A recent case study from Alaska is illustrative. Five months ago, Alaska increased its cigarette tax from 29 cents to one dollar. From all we know about nicotine addiction, the resulting decrease in sales cannot be explained by sudden cessation. Rather, it appears that legal sales were replaced in part by black market cigarettes. The Alaskan legislature is considering rolling back some of the tobacco taxes.

With respect to the issue of contraband the AGs' letter says:

As law enforcement officials of the states, we are also concerned about the danger of creating a contraband market for tobacco products. Our children will not be helped by creating a new product line for organized crime, nor by providing a new entry market for drug dealers. Additionally, the adverse health consequences of smoking cigarettes produced in unregulated foreign or clandestine markets are likely to be even more significant than cigarettes produced by the existing U.S. companies . . .

The letter from the AGs notes that the cigarette contraband problem is already a $1 billion nationally. For example, the AGs provide an estimate that in the state of California—which raised its state tobacco tax in 1988 from 18 cents to 35 cents a pack—that today between 17% and 23% are smuggled. That's about 1 in every 5 cigarettes.

The AG's letter goes on to say:

There is a definite correlation between tax rates and the level of smuggling. For many years, the differential in tax rates on tobacco taxes was mainly an interstate problem with contraband products being smuggled into those states with the highest tax rates. The problem has now reached international proportions. At first, popular American brands were smuggled into other countries. We are now seeing that as tobacco taxes rise nationwide, foreign manufactured cigarettes and other products are being smuggled into the United States.

I have also received letters from a number of law enforcement organizations, whose thousands of members will be expected to provide the first line of defense against these smugglers. These law enforcement officers are extremely apprehensive that passage of this legislation will precipitate the emergence of a thriving black market in cigarettes, posing huge problems for law enforcement at every level. They say the Commerce bill, in particular, will inevitably lead to the creation of a massive black market, giving organized crime a new line of business and undermining not only respect for the rule of law, but also the real goal of the legislation, preventing underage tobacco use.

I might also add that one of the most frightening outcomes of a new black market would be the likelihood that children will find it easier than ever to purchase tobacco products.

One of government's principal responsibilities is to help families and communities keep children from smoking. A large, lucrative black market could have the unintended consequences of making parents' job harder.

It is not too hard to envision unregulated cigarettes being sold on literally every street corner.

In response to this concern we have been told by the Administration not to worry because the system contemplated by the Commerce Committee bill is a closed system.

When our colleague from California, Senator FEINSTEIN, asked a series of questions about this black market she was repeatedly told about this purported closed system.

I believe that Senator FEINSTEIN shares my concern about the government's ability to design a ''closed system,'' given our experience with guarding the nation's borders and safeguarding our children in the costly and never-ending battle against illicit drugs.

I share Senator's FEINSTEIN's pointed remarks on this issue because I, too, simply do not believe that this closed system will prove so easy to implement.

It seems to me that the real question for policymakers is this. Given these facts, how can we shape a comprehensive national tobacco control strategy that can help prevent the next generation of young Americans from choosing to use tobacco and help those already addicted to stop?

In my view, most of the essential elements for answering this question can be found in the proposed global tobacco settlement announced last June 20th.

In return for funding a comprehensive anti-tobacco education and cessation program with an unprecedented payment of $368.5 billion spread over 25 years, under the agreement the industry would be granted a measure of financial certainty and predictability by settling a series of pending lawsuits.

Now, almost 11 months after that settlement was proposed, it still holds forth the best model for comprehensive legislation which can be enacted this year.

It contains the limited liability provisions which are necessary to evoke tobacco industry compliance with the program.

The President's most senior representatives have said, both publicly and privately, that they would not oppose some version of those provisions in a bill which was otherwise acceptable. It is not the breaking point some assert it to be.

The AGs' proposal also avoids some of the pitfalls inherent in legislation currently being discussed. For example, it will pass Constitutional scrutiny.

At some point, you have to stand up for some principles like the First Amendment's protection of commercial speech—a principle that, according to virtually every constitutional law expert that has testified before the Judiciary Committee, will be subject to court intervention if advertising and promotion restrictions of tobacco products are written into a federal statute.

