The legislative clerk read as follows:

A resolution (S. Res. 263) to authorize the payment of the expenses of representatives of the Senate attending the funeral of a Senator.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. JEFFORDS. I ask unanimous consent that the Senate proceed to act on the motion then made and in the tabular place on the table, and that no statements relating to the resolution appear at this point in the RECORD.

The resolution (S. Res. 263) was agreed to, as follows:

S. Res. 263

Resolved. That, upon approval by the Committee on Rules and Administration, the Secretary of the Senate is authorized to pay, from the contingent fund of the Senate, the actual and necessary expenses incurred by the representatives of the Senate who attended the funeral of a Senator, including the funeral of a retired Senator. Expenses of the Senate representatives attending the funeral shall be paid from the Senate's fund for the purpose of the resolution. The resolution is ordered to be printed in the RECORD.

The concurrent resolution (S. Con. Res. 115) was considered and agreed to as follows:

S. Con. Res. 115

Resolved. That (a) a revised edition of the publication entitled "The United States Capitol" shall be reprinted as a Senate document.

There shall be printed 2,000 copies of the pamphlet in the English language at a cost not to exceed $100,000 for distribution as follows:

(1) 106,000 copies of the publication for the use of the Senate; with 2,000 copies distributed to the Senate, 2,000 copies to the House of Representatives, and 2,000 copies to the Clerk of the Senate;

(2) 38,000 copies of the publication for the use of the House of Representatives, with 2,000 copies distributed to each Member; and

(3) 908,000 of the publication for distribution to the Capitol Guide Service; or

if the total printing and production costs of copies in paragraph (1) exceed $100,000, such number of copies of the publication as does not exceed total printing and production costs of $100,000, with distribution to be accomplished in the same proportion as in paragraph (1);

in addition to the copies printed pursuant to subsection (b), there shall be printed at a total printing and production cost of not to exceed $70,000:

(1) 50,000 copies of the pamphlet in each of the following languages: German, French, Russian, Chinese, and Japanese; and

(2) 100,000 copies of the pamphlet in Spanish;

be distributed to the Capitol Guide Service.
(Sec. 27(a) Subject to subsections (b) through (d) below, the conduct, acts, practices or agreements of persons in the business of organized professional major league baseball relating to or affecting employment of major league baseball players to play baseball at the major league level are subject to the antitrust laws to the same extent, practices or agreements would be subject to the antitrust laws if engaged in by persons in any other professional sports business affecting interstate commerce.

(2) No court shall rely on the enactment or enforcement of any state law which will in any way nullify or destroy any provision of the Sport Antitrust Act of 1961, or any other law, rule or regulation of any State, whether in existence before or after the enactment of such Act.

(3) Any conduct, acts, practices or agreements of persons engaging in, conducting or participating in the business of organized professional baseball relating to or affecting employment of major league baseball players to play baseball at the major league level, any organized professional baseball amateur or first-year player draft, or any reserve clause as applied to minor league baseball players is prohibited by law.

(4) The agreement between organized professional major league baseball teams and the teams of the National Association of Professional Baseball Leagues, commonly known as the 'Professional Baseball Agreement,' the relationship between organized professional major league baseball and organized professional minor league baseball, or any other matter relating to organized professional baseball's minor leagues; or

(c) The conduct, acts, practices or agreements of persons engaging in, conducting or participating in the business of organized professional baseball relating to or affecting employment of major league baseball players to play baseball at the major league level and also relate to or affect any other aspect of organized professional baseball, including but not limited to employment to play baseball at the minor league level or any reserve clause as applied to minor league players; or

(d) If as used in this section, 'person' means any entity, including an individual, partnership, corporation, trust or unincorporated business association thereof. As used in this section, the National Association of Professional Baseball Leagues, its member leagues and any combination thereof are not considered as being in the business of organized professional major league baseball.

(2) In cases involving conduct, acts, practices or agreements that directly relate to or affect both employment of major league baseball players to play baseball at the major league level and also relate to or affect any other aspect of organized professional baseball, including not limited to employment to play baseball at the minor league level or any reserve clause as applied to minor league players; or

(3) As used in subsection (a), interpretation of the term 'directly' shall not be governed by any interpretation of 29 U.S.C. § 151 et seq. (as amended).

(4) Nothing in this section shall be construed to affect the application to organized professional baseball of the nonstatutory labor exemption from the antitrust laws.

The conduct, acts, practices or agreements covered by subsection (b) may not be strictly or narrowly construed.

Mr. HATCH. Mr. President, today I offer on behalf of myself and Senator LEAHY, the Ranking Member of the J udiciary Committee, an amendment in the nature of a substitute to S. 53, the Curt Flood Act of 1997. This bill, which was reported out of the Judiciary Committee in the last Congress, would assure that players will be on the field, not mired in labor disputes. That is one of the principal reasons why, in recent years, baseball has experienced more work stoppages, including the long strike of 1994-95, than professional basketball, hockey and football combined.

In the 103d Congress, the House Judiciary Committee took the first important step by approving legislation which would have ensured that the antitrust laws apply to major league baseball labor relations, without impacting the minor leagues or team relocation issues. During the 104th Congress, the Senate Judiciary Committee approved S. 627, The Major League Baseball Antitrust Reform Act, to apply federal antitrust laws to major league baseball labor relations. None of these bills were passed, however, as many Members of Congress were reluctant to take final action while there was an ongoing labor dispute.

With the settling of the labor dispute and with the signing of a long term agreement between the major league players and owners, the time was right this Congress finally to address this matter. In fact, in the new collective bargaining agreement, the owners pledged to work with the players to pass legislation that makes clear that major league baseball is subject to the federal antitrust laws with regard to owner-player relations.

