

minority ownership at all, to the extent we have female ownership at all, if we foreclose it and make that more difficult, then I fear we are doing a disservice to all of the American people who would benefit from the opportunity to share in the diversity of viewpoint, the diversity of voice, the diversity of opinion, the diversity of conversation, the diversity of perspective that is brought to this broadcast industry, which communicates information to all of us, by the presence of women and minorities in the field.

I listened to the majority leader a moment ago as he was speaking. I want to say this at the outset: I did not hear all of his comments, but I did hear some. One of the statements was the race counting game had gone too far. I daresay, if anything, that almost casts this debate in the wrong light altogether. No one is in favor of unfairness. No one wants to be unfair to white males. No one wants to be unfair to black males, black women, white women, Asian, Hispanic—you can go down the list and divide us up any number of ways. But the bottom line is we are all Americans. We are in this together and we will rise and we will sink as a Nation together. And to the extent we define ourselves as a community with coherent interests, with interests that come together, we will succeed as a Nation. We will not allow ourselves to be divided up and pitted against each other in this no-win, lose-lose game—I submit a cynical political game that suggests that race counting has any role in any of this.

That is not what affirmative action is about. I think Senator COHEN's remarks on this point were very well taken. Affirmative action is not about race counting. It is not about quotas. What it is about is the total community recognizing the value of opening up opportunity so the face of opportunity in America is everybody's face; so it is not just white males who are given broadcast spectrum, but now it is the face of black people, brown people, women, and all kinds of groups that were not previously included in the definition.

When we talked about the American dream 100 years ago, it had a particular meaning. It meant white male, period. I was reminded women in this country just got the vote 75 years ago. So even though an American of African descent—the emancipation happened over 100 years—as a woman, as an African-American woman, I still would not have been even able to vote until 75 years ago.

So the face of the American dream is changed. The face of the American dream now is a multiplicity of people. It is a multiplicity of faces. It is an inclusive face. It includes everybody. It includes everybody who subscribes to the ideals and the values that define us as Americans.

I submit that this debate about affirmative action goes to the heart of what we mean by who is included in

this American dream. It goes to the heart of whether or not opportunity is going to be open to all Americans or just some Americans; whether or not we are going to begin to try to undo and fix some of the persistent problems that we have in our society by providing some support and some help to those who have previously been excluded.

It is for that reason, again, I am very distressed by what happened in the committee this afternoon. I am very distressed by the assault on affirmative action. I am very distressed, frankly, by the tenor that this conversation has taken—happily, so far, outside of this Chamber. I hope here in the Senate we will have a more reasoned debate about what are the real issues here, and not allow ourselves to get separated and inflamed, and not allow for the hot button appeals to pass and prejudice to succeed.

I hope in this body we will take it upon ourselves to look at the facts and make our decisions based on reality and not myths, preconceptions, diversions, and misinformation; make our decision based on what is actually going on in our country and what direction do we want to take.

I think in Senator COHEN's remarks—and I would like to take a point there to make the next step and talk about the next point—he talked about people having a sense of opportunity, of being able to rise to the highest level of their ability.

Certainly, ability and merit and excellence are concepts that are important and dear to all of us. But the question becomes to what extent do those who feel they are denied inclusion—to what extent do we not exacerbate, make worse the hopelessness that besets all too many of our communities, that besets all too many of our people? To what extent do we not exacerbate the notion that you can rise just so far but you cannot go any further; the notion the glass ceiling is there, intact; that a woman can only go so far, that a minority can only go so far in maintaining the institutions and the systems that by their operation create whole communities of disaffection? By maintaining those institutions, I believe we buy into and build up and give succor to the hopelessness that is beginning to erode the very foundations of our national character.

I submit this debate is going to be one of those turning debates, one of those critical debates that will direct the future direction of our country as we go into the next millennium which, as you know, is only 5 years from now. As we go into this next century, the question before us today—whether it is in a debate as specific and as complex as 1071 and the operation of a section of the Tax Code, or if the debate is on something more general and straightforward that people can grasp onto—the question becomes, for this body, how shall we proceed in this debate? Shall we allow it to become the kind of

hot button race-baiting prejudicial kind of inflammatory debate that pits us against each other, inflames passions, distorts the debate, ignores the facts, and plays into myths and prejudices and fears? Or, instead of playing into people's fear, do we play to and direct our comments and our conversation and our decisions to the hopes of the American people that the American dream really is still alive; and that it lives not just for white males, but it lives for black males and black women and brown males and brown women and men and women of every stripe and description who call themselves Americans?

That is what this debate is about. I know the issue is going to come back to the floor time and time again. I am making extemporaneous remarks right now about it. But I was drawn to come to the floor this afternoon in large part in response to some of the things that were being said earlier.