For example, noted First Amendment practitioner Floyd Abrams has stated that attempting to codify the existing FDA rule—currently in held in abeyance pending further judicial proceedings in the Fourth Circuit Court of Appeals, would run afoul of First Amendment protection.

By virtually insisting that the Commerce Committee codify the FDA rule, the Administration is risking a protracted Constitutional battle over advertising provisions that industry will voluntary go far beyond.

Still others point out that, absent industry agreement by contract and consent decree, it will be unconstitutional to require so-called industry lookback penalties if certain tobacco reduction targets are not met.

Mr. President, these are issues that concern me very much.

They are issues which merit serious study, and then concerted action, but they should not be stumbling blocks to enactment of a final bill.

I am alarmed.

I see the sands racing through the hourglass as we move toward adjournment, but I do not see consensus emerging on the shape of tobacco legislation.

Indeed, I see the Congress increasingly polarized, as members race into either one of two camps: the ''keep-upping-the-ante'' faction, those who will ''pile on'' any punitive bill, or the ''minimalist approach'' contingent.

The result of this polarity is a paralysis which cannot be breached until we realize we are jeopardizing our effectiveness through politicization.

Surely there is a middle ground, a basis for legislation which focuses on our real target—weaning a generation of kids off of nicotine—not on the politics of punishment.

These political games not only disappoint those we represent, but also, as I have outlined, punish them as well.

We owe our kids, and we owe their parents, hard-working Americans in every state, so much, much more.

RELEASE OF WINDOWS 98

Mr. HATCH. Mr. President, I am told that this afternoon in New York City Bill Gates and a number of other executives from throughout the computer and software industries will be holding a press conference urging law enforcement officials not to interfere with the release of Windows 98.

I certainly do not begrudge Mr. Gates or others in the industry to make their views known. That is what makes our democracy work. Indeed, I would like nothing more than to see more enlightened debate on this terribly important policy issue. But I cannot help but wonder how many of these executives are on that stage because they truly want to be. It strikes me as curious that it was only after calls from Microsoft that many of these individuals saw fit to sign letters and make public appearances. Indeed, I have been told that some executives in fact hope to see the Justice Department pursue further its case against Microsoft, but

have chosen to join Mr. Gates on that stage today because they feel they have little choice but do so in order not to jeopardize their relationship with the industry's most powerful and important player. I understand perfectly well that no one would publicly admit as much, but, given recent developments, I do believe it is a question worth considering.

But, I also think it is timely to review where we stand today as the Justice Department considers whether to bring a broader suit alleging anti-competitive or monopolistic practices by Microsoft.

I first raised the question of Microsoft's seemingly exclusionary licensing practices last November. While we are not privy to all of the licensing and other practices the Justice Department has been scrutinizing, over the past few months a number of specific practices have come to light. In particular, we have learned that Microsoft not only tied the shipment of its browser, Internet Explorer, to its monopoly operating system, Windows, but also engaged in a series of licensing practices with respect to computer makers, Internet Service Providers, and Internet Content Providers which appear designed not to serve consumers but rather to exclude competing browser companies from the marketplace. For a company with a monopoly in the personal computer operating system market—and nobody other than Microsoft would dispute that the firm has monopoly power—to use its monopoly power to exclude potential rivals clearly raises serious antitrust concerns.

Let me point out that such seemingly predatory and exclusionary practices raise concerns for even the most conservative, free-market antitrust thinkers. Judge Robert Bork, one of the most brilliant and highly respected conservative antitrust thinkers, and author of the renowned ''Antitrust Paradox,'' just yesterday explained in The New York Times why even he is troubled by what he has learned of Microsoft's practices. As Judge Bork wrote:

> [w]hen a monopolist employs practices and makes agreements that exclude competitors and does so without the justification that the practices and agreements benefit consumers, the company is guilty . . . of an attempt to monopolize in violation of Section 2 of the Sherman Act. When its own documents display a clear intent to monopolize through such means, the case is cold.

