highlight.

Fujitsu is among several companies negotiating with AT&T to acquire minority stake in Unix Systems Laboratory, an AT&T subsidiary. I emphasize that because AT&T is wheeling and dealing free as the evening breeze with market forces. They are the ones coming in and saying, oh, boy, you have to watch those Bell Cos. They are the ones who testified, do not control them, let the market forces operate.

Now they have a so-called monopoly. In essence, because of their very size, financial worth, they want to continue it and deal with themselves. Whereby, this particular bill has provisions against self-dealing, auditing, and everything else of that kind. But they do not want that for themselves. They just want that for the Bell Operating Cos.

NT&T, that is Nippon Telephone & Telegraph, employ 7,000 worldwide. They had $2.7 billion in revenues in 1989. They own 50 percent of NT&T International which established the Dynamic Loop Corp. in Delaware. We have to search these things out and find out where they have their communications projects. But they are heavy in here. They are a major investor with Alcoa Fujikura, in my backyard, Spartanburg, making fiber optic hardware for assembling communications network.

NEC Japan has 8 percent already of the North American office telephone switch equipment market. NEC operates four manufacturing plants in the United States. Not long ago, they increased their capability of specialized semiconductor design centers. They opened up a research facility in Irving, TX. In November 1989, the Advanced Switch Laboratory developed broad band hardware and software for the central office and customer premises equipment. Of course, they also are working with AT&T for a stake in the Unix Systems Laboratory.

In May 1990, they opened a $25 million research facility in Princeton, NJ, and they have already employed 100 persons there. Half will be researchers, several scientists already hired from AT&T's Bell Labs. You will hear Senators from time to time say we still have Bell Labs. It is being denuded; it is being taken away; it is being hijacked by the foreign investors coming into this country and NEC is one of them. They are starting it right next door and giving the scientists better conditions, I take it, better pay, what have you. They will be running it right here under our noses. But we are in charge; we have antitrust provisions; we do not want any predatory practices, and we do not want any price fixing. The dummy Congress is sitting around losing the industrial backbone of the United States of America while we think we are in charge, and we are not.

Kokusai Denshin Denwa from Japan, has 25 percent of the New York-based firm of Telehouse International. Telehouse is the leading provider of super secure disaster-proof computer, communications, and data processing centers for the financial industry. They have a $35 million center on Staten Island. I will leave the rest of the summary.

Ricoh, of course, from Japan, has opened a $28.5 million plant outside of Atlanta, GA last fall, and they plan to increase their manufacturing presence.

The Recruit Co. are also in New York City. Toshiba of Japan began manufacturing telephone and telecommunications equipment for the United States market in Irvine, CA. They just moved their manufacturing from Japan in an effort to avoid imposition of the import duties and the antidumping suit that had been brought. They added 103,000 square feet to their plant in Irvine to accommodate the manufacture of PBX's and they are the major U.S. personal computer assembly facility. So they are working with AT&T on the UNIX Systems Laboratories. They are also into high definition television, as we all know, and this arrangement was made in April 1990 under the name of Toshiba American Consumer Products, Inc.

Mitsubishi Japan, a subsidiary of Mitsubishi Consumer Electronics, that particular subsidiary manufactures mobile telephones. They have a plant in Georgia and the output is expected to be around 40,000 mobile telephones by March 1992.

Siemens Germany has launched a concerted effort to increase its presence in the United States by acquiring over 30 United States companies. They took over 80-percent interest in GTE's Communications Systems Transmission Product Division. They acquired for $165 million full control of TelPlus Communications, the largest U.S. independent interconnect company back in 1987. Then they paid $1 billion for ROLM, IBM's telephone equipment manufacturing arm in 1988. Siemens Communications, Inc., of Boca Raton got into a joint venture with Stromberg-Carlson, that has gone British, and they will have 4,000 employees down there. They will develop, produce, and market computerized public telephone switches, packet switching, and transmission systems.

Mind you me, Mr. President, none of this separate subsidiary, none of this provision of you have to have domestic content manufactured all here unless you can prove it is unavailable, nothing like that. They can do as they will, finance as they will, buy from each other as they will. We have a highly restrictive measure in S. 173 on seven very, very competitive entities.

These that I list have none of that. They are into the open market and have taken us over and are sending us to the cleaners. Deutsche Bundespost Telekom in Germany; France Telecom. They provide long distance data communications. Minitel Services is a joint venture with Minitel MSC and Infonet.

Alcatel of France—their recent acquisition of the United States fiber and cable business. It makes Alcatel of France the third largest supplier in the United States. It began manufacturing key systems in PBX in Mississippi and a memo here outlines its particular endeavor.

Groupe Bull of France—they purchased Zenith Data Systems for 635 million bucks.

You can go down and see how they are gaining U.S. market share.

British Telecom—Dialcom of Rockville, MD, providing even services to the United States congressional correspondence system, is into the market correspondence.

British Telecom reached agreement with McDonnell Douglas to purchase Tymnet, the second largest provider of value-added network services with revenues of $250 million. They say they purchased it for $355 million. They have plans to develop and market and manufacture a broad range of data communications equipment.

BT is backing its entry into the U.S. data communications market with also a $20 million research and development effort.

I keep mentioning research and development. You will find in my formal statement that the average investment in R&D is somewhere around 8 or 9 percent. And the Bell Cos., since it does not pay 1.3 percent, our competition is doing it because they can profit by it. They can explore, they can get those particular advanced services. They can serve themselves with it and everything else.

But we are stultifying, putting a wet blanket, if you please, on research in America with this continued practice of the modified final judgment of forbidding manufacture. It is as simple as that. That is why all these large entities that are coming in are also setting up their research facilities to get into that particular market and be downfield of the competitive curve so they can maintain in that market.

Of course, BT purchased a 22-percent stake in McCaw Cellular Communications and they have 30 percent of the U.S. mobile communications market including cellular radio, paging, and digital cordless communications.

We have L.M. Ericsson from Sweden. They have assets in the United States of about $320 million, and have about 5 percent of the U.S. PBX equipment market, and are aiming at 10 percent. They are becoming a major player here in integrated communications systems business. In the spring of 1989 they were awarded a $3 million contract to install integrated voice and data network with the State University of New York, California State, and University of Massachusetts. The venture known as Ericsson GE Mobile Communications, Inc., is owned 40 percent by GE, 60 percent by Ericsson. And they are buddy enough, trying to replace Motorola.

I can tell you here and now, as long as we can continue it, we ought to call the modified final judgment, a foreign takeover entity act, to put the United States out of business.

It is not complicated at all, but the colleagues have not noticed this. We are letting it pass by, all in the name of not having any antitrust practices or self-dealing or predatory prices.

The FCC now does have computers. They have a system that the telephone companies have to comply with. They can easily, with their computers and their new systems now for auditing—which we could not get heretofore before the 1980's—because I worked in this field for the last 24 now going on 25 years as a member of the Communications Subcommittee of Commerce—we could not get anything out of AT&T. Now we have the rules, the systems, the regulations, the computers. They can have the audits. They are audited. The States can audit and should audit, and everything should be aboveboard and could be seen and observed, audited and complied with.

But while we have all of that going on, trying to get our own companies in the manufacture under those particular restrictions, very severe restrictions, foreign entities continue on like gangbusters.

They also, Ericsson GE, opened a research and development center in the research triangle in North Carolina last year. They will develop and commercialize digital cellular telephone base stations in the North American market. They employed initially about 50 American and Swedish engineers and, of course, it will go and grow as you can see.

So, Mr. President, you have Hitachi in manufacture, Matsushita, Fujitsu, NTT, NEC, KDD, Toshiba, Ricoh, Mitsubishi, Silmens, Groupe Pull, Alcatel, Cable & Wireless, L.M. Ericsson, M.V. Philips from the Netherlands manufacturing electronic and microelectronic equipment. The list is replete.

When we understand this, Mr. President, we begin then to take the cloud from our eyes and the bit from our teeth, bent going down the road to antitrust, antitrust, antitrust, like we are regulating business for consumers, and begin to sober up and understand that we are the ones denying the consumers the advanced technology because we are denying the American entities a chance to do research, develop, and manufacture. They are the ones that have been built up by the American consumers, by the American taxpayers and otherwise and by this blinded policy, forced to go overseas and develop Hungary and Moscow and New Zealand and Argentina, and all the other countries.

Yes, we had a good debate last week, and we are going to continue with that debate because we do not have a trade policy in the United States. More than that, we do not have a research and development policy in the United States because there is a mindset over the administration about industrial policy.

When I come here and the President signs a minimum wage bill, he no longer is pure. He went along with industrial policy. What he said was, I do not care what your capability, capacity or talent is; in America you are worth so much per hour. We invaded the market with our tax provisions. We invaded the free market with the Export-Import Bank and so forth that we set up. We invaded in various other ways.

So we are not invading the market. What we are trying to do is meet market forces and let us unleash their dynamic capability both financially and talent-wise to manufacture.

AT&T our opposition—we might as well identify it in the first instance, because we can tell it. You see this bill was reported out last year, again this year by our committee, after all the hearings, on a vote of 18 to 1.

My understanding in coming to the floor now is that perhaps Members would have a stretch-out kind of policy of amendment after amendment after amendment to try to bog it down so nobody would be for the bill with all kind of nit-picking things like looking for rural amendments. Everybody wants to do something for rural areas. We have looked out for the rural telephone operatives in this country. This particular Senator has. You want to look out for the matter of audits. Let the States audit.

If we want to go further about the cross-subsidization, let us look at it and see that it is iron clad.

No one else is forbidden from buying for themselves. We put restrictions in here that you should have it open and aboveboard, offer in any purchase you make, all other manufacturers to come in, and buy and sell on the same basis that you sell to any other competitor and so forth.

So all of those have been worked out in the committee, but they will try to revisit them like they have thought of a new idea. Their new idea is to kill the bill. We know that. We understand it. We will be as tactful as we can and as deliberate as we can. But I do not think we ought to be taking up the time of the Senate revisting time and time again a measure we have worked on now for many years and reported out not only last year but again this year.

I would like to emphasize at this particular point, Mr. President, the various restrictions we have here on safeguards in S. 173. My colleagues will not think we have a bill and we are going to ram the bill through, and we are not looking out for consumers and the rates might go up, and all of those particular arguments be made.

We have in here "no joint manufacturing." In other words, RBOC's cannot manufacture in conjunction with one another. All of these entities I have listed can and do and continue to do so. I have listed those coming in with AT&T, who is opposing this bill. They are coming in time and again, wheeling and dealing, buying out each other, and everything else like that.

We say that these Bell Operating Companies cannot manufacture in conjunction with one another. They must create seven independent manufacturing entities and compete with each other, as they are doing right now in world market business the world around.

They must have separate affiliates. The Bell Operating Cos. must conduct all of their manufacturing activities from separate affiliates. The affiliates must keep books of account for its manufacturing activities separate from the telephone company, and must file this information publicly. How are you going to beat that?

We debated that out in the committee. We wante to make sure they were not going to play games and cut corners. Nippon Electric financed, subsidized, and protected. Try to get in over there and compete with any of these entities. They are competing.

No, this is not going to really forestall entirely foreign investment in the United States of America. They will still come, because they will still have many advantages; because we will have these kinds of safeguards. I would like to clean them all out and let it all go.

Yes, we do have common carrier requirements of these Bell Operating Cos. Each Senator—and this Senator—wants to make certain that we are not paying the bill for manufacture, venture, and subsidizing particular entities through increased telephone rates.

We have another provision in here against self-dealing. No self-dealing. Bell Operating Cos. may not perform sales advertising, installation, production, or maintenance operations for its affiliate. They cannot advertise, they cannot install, they cannot produce or maintain for its affiliate.

They must provide opportunities to other manufacturers to sell to that telephone company that are comparable to the opportunities that it provides to its affiliates. RBOC may

openly purchase equipment from its affiliate at the open market price.

And we have one thing in here and, of course, under the law, on a private cause of action, it ought to be mentioned at this point that all of our laws say go to the particular administrative body. You go and apply, if there is a violation, and exhaust your administrative procedure at the Federal Communications Commission, in this particular discipline, to make certain that we do not turn the courts into an administrative body. That would apply, ordinarily, to all of these.

We went one step further with the manufacturer, if they thought they were being discriminated against and not being applied to, the manufacturer—not an individual fellow who is mad with his telephone rates, because we would clutter up the courts and get nothing done—can proceed with a private cause of action.

That was the one exception we made. We are not making the exception, of course, for the individual private right of action.

It sounds pretty, but if you think on it, after a while, you will understand that the orderly procedure is to make your complaint, and the FCC follows it up, and you have the expertise paid for by the taxpayers, and the investigation and the proceeding itself taken care of by the public. You do not say: I am a little individual citizen and do not have money enough for a lawyer. The procedure is there in every instance.

We have even gone further here with respect to manufacturers. No cross-subsidization. Bell Operating Co. are prohibited from subsidizing its manufacturing operations with revenues from its telephone service. Those records are kept, and they are public and subject to audit.

Domestic manufacturing requirement. The Bell Operating Cos. must do all of this manufacturing within the United States.

Remember the thrust; remember the intent of this particular measure: To come home to America. We are now opening up the market and giving you a level playing field as best we can. We still have it somewhat tilted in favor of the consumers and in favor of antitrust concerns, and those things. We do not totally level it.

But they must do all of their manufacturing here, because we are trying to create that manufacturing capability in the United States. There is no question about that. That is the way it is.

As old Walter says: The world around, everybody else is doing it. Everybody else is taking these national entities, from Siemen's, from Ericsson, and all of these other particular companies who are all taken care of by their country, and say at least we want to get the manufacturing done here in the United States. We do not want to take all of this and let them setup over in Singapore.

This Senator is particularly sensitive. I competed, as Governor, on Western Electric, in making the telephones, with my distinguished former colleague, Gov. Luther Hodges of North Carolina. We competed on two of them: Western Electric and Eastman Kodak. I won out on Eastman Kodak and got it in South Carolina, and he won out on Western Electric.

I am the ultimate winner, because I saw Western Electric in downtown Singapore when I visited over there. That is where they are making all of this hand telephone equipment. So the idea here is not to further subsidize manufacture out of the United States, but rather to reverse that particular trend.

Limitation on equity ownership. The Bell Operating Co. fought like a tiger, and I guess they might still fight. They would like to own all of the company, and they do not like to have anybody have outside investors, or anything else of that kind. But we say that they may own only 90 percent of the equity of its affiliate. That is, 10 percent must be made available to outside investors.

Of course, I cannot do that, as a member of the Commerce and Communications Subcommittee. I would like to have part of that 10 percent. I know how these people operate. They are the best of corporate citizens. I know my opposition here will start to point to a couple of infringements that came out in the news in the last 2 years. All America, when they get competitive, get competitive. That is, all we politicians singsong. They overstep, from time to time, the bounds. But there is no question that these seven companies are about the seven finest operating companies you are going to find in all of the United States. If you get them setting up a separate subsidiary, they know that they can move forward in the development of the technology and in the advancing of those particular services through technology to the consumers.

We have to complete the loop and change the mentality of the senatorial mind here that this is something against consumers; this is for consumers. We are lagging behind in many services in this country of ours, because it does not pay to get into them. That is all it is.

Even though you have common carriers, the common carrier requirement does not say, now you put in advancements, and so forth. You can sit there and get your rate and continue to sit there and get your rate, and nobody else is going to come in because it does not pay for them to come in.

Limitation on debt. The affiliate only may secure debt from the financial markets separate from the Bell Operating Co. No creditor shall have recourse to the assets of the telephone company.

We consider the telephone company as common carriers and books and financial worth and everything else separate from that affiliate and its manufacturer. If it goes broke and everything else, it does not reflect on my telephone rates and my telephone company.

Protections for the small telephone companies. The Bell Operating Cos.' manufacturing affiliate must make its equipment available to other telephone companies without discrimination or self-preference as to price, delivery, terms, or conditions.

And then, disclosure of network information. The Bell Operating Cos. must file publicly all technical information concerning that telephone network.

You cannot get any more open than that. Someone may want to come and say you could not buy at all from an affiliate. I hope it is not the AT&T crowd coming around here that buys from itself regularly. The majority of its equipment is bought from itself, and it has not affected the long distance rates, and so forth. So we can watch those; they are set.

But what we require here is, as stated, that the Bell Operating Cos. must file publicly all the technical information concerning their telephone network. And those are the particular safeguards that we have included in there.

Mr. President, I see a distinguished colleague perhaps want to take the floor.

Mr. GRASSLEY. No.

Mr. HOLLINGS. Mr. President, I do not want to start a quorum call. There are a lot of other things we can explain. Let us see, Mr. President, while we are putting our colleagues on notice. Let me discuss practices in other countries; the requirements of other countries. Under a new EC directive, the European Community origin preference excludes bids with less than 50-percent European Community content in telecommunications.

These are the foreign trade barriers. This is your competition. Do not come around here acting like you are running the little U.S. market and it is all insulated and you have control. The foreigners have control, I tell you that right now. They have their own FCC they call MITI and all those other entities that you will find in Europe, and now we will call it the EC. The European Community talks about free trade with Europe. Try to get in over there. They have 50-percent European Community content in telecommunications. We would not dare countenance that kind of thing for all of our telecom market, but that is what they have and that is our competition.

The Canada procurement policy, is the preferred supplier relationship between Bell Canada and Northern Telcom. We have Northern Telcom. It has plants here. On the increased export market, the diminution in the balance of trade that is down to a $700 million deficit in the balance of communication trade. We should hail it.

We should understand it. And the reason we hail it is because we do not understand it. If we understand it, that is what happened with all these foreign entities coming in.

For agencies not covered by the free-trade agreement, Canada maintains a 10-percent price preference for Canadian content in telecommunications. Members ought to understand that. This is a very dynamic, very competitive, very subsidized, very controlled international market with the Government on the side of the communications industry in that country. We have a very controlled communications market in the United States of America with the Government against the telecommunications companies in this country.

We are trying our best to get the Government on the side of manufacture, on the side of industry, yes, on the side of jobs, yes, on the side of economic security, and prevailing in the economic war. We have gone, with the fall the year before last of the Wall in Europe, from the cold war to the economic war, the trade war, the industry war, the production war, not just a little bit here jobs, a little bit there jobs; they are basic industries. Let me start with textiles.

I started with this in the fifties when 10 percent of the clothing in this Chamber would have been represented by imports. Now more than 60 percent is represented by imports. It gets to the point where it does not pay to invest and be competitive. You know, we smart politicians running around beating on peoples' heads, got to be competitive and more productive, we continue to appoint 10 more committees; we are about the most unproductive, uncompetitive entity you are going to find, falling over each other around here. Eighty-two percent of the shoes on the floor here are imported.

We are going out of business also in communications, and I am trying to stop it. I am trying to get us competitive here, and I am looking at my competition. The provincial quasi-government corporations follow a "buy Canada" policy. Unfortunatley we do, too. We have a "buy Canada" policy with Northern Telcom, a very fine company, very fine executives, very friendly people. I would be friendly people if I was making out like Gangbusters like they are, I tell you that right now. They do not have anything to gripe about.

But with a measure of this kind and the sobering up of Government in Washington, DC—what is not producing and not competing is not the hinterland. I can give you example after example of the highest technology; I know it, I see it, I have been visiting with it, and yet we still continue to go out of business on account of us right here in Washington. I visited week before last T.M. Brass in magnetic resonance in my own backyard. They export 50 percent of what they make.

I can go right on down the list. They talk about how the Japanese work harder, they have a work ethic. You cannot beat the American production worker; I do not care what they say. I have watched them; I have seen them. I have seen the Japanese come, Japanese and West Germans, for automotive electronic engineering, study 22 countries, and, bain, come to South Carolina, not to Japan, not to Germany, because of the productivity and the skills we have in my own backyard. And in this past year now we have taken over from Toshiba the magnetic resonance indicators, the MRI, the health equipment, where we have now a GE plant in Florence, SC, and we export over 50 percent of it. We are going to take over the Japanese market—until they get into the health market like they are getting into the communications market. Where the Government has not gotten into it yet, we are still surviving and beating them. But bit by bit, step by step, takeover by takeover, they are moving very quietly, very effectively into my backyard, into your backyard, and we are inviting them in. Any Governor of any State in America worth his salt has an office in downtown Tokyo. It is delightful to visit, on the one hand, you are out there trying to get the investments. We have many fine Japanese industries, and I emphasize we are not bashing Japan or Germany or the Swedes. We are not bashing anybody foreign; we are bashing Washington, DC, trying to wake them up, give them a wake-up call.

The United States is under siege by a host of Japanese, European, and other multinational firms who are exploiting the openness of the United States market to our great disadvantage. These foreign companies recognized some time ago what the United States has not—the market for communications equipment is now a global one, and we are not in it. In this high-stakes battle over world market share, the United States has only one major participant—AT&T.

At the same time, the United States bars seven of its largest and most productive companies from designing, developing, or manufacturing any form of communications equipment. These companies have tremendous assets, experience, and expertise that could bring enormous benefits to U.S. workers and consumers if they were allowed to manufacture. To continue this restriction is simply contrary to America's best interests. It is time for the U.S. Congress to take control of our economic destiny and lift the manufacturing restriction on the Bell Operating Cos.

This legislation has tremendous bipartisan support. S. 173 now has 25 cosponsors, including Members from both sides of the aisle. The Commerce Committee reported this bill to the full Senate by a vote of 18 to 1. Last year, the committee also voted a similar bill to the Senate by voice vote. It is clear that an overwhelming majority of the Senate is prepared to take up and pass this legislation.

Further, almost every sector of the American public believes this restriction should be lifted. The Communications Workers of America support the bill and believe that this legislation will provide thousands of jobs for Americans. Organizations representing the deaf community, the disabled community, and older Americans support the bill because it will lead to greater innovation and better products to suit their communications needs. Over 40 small manufacturers believe that allowing the Bell Cos. to provide funding to start up manufacturing companies will promote economic development and small business opportunities. A number of policymakers and scholars support lifting this restriction, including Henry Geller, the former General Counsel of the FCC, and Alfred Kahn. The consumers who have written to my office in support of this bill outnumber those who oppose it by 10 to 1. Clearly, the public is demanding that Congress lift this restriction.

Mr. President, the current manufacturing restriction on the Bell Cos. is an old-fashioned policy that has outlived its usefulness. The manufacturing restriction originates from an antitrust case that was filed against AT&T 17 years ago. In that case, the Department of Justice alleged that AT&T had used its monopoly over telephone service to discriminate against competing equipment manufacturers. While the case was being tried, the Department of Justice and AT&T reached an out-of-court settlement under which AT&T agreed to relinquish control over the 22 Bell Operating Cos. This settlement agreement, which became known as the Modification of Final Judgment, or MFJ, also banned the 22 Bell Cos. from manufacturing communications equipment. The district court accepted the agreement and has continued to enforce it.

THE MANUFACTURING RESTRICTION IS UNFAIR

There are several problems with continuing this manufacturing restriction in place, but one of the most obvious is its unfairness. Indeed, one must question why the manufacturing restriction was allowed to stand in the first place. The Bell Cos. were barred from manufacturing even though the district court never ruled that AT&T had, in fact, committed any violation of the antitrust laws. Further, the Bell Cos., which had not yet been created, had no opportunity to comment on the proposal to ban them from manufacturing before the agreement became effective. AT&T, a major manufacturer and one of the two parties responsible for imposing the restriction, had a clear self-interest in keeping the Bell Cos. from competing with it in the manufacturing market. Meanwhile, the Department of Justice has changed its position and now supports lifting the restriction.

Furthermore, no other telephone service provider in the world is similarly barred from manufacturing. AT&T, the dominant provider of long distance service in the United States, is one of the largest manufacturers in the world and buys almost all its own equipment from itself. There are 1,400 other telephone companies in the United States; not one of them is barred from manufacturing. In fact, no other country bars its local telephone companies from manufacturing communications equipment.

THE COURTS, NOT THE CONGRESS, ARE IN CONTROL

The enforcement of this manufacturing ban is inconsistent with the traditions of American Government. Because of the peculiar history of the MFJ, a single Federal court judge is now responsible for setting U.S. communications policy. Congress is not in control, and neither is the President. A single Federal court judge, with a few law clerks and a large case load, dicates the use made of over one-half of the communications assets in this country. At the same time, foreign companies, backed by their governments, are buying American companies and taking an increasing percentage of our market share.

THE MANUFACTURING RESTRICTION IS UNREASONABLE AND ARBITRARY

Furthermore, the manufacturing restriction imposes unreasonable and arbitrary limits on the Bell Cos.' ability to manufacture. These restrictions prevent the Bell Cos. from taking advantage of the efficiencies between providing telephone service and manufacturing telephone equipment. As a result, the Bell Cos. cannot bring new and better products to the market that will benefit all Americans.

The practical effects of the manufacturing restrictions are almost ludicrous. For example:

First, under current law, the Bell Cos. can manufacture telephone equipment in foreign countries for sale overseas. But the law bars them from performing any manufacturing in the United States for domestic customers. This forces the Bell Cos. to invest their capital overseas, as they have done in Europe, Mexico, New Zealand, and elsewhere.

Second, current policy allows these companies to engage in the design and development of the telephone network, yet they cannot design and develop equipment to be used in that network. This removes any possible efficiencies of operating in these two markets.

Third, the success of most high-technology industries is founded on strong research and development activities that usually comprise between 6 and 10 percent of revenues. Under current law, the Bell Cos. can perform research but they cannot engage in development. The uncertainty of the line between research and development and the fear of sanctions discourages the Bell Cos. from performing any research at all. As a result, the Bell Cos. spend only about 1.3 percent of their revenues on research.

If there was any justification for banning the Bell Cos. from manufacturing 10 years ago, they have long since disappeared. The manufacturing restriction makes absolutely no sense in today's world. Let me outline briefly some of the benefits of allowing the Bell Cos. into manufacturing:

1. AMERICAN COMPETITIVENESS

The U.S. competitive position in high-technology markets is severely at risk. This decline is apparent in almost every sphere of the market. In research and development, patents, trade, and world market shares, Japanese, West German, and other foreign companies are outcompeting the United States in the international market. The United States faces a challenge to its world leadership position as never before.

Some basic facts bear out this point. Seven years ago, there were 15 major switch manufacturers in the world market, 3 of them American. Today there are only eight—three from Japan, three from Europe, one from Canada, and only one from the United States, AT&T. From a $1 billion surplus in 1981, the U.S. trade balance in communications equipment has now dropped to a $700 million deficit.

Total U.S. spending on research and development lags far behind other developed nations. According to the National Science Foundation, the United States spent 1.8 percent of its GNP on nondefense R&D last year, while West Germany spent 2.6 percent and Japan spend 2.8 percent. In communications, the largest European and Japanese firms have increased their research and development spending by 18-20 percent per year. AT&T has increased its spending by about 6 percent per year.

While the U.S. standing has declined, our foreign rivals have prospered. Annual foreign investment in U.S. high-technology industries has increased from $214 million in 1985 to $3.3 billion in 1988. In the 6 years since the divestiture of AT&T, 66 different U.S.-based computer and telecommunications equipment companies have been bought by or have merged with foreign firms.

This decline in the U.S. leadership position has tremendous consequences for all Americans. The erosion of critical U.S. industries means fewer jobs for American workers. Increasing investment in the United States by foreign companies means that profits from American activities flow overseas. The lack of an industrial and high-technology base within the United States threatens our military capabilities and our national defense. The economic, social, and political ramifications of the continued deterioration of U.S. strength in these crucial industries could be devastating.

Lifting the manufacturing restriction on the Bell Operating Cos. will help to reverse this decline. The Bell Cos. are among the top 50 corporations in America. Together, they earn about $80 billion in annual revenues, employ almost 2 percent of the American work force, provide telephone service to 80 percent of the Nation's population, and control over one-half of the United States telecommunications assets. They have the knowledge, the resources, the experience, and, perhaps most important, the desire, to be strong players in the world manufacturing market. How could the United States allow its world leadership in high technologies to run aground while 7 of its largest and most capable companies are kept out of the game?

2. JOBS

Since the divestiture, AT&T has closed down or reduced its work force at 33 manufacturing plants, resulting in a loss of 60,000 manufacturing-related jobs. At the same time, AT&T has signed 18 joint venture agreements with foreign manufacturers and has opened 7 new manufacturing facilities overseas. This drain of American jobs not only harms the American worker, it also harms our industrial competitiveness. Trained and skilled workers are essential if the United States is to continue its role as the world's technological leader.

The Communications Workers of America firmly believes that lifting the manufacturing restriction on the Bell Cos. will promote thousands of new job opportunities in the United States. The domestic manufacturing provision requires the Bell Cos. to conduct all their manufacturing here in the United States. Whether the Bell Cos. begin to manufacture on their own, whether they provide seed capital to small entrepreneurial businesses, or whether their manufacturing activities increase the demand for domestically made components, lifting the manufacturing restriction is certain to result in significant numbers of new jobs.

3. RESEARCH AND DEVELOPMENT

The manufacturing restriction places a significant constraint on the Bell Cos.' willingness and ability to engage in research and development. As interpreted by the courts, the manufacturing restriction allows the Bell Cos. to engage in research but not design or development. The line between research and development is so arbitrary and unclear that the Bell Cos. are afraid to engage in any research at all for fear of crossing that line.

Further, because the Bell Cos. cannot turn the fruits of their research into a marketable product, they cannot earn a profit from that research. Thus, the Bell Cos. have little incentive to conduct any research at all. As a result the Bell Cos. spend only 1.3 percent of their revenues on research, while most foreign manufac-

turers spend between 6 and 20 percent of their revenues on research.

Lifting the manufacturing restriction will give the Bell Cos. incentives to conduct research, since they will be able to turn that research into profitable products. Lifting the restriction will also eliminate the arbitrary, unclear, and unnecessary boundaries between research and design and development.

4. INCREASED INVESTMENT IN THE UNITED STATES

Foreign firms have dramatically increased their purchase of U.S. high-technology firms. Since the divestiture, foreign firms have purchased or merged with 66 different high-technology U.S. firms. In just the last 2 years, the percentage of U.S. manufacturing employees working in foreign-owned companies grew from 8 percent of the U.S. population to 11 percent.

Many of these companies could have been purchased by the Bell Cos. if not for the manufacturing restriction. The manufacturing restriction bars the Bell Cos. from owning any equity interest in a manufacturing concern. Further, it is unclear whether a Bell Co. can loan capital or have any financial relationship with a manufacturer. As one manufacturer testified at the hearing before the Commerce Committee, the manufacturing restriction implicitly restricts the business activities of every telecommunications manufacturer in America.

As a result of the manufacturing limitations, small, entrepreneurial companies must often turn to foreign-based companies for necessary capital. Most of these small manufacturers would rather work together with American-based Bell Cos. if they were allowed to do so. For this reason, over 40 small manufacturers of communications equipment have expressed support for this legislation. Lifting the manufacturing restrictions would free up the Bell Cos.' capital sources and encourage greater U.S. investment by U.S. companies.

5. INCREASED SHARE OF THE INTERNATIONAL EQUIPMENT MARKET

The U.S. share of the international equipment market is in severe decline. Even the opponents of this legislation acknowledge that the U.S. market share has declined in almost every sphere of communications equipment. The U.S. manufactures no fax machines and controls less than 20 percent of the world market for central office switches, and these figures include equipment manufactured in the United States by foreign-based companies.

The Bell Cos.' entry into manufacturing should have a positive impact on the total market share controlled by U.S. firms. The BOC's have an intimate knowledge of the U.S. market, telephone standards, and business economics. Further, there are substantial efficiencies between the operation of the telephone network and the design of equipment to be used in that network. Such efficiencies include the sharing of joint costs, the knowledge of the networks and the needs of customers. The entry of the Bell Cos. will undoubtedly stimulate greater innovation and customer demand for communications products in a way that will advantage all equipment manufacturers.

THE DOMESTIC MANUFACTURING PROVISION

Some may ask how we can be sure that this bill will benefit the United States? How do we know that the Bell Cos. will not go overseas to conduct their manufacturing? The answer is that this bill includes a strict domestic manufacturing provision. If they manufacture, the Bell Cos. must conduct all their manufacturing activities within the United States. Further, the Bell Cos. cannot use more than a certain percentage of foreign-manufactured components in the products they manufacture. This provision was negotiated by the Bell Cos. and the Communications Workers of America and has the complete support of both groups. I believe that a domestic content provision such as this is essential to ensuring that the Bell Cos.' potential manufacturing activities benefit the U.S. worker and economy. I applaud the representatives of both organizations for reaching this agreement and have included their agreement in this bill.

INCREASED SAFEGUARDS HAVE REDUCED THE THREAT OF ABUSE

Let there be no mistake, however, about the premise on which this bill is based. I fully understand that these Bell Cos. continue to exercise a substantial degree of market power over local telephone services. Many persons are concernd that the Bell Cos.' dominance of these markets could give them incentives to engage in unlawful cross-subsidization and self-dealing.

For these reasons, I have included in my bill a host of safeguards designed to prevent any kind of unlawful and anticompetitive activity. In conducting their manufacturing activities, the BOC's must comply with the following safeguards:

NO JOINT MANUFACTURING

To prevent collusion, the BOC's cannot manufacture in conjunction with one another. The bill requires that, if the RBOC's decide to manufacture, they will create at least seven independent manufacturing entities that will compete with each other as well as with existing manufacturers.

SEPARATE AFFILIATES

The BOC's must conduct all their manufacturing activities from separate affiliates. The affiliate must keep books of account for its manufacturing activities separate from the telephone company and must file this information publicly.

NO SELF-DEALING

First, the BOC may not perform sales advertising, installation, production, or maintenance operations for its affiliate; second, the BOC must provide opportunities to other manufacturers to sell to the telephone company that are comparable to the opportunities it provides to its affiliate; and third, a BOC may only purchase equipment from its affiliate at the open market price.

NO CROSS-SUBSIDIZATION

The BOC is prohibited from subsidizing its manufacturing operations with revenues from its telephone services.

LIMITATION ON EQUITY OWNERSHIP

A BOC may own no more than 90 percent of the equity of its affiliate. The remaining 10 percent must be made available to outside investors.

LIMITATION ON DEBT

The affiliate only may secure debt from the financial markets separate from the BOC. No creditor shall have recourse to the assets of the telephone company.

DISCLOSURE OF NETWORK INFORMATION

The BOC must file with the FCC full and complete information concerning the telephone network immediately upon revealing any such information to its manufacturing affiliate.

I believe these safeguards are important and necessary, and I fully intend to oversee the FCC's efforts to enforce these safeguards fully.

THE DEPARTMENT OF JUSTICE, THE FCC, AND THE STATES CAN PROTECT AGAINST ABUSE

The combined resources of the Department of Justice, the FCC, and the state regulatory agencies are certain to prevent cross-subsidization. The Chief of the Antitrust Division, for instance, testified before the Communications Subcommittee that antitrust abuse was unlikely to occur if the manufacturing restriction were lifted.

Some persons assert that the BOC's will subsidize their manufacturing operations by recovering their manufacturing costs through higher telephone rates. These people ignore the testimony of the Chairman of the FCC, Al Sikes, who testified that "claims that the FCC's safeguards are ineffective are badly outdated." He also stated that "I believe the [Communications] Subcommittee can be confident that any risks associated with Bell Co. manufacturing are both manageable and small." The FCC is the expert agency handling communications matters and is most directly responsible for protecting the public interest. If the Chairman of the FCC is convinced that this legislation will promote the public interest, the Congress can be confident that this legislation is wise.

The FCC Chairman can make this claim because of the enormous improvements that have occurred in regulation. For instance, the FCC, for the first time ever, has implemented a detailed cost-accounting system that bars the Bell Cos. from engaging in cross-subsidization. These part X accounting rules require the Bell Cos. to file with the FCC detailed cost allocation manuals, along with certification

from an outside auditor that the information in the manuals is accurate. These manuals break down costs between regulated and unregulated activities. The Bell Cos. have filed these manuals for the past 3 years. This history gives the FCC and the auditors a history with which to compare future cost allocations to ensure that costs are allocated properly between regulated telephone service and unregulated activities.

Further, these cost data are now submitted in computer format that gives the FCC greater ability to monitor and evaluate changes. The Automated Reporting and Management Information System [ARMIS] computer system installed by the FCC a few years ago significantly increases the FCC's ability to oversee the telephone companies' activities.

Moreover, the FCC has expanded its own auditing capabilities. The Commission conducted 21 full-scale audits over the past year, double the number conducted in 1987. This does not include an additional 12 attestation audits of Bell Co. cost allocation manuals. In addition, the FCC has nearly tripled its budget for conducting field audits since 1987, increasing its travel budget from $35,000 to $105,000 in 1991.

In addition to these regulatory changes made by the FCC are the substantial changes made by the States. The FCC has worked hard to develop strong relationships with the State regulatory commissions that have oversight authority over the Bell Cos.' intrastate activities. Further, the Communications Subcommittee of the National Association of Regulatory Utility Commissioners supports lifting the manufacturing restriction by a vote of 13-5. These Commissioners are the State officials most directly responsible for the welfare of the telephone consumer.

CONCLUSION

In my view, lifting this manufacturing restriction is vitally important. This bill is critical to the future of the Nation's telecommunication industry and this Nation's economic future. I urge my colleagues to support this measure.

So there you are. We have the various issues covered. We will be glad to entertain the amendments as they come to the floor, and perhaps, Mr. President, if I hush a moment, we will attract some folks. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. KERRY). Without objection, it is so ordered.

Mr. DANFORTH. Mr. President, I want to compliment my chairman, Senator HOLLINGS, for doing what has been a long time coming and that is bringing to the floor of the Senate a bill to at least partially lift the court order with respect to the telephone companies.

Many people have commented for quite a period of time that the idea of a Federal judge operating a major sector of our economy from his courtroom is crazy and that we should do something about it. And yet, because of the size of the interests involved and the importance of the issue, it has become very, very difficult to legislate.

Senator HOLLINGS has done the seemingly undoable in bringing this legislation to the floor, and I want to compliment him for his contribution.

National communications policy should not be set by one Federal judge. The judicial process involves delay and leaves uncertainty in the communications industry. Detailed regulation of this industry should be the responsibility of the FCC, not a court construing an antitrust decree.

The time is right to lift the manufacturing restriction imposed on the Bell Operating Cos.

Lifting the manufacturing restriction will improve the ability of the United States to compete internationally in the telecommunications equipment market. The seven Bell Cos. represent one-half of the U.S. telecommunications industry's human and financial resources. The Bell Operating Cos. employ between 1 and 2 percent of the entire U.S. work force. They average $11 billion each in annual revenues. S. 173 will allow the Bell Operating Cos. to use their vast resources to enter into equipment manufacturing. I share the view of the Department of Commerce that the Bell Operating Cos. "can make a difference, and they ought to be offered the freedom to do so."

Moreover, the need for the manufacturing restriction no longer exists. The restriction was intended to address three specific forms of anticompetitive behavior associated with the Bell System's predivestiture manufacturing practices. S. 173 incorporates safeguards to protect againt each of these three potential abuses.

The first is the alleged effort to impede competition by giving the manufacturing subsidiary an advantage through privileged access to the technical specifications of the Bell network. S. 173 prevents this activity by requiring each Bell Operating Co. to file such technical information with the FCC anytime such information is given to its manufacturing affiliate.

The second problem is the possibility of cross-subsidizing manufacturing efforts with funds derived from the local telephone monopoly. Such cross-subsidies could create an unfair price advantage while passing on losses to the Bell Co. local customers. S. 173 requires the Federal Communications Commission [FCC] to promulgate regulations to prohibit cross-subsidies. The FCC has already implemented new accounting and affiliate transaction rules which eliminate or significantly reduce the likelihood of cross-subsidization. S. 173 requires the manufacturing affiliate to secure debt from financial markets separate from the Bell Operating Co. and prohibits any creditor of the manufacturing affiliate from having recourse, upon default, to the assets of the Bell Operating Cos. telephone company.

The third potential abuse is the possibility that a Bell Operating Co. would buy its affiliate's products instead of cheaper, better products manufactured by its competitors. S. 173 requires each Bell Operating Co. with a manufacturing affiliate to provide sales opportunities to manufacturing competitors comparable to those afforded to the affiliate. When a Bell Operating Co. purchases equipment from its affiliate, it must pay the open market price.

S. 173 does not stop here. The bill provides additional protection for manufacturers, for small telephone companies, and for ratepayers. The Bell Operating Cos. cannot manufacture in conjunction with one another and must conduct all their manufacturing from separate affiliates with separate books of account. The Bell Operating Co. may not perform sales, advertising, installation, production or maintenance for its affiliate. At least 10 percent of the equity ownership of the affiliate must be made available to outside investors. The Bell Operating Co. manufacturing affiliate must make its equipment available to other telephone companies without discrimination or self-preference as to price, delivery, terms, or conditions.

The telecommunications industry, both in the United States and worldwide, has undergone tremendous growth since the divestiture. S. 173 will allow seven of our greatest companies to use their vast resources to compete, while ensuring that no harm is done to competitors or to consumers. I support S. 173 and urge my colleagues to vote for this important legislation.

Mr. HOLLINGS. Mr. President, let me thank my distinguished colleague from Missouri, Senator DANFORTH. He has been a leader in telecommunications, both as a ranking member on our Commerce Committee and particularly as a senior member of our Finance Committee. It was because of his concern about this advanced technology and losing our leadership position in this regard that he took over and was the leader in our institution on Sematech, which was a move, as a stopgap, to try to maintain this technology. We particularly appreciated his leadership on this measure.

Once again, we emphasize this bill's balanced nature. Looking it over and studying it, I guess, yes, there has been a difference between the colleague from Missouri and this particular Senator from South Carolina, whereby I have not been enthused

about what they call free trade, whereas my colleague from Missouri has been a leader for free trade. Yet we both studied this bill from every angle and made sure it had balance.

Yes, we open up the role of manufacturer to the several Bell Operating Cos. but we have strong safeguards. In essence, both the FCC—we will get it in the RECORD and refer our colleague to that—both the counsel at FCC and at the Justice Department said that the safeguards were too restrictive. But I went along in order to ensure a balanced approach.

Incidentally in 1984, the Justice Department advocated the imposition of this restriction prohibiting manufacturing by the Bell Operating Cos.—now the Justice Department supports manufacturing by the Bell Cos. In fact the Justice Department believes that this bill is going too far the other way by imposing too many restrictions. But said, no, the Congress is concerned and feels there is a need for safeguards. We are looking out for consumers.

We also look out for antitrust issues and concerns. The wisdom of all the antitrust law is not necessarily vested in the Judiciary Committee. This particular Senator is chairman of the Appropriations Subcommittee on Commerce, Justice, State, the Judiciary, and Related Agencies, and the Commerce Committee. We have tried to beef up and update the Antitrust Division over at the Justice Department.

I am dismayed that there are cases that sit in the Antitrust Division for 13, 14, 15 years expending huge amounts of money, and still not reach a conclusion. We have tried to be more effective and more responsive to the concerns about antitrust issues. So I do not yield to other colleagues on antitrust concerns. I too, have not only that concern, I have that responsibility.

Because we are approaching the hour when both sides of the aisle will recess for their caucus', I want to take time to address my trade concerns. The U.S. spending on research and development is actually in decline.

The United States spends only 1.8 percent of its GNP on nondefense R&D, and Japan and Germany spend between 2.6 and 2.8 percent in communications. The budgets for research of the Bell Operating Cos. and AT&T combined grow at a rate of 9 percent but their competition in Europe is growing at 19 percent, and Japan's R&D budget is growing at 23 percent over the same period. We just combined the research budgets of AT&T and the Bell Cos. so the opponents would not say, oh, no, you have looked at the Bell Cos. but you have forgotten AT&T. We take them both together and you can see the trend concerning actual research and development compared to our foreign competitors and how we lag behind.

Most telecommunications firms spend between 6 and 10 percent of their revenues on R&D, and some spend up to 12 percent. As I pointed out earlier, and I emphasize again, our Bell Operating Cos. are only spending 1.3 percent of their revenues on R&D because if they did get into research they could not profit from it. They cannot sell their results to anyone. They cannot manufacture. They cannot profit from it, so why go down that particular road, even though you are in that particular discipline?

You would like to always do a better job but as a result of this particular national policy we guarantee that our telephone companies, as we know them, are not going to do a better job. There is no financial attraction to do a better job.

The modified final judgment prevents the Bell companies from having any incentive to engage in research and development. Under the MFJ, as they call it, the term "manufacturing" includes design and development. Thus, the Bell Cos. may currently engage in research but as a practical matter cannot engage in design or development of equipment.

This line creates a number of problems. We have the problem of uncertainty. The line between research which is permitted and development which is prohibited is an unclear line.

They fear sanctions. Researchers are afraid to get anywhere close to the line. They do not want to get into that research and find out something they worked on for a year or two or more is, all of a sudden, legally forbidden.

There is a matter of inefficiency. The Bell Co. researchers must stop their work whenever they get close to a design stage because they must turn over their work to an unaffiliated entity. This creates tremendous inefficiencies and new researchers will not have the experience and know-how on the research that has already been done.

Arbitrariness is really a concern. The MFJ permits the Bell Cos. to develop generic product standards but bars them from developing products to meet those standards. They design the company telephone network but they cannot design or develop the equipment to be used in the network.

The fear of sanctions is strong. The line between research and development is so unclear, inefficient, and arbitrary, that the Bell Cos. are afraid to do any research at all and as a practical matter, cut back and do not engage in it. The penalty for violating it can be very, very severe.

Of course, research is unprofitable. If the Bell Cos. researchers come up with a new idea, as I stated, they cannot produce a product for sale to the public. There is little potential, in other words, to recover your costs of doing research.

Industry experts believe that the path to competitiveness is toward a dynamic production mode that involves increased sharing of knowledge between researchers, manufacturers, and marketers. We in the Congress are constantly repeating that, yes, we do well, we win the Nobel prizes; but they win the profits. Supercomputers and the other things, superconductors down in Texas and the other examples that we can point out—the fact of the matter is the Nobel prize we might win here in 1990 or 1991 was for research work done back in 1978-80, 10 years ago. You are going to find by the end of the century we are not winning any Nobel prizes, they are all going to be won by our foreign competition.

Robert Reich said:

This quiet path back to competitiveness depends less on ambitious Government R&D projects than on improving the process by which technological insights are transformed into high quality products.

U.S. companies must link their own R&D efforts more closely to commercial production. Compared with Japanese firms, most American firms draw a sharper distinction between research and development on the one side and production and marketing on the other. This division prolongs product development times, causing marketing opportunities to be lost.

Again, in Business Week, and I quote:

A decade ago Japanese companies stunned their U.S. rivals by spewing out products of ever higher quality at ever lower and lower prices. This stemmed largely from the fact Japanese, emulating the way American companies operated prior to World War II, don't have separate design and manufacturing functions. Their product engineers are equally adept to both. Using concurrent engineering to harness the ingenuity of America's small manufacturers could spark an industrial renaissance.

That is the article in Business Week entitled, "A Smarter Way To Manufacture," in April 30 of last year, at pages 110 to 117.

Mr. President, I referred earlier to the testimony of Antitrust Division Chief James Rill. He said in his testimony:

We are concerned that statutory provisions mandating structural separation and requiring comparable opportunities in the Bell operating purchasing decisions may not be necessary to achieve this objective and could foreclose many of the pro-competitive benefits the bill seeks to provide.

He is right. That could occur. That bothered this particular Senator. But this bill was not arbitrarily drawn. This bill was drawn with balance in mind, to allow the best of the best to come into research, the best of the best to come into development, the best of the best to come into manufacture and commercialize and thereby bring the best of technology and the best of technologically advanced services to the consumer. Yet, we put in some of these statutory provisions to make sure that we would not be charged with a disregard for antitrust.

Chairman Sikes, the Chairman of the Federal Communications Commission, stated:

Adding new statutory requirements could frustrate the basic goal of this bill, which is more U.S. manufacturing. We would welcome the chance, Mr. Chairman, to work with the subcommittee and its staff to

ensure that legislative rules and our rules are in harmony and that we do not unintentionally create a regulatory morass.

We have it. It has not been easy. Justice and the FCC now go along, saying this is a good bill, excepting of course the administration. And that should be pointed out. The administration does not go along with the domestic content provision. But that is the responsibility of Carla Hills. We dealt with her all last week.

We really have the tail wagging the dog around here. The Europeans all sit there in the EEC—and I pointed it out—and emphasize just exactly what the content provisions are for all of the European Economic Community. And then the administration comes up and says, look, we better not put in a domestic content provision. That will ruin one of our arguments in our trade negotiations.

It should not be an argument. The best way to remove a barrier is to raise a barrier and remove them both. Market forces, that I believe in; market forces operate. Unless and until you can bow and scrape to the Japanese with all of this special relationship nonsense you are not going to get anywhere. But unless and until you can make it in the economic interest of the Japanese, they are not going to deal, and I would not if I were them.

Business is business. As a result, we have to meet this particular competition to try to level out the field and if there comes a time then in negotiating where both sides can remove, let us say, the agricultural benefits, have them in both sides, not just remove them for the one. Similarly, if both sides can remove them with respect to telecommunications and domestic content, we can do so.

Let me read what Henry Geller stated on this.

It is simply wrong to suppress the competition of over one-half of the United States telecommunications industry in this important sector. Further, without manufacturing facilities, the divested regional companies cannot reasonably be expected to engage fully and effectively in the R&D that is vital to this dynamic area. There is simply no need to protect AT&T and the foreign manufacturers from the competition of the Regional Bell Operating Cos.

That is really what you have. He is a former general counsel of our Federal Commission and head of NTIA, and Geller knows this field better than any, in my opinion. What the opponents of this bill are really insisting on with amendments that will be presented here is let us protect NTT and the foreign manufacturers, all under the auspices of looking out for the consumers and for antitrust law. All of a sudden we have all become Justice Department lawyers.