I just submit to you that I hope that as we go down this road it will be a road we go down together and that we can appeal to, as Abraham Lincoln said, the "higher angels" of our nature and which address what is in the best interests of our country as a whole. And, therein, I think we will find a correct answer as to what to do about the issue of affirmative action.

Thank you.

Mr. FEINGOLD. Mr. President, let me first of all say that I am very glad coming down here I have the opportunity to hear the statements of both the Senator from Maine and the junior Senator from Illinois about the issue of affirmative action. It is again encouraging to see the U.S. Senate acting in a bipartisan manner to ask the questions that have to be asked about certain aspects of the so-called Republican contract that we are going to carefully examine the record of affirmative action and other such issues and make sure that in our haste to address some genuine public frustration that we do not destroy some of the things that have been done in the last 20 or 30 years that actually have helped people and made this country a fairer place.

So I appreciate that.

EMERGENCY SUPPLEMENTAL APPROPRIATIONS AND RESCIS- SIONS ACT

The Senate continued with the consideration of the bill.

Mr. FEINGOLD addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, thank you.

Mr. President, the pending business before us I assume is the Kassebaum amendment.

The PRESIDING OFFICER. The Senator is correct.

Mr. FEINGOLD. Mr. President, the purpose of the Kassebaum amendment is to overturn the President's Executive order saying in effect that Federal

dollars should not be used to encourage strikebreaking. That is what it is really about. I think it is only fair to remind everyone that this amendment obviously has nothing to do with the bill before us. What is this amendment about strikebreakers doing on a Department of Defense bill having to do with peacekeeping? None of us are completely pure in this category of offering amendments that are not completely relevant to the core of a bill. The germaneness rule here essentially does not exist in most instances and stands in stark contrast to the rule that I got used to in the Wisconsin State Senate and for 10 years we really did have a germaneness rule. You can actually prevent this kind of confusion.

I want to reiterate. Of course, this has happened before. But on this bill it seems extremely off the mark to try to address the issue of strikebreaking and the strikebreaker issue in the context of this bill which I thought was about readiness.

I thought the bill was about whether we are going to provide certain funds for our peacekeeping forces. I thought the bill was supposed to be about the identification of certain cuts within the Defense Department that would help pay for some other things that the Defense Department believes needs to be done both in this country and around the world. That is what I thought the bill was about.

So do not let anybody be fooling you here. The effort we are making here is not a filibuster again against the bill. Many of us who are objecting to this amendment think the bill has tremendous merit. There is a lot of merit to it. But it is a rather unique way to finance needed peacekeeping funds by finding other things in the Defense Department that maybe can be eliminated. It has a lot of fiscal sense behind it. But this is not an effort to kill the bill. Everyone in here knows that. But I am afraid some of the people who might be watching this would assume, given the reputation of the Senate for filibusters, that this is an effort to delay the process. In fact, it is just the opposite.

It is amendment offered by the Senator from Kansas that has slowed us down. Day after day is being wasted on an effort to embarrass the President on this issue that could have been used, either to move this bill through to deal with the some 40 amendments pending on the bill, and maybe we could even be on what I thought was the business at hand according to the majority. According to the majority in this body, we were going to pass that balanced budget amendment so we could get down to the nitty-gritty of identifying where the cuts would come from and make the cuts now. Time and again both sides said, sure, we can pass a balanced budget amendment or not, but that the real work is identifying where the cuts are and not just identifying them but coming out here on the floor of the Senate and voting to cut waste

in the Federal Government. Why is not that happening today? It is not happening today because we have this amendment before us that is completely extraneous to the deficit issue and that is intended to embarrass the President and that is intended to further drive a stake into the heart of the working people of this country.

I want to talk a little bit today about the merits of the issue. But before I do I hope we do not hear any complaints from the majority or the talk radio people about how the balanced budget amendment took up so much time. It did take time. It was a terribly important issue. It deserved to have that kind of consideration. I think the whole process was better for it. But what is happening here is that day after day we are arguing about a Federal Executive order about strikebreakers that is preventing us from getting on to the real work of identifying what must be eliminated from our Federal budget so we can have not just a balanced budget amendment, Mr. President, but a balanced budget, not necessarily waiting to the year 2002 but so that we can do it now.

In fact, it is one of the reasons I voted against the balanced budget amendment because it is an opportunity for people to say I am for balancing the budget but then talk about everything else in the world instead of getting down to the work of finding the cuts and implementing them. This amendment helps that process. Putting us off the track, putting us onto the effort to kick down, kick people who are already hurting in the labor movement, is a great way to stay away from those hard choices that we made in the 103d Congress and that the 104th Congress claims it intends to address. But so far we have seen none of the debate that is involved in reducing the Federal budget.