I ask unanimous consent that this article 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 4, 1998]

WHAT ANTITRUST IS ALL ABOUT

(By Robert H. Bork)

WASHINGTON.—Rarely does a prospective antitrust case roil public passion. But since it became known that I represent a company urging the Justice Department to challenge certain of Microsoft's business practices, my mail has certainly livened up. One letter writer complained that I had sold my ''sole.'' His spelling aside, that writer was at least kinder than the one who labeled me senile.

There seems to be a widespread impression that the Microsoft controversy should be resolved by an ideological litmus test: liberals are bent on punishing success, and conservatives must defend Bill Gates' company from any application of the antitrust laws. But the question is not one of politics or ideology; it is one of law and economics. And that is why an outspoken free marketeer like me can be found arguing against Microsoft.

Indeed, in Congress and among the players, liberals and conservatives, Democrats and Republicans are found on each side of the controversy. What, then, is the complaint of the many companies that are urging action by the Justice Department?

These companies—customers as well as rivals of Microsoft—challenge some of Microsoft's business practices as predatory, intended to preserve the company's monopoly of personal computer operating systems through practices that exclude or severely hinder rivals but do not benefit consumers. Microsoft's effort to maintain and expand a market dominance that now stands at 90 to 95 percent violates traditional antitrust principles. Specifically, it violates Section 2 of the Sherman Act, territory visited decades ago by the Supreme Court.

The case, from 1951, was Lorain Journal Company v. United States, and the Court's ruling is directly on point. The Journal, in the Court's description of the case, ''enjoyed a substantial monopoly in Lorain, Ohio, of the mass dissemination of news and advertising.'' The daily newspaper had 99 percent coverage in the town.

''Those factors,'' the Court said, ''made The Journal an indispensable medium of advertising for many Lorain concerns.'' A minor threat to The Journal's monopoly arose, however, with the establishment of radio station WEOL in a nearby town. The newspaper responded by refusing to accept local advertising from any Lorain County advertiser that used WEOL.

The Supreme Court called that an attempt to monopolize, illegal under Section 2 of the Sherman Act. There being no apparent efficiency justification for The Journal's action—that is, no evidence that it resulted in an operation whose efficiency somehow benefited consumers—it was deemed predatory. To those who say I have altered my longstanding position to represent an opponent of Microsoft, I'm happy to note that 20 years ago I wrote that the Lorain Journal case had been correctly decided.

The parallel between The Journal's action and Microsoft's behavior is exact. Microsoft has a similarly overwhelming market share, and it imposes conditions on those with whom it deals that exclude rivals without any apparent justification on the grounds of efficiency. In fact, the case against Microsoft is stronger, for there are many documents in the public domain that make clear that Microsoft specifically intended to crush competition.

We may not yet know all of the exclusionary practices, but we do know many. Here's a sampler:

Microsoft's operating system licenses have forbidden ''original equipment manufacturers''—makers of personal computers—to alter the first display screen from that required by Microsoft. Microsoft thus controls what the consumer sees. This restriction also hampers consumers' use of competing browsers to search the Internet or to serve as an alternative platform for other programs.

Microsoft has restrained Internet service providers and on-line services, which are forced to deal with Microsoft because of its monopoly in the Windows system. For instance, it has forbidden service providers to advertise or promote any non-Microsoft Web browser or even mention that such a browser is available. Netscape and others are denied an important distribution channel to consumers.

Companies that provide content on the Internet, to gain access to Microsoft's screen display, have been forced to agree not to promote content developed for competing platforms.

When a monopolist employs practices and makes agreements that exclude competitors and does so without the justification that the practices and agreements benefit consumers, the company is guilty, as was The Lorain Journal, of an attempt to monopolize in violation of Section 2 of the Sherman Act. When its own documents display a clear intent to monopolize through such means, the case is cold.

Netscape and the other companies seeking an end to these practices are not asking the Justice Department to take any action that would interfere in the slightest with Microsoft's ability to innovate. The department is simply being asked to stop Microsoft from stifling the innovations of others. The object is to create a level playing field benefiting consumers. That is what antitrust is about—a view that should require no one to sell his ''sole.''