The Justice Department endorses this bill with that regard, not with respect to domestic content. The administration opposes it. But otherwise they are the ones that said, look, we required the manufacturing restriction 7 years ago, and now we know definitely it has not worked. It is a bad provision, and we support its removal.

Janice Obuchowski, Administrator of the National Telecommunications Information Administration on behalf of the administration stated this:

In continuing to bar the Bell Cos. from manufacturing, we are, in effect, handicapping the ability of the United States to meet aggressively the competitive challenge presented by foreign commercial interests. The administration believes that lifting the manufacturing restrictions will have a significant positive impact on the operation of the U.S. telecommunications industry. This important growth industry will better be positioned to thrive and to serve the American public as the United States strives to maintain its competitive edge globally.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate will stand in recess until the hour of 2:15 p.m.

Thereupon, the Senate, at 12:30 p.m., recessed until 2:15 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. ADAMS].

Mr. BAUCUS. Mr. President, I ask unanimous consent that I be allowed to speak as in morning business.

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

EXTENSION OF FAST TRACK NEGOTIATING AUTHORITY

Mr. BAUCUS. Mr. President, just before the Memorial Day recess, this body cast one of the most important votes of the year.

The Senate voted 59 to 36 to extend fast track negotiating authority for 2 more years.

Coupled with a similar House vote, this vote will allow the administration to conclude two critical international trade negotiations: the Uruguay round of GATT negotiations and the free-trade negotiations with Mexico and Canada.

I have spoken at length on the benefits of both of these negotiations, but I will briefly recap.

The Uruguay round alone has the potential to create more sustained economic growth than any proposal that will come before the Congress in the foreseeable future. The North American Free-Trade Agreement could create a secure market for U.S. business of 360 million consumers—the largest in the world.

These are the kinds of opportunities that the United States must grasp if we are to remain an economic superpower and a great Nation.

THE RIEGLE RESOLUTION

Unfortunately, despite an overwhelming vote for the fast track, some wish to once again bring this issue before the Senate.

Apparently, opponents of the fast track have decided that if they cannot kill the fast track outright, perhaps they can cripple it with a flank attack.

The most recent proposal would undo the fast track for the North American Free-Trade Agreement by allowing amendments relating to Mexico and requiring another extension vote next year.

I strongly oppose this effort. After months of debate, the Senate has spoken on the fast track—and spoken strongly.

I see no reason for more of the Senate's valuable time to be spent considering the fast track.

Let us stop debating procedural issues and allow our negotiators to get down to business.

THE ADMINISTRATION'S BURDEN

That said, I must confess to some serious doubts about the outcome of both the Uruguay round and the NAFTA talks.

The negotiations will be tough.

The United States must set high goals in the talks; U.S. economic security is at stake.

In the Uruguay round, our negotiators must negotiate pragmatically.

Our major objectives—liberalizing agricultural and services trade and protecting intellectual property—are sound; indeed, they are imperative.

But the U.S. negotiators also must work for progress in other areas. For example, they must work harder to eliminate or lower tariffs in sectors where the United States has export opportunities.

In the agriculture sector, U.S. interests would be best served by focusing on the biggest problem—export subsidies—rather than promoting the abstract principle of free trade.

If it is to win congressional approval, the Uruguay round must include provisions, like these, that are of concrete benefit to United States exporters.

The administration has an even more difficult job in the NAFTA negotiations. Negotiating a free-trade agreement with a developing country, like Mexico, is an extraordinarily complex task.

Numerous economic studies confirm that a free-trade agreement between the United States and Mexico could be a boon to the United States economy. But if the agreement is negotiated poorly or ignores critical issues, it could cause severe dislocations in our economy.

Unfortunately, I still fear that some in the administration are inclined to negotiate an agreement that is dis-

to eradicate any vestige of Tibetan culture.

Our Ambassador to China, James Lilley, recently acknowledged that "Tibet is under occupation by China." This charge against China is being newly recognized again as a crime not just against the Tibetans but against humanity.

There needs to be a moral consistency in American foreign policy which is now apparently lacking in regard to China.

I could accept the President's objective if I thought our policy was fundamentally consistant. But why then do we insist on isolating Vietnam and Cambodia whose people hunger too for political and economic change? Why not lift our trade and aid embargo on those countries?

Why then do we not press China to end its illegal occupation of Tibet?

Our President, I am certain, has his reasons. We shall have ours when we vote whether or not to grant China a special status not granted to all nations.

TELECOMMUNICATIONS EQUIPMENT RESEARCH AND MANUFACTURING COMPETITION ACT

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. LOTT. Mr. President, I join my colleagues who have spoken in support of S. 173, the Telecommunications Equipment Research and Manufacturing Competition Act of 1991.

I have been a long-time supporter of freeing the Bell Cos. from the manufacturing restriction dating back to my tenure of service in the House of Representatives. In both the 99th and 100th Congresses my fellow colleagues in the Republican leadership and I introduced trade and competitiveness legislation which included provisions to enable the Bell Cos. to manufacture telecommunications equipment in the United States.

Briefly, I would like to take this opportunity to outline several of the points that have been made by opponents of S. 173, with which I disagree.

First of all, opponents say over and over again that their concerns about the Bell Cos.' manufacturing "just can't be regulated." This, despite the fact that the Bell Cos. are some of the most heavily regulated companies in America. There are extensive State and Federal rules to prevent abuses—it is important to point this out, because it has been lost in the comments of the opponents.

Opponents also say the Bell Cos. will cross subsidize their manufacturing operations by shifting those costs to the backs of ratepayers. Any Senator who takes time to look at this will understand that in the current price cap regulatory environment where the incentive is to reduce, not increase, costs—any company that would attempt to cross subsidize or inflate its cost structure would be bent on self-destruction.

The most duplicitous argument by the opponents of S. 173 is the allegation of Bell Co. self-dealing, a practice of buying only from its manufacturing affiliates. The Bell Cos. have established supplier-contract relationships with, and purchase billions of dollars of equipment and products annually, from hundreds of different manufacturers.

The Bell Cos. also multisource each of their separate product lines—as a competitive procurement practice—to avoid dependency and ensure alternative sources of supply.

The telecommunications equipment market today is extremely diverse and characterized by niche suppliers, each of whom fills a particular need. Rapidly changing technology has created numerous supplier opportunities that were nonexistent in the predivestiture environment.

It is unsound, in my view, to think that the Bell Cos. would attempt to replicate what is now supplied to them by hundreds of different manufacturers with unique talents and proven expertise.

It is far more rational to view the Bell Cos. as having a strong business interest in seeing the U.S. equipment market remain competitive, and innovative—and therefore, capable of meeting the changing, increasingly sophisticated needs of their customers.

Some have suggested placing a restriction on Bell Co. manufacturing which would prevent the Bell Cos. from self-dealing. The problem with this approach, in addition to the unfairness of applying such a restriction to just these seven companies, is that it would deprive many of the Bell Co. customers—small businesses and residential consumers—from the benefits of Bell Co. manufacturing efforts.

If the Bell Cos. can produce something of value why should they not be allowed to sell it to their own customers and why should their customers not be allowed to buy it?

The administration is concerned that the domestic content language is contradictory to our established trade policy as expressed in our GATT talks and other trade negotiations.

I think it is important to realize that S. 173 in its current form improves our trade negotiating position because it brings more leverage to the table. Enactment of S. 173 will enable the Bell Cos. to enter trade markets and develop an export capability for the first time.

The Bell Cos. will then be in a stronger position to assist U.S. efforts and obtain reciprocal opportunities to trade and invest overseas through private negotiations and contract agreements. Also, S. 173 sends the right signal to our trading partners that the United States walks like it talks in opening up our market and enabling a full complement of players to compete on equal terms and conditions.

The existing policy includes one set of rules for the Bell Cos. and a different set of rules for the rest of the industry. S. 173 would make everyone play by the same set of rules, and would also tend to ensure that new jobs created will be created in the United States, not overseas.

The current ban on manufacturing impedes the development of the U.S. telecommunications network. I feel very strongly that continued development is essential to continued economic growth and international competitiveness.

Entry by the Bell Cos. will give telecommunications equipment manufacturing in the United States a shot in the arm, and help to enable our domestic industry to remain healthy and vibrant.

This legislation is a jobs bill, domestically. It is a bill that is long overdue. The Commerce Committee has considered this legislation very carefully over the past, at least 4 years. We have worked on it. We have reported this legislation out, and I think it is very well crafted.

I hope my colleagues will not try to pick it apart piece by piece. We still have to go through the Senate, through the House, and go into conference. There may be some problems that can be worked out in the conference. To have it delayed by an inordinate number of amendments or stopped in the Senate by killer amendments I think would be a big mistake.

I say to my colleagues in the Senate, for too long the telecommunications systems in America have been run by the courts, specifically by one judge. It is time we begin to reverse that. Why in the world would we prohibit American companies from being able to compete domestically and in foreign markets? We do not allow the baby Bells to get in there and produce good quality equipment.

I am convinced American companies could produce better equipment at a better price.

This bill is long overdue from the standpoint of letting the courts run the telephone companies in America; it is long overdue from the standpoint of being able to have better equipment; and it is long overdue in terms of jobs in America and every region of the country.

I think that the domestic content part of the bill is one of its strengths. We say that foreign components cannot exceed 40 percent, but if there is an exceptional set of circumstances, you can go to the FCC and have even that waived. What do we want to do, guarantee that this equipment is made in some other country? Let us give Americans a chance. This should not be a killer amendment and if we knock that minimal domestic content language out of this bill, it is going to

substantially reduce the likelihood that we would get a bill at all.

So I urge my colleagues to support this legislation. It is time we have a little more "made in America" in our telephone equipment. It is also time that we take this whole issue back away from the courts.

This is a classic case of where the system was not broke, and we fixed it anyway. It is about time we tried to level out the playing field and allow everybody to have a chance to compete in this very important area.

I want to commend the chairman of our committee, the distinguished Senator from South Carolina, and our ranking member, the Senator from, Missouri, for crafting this legislation and bringing it to the floor of the Senate. They have done a good job. Let us go ahead and have the votes we have to, and then let us report out favorably this very important legislation. I yield the floor.

Mr. HOLLINGS. Mr. President, let me thank the distinguished Senator from Mississippi and a fellow committee member who has worked hard on this particular measure. He really focused on the point. This bill is intended to change the full employment for foreign manufacturers policy.

At the present time, there is no question about where RBOC's are investing their resources. Every one of these so-called very financially strong RBOC's [Regional Bell Operating Cos.], are investing overseas. We are losing it all. That is why we put the domestic content measure in to bring back jobs, bring back the industry, and bring back technology to the United States. If we can get them into the research and development, then we can start developing the technology, build up our technological strength in America, which has always been our advantage.

Our standard of living is too high to compete with Singapore and other places of that kind. Knowing that, we have to have the advanced technology which Singapore does not have. If we are going to do that, we have to change this foreign-employment and full-employment policy for foreigners policy at the present time. That is exactly what we have with this bar on the RBOC's ability to manufacture.

I might say, while we are trying to work out the so-called rural amendment by our colleague from South Dakota, no one has been more concerned about rural America than this particular Senator. We are more rural than metropolitan or urban from whence I come. This bill does not discriminate against rule telephone companies at all.

What they really, in essence, have asked for is that the RBOC's and the small telephone companies shall jointly operate. When you say shall jointly operate your separate wholly owned subsidiary with the rural telephone companies, then the rural telephone companies have a veto over any plans of the RBOC they disagree with.

That is not required in business or industry anywhere. It is not required now. It would not be required of Northern Telecom, Fujitsu, Nippon Electric Cos., Siemens—just go down the list of all of these foreigners. We are not requiring it now. We are not requiring it of the 1,400 telephone companies. All of a sudden they want to come in and say if and when you get that independent, wholly owned subsidiary, we want another restriction that you shall operate with us, namely, giving us a veto, and that you shall deliver on demand the equipment. If you have software or hardware that separate subsidiary produces, if the software or hardware becomes archaic, extinct, inefficient, you have to still produce it.

For the Congress of the United States to pass a law that says a company has to produce and continue to manufacture archaic equipment and sell it at a loss—this crowd has gone loco long enough on a lot of policies, but heavens above, that does not make sense. Yes, one provision of the amendment would require RBOC's to manufacture and sell equipment, as long as small telephone companies want it, even if it means selling it at a loss.

I want my colleagues to read this amendment. I am going to try to look at it and be as reasonable as possible. But, we are not going to pass a provision that has the National Government telling a company to sell at a loss. The whole idea is to advance technology, not to establish one particular technology as of 1991 and continue to sell it so long as an REA or rural telephone company demand it.

The South Carolina rural telephone people would be the first to sort of smile and laugh at me as I talk because they know I am their best friend. I have supported all their measures, but we cannot support this amendment in its current form. It goes against the grain of common sense and business practices. The rural telephone co-ops, they have remained competitive. That is why they exist today. They are economically strong. I just have come from meeting with one company and heard their financial report. It is wonderful to hear through the ears of a U.S. Senator that something is in the black; that they are operating within budget. I have not heard that since 1968 or 1969 up here. I commend them. I support the rural telephone co-ops.

I see others want to speak. I hope we can move along and get a compromise amendment addressing the rural telephone companies concerns.

I do not want any misunderstanding about the domestic content which the Senator from Mississippi has emphasized on the one hand. It is an excellent provision. If we were going to join EEC '92, we would have to do it. We are just emulating our competition. I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

(The remarks of Mr. DANFORTH pertaining to the introduction of S. 1207, S. 1208, and S. 1209 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. HOLLINGS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legisative clerk proceeded to call the roll.

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

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

The Senator from Florida is recognized.

Mr. GRAHAM. Mr. President, I ask unanimous consent to proceed as in morning business.

The PRESIDING OFFICER. (Mr. KERREY). Without objection, it is so ordered.

The Senator from Florida is recognized.

Mr. GRAHAM. I thank the Chair.

(The remarks of Mr. GRAHAM pertaining to the introduction of S. 1211, S. 1212, and S. 1213 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. HATFIELD. Mr. President, I ask unanimous consent that I may proceed, with the permission of the manager of the bill, for 10 minutes.

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

The Senator from Oregon is recognized.

CIVIL RIGHTS LEGISLATION

Mr. HATFIELD. Mr. President, this morning I was privileged to join with eight of my colleagues on this side of the aisle in introducing a comprehensive civil rights bill.

Mr. President, we have chosen to put this bill into three parts as has been described by our colleague from Missouri, Senator DANFORTH. I shall not at this moment attempt to go into the detail of each of these three parts.

In effect, what we are trying to do is introduce in parts what were the fundamental components of last year's civil rights bill with modifications. I say with modifications on the basis that we are looking at the possibility of building on last year's experience. As you know, Mr. President, I, along

with others, were original cosponsors of last year's civil rights bill and I voted to override the President's veto, the President of my party, or as a fellow Republican.

There were some 11th hour attempts to put together a compromise. The President of the United States called two or three Senators into the White House a number of times to try to help work out those hangups, those difficulties, that proved to be impossible at the last moment. But the good faith and the good effort of President Bush, I think is very evident.

Those of us who have known President Bush for many years—and I count it a privilege to be one of his classmates in the 90th Congress when he came to the House from a district of Texas and I came to the Senate from Oregon—know that he has had a long commitment in the field of civil rights. And there is no exception to that long record of commitment and action in this particular day.

Mr. President, those who have raised great concerns and fears, as if this were a crowbar approach, ought to go back to the fact that in the States of the Union we have proven the case. A moment ago, when Senator GRAHAM of Florida was here on the floor, it was very interesting to note that all the Members of the floor, including the Chair, were former Governors. The Chair, as Governor of Nebraska; Senator CHAFEE was here from Rhode Island; Senator HOLLINGS, of course, the senior member of the Governors here at that moment, from South Carolina; and myself from the State of Oregon.

Mr. President, over 30 years ago, the two pioneer States that put together comprehensive legislation dealing with civil rights in the workplace was the State of New York and the State of Oregon. When you go back to that record, it is not something that is innovative in the sense of a brand new idea that is coming upon us that somehow is threatening the tradition or the establishment of whatever it may be, be it on the side of business or unions or whatever it may be. This is a proven concept that has been tested in the workplace in a number of States leading up to the first Civil Rights Act of 1964.

Now since 1964, like other comprehensive legislation of a pioneering character, there has to be fine tuning over a period of time of use. The court, in five cases, to many of us has not carried out—and no disparagement on the court—has not carried out what could be called legislative intent. And therefore the subsequent legislation that occurred since the act of 1964 we feel will be more in tune with the original intent of abolishing discrimination in the workplace by the 1991 bill.

You know, Mr. President, civil rights legislation has been a long time before 1964, but never could be enacted. We do not have to go back and recite the history. We know the history of why it failed. But the day came when the majority leader was joined by the minority leader. Senator Johnson from Texas finally achieved the kind of legislation that Senator Dirksen of Illinois, the minority leader, could support. And together they worked out the civil rights bill of 1964.

I do not believe the situation is that much different today in the sense that we have to have a bipartisan bill that will ultimately find support at the White House. That is the simple reason why we have come forth as what may be categorized as moderate Republicans or radical Republicans or leper Republicans or whatever you want to give us as a title or label to try to start this kind of bipartisan process as against a situation that is happening in the House legitimately.

And I am not being critical at all of what is called the Democratic bill of the House that will be coming over here. We joined the Democrats last year in making that effort of bipartisanship. And so we are trying to find a bill that will pass and be signed into law.

It may not please all of the people on either side but, nevertheless, let us take action where we can find the ability to take action and the agreements necessary to get a further step toward the elimination of discrimination in the marketplace.

I think, also, we have to understand that some of these things are very hard to define, whether in legal terms or other terms. One commentator said: Discrimination is like a hair across your face. You cannot see it. You cannot find it with your fingers. But your keep brushing at it because the feel of it is irritating.

We are in this status as far as discrimination. We hope to include women and minorities as well as the traditional focus on the blacks in our society.

So, Mr. President, as I may, I am delighted to be a part of this effort. We are very open to working with our colleagues on the Democratic side. We recognize we seven or nine Republicans, or however many will end up supporting and cosponsoring our bill, are only a fraction of what we have to have to pass a civil rights bill. But we also realize that rhetoric has reached a level where with serious negotiations and people who are committed to the proposition, let us pass a bill, the best we can get, the strongest we can get, the most effective one we can get, rather than standing back and saying, well, we can put it to a vote and divide the sheep from the goats and see how it will play out in the 1992 elections. That is not helping the people we are trying to help. Nor is it righting the ills of our society.

I want to speak, again, to the fact that this is a tried and tested program, both in our Federal legislation and the State legislation that preceded it for many years. I am proud my State has been in the forefront of civil rights legislation. I consider it one of the great battles of my political career which I hope will be a legacy to the people of my State. We pioneered in migrant worker legislation, when people said it would wreck the agricultural community in my State, that the economy would be devastated. We passed it, and it did not wreck the agricultural economy in my State. And we are far from the goals, where we should be, in migrant worker legislation.

We have passed the point where civil rights should be a buzzword but let us look at human beings who are discriminated against, some by design, others unintentionally, and let us eliminate all discrimination in our society. This is part of the long-term effort, and I am proud to be part of it. I thank the Senator from South Carolina for yielding.

TELECOMMUNICATIONS EQUIPMENT RESEARCH AND MANUFACTURING COMPETITON ACT

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

Mr. BREAUX. Mr. President, I rise in support of the bill pending before the Senate, and will make a few comments if those are in order.

I start by commending the chairman of our full Senate Commerce Committee for the effort he is making to put the Congress back in the position of making telecommunications policy in this country. Some would agree that that is almost a novel idea, in light of how communications policy in this country has been made, at least since 1984. It has been made, not by the House of Representatives, not by the Senate, nor by the administration.

Communications policy in this country, since the breakup and divestiture of the AT&T company, has essentially been made by one judge sitting in one court here in the District of Columbia. I refer to Judge Greene, who, because of a stituation regarding the legal suits that were filed, is in charge of following that decision and ensuring that the 1984 decision is continually being followed.

The result of all that, to anyone who is listening, is that the policy determining the future of telecommunications development in this country is not being made in open debate. It is not being made by a duly elected representative of the people of this country. But the policy is essentially being made by one judge sitting in one court, who just happens to be the person who is in charge of carrying out the dictates of a lawsuit, a decision which was rendered back in 1984.

It is clear, and I think everyone here will agree, Congress should make the policy; the courts should interpret that policy and should render deci-

sions based on the policy set by the Congress. This legislation for the first time, really, since 1984, puts the Congress back into the decision on how our policy is to be made regarding an industry very important to the United States of America, the telecommunications industry.

This legislation essentially allows the Bell Operating Co. located throughout the United States for the first time since that decision was rendered to become involved in the manufacturing and the research and development of communications equipment in this country.

This is a tremendous industry for the United States of America. But we are losing it. We are losing it to foreign countries. We are selling them our technology and they, in turn, are selling it back to us in little boxes that they ship back to the United States of America. If we allow this to continue unchecked, this great, thriving industry that is now still an American industry will be an American industry no longer.

Some of the companies, AT&T in particular, say we oppose any changes; we do not want to make any changes in the current situtation.

I guess not, because they control it completely. But I suggest to them when they say if we pass this bill it will cost American jobs, that that loss pales in comparison to the American jobs that they are now exporting to countries all over the world.

Since the divestiture of AT&T, we have seen the elimination of over 60,000 manufacturing jobs nationwide, the startup of 10 major joint foreign production ventures, and the institution of four wholly owned offshore production operations in Europe and Asia alone by AT&T. We are talking about losing American jobs? They are exporting American jobs faster than any other company in the United States.

AT&T has steadily downsized their domestic manufacturing operations and have reduced their work force by a net 68,500 jobs through yearend 1988, not taking into account the years since 1988.

In January of 1989, AT&T announced an additional 16,000 jobs will be eliminated from its work force.

AT&T has closed five production plants: In Baltimore, MD; in Cicero, IL; in Indianapolis, IN; in Kearny, NJ; and Winston-Salem, NC.

In addition, the substitution of their domestic production and employment with offshore manufacturing has cost us jobs as in the case of our own city of Shreveport in Louisiana, where an entire equipment line was relocated in Singapore, because they feel they can do the work over there more cheaply.

I suggest to anyone who argues that this bill somehow will cost American jobs, I say just the opposite is true. By allowing American companies to engage in manufacturing that is now prohibited by an arbitrary decision by one single judge, to allow these new companies to engage in manufacturing which must be done in the United States, using component parts made in the United States, if such are available, is a move in the right direction to unchain these artificial shackles that are binding America's leaders of technology from doing what they can do best. It is high time that the Congress relieve them of those burdens and allow them to perform in a way that we think they will be able to perform, and in America, not in Singapore, not in Thailand, not in China, but in this country producing products for this market.

Some will say it is unfair to let these companies, which are monopolies, engage in manufacturing because they will just sell it to themselves and allow no one else to sell it to them. Or they will use their revenues from their telephone service to subsidize the manufacturing so that people who use the telephone will somehow be paying for the costs of manufacturing this equipment.

I congratulate our committee, and congratulate our chairman in particular, and others who support this legislation because of the built-in safeguards that this bill has which prevents that from happening, such as the requirement that the Bell Operating Cos., one, must conduct all of their manufacturing out of a separate affiliate; a totally separately instituted affiliate which cannot be run or operated or controlled by the Bell Co. In addition, they must provide to unaffiliated manufacturers comparable opportunities to sell their equipment to the telephone companies that they provide to themselves.

In addition, cross-subsidization—this use of revenues from the phone business to cross-subsidize the manufacturing expenses—is specifically and expressly outlawed, and penalties are provided for any violation of those prohibitions.

In addition, the Bell Operating Cos., through their affiliate, must make their equipment available to other telephone companies under the same prices, terms, and conditions.

I say to the Members, this, indeed, is a very important protection, to ensure that a manufacturing company under this bill must sell not only to themselves but must offer to other competitors at the same price, terms, and conditions those products. I think this is a built-in protection to make sure they somehow are not giving themselves some sort of a sweetheart deal, because this legislation requires that whatever they offer the Bell Co. for that equipment, they must offer it to all of the other telephone companies to ensure that everybody has an opportunity to benefit from this new technology and these new manufacturing techniques that the new companies will be able to bring to this business.

Mr. President, my own State of Louisiana has lost up to 7,500 jobs as a result of Judge Greene's decision in the manufacturing industry alone because of exports of American jobs to Singapore and other parts around the world. This is a jobs bill, that is correct, but it is an American jobs bill. It is also going to provide the technology so America can continue to be a leader in the free world in the telecommunications industry.

I wholeheartedly recommend my colleagues' affirmative attention to this legislation.

On a final note, it was interesting that I was handed a copy of a letter from a judge in the district, the judge I referred to, Judge Harold Greene, U.S. district judge from the U.S. District Court for the District of Columbia, which is about 10 pages of comments essentially on the legislation, essentially saying he does not like it. I appreciate the fact he does not like it because it is contrary to the decision they reached back in 1984.

But I also point out that the Congress makes the policy; courts interpret that policy. The Department of Justice enforces that policy if, in fact, there are violations of that policy with criminal intent.

I think it is highly unusual, and I think it is probably improper, in this Senator's opinion, to have the views of a judge on legislation that is pending before the Congress of the United States that affects decisions that he has rendered in the past. I think his role is a proper one in carrying out the intent of the Congress as expressed by the Congress and signed into law by the President of the United States. But certainly to provide the Members of Congress a very detailed explanation, it almost looks like, I say to the chairman, a witness' testimony before our committee when they come before our committee to testify and give their views on legislation that is pending. We now have the fact that Judge Greene does not like the legislation.

I submit it is the Congress who should determine the policy of the United States when it comes to telecommunications industries in this country, and it is the judge's appropriate and proper role to interpret that policy after we pass it, not during the process.

So I urge my colleagues to support the chairman's bill. I enthusiastically serve as a cosponsor to that legislation and hope it will be adopted.

The PRESIDING OFFICER (Ms. MIKULSKI). The Senator from South Carolina.

Mr. HOLLINGS. Madam President, I want to thank our colleague from Louisiana. Senator BREAUX has been a leader in trying to develop a balanced approach to make this country competitive again and to regain our technical leadership in the communications field. We have a wonderful opportunity so long as we do not sit here

blindly, thinking we are in control by forbidding the best of the best the seven Bell companies that we have built up over the years, companies that are now competing with each other. The competition is there. This is not the monolithic AT&T that existed in 1984.

Senator BREAUX has helped lead the way, and I think he has properly commented on the letter. I have just received a copy of this letter from Judge Greene. It seems our distinguished colleague from Illinois, Senator SIMON, had written Judge Greene for his opinion on this bill. Judge Greene responded in the first few lines by stating he would not express an opinion on the bill but I will write on for the next six pages giving a legal brief and argument against S. 173. It is totally uncalled for and inappropriate.

I want my colleagues to understand that we are not floating. I have been trying to be deliberate. We heard from Members on health, we heard from Members on China and civil rights and everything else while we have been trying to negotiate with our friend, the Senator from South Dakota.

One way or another, we are going to vote on that particular amendment. The distinguished Senator from Illinois is also working on a matter of an audit amendment. We do not need to include an audit provision in this bill because the States already have the authority to audit. We also provide in this bill under sections H and I on page 11 of the bill that the Commission shall promulgate the rules and regulations relative to the authority, power, and functions with respect to the Bell Telephone Cos. and their subsidiaries and prescribe the regulations for the audit to make sure that they do not cross-subsidize.

We are not playing games. If they want to try to specify even further, we will have to look at it.

But we do have concerns about language that could result in 50 States auditing 1 manufactory affiliate and the Bell Cos. having to pay for it.

With respect to the Commission itself, we have to depend on the Commission. They have attested to the fact that they can dutifully audit. They have the authorities now. Heretofore, when we had the monolithic, they had to visit the several States, go to the company, get its records, everything else. Now it is computerized. It is zipped out to their computers and reports are made and the audit is had. I do not see anything else is required.

I want to hasten colleagues to come on down with their amendments or, again, if we cannot get them and get a vote, we will have to go to third reading.

I appreciate the indulgence of the Senator from Rhode Island. He has been on the floor, and I yield to him.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Madam President, I want to thank the distinguished floor manager, the senior Senator from South Carolina, for giving me a few minutes.

Mr. HOLLINGS. The senior junior Senator from South Carolina.

Mr. CHAFEE. That is right, he has been here a long time but he is still the junior Senator.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. CHAFEE. I thank the Chair.

(The remarks of Mr. CHAFEE pertaining to the introduction of S. 1207, S. 1208 and S. 1209 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. HEFLIN addressed the Chair.

The PRESIDING OFFICER. The senior Senator from Alabama.

TELECOMMUNICATIONS EQUIPMENT RESEARCH AND MANUFACTURING COMPETITION ACT

The Senate continued with the consideration of the bill.

Mr. HEFLIN. Madam President, the role of telecommunications in our daily lives seems to have few limits. Not long ago, we knew little of facsimile machines, voice mailboxes, call waiting services, or the ability to conduct banking transactions by phone. Yet today, these technologies are routine parts of our lives to which we have become quickly accustomed and on which we have become rapidly dependent.

The future undoubtedly holds increased innovation in telecommunications technology and increased reliance on these technologies in both our professional and personal lives. In light of these realities, I believe it is incumbent upon Congress to eliminate any unnecessary restrictions on our telecommunications industry so that we may compete in the global marketplace. In that regard, I want to commend my colleague, Senator HOLLINGS, for his efforts with regard to S. 173, the bill before us today.

Under this bill, the manufacturing restrictions placed on the Bell Operating Cos. by the Modified Final Judgment would be lifted while putting into place a variety of important safeguards to prevent anticonsumer and anticompetitive abuses.

Among these safeguards are: First, a prohibition on the Regional Bell Cos. from manufacturing in conjunction with one another; second, a requirement that the Bell Cos. manufacture only through affiliates that are separate from the telephone company; third, a requirement that manufacturing affiliates make their products available to other local telephone companies on a nonpreferential basis; and fourth, a prohibition against cross-subsidization between a Bell Co. and its manufacturing affiliate.

Another important feature of this legislation is a domestic content provision designed to protect the American worker. This provision requires that the Bell Cos. conduct all of their manufacturing in the United States—to me that is a very important provision—and that the cost of foreign components used in Bell equipment not exceed 40 percent of the sales revenue from that equipment during the first year, to be adjusted annually thereafter by the FCC. I believe that these requirements will help protect the American marketplace from unfair competition and from foreign competition for American jobs.

For several years now, Congress has followed the operations of the Bell Cos. in the wake of the AT&T breakup. Last year, this legislation was passed by the Commerce Committee by a voice vote, and this year, the bill was voted out of the committee on a 17-to-1 vote. The issues involved in this legislation are extremely complex and have developed over time. It is my belief that this carefully crafted bill both encourages competition and provides safeguards for the American public. For these reasons, after carefully reviewing the evidence, I believe that the time for this legislation has arrived.

I urge my colleagues to join Senator HOLLINGS and the other cosponsors, of which I was one of the original, in support of this much needed legislation.

Mr. GORTON. Madam President, as a member of the Telecommunications Subcommittee, of the Commerce, Science, and Transportation Committee, I have had the opportunity to talk with a number of people in the telecommunications business regarding S. 173.

As the chairman of the committee well knows, last year, when we considered a similar measure in the Commerce Committee, I initially had reservations about the chairman's proposal. I was concerned that allowing the Regional Bell Operating Cos. to manufacture equipment could pose a threat to an already competitive, vibrant sector of the telecommunications industry.

Therefore, over the course of the last year, I sought the advice and opinions of manufacturers of telecommunications equipment from Washington State. Contrary to my initial fears, the vast majority of the telecommunications businesses in my State favor the passage of S. 173.

I would like to briefly mention some of the comments in the letters I have received.

From Advanced Electronic Applications of Lynnwood, "The proposed legislation would liberate companies such as AEA, to participate in business partnerships with the Bell companies in the design and development of telecommunications equipment."

From Eldec Corp. also of Lynnwood, "Competitiveness cannot and should not be legislated. Our best customer, Boeing, has virtually all of the capabilities—including fabrication—of its vendor-base and could easily be our

most serious competitor but the potential vendors to the telecommunications industry do not require or desire protection."

From Applied Voice Technology of Kirkland, "We believe the Regional Bell Operating Cos. to be an excellent source for outside capital financing and strategic partnering." From ICOM of Bellevue, "S. 173 would enable us to capitalize on the financial strength and the network and customer know how of Bell Cos. like US West. Those assets, combined with our manufacturing capability, would enable us to grow our businesses and add new jobs to the Washington economy."

Madam President, I believe in listening to my constituents. As their comments indicate, the small manufacturers from Washington State clearly support enactment of this bill.

I am, therefore, happy to join with the chairman, the distinguished Senator from South Carolina, in supporting the bill. I am also delighted that he has considered very thoughtfully some amendments around the edges of the bill like that proposed by the Senator from South Dakota, and I know I will give great weight to the recommendations of the Senator from South Carolina in that connection.

I suspect there will be other amendments. Some may be contested; some may not be. I will look at them but I will judge them from the point of view of considering that this bill moves us in the proper direction.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The manager of the bill.

Mr. HOLLINGS. Madam president, I think the Senator from South Dakota is momentarily coming to the floor with a compromise amendment relative to the rural local telephone exchange carriers, and the offering of equipment to those carriers, so long as there is a reasonable demand for that equipment, and that they do not, of course, require that that affiliate produce it on a nonprofitable basis.

The marginal cost standard would be implemented by the FCC itself. And I do not want to mislead, as I understand there is no agreement by the Bell Operating Cos., to that part of this particular amendment. Parts of this have been worked on for the past 3 weeks. The Bell Operating Cos., still have not agreed to that.

This Senator is studying it closely to see exactly what the Senator from South Dakota presents. And also with respect to planning and design, the amendment would require joint network planning of telephone companies operating in the same area of interest. You could not take 1,400 different little companies and require the Bell Telephone Cos., to come along and start negotiating with every little company. They would have to build mammoth office facilities to have the planning rooms and so forth at one time. So it would be restricted to those companies operating in the same area of interest.

We also remove the matter of requiring joint operations. Under the joint operations requirement as it appeared in the original amendment filed by Senator PRESSLER, that amendment would have required one telephone company to operate the phone system of the other company. Further, the joint planning provision originally would have provided one phone company with a right to veto the planning decisions of another company. As I explained earlier on the floor, we could not accept that. I think that has been clarified now where the operation is not to be included in the amendment of the Senator from South Dakota.

No participant in such planning should delay the introduction of new technology or the deployment of facilities to provide telecommunications services. They should not, in other words, have to require an agreement as a prerequisite for the introduction or deployment of new equipment.

We are trying to be considerate of the concerns that rural telephone opperatives have, that the distinguished Senator from South Dakota has, and we are still trying to be sensible about it. There is not a veto in it, and they could not veto the introduction of improved telecommunications technology. That is the whole idea. This thing changes overnight, and as we all know, that is competition, to come out with again the more improved telecommunications equipment and software.

I see that the distinguished Senator from South Dakota has reached the floor. I yield the floor.

Mr. PRESSLER addressed the Chair.

The PRESIDING OFFICER. The senior Senator from South Dakota.

Mr. PRESSLER. I thank the Chair.

Madam President, I rise today on behalf of Senators GRASSLEY, SASSER, BAUCUS, BURDICK, CONRAD, DOLE, WELLSTONE, SIMPSON, BURNS, and myself to propose an amendment to S. 173, the Telecommunications Equipment Research and Manufacturing Act of 1991.

Madam President, this amendment had been expected to go to a rollcall vote, and we had expected a very close vote. But I and other Senators along with our staffs and the staffs of the rural telephone community have been meeting this afternoon, and we believe we have reached a compromise.

Our goal is uniform telephone service for all Americans. In 1988, I wrote an article in the UCLA Federal Communications Law Journal concerning this concept of univeral service, which emphasized the need for a coordinated telecommunications policy for the Nation.

Without universal service as a fundamental premise of this national telecommunications policy, we in smaller cities and rural parts of our country would be left far behind in the advancing age. The legislation I now propose ensures that rural areas will be full participants in the information age.

The amendment would do the following: First, my amendment would require the Bell Cos. to make software and telecommunications equipment available to other local exchange carriers, without discrimination or self-preference.

Second, the amendment would require the Bell Cos. that manufacture equipment to continue making available the communications equipment, including software, to other local telephone companies, so long as the FCC certifies that manufacturing such equipment is profitable. Smaller independents and rural phone companies are concerned that if the Bell Cos. are allowed into manufacturing, they would be much more likely to buy existing manufacturing equipment than to start new ones. This is particularly true for switch manufacturing, which is capital intensive. If the Bell Cos. refuse to supply software, they could prevent the independents from providing new services. Then the Bell Cos. could market such services to the company's large customers, emphasizing that the independent company was unable to offer the service.

A Bell Co. also could use this leverage, if it wanted to acquire a neighboring small independent in a growing area. It could further its acquisition objective by depriving the target company of technology, stimulating the consumer complaints to regulators.

Small and rural companies are worried that a Bell Co. could acquire an existing manufacturer, change the product line to meet Bell plans and needs and cease to support equipment and software installed by small companies. If new software is not made available, a rural company might have to choose between installing a new switch or depriving its subscribers of new services.

Third, our amendment would require the Bell Cos. to engage in joint network planning and design. The legislation will lead to a nationwide information-rich telecommunication infrastructure that will include not exclude rural communities. To accomplish this goal, we offer this legislation to ensure that small and rural phone companies have a voice in the joint design of the telecommunications network to meet the goal of nationwide access to information age resources.

Finally, our amendment calls for strong district court enforcement procedures, including damages. This provision gives rural phone companies the confidence that the essential safeguards will be effective.

I thank my colleagues for joining me to ensure that rural companies and smaller companies have enforceable and continuing access to the equipment and joint network planning they need, so that all Americans, urban and rural alike, can share in a nationwide

information-rich telecommunications network.

AMENDMENT NO. 280

(Purpose: To modify certain provisions of the bill).

Mr. PRESSLER. Madam President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from South Carolina [Mr. PRESSLER] for himself, Mr. GRASSLEY, Mr. SASSER, Mr. BAUCUS, Mr. BURDICK, Mr. CONRAD, Mr. DOLE, Mr. WELLSTONE, Mr. SIMPSON, and Mr. BURNS, proposes an amendment numbered 280.

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

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

The amendment is as follows:

On page 8, line 12, strike "and".

On page 8, line 15, insert "regulated" immediately after "all".

On page 8, line 18, immediately after "equipment", insert a comma and "including software integral to such telecommunications equipment including upgrades,".

On page 9, line 1, strike "other" and insert in lieu thereof "regulated local exchange telephone carrier".

On page 9, line 3, immediately after "equipment", insert a comma and "including software integral to such telecommunications equipment, including upgrades".

On page 9, line 3, immediately after "manufactured", insert "for use with the public telecommunications network".

On page 9, line 5, insert "purchasing" immediately before "carrier", and strike the period and insert in lieu thereof a semicolon.

On page 9, between lines 5 and 6, insert the following:

"(9)(A) such manufacturing affiliate shall not discontinue or restrict sales to other regulated local telephone exchange carriers of any telecommunications equipment, including software integral to such telecommunications equipment, including upgrades, that such affiliate manufactures for sale as long as there is reasonable demand for the equipment by such carriers; except that such sales may be discontinued or restricted if such manufacturing affiliate demonstrates to the Commission that it is not making a profit, under a marginal cost study implemented by the Commission, on the sale of such equipment;

"(B) in reaching a determination as to the existence of reasonable demand as referred to in subparagraph (A), the Commission shall within sixty days consider—

"(i) whether the continued manufacture of the equipment will be profitable;

"(ii) whether the equipment is functionally or technologically obsolete;

"(iii) whether the components necessary to manufacture the equipment continue to be available;

"(iv) whether alternatives to the equipment are available in the market; and

"(v) such other factors as the Commission deems necessary and proper;

"(10) Bell Telephone Companies shall, consistent with the antitrust laws, engage in joint network planning and design with other regulated local telephone exchange carriers operating in the same area of interest; except that no participant in such planning shall delay the introduction of new technology or the deployment of facilities to provide telecommunications services, and agreement with such other carriers shall not be required as a prerequisite for such introduction or deployment; and

(11) Bell Telephone Companies shall provide, to other regulated local telephone exchange carriers operating in the same area of interest, timely information on the planned deployment of telecommunications equipment, including software integral to such telecommunications equipment, including upgrade;

On page 9, strike all on lines 20 through 24.

On page 10, line 1, strike "(4)" and insert in lieu thereof "(3)".

On page 11, line 7, insert "(1)" immediately after "(h)".

On page 11, between lines 13 and 14, insert the following:

"(2) Any regulated local telephone exchange carrier injured by an act or omission of a Bell Telephone Company or its manufacturing affiliate which violates the requirements of paragraph (8) or (9) of subsection (c), or the Commission's regulations implementing such paragraphs, may initiate an action in a district court of the United States to recover the full amount of damages sustained in consequence of any such violation and obtain such orders from the court as are necessary to terminate existing violations and to prevent future violations; or such regulated local telephone exchange carrier may seek relief from the Commission pursuant to sections 206 through 209.

Mr. PRESSLER. Madam President, I have given the arguments on the amendment. I know that I am told that some of my cosponsors wish to be able to come to the floor to speak or to place a statement in the RECORD regarding this.

Mr. BURDICK. Madam President, I am proud to cosponsor this amendment to add rural safeguards to S. 173, the Telecommunications Equipment Research and Manufacturing Competition Act of 1991. These safeguards address many of the concerns about S. 173 that I have heard from rural telephone cooperatives and other small telephone companies. This amendment would ensure that these small companies have nondiscriminatory access to the telecommunications equipment and software they need to provide first-rate service.

As a lawyer during the depression, I helped write incorporation papers for several rural telephone cooperatives in my State. I remember what a difference telephone service, even party-line service, made to rural communities. Today, telecommunications services are vital to rural life, as well as to rural development. Without access to the latest telephone equipment and software, rural telephone cooperatives and the consumers they serve would be left out of the communications revolution.

One of the primary reasons for this legislation is to give regional telephone operating companies more incentive to develop exciting new products. Many young people in isolated rural areas now benefit from interactive learning, and this amendment is designed to ensure that rural residents not be cutoff from future innovations in telecommunications. Without rural safeguards, allowing the Regional Bell Operating Cos. to manufacture telephone equipment could cause the Nation to be split into the "information haves" and the "information have nots."

America's rural telephone cooperatives want Bell Cos. entering manufacturing to make telecommunications equipment and application software available to other local exchange carriers without discrimination or self-preference as long as reasonable demand exists. They want the Bell Cos. to work with other local telephone systems in network planning, design, and operations. And they want district court enforcement to ensure that these requirements are met. These rural safeguards seem extremely reasonable, and I urge my colleagues to support this amendment.

Mr. HOLLINGS. Madam President, our distinguished colleague, the member of our committee, the Senator from Washington is momentarily prepared to make a statement relative to the bill.

I hope that my colleagues are reading that amendment right through. I was looking at the early part and from what I understood, the amendment is properly reported as a compromise with the distinguished Senator from South Dakota.

My point here for the moment is, it is my understanding that there are those who would wish we would not compromise, that we would try to table this amendment. But I think in the spirit of trying to move this bill, and in the spirit of the concern that all of us have relative to rural America and the smaller telephone companies, we have agreed to that amendment with the following changes: With respect to the first parts on page 8, line 15, insert "regulated" immediately after "all." That next section on page 8, line 18, other early sections on page 9, are either technical or agreed to.

The Bell Cos. have been looking at the amendment of the Senator from South Dakota for quite some time during the past several weeks.

The objection, as I stated a moment ago, on page 9, lines 5 and 6 is where we would not discontinue or restrict sales as long as there was a reasonable demand. What we included in there "except that such sales may be discontinued or restricted if such manufacturing affiliate demonstrates to the Commission that it is not making a profit under a marginal cost standard on the sale of the equipment."

That one would be in dispute, but the Senator from South Carolina, on behalf of our committee, would be ready to accept it. We have checked with the ranking member, Senator DANFORTH.

Specifically, the final section there, "Bell Telephone Companies shall, consistent with the antitrust laws, engage in joint network planning and design with other regulated local telephone exchange carriers operating in the

same area of interest," we restricted it "in the same area of interest" so that the Bell Telephone Co. are not empowered by the measure here to engage with all local telephone exchange carriers over the United States. And in saying "that no participant in such planning shall delay the introduction * * *" of new technology we wanted to emphasize affirmatively that what we are trying to do is spawn, nurture, develop, and install new technology in the deployment of facilities and new telecommunications services. The agreement with such carriers shall not be required as a prerequisite of such introduction or deployment.

The original amendment implied a veto and we have eliminated that veto.

Then, the next section says that Bell Telephone Cos. shall provide to other regulated local telephone exchange carriers operating in the same area of interest timely information on the planned deployment of telecommunication equipment, including software. Then there is a provision with respect to these provisions of a company's right of action, not the individual right of action.

Those are the main points of compromise, and I sort of spelled them out in detail here. Obviously, I have bragged on and on about the character and capability of our Bell Operating Cos., but I do not represent them. I did not put in this bill for them. I put in this bill for the United States of America for the consumers, for the telecommunications industry, for trying to maintain the United States position on the cutting edge of telecommunications technology. So, at times there are things that I am convinced perhaps that the companies themselves, as worthy as they are, would differ with the Senator from South Carolina and if they think another Senator thinks I am totally mistaken I want them to have time to come to the floor and air that and make what motions they want to make before we join in, which I would love to do, with our distinguished colleague from South Dakota.

I yield the floor.

(The remarks of Mr. GORTON pertaining to the introduction of S. 1215 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. GORTON. Madam President, I thank both the chairman of the committee and my dear good friend, the distinguished Senator from Montana, who was here ahead of me and could have taken the floor ahead of me, for their courtesy to me in this regard.

Mr. BURNS. Madam President, I do not want to stop the flow of conversation on the amendment of the Senator from South Dakota and would speak generally on this bill, S. 173, if that would meet with the approval of the Chair.

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

Mr. BURNS. Madam President, I wish to commend the distinguished chairman of the Senate Commerce Committee, Mr HOLLINGS, for the expeditious manner in which he has moved to build upon his efforts begun in the last Congress to provide relief from the manufacturing prohibition in the modification of final judgment [MFJ]. I applaud the chairman's leadership, foresight, and steadfastness in moving this important communications legislation to the floor of the Senate. I would hope this momentum will continue with speedy action by the Senate, and the House action will follow in timely fashion.

I do not know of anything we have talked about more in the Commerce Committee than communications.

Madam President, in my somewhat brief tenure in this body, I have been concerned that we have generally abdicated our responsibility over communications policy. Congress adopted the Communications Act in 1934, and then pretty much left it to courts and regulatory commissions to make policy within that framework.

When you stop and consider that the transistor did not exist in 1934, nor did fiber or digital switches, some might argue that we've been a little remiss in exercising our policy mandate. With S. 173, we have the opportunity to take a-first step in correcting that.

I am an original cosponsor of S. 173 and of S. 1981, its predecessor in the last Congress. From my perspective, this legislation is absolutly critical if we are to maintain our place as world leader in communications. And this legislation is absolutely critical if we are to rebuild our telecommunications infrastructure so that we can compete with the French, British, Japanese, and other countries in the European Community and Pacific rim in the information age and global economy of the 21st century.

While those countries have adopted the necessary policies to insure they're at the forefront of technological innovation, the United States, through a unique mix of action and inaction, has chosen to idle more than 50 percent of the telecommunications assets of this country. While Japan is on a path of fiber to the home by the year 2015, while France has gone from having a second-rate telecommunications system to being the world leader in video text, while the United Kingdom has recognized that telephone and cable television are converging technologies, the United States has been content to let a Federal judge decide the rules of the game, including who may play and who may not.

This is not a prescription for world leadership. On the contrary, if we want to fall behind—some would argue, stay behind—the French, British, Japanese, and others, we ought to stay the course, leave telecommunications policy to the courts, and keep valued assets on the sidelines.

That is obviously not what I am recommending. Indeed, I am pleased that at least on the manufacturing issue, the Senate stands ready to exercise its policymaking responsibility. It is only a first step, but a very crucial first step. I hope it serves as a precursor for debate on the telecommunications infrastructure.

By lifting the manufacturing provision with the adequate safeguards the bill provides, S. 173 recognizes the principle that Government should not decide what activities within an industry particular companies may perform. Simply put, the Government has no way to determine who the most qualified or most advanced potential competitor might be. We do know, however, that increased competition produces additional benefits, many of which cannot even be foreseen.

By removing the manufacturing curbs on the Regional Bell Holding Co., S. 173 will put more Americans to work, and put American capital to work in the USA. And I want to emphasize that. We need our capital working here in our own country. It is a sad paradox that a country which leads the world into one of the most dynamic technological fields of the 20th century should hamstring one group with the potential to help us maintain that leadership into the 21st century.

In the hearings on S. 173 and S. 1981 in the last Congress, concern was expressed that the telephone companies might try to hide some of the costs of their competitive manufacturing activities within the regulated local exchange sector, thereby transferring the costs to the local ratepayers. Or that they might also exploit their knowledge of the technical details of the local network, or design the configuration of the network to favor their product offerings in the telecommunications equipment.

These concerns are real and born of experience. But times have changed, and the ability to monitor regulated companies competing in unregulated markets has increased enormously. So much so, that the Government—the Department of Justice as well as the FCC and NTIA—testified that S. 173 had more than adequate safeguards against these and other abuses.

The alternative to S. 173 is to continue banning the Bell Cos. from participating in manufacturing without even attempting to make competition work. I believe such a "can't do" attitude is contrary to the spirit that has made our great country the leader it is.