Sometimes I wonder if the Republicans in this body forgot that they won. This is the kind of amendment you bring up when you are in the minority. Say there is a bill coming up, and the bill has to pass—an appropriations bill. We know we have to do it. That is when you bring up these amendments to kind of put them off the track. But what you are doing is delaying your own agenda here. In the House they are moving much faster than you are here. I think generally that is not good. But in the case of this bill, what would be wrong with moving this issue forward and not getting sidetracked? You are slowing yourself down. You are slowing down the Republican contract for one specific aspect of the Republican contract which has to do with not just trying to prevent the use of permanent replacement workers or allow the use of permanent replacement workers but specifically to say it is OK to have Federal dollars flow to companies that use permanent replacement workers.

Mr. President, I hope everyone understands exactly what is going on here. It

is a completely extraneous amendment that does not have to do with this bill and has even less to do with the main business that this Congress should be addressing which is reducing the Federal deficit.

Mr. President, to discuss this amendment we must because it is the business before us. The effort to embarrass the President continues despite the failure of two cloture votes now to cut off debate.

Mr. President, last week I spoke at some length on the issue of the use of permanent replacement workers by employers during labor disputes. I had a chance to come to the floor and follow the Senator from Massachusetts in describing the history of the use of permanent replacement workers in my own State of Wisconsin, the border State of the Senator in the chair. As I indicated then, I was the author of legislation in Wisconsin that would have prohibited the use of permanent strikebreakers. And I had the chance years ago when I was still in the State senate to come to Washington and testify before a committee of the other body on behalf of the Federal law that has been proposed over the years because I do think in the end it is better that we have a Federal law banning the use of permanent replacement workers. We have not achieved that yet. That was killed last session by a filibuster. We had enough votes in both the Senate and the House and the President ready to sign the bill. It was killed by a Republican filibuster.

So our President, President Clinton, who is a supporter of the antistrikebreaker legislation, at least has done what he could do. The Executive order issued last week by the President is actually just a very modest step which would only say that employers who receive Federal contracts would be prohibited from engaging in this unfair practice. To me that is almost a disappointment. It is just a minimal requirement to impose upon those who want to do business with the Federal Government. But it is what the President can do. And I am very proud of him for having the nerve and the courage to make that Executive order.

To me those who would take Government money should be held to certain standards of fundamental fairness. That is why Presidents have in the past issued Executive orders directing Federal contractors to do things like maintain discriminatory-free workplaces and to take affirmative steps to eliminate discriminatory practices. There are a number of important issues raised by the debate around the use of permanent replacement workers. My friends in Wisconsin, who work so hard, describe them as strike breakers. At the core of this however, is really one central question, the question that goes to the heart of the whole debate on this amendment. The question is should workers have the right to use the strike as an economic voice during

times when negotiations with their employers break down? That is the question. I, of course, have answered in the affirmative. They must have that right to collectively bargain, the right to join together in a union to have any meaning at all.

Mr. President, let me examine this a little more closely in three areas. First, I want to talk a little bit about what other countries do with regard to the use of permanent replacement workers in the strike context. Secondly, I would like to turn to some of the comments of not political people but religious and community leaders that have strong moral feelings about the appropriateness of the use of permanent replacement workers. Finally, I would like to take a few minutes to illustrate yet a few more examples of the great harm and cruelty that can come from the abusive practice of using permanent replacement workers to resolve labor disputes.

First, turning to other countries. We ought to take a look, as some Senators have had us do, at what is done by other countries, what our international competitors do in this area. So often, when it comes to labor law or other laws having to do with health or safety, people say, let us look at this because we do not want to put American businesses at a disadvantage. That sometimes is a reason that people raise, that it is very legitimate for us not to pass legislation to protect our own people, saying it could hurt us competitively. But the senior Senator from Illinois, who has spoken on this issue very eloquently, has pointed out time and again that virtually all countries in the world that are involved in serious industrial and trade activity do not allow the use of permanent replacement workers.

I will give you a few examples from a report prepared by the Library of Congress in 1990. With the exception of Great Britain and some of the Canadian Provinces, the law in practice in all of the countries surveyed—Belgium, France, Germany, Greece, Italy, Japan, Netherlands, and Sweden—all prohibit employers from dismissing striking workers.

One example is France. French law does not allow the firing of workers during or because of a strike. Indeed, according to the first paragraph of article L.521-1 of the Labor Code, a strike is not a breach of contract. According to the third paragraph of the same article, any dismissal in violation of paragraph 1, which is the right to strike, is null and void. French law, as a consequence of this article, also prohibits the permanent replacement of striking workers. Moreover, article L.122-3 of the Labor Code specifically forbids the use of temporary replacements during a strike. French law regulates this issue to the point that even temporary workers hired before a strike cannot be used as replacements for permanent employees. Indeed, the

notion of replacement for strike purposes is simply forbidden by law.