Mr. HATCH. Anyone who knows Judge Bork knows that he would never take the position he has taken were he not convinced that it was 100 percent consistent with the antitrust views he has long espoused.

Similarly, Daniel Oliver, former chairman of the Federal Trade Commission under President Reagan, just published a piece in the May 4 edition of The National Review. Mr. Oliver, long known as a free-market proponent who generally opposes all but the most justified government intervention in the marketplace, had this to say:

> If ever there was a case that raises consumer-welfare issues, this would seem to be it. Microsoft has a 90 per cent share of a world market; there are reasons to think that share will endure; Microsoft has engaged in restrictive practices; and many of those practices do not appear to have any efficiency justifications that would benefit consumers rather than the company. Where you find a dead body, a bloody knife, fingerprints, and a motive, there may have been a crime.

I ask unanimous consent that this article as well be printed in the RECORD, along with a personal letter I received several weeks ago from Mr. Oliver and from Mr. James Miller, also a former chairman of the Federal Trade Commission and director of the Office of Management and Budget under President Reagan.

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

[From the National Review, May 4, 1998]

NECESSARY GATESKEEPING . . .

DOES ANTITRUST LAW PROTECT CONSUMER WELFARE, OR PUNISH THE FIRMS CONSUMERS PREFER?

(By Daniel Oliver)

The Department of Justice is pursuing Microsoft on antitrust grounds, and a number of conservative writers and organizations have gone to Microsoft's defense, including the Wall Street Journal, Jack Kemp, Adam Thierer of the Heritage Foundation, Thomas

Sowell—and National Review. They proclaim that the free market is a better protector of consumer welfare than government; and their visceral distrust of government activity is welcome in this post-the-era-of-big-government-is-over era. But for antitrust cases, which are complex and fact-specific, the head is a better guide than the viscera.

The charges against the Justice Department's lawyers are familiar—and all the more persuasive because government lawyers have certainly been guilty of such things in the past. They are accused of arrogant industrial planning, micromanaging, trying to second-guess the market and pick winners, supporting Microsoft's competitors rather than competition, and going off on a leftward regulatory lurch. However, even if all those charges against the Justice Department were true, there could still be a case against Microsoft that would benefit consumers.

The central problem the critics of the Justice Department have to deal with is that Microsoft probably has ''market power''—or the ability to threaten consumer welfare. (Market power is determined by looking at market share and a company's ability to maintain it.) Microsoft has approximately 90 percent of the world market for PC operating systems. In a large market—the world—90 percent is huge.

But the critics are reluctant to concede the importance—or even the existence—of Microsoft's large market share. One critic claims the appropriate market in which to measure Microsoft's share is the entire $570-billion computer industry, of which Microsoft controls only a small portion. Alternatively, he suggests that the appropriate market is all software, of which Microsoft produces only 4 percent. In antitrust whoever defines the market controls the debate. If you define the market broadly enough, no one company will ever seem to have enough power to harm consumer welfare.

Some of the Justice Department's critics maintain that Microsoft's large market share is irrelevant by claiming that barriers to entry into the software business are low, and that we can expect competitors to come along and unseat any incumbent monopolist.

The software industry, however, is characterized by extremely low marginal costs. Unlike the second automobile off an assembly line, the second copy of a new software program costs virtually nothing to produce—which gives established companies a tremendous advantage over their competitors. In addition, what economists call ''network effects'' make entry into the software business difficult. The more people there are who use a particular computer system, the more valuable that system will be—and the more difficult it will be for the producer of a new product to get it accepted by the ''installed base'' of consumers using both the established product (the operating system) and the ancillary products (software written for that system). The unprecedented economies of scale resulting from low to no marginal cost for production combined with network effects make the ''natural'' barriers to entry into the software market substantial.

The fact is, Microsoft seems to have a monopoly (i.e., market power), and that should be a source of concern to consumers—not because Bill Gates might turn out to be an evil genius, but because he will be inclined to behave like—a monopolist.