I must temper my enthusiasm and support for S. 173, however, with the observation that the foresight and initiative which the Senate is showing has yet to be extended to another aspect of the telecommunications infrastructure. We continue to be reluctant to take the one step necessary to ensure the timely development of an

advanced, interactive, broadband communications network.

The telephone companies are in the process of constructing such a network, but the economic pump primer needed to accelerate the process is the ability to provide cable service in competition with existing cable systems. The potential benefits to the American public and our economy are tremendous.

The Commerce Committee knows from its extensive hearings on cable that competition is sorely needed if consumers are to receive adequate service at reasonable prices. We also know that realistically the telephone companies are the only entities with the resources and expertise to compete with cable in the foreseeable future.

The same kind of legal and regulatory safeguards which the committee finds adequate with respect to the Bell Cos. entering the equipment manufacturing business, are obviously also adequate to prevent cross-subsidy and competitive abuses if telcos enter the cable business.

A little earlier I mentioned that history tells us AT&T did abuse its monopoly position with regard to equipment manufacturing. But as the Department of Justice has said, there was no evidence that AT&T did so with respect to information services.

Based on what the Department of Justice, the FCC, and NTIA have said about the adequacy of existing legal and regulatory safeguards and experience, I do not believe the distinction between our willingness to recommend S. 173 and our reluctance to support telco entry into cable is supported by logic or sound public policy considerations. If we retard the rapid development of our telecommunications infrastructure, the harm to our economy and the American people will, in my view, even exceed that which will occur if we fail to enact S. 173.

As a result, on Wednesday, June 5, Senator GORE and I will introduce the Communications Competitiveness and Infrastructure Modernization Act of 1991 which will advance the national interest by promoting and encouraging the more rapid development and deployment of nationwide, advanced broadband communications networks by the year 2015. My bill is designed to complement Senator HOLLINGS' efforts on S. 173 and to move America forward into the information age of the 21st century.

Again, Mr. President, I commend the extraordinary effort of Senator Hollings and his staff. The chairman deserves credit for bringing to the Senate legislation which will move America forward in the information age of the 21st century. I strongly urge my colleagues to support this measure.

Thank you, Mr. President. I yield the floor.

The PRESIDING OFFICER (Mr. ROCKEFELLER). Who seeks recognition? The Senator from South Dakota is recognized.

Mr. PRESSLER. Mr. President, I think we have arrived at a critical moment in the formation of our Nation's telecommunications policy. We will now have, for the first time, a requirement that there be planning in the formation of our telecommunications infrastructure that will involve Bell Telephone Co., small companies, and rural telephone cooperatives. It will be nationwide planning, not only for rural and small-town America, but for all America.

Indeed, we do need a nationwide infrastructure capable to bring advanced medical services to rural America. This infrastructure will allow smaller universities and small businesses, to access new supercomputer technology. This network planning will also speed fiber optic deployment throughout the Nation. This infrastructure will usher us into an era when people in small towns can video teleconference to their jobs in large cities.

Since 1978, I have served on the Communications Subcommittee. We have never had network planning until this legislation.

I think this amendment is an historic amendment in that sense. Many times in the Commerce Committee I have pointed out it is not just rural America but also inner-city urban America that is left out.

The same thing is true of transportation in our country. I feel, since we have deregulated the airlines, and I was one who voted against this deregulation, we have had some very severe problems. We have some very great challenges to meet to preserve our airline passenger service in this country in a positive way.

That subject may seem separate and far afield, but the fact of the matter is, all companies want to serve the very rich areas and not serve upstate New York or the smaller towns of California.

The same thing is true of communications. My wife and I just recently had cable TV installed in our home here in Washington, DC. In our home in South Dakota we have also just recently had it installed, and this is 1991.

The point is, in rural areas and inner-city urban areas the companies are not so eager to provide the service. The very centers of our cities, and rural and small city areas are left out.

With passage of the Communications Act of 1934 we established that there would be a common carrier responsibility. That is, if you have some very rich routes, you also have to take some very poor routes. It was not a system of government subsidies, but a government system of assigning routes. If a company took some very lucrative routes they would also accept responsibility to expand their communication service to all areas of their franchise. That is how we built up our national system of communications.

Today we are in a situation that, if you live in a wealthy, densely populated suburb, you can get all information services. Fiber optic cable allows the suburban hospital to be connected with the Mayo Clinic and elsewhere. But that is not true if you live in a smaller city or rural area.

What we are doing here is very historic, because we are once again returning to the concept that there will be nationwide planning, that all the players will be at the table—and that is very important. I have long fought that fight in the Senate not only for communications but also for transportation.

I do not mean to say "I told you so" on airline deregulation, but I do not think that deregulation has resulted in everything positive. I think there have been many parts of our country that have suffered. I think now we are going to have to readdress it.

I make these points to pay tribute to Senator HOLLINGS for his concern about rural America. He has done a great job in leading our committee and in leading us on these issues.

I also pay tribute to my colleagues and cosponsors, Senator GRASSLEY, Senator SASSER, Senator BAUCUS, Senator BURDICK, Senator CONRAD, Senator DOLE, Senator WELLSTONE, Senator SIMPSON, and Senator BURNS.

I would like to thank Kevin Schieffer and Dan Nelson of my staff who worked very hard on this legislation. I also thank John Windhausen, of Senator HOLLINGS' staff along with Mary McManus and Mary Pat Bierle of Senator DANFORTH's staff. I also would like to commend the work of Sue Sadtler, Margot Humphrey, Shirley Bloomfield, Dave Cossen, Lisa Zaina, and other members of the Rural Telephone Coalition.

Mr. President, I urge the adoption of the amendment.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. I thank our distinguished colleague from South Dakota. He has put his finger right on the pulse. We ought not work with total disregard to the small. The Office of Technology Assessment has reported that we could develop much better rural telephone services if there was better coordination.

The Senator from South Dakota has taken that charge and included provisions in here that the Bell Cos. would not necessarily support; namely, that the manufacturing affiliates shall not discontinue or restrict sales. They did not want provisions relative to the discontinuance or the restriction of sales. Once it was agreed to that it not only included the software integral to it, which was suggested by the Bell Cos. but we put in there that such sales may be discontinued if it is not profitable. That language is better than the original amendment.

Again, at the suggestion of the Bell companies, they wanted to move

promptly with respect toward the termination. So we said the Commission shall, within 60 days, consider various facets; namely, that at the Bell Cos.' suggestion, whether the components necessary to manufacture the equipment continue to be available. We are trying to be reasonable, trying to act with common sense.

Otherwise, the Bell Telephone Cos. did not like a requirement that they engage in joint planning and design with the local telephone exchange carriers. We eliminated the idea of engaging in the same operations so there would not be any veto. We also specified that they be operating in the same area of interest. Wherein they operate in that same area of interest, the Senator from South Dakota had provided just that; that they do have joint network planning and design.

We have eliminated a particular objection of the joint operations provision that the Bell Cos. opposed, and also put in at their suggestion, that agreement with such other carriers should not be required as a prerequisite for the introduction or deployment of the new equipment.

Then we made a change at the suggestion of the Bell Cos. that any regulated local telephone exchange carrier, rather than any person could go to court. We did not want anybody who had a bad telephone bill run down and get a lawyer and just clutter the courts. If there is an objection, under the law, we are supposed to exhaust our administrative remedy; not from the courts, but; namely, the Federal Communications Commission. You exhaust your administrative remedy, and this puts the regulated local telephone exchange carrier in the stream court if it wants to challenge a manufacturing affiliate which violates that requirement.

That was included at the Bell Co.s' suggestion. And also the final phrase "or such regulated local telephone exchange carrier may seek relief from the Commission pursuant to sections 206 and 209." It is not totally what the companies want, by any manner and means.

I commend the Senator from South Dakota and join with him in urging the adoption of the amendment unless another member wishes to be heard on the amendment. The Senator from Iowa would like to speak on the amendment.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I want to take the floor because I think it is necessary for us who are cosponsors of this amendment to express special gratitude and appreciation to Senator HOLLINGS and Senator DANFORTH for their cooperation with Senator PRESSLER, myself and other cosponsors of the rural telephone protection amendment.

I also want to commend the representatives of the Rural Telephone Coalition who have forcefully and effectively advocated the passage of these additional safeguards which are crucial to hundreds of rural independent telephone companies and their customers throughout the Nation. The coalition—consisting of the National Telephone Cooperative Association, the National Rural Telecom Association, and the Organization for the Protection and Advancement of Small Telephone Companies—did an admirable job and service to rural Americans.

Mr. President, the rural telephone protection amendment will provide America's rural telephone companies and their customers crucial safeguards against any anticompetitive activities which might result from the passage of S. 173.

This amendment assures that the benefits of the new manufacturing endeavors anticipated under this bill will be shared by independent telephone companies. They are guaranteed availability of telecommunications and equipment, including software. They will be assured coordination and joint planning with the Regional Bell Telephone Co.

These protections are important and should help prevent any return to some of the unfair, discriminatory practices against independent telephone companies which occurred prior to the antitrust breakup of the AT&T Bell System a few years ago, which an administrative law judge found to be, and I quote, "adversely impacted the quality and cost of independent service."

Two weeks ago, the Office of Technology and Assessment released a study requested by myself and others which is entitled "Rural America at the Crossroads: Networking for the Future." The OTA made numerous findings that will help policymakers assure that rural economic development is encouraged, not discouraged, by advances in telecommunications. It was concluded that we need to recognize and accommodate the special needs of rural areas. It was also determined that we must have better coordination among telecommunication interests, businesses, and local, State, and Federal officials.

I believe that our amendment takes a major step in the direction recommended by this study.

On behalf of Iowa's 150 telephone companies, I want to again thank my colleagues for their support of this very important amendment.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. PRESSLER. Mr. President, I ask unanimous consent to add as cosponsors Senator DOLE, Senator CONRAD, and Senator BURNS.

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

Mr. PRESSLER. I urge the adoption of the amendment.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 280) was agreed to.

Mr. PRESSLER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HOLLINGS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STEVENS. Mr. President, I ask unanimous consent at this time to make a short statement to introduce legislation.

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

The Senator from Alaska is recognized.

Mr. STEVENS. I thank the Chair.

(*The remarks of Mr. STEVENS pertaining to the introduction of Senate Joint Resolution 155 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions."*)

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. GORE. Mr. President, I rise to support amendment No. 280 and to strongly support the underlying bill, S. 173, because I believe it is time to reconsider some of the arbitrary limits placed on the regional Bell Cos. and their abilities to compete in an increasingly complex and competitive world marketplace.

The chairman of the Senate Commerce Committee, our distinguished colleague from South Carolina, has built a truly impressive record of bringing this legislation to the floor. His leadership has enabled this body to address a relevant concern at a time when America's ability to compete in the world is really being challenged in an unprecedented way. There were serious concerns about the original bill, and the Senator from South Carolina has been diligent in addressing all of those concerns, both with substantive changes and with full consideration in committee hearings.

Manufacturers who fear competition from the Bell Cos. are justifiably concerned that potential self-dealing between the regional telephone companies and their affiliates could stifle competitors' ability to sell their biggest customers, the regional telephone companies.

In particular, I understand the independent and rural telephone co-ops fear that their marketplace for major equipment might be adversely affected by Bell Co. involvement in manufacturing. The bill goes a long way toward alleviating this concern. I am pleased that this amendment resolves all of the remaining problems, and again I compliment the sponsor of the bill for going to great lengths to ensure that the legislation contains adequate safeguards against any anticompetitive behavior by the Bell Cos.

I was especially pleased to learn during the committee markup that the National Federation of Independent Business has endorsed S. 173, express-

ing its satisfaction with the safeguards in the bill. Moreover, I want to report to my colleagues on the floor that I have personally heard from many business leaders across my own State of Tennessee that important new business and consumer services are now being held hostage to the current rules being administered by the Court under the consent decree. It is time for the elected representatives of the American people to set the ground rules and the framework within which competition can proceed.

Mr. President, it is significant that the organization representing the majority of our country's communications workers has enthusiastically endorsed this legislation noting its positive impact on U.S. jobs in an industry that has seen tens of thousands of jobs move overseas since the break up of AT&T.

Some opponents of this legislation have suggested that if Congress opens the door to the regional Bell Cos. to engage in manufacturing, then surely the barriers to electronic publishing and other information services will be certain to fall.

Mr. President, this bill, of course, in no way affects the MFJ restrictions on information services. Many of our colleagues who support S. 173 are equally concerned that we go slower in opening up information services to competition from the Bell Cos.

So again in closing, Mr. President, I congratulate the chairman of the Commerce Committee for his leadership on this important issue, and I urge all of our colleagues in the strongest possible terms to stand behind the leadership of the Senator from South Carolina to support this legislation and make the very needed changes embodied in it.

I yield the floor.

Mr. INOUYE. Mr. President, it is with deep regret that I rise today in opposition to S. 173. I have worked on countless measures with the chairman of the Commerce Committee over some 25 years, and there are only a few times that we have disagreed on a communications matter. I have great respect for the chairman and his in-depth knowledge of communications issues. However, after careful and painstaking consideration of this matter, I continue to feel strongly that this legislation will not achieve its objective of increasing American competitiveness in the international communications market. In fact, I believe it may do just the opposite.

The chairman of the Commerce Committee believes that the time has come to lift the communications manufacturing restrictions and institute a new series of administrative safeguards against anticompetitive behavior.

I believe that the modified final judgment is of great benefit to our telecommunications market, its businesses and users. Thousands of new manufacturers have entered the market since the AT&T divestiture. As a result, consumers have benefited from cheaper and more innovative equipment and many new services. The trade deficit in communications equipment has been reduced from $2.6 billion in 1988 to $0.8 billion in 1990 according to the Department of Commerce. In the area of research and development, spending by U.S. companies, including the BOC's, has increased, not decreased, since divestiture.

During the past 25 years, the U.S. Government has brought four antitrust actions against AT&T. In three of these actions resulted in divestiture. In four of these actions, AT&T was prohibited from engaging in certain activities. The issues raised in S. 173 are not novel.

At the heart of the last two antitrust actions was the matter of AT&T improperly favoring its own manufacturing operations. The Government produced extensive evidence that AT&T purchased virtually all of its equipment from itself, regardless of cost or quality, and that the FCC and other regulators were unable to prevent AT&T from using its local telephone bottleneck to act anticompetitively. As a result, the 1984 modified final judgment prohibited those with the bottleneck facilities, the Bell Operating Cos. from manufacturing telecommunications equipment.

From an objective standpoint, the manufacturing remedy in the modified final judgment has worked. The BOC's are no longer captive of one supplier. They now purchase only about one-half of their equipment from their old relative, AT&T Technologies—the new Western Electric. The number of domestic manufacturers has grown tremendously. In addition, prices are down, and the rate of innovation is up. The BOC's are able to purchase the best equipment in the world at the lowest prices. In addition, on the matter of trade, the United States continues to have a trade surplus in the most important sector of the telecommunications equipment market, the higher value products.

Further, we simply cannot ignore the Regional Bell Operating Cos.' incentives and capabilities to engage in anticompetitive acts stemming from their control of the bottleneck over local telephone equipment. The recent violations by Nynex and US West are only the latest examples of the Bell Cos.' potential to cross-subsidize and engage in discriminatory practices.

Virtually all of the largest phone companies which have been audited by regulatory bodies have engaged in some cross-subsidization or unlawful behavior. For example, a 1986 NARUC audit of Ameritech found Ameritech was cross-subsidizing its regulated business through its procurement process; a 1986 audit of Pacific Telesis by the California PUC found that the company was cross-subsidizing by assigning personnel from the regulated company to the unregulated company, to the tune of $3 million; and a 1985 NARUC audit of Bellsouth found that the regulated business cross-subsidized new, competitive Bellsouth businesses. Finally, in a pending proceeding the FCC has proposed fining a GTE/Contel subsidiary for cross-subsidizing through a purchasing subsidiary. I could go on for quite a while like this, but I think I have made my point.

The primary issue before us is whether there are other safeguards adequate to prevent anticompetitive conduct. I am concerned about the FCC's ability to monitor these potentially anticompetitive acts. The Commission's accounting standard for monitoring cross-subsidization applies only to the plant used for interstate service, only about one-quarter of the total telephone plant. This means that the State regulators are key to ensuring against cross-subsidies, and they have not adopted standards similar to the FCC's. There are even some States which have deregulated all or part of the provision of telephone service, thus ensuring no oversight or cross-subsidies.

Equally troubling is the well-recognized fact that the Commission does not have the resources to conduct frequent audits. In 1987, a General Accounting Office study looking at ways to control cross-subsidies between regulated and unregulated telephone services found that the FCC only has the resources to audit one telephone company once every 16 years.

Three of the FCC's present Commissioners, including the Chairman, have expressed reservations about the ability of regulators to regulate telephone companies. Chairman Sikes has stated that he does not believe that:

Career Government people or for that matter non-Government people can find out what the true cost of [telephone] service should be.

Similarly, in 1990, FCC Commissioner Duggan, speaking about the possibility of letting the telephone companies provide cable service, said that he has a "nightmare" about a:

Sixty story building * * * filled with FCC accountants that would be needed to monitor [telephone company] cross-subsidies if they were in the cable television business.

State regulators also have limited resources and have not adopted standards similar to the FCC's. FCC Commissioner Barrett, a former State regulator, stated in 1990 that:

In my years of rate regulation, I've only seen maybe two States that could recognize a cross-subsidy if it was starting them in the face.

As for the matter of discrimination or self-dealing, it is not clear that the FCC has the experience or resources to monitor such practices. There is no practical way for the Commission to monitor the many thousands, possibly millions, of transactions, to determine if the price, terms, and conditions are nondiscriminatory. The only way to

address this problem it simply prohibit the Bell Co. from selling the equipment to themselves. They could still sell to other BOCs, other telephone companies, even companies overseas, just not to themselves. If you were to look at the total international market for telephone equipment, this would mean that they could sell to 95 percent of all purchasers.

While the alleged safeguards in S. 173 will do little to prevent anticompetitive acts, there are those who argue that the entry of the BOC's will do so much to improve our Nation's competitiveness that they still should be freed from the prohibition on manufacturing. Since the BOC's have little manufacturing experience, they are most likely to enter the market through the purchase of another firm. This would merely substitute another player for existing manufacturers. The only potential benefit of allowing a telephone company to purchase existing manufacturers would be if there were significant economies in being both a network service provider and a manufacturer. Again, the hearings produced no evidence to prove such large economies exist. In fact, almost every nation around the world separates its network provider from equipment manufacturers.

I am also concerned that this legislation does not prevent the BOC's from entering into joint ventures with foreign manufacturers, particularly foreign manufacturers from countries which are closed to U.S. companies. This bill would prevent a regulated monopoly to buy equipment from countries which do not permit other unregulated companies from competing in their countries.

I share the aim of S. 173. I believe that we must make the United States a strong and competitive force in the international markets. I do believe that this legislation takes the right approach. The remedies are founded more on faith than fact. Moreover, if we are wrong, it will do great harm to our Nation's and the world's top telecommunications equipment manufacturer as well as to other domestic firms. That price is too high to bear, especially in comparison to the speculative benefits. Thus, I must stand in opposition to this bill.

The PRESIDING OFFICER. Who yields time?

Mr. HOLLINGS. Mr. President, I really appreciate the statement of the distinguished Senator from Hawaii. He is the chairman of our Communications Subcommittee, and he has done the lion's share of the work on all of our communications issues. As was stated earlier by several of the committee's Senators, we have spent, I guess, 80 percent of our time on communications. On one particular measure mentioned by the distinguished Senator from Montana, I know we have had at least 12 hearings and the Senator from Hawaii has conducted each of those 12 hearings.

This Senator regrets that the committee does not have his support. But I have the full understanding of the position of the Senator from Hawaii. I appreciate his candor and the way he has presented it.

I am asking my colleagues to come forward with their amendments now. We did save, I am convinced, a good amount of time working out the rural amendment that I had been hearing about for over 3 weeks. The Senator from South Dakota is really to be commended for taking the lead on this particular matter.

However, now we hear suggestions of other amendments, but we are ready to move to third reading. Let us come forward with the amendments, let us move on and get some votes this evening so we will be clear tomorrow. I know the majority and minority leaders have a backup of matters to be considered. We want to hear from other Senators. I do not know of anything else to do. We have been on this bill since 3 o'clock yesterday afternoon.

As the distinguished Presiding Officer knows, many Senators have made their statements either in support of or, as our distinguished chairman of the subcommittee, against this legislation.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Ms. MIKULSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Maryland.

Ms. MIKULSKI. Thank you very much, Mr. President.

I rise in support of the legislation pending before the U.S. Senate on telecommunications. I would like to congratulate the manager of the bill on crafting legislation that once more restores the opportunity for jobs in the American marketplace.

Ever since I have been a Member of the U.S. Congress, and that goes back to my time in the House, I have been frustrated with the direction that our telecommunications policy has been going. I have been frustrated over the fact that telecommunications policy has essentially been drafted, directed, and implemented by the courts, particularly Judge Greene and his so-called divestiture legislation, and the consent agreement.

Way back when I was a Member of the House of Representatives and sat on the Energy and Commerce Committee, I opposed divestiture. I opposed divestiture because it meant the break up of AT&T. I happened to have liked AT&T the way it was.

Why? Because we had the Bell Laboratories that had a number of people working on it, some of whom were of Nobel Prize quality, and working, developing cutting-edge technologies in communications.

We had as part of AT&T something called the Western Electric Corp. that then took the ideas in a laboratory and converted them into telecommunications products. In the old days, they were simply called telephones. Now the array of products is wide ranging. I might add that the Bell Laboratories were not a government agency—absolutely private sector.

So we had the private sector doing the research, then we had Western Electric developing, manufacturing the products, and then those products were sold by little Bells, or local operating companies.

We have heard all kinds of language in this bill, Baby Bells, local operating companies. Back predivestiture they were simply called the telephone company.

Along came divestiture and we broke up the AT&T framework. And in breaking it up, we essentially have eliminated the job manufacturing part.

Yes, we still have Bell Laboratories. Yes, we still have the local telephone companies. But do you know what we do not have? We do not have the Western Electrics anymore. What is more, in my State Senator SARBANES and I, when we were both Members of Congress, each at various times representing the Third Congressional District, represented Western Electric in a corridor of employment called Bruening Highway. General Motors was there. Western Electric was there. Dundalk Terminal was there. And it was a beltway to Bethlehem Steel.

In that whole corridor, you had good people making good wages, making things, making products, and, overall, employing somewhere over 35,000 people.

Well, that is gone, Mr. President. Bethlehem Steel is down to 12,000. General Motors that once employed six is down to four. We are hoping they do not move out of town.

Guess what is gone completely? Western Electric, 4,000 jobs that employed men and women. I might add, a substantial number of women, long before there were equal opportunity provisions for women. Those jobs are gone.

What do we have now? Well, we were promised a cornucopia of competition; that only if we had competition, we would have cornucopia for the consumer. Well, this is one little consumer that never found that cornucopia. I found confusion in the marketplace. I have never received a break on my telephone bill. All these cheap, long-distance rates I was supposed to have, never, ever happened. I was deluged by Sprint, MCI, and all kinds of companies. But I only found high prices.

And then, to this day, I still get several different kinds of bills, one from AT&T and one from a local telephone company. It is now 5 years later, and I still do not know who to call if something goes wrong.

I think, if you do not get a dial tone, you call the telephone company. If you cannot trace it—what time do I have to trace? You have to go out and see if something is wrong with the pole. If something is wrong with this pole, it becomes AT&T.

So cornucopia competition has not meant anything for me. I will tell you what it has meant to me as a Senator: 4,000 men and women who worked at Western Electric Co. are gone; 4,000 people who got up every day and went to work, earned a living, earned livings at AT&T levels, working class people, and had the opportunity to even have a pension and stock options, and to this day there are people in my community that are on retirement from their Social Security, their Western Electric pension, and some of the dividends coming out of that stock.

So where are we now, and what does that mean? I have been carrying this frustration around for 5 years, ever since we lost the divestiture fight. This legislation is the first opportunity to give Americans a break to get back into the manufacturing business.

We have something in here called "domestic content." What does that mean? It means the content has to be from this wonderful country called the United States of America. People are objecting to domestic content. Domestic content means products made in America, and American hands-on putting it together.

I happen to like domestic content. I like domestic content more than foreign content, because domestic content means jobs in my State and in other States.

There are those who say, well, this is going to violate the antitrust provisions.

Mr. President, I am not a lawyer, so I do not know a lot about antitrust, but I do know one thing: The antitrust clause comes from a 19th-century economy when we had to regulate a different kind of economy. Twenty-first-century economics says that maybe instead of trying to comply with out-of-date antitrust laws, we ought to change the antitrust laws. The old arrangement of laboratory manufacturing to customer service is exactly the kind of model the Japanese have and on which they are now beating the zingos out of us in telecommunications.

So I am for this bill because it provides jobs. I am for this bill, because it takes the best ideas that the United States of America does and turns them into products. I am very frustrated that we win the Nobel Prizes with our research, and other countries develop them.

I am glad that the local Bell Cos.—if this bill passes—will get back into making products.

So when my name is called, I am going to vote for this legislation. I am going to vote for it enthusiastically, knowing that it is going to produce jobs and produce telephone products that will be reliable, have American quality control, and be compatible.

So that is why when this legislation comes to final passage, I want everybody to remember Western Electric and remember those 4,000 people who right now—I do not know quite where they are, but I know they are not earning the same kind of living as when Ma Bell provided jobs.

I yield the floor.

Mr. HOLLINGS. Mr. President, I thank the distinguished Senator from Maryland. She has really stated the case with respect to domestic content, as well as the bill itself.

I am an enthusiastic supporter of the domestic content proceeding, because it is going to make America competitive again, particularly in the field of technology and, thereby provide for the consumers advanced technology services and the improvements that are so much in demand, set out in the Office of Technology Assessment report.

With respect to the domestic content provision, it is intentional. The European Economic Community, as set forth in this letter from the President of the United States, has its own requirements.

I quote from that letter dated March 9, 1990, from the President of the Senate majority and Republican leaders. On page 3, I quote:

> The directive mandates nondiscriminatory and transparent tendering to all producers whose products are at least 50 percent EC origin. It also places a 3 percent price preference on community offers.

This has to do with the European Economic Community in a report and findings that substantial progress has been made and the telecommunications trade talk conducted under section 1375 of the act with the European Community and Korea, and it contains the reasons why an extension of the negotiating period with the European Economic Community and Korea is necessary.

So when they are talking about a veto maybe, or disapproval of this measure on account of domestic content, we live in the real world. Would it not been grand if the Europeans and other countries had no tariffs or barriers or governmental action? But the market is full of it all. Antitrust is one provision that, in a sense, has outlived, to some extent, its usefulness. We used to look upon size as a no-no. In order to survive here in the international competition, you are going to have to have substantial size if you are going to survive.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. HOLLINGS). Without objection, it is so ordered.

Mr. GORTON. Mr. President, is the Senate in morning business?

The PRESIDING OFFICER. No, it is not.

Mr. GORTON. Mr. President, I ask unanimous consent that I be allowed to proceed as if in morning business.

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

The Senator from Washington is recognized.

Mr. GORTON. I thank the Chair.

(The remarks of Mr. GORTON pertaining to the introduction of S. 1216 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. GORTON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. KOHL). Without objection, it is so ordered.

Mr. SIMPSON. Mr. President, I have inquired of the manager of the bill, my good friend from South Carolina, and I ask unanimous consent to proceed as if in morning business.

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

THE CIVIL RIGHTS BILL

Mr. SIMPSON. Mr. President, just two brief items before I get back to the matter at hand. I will be glad to yield at any point, but I shall just be a few minutes.

I wanted to discuss the latest compromise civil rights bill being offered by the proponents of H.R. 1, the Civil Rights Act of 1991, and that debate, of course, is taking place this day.

I feel that the proponents of that bill are simply trying to mislead the American public into thinking that that bill does not cause quotas. I have introduced a bill for the consideration of the Senate. Our good friend from Missouri has done that; others; Senator DOLE. There are many proposals presented.

We all realize, I think without any question, that the only way you get an appropriate civil rights bill is with a bipartisan approach. And I think the effort with H.R. 1 in the House is a deception that will not prevail. The substance of H.R. 1 would leave U.S. employers with no alternative but to hire by quota, pure and simple. However, the proponents of H.R. 1 have, I think, a clever little shell game going on

competition appears to be what's bothering most Hispanics.

Immigrant workers are real, live people, with dreams, frustrations and families. But that is a fact to be appreciated before making the decision to import them, not afterward.

The nation should pause and give credit where credit is due. First, there's the *Wall Street Journal*, which has consistently opposed any meaningful measure to control illegal immigration, successfully backed huge increases in legal immigration and now seeks repeal of employer sanctions. Then, there's Sen. Dennis DeConcini, D-Ariz., and Rep. Joseph Moakley, D-Mass., who last year wrangled yet another immigration amnesty, this one for Salvadoran illegal aliens.

And let's not forget the Mexican American Legal Defense and Educational Fund (MALDEF), the National Council of La Raza ("The Race"), the League of United Latin American Citizens (LULAC, one of whose officials was recently charged with bilking illegal aliens out of thousands of dollars) and the archbishop of Los Angeles, Roger Mahony, who a little more than three months ago officiated at the funeral of 34-year-old Tina Kerbrat.

Tina Who? Tina Kerbrat—she's the Los Angeles police officer who died on Feb. 11, after having been shot in the face by another drunken Salvadoran illegal alien across the continent from Mount Pleasant, in the mother of all illegal immigration sanctuaries, Los Angeles.

The PRESIDING OFFICER. The Chair recognizes the Senator from New Jersey.

TELECOMMUNICATIONS EQUIPMENT RESEARCH AND MANUFACTURING COMPETITION ACT

The Senate continued with the consideration of the bill.

Mr. BRADLEY. Mr. President, I rise today in opposition to the bill introduced by my distinguished colleague from South Carolina, Senator HOLLINGS. My opposition is somewhat reluctant. First, because I share the goal of strengthening America's telecommunications industry, and second because the bill pits the Regional Bell Operating Cos. against AT&T. Both of them—both in this case New Jersey Bell and AT&T—are great contributors to economic growth in the Nation and especially in the State of New Jersey.

I cannot support the bill as it exists, however, because of my great concerns that the mechanisms that this legislation uses to stimulate American competitiveness will be at best ineffective and at worst counterproductive. Furthermore, I am concerned that we have not learned the lesson that markets are more efficient regulators than regulators themselves. It is difficult for markets to be competitive when manufacturers sell to themselves.

The antitrust action which broke up AT&T was based on the premise that because AT&T controlled the bottleneck monopoly at the consumer level it was in a position to engage in anticompetitive behavior in its relations with its suppliers. That is the basic case. AT&T, the Government case argued, and the courts agreed, had taken advantage of its bottleneck monopoly by providing Western Electric, its manufacturing subsidiary, with more timely, accurate, and complete information about technical needs than the information provided to any competitors. Furthermore, since AT&T's profits were determined by a regulatory formula which was based on AT&T's costs, there was an incentive to shift costs into the rate base. AT&T did this by shifting the cost of research, design, development, and manufacturing into the basic telephone network. In other words, onto the bills of consumers.

As a result, competition was stifled by the control that AT&T exercised and the ability of Western Electric to sell its products at below the cost of even making them. Consumers absorbed the direct cost of this subsidy in their telephone bills, as I have just stated, and, in essence, AT&T was self-dealing and the consumers were hurt, which is exactly what would happen if S. 173 were to become law, self-dealing and the consumers hurt.

Where were the regulators in all of this? Well, the FCC tried to conduct investigations. The States tried to exercise their authority to examine local telephone subsidiaries of AT&T. But none had jurisdiction over the manufacturing affiliates and no one could document the subsidies that were pervasive in this monopolized system. A significant step in what ultimately broke up the telephone monopoly was the court's rejection, in 1978, of AT&T's claim that the FCC had extensive and effective oversight over their activities and that it was impossible for them to engage in the alleged competitive abuse.

AT&T urged the courts to continue to rely on the regulators. In other words, regulators could solve the problem. But when the monopoly was broken up, the continued existence of the bottleneck monopolies was recognized as a continuing problem. In other words, the regulators could not solve the problem and the court decided, and the parties to the agreement, that AT&T would be broken up.

Central to ensuring that the problem of anticompetitive behavior and rate base abuse did not recur was the imposition of restrictions on the companies that would not control the bottleneck monopolies, the seven Regional Bell Operating Cos. or the RBOC's, as they are called. They were prohibited from providing long distance service, information services, or engaging in manufacturing.

The restriction, however, does not preclude the RBOC's from engaging in a number of activities related to design and manufacturing such as market research, providing generic specifications, selecting an exclusive manufacturer, funding product development, or selling consumer premises equipment. None of those are excluded by the court agreement.

Some of these allowed areas of activity have, indeed, thrived. Bellcore Labs of New Jersey, for example, is a testament to this policy. I was struck by the statement of the vice president of technology systems for Bellcore, cited in the minority views of Mr. INOUYE contained in the report on S. 173.

He describes the post-divestiture environment as marked by—his words, vice president of Bellcore—a major progress towards the opening of the telecommunications marketplace through the free flow of information on architectures, requirements, and interfaces. The response has been an outpouring of products that Bellcore's clinets—that is the RBOC's—are using to grow and to evolve their networks, to provide existing services more economically than heretofore and to provide new services.

He goes on to cite that the supplier database, the telecommunications supplier database, has grown from 2,000 companies in 1984 to 9,000 companies in 1989.

How could Bellcore be affected by S. 173? Proponents have argued that since the RBOC's would be manufacturers, they would invest more in Bellcore.

However, if each RBOC had a competing manufacturing affiliate, what incentive would these competitors have to contribute to a common R&D pool? On the contrary, individual RBOC's would focus their R&D resources on their own projects, not on research that would be shared with their competitors.

Furthermore, this argument forgets that Bellcore is a special institution, exempted from antitrust laws specifically because its clients, the RBOC's, are precluded from engaging in manufacturing. If the regional companies had manufacturing affiliates, then antitrust laws would prohibit the sharing of R&D costs by competing manufacturers. S. 173 might put Bellcore ouf of business, not bring more in R&D.

The expanding telecommunications market and network of suppliers from 2,000 to 8,000 in about 5 years is the direct result of the free and open competition to supply the needs of the regional operating companies. Since they do not have an in-house supplier to whom they have every incentive to rely on, the RBOC's have used their size, resources, and technical expertise to essentially be investive money machines for one of America's fastest growing and most important industries.

S. 173 threatens that success. Instead of a thriving industry, we could very well end up with a self-dealing, cross-subsidy, and anticompetitive behavior.

Proponents of this bill present a dark vision of America's role in the international telecommunications market. In fact, the international market for high-end telecommunica-

tions is rapidly expanding and American firms are the No. 1 benefactors of its growth.

Our trade surplus—underlined surplus—in switches, network needs, and other sophisticated technology has grown from $115 million in 1988 to $710 million in 1990, a 500-percent increase. The deficit in telecommunications is in consumer products equipment. But even if we include consumer premises equipment—the telephones and fax machines—the U.S. trade deficit has declined from $2.6 billion in 1988 to $800 million in 1990.

How will S. 173 change the situation? Proponents hope that the RBOC's intimate knowledge of the telecommunications network and their tremendous capital and human resources will make them strong players in the international telecommunications market.

Frankly, I am concerned that S. 173 may have the opposite effect. The two qualities that RBOC undeniably possess—their intimate knowledge and tremendous resources—are exactly the reasons that AT&T was able to engage in anticompetitive behavior and abuse of the rate base.

The regional operating companies will get a share of the telecommunications market but that may come at the expense of other manufacturers and not increase the overall total. Even if each regional operating company only captures 10 percent of the market, that is 70 percent of the total that will be foreclosed to competitors by the unfair advantage that the regional operating companies have by virtue of their regulated bottleneck monopolies.

So it could very well have the opposite effect as the proponents of this bill contend.

S. 173 will clearly change distribution within the pie, but it will not make the pie any bigger.

Another way that S. 173 hopes to improve the structure of the telecommunications market is through a domestic content provision. That provision has many loopholes that are provided by the bill and those loopholes probably make a bad situation worse. The regional operating companies may use parts manufactured abroad but must certify to the FCC that it has made a good-faith effort to obtain equivalent parts in the United States and that the cost of these parts is less than 40 percent of the sales revenue derived from that equipment.

Each year, the FCC and the Secretary of Commerce shall determine what percentage of the revenues come from each RBOC. The FCC can impose penalties if it deems a firm is in violation, and any supplier claiming that the supplier did not make "a good faith effort" to buy the components in the United States can file a complaint with the FCC or can sue the affiliate for damages caused by the manufacturing affiliate's actions.

If I understand this correctly, if I am an American firm that makes a part that a telecommunications manufacturer can use, and that telecommunications manufacturer decides a better and cheaper part is made by a competitor of mine that happens to be owned or based overseas, then I can sue the manufacturer for choosing a better and cheaper part than mine.

The only American industry that I see being made more competitive by this provision is the legal industry, not telecommunications.

Just as this bill would be a boon to lawyers, it would be a bust to all consumers of telephone services. It has been argued here that S. 173 contains more than adequate safeguards against abuse of the rate base through cross-subsidization. That has been the argument made countless times. It has been said that we should rely on the regulators to prevent the regional operating companies from taking advantage of their bottleneck monopoly.

It has a strange ring of familiarity to it. It sounds just like the arguments that AT&T made when the Government began to press its case. Let the regulators take care of it.

If there is any lesson that we should have learned in the past decade, it is that the markets are much better regulators than the regulators themselves. Even if the FCC can track direct subsidies, which is a major question, how will the regulators monitor the indirect subsidies provided through cost allocation and the shifting risks from competitive to monopoly ventures? For example, how will the FCC allocate the cost of training and the salary of regional operating employees who are working, laying out the generic specifications for the product and regional operating affiliate develops?

How will the FCC determine what percent of the increase in a regional operating company's cost of capital is due to the perception that it is affiliated, is engaged in financially risky activities?

All of these are enormously complicated questions. They are now answered by this bill. And the answer is they will not be regulated.

To be quite frank, the honest answer is—I should say the most honest answer is that no matter how sophisticated their tracking and reporting techniques, the regulators will never establish solid answers to these questions.

Ironically, proponents of eliminating the manufacturing restrictions point to the FCC's success in auditing the manufacturing arm of NYNEX.

The rate base abuse and cross subsidization that was taking place at material enterprises, however, was not revealed by sophisiticated financial analysis technique. It was not revealed by an audit team sleuthing for the regulator and discovering the abuse. No. It came to light only because an employee leaked the story to the Boston Globe. And even then the FCC was not able to act until 6 years after the violations occurred. And we are going to depend on regulators in this matter? It just will not be successful.

If we have learned the lesson that markets are more efficient regulators than regulators, if we ask whether this would increase the size of the telecommunications market or just shift business to the regional operating company, if we are concerned about the impact of cross-subsidization on the telephone consumer, then the right decision would be to retain the manufacturing restrictions on the regional operating companies.

Unfortunately, that is not what this bill does, and that is why I will oppose the legislation.

Mr. HOLLINGS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

MORNING BUSINESS

Mr. HOLLINGS. Mr. President, I ask unanimous consent that there be a period for morning business with Senators permitted to speak therein.

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

CRISIS IN YUGOSLAVIA

Mr. MOYNIHAN. Mr. President, recently the esteemed Flora Lewis wrote of the ongoing crisis in Yugoslavia. She noted that this extreme example of ethnic conflict may well be a harbinger of things to come, that success or failure in this case may establish a pattern for other similar disputes which are bound to arise. She closed her article with this warning: "It is a test of whether the new Europe can keep its own order, with implications far beyond Yugoslavia."

I commend this cogent article to my colleagues and ask unanimous consent that it be printed in the RECORD.

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

[From the New York Times, May 31, 1991]

How To Stop a Civil War

(By Flora Lewis)

ZAGREB, YUGOSLAVIA.—The shouting match among Yugoslavia's ethnic rivals is becoming a shooting match.

Some Croatian leaders say the warning that civil war looms is only "Serbian propaganda" and that the country can and should peacably break up into independent states. In vowing yesterday to secede from Yugoslavia by June 30 unless the turmoil dividing the country is solved, Croatia confidently asserted to the world that it can prosper on its own.

Tensions and tempers are high. There are minorities in too many places and interests are too intertwined to solve the dispute by redrawing maps. The U.S. and the European

TELECOMMUNICATIONS EQUIPMENT RESEARCH AND MANUFACTURING COMPETITION ACT

The PRESIDING OFFICER. The clerk will report the pending business, which is S. 173.

The assistant legislative clerk read as follows:

A bill (S. 173) to permit the Bell Telephone Companies to conduct research on, design, and manufacture telecommunications equipment, and for other purposes.

The Senate resumed consideration of the bill.

The PRESIDING OFFICER. The Chair recognizes the Senator from South Carolina (Mr. HOLLINGS).

Mr. HOLLINGS. Mr. President, in working out on yesterday the so-called rural amendment, where we certainly got away from the operations language in the original amendment so there would be no veto, so that we would also require that, in other words, so long as they would be making a profit.

The original amendment, I should point out, the amendment of the Senator from South Dakota, had a veto by the rural telephone companies over the operations of the Bell Cos. It also contained a provision in there that the Bell Cos. had to continue to sell to the rural companies irrespective of whether they had discontinued that particular equipment and moved on to more advanced equipment, and continue to sell it to them even at a loss.

We did away with those things, obviously, and got together with the distinguished Senator from South Dakota. I think we have now a good, strong amendment whereby the bigs will not gobble up the smalls; whereby there will be planning; whereby we will be adhering, in a sense, to the admonition of the Office of Technology Assessment, where they said with better planning with the small, rural entities by the larger Bell Cos., that you could get advanced and better services in the rural areas. And that was the intent, I would say, I guess, of all 100 Senators.

However, an atmosphere develops here where now for 2 days they continue to talk about amendments. I am going to have to revert to my old days in the State legislature: You either brought your amendments up or we moved on, and we would just have to get to third reading.

The reason I am making these comments now—I am checking where they say they have certain antitrust language. I am prepared to put up certain antitrust language. If there is any clarification necessary—I do not think so—I have the language that has been used in several other statutes. The precedent is set. There is no intent in this bill.

We did not just bring up this bill yesterday. This bill has been worked on diligently for the last 3 years by all facets and all lawyers and all talents and all abilities.

It is very cautiously and deliberately drawn, with a balance in there to make certain that the Bell Cos. are allowed to manufacture through wholly-owned subsidiaries, entirely separated, without any cross-subsidization, with notification, restricted kind of self-dealings and everything else and, with respect to antitrust—even when we got to the planning, and that is what induced my comments here this morning initially—we said in conformance with the antitrust laws.

Some still think maybe that is not sufficient. They want to rewrite the bill, "provided however," "provided however." We are prepared to try to table those amendments but they do not come with the amendments. We understand there is one with domestic content. The intent is clear. Competition in the world market and everything else, all has domestic content in there. We certainly did not put this bill in for foreign manufacturers. That is where they are. We are trying to bring them back home. There is no doubt about what the intent is here, in this particular bill.

So those who want them to continue to manufacture overseas and everything else about domestic content, let them bring their amendment, or this particular Senator is really encouraged, after 2 days and none of the amendments coming, to just put up the amendment and move to table my own amendment and move on. The Senate has to get on with its business.

Maybe an atmosphere has developed where some think we are wheeling and dealing and ready to accept. We are not being hard headed. We are willing to talk; but in the context of not accepting, it is after due and deliberate consideration. This bill has been worked and worked and worked over and all the caveats are in there. It is a well-balanced bill. It has bipartisan support—strong support on all sides because it has been worked and we have taken care of these misgivings that some could have had. The intent is clear. We are ready to move.

I am checking with the other side of the aisle to see if I cannot just go ahead with the amendment that is rumored, bring it up myself and move to table my own amendment and move on to third reading so no one can complain they did not even get consideration. We are going to get consideration here shortly.

The PRESIDING OFFICER. The Chair recognizes the Senator from Ohio [Mr. METZENBAUM].

Mr. METZENBAUM. Mr. President, I respect the diligent efforts on the part of the manager of the bill to pass this legislation. I spoke to the bill shortly after it came to the floor and indicated I had some concerns both from the consumer standpoint as well as from the question of domestic content, the question of whether or not we would be losing jobs rather than making jobs. I was prepared to come here yesterday with a rather fulsome speech. I thought it was a pretty good speech I was going to make. But the fact is some Members on the other side of the aisle saw fit to bring up their position with respect to the civil rights bill, which they certainly had a right to do. But that consumed about an hour and a half of time. Then there was considerable discussion concerning the rural amendment, a matter with respect to which I was not directly involved. And I am over here this morning prepared to address myself to the subject and have already had discussions with the manager of the bill.

It is my understanding, and I said to him I was prepared to go forward, but I was prepared to explore the possibility of accepting or discussing some amendments. The last I had spoken with my friend from South Carolina, the understanding was his representatives and mine were going to sit down and meet. I guess his representatives and mine are sitting back there ready to see if they can work out these matters. If they are able to do so, I think it will accelerate the process greatly. We are ready; they are ready to negotiate.

I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. SANFORD). Without objection, it is so ordered.

Mr. GORTON. Mr. President, I ask unanimous consent that I may proceed for 5 or so minutes as in morning business.

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

DRIFT NET FISHING

Mr. GORTON. Mr. President, time and again, this Senator has urged the administration and the Senate to take action to end the deplorable practice of drift net fishing. During the last couple of years, this fishing practice has gone from a scourge few people knew about to one recognized by the world community as so destructive that it must cease totally and immediately.

I am heartened by the U.N. resolution to end this practice by June 30, 1992. I was proud to work with Senators STEVENS and PACKWOOD last year in incorporating new antidrift net amendments in the Magnuson Act. I am also pleased to be a cosponsor of Senator PACKWOOD's bill, S. 884, the Drift Net Moratorium Enforcement Act. This bill, which I predict will be passed by the Senate this year, would

require the President, on January 1, 1992, to certify any country which has not notified the United States of its intention to stop drift net fishing by June 30, 1992. If a country is certified, then the President is authorized under the Pelly amendment, to ban the import of fish or fish products from that country. In addition, it gives the President the authority to invoke a wide array of sanctions against a country that continues to violate the moratorium after June 30 of next year.

Unfortunately, Mr. President, not everyone is getting the message that the world community is demanding a ban on drift net fishing. I have just received evidence that on May 13 of this year, a National Marine Fisheries Service agent accompanied Canadian Maritime Forces on a high seas drift net patrol utilizing a high-technology Canadian P-3 aircraft. Over 4 days, the patrol covered nearly 750,000 square miles of high seas areas and 10,000 miles of flight legs. This patrol detected in position 40 41'N/164 32E a vessel of the People's Republic of China. This citing is especially noteworthy because it is the first instance that a Chinese vessel has ever been documented conducting drift net fishing activities. It was seen in an area where numerous other high seas drift net vessels have been sighted illegally fishing for salmon and steelhead since April of this year. This vessel was flying a People's Republic of China national flag, displayed a large red star on both smoke stacks, and had a large high seas drift net clearly visible on its deck and ready to set in the water. The vessel's name was determined to be the Luo Ling No. 3.

Mr. President, today I am sending letters to the National Marine Fisheries Service, the Coast Guard, and the Department of State, which has been very reluctant to report this violation, demanding that each of them investigate and pursue this matter aggressively.

I welcome my colleagues' support for this action. Working together with Senators PACKWOOD, STEVENS, and I may say the chairman of the Commerce Committee, who is here managing the current bill, and other colleagues in the Senate who understand the importance of this issue, we will attempt to convince the administration, and the drift netting nations of the world, that this deplorable practice must end.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, I thank my distinguished colleague from Washington, and I hope we can move on that important matter, a matter of concern to all of us.

FLOOR PRIVILEGES

Mr. GORTON. Mr. President, I ask unanimous consent that Keith Krehbiel, the congressional fellow on the staff of the Republican leader, be given privileges of the floor during consideration and votes on S. 173.

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

TELECOMMUNICATIONS EQUIPMENT RESEARCH AND MANUFACTURING COMPETITION ACT

The Senate continued with the consideration of the bill.

Mr. HOLLINGS. Mr. President, so colleagues will know with respect to the Simon amendment, I understand that they are now finalizing the language of the Simon amendment. The Simon amendment goes to the heart of the issue concerning audit of the RBOC's. Under his amendment, there is a requirement that the FCC establish the rules and regulations and conduct audits of the RBOC's and their Affiliates as well.

I understand the distinguished Senator from Ohio on the matter of the engaging with the collaboration under that section F. A Bell Telephone Co. and its affiliates may engage in close collaboration with any manufacturer of customer premises equipment of telecommunications equipment during the design and development of hardware, software, or a combination thereof. That does not violate the prohibition against cross-subsidization, and it does not repeal the antitrust provisions relative to this particular act.

We would go along with that phrase if it says also consistent with the provisions prohibiting any cross-subsidization by the Bell Cos. with their particular affiliates.

We also would work with Senator SIMON to resolve the issue concerning States audit authority. As now under the law the States have not only that volition but they have that responsibility from time to time to carry out audits of the RBOC's. I imagine that 25 percent of the Bell Cos. business would be in the interstate arena and as a result audited at the Federal level by the Federal Communications Commission. The remaining 75 percent of the Bell Cos. business is regulated at the State level as intrastate and the local public service commissions there would be responsible for the audits.

It is the intent, as I understand, of the Senator from Illinois, that his amendment will require States to oversee audits of the RBOC's. These audits shall be conducted by an independent auditor selected by the local commission, and we are working out the specific language on the issue of access to the books and records of the RBOC's and their affiliates. Of course, you cannot do an audit unless you have the books.