So I hope nobody says that our efforts to compete with the French and African trade opportunities is going to be impaired by this Executive order. It will not, because they do not allow it. We do.

The same is true of Greece. The right to strike in Greece is guaranteed by the Constitution of 1975, as amended. Article 23 states that the right to strike could be exercised by lawfully established trade unions in order to protect and promote the financial and general labor interests of employees. The fundamental law that governs workers' freedom in general and the right to strike in particular is Law 1264/1982 on Democratization of the Syndicalistic Movement and the Establishment of Syndicalistic Freedom of Working People. In article 19 of this law, only trade unions have a right to declare a strike to support economic and labor interests. Article 22 of Law 1264 explicitly prohibits the hiring of replacement workers. Specifically, it states: "During a legal strike, the hiring of strikebreakers is prohibited. The lockout is also prohibited."

Consequently, Mr. President, in Greece, a lawful strike does not bring about a breach of an employment contract. As in France, the contract is merely suspended during a strike, and the employer does not have the right to either dismiss the workers or hire replacement workers. That European nation does not permit permanent replacement workers.

Let us turn to another country nearby—Italy. Article 40 of the Italian Constitution recognizes the right to strike. In the absence of any legislative regulation expressly called for by the Constitution, the right is recognized in its broadest form and is intended to be used for the improvement of working and economic conditions. As a consequence of this recognition, a strike is considered as a cause of legitimate suspension of the individual employment relationship, with consequent suspension of compensation. The Italian law says a strike does not empower the employer to dismiss the strikers or permanently hire other workers to replace them.

Furthermore, in Italy, the right to strike finds strong, indirect protection under the provisions of Decree No. 300 of 1970, known as the "Workers' Statute." Article 28 of this decree punishes employers who carry out any actions aimed at preventing or limiting a worker's free exercise of union activities, as well as his or her right to strike. Article 15 of the decree nullifies any act or pact aimed at dismissing or discriminating against or hurting a worker in any way because of his union membership or because of his participation in a strike.

Finally, let me turn to another part of the world of our great competitors in international trade, if not our ultimate competitor—Japan. The senior

Senator from Illinois, not just during this debate but in previous debates, has pointed out time and again that Japanese companies cannot use permanent replacement workers and strikebreakers in Japan. But, apparently, companies owned by the Japanese in this country have gone ahead and done that to break strikes. That is a great irony and unfortunate irony of the current state of our law.

Looking at the Japanese law, article 7, paragraph 1, of the Labor Union Law of Japan provides that:

The employer shall not engage in the following practices: 1) discharge or show discriminatory treatment towards a worker by reason of his being a member of a labor union or having tried to join or organize a labor union or having performed an appropriate act of a labor union. . . .

These last few words in the Japanese law, the words "an appropriate act of a labor union" are construed under Japanese law to include acts arising from collective bargaining with the employer, such as strikes, picketing, and so on. Therefore, under Japanese law, as with the other countries I mentioned, it is unlawful for an employer to discharge a striking employee.

The validity of the above provisions was upheld by the Supreme Court in that country, which stated that since the prohibitory clause as set forth in article 7, paragraph 1, of the Labor Union Law originated from article 28 of the Constitution and was intended, according to the court, to guarantee the workers' right to organize and to bargain collectively, and therefore any acts on the part of the employer done against the above provision is illegal per se.

For that reason, I believe it is fair to say that the use of strikebreakers, permanent replacement workers, would, of course, also be illegal under Japanese law.

So I hope we do not hear too much argument that our competitive position is about to suffer if we do not join the rest of the industrialized countries in the world in saying that the use of permanent replacement workers is unfair labor practice, that it is harsh and the unfair to people who have chosen to join together in a labor union.

Having mentioned some of the other countries' positions on this, let me turn to a completely different angle on this issue—some of the comments of some religious and community leaders, who are not addressing this issue because they intend to run for office, who are not addressing this issue because they like to always get into the political fray. I assume they address the issue because they have a responsibility to reflect and think and talk about what is fair and moral conduct in this society. What is the way one human being should treat another, I think, would be the perspective of the people I am about to discuss.

Mr. President, reviewing support for legislation prohibiting permanent replacement workers, I was struck by the

number of religious and community leaders who agreed that no company—and certainly not the Federal Government—should engage in conduct that would promote the use of strikebreakers. The Most Reverend Frank Rodimer, bishop of Paterson, NJ, had this to say on behalf of the U.S. Catholic Conference in testimony in 1991:

The role of unions in promoting the dignity of work and of workers is very important in Catholic teaching. In the words of Pope John Paul II, through labor unions workers can “not only have more, but be more.” Rooted in the basic human right to freedom of association, the right to organize unions and to bargain collectively remains essential in order to prevent the exploitation of workers and to defend the human person as more than just a factor in production. For one hundred years the Church has called on governments to respect and defend labor unions in their essential roles in the struggle for justice in the workplace and as building blocks for freedom and democracy.