Microsoft may have earned its monopoly in operating systems by providing a product preferred by most customers. But can we say the same thing about its share of, say, the word-processing market? In 1995, WordPerfect was the most popular word-processing program, with 60 per cent of the market. Today WordPerfect is down to 13 per cent, and Microsoft's MS Word has about 80 per cent. That's a remarkable shift of consumer preferences.

How did Microsoft do it? Did consumers find it difficult to run WordPerfect on Microsoft's operating system? Suppose, hypothetically, that Microsoft used its monopoly position in operating systems to make WordPerfect work less perfectly, with the intention, and result, of driving people from WordPerfect to Microsoft's own word-processing product. It shouldn't take a left-winger to spot the consumer harm. Consumers would be denied real choice.

The point is not that Microsoft has misused its position, but that if Microsoft is in a position to misuse its position, consumers, and their champions at the Justice Department, should be concerned.

The current concern is that Microsoft might use its position in the operating-systems market to: (1) monopolize access to Internet content; (2) monopolize the market for web browsers; or (3) maintain its current share of the operating systems market by making sure that other web-browser products will not, when combined with Internet applications, amount to an alternative operating system. If Microsoft succeeds in any of those endeavors, consumers will be harmed by not being free to choose other products.

Bill Gates ''scoffs'' at rivals' charges of anti-competitive behavior and ''bristles'' at the mention of the word monopoly. But the evidence suggests that Microsoft has routinely engaged in sharp-elbow practices that seem designed to preserve or extend its monopoly. Under repeated questioning at a Senate hearing in March, Gates finally conceded—for the first time publicly—that Microsoft puts restrictions in its contracts that bar some of the websites featured in its Internet software from promoting Netscape or being included in Netscape's rival listing. Microsoft has also required computer manufacturers to pay license fees for products even if they didn't install them. Once they have paid for the Microsoft product, they will have less incentive to pay for a competing product. That makes it more difficult for competitors to sell to the computer manufacturers.

The Justice Department's action is designed to assist competition and innovation. A software geek with a new idea, or the investors he goes to for seed capital, may rightly fear that, even if he can get to production, his product will be duplicated by Microsoft and then bundled into its operating system. While he might develop property rights that would be protected by the intellectual-property laws, he is not likely to have the cash to assert those rights against monopoly-rich Microsoft.

There are three policy options for dealing with monopolies: outlaw all monopolies; allow monopolies to function completely unfettered; or allow monopolies to exist but with some limitations on what they can do. U.S. public policy has selected the third option in the belief that it will produce more consumer welfare than the others.

If ever there was a case that raised consumer-welfare issues, this would seem to be it. Microsoft has a 90 per cent share of a world market; there are reasons to think that share will endure; Microsoft has engaged in restrictive practices; and many of those practices do not appear to have any efficiency justifications that would benefit consumers rather than the company. Where you find a dead body, a bloody knife, fingerprints, and a motive, there may have been a crime.

Objecting to the Microsoft case is tantamount to saying we shouldn't have any antitrust laws at all. That may not be intellectually scandalous, but it is certainly a minority position, and not the position of the Chicago School or the people who served in the Reagan Administrations—or even one dictated by common sense.

MARCH 19, 1998.

Hon. ORRIN HATCH,
U.S. Senate,
Washington, DC.

DEAR SENATOR: As the two chairmen of the Federal Trade Commission during the Reagan Administrations, whose responsibility it was to enforce the antitrust laws, we want to applaud your investigation into whether those laws are adequate to deal with competition issues in our information technology economy.

A number of prominent conservatives have criticized you, as well as the Justice Department which has brought a case against Microsoft, on two grounds: that the free market will protect consumers' interests; and that government intervention will in no event be beneficial.

We disagree with these criticisms in the instant case. Although we are and have been extremely skeptical of government intervention in the economy—as is evidenced by the innumerable statements we have made over the years—we believe government does have a role to play in keeping markets free and that the Microsoft situation deserves serious review.