We do have some reservations on the issue of giving access to RBOC's financial information about giving the States the right to look at the books anytime, for any or no reason. RBOC's could find themselves being audited all the time, at every level. We want to make sure that is carried on in a judicious fashion and with probable cause—not just being overregulated—auditors in the RBO offices around the clock all the time. I hope when both sides clear the language we will be ready to go.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 283

Mr. INOUYE. Mr. President, I rise on behalf of Senators DODD, LIEBERMAN, AKAKA, WELLSTONE, and myself, to offer an amendment to S. 173, the Telecommunications Equipment Research and Manufacturing Competition Act. The purpose of my amendment is to strengthen the safeguards against self-dealing by the Bell Telephone Cos. This amendment will ensure that the telecommunications equipment market remains competitive by: First, ensuring other manufacturers continue to have an opportunity to sell equipment to the Bell Cos., and second, requiring that Bell manufacturing affiliates sell equipment to other users.

My amendment addresses the most serious issue raised by this legislation, namely the ability and incentive of the Bell Telephone Cos., which are local monopolies, to purchase equipment from their affiliated manufacturers and joint ventures to the detriment of consumers and competitors. This ability to leverage their control over the local bottleneck poses two dangers.

First, there is a danger that by purchasing from themselves they will do so without regard to the quality or price of the product. This in turn increases rates to local residences and businesses beyond those which would exist in a competitive local exchange setting. Cross-subsidies from monopoly services end up supporting less than competitive enterprises.

The other danger confronts the Bell manufacturing affiliate's competitors, who are forced to compete against a subsidized and favored venture rather than in an open market. Favoritism could take many forms: Sharing advanced network information, standards, marketing and other information; personnel exchanges; or even outright bias in procurement. This amendment does not bar self-dealing entirely.

This amendment recognizes that each Bell Co. which intends to manufacture telephone equipment must submit to and receive FCC approval of a plan ensuring that: First, each Bell Telephone Co. that engages in manu-

facturing will purchase a majority of its equipment from unaffiliated firms; second, each Bell manufacturing affiliate must sell at least 20 percent of its equipment to unaffiliated companies; third, personnel of the Bell manufacturing affiliates will not participate in formulating or developing generic or specific equipment requirements and standards, or obtain advance notice of such requirements; and fourth, unaffiliated firms have the same opportunity as the Bell manufacturing affiliates to prepare and submit proposals to sell equipment to the Bell Telephone Cos. and have their equipment evaluated on their merits.

The restrictions imposed by this amendment are of limited duration. The FCC must repeal these restrictions upon a finding that there is effective competition in the local exchange service. Under this amendment, effective competition exists when a majority of the residential and business subscribers have access to local telephone service provided by an unaffiliated firm; and a substantial amount of such subscribers actually subscribe to an unaffiliated firm's services.

Finally, this amendment requires the FCC to report to Congress on the state of competition in local telephone markets, the prospects for the development of competition, and the particular regulatory, technical, and financial barriers to the creation and maintenance of competition. By providing objective standards to judge the behavior of the Bell Telephone Cos. and their affiliates, we prevent the Bells from foreclosing their market to unrelated vendors.

Further, we provide a benchmark to measure the competitiveness of Bell and non-Bell manufacturers. If Bell manufacturing affiliates are unable to sell a substantial fraction of their products to independent third parties, then one might justifiably wonder whether they are truly economically viable in a free market environment, or subsisting on the local exchange monopoly.

This amendment is a reasonable compromise which meets the objections of those who fear that the Bell Co. will engage in cross-subsidies or self-dealing at the public's expense. This amendment provides an additional layer of protection for consumers, consumer advocates, mass media, and competitors.

Mr. President, if I may submit an inquiry to my chairman. I realize he has worked most diligently for a long period on this measure. But, as he knows, I sincerely believe this measure raises some very serious issues which I believe must be addressed. If he would give this amendment his serious consideration if and when we do go into conference. I am prepared to withdraw this amendment and do not wish to prolong this proceeding.

Mr. HOLLINGS. Mr. President, I want to give the distinguished Senator from Hawaii that assurance he requires and requests.

The Senator from Hawaii and the Senator from South Carolina have a similar interest with respect to self-dealing. S. 173, as a result, prohibits the RBOC's from manufacturing in conjunction with one another, they also must have separate financial records and keep their books of accounts of manufacturing activities separate entirely from their telephone company and they must file all of this information publicly.

They cannot perform sales, advertising, installation, production, or maintenance operations for an affiliate. The RBOC must provide opportunities to other manufacturers to sell to the telephone company that are comparable to the opportunities they provide RBOC affiliates and the RBOC may only purchase the equipment from its affiliate at the open market price.

The bill also contains provisions prohibiting cross-subsidization, limiting the equity ownership of the affiliate, and prohibiting the affiliate from incurring debt from the RBOC itself. We think we have the RBOC's manufacturing affiliate pretty well fenced off from the telephone company.

What happens, if you really get an amendment to limit self-dealing to 50 percent or less, which would require the Bell Co. to obtain the majority of its the equipment from unaffiliated firms, you are really going to stultify the incentive that we are trying to obtain—that is to allow the RBOC's to get into research and into development and into manufacture and stay, as we have said, on the cutting edge of telecommunications technology for the benefit of the consumer.

We think this is a consumer bill. I know the Senator thinks his amendment is a consumer amendment. It could be that in conference we could study it and we could make some adjustment, and I would be glad to look at it in that light.

I must, as a caveat, state in a sort of bottom line fashion, that no self-dealing limitations are required of those foreign companies who have taken over the market. It took me over an hour to list their activities, their purchases, their permeation of the telecommunications research and development in this country. These foreign companies manufacture here in this country. You and I think we have an FCC, and we have some little domestic companies over here with some money and we think we are going to control them and we are going to keep free markets. Meanwhile, the foreigners are going to take over our market right under our noses.

You see, that is the fundamental intent here, that the Bell Cos. should be able to buy the equipment they manufacture. But it has to be done on an even-Steven basis, all aboveboard, with no special pricing or anything else of that kind.

We would be delighted to look at that idea in conference.

Mr. INOUYE. Mr. President, I am most assured by that commitment, and with that commitment and assurance, I will withdraw my amendment.

But before I do, I ask unanimous consent that Senator METZENBAUM be listed as a cosponsor.

The PRESIDING OFFICER. Without objection, it so ordered.

Mr. DODD. Mr. President, I rise in support of the Inouye-Dodd effort to increase the safeguards against self-dealing in S. 173, the Telecommunications Equipment Research and Manufacturing Competition Act of 1991, and to ensure an open and competitive market in telecommunications equipment.

First, I must compliment Senator HOLLINGS and the Commerce Committee on giving this issue and telecommunications policy, in general, such serious consideration. It is common sense that our ability to achieve is directly related to our ability to communicate—this is as true for a person as for a nation. And this is why defining a telecommunications policy for our Nation is critical and why I commend the chairman and the committee for their work in this area.

However, I remain concerned this bill has insufficient safeguards to assure the desirable goal of the sponsors. One need not go back to the strong case made against MaBell, which brought on the divestiture of AT&T, to locate cases of abuse. Just in the past few years, both NYNEX and U.S. West were found in court to have engaged in anticompetitive behavior. The NYNEX case strikes very close to home in this debate, as NYNEX was caught paying inflated prices to an unregulated manufacturing subsidiary and passing on these costs to their local ratepayers.

I am seriously concerned that this bill, while it does contain important safeguards, does not go far enough to protect ratepayers, other consumers, and manufacturers.

As currently constructed, the potential for abuse remains too great. While the Regional Bell Cos. maintain monopoly control over local telephone service, opportunities and, indeed, incentives exist for them to frustrate and impede competition. For instance, timely information is essential to a competitive manufacturer, if a regional Bell Co. released technical information to its subsidiary directly and then later to the Federal Communications Commission, the delay would disadvantage other manufacturers. There is also the potential for other abuses such as cross subsidization. These effects may not be intended in this measure, but as they would provide a competitive advantage and a greater profit at the expense of captive local ratepayers, we must consider how to lessen the potential for such abuses.

We also owe the current telecommunications manufacturers this extra consideration. Except for AT&T, this industry was nonexistent 10 years ago. Today, however, Bell Communications Research, the joint research arm of the 7 regional companies, lists 9,000 suppliers of products to the Bell systems. While there is a trade deficit in this industry, it is declining—it dropped from $1.8 billion in 1989 to $800 million in 1990. In Connecticut alone, several thousand workers are employed in this field and it is a growing number. Just last week, I was in Middlebury and visited a company which has grown from a small 1 man operation to an enterprise which employs over 1,700 individuals in manufacturing switches for shipment around the United States and the world. This company and others like it are not concerned about competition; they are concerned about the establishment of an unfair playing field with the enactment of this measure.

The amendment, which we are now considering, would eliminate the likelihood of such abuses, but at the same time it would preserve the potential benefits of the entrance of the regional Bell Operating Cos. into research, development, and manufacturing—the benefits to the Regional Bell Cos. as well as to the industry and country as a whole. It would allow the Bells' manufacturing affiliates to participate and compete in the world market and in other domestic markets, but disallow it from selling solely to itself and from being its own sole equipment provider.

This provision would ensure that there is fair competition among manufacturers, including the Bell affiliates, to provide the local Bell Telephone Cos. with the best product at the least cost. Thereby, manufacturers, ratepayers, and the Bell Cos. themselves would be ensured of the benefits of a fair marketplace.

Mr. President, while I am disappointed that this amendment will not be included in this bill at this time, I appreciate Senator HOLLINGS' commitment to give this amendment, and the concerns which it addresses, his serious consideration in the conference on this bill.

The PRESIDING OFFICER. The clerk will report the amendment, and then the amendment will be withdrawn.

The legislative clerk read as follows:

The Senator from Hawaii (Mr. INOUYE), for himself, Mr. DODD, Mr. LIEBERMAN, Mr. AKAKA, Mr. WELLSTONE, and Mr. METZENBAUM, proposes an amendment numbered 283.

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

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

At the end of the bill, add the following:

"SEC. 228. (a) The Commission shall prescribe regulations requiring that any Bell Telephone Company that has an affiliate engaging in any manufacturing authorized by section 227(a) shall—

"(1) not engage in manufacturing until it has filed and received Commission approval of a plan that ensures—

That the personnel of the Bell Company affiliates that are engaged in the manufacturing of telecommunications equipment will not participate in the formulation of generic or specific requirements for any such equipment that the Bell Telephone Company will purchase and will not obtain notice of such requirements in advance of unaffiliated firms, and

That unaffiliated firms have the same opportunity as the Bell Telephone Company and its affiliates to prepare and submit proposals and quotes for telecommunications equipment to be purchased by the Bell Telephone Company and have that equipment evaluated on the merits;

"(2) purchase from unaffiliated firms at least a majority of each type of telecommunications equipment that is comparable to types of equipment manufactured by the Bell Telephone Company or its affiliate; and

"(3) sell, either directly or through its affiliate, to unaffiliated firms a substantial amount of telecommunications equipment manufactured by the Bell Telephone Company or its affiliate.

"(bX1) Within 180 days after the date of enactment of this Act, the Commission shall adopt regulations defining the requirements in subsection (a), including a regulation defining the term "substantial" as an amount not less than 20 percent. The Commission may not alter the definition of the term "substantial" for five years from the date of enactment of this Act.

"(2) The FCC shall repeal the regulations adopted pursuant to subsection (a) when it determines that the Bell Telephone Company faces effective competition in providing local exchange service. The term "effective competition" shall mean that a majority of the residential subscribers and a majority of the business subscribers in the service area have access to local telephone service provided by an unaffiliated firm and that a substantial amount of residential subscribers and a substantial amount of business subscribers actually subscribe to the services of the unaffiliated firm.

"(3) Within one year of the date of enactment of this Act, the Commission shall report to the Congress on the state of competition in local telephone markets, the prospects for the development of competition, and the particular regulatory, technical, and financial barriers to the creation and maintenance of competition."

Mr. INOUYE. Mr. President, I ask that my amendment be withdrawn.

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

The amendment (No. 283) was withdrawn.

Mr. INOUYE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. SHELBY). Without objection, it is so ordered.

Mr. HOLLINGS. Mr. President, I will be glad to yield to our distinguished colleague from Ohio. I know we have been negotiating. In talking with the comanager of the bill on the Republican side, our ranking member, Senator DANFORTH, he is prepared and I am prepared to move to third reading.

We do not want to be precipitous. They talk about negotiations but I know the staff of our committee has been talking to the staff of the Senator from Ohio, the Senator from Illinois, and other Senators for weeks on end. We are still talking. We are waiting for telephone calls to come. I know the distinguished Senator can keep us engaged, I should say, for the rest of the afternoon and the evening.

But I say let us be engaged or let us move to third reading. Everybody should know that negotiations as far as this Senator is concerned are terminated. Let them offer their amendments, and we will get a better understanding than we are from the negotiations.

Mr. DANFORTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. DANFORTH. Mr. President, I have noticed a certain sluggishness in the process of this legislation. I know it has been on the floor since Monday. It is now afternoon on Wednesday. I believe that during that period of time one amendment has been offered and has been accepted. There have been various rumors about the possibility of other amendments. But they really have been only rumors. I am told that a Senator is headed toward the floor to offer an amendment. That would be fine. But I came to the floor about an hour or so ago and suggested to Senator HOLLINGS that perhaps the time had come to go to third reading. If nothing happens on a bill, we do not wait around forever.

So I encourage my chairman to proceed to third reading at a very early date. I think that if the bill just keeps alive forever, it will start attracting all kinds of extraneous amendments. This is an important bill. It is an important public issue, and it deserves to be attended to.

Mr. HOLLINGS. Mr. President, I appreciate the remarks of our distinguished colleague from Missouri. As I understand it, there are two amendments that are prepared and cleared on this side—one by Senator METZENBAUM, one by Senator SIMON. They must be cleared of course on the side of the Senator from Missouri. I hope we can see whether they would be cleared and, if not, of course the amendments would be offered. We will see what happens.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. D'AMATO. Mr. President, let me first say I have had conversations with the manager of the bill, and Senator HOLLINGS has gone to great lengths in order to attempt to accommodate the Senator from New York. I thank him for his attempt at seeing if we could not have the amendment, which I am going to propose, which deals with Syrian participation in the forthcoming parade honoring the brave young men and women who served in Operation Desert Storm and Desert Shield.

That parade is going to take place this Saturday in Washington. That parade is going to involve the use of some $3 million worth of taxpayers' dollars. One of the terrible things that will be taking place in that parade is the flying of the colors of Syria. We are going to have a U.S. serviceman carrying those colors. I am going to talk about that as we go along.

The Senator who is managing this bill so ably and has spent so much time and effort here attempted to accommodate this Senator by asking if we could have a freestanding sense-of-the-Senate resolution being considered—and I want him to know I am deeply appreciative of that, and I attempted to see if we could do this.

As a matter of fact, I believe the leadership on our side has cleared this amendment for consideration and I want you to know it is bipartisan in nature.

Let me say, I think we could get just about all the Senators to come on this, including the President of the Senate who is now sitting. Let me tell you who we have on it. We have Senator DECONCINI, Senator GRASSLEY, Senator MACK, Senator MURKOWSKI, Senator LIEBERMAN, Senator LAUTENBERG, Senator HELMS, and Senator MOYNIHAN, as well as the Senator from Alabama, Senator SHELBY. So it is bipartisan.

This is something I think should be bipartisan, and I am sorry we have to offer it to this legislation. The only reason we have to do that is because we could not—and I want it to be known that my good friend, dear friend, Senator HOLLINGS, really attempted, starting last evening, to see if we could not clear a spot. And he agreed to suspend business so we could consider this freestanding and not encumoer the important legislation before the Senate now and which the Commerce Committee has voted out overwhelmingly and which the Senator is looking to conclude.

AMENDMENT NO. 284

(Purpose: To express the sense of the Senate regarding the victory parade in Washington, District of Columbia, scheduled for June 8, 1991)

Mr. D'AMATO. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New York (Mr. D'AMATO), for himself, Mr. DECONCINI, Mr. GRASSLEY, Mr. MACK, Mr. MURKOWSKI, Mr. LIEBERMAN, Mr. LAUTENBERG, Mr. HELMS, Mr. MOYNIHAN, and Mr. SHELBY proposes an amendment numbered 284.

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

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

The amendment is as follows:

At the appropriate place in the bill, insert the following:

SEC. . SENSE OF THE SENATE REGARDING THE NATIONAL VICTORY PARADE FOR THE PERSIAN GULF WAR.

It is the sense of the Senate that any country—

(1) for which United States assistance is being withheld from obligation and expenditure pursuant to section 481(h)(5) of the Foreign Assistance Act of 1961; or

(2) which is listed by the Secretary of State under section 40(d) of the Arms Export Control Act or section 6(j) of the Export Administration Act of 1979 as a country the government of which has repeatedly provided support for acts of international terrorism,

should not be represented, either by diplomatic, military, or political officials, or by national images or symbols, at the victory parade scheduled to be held in Washington, District of Columbia, on June 8, 1991, to celebrate the liberation of Kuwait and the victory of the United Nations coalition forces over Iraq.

Mr. D'AMATO. Mr. President, what more grotesque an image could greet the grieving survivors of the victims of the bombing of the Marine barracks in Beirut in 1983 and of Pan Am Flight 103 in 1988 than a United States serviceman, perhaps even a marine, carrying the Syrian flag down Constitution Avenue as the Syrian Ambassador sits proudly in the reviewing stand?

Mr. President, the inclusion of Syria in the victory parade, a nation directly responsible for more American deaths than those lost in the recent war, is an outrage.

Why were the Syrians invited?

What about the Assad government? It is a government known to harbor and train a wide spectrum of terrorist groups, including those thought responsible for the bombing of the Marine barracks in Beirut and Pan Am 103. They control the Bekaa Valley. The Bekaa Valley is one of the havens for narcotics production and drug trafficking, one of the areas in which more poison is sent out to the world and to this Nation.

The Government of Syria, the Assad government, is guilty of every kind of human rights violation, including torture, which is routine. It is absolutely a government that will tolerate no opposition. It has wiped out its opposition. It has used tanks, artillery shells, and cyanide gas. It is a government that has employed none other than Alois Brunner, who was a key Eichmann aid personally responsible for the deportation of tens of thousands of Jews to death camps, and he is consultant to the Syrian security forces.

What the Syrians have done and are doing at the present time in Lebanon is unconscionable. The slaughter of the innocent, the slaughter of the Christians, and of the Christian community is something that continues.

Mr. President, that we would be associated with such a regime, no matter what the political change, is difficult if not horrifying. For that reason, I will offer an amendment that prohibits Syrian representation "either by diplomatic, military, or political figures or national images or symbols, at the victory parade to be held in Washington, DC on June 8, 1991, to celebrate the liberation of Kuwait and the victory of the U.N. coalition forces over Iraq."

There is no possible justification for cuddling up to a killer with American blood on his hands. It is wrong. It is dangerous. If this policy of cozying up to Assad persists, it is one we will long come to regret.

Mr. President, our President put together a coalition and in that coalition maybe we did not have the kinds of choices we would like to, and in the real world sometimes we have to work with killers, we have to work with dictators, we have to work with torturers. That is what Hafez Assad is. And I am not going to be critical of the fact that when that coalition and when our troops were there it may have been necessary for the coalition to be able to maximize its effectiveness to include the Syrians.

But for us to now pay tribute to their nation, to their leader, to their dictator, someone who is a killer, someone who is an international terrorist, someone who our own State Department lists as it relates to the continuance of harboring terrorists, someone who our State Department and Commerce Department lists in terms of drug trafficking, so that on two accounts we find he continues drug trafficking, we find he continues—and I am talking about Hafez Assad, the leader of Syria—he continues to harbor terrorists—on two fundamental accounts he has failed.

As it relates to his present record, there are some who say, well, he is changing. I would say the leopard does not change his spots, and Assad has not changed., There are 4,500 Syrian Jews who are held prisoners, who are used as pawns, who seek to emigrate out, but who are not allowed to leave.

Why would we want to see the Syrian flag carried by an American in this tribute to the coalition victory when indeed Syria and Assad flies in the face of everything that victory was about? That victory was about overcoming evil, about freeing a country, about seeing to it those who would use their force will not be permitted to do that because they are stronger or have better arms.

That victory was a noble one. That victory was achieved at the cost of many lives. Yes, there were fewer casualties than people thought, but there was American blood spilled.

How is it that we would pay honor and tribute to a nation that is ruled by someone who is responsible for hundreds and hundreds and hundreds of American deaths; whose terrorist activities have led to the killing of American marines in Lebanon; whose terrorists activities have led to the deaths of innocent people on Pan Am 103 by the harboring of these various terrorists groups, and they continue to do so; who at the highest levels of his government is deeply involved in drug trafficking and providing protection for those drug traffickers?

How is it now that we would humiliate the American public—and I say that with all sense of recognizing the seriousness of this statement—that we would humble the United States of America by allowing the Syrian barbarian flag—because that is what it represents when Hafez Assad, the dictator, is in charge—to come parading down Constitution Avenue?

I take strong exception to it, and for that reason I have introduced this amendment. I wish we could find a better vehicle because I feel very strongly that we may not get a true test as it relates to what the sentiment of this great body is. This great body should be repulsed by the idea that in any way we would give any respect whatsoever to Syria, to what it stands for, and particularly the man who runs that country, that brutal dictator, Hafez Assad.

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.

Mr. HOLLINGS. Mr. President, I want to deal openly with my distinguished colleague, for whom I have the greatest respect. Senator D'AMATO and I have become good friends here in the U.S. Senate. He came to me last evening. We checked on both sides of the aisle. There were objections on the Democratic side because I said I cannot allow this particular amendment on this bill. It is in the context of trying to develop a discipline.

I know it might not appear this way to the Chair, but I am beginning to see light. I believe I have a bunch of Westmorelands around me. We have had light at the end of the tunnel for 3 days around here. But we do have two amendments worked out with Senator METZENBAUM; one with Senator SIMON. They are being checked now on the other side of the aisle, and momentarily we will agree on those amendments.

But in accordance with what I conferred and related to my good colleague, I said I am not going to break this discipline. We have it going here now, and we are not going to start a debate on this matter, although I have the highest respect for him.

So I move to table the amendment, and I ask for the yeas and nays.

Mr. D'AMATO. I wonder if my colleague will withhold his motion to table just for a moment.

Mr. HOLLINGS. I withhold just for a moment.

Mr. D'AMATO. I suggest the absence of a quorum.

Mr. HOLLINGS. If we are going to get everybody here to talk, that is what I am trying to forestall, the talking.

Mr. D'AMATO. It is not for that purpose.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. HOLLINGS. Mr. President, I have conferred with my colleague from New York, the author of this particular amendment. The concern of the Senator from South Carolina was that we would not get into an extended debate, because this could be an issue and it could be well debated. That is why I was prepared to move to table.

It does not look like it will develop in that fashion. Senators are now being notified that we will have an up or down vote here at 1 o'clock. I think that is the understanding, without any request being made.

Mr. President, I ask unanimous consent that we give the Senator from New York an up or down vote on his amendment at 1 o'clock, and that no second-degree amendments be in order.

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

Mr. D'AMATO. Mr. President, I wish to thank my good friend, the distinguished Senator from South Carolina, for the manner in which he has really afforded us an opportunity to be heard on this issue.

I publicly thank him for what he attempted to do last night, and what he has done today.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. FOWLER. I thank the Chair.

Mr. GRASSLEY. Mr. President, as an original cosponsor, I rise in strong support of Senate amendment 284.

June 8 is the day that our Nation gives its heartfelt "thank you" to men and women who so courageously served in Operation Desert Storm. The celebration will be the largest parade held in decades.

There is no room in our celebration for Syria, a country on our lists of terrorists and drug traffickers.

In fact, Syria's contribution to Desert Storm included: The invasion of Lebanon—and the de facto annexation of it; and the receipt of a billion dollars, with which they used to purchase weapons.

More Americans have died at the hands of Syrian-sponsored terrorism than died in all of Desert Shield and Storm. Here are some more facts about Syria:

Evidence indicates Syrian commplicity in the terrorist attack on the Marine barracks in 1983.

Today, the perpetrator of Pan Am 103 safely and freely finds shelter in Syria.

Twenty percent of the heroin found in the United States comes from Syria and Syrian-controlled Lebanon.

Neither Syrian flags, nor officials, nor troops, should be a part of our victory celebration.

On Saturday, we will salute our troops—and we will salute all Americans who have given and sacrificed for our country. The memory of the victims of terrorism, who were killed because they were Americans, must not be marred.

Mr. PELL. Mr. President, I cannot support the amendment of my colleague from New York [Mr. D'AMATO], and from Arizona [Mr. DECONCINI]. I agree that President Assad and his government have committed serious human rights abuses, most notably in the slaughter of the opposition in the city of Hama, and I am gravely concerned by past, and possibly ongoing, Syrian support for international terrorism.

However, we are not honoring the Government of Syria in the parade Saturday. If we were in the business of honoring governments, quite frankly I would have reservations about including the flags from some other countries. For example, neither Saudi Arabia, nor for that matter Kuwait, have had a sterling human rights record.

We are honoring the men and women who fought as part of the allied coalition to defeat Iraqi aggression. Syrian soldiers were part of that coalition and many fought courageously in that effort. Some also died.

This amendment may make us feel good but it will accomplish nothing. Indeed, it could be counterproductive. Our Secretary of State is engaged in sensitive negotiations which include Syria. This could further reduce the likelihood of any progress. I would not be necessarily opposed to an anti-Assad amendment that accomplished some greater objective: For example, an amendment linking our relations with Syria to progress on human rights, the peace process, or terrorism.

This amendment will accomplish none of these things. It is merely a gratuitous insult. We were not too proud to fight shoulder to shoulder with the Syrian soldiers. We should not now be ungracious.

Mr. LEVIN. Mr. President, Syria should not be invited to participate in the Washington Victory Parade, which will take place this weekend. Syria's support of international terrorism, its occupation of Lebanon, and its unremitting hostility to Israel are too much at odds with our national interests and our sense of morality for it to be officially part of this victory celebration.

I am voting for the D'Amato amendment to the extent that it sends this signal regarding official Syrian participation. However, I am troubled by the very broad language of the amendment, which if binding could infringe on the first amendment rights of peaceful spectators to the parade who might, for example, hold up a Syrian flag. If the language of the amendment were binding and still as broad as is contained in the current amendment, I would have voted against it for that reason.

The Washington Victory Parade is not only a celebration of the successful completion of Operation Desert Storm, but also a celebration of our Nation's democratic values. We should honor those values in the process of honoring those who fought for them.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New York. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Colorado [Mr. WIRTH] is necessarily absent.

I also announce that the Senator from Arkansas [Mr. PRYOR] is absent because of illness.

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

The result was announced, yeas 92, nays 6, as follows:

[Rollcall Vote No. 87 Leg.]

YEAS—92

Adams	DeConcini	Kassebaum
Akaka	Dixon	Kasten
Baucus	Dodd	Kennedy
Bentsen	Dole	Kerrey
Biden	Domenici	Kerry
Bond	Durenberger	Kohl
Boren	Exon	Lautenberg
Bradley	Ford	Leahy
Breaux	Fowler	Levin
Brown	Garn	Lieberman
Bryan	Glenn	Lott
Bumpers	Gore	Lugar
Burdick	Gorton	Mack
Burns	Graham	McCain
Byrd	Gramm	McConnell
Coats	Grassley	Metzenbaum
Cochran	Harkin	Mikulski
Cohen	Hatch	Mitchell
Conrad	Hatfield	Moynihan
Craig	Heflin	Murkowski
Cranston	Helms	Nickles
D'Amato	Hollings	Nunn
Danforth	Inouye	Packwood
Daschle	Johnston	Pressler
Reid	Sarbanes	Stevens
Riegle	Sasser	Symms
Robb	Seymour	Thurmond
Rockefeller	Shelby	Wallop
Roth	Simpson	Warner
Rudman	Smith	Wofford
Sanford	Specter	

NAYS—6

Bingaman	Jeffords	Simon
Chafee	Pell	Wellstone

NOT VOTING—2

Pryor	Wirth

So the amendment (No. 284) was agreed to.

Mr. D'AMATO. Mr. President, I move to reconsider the vote.

Mr. HOLLINGS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

REGARDING PRESSLER AMENDMENT TO S. 173

Mr. DOLE. Mr. President, I would like to take a moment to congratulate my colleague from South Dakota, Senator PRESSLER, on what he was able to achieve last night on his amendment to S. 173.

That amendment, adopted unanimously, represents the culmination of difficult negotiations on a subject that most of us find pretty complex. Senator PRESSLER's staff worked with Commerce Committee staff, representatives of the U.S. Telephone Association, and my own staff in attempting to reach an agreement that would preserve the rights of rural telephone customers without hamstringing innovation by the Bell Cos. Not an easy task, but the result produced by the Senator's efforts come about as close as I think we can get. Needless to say, I am very pleased to be a cosponsor of his amendment.

Those of us, like Senator PRESSLER and myself, who are from rural States are keenly aware of the vital role played by the rural independent telephone companies and cooperatives. They are the lifeline of rural America to the information age; without them, universal service would be an impossibility.

This amendment ensures that, if S. 173 becomes law, rural customers will have access at reasonable rates to the newest telecommunications and information products and services. It gives the rural companies a seat at the table in planning network development; provides for access, at nondiscriminatory prices, to software and hardware technology; and gives a local telephone company the right to sue in Federal court to remedy violations of these rights.

Mr. President, those of us who support S. 173 do so because we believe that it will help take us into the future of telecommunications. But the future belongs to all Americans. This amendment will help assure that. Thank you Mr. President.

Mr. ADAMS. Mr. President, as an original cosponsor of S. 173, the Telecommunication Equipment Research and Manufacturing Competition Act of 1991, I would like to explain what drew me to this legislation and why I believe we should support this bill.

The legislation before us addresses a sector critical to U.S. competitiveness in the global economy: information systems and telecommunications technology. All of us are concerned about the threat our industries face from foreign government subsidies to their telecommunications and other industries. Such practices give our foreign competitors an unfair advantage in third country markets and distort competition in our own open, domestic market.

S. 173 is an important step in the development of a computer-based technology, which has already revolutionized domestic and international markets. In an era of rapid technological advancement and an increasingly global economy, we cannot afford to delegate more than we already have of one of the most promising segments of our economy, the manufacture of telecommunications equipment, to factories abroad.

This legislation holds great importance for workers in the telecommunications equipment industry, where the Commerce Department has projected a slight decline in employment over the next 5 years. The provisions of S. 173 should help stem this decline, and will hopefully reverse it.

The findings in the committee report on S. 173 should be a call-to-arms. The report notes:

A large, worldwide market share is becoming increasingly important to the development of new technologies because of the heavy research and development costs that are necessary to develop state-of-the-art technology. Unless the United States takes a more active role in permitting its companies to compete fully in these international markets, the United States faces the possibility that it will be shut out of the world market altogether.

Similarly, a report by the United States Commerce Department found that, "Comparison of various measures of technology innovation and productivity in the telecommunication industry suggest a general trend of declining United States competitiveness relative to certain of its major trading partners, particularly Japan."

Lifting the manufacturing restriction will help United States compete in several ways. First, the Bell Cos. would have the incentive to increase their spending on research and development. There's little incentive today because of the manufacturing restriction.

Second, the Bell Cos. have a vast reservoir of knowledge about telecommunication networks and the telecommunications marketplace. Today, that experience is a vastly under-used resource. Not only are the Bell Cos. prohibited from competing in the manufacturing area, but they are seriously limited in their ability to collaborate with independent manufacturers.

Third, this legislation would allow the Bell Cos. not only to collaborate

with other manufacturers, but to invest in them as well. Currently, entrepreneurs and small, startup companies cannot go to the Bell Cos. for funding because of the MFJ—the modified final judgment—restriction. Where do the small startup companies go? Some of them, unfortunately, have no choice but to turn to foreign-based investors.

Especially in the last decade, we have seen our ideas and inventions, such as VCR's, exploited by manufacturers aboard. The pattern of foreign companies applying technology we have developed to manufacture new products is expanding in the telecommunications field. The bill before us today will help stop this trend by allowing American companies to do what they do best—invent, market, and produce. Without this legislation, our large and growing domestic market will be exploited increasingly by foreign manufacturers.

S. 173 will assure that we maintain a strong national economic base in the information and telecommunications manufacturing sector. It will promote our technological know-how. It will help our industry create the jobs and products to keep the United States in the forefront of this key advanced technology sector. I urge my colleagues to join in supporting this bill.

Mr. HOLLINGS. Mr. President, momentarily the distinguished Senator from Alabama will address the Senate relative to the bill.

We have been working out two amendments—one by the distinguished Senator from Ohio [Mr. METZENBAUM] and one by the Senator from Illinois [Mr. SIMON]. I am afraid I will have to move to table one of the Metzenbaum amendments.

But I want colleagues to know we will bring this thing to a head here shortly. I hope we can get rid of it momentarily.

If there are other amendments, domestic content or otherwise, we will have to deal with them if they come. But that is where we are right now.

Mr. President, I yield the floor.

Mr. SHELBY addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. SHELBY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. SHELBY. Mr. President, I rise today in support of S. 173, the Telecommunications Research and Manufacturing Act of 1991.

I would like to commend my distinguished colleague, Senator HOLLINGS, for his leadership on this issue both in the 101st and 102nd sessions of Congress. I am a cosponsor of S. 173. This is a bipartisan bill and I believe that it will be the foundation for the much-needed revival of American competitiveness in the telecommunications industry.

Regional Bell Operating Cos. [RBOC's] have been operating under the restraints of modified final judgment [MFJ], the consent degree that broke up the Bell System, since 1982. The AT&T breakup resolved years of controversy over how the company exercised its Government-sanctioned telephone service monopoly. As a result of the MFJ consent decree, the seven regional Bell Operating Cos. are allowed to offer local telephone services, but are prohibited from manufacturing telecommunications equipment and offering long distance and information services.

At the time, the Justice Department reasoned that ratepayers and Bell's competitors would be negatively impacted by the RBOC's control over local telephone service. It was the Department's contention that to avoid these perceived potential abuses, Bell Operating Cos. must be kept out of competitive markets.

While barring baby Bells from these activities was supposed to avoid monopolies similar to that of AT&T, what in fact has resulted is a monopoly of the Federal court system over United States telecommunications policy. S. 173 would reestablish the role of Congress in determining our Nation's telecommunications policies.

The MFJ has denied the United States the benefits of a competitive market. Since the consent decree resulting in the divestiture of AT&T, U.S. competitiveness has suffered tremendously.

For example: Over $3 billion in U.S. telecommunications assets are now owned by non-U.S. interests. This figure is up from about $200 million in 1985.

More than 70 U.S. telecommunications and high-technology companies are currently under Japanese and European ownership.

In 1980, 58 percent of worldwide telecommunications patents were issued to the United States. That figure dropped to 46 percent in 1989. Meanwhile, the Japanese share of these patents rose from 18 to 33 percent.

Members of this body often urge their constituents to "buy American." However, we would do well to remember that each time one of us uses or buys a telephone, it was manufactured overseas. All telephone sets and a third of all telephone processing equipment are manufactured overseas.

It is no wonder that the U.S. balance of trade in telecommunications is on a downward spiral. Department of Commerce estimates reveal that this deficit could amount to as much as $7 billion by 1995, if we continue our current policy with regard to Bell Operating Cos.

Bell operating companies control more than half of this country's telecommunications assets. Yet, through the MFJ, these firms, with almost $200 billion in assets, have been stifled and the United States has denied itself a tremendous technological resource by restricting Bell Operating Cos. from participating in technologies that are transforming the world economy. This legislation will bring the United States back to the cutting edge in the telecommunications industry.

Mr. President, I think that the facts clearly show that foreign competitors, many with the backing of their governments, have taken the lead and are benefiting from the United States' restrictive telecommunications policy. Countries like Japan, France, and Germany are now in positions to overtake the United States telecommunications industry, which historically was a leader in the development and availability of telecommunication technology. By removing manufacturing restrictions and permitting Bell Cos. access to the market, S. 173 sets the stage to bring the U.S. telecommunications industry back to a position of technological leadership and competitiveness.

Consumers will greatly benefit from the passage of S. 173. By removing the restrictions on Bell Operating Cos., we open the door for U.S. citizens to enjoy telecommunications products and services already in use by citizens and businesses of other countries.

U.S. telecommunications companies continue to reduce their manufacturing operations. However, S. 173 presents us with the opportunity to bring some stability to the industry and begin the recovery of many of the over 60,000 U.S. manufacturing jobs lost with the implementation of the court decree.

The need for and benefits of competition to revive the U.S. telecommunications industry cannot be ignored. However, I share concerns that competition be fair. S. 173 contains a number of safeguards against anticompetitive actions with respect to RBOC's manufacturing activities.

The legislation prohibits the cross-subsidization of manufacturing by local telephone service and requires RBOC's to purchase equipment only from their manufacturing affiliates at the open market price. Bell Cos. must manufacture out of affiliates that are separate from the telephone company and are required to disclose information about their network to all manufacturers immediately upon making that information available to their manufacturing affiliates.

Also, the Federal Communications Commission [FCC] now has in place stronger regulations to protect against cross-subsidization, discrimination against other telephone companies, and preferential treatment to Bell Cos. in the sales of equipment by their manufacturing affiliates.

The effort to lift the manufacturing ban on Bell Cos. is supported by the FCC and the Departments of Justice and Commerce. Furthermore, in reviewing the history of the consent decree, it is my understanding that all parties involved in the divestiture settlement, including AT&T, agreed that the MFJ restrictions should be removed as soon as it was determined by the Department of Justice that they are no longer necessary to protect competition. However, for reasons I do not understand, there are still those who oppose S. 173.

Mr. President, I agree with Senator HOLLINGS that removing manufacturing restrictions on Bell Operating Cos. is fundamental to the issue of American competitiveness. We must allow Bells to compete, otherwise the United States will be the runt in a world that telecommunications technology is transforming into a global community.

We cannot let that happen.

Mr. President, I yield.

Mr. DECONCINI. Mr. President, I rise in support of S. 173, and commend my distinguished colleague from South Carolina for his leadership in this area and so many others affecting our Nation's telecommunications policy. However, I would like to receive his assistance in clarifying the legislation's intent, as reflected in the report language.

I am particularly interested in assuring that the needs of education are addressed in our work on S. 173. We are all concerned about our Nation's education system, and want to offer our support to professional educators in the difficult and important work that they do.

As my distinguished colleague is aware, schools and other educational institutions would receive great benefit from expanded telecommunications services. If the Bells offer the proper equipment and services, students will have access to electronic research sources from around the world, and educators will be able to improve teaching strategies through communications with their professional peers. Specialized courses will be offered in the home as well as rural and other communities.

In light of this potential, I would hope that the Bell Cos. will devote attention and resources directly to education.

The report encourages the "BOC's * * * to focus their resources on developing access solutions to the public network for all people. * * *.

Mr. Chairman, do I understand the report correctly to be referring to public institutions, especially schools, along with "all people?"

Mr. HOLLINGS. I appreciate the comments of my colleague from Arizona. He is in fact correct, and the intent of our committee is to assure that the needs of education and other public institutions are addressed by the public telephone network.

We intend the legislation to encourage the Regional Bell Cos. to focus resources to develop access solutions, equipment, and services for use by schools and other education institutions. In order to accomplish this, it is our firm expectation that the Regional Bell Operating Cos. will increase their investment in research and development for the public network, and for education services in particular.

Our plans are for the Commerce Committee to exercise continuing oversight of S. 173, in order to evaluate progress made towards these goals.

Mr. DECONCINI. I thank my colleague from South Carolina for his clarification. I am now confident of the bill's intent. I think that educators and others will be pleased to know that this excellent legislation will provide appropriate incentives for the Bell Cos. to serve our Nation's educational infrastructure.

I note that the Senate Commerce Committee report accompanying S. 173 contains on page 18 and 19 the following language:

> In entering the manufacturing market, the BOCs should seek to accommodate the alternate access needs of individuals with functional limitations of hearing, vision, movement, manipulation, speech and interpretation of information. The BOCs are encouraged to focus resources on developing access solutions to the public network for people, including those with disabilities.

As I understand S. 173, then, its goal is both to increase our Nation's competitiveness and to encourage the BOC's to apply their new authority to develop access solutions to the public network for people with disabilities. Is my understanding correct, Mr. Chairman?

Mr. HOLLINGS. The Senator is correct. We understand that the public switch telephone network is the primary means of access for the average citizen to basic and enhanced telecommunication services. We believe that the new authority to be granted by S. 173 will be used by the BOC's to engage in product development aimed at improving the network and, therefore, the means of access for people with disabilities and functional limitations.

Mr. DECONCINI. As the Senator from South Carolina is well aware, Congress recently enacted the Americans With Disabilities Act [ADA]. Title IV of that act creates dual-party relay services nationwide by adding a new section 225 to the 1934 Communications Act. New section 225(a)(2) requires the FCC to encourage the use of advanced technology, as appropriate. I would hope that the manufacturing capabilities to be permitted by the BOC's under the pending legislation would be applied not only to implement better and faster relays, but in time, to allow persons with disabilities even better access to telecommunications, perhaps even obviating the need for relays.

Mr. HOLLINGS. That is certainly my hope as well, and I would expect that the Commerce Committee would from time to time conduct oversight of the BOC's to determine the extent to which they in fact apply their new authority to achieving these goals. . . .

Mr. DECONCINI. Insofar as title IV of the ADA applies to all common carriers, I would hope that the intent of Congress as expressed in the pending legislation and as explained in the committee report quoted above would clearly establish that it is national policy that common carriers make their best efforts to use advanced technologies such as speech synthesis and, as it develops, speech recognition, to make the full range of telecommunications products and services accessible to persons with disabilities.

Mr. HOLLINGS. It is indeed, Senator, and I thank the Senator for making these points. It is these benefits that make enactment of S. 173 important to consumers.

AMENDMENT NO. 285

(Purpose: To increase the penalty for failure to maintain certain records)

Mr. PRESSLER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from South Dakota [Mr. PRESSLER] proposes an amendment numbered 285.

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

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

The amendment is as follows:

At the end of the bill, add the following:

SEC. 4. ADDITIONAL AMENDMENT TO THE COMMUNICATIONS ACT OF 1934.

Section 220(d) of the Communications Act of 1934 (47 U.S.C. 220(d)) is amended by deleting "$6,000" and inserting in lieu thereof "$10,000".

Mr. PRESSLER. Mr. President, I want to explain this amendment briefly. The amendment would provide for an increase in the fine for a violation of the Communications Act by any telephone company that fails or refuses to keep accounts, records, and memoranda on the books in the manner prescribed by the Federal Communications Commission.

This amendment is intended to give Federal regulators the additional tool they need to assure that any telephone company will keep the records regulators need to protect the interests of ratepayers.

Also, I think it should be a signal to some of our telephone companies to be more open about some of these matters. I was talking with a reporter from one of the papers, and he said he had made an inquiry about a consent decree violation was sent several boxes of papers, which did not answer the question.

I hope our large companies will be open to Members of Congress and the public when there is a violation of the law, and even when there is not. But there has come to be a practice of obfuscating the facts with boxes and cartons of papers rather than writing a clear one- or two-page letter or answer. And in the whole regulatory area, I have had the feeling that some telephone companies have been unnecessarily nonresponsive. That is just a general statement.

I hope this amendment sends a signal to those companies and individuals to be more open with inquiries about their business. This amendment provides for a $4,000 increase in the fine for companies who fail to keep records in the manner prescribed by the FCC. This is a clear signal that Congress is very serious that companies are to do their business in a proper, honest, fair way. My minority views filed in the Commerce Committee report on this legislation further explain my views on this matter.

I ask unanimous consent that my minority views follow my remarks.

Mr. President, I urge the adoption of the amendment.

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

MINORITY VIEWS OF MR. PRESSLER

I share Chairman Hollings' goal to increase American innovation and growth in the telecommunications equipment industry, and applaud his leadership on this key issue. This legislation passed the committee by voice vote last year.

At that time, though, a number of consumer groups, senior citizens, small business organizations, and state regulators voiced concern that, because of the lack of adequate anti-competitive safeguards, some companies may abuse the freedom this legislation would give them. These groups were concerned that a BOC could use its control of the local phone market to gain an unfair advantage when it enters an unregulated line of business. They argued that higher residential telephone rates could result from a BOC's decision to underwrite with ratepayer supported capital and personnel the expenses of launching its unregulated business ventures. These groups were concerned that consumers and competitors could be harmed by having to compete against products subsidized by ratepayer funds. And detection of these practices could be made very difficult by informal agreements and "creative accounting" of huge corporations who could bury ratepayer subsidization in the books, even with the separate subsidiary and other protection devices incorporated in this bill.

These groups and individuals argued that telephone companies are a unique business. My understanding of this aspect of their concern was best summarized by U.S. District Court Judge Harold Greene's comment that:

"To the extent that these companies perceive their new unregulated businesses as more exciting and more profitable than the provision of local telephone service—as they obviously do—it is inevitable that their managerial talents and financial resources will be diverted."

They point out that because telephone companies control the local telephone exchanges and are guaranteed a rate-regulated income, they have access to ratepayer funded capital and possess the market power to use against their competitors in unregulated lines of businesses. This concern is predicated on the belief that a company could effectively hide prohibited practices through informal agreements, creative accounting, or other methods.

Last year I did not object to this legislation. At that time I was not personally aware of any systematic evidence of violations or of deliberate efforts to undermine efforts to investigate ratepayer impact issues related to this legislation. However, I became concerned when I read subsequent press reports of a DOJ investigation into consent decree violations by US West, which serves my constituents in South Dakota. The investigation led to the assessment of a record $10 million fine against US West for engaging in anticompetitive behavior, providing information services prohibited by the consent decree, and violating the consent decree's ban on manufacturing telecommunications equipment. Part of the agreement was to drop the investigation of these and other activities under question. Because of the importance the US West case had to my state, and because of its relevance to this legislation, I tried to obtain more information as to how these practices could affect ratepayers in my state.

The nature of US West's record keeping make it impossible for regulators or government officials to prove or disprove with certainty whether violations occurred. A DOJ memorandum filed in Judge Harold Greene's U.S. District Court warned US West that: "[US West's] admitted history of noncompliance will provide a substantial basis for finding that any similar additional conduct is 'willful' and hence actionable as criminal contempt of the decree."

As a practical matter it is clear that a company of this size can frustrate legitimate investigative efforts, as I have recently learned first hand. I hold no great hope that any regulatory agency will have any better luck at receiving definitive answers in the future if US West continues its present practice of apparent stonewalling.

Because the majority of my constitutents are US West ratepayers, this case is of particular concern to me. Although DOJ wisely and admirably stipulated that the $10 million fine should come out of shareholder funds rather than ratepayers, even they acknowledged that the fungibility of money makes it impossible to insulate the consumer from paying the ultimate tab.

In addition to the potential consumer impact of the fine, I raised concerns about the ratepayer impact of US West's actions to the extent that telephone company funds, which are generated by the ratepayers, are being used to develop, market, and operate these theoretically unrelated businesses. During questioning at the Senate hearings, Mr. James Rill, Assistant Attorney General, Anti-trust Division, DOJ, indicated his confidence that US West telephone companies and their employees had engaged in the activities involved in the violation of the consent decree, but had no basis on which to estimate the magnitude of ratepayer impact related to the 13 activities in question. Only US West could answer this question definitely.

I think it is important to ascertain the amount of ratepayer resources directed towards these activities. Not only would such resource diversion put ratepayer service and funds at risk, but it also would put competitors at an unfair disadvantage. And as Judge Greene notes, it can distract them from their primary mission of providing and improving basic telephone service. I contacted DOJ and the FCC to ascertain background information on this matter, and asked US West to supply information on the extent to which ratepayer funds were used in connection with the development, operations, marketing, etc., related to these activities. Understandably, neither the FCC or the DOJ are able to answer the ratepayer impact question without complete information from US West.

Despite my repeated attempts to obtain answers from US West, they responded by altogether ignoring or redefining the questions as to how much ratepayer funding was used to launch and operate the practices questioned in the DOJ lawsuit. At best their response can be characterized as avoiding the question; at worst it was disingenuous and misleading. For example, US West in an initial response sent to my office five boxes of paper with no organization or information describing the contents. In subsequent letters it misrepresented staff telephone conversions and later simply redefined the question so narrowly as to be—as one consumer advocate put it —"an insult to our intelligence." Further inquiries on basic information as to how much telephone company staff time and resources were invested in developing and marketing the 13 activities questioned by DOJ were answered with "we couldn't provide that type of information." Yet US West went to great pains to provide spontaneously, in writing, exactly how many hours and employees it claims to have devoted to my simple, straight-forward request for information. So I find it hard to understand how a business so efficient at record keeping in one area is so incapable of keeping track of how it spends ratepayers' resources. This uncooperative non-response makes it impossible to determine the ratepayer impact of US West actions, and gives me great concern that an unwilling corporation of this magnitude cannot be monitoried sufficiently to protect its ratepayers from the abuses mentioned by consumer groups, seniors, small businesses, and others.

I am beginning to understand the frustration Judge Greene expressed in the earlier stages of this case when he noted that: "US West has been engaged in a systematic and calculated effort to frustrate the Justice Department's legitimate demands for information, frequently by patently frivolous and usually dilatory maneuvers."

I commend the Chairman for his efforts to include safeguards in this legislation in hopes they will prevent actions similar to those US West has undertaken. The US West experience, however, leads me to wonder whether those legislative safeguards can prevent such a huge corporation from using its local monopoly to compete unfairly, and from juggling and confusing its book work so as to make it impossible for any regulatory agency or watchdog group to adequately protect consumers. Virtually every group we contacted regarding this case voiced the unanimous opinion that US West's response not only avoided the question but was carefully crafted to avoid supplying any meaningful information from which to conduct an independent analysis using realistic definitions and relevant data.