He continues:

Mr. Chairman, an essential tool for unions in pursuing the just rights of their members is the possibility of a strike; without the threat of a strike unions would be next to powerless to resist unjust demands by employers. Without the right to strike, workers come to the bargaining table at a serious disadvantage, facing employers who are holding most of the cards. This relative weakness of workers in a market economy is the reason that Catholic teaching supports the legitimacy of the resort to a strike when this is the only available means to obtain justice. The right to strike has not always been used wisely; nor are unions above criticism, but neither the corruption that has plagued some—not all—unions nor the violence associated with some—not all—strikes can justify the denial nor the erosion of workers basic rights.

The bishop continues:

Forty years ago when I become a priest it would have been unthinkable for an employer in my community to respond to a strike by hiring permanent replacements. I am told that because of a Supreme Court decision in 1938 it would have been legal to do so, but in those days employers knew better. Labor unions represented a large proportion of workers, and union values permeated the community. In those days, solidarity was not the name of a union in Poland but a working principle in American communities.

He continues:

However, economic restructuring and social change have undermined the cohesiveness of our communities, and devotion to the common good is often sacrificed in pursuit of personal gain. The painful recessions of the 70's and the relentless individualism of the 80's have left many without either the financial cushion or the community connections to ride out strikes or prolonged unemployment. In such an atmosphere, some employers feel free to use strikes as an opportunity to get rid of the union and collective bargaining and their union workforce. I know many employers who wouldn't do this, but, unfortunately there are those that have done so and others that are open to it.

The results have been predictable and damaging. Not only have unions been weakened in their ability to defend the rights of workers, but communities have experienced savage struggles, with neighborhoods in turmoil, families divided and workers without hope. The promise of permanent employment made to the replacement workers becomes

an impediment to settling the strike, and negotiations are stymied. The victims are the original workers and their families who often have no place else to go and even the replacement workers who are later discharged when the business closes because of the damage of a prolonged strike. In some places, whole communities suffer wounds that won't heal for generations.

Mr. President, I am reading from the bishop's comments, but I would just say that I, too, in my work have had a chance to see whole communities wounded and damaged in Wisconsin, places like De Pere, WI, by the use of permanent replacement workers.

Returning to the comments:

When employers are allowed to offer permanent jobs to strikebreakers, strikers lose their jobs. It's that simple. If workers lose their jobs, what does it mean to have a right to strike? If there's no effective right to strike, what does it mean to have a right to organize?

Human dignity is clearly threatened in our country. The evidence is visible on our streets and in our shelters where a growing number of people are forced to live even though they work every day. In our cities and in our rural areas throughout this country working people are homeless because their wages have fallen so far below the cost of housing. Recent immigrants and single mothers, newcomers to the labor force and those least likely to have union representation, are mired in poverty.

Bishop Rodimer concluded:

The right to strike without fear of reprisal is fundamental to a democratic society. The continued weakening of worker organizations is a serious threat to our social fabric. I think we have to decide whether we will be a country where workers' rights are totally dependent on the good will of employers or whether we will be a country where the dignity of work and the rights of workers are protected by the law of the land.

I think this was an eloquent statement by the bishop that gives us some guidance about how appropriate this amendment before us is today.

Very briefly, here is what some other national religious leaders have said.

From the United Methodist Church, Council of Bishops and General Board of Church and Society, this statement:

Since the early years of the trade union movement, Catholic, Orthodox Christian, Protestant and Jewish leaders have supported collective bargaining as a democratic way to settle differences in the workplace. Permanent replacement of strikers upsets the balance of power critical for achieving peaceful, negotiated settlements between labor and management. As a result, both collective bargaining and the democratic values that created this nation are under attack.

From the Christian Church—Disciples of Christ—Department of Church and Society, Division of Homeland and Ministries, the following:

The record is clear that major religious groups in this country for many years have supported workers' rights against abusive tactics and treatment by employers.

We deplore the tactics of “permanent replacement” and we urgently call for new federal legislation that will protect workers from such tactics.

Mr. President, from Jewish organizations, the National Council of Jewish Women has said: “The practice of hir-

ing permanent replacement workers has had a chilling effect on collective bargaining. The legislation currently under consideration by Congress”—referring, I am sure, to S. 5 of last session and similar bills—“would help restore the balance between labor and management * * *”

From the Evangelical Lutheran Church in America, Reference and Counsel Committee, a resolution which they passed which “calls for an end to recriminations against workers who participate in strikes, and calls upon the appropriate churchwide units, synods, congregations, and members to support legislation that would strengthen the viability of negotiated settlements and prevent”—not slow down, but prevent—“the permanent replacement of striking workers.”