Whether Microsoft has ''market power''—a technical term—which raises antitrust concerns is, of course, a separate question. Microsoft clearly plays a dominant role in the market for computer software systems. Moreover, as you discovered—with some difficulty—at the Senate Judiciary Committee hearing on March 3rd, Microsoft appears to have engaged in certain practices designed to restrict the activities of its competitors. On the other hand, Microsoft's dominant role in the PC operating systems market may not imply monopoly power and in any event may evanesce within a few years. This is an empirical matter, and an informed judgement awaits further information and analysis.

The purpose of this letter is not to write a brief against Microsoft. It is only say what we think should be obvious: that the Microsoft situation raises serious concerns about the vigor of competition in the market for PC operating systems. After all, Microsoft is not the corner drug store, or the local bakery. It is a world wide company, with a market value greater than IBM and General Motors combined, doing business in this country's, and perhaps the world's, most important industry. The extent of competition in this industry should be of vital concern to your committee as you contemplate the efficacy of the antitrust laws to protect the interests of consumers.

Those who profess to be unconcerned by Microsoft's position and behavior may say they are followers of the Chicago School of economics—which is a shorthand way of expressing great skepticism about antitrust enforcement and government intervention into the economy.

We share those concerns, as is evidenced—to repeat—by the myriad public statements we have given over many years. But in our judgement, not to be concerned by Microsoft is neither good public policy, nor does such an attitude reflect an accurate understanding of the Chicago School.

Finally, we want to address what we think is a strawman issue: that government (the Justice Department and the Senate Judiciary Committee) is only acting in response to the whining of Microsoft's competitors who are attempting to get from politicians what they have been unsuccessful in obtaining in the market place. We know from experience that such protestations are not an accurate

guide to the competitiveness of the market. But even if the current inquiry is prompted by the efforts of Microsoft's competitors, this motivation bears little relation to the facts of the case. Microsoft either is or is not behaving properly, and the antitrust laws either are or are not adequate for current circumstances wholly independently of what Microsoft's competitors are trying to accomplish.

For that reason we applaud your investigation, wish you every success, and offer to help in any way we can.

Yours sincerely,

JAMES C. MILLER III.
DANIEL OLIVER.

Mr. HATCH. There are those who object that the Government should not interfere with the dynamic hi-tech marketplace. I agree with those who espouse a natural, instinctive skepticism toward any Government intervention in the marketplace. But enforcement of the antitrust laws may be all the more important if innovation in the most important, fast-growing sector of our present and future economy is being suffocated under the thumb of a company both willing and able to exploit its monopoly power.

The media campaign surrounding the public release of Windows 95 was accompanied by a theme song. As I recall, it was the Rolling Stones' hit song Start Me Up. For innovators seeking to compete with Bill Gates, for PC makers who feel that they have little choice but to steer clear of any actions that might upset their relationship with Microsoft, and for consumers, beholden to Microsoft for software products, I wonder whether the theme song for Windows 98 shouldn't be another Rolling Stones hit—Under My Thumb.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

THE FARM CRISIS IN NORTH DAKOTA

Mr. CONRAD. Mr. President, I rose yesterday to discuss the farm crisis in my home State of North Dakota. Yesterday, I showed a chart that showed what has happened to farm income in our State between 1996 and 1997, and I start today with that same chart because it shows North Dakota farm income being washed away in 1997.

In 1996, we had $764 million of farm income in the State of North Dakota; in 1997, $15 million—a 98 percent reduction in farm income from 1 year to the next. If that is not a crisis, I don't know what would constitute one. The total farm income of the State of North Dakota in 1997 was $15 million. That is divided up among the 30,000 farmers of our State. In other words, the average farmer had a profit, or net income, of only $500 for the entire year. That is a crisis.

The problems for agriculture go much further, deep into the pockets of farm producers. In my State and many other States, the economic difficulty in agriculture means trouble on Main Street. If the pockets of farmers are empty, so are the pockets of bankers, grocers, implement dealers, cafe and gas station owners—you name it; any Main Street business is negatively affected, and so are the workers whose businesses are affected.