The bottom line here is trust and corporate accountability. My experience with most telephone companies would generally lead me to give them the benefit of the doubt, as I have done in the past. I have found the vast majority to be straightforward in their dealings. I still hope US West will be more directly responsive in the future. But my first priority is to my constituents, and they are monopoly bound to US West. My vote against this bill in Committee was based in large part on my disappointment with US West's dilatory tactics

and misrepresentations to date. Like Judge Greene I have felt frustrated, in attempts to get straight answers to the questions asked. US West is our largest single telephone company, with monopoly control over most of my State. Its actions have a profound impact on the vast majority of my constituents. I will continue in my attempt to get a straight answer to my inquiry. Pending the outcome of that process, I will reserve judgment with respect to future votes on this legislation. I agree with Senator Holling's desire to move this technology forward. But we must take care to protect consumers, seniors, and small businesses in the proces. I hope we can do so. But for the time being, I must reluctantly voice my opposition to this legislation based on this particular case which affects my State so profoundly.

Mr. HOLLINGS. The amendment has been cleared on this side, Mr. President.

The PRESIDING OFFICER. Is there further debate on the amendment?

The question is on agreeing to the amendment.

The amendment (No. 285) was agreed to.

Mr. PRESSLER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HOLLINGS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SIMON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

AMENDMENT NO. 286

(Purpose: To require independent annual audits of Bell Telephone Co., and to require the Federal Communications Commission to review and analyze such audits and report its findings to Congress)

Mr. SIMON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Illinois [Mr. SIMON] proposes an amendment numbered 286.

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

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

The amendment is as follows:

On page 12, between lines 2 and 3, insert the following new subsection:

"(k)(1) A Bell Telephone Company that manufactures or provides telecommunications equipment or manufactures customer premises equipment through an affiliate shall obtain and pay for an annual audit conducted by an independent auditor selected by and working at the direction of the State Commission of each State in which such Company provides local exchange service, to determine whether such Company has complied with this section and the regulations promulgated under this section, and particularly whether the Company has complied with the separate accounting requirements under subsection (c)(1).

"(2) The auditor described in paragraph (1) shall submit the results of such audit to the Commission and to the State Commission of each State in which the Company provides telephone exchange service. Any party may submit comments on the final audit report.

"(3) The audit required under paragraph (1) shall be conducted in accordance with procedures established by regulation by the State Commission of the State in which such Company provides local exchange service, including requirements that—

"(A) the independent auditors performing such audits are rotated to ensure their independence; and

"(B) each audit submitted to the Commission and to the State Commission is certified by the auditor responsible for conducting the audit.

"(4) The Commission shall periodically review and analyze the audits submitted to it under this subsection, and shall provide to the Congress every 2 years—

"(A) a report of its findings on the compliance of the Bell Telephone Companies with this section and the regulations promulgated hereunder, and

"(B) an analysis of the impact of such regulations on the affordability of local telephone exchange service.

"(5) For purposes of conducting audits and reviews under this subsection, an independent auditor, the Commission, and the State Commission shall have access to the financial accounts and records of each Bell Telephone Company and those of its affiliates (including affiliates described in paragraphs (6) and (7) of subsection (c)) necessary to verify transactions conducted with such Bell Telephone Company that are relevant to the specific activities permitted under this section and that are necessary to the state's regulation of telephone rates. Each State Commission shall implement appropriate processes to ensure the protection of any proprietary information submitted to it under this section.

Mr. SIMON. Mr. President, I am pleased to say we have modified the language in this amendment a little as originally drafted, and I believe it is acceptable to all sides.

This amendment calls for an audit by the State regulatory bodies to see that we are complying with the law and that there be a report of the FCC to Congress. It is a protection for consumers. It is a way of making sure the law is being complied with.

I know of no opposition, and I hope the amendment will be accepted.

Mr. HOLLINGS. Mr. President, I thank the distinguished Senator from Illinois for this improvement to the bill. What you have in this amendment, in essence, is clear intent of the Congress that the Bell Cos. should be audited. This is quite obvious in light of the track record that brought about the modification of final judgment in 1984.

The Federal Communications Commission tried to audit the monolith AT&T, and by the time we would catch up with an audit and get an order, it would be obsolete or unable to be enforced. And we got into an antitrust case which resulted in the breakup of AT&T by the court itself in the modification final judgment.

In this light, 20 percent of the Bell Cos.' business is interstate business and 80 percent is intrastate. The FCC can audit only the interstate business and the states can only audit the intrastate business.

The Senator from Illinois says let us clarify that the States shall conduct audits and have access to the books and records of the telephone company itself and have access to the affiliates themselves, who do business with the Bell Telephone Co. This will ensure it will be a true, comprehensive, effective audit.

So it has been cleared on this side, and I thank my distinguished colleague for his offering it, and I will support the amendment.

Mr. SIMON. I thank the distinguished Senator from South Carolina. Let me add that Senator DECONCINI is a cosponsor of this amendment. I should have added that.

Mr. HOLLINGS. Mr. President, I urge adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Illinois.

The amendment (No. 286) was agreed to.

Mr. SIMON. Mr. President, I move to reconsider the vote.

Mr. HOLLINGS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HOLLINGS. Mr. President, the senior Senator from Ohio is presently approaching the floor. I think we have two amendments worked out with the Senator. We will clear those on both sides of the aisle now, and I think they are to be cleared. It will save us a good bit of time. They are worthy amendments.

The Senator from Ohio is here. After these amendments, the Senator from Pennsylvania [Mr. SPECTER] will want to be heard on the bill. There could be a couple other amendments. I will be conferring with the distinguished Senator from Ohio on that, to see whether we have something we can accept.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 287

(Purpose: To add a provision on the application of the antitrust laws)

Mr. METZENBAUM. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Ohio [Mr. METZENBAUM] proposes an amendment numbered 287.

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

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

The amendment is as follows:

At the end, add the following new section:

SEC. 4. APPLICATION OF ANTITRUST LAWS.

Nothing in this Act shall be deemed to alter the application of federal and state antitrust laws as interpreted by the respective court.

Mr. METZENBAUM. Mr. President, it is my understanding that this amendment is acceptable to both managers of the bill. It is very simple. It spells out specifically that, "Nothing in the Act shall be deemed to alter the application of Federal and State antitrust laws as interpreted by the respective courts." It is my understanding it is acceptable to the managers and, if so, we can proceed.

Mr. HOLLINGS. Mr. President, the amendment has been cleared on both sides of the aisle, and we would be delighted to accept the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 287) was agreed to.

Mr. METZENBAUM. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HOLLINGS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 288

Mr. METZENBAUM. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Ohio [Mr. METZENBAUM] proposes an amendment numbered 288.

On page 11, line 3, strike "equipment." and insert in lieu thereof "equipment, consistent with subsection (e)(2).".

Mr. METZENBAUM. Mr. President, there is some question as to whether one portion of the bill was limiting the application of another portion of the bill having to do with the subsidization of manufacturing affiliates, and this clarifies that. I am quite sure the amendment is acceptable to the managers of the bill.

Mr. HOLLINGS. Mr. President, the distinguished Senator is correct. On the previous page, subsection 2 forbids the cross-subsidization by a manufacturing affiliate with the Bell Co. This amendment reiterates exactly that prohibition, which is the intent. The distinguished Senator wanted to make it absolutely clear. We accept the amendment. It has been cleared.

The PRESIDING OFFICER. Is there further debate on the amendment?

If not, the question is on agreeing to the amendment.

The amendment (No. 288) was agreed to.

Mr. METZENBAUM. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HOLLINGS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 289

(Purpose: To provide the Federal Communications Commission and State utility commissions with access to information concerning transactions between a Bell Telephone Company and its manufacturing affiliates)

Mr. METZENBAUM. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Ohio [Mr. METZENBAUM] proposes an amendment numbered 289.

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

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

On page 3, strike lines 14 through 24 and insert the following:

"(1)(A) such manufacturing affiliate shall maintain books, records, and accounts separate from its affiliated Bell Telephone Company, that identify all transactions between the manufacturing affiliate and its affiliated Bell Telephone Company.

"(B) the Commission and the State Commissions that exercise regulatory authority over any Bell Telephone Company affiliated with such manufacturing affiliate, shall have access to the books, records, and accounts required to be prepared under subparagraph (A), and

"(C) such manufacturing affiliate shall, even if it is not a publicly held corporation, prepare financial statements which are in compliance with Federal financial reporting requirements for publicly held corporations, and file such statements with the Commission and the State Commissions that exercise regulatory over any Bell Telephone Company affiliate with such manufacturing affiliate, and make such statements available for public inspection;

Mr. METZENBAUM. Mr. President, this is a significant amendment. It has to do with State access to the records of the Baby Bells. It is designed to provide both the FCC and the State utility commissions with access to the books and records of a Bell manufacturing affiliate.

Absent this amendment, the State regulators would not have that authority and of course it is applicable only to the State regulators having that authority within their respective jurisdictions.

The access is essential so regulators can assure a proper allocation of costs between the Bell Telephone Cos. and their manufacturing affiliates. I am frank to say that I have my doubts about whether regulators can ever come close to preventing all cross subsidies. But at the very least, this amendment will help them in that direction because both the FCC and State regulators would have access to the books and records that would help them accomplish that task.

It is all this amendment is designed to do. It is all it will do. It is my understanding the amendment is acceptable to the managers of the bill.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. The amendment of the distinguished Senator from Ohio is well taken. There are no hidden balls, or tricks, or otherwise. The intent of the Senator from Ohio is the same as that of the Senator from South Carolina, that we do have audits and we have them as we stated in the Simon amendment, both at the Federal and State level. You cannot get a valid audit unless you have access to the books. I thought it was a given. The distinguished Senator from Ohio wants to make sure of it and we have worked this amendment out. It has been cleared on both sides. I am glad to support the amendment.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

So the amendment (No. 289) was agreed to.

Mr. METZENBAUM. Mr. President, I move to reconsider the vote.

Mr. HOLLINGS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. METZENBAUM. Mr. President, the Senator from Ohio does not intend to offer any additional amendments. I considered doing so. I very strongly support the Inouye amendment. Senator INOUYE saw fit to withdraw it, and understandably so. I am not in favor of this bill. I think our amendments make it a better bill than it was, but I still have concerns about the Baby Bells getting into the manufacturing business.

I am concerned it will have a negative impact upon the consumers of this country and will increase their costs. I am concerned that, in a sense, we are going back and undoing the restrictions that we had originally

placed on AT&T through the courts requiring the breakup. Only now each of the Baby Bells is a multibillion-dollar corporation on its own and they want to get into the manufacturing business. I do not think that will help the consumer of this country.

I have further concerns about the domestic content provisions, and whether or not there will be jobs protected here in this country. I know I am in disagreement with my colleague from South Carolina on this point.

On the 40-percent provision contained in the bill, I think it is drafted in such a manner it will be very difficult to provide any assurances that there will not be more product manufactured overseas than domestically. But I think—I know the House of Representatives intends to give serious and full consideration to this legislation.

I can count. I know my colleague from South Carolina has substantial support in this body. I am hopeful there will be further considerable improvement made in the House when it gets to that body. I will not vote for this bill. I do not think it is good legislation but I do not intend to delay its coming to a vote for final passage on the floor of the Senate and then hopefully we will see it come back in a more improved form from the conference committee.

I want to express thanks for the cooperation and courtesy accorded me by the Senate from South Carolina. We happen to be in disagreement on the general thrust of this bill but he certainly always conducts himself in a gentlemanly way and it has been a privilege to work with him.

Mr. HOLLINGS. It has been my pleasure to work with the Senator from Ohio. I think we have saved a good bit of time. I think we have done it in a deliberate fashion. I think the staff of the Senator from Ohio and our own staff the committee. I am sorry he cannot support the bill but I really think it is because of any political persuasion on my part that I have the votes. I think the bill has the votes. I really do think this is a consumers' bill.

There is no question in my mind we are looking at a problem. We have tried, under the so-called manufacturing restriction and, with the approach, while we have a multiplicity of all kinds of designs and developments, it has all been foreign, to the injury of our own United States of America.

We have seen this happen now in basic industries such as textiles where you have to put in a bill to guarantee the foreign manufacturer the majority of the business. No one does that out of goodness of his heart, but that is how desperate we have become with steel, with textiles, and electronics; you can go down the list, hand tools, machine tools, and otherwise.

So, I think we really are looking out for consumers, and if I did not feel that strongly about it—I am not looking out for the Bell Cos., they are richer than the Senator from Ohio and the Senator from South Carolina. They are more than capable of taking care of themselves and they are publicly regulated entities and they are doing extremely well.

My problem is they are doing extremely well in downtown London, and in downtown Budapest, and in downtown Wellington, New Zealand, and in Mexico City, and Buenos Aires, and not in Charleston, SC. I am trying to bring them home.

On the audit amendment adopted earlier with the Senator from Illinois, it is important that we protect the proprietary information of the Bell Cos.' manufacturing affiliates.

The PRESIDING OFFICER. The Chair recognizes the Senator from Ohio [Mr. METZENBAUM].

Mr. METZENBAUM. Mr. President, the three amendments I have offered which have been accepted by the Senator from South Carolina will improve the bill and provide consumers with a greater measure of protection against potential monopoly abuses. The language in section 227(f) of the bill, which suggests that ratepayer resources could be used to finance a Bell manufacturing affiliate's product development activity, has been amended to clarify that it is not intended to permit cross subsidy. Section 227(c)(1) has been amended to provide that each State regulatory commission has access to the books and records of a Bell manufacturing company affiliated with a Bell telephone company within its jurisdiction. State regulators must have access to the manufacturing company's books and records in order to help prevent harm to ratepayers.

Finally, the bill has been amended to make it clear that the Bells remain fully subject to the antitrust laws. The Bells, the sponsors of the legislation and the Justice Department all agree that this legislation does not grant the Bells any exemption under the antitrust laws. Stephen Shapiro, the Bells' antitrust lawyer, testified before my Antitrust Subcommittee that:

> Relief from the manufacturing restriction does not, of course, imply any immunity from regulation or judicial supervision. . . . The Bell Cos. would be subject to the full range of civil and criminal remedies should they engage in anticompetitive practices.

This amendment merely codifies that understanding.

While these amendments have improved the bill, I still cannot support it. The question posed by this bill is whether or not the seven regional telephone monopolies known as the Baby Bells, whose combined annual revenues amount to over $70 billion, ought to be allowed to manufacture the equipment which is used in their local telephone networks.

While this may be a complicated issue, it is of critical importance to anyone who pays a telephone bill every month. The cost and quality of the switching and transmission equipment used in the local telephone network has a direct and significant impact upon the telephone rates paid by consumers.

The Baby Bells currently are forbidden from making telephone network equipment because history has demonstrated that consumers get hurt whenever the local phone monopolies can make the equipment which is used in their telephone networks. The harm occurs because the phone companies can simply buy equipment from themselves at inflated prices and shift excess costs into consumers. History has shown that it is almost impossible for regulators to prevent such monopoly abuses.

But the bill on the floor today asks us to forget history. We are asked to forget the fact that on four different occasions in this century—1913, 1925, 1949, and 1974—the Bell Cos. abuse of their local telephone monopolies has prompted serious antitrust challenges from the Government. We are asked to forget the fact that in each instance, the monopoly power over local telephone service was used to hurt consumers and stifle competition in related markets. And we are asked to forget the fact that regulation has rarely been able to control such monopoly abuses.

The central premise of this bill is that the best thing the Senate can do for both consumers and competitors in the telecommunications business is to allow seven regional monopolies to get into the business of making telephone network equipment.

I don't share that view, Mr. President. I think the Baby Bells are doing just fine right now. These are companies that average about $10 billion apiece in annual revenues; and they are guaranteed at least a 11-14 percent return on their local phone business, which is still their major business. In other words, the only parties that are certain to benefit from this legislation are multibillion-dollar monopolies that are guaranteed an annual profit.

What about consumers. That's why every major consumer group in the country, all the State utility consumer advocates, and the AARP, all oppose this legislation.

Mr. President, this bill should be judged according to a simple standard: Based upon our understanding of history, monopoly behavior, and the effectiveness of regulatory oversight in the telephone industry, is this bill likely to help or hurt both consumers and competition?

I think the answer is that it will hurt both consumers and competition. And I want to outline for the Senate the basis for my conclusion.

At the outset, let me explain the key principle which I believe should guide analysis of this bill. Legislation and policy involving telephone network equipment should encourage the Bell Telephone Cos. to buy the highest

quality equipment at the lowest possible price. The reason for this is simple: Ratepayers—that is, consumers—ultimately pay the costs of the network equipment purchased by the local phone companies. If those companies are purchasing the best possible equipment at the lowest possible price, then telephone rates should not be artificially high and competition should be protected. But if public policy provides the local telephone monopolies with the opportunity to purchase equipment at inflated prices, then both consumers and competition will be hurt.

That's why the phone company was broken up in the first place. When AT&T provided both long-distance and local phone service to nearly the entire Nation, it purchased virtually all of the equipment used in the phone network from its equipment manufacturing subsidiary, Western Electric. In the antitrust case that led to divestiture, the Government showed that AT&T's local telephone subsidiaries bought from Western Electric, even when competing manufacturers made better quality equipment at a lower price. The evidence also showed that AT&T's local phone companies provided Western Electric with preferential access to key information about the equipment needs of the local exchange networks. In addition, Judge Greene concluded that AT&T's manufacturing affiliate was being improperly subsidized by the Bell System's telephone ratepayers.

That kind of self-dealing and cross-subsidization hurt both consumers and competition. Regulators were powerless to control such monopoly abuses. Separating the local phone monopolies from long-distance and manufacturing proved to be the only effective means of preventing further harm to consumers and competition. That's what Judge Greene did in 1982. And that is what this bill is trying to undo.

The bottom line is that the phone company was broken up because, in Judge Greene's words:

> A combination of vertical integration and rate-of-return regulation has tended to generate decisions by the operating companies to purchase equipment produced by Western Electric that is more expensive or of lesser quality than that manufactured by the general trade.

Let's be clear. If we adopt the bill before us today, we will reinstate the same combination of vertical integration and local service regulation that led to antitrust abuses in the telephone business.

Mr. President, I have not been happy with some of the after-effects of divestiture. In some critical ways, consumers are worse off: Local rates have risen, phone bills are confusing and customer service has suffered. Meanwhile, the Baby Bells have created dozens of new subsidiaries for ventures into unregulated markets. Judge Greene has stated that this diversification "is bound to diminish their management's interest in and attention to the local telephone business." He also has suggested that the postdivestiture rise in local phone rates may be partly due to "the diversion of ratepayers' moneys to finance the Bells' ambitions to become full-fledged players in conglomerate America."

Regardless of what caused the rise in local phone rates, those increases have not been good for consumers. On the other hand, divestiture has provided some benefits: Long distance rates have fallen, thousands of small businesses have entered the equipment market, and many new products have been introduced.

While divestiture has brought about many changes, one critical fact remains the same: Local telephone service is still a monopoly. Consumers and small businesses make all their calls through one local phone company. Long-distance carriers like AT&T, MCI, and SPRINT still rely on the local network for the initiation and completion of almost all long-distance calls. And big business relies on the local phone network to transport information which is critical to domestic and foreign commerce.

In short, the local telephone monopoly is still the critical factor for the average American. It is true that there are seven regional monopolies providing local telephone service, instead of only one national monopoly. But the incentive and ability to leverage that monopoly power has not necessarily diminished, simply because there are now seven regional monopolies, rather than just one national monopoly.

Indeed, since divestiture, the Bells have shown themselves to be capable of leveraging their monopolies in harmful ways. In February, U.S. West agreed to pay $10 million for 4 violations of the consent decree; another 9 violations were dropped. Last year, NYNEX paid a $1.4 million fine after it was found to have inflated the purchase price of office equipment and supplies which it bought from one of its unregulated subsidiaries. The excess costs were passed onto NYNEX's telephone ratepayers. The overcharges in that case totaled $118 million. Last year, Bell Atlantic agreed to pay $42 million to settle charges that it engaged in deceptive marketing practices designed to make Pennsylvania ratepayers buy more services than they wanted or needed. And the Ohio consumers counsel, along with other Midwest consumer advocates, reported that Ameritech improperly charged ratepayers for millions of dollars in lobbying, advertising, and promotional expenses. So, Mr. President, the Baby Bells have used their monopoly power to hurt both consumers and competition. My concern is that this legislation will give them more opportunities to do so.

Mr. President, let's look at the practical impact of this bill on the real world. If the Bells are allowed to make the equipment which is used in their phone networks, they are going to buy most or all of their equipment from themselves. That's not just my view, Mr. President. It is a view shared by the Department of Justice, Judge Greene, the D.C. Circuit Court of Appeals and antitrust experts from across the spectrum. Let me read to you an excerpt from last year's decision on the consent decree by the D.C. Circuit Court of Appeals.

> The Department of Justice makes the significant concession that any Bell Operating Co. that chooses to manufacture central office switches, either unilaterally or through a joint venture, will buy all (or nearly all) of its requirements from the affiliated producer—thereby foreclosing a certain portion of the market, regardless of whether or not there are economies to be gained from such integration.

So the Justice Department, which supports this bill, concedes that there will be considerable self-dealing if the Bells are allowed into the manufacturing of equipment. And of course they would have to make that concession. Any practical person would recognize that if you have a choice between buying your equipment from yourself and buying them from someone else, you buy from yourself. You do that because you have got to maximize profits for your company and your shareholders.

While the Justice Department recognizes that there will be self-dealing, they are less concerned about the consequences of such conduct, and believe that self-dealing abuses can be effectively policed. Their view is not shared by other antitrust experts around the country. Prof. Phillip Areeda of Harvard, who is perhaps the leading antitrust expert in the country, has written about the consequences of self-dealing. He has stated that:

> Each Bell monopoly is likely to purchase its own equipment rather than better or cheaper equipment made by others. A regulated monopoly has powerful incentives to purchase from itself, even if better and cheaper equipment is available elsewhere, and regulatory safeguards are likely to be ineffective to prevent it. * * * It follows that society would not receive the benefits of the lowest price or the most advanced and reliable equipment. Hence, consumers would be exploited through higher prices and worse equipment * * *. Costs are likely to be higher, quality and innovation lower, and prices higher. The root cause is self-dealing with little regard for price or quality. Self-dealing provides a guaranteed market that dulls competitive pressures toward innovation, high quality, low costs and prices.

Robert Bork, whose views on antitrust in general and vertical integration in particular are almost totally different from mine, agrees that allowing the Bells into manufacturing "would injure both competition in the markets the Bells enter and the ratepayers in the telephone service markets over which the bells have monopoly control." Judge Bork has written that the injuries would ensue because the Bells—

Simply would claim that their affiliated manufacturers made products superior to those of other manufacturers, regardless of their actual quality, and would refuse to purchase anything else. Although the equipment might cost more, they could pass the expense onto ratepayers.

Mr. President, the concern about self-dealing abuses arises because it is exactly what has happened in the past whenever one company has been both an equipment manufacturer and a monopoly provider of phone service.

Prior to divestiture, the Bell Operating Cos. bought virtually all of their equipment from Western Electric, even when, as Judge Greene put it, "A general trade product was cheaper or of better quality * * *." Similarly Bell Operating Co. purchasing officials were encouraged—

To wait until a Western (Electric) product comparable to the desired general trade equipment was available, and they were required to provide detailed justification for general trade purchases which were not necessary for the purchase of Western equipment.

GTE, which has local phone monopolies scattered around the Nation, also engaged in self-dealing abuses when it manufactured telephone equipment. The Bells submitted testimony to a hearing held by my Antitrust Subcommittee in which they argued that Congress should look at how GTE behaved when it was involved in equipment manufacturing. But the fact is that GTE did engage in anti competitive and anti-consumer self-dealing when they were in the equipment business. In fact, they were found guilty of violating the antitrust laws.

The judge in the GTE case stated that—

GTE has actually used its vertical structure to irrevocably foreclose its full market share by taking every means to exclude any chance, howsoever small, of any portion of it being served by competitor manufacturers no matter how superior their products, services or prices.

The judge also stated that:

GTE's conduct in its in-house dealings manifests an objective to maximize its profits.

The judge went on to state that:

The single most alarming aspect of GTE's vertical integration and resultant in-house dealing is the use of its monopoly leverage in the telephone operating market to foreclose competition in the telecommunications equipment industry. GTE has betrayed its public trust * * *".

If the Bells believe that GTE's conduct provides guidance as to how S. 173 will affect the manufacturing market, then Senators ought to ask themselves whether it is a good idea to pass this legislation.

The NYNEX procurement scandal, which was finally blown open last year, demonstrates that the Baby Bells are just as inclined to self-deal as was GTE and the old AT&T. In that case, NYNEX established a purchasing subsidiary—Material Enterprises Co.—known as MECO, which was set up to buy office equipment and supplies and perform other purchasing and service functions for the NYNEX operating companies. NYNEX corporate policy dictated that the local phone companies should use MECO as often as possible, even though it meant paying inflated prices for the supplies and services that MECO provided. As I mentioned earlier, the overcharges in that case amounted to $118 million.

In each of the examples I have cited—NYNEX, GTE, and AT&T—there were internal company policies and rules which encouraged self-dealing by the local phone companies, even if it meant that consumers would be paying higher phone rates. It is extremely difficult for regulators, no matter how conscientious, to police internal corporate policies, in order to prevent the adoption, either formally or informally, of rules and policies designed to encourage self-dealing.

Now there are some who claim that the NYNEX scandal shows that regulators are capable of policing self-dealing abuses. But the fact is that the NYNEX scandal was not uncovered by regulators, but came to light only after news reports first appeared in the Boston Globe. The news reports were based on information provided by a whistleblower who was subsequently fired by NYNEX. Robert Abrams, the New York attorney general, stated that NYNEX officials "resisted us every inch of the way" while his office was trying to gather information about the procurement scandal. And Peter Bradford, the chairman of the New York Public Service Commission—the State regulatory agency which has made a valiant effort to grapple with this matter—testified before my Antitrust Subcommittee that no one should take comfort over the fact that NYNEX ultimately was caught. Chairman Bradford stated:

I think you could never hope to fully police the kinds of difficulties that arise when you link a competitive enterprise of the size and scale of manufacturing in the telecommunications industry with a monopoly bottleneck group of customers. Until either competition erodes that monopoly or sufficient safeguards are in place to really assure the independence of the operating company decisionmaker—safeguards that are not in this legislation—I don't think any regulator, in good conscience could tell you that this was a policeable marketplace.

So, Mr. President, experience tells us that if you link manufacturing with monopoly phone service, you will see self-dealing abuses, and the regulators will have difficulty preventing the problem.

The danger for consumers is that self-dealing will lead to higher phone rates. Every major consumer group in the country opposes this bill because of their concerns that if the Bells buy equipment from themselves, rates will go up.

Rates can rise in one of two ways. First, the Bells can simply buy from themselves at inflated prices and pass the costs on to their ratepayers. Because a switch is a highly complicated piece of equipment—and can be customized to meet the particular needs of an operating company—it is difficult for regulators to determine whether the Bells will have paid too much.

Alternatively, the Bells can force ratepayers to bear an excessive share of the costs associated with their manufacturing business. Each Baby Bell is a diversified holding company, with both regulated and unregulated businesses. The holding company incurs substantial joint costs, and it has powerful incentives to saddle ratepayers with an excess share of those costs. As more costs are loaded onto the rate base, phone bills rise in order to ensure that the operating companies receive their guaranteed rate of return. Regulators are supposed to disallow excessive cost-shifting onto the rate base. Unfortunately, they have never been able to track costs accurately. The last time the GAO looked at the FCC's ability to control cross-subsidy—back in 1987—it concluded that the Commission could not do the job. The GAO found that:

The level of oversight FCC is prepared to provide will not provide telephone ratepayers or competitors positive assurance that FCC cost allocation rules and procedures are properly controlling cross-subsidy.

The holding company structure of the Baby Bells makes the task of tracking costs that much harder. For example, a staff report by the California Public Utilities Commission states that:

The operations and methods of Pacific Telesis bring to life the worst nightmares of regulators. There appears to be no advantage to the holding company structure except to the unregulated businesses of Pacific Telesis, which are cross-subsidized at every turn by Pacific Bell.

The bottom line is that consumers risk having to pay higher phone rates if the Bells are allowed into manufacturing.

Now what about the impact on the marketplace? Judge Greene believes that all of the Baby Bells will engage in self-dealing, thereby foreclosing competition in up to 70 percent of the equipment manufacturing market. The Justice Department has estimated that 5 to 15 percent of the competition in the telecommunications equipment manufacturing market will be foreclosed. The D.C. Circuit Court of Appeals, noting these differing estimates, stated that "there seems to be no dispute that some substantial portion of the equipment market will be foreclosed."

Reduced competition raises the threat of higher prices and lower quality goods. The threat of foreclosure also would have an adverse impact on non-Bell purchasers of telecommunications equipment—about 30 percent of the market. The loss of independent suppliers would hurt non-Bell purchasers of telecommunications equipment because the Bells, with a guaranteed market to supply, would not be

subject to the same competitive pressures as are independent suppliers.

So look what we have, Mr. President: If this bill passes most of the Bell sector of the network equipment market will be foreclosed by self-dealing. Meanwhile, the non-Bell sector of the market—in which companies like MCI, American Express, and others purchase telecommunications equipment—will be hurt because the market is likely to be dominated by self-dealing monopolies, which could raise prices and reduce competition.

Besides simply buying from themselves at inflated prices or saddling ratepayers with excessive costs, there are other methods by which the Bells could threaten competition and hurt consumers. They could design their phone networks in a manner that would, in the words of Judge Bork, "make their systems incompatible with equipment made by other manufacturers."

The Bells could inhibit competition by providing their manufacturing affiliates with advance notice of upcoming equipment needs or changes in the design of the local exchange network. This head start would give them a critical advantage over other equipment manufacturers. Again, this is not a hypothetical concern, but was one of the factors in the Government's original antitrust suit against AT&T. Judge Greene noted that prior to the decree, Western Electric was frequently granted:

> Premature and otherwise preferential access to necessary technical data, compatibility standards, and other information about the operating companies' needs and requirements and the evolving characteristics of the local exchange. The delays encountered in these respects by Western Electric's competitors frequently made it difficult, if not impossible for them to compete for operating company business.

Now Mr. President, there are safeguards in S. 173 which are designed to prevent the Bells from engaging in anti-competitive and anticonsumer behavior. But these safeguards are not strong enough to ensure that consumers will be protected.

For example, a provision in S. 173 which requires the FCC to issue regulations to prevent the Bells from giving their manufacturing affiliates preferential access to information about changes in network design and equipment needs of the Bell Operating Cos. It's a well-intentioned provision. But the fact is that there is no practical way to enforce it. Think about what would happen if a phone company engineer, either accidentally or intentionally, discloses information about future equipment needs to the manufacturing subsidiary. Is he going to immediately tell the phone company that they have got to drop everything and run down to the FCC to file that information? Mr. President, an FCC regulation is simply not going to prevent personnel from the operating companies from discussing future equipment needs with employees from the manufacturing affiliates.

Finally, Mr. President, let me just say a word about the domestic content provision contained in the bill. It is a domestic content provision in name only. The provision places no limits on the ability of the Bell Co. to use intellectual property created outside the United States. So under the bill, the Bells could conceivably do much, if not all of their research and design activities overseas.

The heart of the provision is a requirement that the Bells must use American-made parts in all the equipment which they manufacture. But there is an exception to this provision which practically swallows the rule. If the Bells cannot find the components *here in the United States at a reasonable price*, they can use foreign parts.

Now the bill does say that the cost of the foreign-made components may not exceed 40 percent of the revenue generated from the sale of equipment. But componentry costs almost never exceed 40 percent of the cost of most network equipment products, let alone their sales revenue. So the Bells could use all foreign-made parts and still meet the 40 percent test that is in the bill.

The bill does say that the componentry percentage figure must be adjusted yearly to correspond to the average for the entire industry. But that doesn't guarantee the use of more American-made components, because equipment sales by foreign firms will be included in the calculation. Indeed, the inclusion of sales by foreign firm might even raise the ceiling, since their products will be made entirely with foreign parts.

Moreover, the bill says that the Commission shall adjust the percentage figure after consulting with the Secretary of Commerce. It is my understanding that both the Commission and the Secretary of Commerce do not support the domestic content provision. If they are included to relax the application of this provision, this language would seem to give them ample leeway to do so. So as a practical matter, this provision is not going to limit the Bells' use of foreign-made parts.

Mr. President, the bottom line on S. 173 is this: The benefits are at best speculative and, at worst, illusory. Meanwhile, the risks to consumers and competition are too great. Some of that risk can be alleviated if the bill is amended, but in my judgment, this legislation should not go forward. Accordingly, I will note "no."

Mr. President, I commend the Senator from South Carolina's staff and my own staff. It was not an easy negotiation. They have been involved for several days. They have been very cooperative. My own staff has been extremely involved, knowing full well what the situation was here on the floor, trying to do what this Senator wanted done. And the staff of the Senator from South Carolina was certainly trying to do what their Senator wanted done. I think all of them have acquitted themselves admirably and I am grateful the Senate has such able young people on our staffs and working for us.

Mr. President, having said that, I have nothing further to say.

Mr. President, I ask for the yeas and nays on final passage.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Who seeks recognition? Are there further amendments?

Mr. DANFORTH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER. (Mr. LIEBERMAN). Without objection, it is so ordered.

The PRESIDING OFFICER. The Senator from California is recognized.

Mr. SEYMOUR. I thank the Chair.

(The remarks of Mr. SEYMOUR pertaining to the introduction of S. 1225 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. SEYMOUR. Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. HOLLINGS. Mr. President, I want to clarify one point that is currently left somewhat unclear in the committee report regarding Bellcore, the Bell Co.'s joint research center, when the committee reported S. 173 it was the intention of the committee not to change the legal status of Bellcore in any way. Bellcore will have the same authority to work with any manufacturer, including Bell Co. manufacturing affiliates, after the bill is passed as Bellcore has today.

To the extent that Bellcore talks with manufacturers today, for instance, it may continue to talk to manufacturers, including the newly created Bell Co.'s manufacturing affiliates, after this bill is passed. This bill, however, grants no new authority to Bellcore.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. DURENBERGER. I ask unanimous consent that I might proceed for up to 10 minutes as though in morning business.

The PRESIDING OFFICER. Hearing no objection, that will be the order.

Mr. DURENBERGER. I thank the Chair.

NATIONAL HEALTH CARE REFORM

Mr. DURENBERGER. Mr. President, let me first thank the managers of this bill for the opportunity to take this time to congratulate my colleagues in this body, especially those from Maine, Massachusetts, and West Virginia—Democratic Senators MITCHELL, KENNEDY, and ROCKEFELLER—on the occasion of the introduction of their landmark legislation on health crae reform.

Regardless of the shortcomings of this particular proposal—and I believe there are several—this event today is a very major milestone on the road to urgently needed health care reform in America. It literally is a first.

Today, we have on the table a serious proposal for the national reform of health care which is as close to comprehensive as anything we have seen. For want of a better alternative, this bill sets the agenda for the Congress. It begins the long and difficult process of health care reform.

Because we all tend to focus on the day-to-day challenges around here, we often cannot take in the longer view of legislation. For our colleague, Senator KENNEDY, this is not a 1-day event. It is yet another step in a 30-year effort to bring access to health care to all Americans. This is not an issue to him; it is a passion, and I commend him for that.

I also want to commend the other key players in this proposal who are, relative to our colleagues from Massachusetts, new kids on the block. It has been my privilege to have served with both GEORGE MITCHELL and JAY ROCKEFELLER on the Medicare Subcommittee of the Senate Finance Committee as long as they have been in the Senate. GEORGE and JAY epitomize Senators of the modern era. They are both good listeners and serious thinkers, and they have an ability to push through the complexities of the issues that we face to reach far-reaching solutions.

I commend them for that effort and the efforts they have made over the last several years to understand and master the health field and for much good policy which they now lay before us. JAY ROCKEFELLER, I must say, also made physician payment reform a reality and made the Pepper Commission work.

Democrats and Republicans in the Congress have been working on changes in the way America pays for health care since I arrived here in 1979 to meet the specter of something called hospital cost containment. There can be no question that America must change the way we produce, the way we well, and the way we buy medical services.

Just as health is a basic issue to every person, it is a fundamental issue for every business, every institution, and every level of Government in America. Like a person with very high blood pressure, each institution of our society today is threatened with an explosive increase in medical costs. This year American health expenditures will be $750 billion. By the turn of the century—only 8½ years from now—that amount will have tripled, to over $2 trillion. Can employers afford three times their current health care costs? Can Government? Can individuals and families? Of course not.

We have 31 million Americans who have no health insurance at all, with millions more soon to join the ranks because of cost increases. We have major sectors of our society—in rural and urban areas—grossly underserved. Change is urgently needed.

I commend my colleagues for laying this proposal on the table.

As I look over the proposal, I see a number of very necessary reforms which have been discussed in the Finance Committee and in the Pepper Commission. The bill is a great improvement on the Pepper Commission final report because it begins to address a major gap in the document—cost containment.

I wish to thank the sponsors for including a number of proposals which I have just put forward over the last several years, and I am especially pleased to see a small business insurance reform component which I have been working on since March of last year and on which I have introduced S. 700, the American Health Security Act.

But, Mr. President, before I sound any more like a cosponsor of this proposal, which I am not, there are several flaws which will cause this bill to fall short of its own ambitious goals. This afternoon I will mention just four.

First, introducing a bill without any financing to it is like wrapping up an empty box and putting it under the Christmas tree. It is designed to disappoint. One of the lessons we were supposed to have learned from the 1980's is that government should not promise for what it cannot pay, or is unwilling to pay.

Unfortunately, this bill falls into that trap. The bill is quite explicit about what we will do for the American people and silent on how they will pay for it. It proposes $6 to $8 billion in Medicaid changes. From where is that money going to come? It proposes a payroll tax on businesses that do not choose to provide insurance. How big will that be—10 percent, 15, 20? This legislation gives no answers. The failure of the sponsors to agree upon a financing mechanism even among themselves does belie the so-called comprehensive nature of the bill.

Second, by relying on employer mandates to solve the uninsured problem, the bill prescribes a treatment that has already failed clinical trials in the State of Massachusetts. There is a major problem of the working uninsured—people who have jobs but cannot get insurance in the workplace. But the problem is not that their employers—mostly small businesses—will not provide insurance; it is simply that their employers cannot.

Finding and keeping affordable insurance in the current cost spiral has been nearly impossible, and to add a mandate to buy insurance in this situation is simply to mandate bankruptcies.

The bill requires employers to either provide a health plan for their employees or pay into a State insurance fund; in other words, "play or pay." The eventual result will be employers abandoning their responsibility to insure workers and dumping them into a huge State system. In other words, we will get a Canadian system by the installment plan.

But the greatest unfairness in this mandate is it treats all employers and all businesses as though they were the same; it ignores differences which are crucial to how these employers make their health care decisions, even the decision to play or pay.

There are differences between employers located in urban and those in rural areas, different kinds of businesses—manufacturers, service industry—the kind of business that can pass on these costs on goods and services and those that cannot. There are differences between the coastal areas of this country and its heartland. To say these disparities do not exist guarantees bad policy outcomes.

The third flaw in this bill is that it leaves totally unreformed $100 billion a year in Federal health spending on the tax side of the ledger. There is a very large hole in the Nation's health bucket that simply must be plugged if we are going to get the kind of efficiency we need in this system. Every year, we hand out $100 billion in tax benefits—or the taxpayers do—for health expenditures, and the American people get no better system for it.

We subsidize the average lawyer in this city about $2,000 a year for his health insurance, a tax subsidy paid for by farmers in Minnesota who do not get that kind of subsidy and have to pay twice as much for their premiums without the benefit of a deduction.

Fourth, I am sure the sponsors would also agree that even passage of

their bill today would not nearly finish the job of health reform. We still have to deal with Medicare restructuring and optional services for long-term care. We have to deal with the medical arms race in this country which is raising costs by 11, 12 percent a year. We have to deal with restoring individual resonsibility and changing the wasteful way in which health care is currently delivered in this country. This is the real key to cost containment in America today, changing the way people access health care and changing the way medicine is practiced.

I would suggest that if every health professional in America practiced as part of a Mayo Clinic we would double quality assurance in America, and I know we would cut the costs by at least a third.

The majority leader, Senator MITCHELL, in his statement said this is a "comprehensive bill to reform the Nation's health system to provide access to affordable heath care for all Americans."

But without the details of the financing, without a sustainable solution to the uninsured problem, without a tax component or reform in other major areas, this bill will have trouble living up to that reputation.

Mr. President, the process of health reform will be a long and difficult one. Changing how 13 percent of the GNP in this country operates when it is operating in a drug company over here and in a small town clinic over there, is a huge challenge. But we have to start some place. And some place is the bill our colleagues, Senators KENNEDY, MITCHELL, and ROCKEFELLER, have put before us.

I commend them for their leadership and for the correct choices they have made, and I look forward to working with them in the areas—and there are many—where we will have disagreements.

This will be a long journey—10 years' worth of work perhaps. But we cannot get there unless we get started.

Credit belongs to those Senators today. Because of their efforts, we are finally underway.

Mr. President, I suggest the absence of a quorum.

I yield the floor.

TELECOMMUNICATIONS EQUIPMENT RESEARCH AND MANUFACTURING COMPETITION ACT

The Senate continued with the consideration of the bill.

Mr. KERREY. Mr. President, I rise to state my support for S. 173, and in particular I want to call my colleagues' attention to what I think is an extraordinary accomplishment on the part of the distinguished senior Senator from South Carolina, who has fought this battle long and hard. I am very grateful he has been willing to do it.

There has been a considerable amount of opposition, persuasive arguments on the other side, and I suspect we are rather close now to passing this piece of legislation.

I have had a great deal of interest in telecommunications for some time. I was chairman of the National Governors Association's Task Force on Telecommunications Policy and, as a consequence of that, we took some regulatory action while I was Governor. And the object of the deregulation action was to try to encourage the local phone companies to invest more in communications technology.

The jury is still out as to whether or not that will occur.

I am pleased with some of the action that has occurred, and not so pleased with some others.

Mr. President, I believe this is an appropriate legislative response to an inappropriate judicial situation. Since Federal District Judge Harold Greene's modified final judgment on the breakup of AT&T went into effect in 1984, the RBOC's have been barred from manufacturing telecommunications equipment. The RBOC's created in that divestiture, and as a part of that divestiture agreement and the consent decree, as a consequence were not allowed to get into the business of manufacturing telecommunications equipment.

This edict on the part of Judge Greene—in fact, a consent decree signed between the U.S. Government and AT&T—was targeted toward legitimate ends. That end is to protect the consumer from unduly high phone bills and shielding other telecommunications firms from unfair competition.

I emphasize this is a legitimate regulatory objective. These are still companies with highly monopolistic characteristics particularly deserving of regulation.

The result has been one of unelected judicial officials now doing more than perhaps any elected official to shape America's telecommunications policy. And the result has been a restriction of the RBOC's that is broader than needed to protect wallets of American consumers and the competitive interests of American manufacturers.

I believe the sponsor of the bill, as I have indicated earlier, the distinguished Senator from South Carolina [Mr. HOLLINGS], has done a tremendous job, an admirable job in crafting this legislation in a way that balances the various interests, the various conflicting interests.

It erects quite concrete barriers to prevent the RBOC's from using their regional monopolies over the phone service to cross-subsidize their manufacturing operations, and to that end I believe the amendments offered by the distinguished Senator from Ohio improve the extent to which we will be able to monitor and prevent that cross-subsidization.

Further, the legislation takes steps to ensure the RBOC's will reenter the manufacturing competition on a playing field that will remain level. It includes measures that will enhance America's position in global trade.

For these reasons I plan to vote in favor of this bill. But for other reasons I will vote for the bill with some regret. What I regret is simply this: America's elected leadership, in particular the administration, is doing so little to set and achieve a bold and broad-reaching telecommunications vision for our Nation's future.

All of us in political life, any who have been in business, understand automatically the power of modern telecommunications.

There can be no doubt that the nature of our telecommunications system in the next century will shape America's destiny as powerfully as our rail, water, and highway systems have done over the past two centuries. If we took the right steps today, we could begin to revolutionize every aspect of our lives: The way we educate our children, the way we obtain our health care, and the way we do our jobs. I have seen some of those possibilities demonstrated already in some of the Nebraska schools.

Mr. President, it is very exciting. One portrait of what we can achieve was recently painted by George Gilder in the Harvard Business Review. Mr. President, the article is too long for inclusion in the RECORD, but I recommend it to my colleagues.

Mr. Gilder presents to us a rather exciting proposal. It is one that has a considerable amount of risk attached to it, as well. But the proposal, Mr. President, says that what is missing in the United States is the infrastructure; not the high-end infrastructure, but the infrastructure that connects the American home and family to that high-speed network that we generally use with long-distance phone systems.

That pared copper line that connects every American home and most of America's businesses with our phone system is the greatest barrier, I believe, not only to our being able to develop a fully integrated information system in our country, but in seeing that marketplace, information marketplace, explode and grow even more rapidly than it has in the 1980's.

What Mr. Gilder proposes is that we are simply not regulating for the right objective; we have not taken into account changing technology and what that technology has done for us. It has given us the opportunity to refashion our laws, not without some risk.

I assume Butler Aviation, both at National and Dulles, is doing a lot of business this week. I assume there is a lot of heavy iron coming in trying to influence our vote. I have seen a considerable amount of evidence of that out in the rotunda. There will be a lot more heavy iron in town if we were, in my judgment, to consider that what Mr. Gilder is saying is, in fact, correct. That is this, Mr. President: What we

have done is we have assumed that there is a shortage of airwave space, and that that shortage has created problems for new technologies as they come into the marketplace.

But what Mr. Gilder is saying is there is no shortage of air space. In fact, what we have done is we have lost sight of what the change in technology has done for us. It has done this, Mr. President: It has given us the potential of saying that the lines that we currently regulate and reserve for telephones should be used for video, and the air space that we currently reserve for broadcasts and other, such as cable, that that air space should be reserved for voice communication, for telephone.

It is a tremendous underlying assumption, Mr. President. If what Mr. Gilder is proposing is true, then we need to do much more than simply pass this piece of legislation. We are going to need to provide controversy in the industry out there that will be enormous. If what Mr. Gilder is saying about the potential economic growth as a consequence of this change is correct, it will be worth the battle.

Today, I believe we are doing little to imagine and create a telecommunications future that serves the public's interest, a system that is intentional rather than accidental.

I must call my colleagues' attention to the fine work that has been done by the distinguished Senator from South Carolina. I have heard him talk about the need to challenge our regulatory environment and describe our future.

I have heard the distinguished Senator from Tennessee, at length, describe what we as policymakers need to consider, if we are going to draft our laws correctly.

In the Sunday New York Times, there was an article about the Chairman of the Federal Communications Commission, Alfred Sikes, and his views were expressed in this article.

I ask unanimous consent that this article be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. KERREY. Chairman Sikes' statements in this article reveal an understanding on this issue that is deep, rare, and admirable. They indicate that he is visualizing a way to transform how we use telecommunications in America, and then using regulatory policy to achieve that vision. That is the right way to use regulatory policy.

Today, unfortunately, we are too often regulating backward. We set rules for some piece of the telecommunications market, and we determine how those rules are going to work, without first deciding what ends we want those miracles of electronics to serve.

Mr. Sikes seems to have an admirably broad vision, but Mr. Sikes is an appointed official. An appointed official can only do so much to educate and lead the public toward an overall set of goals.

So I find myself asking, Mr. President, what and where is the vision of President Bush who appointed Mr. Sikes? Recently, we witnessed how much the President can achieve when he focuses the Nation's sights on a long-term view.

When Congress was discussing and deliberating whether to give the administration fast-track authority in our trade negotiations, the President aggressively argued that we must look at the longrun benefits of free trade. He painted a broad and persuasive picture of the benefits that would ultimately flow to our Nation if we pressed our trading partners for lower barriers.

This is precisely the kind of executive leadership our Nation needs on telecommunications. We need leadership to mobilize public opinion around the very large investments that will be necessary to link each of America's homes and businesses to a digital network, leadership that will transform the way Americans think about the possibilities of telecommunications; so that they see it as an electronic door to stimulating opportunities, not just as an electric babysitter for bored children.

Mr. President, I must point out, as I am sure the distinguishged occupant of the chair knows, and all of us in politics know, that television has tremendous power. We talk often about its power in electing representatives, not only to this body, but to State bodies as well.

Mr. President, this most powerful of technology tools, perhaps the most powerful of the 20th century, is being applied in such a tremendously good fashion in the marketplace and by the marketplace.

Mr. President, I would rather my 14- and 16-year-old children not watch television. That is how good a job they are doing. I find the nature of mass media today to be such that I would prefer that my own children not be exposed to it.

Something is wrong and, again, I urge my colleagues to have a look at Mr. Gilder's article. It appears in this month's Harvard Business Review.

Mr. Gilder describes what is possible. He says, "A mass medium is inherently coarse and vulgar." I certainly agree with that. "It has to deny the uniqueness of human beings, their brains, and appeal to their glands and propagate a culture that degrades rather than inspires."

Mr. President, of all the things I believe we have before us with telecommunication, I believe we have the possibility—if we see what it can do for us and are willing to fight the kind of battles that the distinguished Senator from South Carolina is fighting with S. 173, if we are willing to fight those kinds of battles, we can give our children something other than what they currently have. And rather than worrying about what happens when they turn on the television set, we can be excited about what happens when they come into contact with the work station in our homes.

I will vote for S. 173. I applaud the work of the distinguished Senator from South Carolina.

I yield the floor.

EXHIBIT 1

[From the New York Times, June 2, 1991]

PURSUING AL SIKES' GRAND AGENDA

(By Edmund L. Andrews)

WASHINGTON.—By any measure, Alfred C. Sikes has a bold blueprint, and he is in a hurry to put it in place.