Mr. President, not only in other countries but from some of our leading religious leaders and leading religious denominations in this country, not just my own words, but words of condemnation for the cruelty and harshness and immorality of throwing people out of their jobs permanently when they have exercised their legitimate right to strike.

Mr. President, I would like to turn now, third, to just add a few moments of real-life situations, concrete examples, of where workers have been forced to pay dearly for asserting their legal right to strike when collective bargaining efforts have failed.

Naturally, I begin with one from my own State of Wisconsin, one that I recall to have been very painful for the whole community of Racine, WI, and, of course, especially for the working families of that area.

I already talked about similar incidents in De Pere, WI, near Green Bay, and Cudahy, WI, near Milwaukee, and the area near my own home in southern Wisconsin, in towns like Madison, Stoughton, and Janesville.

But this is about Racine, WI, where the Ladies' Garment Workers Local 187 had not had a strike for 50 years at Rainfair, Inc., a manufacturer of protective clothing at Racine, WI. That, unfortunately, changed on June 20, 1991, when the workers did walk out over management demands that seemed designed to actually force a strike.

It appeared to the workers not just that they needed to go on strike, but that somebody was pushing them, shoving them, trying to get them to go out on strike.

The company had demanded the health insurance copayments more than double, and offered the low-wage workers only a 15-cents-an-hour increase over a 3-year period.

Unfortunately, and not surprisingly in this new era of permanent replacement workers, soon after the strike began, Rainfair began to hire permanent replacements, and seemed bound and determined to break the union.

The workers, most of them women, many of them single mothers, working

single mothers—not single mothers on welfare, but working single mothers—held out, with virtually no one crossing the picket line.

I recall that five strikers joined a protest fast. Two of them went 35 days with no food.

The union launched a nationwide boycott of the protective gear sold to many union members, including police officers, firefighters, construction, postal and chemical workers.

But the presence of these permanent replacement workers did not help resolve the dispute. It greatly prolonged the dispute.

The primary issue soon became whether there would be an opportunity to return to work for all of the strikers. The issue divided the community and embittered once amicable labor-management relations.

Finally, the Rainfair Co., under pressure from the boycott and the national attention drawn to it by the fast, finally agreed to a new contract on December 3, 1991. To enable all strikers to return, the workers agreed to work 6-hour days temporarily.

But obviously, the situation was made worse by the use of permanent replacement workers, not better.

Another example, having to do with the General Dynamics Corp. In the summer of 1987, 3,500 machinists in San Diego were forced to strike in a division of General Dynamics Corp. when the aerospace firm demanded cutbacks in medical benefits and seniority rights.

Even before the final strike vote was taken, General Dynamics was threatening the members of IAM Local 1125, issuing handbills that told workers in advance that the intent of the company was to permanently replace them if they struck, and instructing union members on how to withdraw from the union. They were trying to undercut the union in advance.

During the second week of the strike, the company carried out its threat and resorted to scare tactics and coercion, cutting off workers' health benefits and pressuring union members to cross picket lines.

Those workers who did return to their jobs were directed to call IAM members at home, reminding them of the company's threat that they were going to be permanently replaced.

After the strike was finally settled, nearly 700 union members had, in fact, been permanently replaced. They were forced to wait on a recall list for a year or more just for a chance at a job that they were supposed to have in the first place. During that time, IAM members exhausted their savings, lost their homes, cars, and sometimes their families, as they struggled desperately to help each other out.

It was also a heartbreaking story of a woman from Indiana having to do with a company called Arvin Industries. One of the statements made was, "I always felt obligated to do a good job. I thought that honesty and obligation

were a good way to live my life, but now I'm not sure. That company robbed me."

She said of the workers, "I look at the replacement workers and I wonder how they can feel good about taking our jobs. I try to put aside my feelings, but it's hard."

That is the status of Marcina Stapleton, for whom being permanently replaced brought bankruptcy and forced her daughter out of college.

The single mother of two was permanently replaced when Electrical Workers Local 1331 struck Arvin Industries in Columbus, IN. She had worked 6 years as a press operator. Even though the strike was settled in 7 months she was not called back for 17 months.

"It was hard making it" through those months, she said. Her only income was a \$200 a month in child support and whatever she could earn from odd jobs. She had rent payments of \$325 a month, car payments, utilities, college costs for her daughter, and it all proved to be too much.

Her daughter had to drop out of school and Stapleton declared bankruptcy. She said, "I am not proud of it but it was the only way out."