About a week and a half ago, a meeting was held on the border of northeastern North Dakota and northwest Minnesota, where the farm troubles in our region are the worst. At that meeting, which was held by the State Farm Service Agencies, there were agricultural lenders, implement dealers, agricultural suppliers, and other agribusinesses in attendance. Today I thought I would share some of the comments made at that meeting by those people who are dependent on the agricultural economy. These comments illustrate the problems we are facing in agriculture in North Dakota.

The first comments were made by agricultural suppliers—the providers of fuel, seed, fertilizer, and other farm inputs. Here is what two of them said at this meeting. The first one said:

My daughter sells seed to farmers. Earlier she distributed the seed, now she is going around to pick it up.

That is a very bad sign, when those who are selling seed are going around to pick it up after it has been distributed. That means acreage is not going to be planted, and it is not going to be planted because farmers can't cash flow. They didn't cash flow last year; they aren't going to cash flow this year. That is because of this stealth crisis that is occurring out in my State. I am alerting my colleagues, it is in my State today; it may be in your State tomorrow. This is a crisis that has no Federal response.

The second ag supplier said:

Yesterday, six farmers wanted anhydrous ammonia fertilizer. I turned four of them away. The question this year is not, ''Do you have a loan?'' but ''Is that check any good?''

All across North Dakota, those are the kinds of questions that are being asked.

Also at this meeting there were implement dealers. The implement dealers also had some interesting comments. One said:

Last year, all the combines I sold went to senior citizens. That should tell you something about the condition of our young farmers.

The second implement dealer said:

In 1974 it took 5,600 bushels of wheat to buy a 250 horsepower four wheel drive tractor. Today it takes 26,000 bushels to buy the same horsepower, and it doesn't cover any more ground than the old one. There just isn't any buying power left in the bushels they produce.

When asked yesterday, Why are we having this crisis in North Dakota? It flows from a number of factors.

No. 1 is low prices.

No. 2, it flows from widespread disease as a result of 5 years of overly wet conditions.

No. 3 is a very weak Federal farm policy.

Those are the fundamental causes for the crisis in our State.

It is not just the implement dealers at this particular meeting who are talking about it. In addition, I have also heard from other implement dealers in recent news articles about the crisis in agriculture. Jon Sundby, a farm machinery dealer in Hillsboro, ND, said:

A year ago at this time, I think we sold 42 tractors. This year we have sold three.

Mr. President, that reflects the depth of the crisis that is hitting North Dakota.

Bob Lamp, the executive vice president of the North Dakota Implement Dealers Association, said:

At this point, there isn't much of a market for machinery because of the economy.

Comments from implement dealers and others reflect what is happening all across our State. It is not just implement dealers. Ag lenders are also weighing in. They were at this April 23 meeting. About a week and a half ago that meeting occurred. As anybody in agriculture knows, if you don't have money to operate your farm, you simply can't farm. It is rare in my State for producers to farm without loans to cover their operating expenses. That is why ag lenders are critically important to farmers.

Here is what some of them are saying about our current agricultural economy.

One ag lender said at this April 23 meeting:

Too many are trying to farm this year on credit cards —

On credit cards—

That is a recipe for disaster.

I was just with somebody from the State department of agriculture. He had been looking at farm plans. He saw one farmer who had credit card advances of $130,000—$130,000 on credit cards—to farm. That is a recipe for disaster.

A second ag lender said:

The farmers in trouble are good, honest producers who are suffering in silence. USDA needs to raise loan limits and make interest assistance more widely available on existing loans.

A third said:

This is, by far, the worst year ever, even considering the 1980s.

Mr. President, suffering in silence, I found that. I just took a tour of my State, held farm meetings all across North Dakota during the 2-week break in April, and what I found was that farm producers are shellshocked. They are suffering in silence. They don't know where to turn.

One recommended that ''USDA needs to raise loan limits.'' He is exactly right. The Secretary of Agriculture supports lifting the caps on commodity loans, but does not have the authority to do it. The Congress has the authority. We are the ones who have to make a decision to provide some relief.

Those loan levels are unusually low. In the 1996 farm bill, caps were set on wheat at $2.58 a bushel. There is no one who can farm and make it on $2.58 a