As chairman of the Federal Communications Commission, he sees a world in which people could use satellites and high-speed fiber-optic communication lines to take college courses at home, have television sets double as multimedia computer work stations, use communication networks to transmit the contents of an entire library in seconds and track down a person anywhere on the globe to deliver the data.

To speed these developments, the 51-year-old Mr. Sikes has embraced a sweeping agenda to overhaul communications policy in the United States and in the process put companies on equal footing with those in Europe and Japan. He wants to free up space on the crowded airwaves for advanced new services, from pocket-sized radio telephones to interactive television and satellite messaging. He is also pressing to end the practice of assigning valuable licenses through lotteries, a practice he said has allowed speculators to earn huge profits by simply reselling licenses, and is pushing for authority to award licenses through auctions. He is also bent on spurring competition by knocking down regulatory barriers that now segregate services into isolated fiefdoms for telephones, cellular service, cable television and broadcasting. He is pressing for legislation to lift key restrictions on the Bell telephone companies while forcing them to open their networks to new rivals.

"For decades, the United States has been the world's Gulliver," he remarked recently in his corner office overlooking downtown Washington. "We assumed we were better. Now, it's quite clear the international competition is fierce. There is hardly an area in which we are competitively engaged in which we are not in a fight for our lives."

But some experts contend that Mr. Sikes's blueprint is itself in danger of being tied up in Lilliputian knots. Democrats in Congress are resisting moves to relax telecommunications rules in several areas; state regulators and corporate opponents have already won court decisions that have stalled F.C.C. moves to ease regulations on both American Telephone and Telegraph and the Bell companies.

Closer to home, the agency's five-member commission faces an onslaught from special-interest groups and is itself riven by dissension and turf battles.

VOTED DOWN ON RERUNS

The weight of all these obstacles was brought into stark relief in April, when Mr. Sikes suddenly found himself outmaneuvered and outvoted by three commission members on the hotly contested issue of lifting rules that bar television networks from owning rerun rights to programs. Mr. Sikes had argued fervently that the restrictions were outdated, but commissioners Andrew C. Barrett, Sherrie P. Marshall and Ervin S. Duggan pushed through a measure

that retained many restrictions and even added new ones.

It was a blow to Mr. Sikes and raised questions about his ability to coax the commission into a policy-making consensus. "We have an F.C.C. subject to a lot of internal disagreement and therefore subject to a lot of disparate lobbying at a time when we really need a coherent policy," said Allen Hammond, director of the Communications Media Center at New York Law School. "Simply looking at decisions as a way to appease one interest group or another is not going to work."

Others are more sanguine. "I think this issue was unusual," said Richard Wiley, a lawyer and former F.C.C. chairman. "I think Al will be successful."

The commission faces daunting political pressures brought about in part by rapid advances in technology and growing competition. Cable television companies want to use their networks to carry telephone calls and data. Mobile radio systems for car and truck fleets are being adapted with new digital technology to compete with cellular telephones. Local telephone companies are losing business as corporate customers rely more heavily on private satellite networks and alternative carriers that offer low-cost fiber-optic circuits.

But any attempts to change the rules provokes intense opposition. Radio stations, for example, are fighting proposals by several new companies that want to use digital technology to broadcast high-fidelity music over satellite. Long-distance carriers like MCI Communications and US Sprint are trying to block moves that would liberalize pricing for A.T.&T. And A.T.&T. is fighting legislation, supported by Mr. Sikes, that would allow the regional Bell companies to manufacture equipment.

"Today's communications laws and industry lobbyists have combined to form the equivalent of their own Army Corps of Engineers," Mr. Sikes said in a recent speech. "Much like the corps' penchant for damming free-flowing streams, today's communications lobbies too often lock a stream of ideas and innovations.

More than most of his predecessors, Mr. Sikes brought with him an unusually detailed game plan when he assumed office 22 months ago. He has served from 1986 to 1989 as head of the Commerce Department's National Telecommunications and Information Administration, which sets communications policy for the executive branch. While there, Mr. Sikes produced a massive analysis of trends and policy prescriptions that guides much of his agenda today.

Like many other Republicans, Mr. Sikes is a strong advocate of eliminating regulations whenever possible. But he has not taken an entirely laissez-faire aproach, showing a willingness instead to use government force to pry open markets for new competitors. Last month, for example, the F.C.C. proposed forcing local telephone companies to let new competing local carriers plug directly into their networks. In effect, the rivals would have the right to set up operations at telephone company switching stations, a remarkably intrusive act.

Indeed, Mr. Sikes seems to be more of a moderate than his two predecessors, who pursued deregulation with almost fanatical zeal. In March, for example, the F.C.C. proposed tough new rules to combat fraud and deceit by companies that provide information services over "900" telephone numbers. And next month, the commission is expected to adopt rules that give local governments somewhat more authority to roll back prices of cable television.

THE BIG INITIATIVES

The Missouri Republican has already pushed through a number of important initiatives, including more flexible pricing rules for both A.T.&T. and the Bell companies. The commission has also moved to push down the arbitrarily high rates that foreign telephone companies charge for connecting international calls. And Mr. Sikes won approval for one of his pet issues, giving a "pioneer's preference" in the licensing process to companies that introduce important new technologies.

In a city of prickly political egoes, Mr. Sikes practices an earnest courtliness and seems uncomfortable with soaring rhetoric, glad-handing and back-office intrigue. when confronted with the certainty of defeat, as he was on the issue of rerun rights, he seemed content to quietly stick to his guns. "It just isn't true that I've been humiliated," he remarked at one point. "Humiliation is when you've been forced to compromise on your principles, and I haven't done that."

This quiet profile has helped him smooth relations with Congressional Democrats, who still seethe at the memory of what they consider were heavy-handed predecessors, Mark Fowler and Dennis R. Patrick.

Mr. Sikes will need the Democrats' support in untangling the snarl of issues. The biggest and most complex is finding space in the crowded radio spectrum for services based on new technologies. Assigning frequencies to them will squeeze out existing users. Yet at least a dozen new services are now pending before the commission, and more are on the way.

Congress now appears likely to approve legislation that would shift a significant chunk of the spectrum from government to commercial use, which the F.C.C. could then allocate to some of these new technologies. In addition, however, Mr. Sikes is trying to create an extra "spectrum reserve" by identifying commercial uses that can be crammed into smaller channels or be shifted to wirebased transmission systems.

Even if it got that far, the F.C.C. would still face the contentious question of which new technologies to endorse and how to award the licenses. Mr. Sikes and the Bush Administration want to auction licenses through competitive bidding, which they contend is simpler and more rational than either lotteries or the traditional comparative hearings. But Democrats are pushing hard for comparative hearings, arguing that auctions will favor large corporations over smaller innovative companies.

WHAT'S AHEAD

Separately, Mr. Sikes is now pressing at least a half-dozen other initiatives. Among them:

Relaxing and perhaps repealing rules limiting the number of radio and television stations a single company can own. Currently, a company can own no more than 12 AM stations, 12 FM stations and 12 television stations. Last month, the F.C.C. formally proposed relaxing the rules for radio, and it is expected to ask for opinions about television in a month or two.

Mr. Sikes contends that broadcasters are under growing pressure from cable television, direct-broadcast satellites and other technologies, and need as much flexibility as possible. But there are rumblings, particularly from Representative John Dingell, Democrat of Michigan and chairman of the powerful House Energy and Commerce Committee.

Streamlining rate-setting rules for A.T.&T. long-distance services. A.T.&T., a "dominant carrier," must obtain Federal approval for all its prices and its rates must apply equally to all customers. That has made it difficult to compete against MCI and Sprint in offering low prices for complex packages of services tailored to large corporations. MCI and Sprint have won support in fighting A.T.&T. from Mr. Dingell and others.

Selecting a broadcast standard for high-definition television. The F.C.C. is overseeing tests of six rival systems and says it will pick a winner by mid-1993.

To avoid making conventional television sets obsolete, Mr. Sikes insisted that competitors produce a system capable of transmitting over ordinary television channels. Some experts complained initially that true high-definition television consumed so much radiowave frequency "bandwidth" that it could only be broadcast by satellites. But several of the six systems to be tested this year and next say they can transmit programs entirely in digital code over a standard television channel. These systems could easily evolve into interactive computers once high-capacity fiber-optic lines reach individual homes early in the next century.

Deciding on technical standards for wireless "personal communication networks"—extremely lightweight, low-powered telephones that relay signals through small radio towers, like those used in cellular telephone systems, located close to each other. Forty-six companies have received experimental licenses in the last year, including several cable television companies that hope to use their networks to link the radio antennas into a system reaching as many locations as today's telephone companies. No decision is expected for several years, however.

Deciding on technical standards for digital radio. Several companies have proposed systems that would transmit music with the sound quality of compact discs. The National Association of Broadcasters has endorsed a system developed in Europe that transmits over ordinary radio frequencies. But several small companies have asked to transmit programming nationwide by satellite.

Opinions differ on whether Mr. Sikes can muster support both in Congress and among his fellow commissioners to forge clear policies. His commissioners have privately complained that the chairman treats them like employees and that he presents imminent actions as faits accompli. "That's a canard," he responds testily, arguing that the agency's top staff is usually available to brief commissioners about issues.

PROBLEMS WITH POWER

The tensions stem in part from various power struggles between Mr. Sikes and the other commissioners. Mr. Sikes competed for the chairman's post against Ms. Marshall, who worked for James A. Baker when he was Treasury Secretary and who coordinated President Bush's unsuccessful effort to name former Senator John Tower as Secretary of Defense.

Some industry experts contend that Mr. Sike's hand will grow stronger next year when Ms. Marshall's term expires. Mr. Sikes points out that he has been forced to dissent on only one issue since taking office. "I think he's going to do quite well," said Mr. Wiley, F.C.C. chairman until 1977.

Added Mr. Patrick, Mr. Wiley's sueressor: "Part of the problem here is that the process of decision-making in a democratic institution is a very messy and inherently controversial process. It's not always obvious what to do."

Mr. HOLLINGS. Mr. President, I thank my colleague from Nebraska for his very generous comments. I want to

emphasize to all Senators that his is one of the more meaningful statements in this entire debate, and his comments are right on the mark.

It is not surprising since the distinguished Senator, as has been noted, chaired the Governors Conference on the Telecommunications Task Force. He has kept up and led the way in the U.S. Senate.

We appreciate very much his support, and we value very much his suggestions. I too am concerned about what we see on television and ensuring that the communications industry is competitive.

We thank the Senator for his comments and his support.

The PRESIDING OFFICER. The Senator from Utah, Mr. HATCH.

Mr. HATCH. Mr. President, I ask unanimous consent that my remarks be considered as in morning business.

The PRESIDING OFFICER. Without objection, it so ordered.

HEALTH CARE

Mr. HATCH. Mr. President, I have been interested that the majority leader is talking in terms of a Democrat health care plan for America. And from what I understand about the plan, I would like to just say a few words about it because I think it is very important that this debate begin.

I believe that health care is one of the two or three top issues in the minds of everybody in our country today. There is no question we are in trouble. Health care costs are rising at an annual 12.5 percent of the gross national product rate. That is too fast and too much. Compared to any other country in the world, we spend more per capita than any country in the world. Something has to be done. I do not think this administration or anybody else can stand back and say we want to do it in a leisurely pace. Health care costs are going to 18 percent unless we find some way of containing the escalation of those costs.

Having said all that and having also indicated that I am pleased that the majority leader and my fellow colleagues on the other side are willing to do something in this area, I am pleased that they will file a bill that will begin the debate and will begin discussion and will cause people to sit down and consider these very delicate and important, complex matters.

Having said all that, I would like to say a few things about the bill itself that I have been led to believe is to be filed by my friends on the other side.

One thing that I have great difficulty with is employer mandates. As I understand it, the Democrats' bill would have an employer mandate because if an employer did not provide health insurance that employer would have to pay an 8 percent payroll tax into a public program.

The thing that bothers me about that is there is too much of that attitude in this body. The typical Democratic Party solution is the always-make-somebody-else-pay-for-it or always-make-someone-else-do-it approach. Spend somebody else's money. This will cost at least $30 billion. And whose money? It has to be the American workers. You can say we will just have American business pay for it. Ultimately that is taken out of the hide of the workers of America.

Our employer-based health insurance system is a historical accident that is in part responsible for our current health care mess. As health care costs have increased, many employers have found they cannot offer health care benefits and stay in business. Most employers offer health insurance, if they can afford it.

Mandates on employers limit both employers' and employees' flexibility, damper their creativity, and, in the case of health insurance, may threaten their very survival. It is particularly disconcerting that the pay-or-play mandate will fall hardest on employers who offer entry-level jobs—the very jobs that we need in this country to enhance family and societal stability in high-risk situations. Often those entry-level jobs are part-time or a second job or spousal employment. These kinds of employees often choose not to be covered by health insurance. The Democrat approach, or pay-or-play, will provide them something that they may not need or may not want, in fact probably will not want, and perhaps at the expense of having no job at all.

It is clear that many of these employers are on a thin margin. An 8-percent increase in their taxes—essentially applied to their gross receipts, since their expenses are heavily payroll and they have no profit—could drive them out of business. As small employers fail, so does most of our job creation capacity. Everybody knows that the largest part of small business' expense happens to be with payroll. If you have a tax of 8 percent of payroll, you are disproportionately hitting small business where it hurts.

In reality, this pay-or-play approach is a mandate on the backs of American workers. What they get is a loss of jobs, loss of flexibility, and loss of wages. Before we mandate new expenses on the backs of American workers, we better get health care costs under control.

I would like to spend a minute or two on the national expenditure targets. The Mitchell plan sets "voluntary spending targets" for health care spending. If spending exceeds a specified amount, certain rate regulations are likely to go into place. This is rate regulation pure and simple. It is also a gutless Federal Government approach to rationing from the worst possible position—centrally, "on high."

Hospital costs in rate-regulated States have increased faster than the national average and much faster than in nonregulated States. Medicare physician expenditure targets, the RBRVS, have led to increased costs because of volume phenomena. All this has led to more proposed regulation.

Rate regulation ignores the only proven way to control costs, and that is the market. Rate regulation tends to freeze inequities as they currently exist, and there are plenty of them. Current inequities include no access to health care for over 30 million of our citizens, while many of them overconsume, driving up costs. Who is to say how much we should spend on health care? That should depend on individual freedom of choice as long as market incentives are not distorted. Expenditure targets would ration care from on-high while leaving horrible distortion in our centrally planned health care system if that is what we opt to go for under this particular plan.

Why cannot my colleagues who are sponsoring this bill learn a lesson from Eastern Europe and the Soviet Union? Regulation does not work. Unencumbering the market does work. And the approach of those who are filing this bill is once again more encumbrances. I wonder if my democratic colleagues have ever wondered why no innovations in health care have emerged from socialist countries.

I have problems with mandated benefit packages. The Mitchell plan would either define a set benefit plan or have a Federal board do it. Thus my colleagues who are sponsors of this bill seem to accept that over 700 State mandated benefits have contributed to our current problems. But they again insist on mandating highly specific benefit packages, which will be very costly for employers and employees. They will have to pay for this while giving little or no flexibility to employees. What is the difference between State and Federal mandates?

Mandated benefits increase cost, decrease insurer flexibility to custom tailor insurance packages, and remove individual freedom of choice. As a nation of individuals, we thrive on our diversity. One-size-fits-all solutions are inappropriate for us; most important, they will not improve our collective health, but they will increase our costs.

Let us let the market define benefit packages which individuals, exercising free choice, can choose among. Let us given them the choice. Let us not have government bureaucrats or ourselves define those packages. The market will work to provide appropriate benefits at a minimum cost if we let it. I do not know one American who cannot tell me what he or she needs when it comes to health care.

Now, this pay-or-play system bothers me a great deal. As usual, those who support this type of approach cannot pay for the program, except on the backs of employers and American workers. They will not constrain the overconsumption which results from

dressed in this proposal. The proposal would provide grants to States to experiment with alternatives to our tort system. While grants could be a small useful component to medical liability reform, simply throwing grant dollars to a State will do little to encourage development of alternative dispute resolution systems and urge plaintiffs and defendants to use them. The cost of medical liability—including premiums and defensive medicine—accounts for about $12 to $14 billion per year.

The proposal also includes an entirely new public program. However, there is a requirement that all individuals be covered, and the States will be required to pay a significant share of the cost. Unless they significantly increase Federal matching funds to States, a costly proposition, this could be a real problem for the many States which are already facing severe budget problems.

Now, it is easy to criticize a proposal. My response to critics is generally, Do you have any better ideas? In this case the answer is "yes," I think some of us do.

As I mentioned earlier, in the Republican Health Care Task Force our goal has been to pull together a proposal that may not offer all things to all people, but that is reasonable and has a chance of getting beyond the rhetorical stage—in other words, policy over politics.

We are looking at ways to encourage employers to provide health insurance coverage to their employees. This could be done by making insurance more affordable to small businesses. We are discussing providing incentives for small businesses to form purchasing groups so they can gain market strength to negotiate more effectively with insurance companies.

We are looking at reforms in insurance market practices which make it difficult for small employers to provide coverage to their employees. Such practices include underwriting and rate setting policies, which exclude high-risk individuals or groups.

We are discussing development of a model benefits package, which could be used to allow employers to offer lower-cost benefit packages. In order to do this, we would have to preempt State mandated benefits which can significantly increase the cost of health care insurance. These mandates range from in-vitro fertilization to treatment for hair loss.

If we are going to control costs within our system, we must examine current Federal expenditures on health care. When we think of health care entitlement programs, we think of Medicare and Medicaid. There is, however, another significant Federal health care entitlement program. I am referring to the treatment of health care benefits under the Tax Code. This loss of revenue to the Federal Treasury amounts to almost $40 billion annually, and is the third largest Federal expenditure on health care, behind Medicare and Medicaid.

Under current law, all employer contributions to an employee health insurance plan are excluded from the employee's taxable income. An individual who does not receive employer-based insurance not only will pay more for insurance because he is purchasing it outside of a group, but also will pay for it with after-tax dollars. Thus, we are subsidizing health care for a significant number of upper- and middle-income individuals. Workers in businesses that do not provide insurance, usually low-wage workers in the service industry or seasonal workers, do not receive this subsidy.

We are examining the placement of a cap on the deductibility of very generous employer provided plan, given that so many in our society have no health care whatsoever.

We are looking at expanding the deductibility of health costs to those who purchase insurance outside of an employer group, as well as to those who are self-employed. Another method of expanding access to both insurance and services is through the use of credits for low-income families and small businesses which is a proposal we are examining.

We are also considering changes which will help control the spiraling cost of health care, such as preempting State laws which create obstacles to managed care arrangements. Another issue we will address through significant reform is medical liability. Health care providers are paying outrageous premiums, and are practicing defensive medicine to ensure they have the ability to defend against a negligence suit.

We are also looking at increasing the availability of health care services for low-income individuals who do not have access to employer-based coverage. I and a number of my Republican colleagues have introduced legislation which will increase access to critical health care services for individuals living in medically underserved areas. All too often, we as policymakers forget that just giving someone a Medicaid card, or private insurance for that matter, does not necessarily guarantee access to health care.

In both rural and inner-city areas there are shortages of qualified medical personnel. In addition, there are shortages of health professionals who will accept Medicaid patients. Community health centers are one solution to our health care delivery problems. They provide cost-efficient high quality primary and preventive care services to the uninsured, as well as persons with Medicare, Medicaid, or private coverage. We are looking at a significant increase in the funding available to these centers.

We are also considering proposals to give States increased ability to enact statewide health care reforms. This could help us to determine what strategies we should pursue on a Federal level. Only through experimentation such as this can we best determine how to address most effectively, deficiencies in our health care system.

I will be the first to admit that these proposals will not solve all our problems. I would like to go further. It is easy to support providing health insurance coverage for all Americans. It is easy to say that we should create a new public program for all uninsured individuals. It is easy to point to Canada, West Germany, and Sweden and say, "If they can do it, so can we."

Simply put, we have neither the support nor the resources to enact such proposals. The harsh reality is that there is no consensus on what radical reform should include, and how it should be paid for. The Democrats can't agree, and neither can the Republicans. The business community cannot agree, nor can consumer groups, nor can health care providers.

We can make significant strides toward what may one day be a radical change in our health care system—not by revolution, but by evolution.

It is my hope that once the bill is introduced, the Democrats will go back to the drawing board with us and try to develop an approach to this critical problem that really can be enacted. Clearly, nothing will pass that does not have the support of business, conservative Democrats, Republicans, and the President.

Mr. SPECTER. Mr. President, I have been waiting on the floor to address the pending legislation, Senate bill 173, but before doing so, I will take just a moment to congratulate my distinguished colleague from Rhode Island, Senator CHAFEE, for his outstanding work as chairman of the Republican Task Force on Health Care. I similarly compliment the Democratic Members who have offered health care legislation. It is an extraordinarily complex problem. As I traveled my State extensively, it is an issue I hear raised as much if not more than any other.

With some $660 billion or 12 percent of the gross national product being allocated to health care, we still find millions of Americans not covered. It is an issue which has to be addressed. We have to find a policy that we can pay for.

As Senator CHAFEE noted, I have been working with him on the task force, and it is an issue which must command considerable attention by the Congress of the United States and by the administration.

TELECOMMUNICATIONS EQUIPMENT RESEARCH AND MANUFACTURING COMPETITION ACT

The Senate continued with the consideration of the bill.

Mr. SPECTER. Mr. President, as I have noted, I have been on the floor

for a good part of the afternoon to speak about the pending legislation.

At the outset, I compliment the distinguished Senator from South Carolina [Mr. HOLLINGS] and the ranking Republican on the Commerce Committee, Senator DANFORTH, as well as other members of the committee. I note the very substantial majority of the committee who are supporting this bill. I note also the very cogent dissenting views of Senator INOUYE and the cogent dissenting views of Senator PRESSLER.

The issue has a very profound impact on the Nation and a special impact on Pennsylvania where there are thousands, really tens of thousands employed by both Bell and by AT&T whose jobs may be on the line by this legislation.

I have visited the AT&T facilities in Allentown, Reading, and the Bell facilities in Philadelphia and I have had extensive discussions with the management of both companies and also with the employees on this issue.

The Judiciary Committee on which I serve had a cross-reference hearing, taking jurisdiction from the Commerce Committee, which has primary jurisdiction, and I participated in that lengthy hearing and participated in the questioning of both AT&T witnesses and Bell witnesses and asked a series of questions as to what the effect of this bill would be in view of the contradictory claims by both of the principal parties.

Both claimed that their positions were pro-consumer; both claimed that their positions would increase competitiveness; both claimed that their positions would have a significant impact on the international trade deficit; both claimed that their positions would yield more jobs.

I then asked for statistical data, hard evidence, on those questions and got very little in a concrete way to shed light and to make a factual determination as to which side was correct.

What I have seen, Mr. President, is that the conclusions are speculative as to what the impact will be whether you maintain the current prohibition on the regional Bells for manufacturing equipment or not.

In the course of the past several days, I have had extensive meetings with representatives on both sides of this legislation; yesterday, with representatives of the regional Bells. I also met with representatives of AT&T and talked with them again today.

After considering the matter at very substantial length, my conclusion is that Congress should not disturb the judgment of the U.S. District Court for the District of Columbia which has been affirmed by the Court of Appeals for the District of Columbia and where certiorari has been denied by the Supreme Court of the United States which leaves, in effect, the district court's opinion.

Mr. President, I have been asked by AT&T to offer an amendment which might provide a compromise, and I had discussed the substance of that amendment with representatives of the regional Bells and had concluded that it was not going to work out to something that would be agreed to.

I ultimately decided not to offer the amendment. A similar amendment was offered by Senator INOUYE of Hawaii, but I decided not to because the complexities of the amendment led me to the same conclusion I had about the underlying bill, and, that is, that the status quo was represented by what Judge Greene had to say was the most persuasive line of reasoning and incorporation of evidence we had seen.

Senator SIMON, who is on the Judiciary Committee, a committee on which I serve, wrote to Judge Greene dated May 21, 1991, and asked Judge Greene for his views on Senate bill 173. Judge Greene then replied by a letter dated May 29, 1991.

Mr. President, I ask unanimous consent that Senator SIMON'S letter and Judge Greene's letter appear at the conclusion of my statement today so that those who will review the CONGRESSIONAL RECORD will see the full context of Judge Greene's views.

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

(See exhibit 1).

Mr. SPECTER. Mr. President, Judge Greene starts by raising a question as to the restrictions of the canons of ethics, judicial ethics, and then states that he is going to not comment directly on S. 173 but give his summary of what he has decided in the case which amounts to about the same thing. And, obviously, I am not going to get involved in any discussion about the propriety of what Judge Greene has had to say. But it is on the record. I think it is worthy of our consideration today. Certainly, that is, at least, my view.

Judge Greene noted that his opinion was affirmed by the D.C. Circuit Court and that the Supreme Court of the United States let that decision stand by denying certiorari which I should say, parenthetically, does not mean that the Supreme Court necessarily agrees with the circuit court but that they decided not to disturb the views.

Judge Greene then takes up the question of cross-subsidication which is a very important issue as to whether if you allow Bell to manufacture equipment that is going to have the practical effect of having Bell allocate some cost to the ratepayers on telephone service which really ought to be for the equipment produced. That is not done when you have AT&T or other manufacturers make the equipment and sell it to Bell and then Bell charges only for the service which is rendered.

This is what Judge Greene had to say about this subject on page 2 of his letter to Senator SIMON. He noted that in the prior practice before there was a breakup of AT&T that:

> • • • the companies subsidized the prices of equipment with revenues from their regulated monopoly services. The court further concluded that, largely because of size, power, and complexity of the Bell System, regulation by federal and state bodies had consistently been, and would in the future be, ineffective.

Judge Greene then noted:

> • • • these Regional Companies have the same abilities and incentives for anticompetitive conduct that they had possessed prior to the break-up.

Judge Greene then took up the subject of a relationship of the regional company's entry into the manufacturing market and the antitrust laws and dealt with the question of self-dealing, which is a very important question, and said, in part, at page 3:

> • • • If the manufacturing restriction were removed, "each of the Regional Companies would satisfy all or nearly all of its equipment needs from its own manufacturing affiliate."

He then noted in a footnote the court of appeals' agreement with his opinion on this subject with the following language which appears at page 3 of Judge Greene's letter to Senator SIMON:

> When the 1987 opinion reached the court of appeals, that tribunal agreed that "the possibility of self-dealing bias in the telecommunications equipment markets poses dangers to competition that do not exist in the other markets—

He goes on to say:

> if combined with cross-subsidization, would appear to allow the [Regional Companies], in effect, to raise prices (and therefore exercise a form of market power) in the foreclosed sectors of the equipment market by disguising inflated equipment prices as costs in the local exchange markets • • •.

The court of appeals goes on to comment that there is nowhere an explanation "why any significant amount of cross-subsidization that, in practical terms, enables"—again referring to the regional companies—"to charge higher prices for the equipment it produces would not be akin to an exercise of market power that would impede competition in the telecommunications market."

I am very concerned, Mr. President, after noting Judge Greene's comments about this cross-subsidy and the increased prices to the consumer and the finding which is upheld by the court of appeals in a context where there is much greater analysis and deliberation than is possible, I think, in our legislative context, at least possible for this Senator. Because of the length of the letter, I am not going to read some portions I had intended to read, Mr. President, but I would like to focus on page 5 of Judge Greene's letter to Senator SIMON where under the category of "Effect on Competition," Judge Greene points out that:

> Regarding the practical effect of a removal of the manufacturing restriction, the court concluded that such a removal would be counterproductive for a "fluorishing, broad-based, innovative industry would be cut back to become one dominated by a

small number of muscle-bound giants . . . ."

The Department of Justice, while supporting the Regional Companies' request for relief, acknowledged that "removal of the restriction will be followed by the displacement of many of the competitors, postulating that increasing concentration in the equipment markets is inevitable."

Judge Greene went on to say:

The court characterized this Justice Department review as contemplating with "remarkable equanimity for an antitrust enforcement agency, the ready destruction of many high-quality firms providing high-quality goods that have emerged since divestiture, and that are performing important service to the economy."

The basic thrust by the proponents of S. 173 has been that competition will release innovation. But at least the findings of Judge Greene, affirmed by the court of appeals, are precisely to the contrary.

Judge Greene then took up the important subject of "Effect On Innovation" and made the following observations:

With respect to the question of innovation of the telecommunications equipment markets, the court noted that since the breakup of the Bell System . . . there has been a flowering of research, development, innovation, introduction of new products, and quality assurance; new firms have entered the market; prices of equipment have declined dramatically . . . and competition flourishes in a market that had seen relatively little of it before. The equipment market now consists of six or eight very large firms, 100 to 200 medium-sized firms, and hundreds of still smaller, vigorous, and inventive firms.

If the restriction were removed, there would be a serious risk of return to conditions of anticompetitive activity, concentration of the telecommunications equipment market in few hands, monopolistic pricing, and a relatively sluggish pace of innovation.

Mr. President, I find that conclusion very strong and thus I think this bill would be very anticompetitive if Judge Greene is correct. Again, his analysis is much more extensive. He has sat on this case since 1979. Again, his conclusions have been affirmed by the circuit court of appeals.

Very briefly, Mr. President, because of the passage of time—and other colleagues are on the floor—under the heading "Foreign Domination of the Industry," Judge Greene wrote:

In that respect the court cited a report of the National Telecommunications and Information Administration of the Department of Commerce, which noted that "the most plausible scenario in at least one telecommunications market is that, in the event of a removal of the decree restriction on manufacturing, the Regional Companies will join forces with mammoth manufacturing empires, most likely foreign, and that this will pose a substantial risk of destruction of the U.S. central office equipment manufacturing industry."

Mr. President, it may be that conclusion would be tempered by the "Buy American" provisions, but the innovative construction or development of conglomerations or joint ventures is something that cannot be anticipated by any legislation in its fullest extent.

Judge Greene concluded by saying:

In summary, it was on the basis of the considerations discussed above and at greater length in the 1987 opinion itself that the court concluded that removal of the manufacturing restriction could be expected to be followed by (1) a recurrence of the anticompetitive conduct of the local Operating Companies operating under the aegis of the Regional Companies; (2) the displacement of most independent manufacturers of telecommunications equipment; (3) a marked reduction in competition in the market and hence a sharp reversal of recent trends which have witnessed decreases in price; (4) a slowdown in product innovation; and (5) domination of the domestic market by large foreign supplies.

In the absence, Mr. President, of countervailing evidence and a judgment to the contrary, my own view is that significant weight ought to be attached to Judge Greene's opinion.

What we have in essence here is a breakup of AT&T and the Bell Systems, and the judge made a determination about what was fair as between the Bell Cos. and AT&T and the court made a determination about what would produce competition, what would be helpful to the consumers, and what would be fair and just under the antitrust laws. His conclusions were taken on appeal and were affirmed by the appellate court and let stand by the Supreme Court of the United States.

In my judgment, that is the greatest weight to be followed on the legislative judgment here today.

Mr. President, I had passed on these concerns to Bell Atlantic, which is a constituent of mine in Pennsylvania. They get my checks for telephone bills both in Pennsylvania and the District of Columbia. As a matter of fairness, I want to make a part of the RECORD the response by Mr. Robert A. Levetown, vice chairman of the Bell Atlantic. I met with him yesterday, as well as Mr. Raymond Smith, the president of the Bell Atlantic, whose office is in Philadelphia.

Mr. Levetown makes the point in a letter and in certain extracts from Judge Greene's speeches that Judge Greene himself acknowledges it is a matter for the Congress. Mr. Levetown points out:

Yesterday you raised the issue of the appropriateness of Congress intervening to alter the rules of the telecommunications industry that are now controlled by a judicial decree.

Mr. President, I ask unanimous consent that Mr. Levetown's full letter be made a part of the RECORD following my presentation.

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

(See exhibit 2.)

Mr. SPECTER. It is not precisely accurate that I raised a question of appropriateness of Congress to intervene. Congress has full authority to make a change in what the court has done here. The laws are the laws of the Congress. We have the full authority to modify what Judge Greene has done. We have the full authority to modify any statute as long as it conforms to the Constitution of the United States. We can repeal the antitrust laws if we choose to do so.

My point is on the basis of the record I see, considering the exhaustive and able work of the Commerce Committee, that the bulk of the evidence, the weight of the evidence, and the weight of the judgment I think lies with what Judge Greene has concluded and the appellate courts have upheld.

Mr. President, I ask unanimous consent that an extract of Judge Greene's speech at the Brookings Institution, dated December 4, 1985, an extract of Judge Green's speech of Hastings College of Law, dated April 17, 1987, and an extract of Judge Green's speech to CFA dated October 23, 1986, regarding the so-called Dole bill, all be included in the RECORD at the conclusion of my presentation.

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

(See exhibit 3.)

Mr. SPECTER. Mr. President, without reading them, the essence of what Judge Greene had to say is that it is up to the Congress. Judge Greene has exercised the authority which he has in the absence of any legislation.

When I take a look at this entire record, it is my view the Congress should not disturb the conclusions which the courts have made considering the underlying evidentiary base, the facts, and considering the conclusions.

This is obviously not an easy matter. I know that in expressing my opposition to Senate bill 173 there will be many disappointed constituents. Representing a State like Pennsylvania, Mr. President, if you take up questions like abortion, for example, there are 6 million of my 12 million constituents lined up on one side, and 6 million on the other. The vote immediately makes 6 million enemies, and 6 million who agree with my position. Customarily, they say, well what alternative does the Senator have? He just did what was appropriate.

I do not have 6 million constituents on each side of this issue. But there are perhaps as many as 22,000 Bell employees on one side, and as many as 15,000 AT&T employees on the other side, and many others. It is not an easy matter. I criticized the desputes my two sons had. Occasionally, you have to get involved.

Obviously, this matter is coming up for a vote. But as I have outlined, I have considered it at great length, visited the facilities from both sides, and talked to the officials right up until early this afternoon.

As I look at this record in very substantial detail I conclude that the decree ought not be altered; that the Bell Co. have adequate recourse to go back to Judge Greene, that the prohibition against manufacturing will end under his decree at a time when there

is competition with the Bell Operating Systems; and that that is the preferable course.

I thank the Chair. I yield the floor.

EXHIBIT 1

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, DC, May 21, 1991.

Judge HAROLD H. GREENE,
U.S. Courthouse, Washington, DC.

DEAR JUDGE GREENE: As I am sure you know, Congress is now considering legislation, S. 173, to remove the manufacturing restrictions on the Regional Bell Operating Companies. Today the Antitrust, Monopolies and Business Rights Subcommittee on which I serve held a hearing on this and the full Senate may consider this legislation shortly. Given your obvious expertise in this subject, I would very much appreciate knowing your views on S. 173. I have enclosed a copy of the bill and the Committee report for your convenience. I appreciate your assistance on this matter.

My best wishes.

Cordially,

PAUL SIMON,
U.S. Senator.

U.S. DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA,
Washington, DC, May 29, 1991.

Hon. PAUL SIMON,
United States Senate, Committee on the Judiciary, Washington, DC.

DEAR SENATOR SIMON: Thank you for your letter of May 21, 1991, which requests my views on S. 173, a bill to remove the manufacturing restrictions on the Regional Bell Companies. While it is not at all clear that the Canons of Judicial Ethics prohibit me from expressing my opinion on the desirability of the enactment of S. 173, I have concluded that, in view of the possibility of further litigation on the manufacturing restriction paralleling in some respects the issues presently before the United States Senate, commenting on the bill could create the appearance of impropriety. In order to avoid any question in that regard, I have decided not to comment directly on S. 173. I have also concluded, however, that there is no reason why, in response to a request from a member of the Antitrust, Monopolies and Business Rights Subcommittee of the Committee on the Judiciary of the United States Senate, I could not render assistance to the Subcommittee by calling your attention to pertinent parts of published opinions in my court on the subject under the Subcommittee's consideration. I am accordingly doing so in this letter.

On September 10, 1987, I issued an opinion in the AT&T Antitrust case which deals in significant part with the restriction imposed on the Regional Companies with respect to the manufacture of telecommunications products and customer premises equipment. That opinion is reported as *United States* v. *Western Electric Co.*, 673 F. Supp. 525 (D.D.C. 1987), and insofar as the manufacturing restriction is concerned, the rulings of my court were affirmed by the Court of Appeals for the District of Columbia Circuit on April 3, 1990, *United States* v. *Western Electric Co.* 900 F.2d 283 (D.C. Cir. 1990), certiorari denied, — U.S. — (1990).

For your convenience, I am pleased herewith to summarize some of the principal points of the 1987 ruling on the manufacturing restriction, under five headings, as follows: (1) history and background of the adoption of the restriction; (2) relationship between the antitrust laws and Regional Company entry into the manufacturing market; (3) effect of such an entry upon the telecommunications manufacturing industry; (4) effect of such an entry upon product innovation and the availability to the public of new products at reasonable prices; and (5) effect of the removal of the restriction upon the domestic manufacturing industry.

1. HISTORY AND BACKGROUND

The restriction on manufacturing was incorporated in the consent decree which ended the AT&T lawsuit on the basis of evidence adduced in the course of an eleven-month trial in this court indicating that the Bell System had "improperly monopolized the market for telecommunications equipment, in that its local Operating Companies purchased such equipment primarily from Western Electric Company, the System's manufacturing affiliate, and 'engaged in systematic efforts to disadvantage outside suppliers.'" 673 F. Supp. at 552.

The court found upon consideration of the evidence that the local Operating Companies, which accounted for over eighty percent of the nation's central office switching and transmission equipment purchases, had engaged in three general types of anticompetitive conduct: first, the companies purchased Western Electric equipment even when these products were more expensive or of lesser quality than alternative goods available from independent vendors; second, the companies discriminated in the dissemination of information and design by granting Western Electric premature and otherwise preferential access to technical data, compatibility standards, and other necessary information; and third, the companies subsidized the prices of equipment with revenues from their regulated monopoly services. The court further concluded that, largely because of the size, power, and complexity of the Bell System, regulation by federal and state bodies had consistently been, and would in the future be, ineffective. 673 F. Supp. at 530-31, 554, 569-71. As a result of divestiture, control over the twenty-two local Operating Companies transferred to the seven Regional Companies; and these Regional Companies have the same abilities and incentives for anticompetitive conduct that they had possessed prior to the break-up.

It was basically for these reasons that the court determined in 1982 that the Department of Justice's proposal for the adoption of the manufacturing restriction on the Regional Companies was justified under the antitrust laws and was in the public interest. The restriction was accordingly included in the court's approval of the consent decree submitted by the parties to the litigation.

2. RELATIONSHIP OF A REGIONAL COMPANY ENTRY INTO THE MANUFACTURING MARKET AND THE ANTITRUST LAWS

In 1987, three years after the manufacturing restriction had become effective, the Regional Companies, with the support of the Department of Justice, requested that the restriction be removed. However, in its opinion issued that year, the court concluded, following a detailed examination of the issue, that there was no basis for such a removal, and that, to the contrary, under the antitrust laws and the court decree, the restriction had to be maintained. Even the Department of Justice acknowledged, and this court found, that if the manufacturing restriction were removed, "each of the Regional Companies would satisfy all or nearly all of its equipment needs from its own manufacturing affiliate." 673 F. Supp. at 556.[1]

[1] When the 1987 opinion reached the Court of Appeals, that tribunal agreed that "the possibility of self-dealing bias in the telecommunications equipment markets poses dangers to competition that do not exist in the other markets the [Regional Companies] seek to enter . . . [Foreclosure by these companies of a large portion of the equipment markets], if combined with cross-subsidization, would appear to allow the [Regional Companies], in effect, to raise prices (and therefore exercise a form of market power) in the foreclosed sectors of the equipment market by disguising inflated equipment prices as costs in the local exchange market * * * [The Department of Justice and the Regional Companies] nowhere explain * * * why any significant amount of cross-subsidization that, in practical terms, enables the [Regional Companies] to charge higher prices for the equipment it produces would not be akin to an exercise of market power that would impede competition in the telecommunications market." 900 F.2d at 303.

The court also found on the basis of the evidence that other serious antitrust concerns would be raised by an entry of the Regional Companies into the equipment markets, both as a result of leveraging of the regulated monopolies into a related but unregulated market, and because of the unquestionable dominance of the Regional Companies in their particular regions. 673 F. Supp. at 556-57.

The court further concluded, based on evidence from a number of experts, including experts proffered by the Department of Justice, that the Regional Companies retained the same "bottlenecks" they had controlled when they were still part of the Bell System. More specifically, the evidence demonstrated that, to reach the ultimate telephone subscribers, over ninety-nine percent of all telephone traffic had to pass through the Regional Companies' local switches and circuits at some point in its journey, and that possession of these pressure points gave the companies an unsurpassed opportunity for anticompetitive action. Here, too, the Department of Justice conceded that "only one-tenth of one percent of [long distance] traffic volume, generated by one customer out of one million, is carried through non-Regional Company facilities to reach a [long distance] carrier * * * [and that] only twenty-four customers in the United States * * * managed to deliver their interexchange traffic directly to their interexchange carriers, bypassing the Regional Companies." 673 F. Supp. at 540.

Based upon this factual background, the 1987 opinion noted that the local bottleneck monopolies retained by the Regional Companies following the AT&T divestiture were a central feature of their domination of the market for telecommunications products and customer premises equipment, and it further concluded that the incentive and ability to act anticompetitively had not been significantly altered by the division of the Bell System into seven Regional Companies, by Federal Communications Commission regulation, or by any other factor. 673 F. Supp. at 552.

On the question of the efficacy of FCC regulation to prevent anticompetitive activities by the Regional Companies, the court cited the opinions of a number of experts, including the chiefs of the FCC's own Common Carrier Bureau, who reported on the futility of such regulation then or in the future, in view of the size and complexity of the Regional Companies and their ability to combat regulatory efforts with funds extracted from the ratepayers. 673 F. Supp. at 531.

3. EFFECT ON COMPETITION

Regarding the practical effect of a removal of the manufacturing restriction, the court concluded that such a removal would be counterproductive, for a "flourishing, broad-based, innovative industry would be cut back to become one dominated by a small number of muscle-bound giants * * *." The Department of Justice, while support-

ing the Regional Companies' request for relief, acknowledged that "removal of the restriction will be followed by the displacement of many of the competitors, postulating that increasing concentration in the equipment markets is inevitable." 673 F. Supp. at 561. The court characterized this Justice Department view as contemplating with "remarkable equanimity for an antitrust enforcement agency, the ready destruction of many high-quality firms providing high quality goods that have emerged since divestiture, and that are performing important service to the economy." 673 F. Supp. at 561.

4. EFFECT ON INNOVATION

With respect to the question of innovation in the telecommunications equipment markets, the court noted that since the breakup of the Bell system—

"* * *there has been a flowering of research, development, innovation, introduction of new products, and quality assurance; new firms have entered the market; prices of equipment have declined dramatically * * * and competition flourishes in a market that had seen relatively little of it before. The equipment market now consists of six or eight very large firms, one to two hundred medium-sized firms, and hundreds of still smaller, vigorous, and inventive firms * * *.

"If the restriction were removed, there would be a serious risk of return to conditions of anticompetitive activity, concentration of the telecommunications equipment market in few hands, monopolistic pricing, and a relatively sluggish pace of innovation. According to a distinguished outside observer, the Regional Companies would then become 'central vigorous players in the equipment market, buying many of the smaller [firms], integrating services and equipment sales, and developing into seven smaller versions of what once was AT&T.'" 673 F. Supp. at 560 (footnotes omitted).

The court went on to point out with regard to innovation more specifically of direct use to consumers, that, while prior to the advent and pressure of competition in the telecommunications manufacturing markets, in 1984 relatively little innovation of use to consumers had emerged. This was so notwithstanding the presence within the Bell System of the excellent and prestigious Bell Laboratories research arm. However, subsequent to the emergence of competition in 1984

"* * *there [were in 1987] on the market at reasonable prices such by now commonplace features as residential telephones that are able to memorize dozens or hundreds of different phone numbers; telephones that repeat the last number called until it is not longer busy; cellular phones for business and emergency use; cordless phones; instruments that can be instructed by voice (e.g., in an automobile) to call a certain individual, office, or number; and many others.

"Parallel with the development of equipment that provides greater accessibility to the telephone user, devices are being produced and marketed that, in a sense, operate in the opposite direction: some of them display the caller's number before the receiver has been lifted; others provide a distinctive ring when a call is received from a number previously designated as worthy of priority consideration; still others automatically block calls from persons with whom the phone's owner does not wish to speak. For the first time since the invention of the telephone, these devices are returning control to the instrument's owner from every salesman, unwelcome relative, or even crackpot who may decide to call at any hour of the day or night.

"It is surely not a coincidence that these features, and many more, have become available since the Bell monopoly was ended by divestiture and competition began to reign in the telecommunications marketplace." 673 F. Supp. at 601 n.330.

5. FOREIGN DOMINATION OF THE INDUSTRY

The court also considered and discussed the effect of a removal of the manufacturing restriction on the international competitiveness of the American telecommunications industry and the employment opportunities of American workers. In that respect, the court cited a report of the National Telecommunications and Information Administration of the Department of Commerce (NTIA), which noted that "the most plausible scenario in at least one telecommunications market is that, in the event of a removal of the decree restriction on manufacturing, the Regional Companies will join forces with mammoth manufacturing empires, most likely foreign, and that this will pose a substantial risk of destruction of the United States central office equipment manufacturing industry." NTIA Trade Report at 125-26. 673 F. Supp. at 561-62 (footnotes omitted). And the court continued on this topic:

"These predictions are plausible. [A survey by the government's expert] has found that affiliations between central office switch manufacturers and telephone service companies have tended to develop around the world wherever structural restraints are absent * * * This is not surprising. Manufacturers have strong incentives to seek market share "guarantees" in the form of an affiliation with large exchange service providers such as the Regional Companies; and these companies, in turn are attracted by the acquisition of expertise and, more importantly, the minimization of risk embodied in partnerships with huge manufacturers with ample capital.

"Because of their size, capital, and assured source of income from the ratepayer-supported telephone affiliates of the Regional Companies, these international giants will have the market power to adjust price almost at will to achieve market share, to the inevitable detriment of independent domestic producers. In short, the effect of the Justice Department's scenario is likely to be the displacement of small, efficient American firms by a few huge syndicates composed of foreign company and Regional Company components whose survival and domination in this environment will have been achieved by factors unrelated to efficiency or quality of performance." 673 F. Supp. at 562.

In summary, it was on the basis of the considerations discussed above and at greater length in the 1987 opinion itself (a copy of which is attached hereto) that the court concluded that removal of the manufacturing restriction could be expected to be followed by (1) a recurrence of the anticompetitive conduct of the local Operating Companies operating under the aegis of the Regional Companies; (2) the displacement of most independent manufacturers of telecommunications equipment; (3) a marked reduction in competition in the market and hence a sharp reversal of recent trends which have witnessed decreases in price; (4) a slowdown in product innovation; and (5) domination of the domestic market by large foreign suppliers. In view of these conclusions the court declared that no justification existed for removing the antitrust decree's restriction on manufacturing.

Finally, I wish to advise you that no evidence has come to my attention in the last three and one-half years that would cast doubt on the findings and conclusions stated in the September 10, 1987 opinion or call for their repudiation.

I hope that this summary has been helpful to you and the Subcommittee.

Very truly yours,

HAROLD H. GREENE.

EXHIBIT 2

BELL ATLANTIC CORP.,
Arlington, VA, June 5, 1991.

Hon. ARLEN SPECTER,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR SPECTER: yesterday, you raised the issue of the appropriateness of Congress intervening to alter the rules for the telecommunications industry that are now controlled by a judicial decree.

Congress, of course, often changes the results reached by judicial decision. The current civil rights legislation is an example of a current effort in that direction.

But, more to the point, Judge Greene himself has often said that he does not relish the central role he has come to play in the telecommunications industry—that was a role for Congress—but Congress refused to act!

In short, Judge Greene has claimed that the antitrust case was thrust upon him by Congressional inaction and that he continues to have to umpire this industry because Congress cannot reach a consensus on policy.

Excerpts to this effect from a few of Judge Greene's speeches are attached.

Thank you, by the way, for making yourself available yesterday for the discussion of this important matter with Ray Smith and me.

With best regards,

BOB LEVETOWN.
Vice Chairman.

EXHIBIT 3

EXCERPTS OF SPEECHES

GREENE SPEECH, BROOKINGS INSTITUTION, DECEMBER 4, 1985

In addition to their legitimate role in constitutional adjudication, the principal obligation of the federal courts is to interpret and enforce statutes enacted by the Congress. The Congress sometimes enacts laws which are less than precise, and on occasion it fails to address difficult and controversial problems, particularly those which are at the margins of public laws, preferring to leave them to later adjudication by the courts. And finally, of course, political currents and cross-currents sometimes make it impossible for the Congress to act.

The AT&T case may be an example of such a situation. How did it come about, it is often asked, that a single member of the judiciary has come to wield so great an influence on telecommunications, a basic American industry? Wouldn't it have been more consistent with American constitutional and political traditions if the basic policy decisions had been made by the Congress?

I agree with these critics. As a matter of constitutional theory, an undertaking as driven by policy as the restructuring of the nation's telecommunications industry would most appropriately have been directed by the political branches, not the courts. Yet when we look at the problem closely we find that it is these branches which, by action or inaction, have thrust the courts into their present role.

GREENE SPEECH, HASTINGS COLLEGE OF LAW, APRIL 17, 1987

Second, there has been a great deal of comment, in the media and otherwise, about the incongruity of a restructuring of the na-

tion's telecommunications industry by the decree of a single federal judge, and the suggestion is quite often made that so important a decision should have been reserved to the Congress. In theory, these critics are certainly correct; national policy is most appropriately made by the elected representative of the people. But the Congress, in spite of much debate and committee consideration, was unable to agree on what should be done either about AT&T or about the industry of which it is a part.