But the biggest toll was the emotional strain it put on her and her family. She felt the pressure of bills, including \$2,300 in back rent, and the relationship with her children suffered from the strain. The children were fighting with each other and her teenage son ended up in counseling.

She went back to work in October 1990, making \$8.80 an hour and paying \$9 a week for health insurance. Before she went on strike she made \$11.57 an hour with \$2.25 an hour incentive bonus and employer-paid insurance, complete.

She said, "I had to go back into work, I have to keep living." But it is not easy to work alongside people who benefited from her pain. "What I did was the right thing. I would do it again if I had to," she said.

So, Mr. President, I assure you I could continue to read descriptions of these heartbreaking real life stories. I am tempted to do so. I may be back to do so later. I think at least for now the point has been made that these are real human examples and real human tragedies that are caused by the heartless practice and abuse of the use of striker replacement.

This is not, as the Senator from Massachusetts has pointed out time and again, just a dry academic argument about labor law. This is about people who simply want the opportunity to make a decent living and to be paid fairly and not be thrown out of their jobs because on occasion they may have to use their legitimate right to strike.

This is not just a debate about a Federal order from the Executive. This is a debate about whether this country cares about American workers. Whether we are prepared to stand by and watch the tremendous gains accom-

plished to be eroded by this kind of cruel practice aimed at breaking the backs of workers who exercise their right to engage in collective labor efforts and to strike when negotiations fail.

Mr. President, I would like to conclude shortly, but in doing so I would like to quote from an article recently written by the new president of our Wisconsin AFL-CIO, Mr. David Newby. David wrote:

Let's cut through the rhetoric to the central issue: What is a strike? It is a situation where workers voluntarily leave their jobs—simply walk away—because they can't agree with their employer on a contract covering wages, working conditions, health insurance, or pension? Or is it that workers retain their jobs but temporarily withhold their labor until they and the employer come to an agreement?

Which is it? Just walking away or a legitimate part of the collective bargaining agreement, he was asking. Dave Newby says:

The distinction is fundamental.

The anti-union crowd means that workers have no bargaining power at all. As long as management can find others to work for whatever they offer (not hard to do when decent paying jobs are so scarce), they have no incentive to bargain serious with a union. And without strong unions that can bargain on equal terms with management, we will continue to see workers' wages fall and good paying jobs disappear.

In the workplace, a "right" means nothing if you can be fired (or permanently replaced) for exercising it.

Mr. President, David Newby says that.

If the right to strike means anything at all, it has to mean you can't be fired for striking. You lose your paycheck, but you don't lose your job. Win, lose, or draw, workers must have the right to return to their jobs when a strike is over.

Mr. Newby says:

Workers don't strike for frivolous reasons. A strike is an action of last resort. Workers don't strike in order to bankrupt or close down the companies they have worked for: They realize better than anyone that their companies need to be profitable in order to have jobs at good wages.

The issue for workers is simply getting their fair share and having the effective right to strike for their fair share when management won't voluntarily grant it.

During the 1950's and 1960's, employers almost never used "permanent replacements during strikes"—temporaries, yes; permanent replacements, no. Both business and community values held that the permanent replacement of workers and strikers was abhorrent.

That is the way people felt, Mr. Newby points out.

That changed 15 to 20 years ago. Many employers decided to destroy unions instead of bargaining with them. Indeed, this vicious management practice is becoming even more common. In a recent Congressional General Accounting Office survey, 35 percent of CEO's said they would use permanent replacement strikers during a strike; 17 percent reported actually doing so.

Mr. Newby concludes:

It's time that American workers had the same rights and protections that workers have in the industrialized countries that are

our main competitors and trading partners—countries such as Germany, Japan, and Canada. We're tired of being second-class citizens in the industrial world of global competition.

Mr. President, I don't think any statement could have pulled together these themes better than Mr. Newby's. The theme of competition internationally, the theme of what religious and communities leaders have to say about this practice, and the theme of the actual heartbreaking stories of what happens to the people in these communities when their jobs are ripped away from them simply because they are trying to exercise their right to strike.

It is time that American workers have the same rights and protections that workers have in the industrialized countries that are our main international competitors and trading partners. American workers should not be second-class citizens in the industrial world of global competition.

The President's Executive order is only a small step in the right direction. We ought to provide these protections against permanent replacement workers for all Americans, but at a minimum, we should uphold President Clinton's action to provide these protections for those employed by Federal contractors.

Mr. KENNEDY. Will the Senator yield?

Mr. FEINGOLD. I yield.

Mr. KENNEDY. Mr. President, I want to commend my friend and colleague from Wisconsin for an excellent presentation. This presentation was, I thought, one of the most thoughtful and comprehensive reviews of the significance of the Kassebaum amendment and what its implications would be in the real world.