That failure of course does not vest a court with jurisdiction where none otherwise exists. But the fact is that a lawsuit, brought by the Attorney General on behalf of the United States, was already pending in court under a law of unimpeachable validity enacted by the Congress and never repealed. Indeed, considerable pressures were brought to bear on the Department of Justice to dismiss the suit, and President Reagan himself presided over at least one conference where this course of action was discussed. But to no avail; the action was resolutely pursued by the government's lawyers.

GREENE SPEECH TO CPA, OCTOBER 23, 1984, REGARDING THE "DOLE BILL" WHICH WOULD HAVE TRANSFERRED JURISDICTION OVER THE MFJ TO THE FCC

As you know, congressional committees have considered legislative proposals to transfer jurisdiction over the interpretation and enforcement of the AT&T decree from the courts to the Federal Communications Commission. In a democratic society, it is quite properly the elected legislature that lays down policy; telecommunications policy is no exception; and congressional consideration of this subject is therefore to be warmly welcomed. During the period when bills to carry out transfer proposals were pending in Congress, I did not comment at all on this subject. Obviously I will still not speak in any way to the legality of such proposals, nor would I even now comment on the details of the bills that were pending in the last Congress. However, having become somewhat acquainted with telecommunications during the last few years, I want to share with you my views on the general subject of a transfer of jurisdiction.

My feelings on such a transfer are mixed. Considering only my own interests and convenience, I would greatly welcome being relieved of this work. The task of interpreting and enforcing the decree usually does not require a great deal of novel or complicated legal reasoning and writing, and much of it is technical without being intellectually challenging.

Mr. KOHL addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized.

CALLER ID

Mr. KOHL. Mr. President, today we are considering an issue of great importance to the telecommunications industry—allowing the RBOC's to manufacture equipment. But I would like to discuss for a moment another telecommunications issue, Caller ID.

As some of you may know, Caller ID is the technology that allows a telephone call recipient to see the phone number of an incoming call on a small display screen attached to the telephone. Caller ID is spreading rapidly—it is being offered in Maryland, Virginia, and the District of Columbia, and there are plans to expand it to many more States.

In my mind, Caller ID is a welcome development. It can help us screen our calls and ultimately enhance our privacy.

But in what form should it spread? Should there be forced Caller ID, in which a phone company requires our phone numbers to be displayed every time we make a call—even if we have an unlisted number? Or should there be voluntary Caller ID, in which consumers decide when it's appropriate to give out their numbers? Since a call recipient can easily obtain the caller's address with his or her phone number, mandatory disclosure means revealing where you live—whether or not you want someone else to know.

Forced Caller ID violates our fundamental right to privacy. Do we not have the right to call a crisis hotline, or a Senator's office, or even the IRS to ask for help without saying who we are? And why should the phone company compel us to identify ourselves when we call a business for information? Such disclosure does not even seem logical: After all, if a stranger came up to you on the street and asked you for your home phone number, would you give it to him? Of course not.

There are even times when forced Caller ID is dangerous. Undercover officers sometimes call drug dealers from precincts to arrange buys. If a target recognizes where the call came from, it could scuttle the bust—or, worse, result in the death of an agent. Battered women often taken refuge with friends but call home to check on things. They should not be compelled to tell their abusing husbands where they are staying.

We know of other dangerous situations, but the point is this: Phone companies cannot determine when it is safe to reveal our numbers and addresses. There are just too many variables the phone company cannot foresee.

The answer is to allow consumers to retain their freedom of choice. Let them dial a few digits on the phone when they want to make private calls. With this per-call blocking option, people can display their numbers when calling friends and family—and they can keep their numbers confidential when they need to do so.

A growing number of phone companies have recognized the importance of protecting a caller's right to privacy. But I introduced the Telephone Privacy Act of 1991 in order to ensure that all telephone customers retain this crucial freedom of choice.

My bill is simple, effective, and straightforward. It would require phone companies that offer Caller ID to give callers the option of blocking the display of their telephone numbers or any other individually identifying information—without charge. In this way, the bill would balance the privacy interests of both callers and recipients.

The proposal makes sense for several important reasons. First, the new technologies that are available with Caller ID give us the ability to stop harassing phone callers without in any way undermining the privacy of law-abiding citizens: Callers can use Call Trace, Call Return, and Call Block to foil their assailants. For example, Call Trace lets the victim of a harassing phone call automatically send the number of the harasser to the authorities after hanging up—merely by dialing a three-digit code.

Though a few telephone companies would like to promote Caller ID as a way of reducing obscene phone calls, this approach is ultimately deceptive. Simply put, these new technologies work even if a caller uses blocking. So it turns out that we have the ability to protect victims and privacy at the same time.

Second, before we go any further with Caller ID, we have got to make sure that it is legal. Last summer, a Pennsylvania court ruled that Caller ID violates that State's constitution and its wiretap statute—which is almost identical to the Federal version. My proposal would resolve the ambiguities in our Federal laws, ensure the legality of Caller ID, and establish a uniform national privacy policy in this area.

There is one more reason to pass this legislation—blocking already exists for the wealthy. A new 900 service allows people to make private calls for a few dollars a minute. That is wrong. Blocking is a matter of equity as well as privacy: I believe phone companies should make it available to everyone—rich and poor.

The widespread support for this proposal underscores its commonsense approach. All around the country telephone companies are opting for blocking, or State PUC's are requiring it. And here in Washington a consensus is developing that Caller ID with blocking strikes the proper balance between telephone callers and recipients alike.

Mr. President, I had originally considered offering this legislation as an amendment to S. 173. However, since my measure will soon be marked up by the Judiciary Committee, I have decided to allow it to come to the floor in the normal course of business. When that happens, I hope my colleagues will join consumer advocates, privacy experts, and law enforcement groups in enacting this legislation and making privacy protection a reality for all Americans.

Thank you, Mr. President.

The PRESIDING OFFICER. Who seeks recognition?

Mr. HOLLINGS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. CONRAD). Without objection, it is so ordered.

AMENDMENT NO. 290

(Purpose: To foster economic growth and strengthen American international competitiveness by striking the domestic content requirement)

Mr. GRAMM. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Texas [Mr. GRAMM] proposes an amendment numbered 290.

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

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

The amendment is as follows:

On page 4, beginning with line 10, strike out all through line 17 on page 7.

Mr. GRAMM. Mr. President, I am willing to agree to a time limit. I have discussed it briefly with the distinguished chairman of the committee. Perhaps I could yield to him and let him propound a time agreement which will be 15 minutes on each side, at the end of which the distinguished chairman will move to table the amendment.

Mr. HOLLINGS. Very good. I appreciate the Senator from Texas agreeing to a time agreement. There will be no second-degree amendments and the understanding is we will move to table the amendment at that time and have the yeas and nays. Will that be all right?

Mr. GRAMM. That will be all right.

UNANIMOUS-CONSENT AGREEMENT

Mr. HOLLINGS. I ask unanimous consent, Mr. President, there be 30 minutes equally divided on the Gramm amendment and controlled on the Gramm amendment; that no amendments be in order to the amendment, or to the language proposed to be stricken; that when all time is used or yielded back, the motion to table be made by the Senator from South Carolina. If that unanimous-consent request is agreed to, then I will ask for the yeas and nays on that motion.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request?

Without objection, it is so ordered.

Mr. HOLLINGS. I ask for the yeas and nays on the motion to table.

The PRESIDING OFFICER. Is there a sufficient second?

This is a sufficient second.

The yeas and nays were ordered.

Mr. HOLLINGS. I thank my colleague.

Mr. GRAMM. Mr. President, the amendment I have offered is a very simple and straightforward amendment. It reaches to the very heart of American trade policy. The questions it addresses are: Can we promote American interests by trying to build walls around America, by trying to force American companies, against their will, to buy American products and in the process, by Government mandate, dictate how private industry is to be run? Should we enact Federal mandates that lower American efficiency and lower American competitiveness, or can we better promote American interests by trying to become more competitive?

Mr. President, I do not think we have to have a long debate on this subject. I think we are roughly divided along philosophical and partisan lines on this issue.

I might also say, Mr. President, that it is with great sadness that I recognize the majority of the votes on this issue often fall on the side which is not enlightened, at least as I would define it, in terms of what is best for America's interest.

Here is basically the problem, Mr. President. What this bill says is that the Regional Bell Companies will be allowed to manufacture telecommunications equipment but will not be allowed to engage in any joint ventures with other such companies. They will be limited in terms of the final value of the product they put on the market. No more than 40 percent of that value can be of foreign content.

Mr. President, all of us want American products to entail American content. The question is, however, whether or not we want to take an action that flies in the face of everything that for two decades we have tried to get other countries to stop doing.

Our Trade Representative today is involved in the process of trying to get other countries to stop exactly the kind of action we are about to vote to impose here in America. We have spent 20 years trying to assault and beat back domestic content provisions in other countries. We have tried to open markets to American products and, quite frankly, in my opinion, we have picked the wrong area to try to play this protectionist game.

I remind my colleagues that the United States has made great progress in telecommunications. Proof of our progress is that in 1988 we had a trade deficit in telecommunications equipment of $2.61 billion. Since then we have become substantially more competitive. Our exports have grown very rapidly and, as a result, we are now approaching a balance of trade where in 1990 we had only $790 million of deficit.

Also, Mr. President, the area where we are very competitive, where we had a trade surplus of $1.28 billion in 1990, is the high-technology end of the business: Network and transmission equipment.

Now, Mr. President, at the very time that we are seeing our market penetration abroad growing by 25 percent a year, when we are seeing imports grow by only 2 percent a year, when we have closed the trade gap, and when in the high-technology end of the business we now have a $1.28 billion surplus, why do we want to pick this industry to say we want domestic content. Therefore, by implication we are saying to our trading partners that since we are practicing domestic content, we would expect you to do it too.

Mr. President, this provision is the worst sort of legislation because it is a deal cut by business and labor, basically, to the exclusion of the interests of the working men and women of America, to the consumers of America, and to broadly defined American interests.

This agreement is clearly in violation of what we are trying to achieve in our trade negotiations. It is an agreement that could violate the GATT. It is moving the Nation in the wrong direction.

What I have proposed is simply that we strike this provision and move on the underlying bill, which deals with trying to allow more competitors to manufacture telecommunications equipment.

Further, Mr. President, this provision is not going to foster the adoption of this bill. The President has said in the clearest possible terms that if this domestic content provision, which clearly is in opposition to everything we are trying to do in the world on the trade issue, is part of this bill, he is going to veto this bill.

So I say to those who want to see this bill adopted, let us strip out this measure which does not belong in this bill, which is a totally anticompetitive provision, which represents a peculiar action by Government that tells a private industry what it can and cannot do in terms of trying to be competitive, and let us pass a bill which the President can sign.

Mr. President, the issue very clear. Domestic content is a seductive kind of proposal.

The problem is, this proposal would not work. We cannot build a wall around America. We are the world's largest exporter. Every time we try to get into this protectionist mode, we encourage other countries to keep their markets closed and to refuse to open those markets to America's products. You cannot have it both ways. We cannot be the fundamental force in the world in trying to promote more trade openness and at the same time expand protectionist measures here in our own country.

Mr. President, I know that this bill has long-term escape clauses. I know it requires the Federal Communications Commission and the Department of Commerce to analyze foreign content in the telecommunications industry, and over a period of time make adjustments in the domestic content requirement. But the bottom line is this provision could violate the GATT. It flies in the face of everything we are trying to do on trade policy. It is protectionism, pure and simple.

I urge my colleagues to support this amendment and avoid a Presidential

veto. I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. HOLLINGS. Mr. President, the Senator is so enlightened he is blinded. The fact is that he is just running at one little provision of the bill. The entire bill is intended to bring about competitiveness. His amendment does not address the real world in which we live. We are not in an economics 101 class with the so-called comparative advantage argument of free trade. We are in the real world, where we have been losing our shirts.

In Communications Daily today, June 5, it is reported that AT&T CEO Robert Allen will be in Guadalajara, Mexico, July 24, 1991, to dedicate AT&T's new answering machine plant. Whoopee. There goes another one—thousands of jobs lost.

A communications report of the Finance Committee, I think, reported some 60,000 jobs have been lost since divestiture and the 1984 MFJ decision. This entire bill is intended to promote competitiveness and improve the environment in which we live.

When you come to what they may be trying to do with this free-trade policy, I have been around here 25 years, and we keep going in the wrong direction with this free-trade policy. I have listened to the Tokyo round. Now I am listening to the Uruguay round and the fast track Mexico. I have the OECD report, the Organization of Economic Community Development, and Canada—like all of the countries on this list, has domestic content provisions; France, Germany, Japan, Sweden, United Kingdom, all of them have some form of domestic content provisions going right down the list.

In fact, President Bush, in his letter in March of last year to the Senate majority leaders and Republican leaders and the chairman and ranking member of the Finance Committee, talking about the directive of EEC, says that the directive mandates nondiscriminatory transport tendering to all producers who are at least 50-percent EEC origin.

That is how we are trying to compete. We have tried to set the example, and set the example for 45 years, even taxing ourselves with the Marshal plan and sending over our technology. Then our nationals became multinationals, and they got together with the bank and the Trilateral Commission, and they fleeced us all. We have lost the industrial backbone of the country.

The exports the Senator talks about are being made up by Siemens, Fujitsu, Northern Telecom, Ericsson—we went down the list which we included in yesterday's RECORD.

Mr. HOLLINGS. We are being invaded like fleas on a dog, just taking over at every turn. That is what they are exporting, and we are losing the jobs. So the entire bill is to, yes, manufacture in the United States of America.

Now, if you want to continue the manufacture beyond the United States of America, throw the bill away. Forget about the bill. It is not a little technical requirement.

This bill is reasonable. What was the reason? The reason was to recognize the fact of life that a lot of these parts you cannot get any longer in the United States. Western Electric makes all of their telephones now in downtown Singapore. We have been there and seen that. Thousands of jobs are gone.

The Senator says that U.S. workers—8½ million people unemployed—will hinder the ability of the Bell Operating Cos. to compete.

And exports means manufactured here. If you want to get manufacturing here, say so. That is what we want; that is why the domestic content provision is here.

If the other countries change then we can change—my theory of competition is if you raise a barrier against a barrier, then you can remove them both. But fleecing, causing a special relationship—look at the example we set. We are not in charge. Our clock is being cleaned every day. It has to stop. Here we have the wealth of the seven Bell Operating Cos. being forced to invest overseas at the same time we are looking in the Budget Committee for investment in this country. And the Bell Cos., like many other companies, cannot manufacture abroad because of the barriers in those countries.

Mr. President, I reserve the remainder of my time. How much time do I have?

The PRESIDING OFFICER. The Senator has 9 minutes, 25 seconds.

Mr. HOLLINGS. I yield to the distinguished ranking member.

Mr. DANFORTH. Mr. President, as always, the Senator from Texas has made a very persuasive case and he sets forth an excellent philosophical argument, one with which I would normally agree. I have told my chairman, Senator HOLLINGS, that as a general principle, I hate the idea of domestic content requirements. I think that is a matter of bad policy and bad trade policy. The problem is trying to match philosophy with the practical realities of the case, unfortunately, the two clash in this instance.

That clash is recognized by statements made by both the Reagan administration and the Bush administration. In 1987, during the Reagan administration, the Commerce Department said that if the Bell Operating Cos. were to diversify into electronic or digital switch manufacturing, it would almost certainly undertake a joint venture with a foreign-based firm. Then the Commerce Department concluded that such joint venturing would likely cause—these are the words used—"significant harm to American competitive technology and trade positions, and can pose the threat of destroying this country's indigenous central office equipment manufacturing capacity." That is the language used by the U.S. Department of Commerce during the Reagan administration.

During the Bush administration, the Department of Labor, in a staff study, estimated that 18,000 to 27,000 U.S. jobs could be lost if the manufacturing restriction were lifted, and noted that this number does not include potential adverse effects on employment in research and development functions which might be transferred abroad through Bell Operating Co. joint ventures with foreign manufacturers.

That is the reality.

Mr. President, my hope would be that somehow between now and when this bill is submitted to the President for his action that there could be some way of working out this problem. I think that there is a middle ground, perhaps one that tracks the concepts of the 1988 Trade Act, which conditioned access to our markets on reciprocal access to the markets of the other countries. That kind of approach, to me, is better than a domestic-content approach. But to take the philosophical approach, that I commend Senator GRAMM for. In and of itself, without any way to cushion the blow, that is going to cause a very serious adverse effect on American industry and on American jobs. For that reason, I will support my chairman in voting to table the Gramm amendment.

Mr. GRAMM. Mr. President, I yield 5 minutes to the distinguished Republican leader.

Mr. DOLE. Mr. President, I rise in support of the Gramm amendment, and ask that I be made a cosponsor of the amendment.

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

Mr. DOLE. Mr. President, I rise in support of the Gramm Amendment to strike the domestic content requirements from S. 173.

Let me first say plainly, Mr. President: I support S. 173. I am fully in favor of increased competition in telephone and other communications technologies—competition that will bring new products, new services at lower prices to consumers. I support freeing up America's telecommunications resources to compete more effectively in the world market.

Some here today may remember when, a number of years ago, this Senator introduced legislation to transfer jurisdiction over the telephone industry from Judge Greene's courtroom to the FCC.

That bill was not intended so much as a criticism of Judge Greene—in my view, an able and hardworking jurist, diligently applying the antitrust law—as an effort to bring the formulation of America's telecommunications policy, out of the courts and back

where it belongs—in the hands of the agency with expertise, overseen by the Congress.

That bill generated a lot of opposition, Mr. President, opposition from some powerful interests with a large stake in the status quo. So I want to congratulate Senator HOLLINGS on his leadership in getting at least a partial MFJ bill to the floor. I know some of the obstacles Senator DANFORTH and others have faced; believe me, I have been there.

Having said that, however, I find it ironic that this bill, a principal purpose of which is to make our communications industry more competitive, contains highly anticompetitive domestic content restrictions. What the bill gives with one hand, it takes away with the other.

The provisions which would be stricken under the Gramm amendment would:

Single out the Bell's affiliates, imposing restrictions not binding on their competitors;

Undermine current U.S. trade negotiations with the European Community and other trading partners;

Ultimately result in higher prices to consumers.

First, the bill's restrictions on imported components would apply only to the Bell manufacturing affiliates. Other manufacturers—Northern Telecom of Canada, the various Japanese and European companies, and the dominant American manufacturer, AT&T—can all buy components without restriction from any source, and thus manufacture at the most efficient cost; only the Bells are handcuffed. Does this make sense? Is this fair? Will it save jobs?

Hardly, Mr. President. AT&T now joint ventures with foreign manufacturers in 15 countries and imports products into the United States, while here at home it has closed down 6 plants and reduced activity at others. Yet this bill leaves that alone, while hamstringing the Bells from competing on equal terms. At such disadvantage, it is hard to see how the Bells could compete and grow. And growth means jobs.

Second, this portion of the bill would seriously undercut the U.S. position in several market-opening efforts presently being negotiated. The EC and Canada have already threatened to challenge this provision in international tribunals. An adverse finding would result in retaliation against our exports. Our trade negotiators are working to open foreign markets and are presently involved in sensitive negotiations to promote trade agreements and reduce barriers to our imports everywhere—and here we are, Mr. President, sending the opposite signal and inviting the label of protectionist.

The President's advisors say he cannot sign such a bill. I ask unanimous consent to have reprinted in the RECORD a copy of a letter from Secretary Brady, Ambassador Hills, Secretary Mosbacher, and others.

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

THE SECRETARY OF COMMERCE,
Washington, DC, May 30, 1991.

Hon. BOB DOLE,
U.S. Senate,
Washington, DC.

DEAR SENATOR DOLE: The Administration wishes to affirm its strong support for legislation that would lift the manufacturing restrictions currently placed on Regional Bell Operating Companies (RBOCs), and we applaud your efforts on behalf of this objective. As the Administration has previously testified, we believe that this objective of S. 173 represents sound economic policy that would promote competition, increase U.S. research and development, and open up additional investment opportunities in telecommunications in the United States. Unfortunately, S. 173 also contains other provisions—in particular, the domestic content and local manufacturing requirements—that would undermine important international trade objectives and detract substantially from the bill's own stated objectives. If these provisions are not removed from S. 173, the President's senior advisers will recommend that he veto the bill.

As you have recognized, the RBOCs represent a very significant U.S. resource that could be applied to the advancement of U.S. telecommunications and related high-technology endeavors. Their assets, in the aggregate, represent a major component of the country's telecommunications base. We believe these resources should be freed to better serve the American public by being permitted to participate in the manufacture of customer premises and telecommunications equipment. Among other benefits, elimination of the manufacturing restriction will help promote increased telecommunications research and development in the United States, which may also have a beneficial effect on related infrastructure development. By enhancing their development of new technologies, the legislation would also greatly promote the international competitiveness of U.S. industry.

Given our agreement on the many benefits of lifting the manufacturing restrictions, we regret that we are unable to support S. 173 as currently drafted. The Administration opposes on a number of grounds the local content and domestic manufacturing requirements of S. 173.

First, since such requirements serve to discourage certain imports—components in certain cases, finished products in others—they distort trade. Private companies that would otherwise make purchasing decisions on sound economic and technical grounds instead will be forced to procure and produce equipment on the basis of government fiat. In addition, the Bell companies—with their new-found ability to manufacture—may find themselves at a competitive disadvantage vis-a-vis other telecommunications equipment manufacturers, who are not required to adhere to local content and local manufacturing restrictions.

Second, the imposition of local content/manufacturing requirements for the Bell companies creates serious questions for existing U.S. international obligations. The United States' trading partners could raise complaints under the General Agreement on Tariffs and Trade (GATT), the U.S.-Canada Free Trade Agreement, and numerous treaties of Friendship, Commerce, and Navigation. Certain of our trading partners have already made it clear that they would challenge the local content measure in international fora. A GATT finding that the United States had violated its obligations could lead to potentially costly retaliation against U.S. exports. This could put in jeopardy our trade surplus in telecommunications with the EC (in 1990 we exported to the EC $1.4 billion in telecommunications equipment while we imported form them just $361 million).

Third, local content/manufacturing requirements would also seriously undermine U.S. positions in ongoing Uruguay Round negotiations, which are intended to open foreign markets to U.S. goods and services. In the GATT Government Procurement Code negotiations, a cornerstone of U.S. negotiating objectives under the 1988 Trade Act, the United States has maintained that private companies, like the RBOCs, procure competitively and thus need not be subject to procedures like those of the Code. The local content/manufacturing provisions would be viewed as inconsistent with this position. If we fail to achieve a positive result in these negotiations, U.S. suppliers of telecommunications equipment and services—including the Bell companies under S. 173—will be shut out of many foreign markets. The EC's government procurement market for telecommunications equipment, with an estimated value of tens of billions of dollars, will remain closed to U.S. providers absent a new GATT agreement.

Local content/manufacturing provisions are also inconsistent with U.S. efforts in the GATT to discipline and eliminate trade-related investment measures (TRIMs). We have placed a high priority in the Uruguay Round on the achievement of discipline in countries' use of TRIMs, such as local content and domestic manufacturing requirements. Approval of such restrictions as part of S. 173 would create serious problems for the TRIMs negotiations.

Fourth, the restrictions contained in S. 173 are more likely to cost U.S. jobs in the telecommunications industry, not save them. Any weakness in the U.S. competitive position in telecommunications equipment falls in the low end of the market, such as in the production of inexpensive telephones, where technological advantage is not crucial. The restrictions contained in S. 173 would have little effect on U.S. trade and employment in the low end of the market because the RBOCs are unlikely to concentrate their manufacturing efforts on it.

The strength of the U.S. competitive position in telecommunications equipment lies in the higher end of the market, where technological know-how is decisive, and where the United States had a $1.3 billion trade surplus in 1990 (in network and transmission equipment). The restrictions contained in S. 173 will hinder the ability of the RBOCs to compete in this part of the market, and may impede their ability to contribute to the ongoing expansion of exports and export-related employment associated with these products.

The Administration also has deep reservations about the bill's flat prohibition on joint ventures among the RBOCs. The RBOCs should be subject to ordinary antitrust principles, which permit procompetitive joint venture arrangements, but prohibit those that would harm competition.

The administration supports the primary objective of S. 173. Unfortunately, the Administration cannot support the bill with its provisions on local content and domestic manufacturing.

Sincerely,

Nicholas F. Brady, Secretary of the Treasury; Lynn Martin, Secretary of Labor; Lawrence S. Eagleburger,

Acting Secretary of State; Robert A. Mosbacher, Secretary of Commerce; Carla A. Hills, U.S. Trade Representative.

Mr. DOLE. Finally, if one thing is clear, it is that import restrictions mean less efficiency, less choice, and less competition for producers. We know who pays the price for that, Mr. President. Consumers do. Less real competition means higher prices for everyone.

So I urge my colleagues to vote with Senator GRAMM to strike this provision. It is not a vote against this bill.

I am not certain. I had intended to vote for the bill. I am not certain what will happen. I do not think we will prevail. I assume Senator HOLLINGS has the votes to table the Gramm amendment, but I want a bill the President can sign. Maybe there is some way, if we do not prevail here. At least by making a record there will be some incentive in the conference, if it reaches a conference, where the conferees, Senator HOLLINGS, Senator DANFORTH, and others, can figure out some middle ground.

But in the interim, Mr. President, I certainly strongly support the amendment by the distinguished Senator from Texas.

Mr. HOLLINGS. Mr. President, this particular request has been cleared with the distinguished minority leader. I ask unanimous consent that upon disposition of the Gramm amendment, the Senate, without any intervening action or debate proceed, to vote on the passage of S. 173.

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

Mr. HOLLINGS. I understand my colleague only has 2 minutes left. I have 6?

The PRESIDING OFFICER. The Senator is correct. The Senator has just under 6 minutes.

Mr. HOLLINGS. I yield 2 minutes to the Senator from Colorado, even though he is against it.

Mr. BROWN. Mr. President, let me express my thanks to the distinguished Senator from South Carolina for his kindness, even though I may be misguided on this particular amendment. I appreciate his consideration.

I rise simply to propround a question to the distinguished Senator from South Carolina. The Senator, I thought in a very articulate fashion, pointed out that a number of countries around the world do have what we would call domestic content requirements. The paper that the Senator was referring to indicates that Sweden, West Germany, France, Canada, and a number of the Eastern European countries have similar provisions.

My question to the distinguished Senator would be this: He has indicated concern about elimination of the domestic content provision in circumstances involving countries which maintain domestic content requirements. Would the Senator have a different feeling when dealing with countries that do not have a domestic content provision? In other words, would he be receptive to looking at having the domestic content provision apply only to those countries that have the same kind of treatment accorded our products, but be willing to look at waiving that domestic content provision when we are trying to trade with countries that do not have any domestic content provision of their own?

Mr. HOLLINGS. No. The predominant countries in this particular communications market are the countries from the OECD. They are the principals in telecommunications. And they are the ones that are cleaning our clock, taking our industry away from us. If the picture cleared some years from now, I would look at the real life situation.

I do not want to confuse the point here—the thrust of this bill, entire thrust of this bill is to get manufacturing here back home in the United States.

AT&T closed down or reduced its work force at 33 manufacturing plants since 1984, with a loss of 60,000 jobs. Of course, we have been forbidden under law to allow the Bell Cos. to create any of those manufacturing jobs. That is my problem.

I am not trying to have fair play with anybody right now. I am trying to survive. That is what I am trying to do. We are in an economic war, and I think we are going to have to fight like the dickens to survive, and that is the guts of this bill. If you want to gut the bill, then you would vote with the Senator from Texas.

Mr. BROWN. I appreciate the distinguished Senator's answer. He is very forthright and an eloquent spokesman for his point of view.

This Senator believes that it is a mistake to impose domestic content provisions on countries that do not have domestic content provisions of their own. If we are fighting for fair trade, it seems to me that the Senator from Texas has a sound point.

I thank the Senator.

Mr. HOLLINGS. I reserve the remainder of my time.

Mr. GRAMM. Mr. President, our dear colleague from South Carolina talks about the Marshall plan, but let me remind my colleagues that the aid provided by the Marshall plan really was a little lighter fluid. It was trade with Western Europe that rebuilt Europe, that helped build the economies of Japan and Korea, that helped create a wealth creation machine worldwide, that tore down the Berlin Wall, and that today has us on the verge of winning the cold war.

Mr. President, I find it amazing that we are here trying to pass a law to make people invest in America, when for the last 10 years America has had more foreign investment than any other country in the world. In fact, foreigners have knocked down our door trying to get here, and often we hear people on this floor denouncing foreigners for wanting to invest in America.

Mr. President, a free society does not prosper by enacting laws that force people to make economic decisions they otherwise would not want to make. If we are going to be competitive, we are competitive, we are going to have to compete. We cannot build a wall around the greatest trading nation in the world.

Finally, if Senators need a noneconomic reason to vote for this amendment, it says to Ma Bell, you can invest abroad, you can buy foreign content, you can produce telecommunications equipment, and you can sell it. It says to Regional Bell Cos., you cannot do it. I hope my colleagues remember the equal protection clause under the 14th amendment of the Constitution. The Constitution says that persons—and that includes corporations—must have equal protection under the law.

This provision, in my opinion, is totally unconstitutional. You cannot have some companies treated by one set of rules in a market, and other companies that are treated by another set of rules under Federal statute, without violating the equal protection clause of the Constitution.

So I do not doubt the sincerity of my colleague from South Carolina, but I think he is absolutely wrong on this, and everything he is saying and doing is counterproductive to what we are trying to achieve.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. HOLLINGS. Mr. President, if the Senator was correct about the equal protection clause, then the Bell Cos. have the sorriest constitutional lawyers in the world, because they have been trying to get out. They are the ones that everybody discriminated against, they are the ones that have been required to what? Invest overseas and not invest here.

Let the companies do what they want to do. That is exactly the bill itself. The Bell Cos. want to produce here. They want this domestic content provision. They have agreed to this provision. They understand it is not good business to be doing all this overseas while we have 8½ million unemployed in America. They are public service companies, depending on the public support. As a result, they have a hard time explaining that they cannot even do this right here. It is an artificial thing.

I wish he were right that a domestic content provision was unconstitutional, because then no one would have had domestic content and you would have had a bare bill at this particular time. Protectionism built Europe. They have had domestic content provisions since the word go in Europe. Protectionism built Japan in the Pacific Rim. Before I can sell a textile in downtown Korea, I have to get permis-

sion from the textile industry in Korea. You cannot get licensed in Japan. You can go right on down the list.

So they have practiced protectionism. We tried to set the example. We have been the high-wire boys and the little fellows with the Christian ethnic and the Golden rule. That does not wash in the international market. You have to have not fair, but competitive trade. What works are the same domestic practices that, in essence, built this industrial giant, the United States of America.

We are not investing in research and development, Mr. President, because it does not pay to do so. The Bell Cos. cannot manufacture. We are losing out in the industries that are on the cutting edge of technology, and as a result, the consumers of America are losing out on fine advanced services. It does not pay to even produce it here.

That is a sad, terrible situation. The Senator knows his suggestion would gut the bill. The administration has been toying around for a full day on this. They have been taking head counts and bringing all the pressure and everything else in the world on Senators to offer a new kind of restriction. That is a last gasp of trying to kill the bill.

If you are for America, for Joe-Six-Pack in Texas—the Senator has taught me all about old Joe-Six-Pack down in Texas—then vote for Joe-Six-Pack to have a job, and for building America, so he does not have to go abroad to make a living. I yield the remainder of my time.

I move to table the amendment.

The PRESIDING OFFICER. The question is on the motion to table amendment No. 290 offered by the Senator from Texas.

The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Iowa [Mr. HARKIN] and the Senator from Colorado [Mr. WIRTH] are necessarily absent.

I also announce that the Senator from Arkansas [Mr. PRYOR] is absent because of illness.

Mr. SIMPSON. I announce that the Senator from Rhode Island [Mr. CHAFEE] is necessarily absent.

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

The result was announced—yeas 64, nays 32, as follows:

[Rollcall Vote No. 88 Leg.]

YEAS—64

Adams	Byrd	Glenn
Akaka	Cohen	Gore
Baucus	Conrad	Gorton
Bentsen	Cranston	Graham
Biden	Danforth	Heflin
Bingaman	Daschle	Helms
Boren	DeConcini	Hollings
Breaux	Dixon	Inouye
Bryan	Dodd	Jeffords
Bumpers	Exon	Johnston
Burdick	Ford	Kassebaum
Burns	Fowler	Kasten
Kennedy	Mitchell	Sasser
Kerry	Moynihan	Shelby
Kohl	Nunn	Simon
Lautenberg	Pell	Specter
Leahy	Reid	Stevens
Levin	Riegle	Thurmond
Lieberman	Robb	Wellstone
Lott	Rockefeller	Wofford
Metzenbaum	Sanford	
Mikulski	Sarbanes	

NAYS—32

Bond	Gramm	Packwood
Bradley	Grassley	Pressler
Brown	Hatch	Roth
Coats	Hatfield	Rudman
Cochran	Kerrey	Seymour
Craig	Lugar	Simpson
D'Amato	Mack	Smith
Dole	McCain	Symms
Domenici	McConnell	Wallop
Durenberger	Murkowski	Warner
Garn	Nickles	

NOT VOTING—4

Chafee	Pryor
Harkin	Wirth

So the motion to lay on the table the amendment (No. 290) was agreed to.

Mr. COCHRAN. Mr. President, I am an original cosponsor of this legislation, and I am hopeful the Senate will approve it.

This bill will remove the restriction on manufacturing by Regional Bell Operating Cos. This manufacturing restriction has allowed much of the industry's intellectual property and manufacturing capacity to be purchased by overseas competitors who operate under no similar restriction.

Removal of this manufacturing restriction will provide an incentive to the Regional Bell Cos. to increase their spending on research and development. This is essential if American firms are to be competitive in today's rapidly changing communications industries and meet the challenges posed by unrestricted foreign competitors.

I urge the Senate to pass this bill.

Mr. ADAMS. Mr. President, as an original cosponsor of S. 173, the Telecommunication Equipment Research and Manufacturing Competition Act of 1991, I strongly support this bill. I believe the Gramm amendment would totally undermine the purpose of this legislation.

The legislation before us addresses a sector critical to U.S. competitiveness in the global economy: Information systems and telecommunications technology. All of us are concerned about the threat our industries face from foreign government subsidies to their telecommunications and other industries. Those practices give our foreign competitors an unfair advantage in third country markets and distort competition in our own open, domestic market.

We cannot afford to lose more than we already have of one of the most promising segments of our economy, the manufacture of telecommunications equipment.

This legislation is critically important to workers in the telecommunications equipment industry, where the Commerce Department has projected a slight decline in employment over the next 5 years.

The provisions of S. 173 should help stem this decline, and will hopefully reverse it. But we will only see a greater loss of jobs if we go along with the Gramm amendment.

Lifting the manufacturing restriction will help our Nation compete in several ways. First, the Bell Cos. would have the incentive to increase their spending on research and development.

Second, the bill would enable the Bell Cos. to tap into a vast underutilized reservoir of knowledge about telecommunication networks and the telecommunications marketplace.

Third, this legislation would allow the Bell Cos. not only to collaborate with other manufacturers, but to invest in them as well.

Unfortunately, some small startup companies have no choice but to turn to foreign-based investors.

Consider what has occurred in the last decade. We have seen our ideas and inventions, such as VCR's, exploited by manufacturers abroad. The pattern of foreign companies applying technology we have developed to manufacture new products is expanding in the telecommunications field. The bill before us today will help stop this trend by allowing American companies to do what they do best—invent, market and produce. Without this legislation, our large and growing domestic market will be exploited increasingly by foreign manufacturers.

S. 173 will assure that we maintain a strong national economic base in the information and telecommunications manufacturing sector. It will promote our technological know-how. It will help our industry create the jobs and products to keep the United States in the forefront of this key advanced technology sector.

I urge my colleagues to join in supporting this bill.

Mr. THURMOND. Mr. President, I rise today in support of S. 173, the Telecommunications Equipment Research and Manufacturing Competition Act of 1991. As my distinguished colleagues are aware, this legislation removes the manufacturing restriction imposed on the Bell Operating Co. pursuant to the modified final judgment. That consent agreement was entered into in August 1982 by AT&T and the Department of Justice, and accepted by Judge Harold Greene of the Federal District Court for the District of Columbia, in settlement of an antitrust suit filed by the Department of Justice. The remaining restrictions in the MFJ are not affected by this legislation.

Mr. President, in my view, issues concerning the telecommunications industry are among the most important that the Senate will face in this Congress. These issues affect not only the telecommunications industry itself, but innumerable other industries and

services that are dependent on the telecommunications industry for their growth and development. If this legislation does nothing else, it will have forced this distinguished body to focus on how critically important this industry is to our technological development as a nation, and to our ever important competitive position on the international stage.

Having said that, Mr. President, let me make clear that I did not reach my decision to support this legislation easily. There is little doubt that S. 173 raises difficult issues concerning telecommunications policy and our antitrust laws. There is also little doubt that this legislation raises legitimate concerns about the legislature's relationship with the judiciary and whether litigants can, and should, change their forum every time they are faced with unwanted prohibitions.

Mr. President, in 1981, before the breakup of AT&T, I supported proposals to lift some of the regulatory restrictions under which AT&T then operated. At that time, I made clear that my support was premised on the acceptance of certain amendments that addressed legitimate anticompetitive concerns. My support of S. 173 is likewise premised on antitrust protections.

On balance, Mr. President, I believe that we improve competition in the telecommunications industry if we lift the manufacturing restrictions on the Bell Operating Co. and allow them to compete with the other telecommunications manufacturers. While we must not ignore the legitimate antitrust concerns that are raised because of the monopoly that exists in the local exchanges, I am persuaded that the safeguards that are contained in this legislation should provide adequate protection to those companies that will compete with the BOC's.

Mr. President, it is my view, that no matter which way we proceed on S. 173, there are no guarantees. There are no assurances that S. 173 will work perfectly. However, I believe that the responsible regulatory bodies—the Federal Communications Commission and the various State commissions, as well as the Federal and State antitrust enforcement agencies—will insure that the type of conduct that brought about the MFJ in the first place, will not be repeated. In fact, these agencies and the Bell Operating Cos. themselves, should be duly warned that if anticompetitive conduct rears its head, this Senator will be back before this body with whatever legislation is needed to correct the situation.

The alternative to this legislation, Mr. President, would be retaining the status quo. This also provides no assurances. There is no conclusive proof that if we defeat this legislation we will retain the competitive edge in telecommunications technology that is so important to our industrial standing worldwide. There is also no conclusive proof that consumers will benefit from lower rates and a wider variety of products.

In the end, Mr. President, it comes down to a balancing of interests and protections. In my view, such balancing tips the scales in favor of this legislation, and, therefore, I will support and vote for passage of S. 173.

Mr. BRADLEY. Mr. President, I wish to take this opportunity to correct some erroneous information that may have been communicated in the course of remarks on S. 173 today.

The suggestion made today that AT&T may have sold some portion of Bell Laboratories is completely false. I have been assured by AT&T representatives that no portion of AT&T Bell Labs has been sold to any company, domestic or foreign, and no such sale is contemplated.

More than any other single institution, AT&T Bell Laboratories has helped weave the technological fabric of modern society.

It is the birthplace of the transistor, laser, solar cell, light-emitting diode, digital switching, communications satellite, electrical digital computer, cellular mobile radio, long-distance TV transmission, artificial larynx, sound motion pictures, and stereo recording as well as many major contributions to the telecommunications network. It has more than 22,000 patents, averaging one per day since the company's founding in 1925.

The mission of AT&T Bell Laboratories is to design and develop the information movement and management products, systems, and services needed by AT&T, to provide the technology base for AT&T's future business, to search for new scientific knowledge, and to apply sound R&D techniques to AT&T's manufacturing facilities.

To accomplish this mission, Bell Laboratories currently has some 29,000 employees in 8 States and 9 foreign countries. About 4,000 hold doctoral degrees in 19 disciplines.

At the time the AT&T divestiture occurred, AT&T pledged not to undercut its long tradition of commitment to research at Bell Labs. AT&T has more than lived up to that commitment. Although AT&T overall has had to cut back on the number of people it employs and has undergone considerable reorganization since divestiture, it has increased rather than decreased its researchers and funding at Bell Labs.

At divestiture, on January 1, 1984, AT&T Bell Laboratories employed 19,300 people and had an annual budget of $1.9 billion. On December 31, 1990, Bell Labs employed 22,200 people directly, and its budget for last year was $2.9 billion. In addition, another 8,000 people at AT&T were engaged in closely related research work.

Early in 1991, Bell Labs researchers set two world records for the shortest and fastest laser light pulses. The laser generates 350 billion pulses a second, each one shorter than one trillionth of a second. The fastest commercial system today generates 2½ billion pulses a second.

Other Bell Labs scientists have demonstrated the world's first digital optical processor, an experimental machine that carries out information processing with light rather than electricity. The processor is a major advance toward an optical computer that could eventually be one thousand times faster than today's best machines.

Mr. President, I am proud to say that AT&T Bell Laboratories remains a premier research institution in New Jersey, in the United States, and in the world.

Mr. CRAIG. Mr. President, I rise to support S. 173, the Telecommunications Equipment Research and Manufacturing Act of 1991, which will effectively lift the manufacturing restrictions imposed on the seven Regional Bell Operating Cos. created by the AT&T divestiture.

The manufacturing restriction has kept the Bell Cos. from playing a role in the development of technology and the production of telecommunications equipment. In an era when technology is rapidly evolving, this kind of restriction simply cuts our competitive edge with foreign producers. Maintaining the manufacturing restriction will only push our communications products industry farther behind the rest of the world.

Communications technology has great potential for improving the future of rural States, affecting rural life in a variety of ways, from education to health care delivery. Rural America deserves to enjoy the benefits of these developments.

S. 173 will open up more of these opportunities by allowing some of the experts in the field more flexibility to research, develop, and manufacture these high-technology products. S. 173 will establish a telecommunications policy that will generate new jobs for American workers and new telecommunications products and services for American consumers.

Opponents of this legislation have argued that the bill would allow the Bell Cos. to revert to predivestiture monopolistic practices. It has been asserted that this legislation will allow the Bell Cos. to abuse their telephone franchises, harming competitors and telephone ratepayers by using telephone service revenues to subsidize research and development. Mr. President, S. 173 contains safeguards to prevent this sort of abuse.

The legislation prevents the Bells from manufacturing in affiliation with other Bell Cos. This ensures that the seven Bells are in competition with each other. The bill also requires manufacturing operations to remain separate from the telephone operations to prevent cross subsidization. Minimum requirements constituting separation are outlined in the legislation.

S. 173 also requires that 10 percent of the manufacturing affiliate must be made available on the open market to outside investors. It requires the manufacturing affiliate to sell its equipment to other telephone companies at the same price, without discrimination on terms and conditions.

Mr. President, I have read the Commerce, Science, and Transportation Committee's report on S. 173 very carefully. The safeguards contained in the legislation are clearly outlined in the report.

Mr. President, I can understand the initial concerns and fears some may have with the changes this legislation would make by lifting the manufacturing restrictions imposed on the seven Bell Cos. However, if one looks at the changes that have occurred in the industry, the competitive base that now exists, and the clearly defined safeguards in the legislation, I am sure that these fears would be dispelled. As a cosponsor of S. 173, I hope that my fellow colleagues will read the legislation and committee report carefully, and support this timely, important legislation.

Mr. PACKWOOD. Mr. President, I rise today to support the goals of S. 173—to promote U.S. competitiveness in global telecommunications markets and to preserve U.S. leadership in developing innovative telecommunications technologies. These are laudable goals, and ones the U.S. Senate should seek to achieve. S. 173 moves us in the right direction.

Mr. President, I come to this debate with a lot of history on this issue. I was chairman of the Commerce Committee when the Senate passed S. 898—a bill which, at the time, was the most comprehensive proposal for change in the communications laws in almost 50 years. Many of the participants in this debate today were active in that discussion.

Ten years have passed, and the telecommunications industry looks substantially different. We considered S. 898 before the divestiture of AT&T. The Bell Operating Cos. did not exist as separate entities. In spite of these changes, many of the issues have not changed.

The basic question is: Should we allow seven of the biggest, most knowledgeable telecommunications companies in the country to manufacture equipment? I believe the answer to that question is yes.

Clearly, we must ensure the Bell Operating Cos. do not use their monopoly power to gain some advantage in the competitive manufacturing arena. We also must ensure the small, rural telephone companies are treated fairly. Finally, and most importantly, we must ensure the consumer, the local ratepayer, does not pay for the entry of the BOC's into manufacturing.

S. 173 contains safeguards to help protect against these abuses. There may be other safeguards that could be added that would not so hamstring the BOC's as to make the bill meaningless. We should consider such safeguards as this bill moves forward through the House and through conference.

Mr. President, although I support the thrust of S. 173, I must raise strong objections to the so-called domestic content provisions. This provision requires that all manufacturing for sale in the United States be performed domestically, and arbitrarily limits the use of non-U.S. components to a certain percent of the sales revenue from the manufactured equipment.

This represents exactly the wrong policy at the wrong time. At a time when U.S. telecommunications exports have been increasing, this provision would invite our foreign trading partners to take retaliatory action and close their doors to U.S.-manufactured goods. At a time when we are trying to negotiate market-opening commitments in the Uruguay round, this provision, if enacted, would seriously undermine those negotiations.

The provision would not create jobs in the United States. In the long run, it would have the opposite effect, because U.S. companies would be less competitive if they are forced to use components they would not otherwise use. The consumer would suffer as well, in the form of higher prices.

Finally, the domestic content provision would violate existing U.S. international obligations under the GATT and under virtually every other U.S. trade agreement.

Mr. President, in spite of my opposition to the domestic content provision, I plan to support S. 173. It is my hope, however, that as the bill moves through the House and through conference, it will be amended to take care of my concerns about this provision.

Mr. LAUTENBERG. Mr. President, I rise in opposition to S. 173.

Mr. President, let me begin by saying that I support the general goal of this legislation—to preserve America's telecommunications leadership and to promote American jobs. I applaud the distinguished chairman of the Commerce Committee, Senator HOLLINGS, for his commitment to increasing American competitiveness.

The issues before us have often been portrayed as a fight between two large corporate interests—the Regional Bell Operating Cos. on one side, and AT&T on the other. Mr. President, what is at stake is much more than that. The issue is how to assure that America has the best telecommunications system in the world. The issue is how to assure that America keeps its lead in the design, development, and manufacturing of telecommunications equipment and the design, development, and provision of telecommunications services. That leadership means jobs for Americans. That leadership means benefits for our economy as whole.

The future of our telecommunications industry affects not only the companies in the industry itself, it affects the future of every American company that relies upon our telecommunications system. In the information age, our telecommunications system is as much a part of our infrastructure as our roads, rails, airways, and waterways. Our economic productivity and our competitiveness, depends in significant part on our ability to process, to convey, and to share information efficiently.

The telecommunications industry is an especially important one in my State. The Nation's leading telecommunications research and development facilities, Bell Labs and Bellcore, are located in my State. So are tens of thousands of other employees of AT&T, New Jersey Bell, and other telecommunications manufacturers and service companies.

I agree that we need to promote competition in telecommunications. Competition brings innovation, and innovation brings efficiencies. Innovation means better products, more sales, and more jobs.

On its face, this bill seems to promote competition, by increasing the number of competitors.

However, Mr. President, more competitors does not necessarily mean more competition. Particularly when some of those competitors are monopolies. And that's the nub of the problem.

Almost by definition, monopolies are immune from many of the constraints of a free market. So when they take this immunity and move into a competitive market, real concerns are raised. Concerns about fairness to the monopolies' consumers. Concerns about fairness to the monopolies' competitors, and concerns about maintaining competition in the industry.

These concerns are based largely on the threats of anticompetitive self-dealing, and cross-subsidization.

Of course, the bill does contain provisions that are designed to prevent these abuses. But I am not convinced that these assurances are adequate.

Take, for example, the bill's provisions on self-dealing. The legislation says that a Bell Telephone Co. is supposed to provide unaffiliated manufacturers with comparable opportunities to sell it equipment, and may only purchase at the open market price.

The language is simple and straightforward, Mr. President. But applying it to the real world of business will be extremely difficult.

First, there by be no benchmark—no standard of comparison—by which to determine an open market price. For example, if a manufacturing affiliate sells all of its equipment to its parent, there could be no open market. And without an open market, with a range of similar prices, there can be no open market price.

Compounding matters, manufacturing affiliates will often develop equipment that is customized to fit the unique needs of its parent. So not only will there be no outside sales by which to determine similar prices, there may be no products at all on the market that are similar.

Under these circumstances, it could be virtually impossible for the FCC to determine whether the price paid to an affiliate represents the open market price, or whether the transaction amounts to improper self-dealing.

Mr. President, just for the sake of argument, let us say that the FCC can find similar products with similar prices, and so can ascertain an open market price. It's still going to be extremely difficult for the Commission to adequately police self-dealing abuses.

For one thing, it could take an army of FCC personnel to identify violations and adjudicate complaints. Yet GAO indicated that the FCC has the resources to fully audit each major telephone company only once every 16 years.

Mr. President, every year, the RBOC's enter into thousands of equipment transactions. Even if a small portion of these were taken to the FCC, the Commission would lack the resources to deal with them. And, given the tight budgetary constraints we now face, I just don't think it's realistic to expect that they'll have substantially greater resources any time soon.

Also, even if it were possible to identify abuses, and even if the Commission is provided with a huge increase in personnel, it's still not clear that the bill provides an adequate remedy to the self-dealing problem. Under the bill, the FCC would act on self-dealing claims only after the fact—that is, after an RBOC has failed to buy a product from a competitor. By the time the competitor brings a claim to the FCC, and a decision is rendered, the competitor and other manufacturers may be out of business.