We have heard a great deal of speeches about Executive orders, the power of the President, whether this Executive order was issued to benefit a special interest. But I think the Senator has in a very comprehensive and thoughtful way provided an insight about what is really before the Senate in terms of the people of his State. I just want to commend him and thank him for his thoughtfulness and for his insight in analyzing this issue and for sharing with the Senate a superb presentation on what is a very, very important issue.

When this amendment was initially proposed, it was really what I would call a seat-of-the-pants amendment. The President signed an Executive order, and the ink was not even dry when there was an amendment to try to undermine what the President was attempting to do.

I hope the American people have gained an insight into the human dimension of this debate. If they have, it is because of the presentation of the Senator from Wisconsin. I am very grateful to him for his presentation and, most importantly, I think our colleagues will be if they take the time to

read and study this superb speech. I thank the Senator.

Mr. FEINGOLD. Mr. President, I would just like to thank the Senator from Massachusetts and say he has truly been an inspiration on this issue and during this debate. Not only has he spent a lot of time out here debating the amendment, trying to defeat it, but he has brought passion to the issue that it deserves.

It is an issue that should involve passion. It is an issue that should involve condemnation and that should bring forth the human element, which the Senator from Massachusetts has done so well.

I would just like to reiterate, this amendment is slowing down the process in the Senate. It is not helping us get our work done; it is hurting us getting our work done. We have no choice but to fight it because we believe it is off the point and it is fundamentally damaging to the very families that we have based our careers on and trying to fight for.

So it can be ended right away if this amendment is taken back. We can get back to the Department of Defense bill, but that is not the choice that the majority has made.

I am eager to work with the majority on a number of issues, including even some that are in the Republican contract—some. But when it comes to this kind of conduct suggesting that Federal dollars should be used to break unions and break the families that are part of them, we will fight and we will resist such a harsh verdict for the American people.

So, again, I thank the Senator from Massachusetts for his kind comments but, more importantly, for his strong leadership on this issue.

I yield the floor, Mr. President.

Mr. DODD addressed the Chair.

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

MEASURES PLACED ON THE CALENDAR—H.R. 988 AND H.R. 956

Mr. DODD. Mr. President, I understand there are two bills at the desk that are due to be read a second time.

The PRESIDING OFFICER. The Senator is correct. The clerk will read the first bill for the second time.

The bill clerk read as follows:

A bill (H.R. 988) to reform the Federal civil justice system.

Mr. DODD. Mr. President, I object to further proceedings on the bill at this time.

The PRESIDING OFFICER. Pursuant to rule XIV, the bill will be placed on the calendar.

The clerk will now read the second bill for the second time.

The bill clerk read as follows:

A bill (H.R. 956) to establish legal standards and procedures for product liability litigation, and for other purposes.

Mr. DODD. Mr. President, I respectfully object to further proceedings on that bill at this time as well.

The PRESIDING OFFICER. Pursuant to rule XIV, the bill will be placed on the calendar.

EMERGENCY SUPPLEMENTAL APPROPRIATIONS AND RESCIS-SIONS ACT

The Senate continued with the consideration of the bill.

Mr. DODD addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, I thank you. Those are procedural matters we just dealt with in order to clean up some business on the floor.

Quickly, before my colleague from Wisconsin leaves the floor, let me join in the comments of my colleague from Massachusetts. I want to commend Senator FEINGOLD for a very, very thoughtful set of remarks regarding the cloture motion on the Kassebaum amendment. It is an historical perspective that is not something we do with great frequency around here, but it is always nice to have a sense of history as to why we are in this particular debate and what has happened over the last number of decades that brought us to this particular debate when it comes to the issue of permanent replacements for strikers.

I just think he has added immeasurably to the knowledge base of this discussion and debate, and I think if Members do read it, particularly those who may be unclear in their own minds about whether or not we are on the right track with insisting that this Executive order issued by the President be given a chance to proceed, they will be enriched as a result of reading his remarks. I commend him for them.

Mr. President, as well, I commend my colleague from Massachusetts who, once again, is taking a very strong leadership position on a matter that many of us care very, very strongly about, and I rise, as well, today in opposition to the motion to invoke cloture on the Kassebaum amendment.

Throughout much of the 20th century, economic growth broadly benefited Americans of all income levels. We grew together and an expanding economy meant better jobs for everyone.

I will point out, Mr. President, in reading some history of the early part of World War II the other evening, I was shocked—maybe we should not be if we read a little more history—but shocked to discover that in 1940 in this country, which is not that long ago—there are many people working today who were at work in 1940 in this country—one-half of all the adult males in the United States in 1940 had an annual income of \$1,000 a year; two-thirds of all working women outside the home had an annual income of \$1,000 a year; one-third of all the homes in this country roughly had no indoor plumbing to