Mr. President, the point is not lack of faith in the people who run the RBOC's. To the contrary. Speaking at least of the people I know in New Jersey, these are some of the most honorable corporate citizens I know. The problem is with the inadequacy of FCC and State regulation in such a complex, difficult area.

Mr. President, AT&T was broken up not because it was a dishonest company. It was broken up because the structure of the market—namely, AT&T's dominance as a monopoly—created incentives for anticompetitive activity resulting in unfairness to telephone users and to other competitors. And it was widely believed that, without changing the very structure of the company, regulation could not do the job.

I realize that times have changed, and now instead of one giant company we have seven. But so long as the RBOC's can take advantage of their continuing monopoly over local telephone service, many of the same concerns that led to divestiture still apply.

After all, if the RBOC's all bought from themselves, they could choke off competition for 70 percent of the domestic market for high-technology telecommunications equipment. If that happened, R&D at other equipment manufacturers, such as that conducted at Bell Labs in New Jersey, would probably be cut substantially. In fact, if the bill is enacted in its present form, just the risk of a closed market could lead to a significant reduction in R&D among the RBOC's competitors.

The end result could be fewer U.S. jobs, lower quality products for American consumers, and American businesses, and reduced U.S. competitiveness.

Mr. President, it is clear to me that I am in a minority. This bill is going to pass the Senate.

But, it is my hope that it will be improved in the House. It is my hope that if the RBOC's are given legal authority to enter manufacturing, they will do so in a way that preserves open and competitive markets. It is my hope that their operating companies will choose equipment on the basis of what can best serve the needs of their customers.

But, Mr. President, without adequate assurances built into the statute, I feel compelled to vote against the bill.

Mr. DURENBERGER. Mr. President, the proposal which my colleagues and I are considering today, the Telecommunications Equipment Research and Manufacturing Competition Act of 1991, will inaugurate a new era for the telecommunications industry in the United States. Because this industry and the services it provides are such an integral part of business operations and in the lives of consumers, the benefits of this bill will ripple throughout all aspects of American life. In my judgment, S. 173 will expand the services enjoyed by consumers and ensure the leading position for the American telecommunications industry.

Fundamentally, S. 173 is an issue of competitiveness. It is not about undoing the divestiture of AT&T and the antitrust provisions of the modified final judgment. In the course of the court-ordered divestiture, the potential of seven world-class manufacturers has been thoroughly squelched. This should not have been the case. S. 173 will help to realize the stifled potential of the Bell Operating Cos., while preserving the protections established in the modified final judgment.

As important as divestiture and the MFJ is to fairness and competition in the marketplace, we cannot permit the fear of unfair competition to paralyze progress in the U.S. telecommunications industry. While the court's role in the divestiture of AT&T must not be lightly dismissed, we must remember that it was charged to prevent unfair competition, not protection from competition, within this critical industry.

The passage of S. 173 stands to offer a multitude of blessings and benefits for American consumers, for American businesses, and for our national competitiveness in the world marketplace. Permitting the Bell Operating Cos. to conduct research and development, as well as to manufacture telecommunications equipment, will permit the development of new and innovative services and provide a new source of leadership and innovation in the world marketplace.

Of course, unleashing such power is not without risks. Important segments of American society who have a stake in the telecommunications industry—consumers, smaller telephone companies and manufacturers—have legitimate concerns which deserve to be addressed. Adequate safeguards and regulatory authority must be included with this proposal to ensure that consumers do not suffer from increased costs and that smaller manufacturers do not suffer from unfair competition.

The superior resources of the Bell Operating Cos. must be kept in proper check so that S. 173 creates seven more competitors, not just seven mega-manufacturers. Existing producers must not be shut out of the marketplace through widespread self-dealing. They must have the opportunity to work in concert with the operating companies and the new manufacturers of equipment to develop an enhanced and nationally integrated telecommunications system.

Providers of services, including smaller telephone companies and cooperatives, ought to be protected from the risks of uncompetitive pricing and inaccessible, but nonproprietary, design specifications between the Bell Operation Cos. and their new manufacturing entities.

In my judgment, these concerns have been effectively addressed. Thanks to the efforts of Senators Hollings, Danforth, and Pressler, I believe the amendment adopted yesterday strikes the balance necessary to safeguard against unfair competition for small telephone companies and small manufacturers. The Pressler amendment ensures that small manufacturers and telephone companies will be able to play a part in the building of this Nation's new telecommunications system. Under this amendment, design specifications must be shared among producers and carriers. Self-dealing protections will guarantee that non-Bell manufacturers will continue to have access to markets. New and enhanced FCC and State regulations will protect against unfair financial relationships between the Bell Operating Cos. and their new manufacturing entities.

I am pleased to support S. 173 and the efforts of my colleagues to ensure

that America is the leader of the telecommunications industry from the very beginning of the 21st century.

Mr. LEVIN. Mr. President, the legislation we are considering today is about the future. The future of technology and telecommunications is exciting and great things appear on the horizon that will benefit society if sufficient investments are made in innovation and human resources. By lifting the manufacturing restrictions placed on the Regional Bell Operating Cos. [RBOC's] we seek to bring that future a little closer to the present and to do it in a way that benefits both American workers and consumers.

This bill is a particularly difficult one because we are projecting likelihoods, not certainties. S. 173 will require the RBOC's separate affiliates, if they choose to form them, to manufacture in the United States. There is also a provision in this bill that requires the RBOC's manufacturing affiliates to purchase component parts in the United States. There is an exception to that latter rule stating that the affiliate may purchase parts from outside the United States if it has, after making a good faith effort, been unable to obtain equivalent component parts domestically. It is then and only then that the affiliate may purchase up to a certain percentage of foreign parts. This should have a positive impact on the total market share controlled by U.S. firms. This means there should be gain of new jobs, new jobs creating products that should improve our balance of trade and stimulate the domestic economy. It is this potential for new American jobs that is the clearest reason for passing this legislation. We have seen our manufacturing sector erode in recent years as a result of foreign competition often unfair in a number of respects. This legislation will foster the creation of jobs in an area with enormous potential for the future. While it is argued, on the other hand, that dislocation and job losses may occur due to increased competition and the entrance of large manufacturers into a field of generally smaller firms, on balance, I believe it likely that more American jobs will be created in the telecommunication area by this bill than without it.

In addition to the likely benefit in terms of American jobs, with the entry of new, capable manufacturers into the market there is the prospect that consumers of telecommunications products and services could see prices that are reflective of increased competition. If each of the seven RBOC's enter manufacturing there will be the potential for an infusion of expertise and innovation into the marketplace. This legislation authorizes the Federal Communications Commission [FCC] to promulgate regulations to prevent the free market from being distorted by anticompetitive behavior by the RBOC's. If, however, the FCC does not effectively enforce the regulations which S. 173 requires them to promulgate to prevent self-dealing, collusion, and discriminatory pricing, or if competition does not evolve, there exists the possibility that consumers will not see the benefits of increased competition. But, the safeguards in S. 173 should act as a deterrent to any RBOC that might consider engaging in any of these activities.

This legislation offers the real possibility for the stiulation of the creative process in a competitive market by allowing the RBOC's to be involved in the design and development phase of manufacturing. The current language of the modified final judgment and the court's interpretation of it creates obstacles to effective research and development of new telecommunications products and software. Innovation cannot take place efficiently under these conditions and this results in lost opportunities for jobs and new products. Here are two examples of how S. 173 would improve the chances that our Nation will enter the 21st century with a telecommunications system worthy of one of the most technologically advanced societies in the world, and do it with a positive balance of trade.

Under the current manufacturing ban, manufacturers who would like to produce a product for a telephone network cannot work closely with the RBOC's on the testing of the product within the network in a completely free and open manner. The relationship must proceed in a trail-and-error fashion. The Commerce Committee's report details the inefficient development process in the following way:

> If a manufacturer tests a piece of equipment on the BOC network, BOC engineers can tell the manufacturer that the product does not work, but they cannot tell the manufacturer why the product does not work or how to fix it. The manufacturer must return to its own shop and try again, with no idea what the problem is. Such a manufacturer must continue in the "trial-and-error" fashion until the manufacturer discovers the problem or abandons the effort completely.

Without a free exchange of scientific and logistical data between parties seeking to develop new products, creativity is stifled.

A second example of how creativity is stifled by the manufacturing ban is the prohibition on innovation from within the RBOC. Currently, if a researcher or employee of one of the RBOC's has an idea to create a product, which may or may not be commercially attractive to manufacturers, there is no simple and cost-effective method to formulate the specifics so as to bring it to market. For instance, assume one of the RBOC's has an employee who has a proposal for a digital central process unit [CPU] that would reconfigure transmitted frequencies or voices to suit the hearing pattern of the recipient, making it possible to compensate for a specific type of hearing loss or impairment. Such a product or service would allow certain individuals to have greater access to the communications network. The profitability of the product is certainly of interest to the RBOC in question, though its interest may primarily be in stimulating network usage and not necessarily focused on that product's profit margin. But, the RBOC's provision of sufficiently detailed technical specifications to an outside manufacturer in order to make this product would most likely be a violation of the modified final judgment. Under the bill we are considering, the RBOC will be allowed to develop this technology and manufacture this product through its own affiliate, or another contractor. The net result could be making available to consumers a product that might not otherwise be generated as a result of current production arrangements.

Allowing greater interaction between the RBOC's and manufacturers, whether it be the RBOC's own affiliates or not, is not without possible antitrust implications. This issue was an integral part of the original decision to separate AT&T from it's wholly owned manufacturing subsidiary, Western Electric. The fear that the RBOC's will engage in preferential dealing with their individual affiliates to the exclusion of other manufacturers has been aired by several parties. But the bill's safeguards should provide adequate protections against such an event.

Predicting the future accurately is not always easy. But sometimes we need to test the edges of the envelope if we are going to create the future that we want. Removing some restrictions on the RBOC's should help keep the United States at the forefront of the technological changes that have created the new information age. This should create more American jobs, better and lower cost products, and improved quality of life. Should these predictions not come true and the RBOC's do not live up to the intentions they have stated or to the safeguards presented in the bill, Congress will be in a position to reenter the issue and act on the then existing conditions in the public interest.

Mr. LEAHY. Mr. President, technological advancements in our ability to transmit information have been breathtaking in recent years and it is probably safe to say that this is only the beginning. Nor is it only technology that is changing—the structure of the industry itself has undergone a profound transformation since the breakup of AT&T in 1984. That breakup resulted in the development of a vibrantly competitive manufacturing market with thousands of new companies getting into the business. It led as well to healthy competition in long distance and to a burgeoning and competitive market in information services.

The bill before us today, by lifting the manufacturing restriction and allowing the baby Bells, through sepa-

rate affiliates, to enter manufacturing, will increase that competition.

I have always supported measures to increase our international competitiveness and enhance our technological base. At the same time, I think the dangers of cross-subsidies and self-dealing are very real. The baby Bells will inevitably have an incentive to buy from their own manufacturing subsidiaries to the exclusion of independent competitors. They will also have an incentive to maximize the costs allocated to themselves—since those costs can be passed on to the ratepayers—while minimizing the costs allocated to their manufacturing subsidiaries. The result of such behavior would be to injure consumers and independent competitors alike.

I do believe, however, that these dangers have been diminished by the safeguards built into the bill and those added by the amendments we have adopted in the last 2 days. These safeguards will, among other things, protect rural phone companies, require States to audit the manufacturing affiliates of the regional Bells and guarantee access to their books.

I will be frank in saying that I looked forward to supporting Senator INOUYE's amendment, which he withdrew. That amendment would have put reasonable limits on the degree to which the regional Bells can purchase from their own subsidiaries. But I am pleased by Senator HOLLINGS' assurance that he will consider Senator INOUYE's ideas on limiting self-dealing when it comes time to conference this bill with the House.

Let me add one other point. Since S. 173 was introduced, many businesses and consumer groups have visited me to express their concern that it would be only the first in a series of bills to overturn all of the line-of-business restrictions placed on the regional Bells by the modified final judgment.

I want to make it very clear that as far as I am concerned, this bill is not the camel's nose under the tent when it comes to long-distance or information services.

I am particularly concerned about the implications of lifting the restriction on information services. Of course, there will be ample time to consider that issue if it ever comes before us. But nothing in my support of this manufacturing bill today should be construed as indicating support for the lifting of any other restriction.

Mr. President, in closing, let me say that, assuming this legislation is enacted into law, I will be watching the development of telecommunications manufacturing with great interest. The regional Bells have made broad representations in supporting this bill. They have assured us that letting them into manufacturing will increase American competitiveness and benefit American consumers. They have promised that they will not engage in cross-subsidization or unfair self-dealing. It is up to the FCC and the Congress to hold them to their word.

Mr. DODD. Mr. President, regretfully, I rise today in opposition to passage of S. 173, the Telecommunications Equipment Research and Manufacturing Competition Act of 1991.

The goals of this measure are admirable and ones that I fully support. Our competitiveness overseas is an issue vital to the health of our economy—and especially in the field of telecommunications which is one of the keys to future growth in this the information age. In this regard, figures showing a trade deficit in telecommunications equipment are certainly alarming, when our dominance in the industry was unchallenged just a decade ago. We must look closely at current policy which prevents nearly 50 percent of our telecommunications industry from participating in product development and manufacturing and I compliment the chairman and the Commerce Committee for their thoughtful work in this area.

Earlier today, Senator INOUYE and I offered an amendment that I believe would have added some important safeguards to this bill and, although our amendment was not adopted, I am hopeful that the specific issues addressed in our amendment will be considered as this bill proceeds. As this bill is however, I am concerned that the safeguards it includes do not go far enough to lessen the opportunities and incentives for the Bell Co. to engage in anticompetitive behavior in this manufacturing enterprises at the expense of ratepayers, other consumers and manufacturers.

The record of anticompetitive behavior in this industry is difficult to ignore when considering this issue. The original divestiture of AT&T was brought on by some of the worst antitrust abuses in our history. More recently, the U.S. West and NYNEX scandals were on front pages around the country. It is unclear that this bill will do enough to discourage such behavior in the future.

I am pleased that the Simon and Metzenbaum amendments were adopted earlier. I believe that, in improving the regulatory safeguards in this bill, these changes go a long way to ensure that local ratepayers and other consumers will be shielded from the costs of any anticompetitive behavior.

However, the potential for self-dealing abuses remains. While the Regional Bell Co. maintain monopoly control over local telephone service, opportunities and incentives exist for them to frustrate and impede competition.

Our telecommunications manufacturing industry has grown during the last 10 years and has brought to us a plethora of new products—everything from network switches to consumer services such as call waiting and caller ID. This is not a weak industry—its exports are increasing and are daily gaining on the trade deficit. As I said earlier in this debate, this vibrant industry is not concerned about new competition; it is concerned about the potential for the establishment of an unfair playing field with the enactment of this measure.

In this regard, I am pleased that the potential for self-dealing will be looked at closely in conference and am hopeful that measures such as those suggested by Senator INOUYE and I will be included in the conference report. I am hopeful that, at that time, I will be able to support a measure that ensures a fair market and establishes a system that produces the best products at the least cost. In a competitive market, ratepayers, other consumers, the manufacturing industry, our international competitiveness and the Bells themselves will all benefit. However, until a competitive market can be guaranteed, the risks to consumers, to manufacturers and to the industry are too great.

Mr. President, I urge the rejection of this bill.

Mr. HARKIN. Mr. President, I rise to express concern about S. 173.

The telecommunications and information industries are enormously important to our Nation's economy because they play an increasingly important role in the lives of our citizens, both at work and in the home. The enactment of S. 173 would undoubtedly influence the evolution of these industries for many years to come. The bill thus warrants careful scrutiny.

It is important to remember that the modified final judgment is the product of two major goverment suits involving decades of alleged antitrust violations by the former components of the Bell System. The manufacturing restriction was imposed on the Bell Cos. because they maintained the local telephone monopolies when AT&T broke up in 1984. Divestiture was costly and disruptive, but many think it was worth the benefits that resulted from increased competition in equipment manufacturing and in long distance telephone services. In those two areas, prices are down, quality is up and consumer choices have expanded.

The question which must be addressed is whether removing the manufacturing restriction will increase competition, or reduce it. According to Bell Communications Research, the joint research arm of the 7 regional companies, there are now 9,000 suppliers of products to the Bell System, a remarkable increase over the 2,000 which existed in 1984. But would S. 173 simply add seven major new players to the market or allow for the displacement of already existing competition? If the latter is true, then I can't help but be concerned.

If the Bell Cos. are allowed to manufacture the big ticket telecommunications equipment necessary to operate their networks, they would almost certainly buy from their own manufacturing affiliates thus excluding other suppliers in the marketplace. By

having ownership interests in their suppliers, the Bell Cos. would have the opportunity and the incentive to charge themselves higher prices for the equipment, passing on the extra charges on to their captive ratepayers. In the end, it is these ratepayers who are forced to fund the local telephone monopoly becuase they only have one telephone service form which to choose. A system such as this would inevitably lead to higher rates for consumers.

I'm also concerned about institutional questions embodied in this bill. Congress often changes rules of decision by amending the law on which a court decision is based; but amending judicial consent decrees, especially where, as here, we are not touching the statute on which the decree is based, is highly unusual. I am worried that Congress may be setting a bad precedent by amending judicial consent decrees under these conditions. Most of us have only a passing familiarity with the evidence in U.S. versus AT&T, and I doubt that any of us had read the court rulings that we would be overturning with this statute. Should the disposition of antitrust litigation, based on our Nation's most venerable trade regulation statute, the Sherman Act, and abundant specific evidence of anticompetitive conduct, really be second-guessed in a forum that has not carefully reviewed the record?

Mr. President, communications equipment shipments grew at a rapid pace during the 1980's and today the telecommunications manufacturing industry in America is healthy, vibrant, and still growing. Many industry experts attribute the success of telecommunications in America to the industry structure that was put in place by the 1982 antitrust decree. Mr. President, I think is is very unwise to turn back the clock now by passing bad legislation when we have a strong and growing industry.

Mr. RIEGLE. Mr. President, I rise today as a cosponsor of S. 173, the Telecommunications Equipment Research and Manufacturing Competition Act of 1991.

Our great challenge as a nation is to rebuild our industrial base so all citizens can obtain quality jobs. In order to do this we must save more, invest more, become better educated and more productive, and increase our technological base. Lifting the manufacturing restrictions on the Bell Cos. has the potential to both improve our technological base to meet the needs of the next century and improve our industrial base by investing in and creating more manufacturing jobs at home.

In the 7 years since the modified final judgment placed manufacturing restrictions on Bell Cos., our trade position in the field of telecommunications has declined rapidly. Shortly before the MFJ, we had a surplus in telecommunications trade. Last year—a year in which there was some improvement—we had a telecommunications trade deficit of about $800 million. Since 1984, our cumulative telecommunications trade deficit has exceeded $15 billion.

Our own trade position may be worse than an initial look would lead us to believe. A significant quantity of the components in American manufactured telecommunications goods were produced abroad. In addition, much of the export value attributed to the United States comes from foreign owned companies that have plants in the United States. And the trend toward foreign ownership of telecommunications companies in the United States has accelerated: dozens of U.S. manufacturers have been bought by foreign manufacturers since the manufacturing restrictions were put in place. While we should not complain that foreign-owned companies are manufacturing and investing in the United States, we would be in a much better position if more U.S. manufacturers were owned by U.S. entities.

While our trade deficit continues to grow, our foreign competitors have ratcheted up their ability to compete in telecommunications. Japanese firms have dramatically increased their spending in research and development over the past decade. And this new push comes as if the Japanese telecommunications industry were not already doing well. Far from it: Japan had a $22 billion surplus with the United States in telecommunications, computers, and electronics last year.

The trade figures I have cited are not some abstract figure on a ledger sheet—they represent lost jobs and lost opportunities for American workers. Since 1984, 60,000 telecommunications manufacturing jobs have been sent abroad. In my State, Michigan Bell has lost half of its workforce and the Communications Workers of America has seen its membership dwindle over this period.

The jobs that are being lost are high-quality jobs that enable workers to own homes and send their children to college. Too often for the workers who lose their jobs and for workers who never had the opportunity to get these good jobs, the alternatives are far less attractive—mostly in lower paying areas in which their skills will be underutilized. Many of the problems we have as a society—crime, drug abuse, racism—are made worse when the number of good jobs shrinks. And we will continue to see these American jobs move to Mexico, or China or Japan, or some other country unless we do something to turn this around.

The manufacturing restriction on the Bell Cos. currently in place prevents us from putting our best team on the field; and in our extremely competitive world, that means that we will lose games that we should win. We simply cannot continue to afford to leave major players out of our lineup.

The Bell Cos. have a great deal of expertise in telecommunications. The seven Regional Bell Operating Cos. employ 2 percent of all American workers and have annual revenues of $77 billion. It's time we allowed them to get back into the business of producing telecommunications equipment.

At the same time that the manufacturing restrictions are lifted, there must be safeguards to ensure that consumers will not be hurt and that competitive U.S. manufacturers retain fair access to markets. The bill contains a series of provisions designed to prevent abuses such as cross-subsidization and *self-dealing*. The FCC has the duty to enforce these provisions and they must be rought in doing so.

Lifting the manufacturing restrictions should mean not that market share is simply moved from one U.S. company to another—it must mean that jobs are created here and that they remain here. Tough domestic content provisions are vital to ensuring that the United States regain its leadership in telecommunications. The bill requires that the Bell Co. conduct all of their manufacturing in the United States.

Yet despite the fact that the domestic content provisions are supported by both the Bell Co. and the Communications Workers of America, members of the President's Cabinet have indicated that they weill recommend a veto of this bill if it contains any domestic content provision.

It is unfortunate that the administration is taking this view—but it is not surprising. For 11 years, we have seen administrations sit and watch while American jobs have moved overseas and left American workers worse off. The legislation we have on the floor today is designed to improve U.S. competitiveness with domestic content provisions that ensure that jobs stay in the United States. It is my hope that should this bill reach the President with a domestic content provision in it, he will ignore the advice of members of his cabinet and sign a bill that creates and keeps jobs at home.

I urge my colleagues to support this bill and I thank the distinguished chairman of the Commerce Committee for the leadership he has shown in this matter.

Mr. BIDEN. Mr. President, I rise for a brief statement on S. 173, the Telecommunications Equipment Research and Manufacturing Act of 1991. The legislation, introduced by my very good friend and the chairman of the Commerce Committee, Senator HOLLINGS, would allow the Bell Operating Cos. [BOC's] to manufacture telecommunications equipment, one of three lines of business from which they are currently precluded by the modified final judgment of the AT&T consent decree.

This legislation has many benefits, and Senator HOLLINGS has worked long and hard in producing a fine product. His efforts to make U.S. com-

panies more competitive internationally and at the same time protect American workers are to be commended.

In the end, my vote on S. 173 is a very close call. But I must do what I believe is in the consumers' best interest—and that is to vote against the legislation.

My principal concern relates to the issue of cross-subsidization.

My concern is that a BOC will create a manufacturing subsidiary, which would then customize its product as to meet the special needs of the BOC. The BOC would then provide "comparable" opportunities to other manufacturers to sell to it as S. 173 requires, but the BOC would buy most of its equipment from its own subsidiary anyway—arguing that it is customized to suit its needs. The BOC would then pay inflated prices for the equipment, with those inflated equipment costs passed on to telephone customers in the form of higher rates. In this way, consumers of local telephone service would subsidize a BOC's manufacturing subsidiary.

While S. 173 does contain some safeguards on cross-subsidization, I do not believe that they are adequate. Thus, I will vote against this bill today. If, however, the issue of cross-subsidization is addressed in conference by an amendment limiting the ability of the BOC's to engage in self-dealing, I reserve the right to vote for the bill at that time. Given the benefits the bill does offer, I sincerely hope that the issue of self-dealing can be resolved in conference.

AMENDMENT 283

Mr. SASSER. Mr. President, I am pleased at the action of the Senate last night in adopting the amendment of my colleagues from South Dakota, Mr. PRESSLER.

I am a cosponsor of this amendment, which I believe will offer a valuable measure of protection for our rural telephone companies. A modern, state-of-the-art telephone network is critical for rural America—critical for development, critical for education, critical for health.

Access to highly advanced telecommunications facilities is essential for a community to attract industry. More and more business is driven by access to information. Companies require access to visual transmission and the capacity to use and send sophisticated engineering and technological information.

A company in my State of Tennessee can communicate as easily today with Paris, France, as it could with Paris, TN, 25 to 30 years ago. And unless a telephone company can offer that kind of telecommunications capacity the local community will not be able to attract business and jobs.

In the same way, a top-notch telecommunications system offers rural communities access to educational opportunities that would otherwise be closed to them. Many of the communities in my State simply cannot afford to offer many advanced, highly specialized courses. They cannot afford to dedicate a teacher salary to one narrow area.

Through modern two-way visual and voice communications, several school systems can pool their resources and hire one teacher or obtain access to university professors. There will be major advancements in this area in the near future and I want to assure that rural Tennessee and rural America share in that future.

Medicine is another area which is becoming more and more dependent on technology and telecommunications. Communities which in the past were lucky to have a doctor at all now send data on their difficult cases to specialists and university hospitals. They can consult with top specialists, not by trying to describe symptoms, but by sharing the actual test results. This allows them to offer a level of care undreamed of even a few years ago.

Mr. President, I've lived in rural America. I remember when electricity came to parts of my State. The next generation of telecommunications technology will be as basic and essential as electricity was then. Our amendment will ensure that rural areas are part of that telecommunications revolution.

First of all, it requires the Bell Cos. to make software and equipment available to other telephone companies on a nondiscriminatory basis. This is particularly important in the area of software, which is rapidly becoming the key in telecommunications. All too often prior to divestiture, rural telephone companies had difficulty in obtaining access to equipment. We must ensure that doesn't happen again.

Second, our amendment requires the Bell Cos. to continue to make equipment available as long as reasonable demand exists. The equipment used by small companies is often not as profitable for manufacturers as are larger systems. A manufacturer seeking to trim his product line might be tempted to drop equipment vital to rural telephone companies. Our amendment will prevent that.

Third, the amendment requires the Bell Co. to engage in joint network planning. Small telephone companies need to be involved in the planning process to ensure that the national telephone network is accessible to all.

Finally, our amendment allows independent companies to go to court to enforce the safeguards contained in the bill. This is a critical part of the amendment. I must say I have not been impressed with the FCC's sensitivity to rural and other independent telephone companies' past complaints about refusals to provide equipment. This part of the amendment will allow these small telephone companies to obtain effective relief.

So, Mr. President, it was a pleasure to work with the Senator from South Dakota [Mr. PRESSLER] on this amendment. He is to be commended for offering it, and I thank the managers of the bill for accepting it.

ENFORCEMENT OF DOMESTIC CONTENT

Mr. RIEGLE. Mr. President, I would like to clarify a couple points about the enforcement of the domestic content provisions. In particular, I would like to ask the distinguished chairman of the Commerce Committee, the sponsor of the Telecommunications Equipment Research and Manufacturing Competition Act of 1991 and whether it is the intent of the committee that the certification required under section 227 (c)(3)(C)(i) be made available to the public in a timely manner. This provision requires manufacturing affiliates to certify that a good faith effort was made to obtain equivalent parts manufactured in the United States at reasonable prices, terms, and conditions.

Mr. HOLLINGS. The Senator is correct. It is the intent of the committee to compel the Federal Communications Commission to make these certifications available to the public in a timely manner.

Mr. RIEGLE. I believe that American firms should have real opportunities to prove that they can provide parts to manufacturing affiliates at reasonable prices, terms, and conditions. Therefore, I would also like to ask the distinguished chairman of the Commerce Committee whether it is the intent of the committee that the requirements under section 227 (c)(3)(D)(I) and section 227 (c)(3)(D)(ii) be fulfilled in a timely matter.

Mr. HOLLINGS. The Senator is also correct. It is the intent of the committee that the Federal Communications Commission fulfill its duty in a timely manner to determine whether manufacturing affiliates have made a good faith effort to obtain equivalent component parts manufactured in the United States at reasonable prices, terms, and conditions. It is also the intent of the committee that the Federal Communications Commission fulfill its duty in a timely manner to determine whether or not manufacturing affiliates have met the requirement that the percentage of components manufactured outside the United States does not exceed the limits called for in the legislation. Further, it is the intent of the committee that the Federal Communications Commission rule in a timely manner on complaints filed by suppliers claiming to have been damaged because a manufacturing affiliate failed to make a good faith effort to obtain equivalent parts manufactured in the United States at reasonable prices, terms, and conditions.

Mr. RIEGLE. I thank my distinguished colleague for these clarifications and for his leadership on this legislation.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no further

amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The question occurs on the passage of the bill, as amended. The yeas and nays have not yet been ordered.

Mr. HOLLINGS. They have. I asked for the yeas and nays. I think they have been.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

The yeas and nays have been ordered and the clerk will call the roll.

The bill clerk called the roll.

Mr. FORD. I announce that the Senator from Iowa [Mr. HARKIN], the Senator from Massachusetts [Mr. KENNEDY], and the Senator from Colorado [Mr. WIRTH] are necessarily absent. I also announce that the Senator from Arkansas [Mr. PRYOR] is absent because of illness.

I further announce that, if present and voting, the Senator from Massachusetts [Mr. KENNEDY] would vote "aye."

Mr. SIMPSON. I announce that the Senator from Rhode Island [Mr. CHAFEE] is necessarily absent.

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

The result was announced, yeas 71, nays 24, as follows:

[Rollcall Vote No. 89 Leg.]

YEAS—71

Adams	Ford	McConnell
Baucus	Fowler	Mikulski
Bentsen	Garn	Mitchell
Bingaman	Gore	Murkowski
Boren	Gorton	Nunn
Breaux	Graham	Packwood
Brown	Grassley	Pell
Bryan	Hatch	Reid
Bumpers	Heflin	Riegle
Burdick	Helms	Robb
Burns	Hollings	Rockefeller
Byrd	Jeffords	Roth
Coats	Johnston	Rudman
Cochran	Kassebaum	Sanford
Cohen	Kasten	Sarbanes
Conrad	Kerrey	Shelby
Craig	Kerry	Simpson
D'Amato	Kohl	Smith
Danforth	Leahy	Stevens
Daschle	Levin	Symms
DeConcini	Lott	Thurmond
Domenici	Lugar	Warner
Durenberger	Mack	Wellstone
Exon	McCain	

NAYS—24

Akaka	Glenn	Nickles
Biden	Gramm	Pressler
Boud	Hatfield	Sasser
Bradley	Inouye	Seymour
Cranston	Lautenberg	Simon
Dixon	Lieberman	Specter
Dodd	Metzenbaum	Wallop
Dole	Moynihan	Wofford

NOT VOTING—5

Chafee	Kennedy	Wirth
Harkin	Pryor	

So the bill (S. 173), as amended, was passed as follows:

S. 173

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Telecommunications Equipment Research and Manufacturing Competition Act of 1991".

SEC. 2. FINDINGS.

The Congress finds that the continued economic growth and the international competitiveness of American industry would be assisted by permitting the Bell Telephone Companies, through their affiliates, to manufacture (including design, development, and fabrication) telecommunications equipment and customer premises equipment, and to engage in research with respect to such equipment.

SEC. 3. AMENDMENTS TO THE COMMUNICATIONS ACT OF 1934.

Title II of the Communications Act of 1934 (47 U.S.C. 201 et seq.) is amended by adding at the end the following new section:

"REGULATION OF MANUFACTURING BY BELL TELEPHONE COMPANIES

"SEC. 227. (a) Subject to the requirements of this section and the regulations prescribed thereunder, a Bell Telephone Company, through an affiliate of that Company, notwithstanding any restriction or obligation imposed before the date of enactment of this section pursuant to the Modification of Final Judgment on the lines of business in which a Bell Telephone Company may engage, may manufacture and provide telecommunications equipment and manufacture customer premises equipment, except that neither a Bell Telephone Company nor any of its affiliates may engage in such manufacturing in conjunction with a Bell Telephone Company not so affiliated or any of its affiliates.

"(b) Any manufacturing or provision authorized under subsection (a) shall be conducted only through an affiliate (hereafter in this section referred to as a 'manufacturing affiliate') that is separate from any Bell Telephone Company.

"(c) The Commission shall prescribe regulations to ensure that—

"(1)(A) such manufacturing affiliate shall maintain books, records, and accounts separate from its affiliated Bell Telephone Company, that identify all transactions between the manufacturing affiliate and its affiliated Bell Telephone Company;

"(B) the Commission and the State Commissions that exercise regulatory authority over any Bell Telephone Company affiliated with such manufacturing affiliate, shall have access to the books, records, and accounts required to be prepared under subparagraph (A); and

"(C) such manufacturing affiliate shall, even if it is not a publicly held corporation, prepare financial statements which are in compliance with Federal financial reporting requirements for publicly held corporations, and file such statements with the Commission and the State Commissions that exercise regulatory authority over any Bell Telephone Company affiliated with such manufacturing affiliate, and make such statements available for public inspection;

"(2) consistent with the provisions of this section, neither a Bell Telephone Company nor any of its nonmanufacturing affiliates shall perform sales, advertising, installation, production, or maintenance operations for a manufacturing affiliate; except that institutional advertising, of a type not related to specific telecommunications equipment, carried out by the Bell Telephone Company or its affiliates shall be permitted if each party pays its pro rata share;

"(3)(A) such manufacturing affiliate shall conduct all of its manufacturing within the United States and, except as otherwise provided in this paragraph, all component parts of customer premises equipment manufactured by such affiliate, and all component parts of telecommunications equipment manufactured by such affiliate, shall have been manufactured within the United States;

"(B) such affiliate may use component parts manufactured outside the United States if—

"(i) such affiliate first makes a good faith effort to obtain equivalent component parts manufactured within the United States at reasonable prices, terms, and conditions; and

"(ii) for the aggregate of telecommunications equipment and customer premises equipment manufactured and sold in the United States by such affiliate in any calendar year, the cost of the components manufactured outside the United States contained in the equipment does not exceed 40 percent of the sales revenue derived from such equipment;

"(C) any such affiliate that uses component parts manufactured outside the United States in the manufacture of telecommunications equipment and customer premises equipment within the United States shall—

"(i) certify to the Commission that a good faith effort was made to obtain equivalent parts manufactured within the United States at reasonable prices, terms, and conditions, which certification shall be filed on a quarterly basis with the Commission and list component parts, by type, manufactured outside the United States; and

"(ii) certify to the Commission on an annual basis that for the aggregate of telecommunications equipment and customer premises equipment manufactured and sold in the United States by such affiliate in the previous calendar year, the cost of the components manufactured outside the United States contained in such equipment did not exceed the percentage specified in subparagraph (B)(ii) or adjusted in accordance with subparagraph (G);

"(D)(i) if the Commission determines, after reviewing the certification required in subparagraph (C)(i), that such affiliate failed to make the good faith effort required in subparagraph (B)(i) or, after reviewing the certification required in subparagraph (C)(ii), that such affiliate has exceeded the percentage specified in subparagraph (B)(ii), the Commission may impose penalties or forfeitures as provided for in title V of this Act;

"(ii) any supplier claiming to be damaged because a manufacturing affiliate failed to make the good faith effort required in subparagraph (B)(i) may make complaint to the Commission as provided for in section 208 of this Act, or may bring suit for the recovery of actual damages for which such supplier claims such affiliate may be liable under the provisions of this Act in any district court of the United States of competent jurisdiction;

"(E) the Commission, in consultation with the Secretary of Commerce, shall, on an annual basis, determine the cost of component parts manufactured outside the United States contained in all telecommunications equipment and customer premises equipment sold in the United States as a percentage of the revenues from sales of such equipment in the previous calendar year;

"(F) a manufacturing affiliate may use intellectual property created outside the United States in the manufacture of telecommunications equipment and customer premises equipment in the United States;

"(G) the Commission may not waive or alter the requirements of this subsection, except that the Commission, on an annual basis, shall adjust the percentage specified in subparagraph (B)(ii) to the percentage determined by the Commission, in consultation with the Secretary of Commerce, as directed in subparagraph (E);

"(4) no more than 90 percent of the equity of such manufacturing affiliate shall be owned by its affiliated Bell Telephone Company and any affiliates of that Bell Telephone Company;

"(5) any debt incurred by such manufacturing affiliate may not be issued by its affiliates, and such manufacturing affiliate shall be prohibited from incurring debt in a manner that would permit a creditor, on default, to have recourse to the assets of its affiliated Bell Telephone Company's telecommunications services business;

"(6) such manufacturing affiliate shall not be required to operate separately from the other affiliates of its affiliated Bell Telephone Company;

"(7) if an affiliate of a Bell Telephone Company becomes affiliated with a manufacturing entity, such affiliate shall be treated as a manufacturing affiliate of that Bell Telephone Company within the meaning of subsection (b) and shall comply with the requirements of this section;

"(8) such manufacturing affiliate shall make available, without discrimination or self-preference as to price, delivery, terms, or conditions, to all regulated local telephone exchange carriers, for use with the public telecommunications network, any telecommunications equipment, including software integral to such telecommunications equipment, including upgrades, manufactured by such affiliate so long as each such purchasing carrier—

"(A) does not either manufacture telecommunications equipment, or have a manufacturing affiliate which manufactures telecommunications equipment, or

"(B) agrees to make available, to the Bell Telephone Company affiliated with such manufacturing affiliate or any of the regulated local exchange telephone carrier affiliates of such Company, any telecommunications equipment, including software integral to such telecommunications equipment, including upgrades manufactured for use with the public telecommunications network by such purchasing carrier or by any entity or organization with which such purchasing carrier is affiliated;

"(9)(A) such manufacturing affiliate shall not discontinue or restrict sales to other regulated local telephone exchange carriers of any telecommunications equipment, including software integral to such telecommunications equipment, including upgrades, that such affiliate manufactures for sale as long as there is reasonable demand for the equipment by such carriers; except that such sales may be discontinued or restricted if such manufacturing affiliate demonstrates to the Commission that it is not making a profit, under a marginal cost standard implemented by the Commission, on the sale of such equipment;

"(B) in reaching a determination as to the existence of reasonable demand as referred to in subparagraph (A), the Commission shall within sixty days consider—

"(i) whether the continued manufacture of the equipment will be profitable;

"(ii) whether the equipment is functionally or technologically obsolete;

"(iii) whether the components necessary to manufacture the equipment continue to be available;

"(iv) whether alternatives to the equipment are available in the market; and

"(v) such other factors as the Commission deems necessary and proper;

"(10) Bell Telephone Companies shall, consistent with the antitrust laws, engage in joint network planning and design with other regulated local telephone exchange carriers operating in the same area of interest; except that no participant in such planning shall delay the introduction of new technology or the deployment of facilities to provide telecommunications services, and agreement with such other carriers shall not be required as a prerequisite for such introduction or deployment; and

"(11) Bell Telephone Companies shall provide, to other regulated local telephone exchange carriers operating in the same area of interest, timely information on the planned deployment of telecommunications equipment, including software integral to such telecommunications equipment, including upgrades;

"(d)(1) The Commission shall prescribe regulations to require that each Bell Telephone Company shall maintain and file with the Commission full and complete information with respect to the protocols and technical requirements for connection with and use of its telephone exchange service facilities. Such regulations shall require each such Company to report promptly to the Commission any material changes or planned changes to such protocols and requirements, and the schedule for implementation of such changes or planned changes.

"(2) A Bell Telephone Company shall not disclose to any of its affiliates any information required to be filed under paragraph (1) unless that information is immediately so filed.

"(3) The Commission may prescribe such additional regulations under this subsection as may be necessary to ensure that manufacturers in competition with a Bell Telephone Company's manufacturing affiliate have ready and equal access to the information required for such competition that such Company makes available to its manufacturing affiliate.

"(e) The Commission shall prescribe regulations requiring that any Bell Telephone Company which has an affiliate that engages in any manufacturing authorized by subsection (a) shall—

"(1) provide, to other manufacturers of telecommunications equipment and customer premises equipment, opportunities to sell such equipment to such Bell Telephone Company which are comparable to the opportunities which such Company provides to its affiliates;

"(2) not subsidize its manufacturing affiliate with revenues from its regulated telecommunications services; and

"(3) only purchase equipment from its manufacturing affiliate at the open market price.

"(f) A Bell Telephone Company and its affiliates may engage in close collaboration with any manufacturer of customer premises equipment or telecommunications equipment during the design and development of hardware, software, or combinations thereof relating to such equipment, consistent with subsection (e)(2).

"(g) The Commission may prescribe such additional rules and regulations as the Commission determines necessary to carry out the provisions of this section.

"(h)(1) For the purposes of administering and enforcing the provisions of this section and the regulations prescribed thereunder, the Commission shall have the same authority, power, and functions with respect to any Bell Telephone Company as the Commission has in administering and enforcing the provisions of this title with respect to any common carrier subject to this Act.

"(2) Any regulated local telephone exchange carrier injured by an act or omission of a Bell Telephone Company or its manufacturing affiliate which violates the requirements of paragraph (8) or (9) of subsection (c), or the Commission's regulations implementing such paragraphs, may initiate an action in a district court of the United States to recover the full amount of damages sustained in consequence of any such violation and obtain such orders from the court as are necessary to terminate existing violations and to prevent future violations; or such regulated local telephone exchange carrier may seek relief from the Commission pursuant to sections 206 through 209.

"(i) The authority of the Commission to prescribe regulations to carry out this section is effective on the date of enactment of this section. The Commission shall prescribe such regulations within one hundred and eighty days after such date of enactment, and the authority to engage in the manufacturing authorized in subsection (a) shall not take effect until regulations prescribed by the Commission under subsections (c), (d), and (e) are in effect.

"(j) Nothing in this section shall prohibit any Bell Telephone Company from engaging, directly or through any affiliate, in any manufacturing activity in which any Company or affiliate was authorized to engage on the date of enactment of this section.

"(k)(1) A Bell Telephone Company that manufactures or provides telecommunications equipment or manufactures customer premises equipment through an affiliate shall obtain and pay for an annual audit conducted by an independent auditor selected by and working at the direction of the State Commission of each State in which such Company provides local exchange service, to determine whether such Company has complied with this section and the regulations promulgated under this section, and particularly whether the Company has complied with the separate accounting requirements under subsection (c)(1).

"(2) The auditor described in paragraph (1) shall submit the results of such audit to the Commission and to the State Commission of each State in which the Company provides telephone exchange service. Any party may submit comments on the final audit report.

"(3) The audit required under paragraph (1) shall be conducted in accordance with procedures established by regulation by the State Commission of the State in which such Company provides local exchange service, including requirements that—

"(A) the independent auditors performing such audits are rotated to ensure their independence; and

"(B) each audit submitted to the Commission and to the State Commission is certified by the auditor responsible for conducting the audit.

"(4) The Commission shall periodically review and analyze the audits submitted to it under this subsection, and shall provide to the Congress every 2 years—

"(A) a report of its findings on the compliance of the Bell Telephone Companies with this section and the regulations promulgated hereunder; and

"(B) an analysis of the impact of such regulations on the affordability of local telephone exchange service.

"(5) For purposes of conducting audits and reviews under this subsection, an independent auditor, the Commission, and the State Commission shall have access to the financial accounts and records of each Bell Telephone Company and those of its affili-

ates (including affiliates described in paragraphs (6) and (7) of subsection (c)) necessary to verify transactions conducted with such Bell Telephone Company that are relevant to the specific activities permitted under this section and that are necessary to the State's regulation of telephone rates. Each State commission shall implement appropriate procedures to ensure the protection of any proprietary information submitted to it under this section.

"(i) As used in this section:

"(1) The term 'affiliate' means any organization or entity that, directly or indirectly, owns or controls, is owned or controlled by, or is under common ownership with a Bell Telephone Company. Such term includes any organization or entity (A) in which a Bell Telephone Company and any of its affiliates have an equity interest of greater than 10 percent, or a management interest of greater than 10 percent, or (B) in which a Bell Telephone Company and any of its affiliates have any other significant financial interest.

"(2) The term 'Bell Telephone Company' means those companies listed in appendix A of the Modification of Final Judgment, and includes any successor or assign of any such company, but does not include any affiliate of any such company.

"(3) The term 'customer premises equipment' means equipment employed on the premises of a person (other than a carrier) to originate, route, or terminate telecommunications.

"(4) The term 'manufacturing' has the same meaning as such term has in the Modification of Final Judgment as interpreted in United States v. Western Electric, Civil Action No. 82-0192 (United States District Court, District of Columbia) (filed December 3, 1987).

"(5) The term 'Modification of Final Judgment' means the decree entered August 24, 1982, in United States v. Western Electric, Civil Action No. 82-0192 (United States District Court, District of Columbia).

"(6) The term 'telecommunications' means the transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received, by means of an electromagnetic transmission medium, including all instrumentalities, facilities, apparatus, and services (including the collection, storage, forwarding, switching, and delivery of such information) essential to such transmission.

"(7) The term 'telecommunications equipment' means equipment, other than customer premises equipment, used by a carrier to provide telecommunications services.

"(8) The term 'telecommunications service' means the offering for hire of telecommunications facilities, or of telecommunications by means of such facilities.".

SEC. 4. ADDITIONAL AMENDMENT TO THE COMMUNICATIONS ACT OF 1934.

Section 220(d) of the Communications Act of 1934 (47 U.S.C. 220(d)) is amended by deleting "$6,000" and inserting in lieu thereof "$10,000".

SEC. 5. APPLICATION OF ANTITRUST LAWS.

Nothing in this Act shall be deemed to alter the application of Federal and State antitrust laws as interpreted by the respective courts

TITLE—I—GENERAL PROVISIONS

SEC. 101. SENSE OF THE SENATE REGARDING THE NATIONAL VICTORY PARADE FOR THE PERSIAN GULF WAR.

It is the sense of the Senate that any country—

(1) for which United States assistance is being withheld from obligation and expenditure pursuant to section 481(h)(5) of the Foreign Assistance Act of 1961; or

(2) which is listed by the Secretary of State under section 40(d) of the Arms Export Control Act or section 6(j) of the Export Administration Act of 1979 as a country the government of which has repeatedly provided support for acts of international terrorism,

should not be represented, either by diplomatic, military, or political officials, or by national images or symbols, at the victory parade scheduled to be held in Washington, District of Columbia on June 8, 1991, to celebrate the liberation of Kuwait and the victory of the United Nations coalition forces over Iraq.

Mr. HOLLINGS. I move to reconsider the vote.

Mr. DANFORTH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HOLLINGS. Mr. President, I take this opportunity to thank our distinguished staff. I can tell you they have worked around the clock and done yeomen's work, John Windhousen, Toni Cook, Linda Morgan, Jim Drewry, Loretta Dunn, and Kevin Curtin, the whole Commerce Committee staff over there, plus my own staff.

I want to thank our distinguished counterpart and former chairman, the distinguished Senator from Missouri [Mr. DANFORTH], Walter McCormick, of his staff, and others. We have had a bipartisan effort, as is obvious from the vote.

Mr. DANFORTH. Mr. President, I simply want to express my appreciation for the work of our chairman, Senator HOLLINGS. This has been a remarkable accomplishment. Many people have said for a number of years that we have to do something about the present state of affairs in our telephone industry where a Federal judge basically makes the decisions. We have now moved in the direction of Congress taking over the decisionmaking, which is exactly what should be the case.

This is a major accomplishment. I think that we are going to have some difficulties with the administration, and, hopefully, there can be some room for give with respect to the domestic-content provision.

I supported my chairman in this connection. I intend to continue to work with him as the bill progresses, and my hope is that we can end up with something that the President would be willing to sign.

MORNING BUSINESS

Mr. HOLLINGS. Mr. President, on behalf of the leadership, I ask unanimous consent there be a period for morning business with Senators permitted to speak therein.

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

ACCESS TO HEALTH CARE FOR ALL AMERICANS

Mr. KENNEDY. Mr. President, on a matter which was addressed earlier today by the majority leader and a group of Senators in advancing the cause of access to health care and effective cost containment, I noticed during the afternoon that there were negative comments from some of our colleagues about what I consider to be an excellent proposal that has now been introduced.

The majority leader indicated that it represented the joint effort of a number of Senators, building on the work that has been done by Members on both sides of the aisle, and he indicated during the course of his press conference that he was eager to work with all of those in this body and outside this body who are concerned, as he is, with the increasing costs in our health care systems.

We are facing a health care crisis. Health care is the fastest growing failing business in America. In 1970, the United States was spending $65 billion on health care. Now we are spending $650 billion a year. The best estimate is it will be $1 trillion 500 billion by the year 2000.

The time has come, Mr. President, for action. This public policy issue has been studied to death. Real people are hurting. The 10 million children in our society who have no coverage are hurting. Millions of workers without coverage are hurting. They work hard every day, 40 hours a week, 52 weeks of the year, and have no health insurance coverage. They're playing Russian roulette with their health. They are hurting. Sixty million more Americans have health insurance that even the Reagan administration said was inadequate. Approximately 100 million of our fellow citizens in this country of 250 million have inadequate coverage or no coverage at all.

Employers are paying too much today because they are also paying the bills for those who have no coverage. They're paying in the form of higher premiums, because other firms refuse to provide coverage. Workers in plants and factories all over this country are effectively paying the bill for charity care for other workers who are not covered.

We face increasing problems in dealing with AIDS and substance abuse, not just in urban areas, but in rural areas, as well. Our whole health care system is in a state of crisis. We do not have time to keep studying the issue and keep refusing to deal with it.

Senior citizens were hurting in the Depression, and with Franklin Roosevelt's leadership, we adopted Social Security. We did not wait for the various States to try to deal with that problem. In the 1960's, when we adopted Medicare, we were not saying: Let us wait to see what the States do. We had national leadership to deal with the

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