At the beginning of this Congress, we introduced S. 53, a bill which was specifically supported by both the players and owners, and was reported out of the Judiciary Committee almost exactly one year ago. At the Committee markup, however, several Members indicated a concern that the bill might
Hon. PATRICK LEAHY, Ranking Member, Senate Judiciary Committee, Washington, DC.

RECORD, as follows:

were ordered to be printed in the RECORD. I ask unanimous consent that these letters be printed in the RECORD.

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

NATIONAL ASSOCIATION OF PROFESSIONAL BASEBALL LEAGUES, INC.,

DEAR SENATOR HATCH AND SENATOR LEAHY:

DEAR MR. CHAIRMAN: As you know, the National Association of Professional Baseball Leagues, Inc. ("NAPBL") objected to S. 53 as it was reported by the Senate Judiciary Committee last year. Since that time, we have been consulted about proposals to amend the bill to assure the continued survival of minor league baseball. We understand that a draft of an amended bill has been put forth by the major leagues and the Players' Association (copy attached) that I believe addresses the concerns of the NAPBL which we support in its final form.

Respectfully yours,

[Signature]


Hon. ORRIN HATCH, Chairman, Senate Judiciary Committee, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: As you know, the National Association of Professional Baseball Leagues, Inc. ("NAPBL") objected to S. 53 as it was reported by the Senate Judiciary Committee last year. Since that time, we have been consulted about proposals to amend the bill to assure the continued survival of minor league baseball. We understand that a draft of an amended bill has been put forth by the major leagues and the Players' Association (copy attached) that I believe addresses the concerns of the NAPBL which we support in its final form.

Respectfully yours,

[Signature]


Hon. ORRIN HATCH, Chairman, Senate Judiciary Committee, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: As you know, the National Association of Professional Baseball Leagues, Inc. ("NAPBL") objected to S. 53 as it was reported by the Senate Judiciary Committee last year. Since that time, we have been consulted about proposals to amend the bill to assure the continued survival of minor league baseball. We understand that a draft of an amended bill has been put forth by the major leagues and the Players' Association (copy attached) that I believe addresses the concerns of the NAPBL which we support in its final form.

Respectfully yours,

[Signature]


DEAR MR. CHAIRMAN: As you know, the National Association of Professional Baseball Leagues, Inc. ("NAPBL") objected to S. 53 as it was reported by the Senate Judiciary Committee last year. Since that time, we have been consulted about proposals to amend the bill to assure the continued survival of minor league baseball. We understand that a draft of an amended bill has been put forth by the major leagues and the Players' Association (copy attached) that I believe addresses the concerns of the NAPBL which we support in its final form.

Respectfully yours,

[Signature]


DEAR MR. CHAIRMAN: As you know, the National Association of Professional Baseball Leagues, Inc. ("NAPBL") objected to S. 53 as it was reported by the Senate Judiciary Committee last year. Since that time, we have been consulted about proposals to amend the bill to assure the continued survival of minor league baseball. We understand that a draft of an amended bill has been put forth by the major leagues and the Players' Association (copy attached) that I believe addresses the concerns of the NAPBL which we support in its final form.

Respectfully yours,

[Signature]


DEAR MR. CHAIRMAN: As you know, the National Association of Professional Baseball Leagues, Inc. ("NAPBL") objected to S. 53 as it was reported by the Senate Judiciary Committee last year. Since that time, we have been consulted about proposals to amend the bill to assure the continued survival of minor league baseball. We understand that a draft of an amended bill has been put forth by the major leagues and the Players' Association (copy attached) that I believe addresses the concerns of the NAPBL which we support in its final form.

Respectfully yours,

[Signature]


DEAR MR. CHAIRMAN: As you know, the National Association of Professional Baseball Leagues, Inc. ("NAPBL") objected to S. 53 as it was reported by the Senate Judiciary Committee last year. Since that time, we have been consulted about proposals to amend the bill to assure the continued survival of minor league baseball. We understand that a draft of an amended bill has been put forth by the major leagues and the Players' Association (copy attached) that I believe addresses the concerns of the NAPBL which we support in its final form.

Respectfully yours,

[Signature]


DEAR MR. CHAIRMAN: As you know, the National Association of Professional Baseball Leagues, Inc. ("NAPBL") objected to S. 53 as it was reported by the Senate Judiciary Committee last year. Since that time, we have been consulted about proposals to amend the bill to assure the continued survival of minor league baseball. We understand that a draft of an amended bill has been put forth by the major leagues and the Players' Association (copy attached) that I believe addresses the concerns of the NAPBL which we support in its final form.

Respectfully yours,

[Signature]


DEAR MR. CHAIRMAN: As you know, the National Association of Professional Baseball Leagues, Inc. ("NAPBL") objected to S. 53 as it was reported by the Senate Judiciary Committee last year. Since that time, we have been consulted about proposals to amend the bill to assure the continued survival of minor league baseball. We understand that a draft of an amended bill has been put forth by the major leagues and the Players' Association (copy attached) that I believe addresses the concerns of the NAPBL which we support in its final form.

Respectfully yours,

[Signature]


DEAR MR. CHAIRMAN: As you know, the National Association of Professional Baseball Leagues, Inc. ("NAPBL") objected to S. 53 as it was reported by the Senate Judiciary Committee last year. Since that time, we have been consulted about proposals to amend the bill to assure the continued survival of minor league baseball. We understand that a draft of an amended bill has been put forth by the major leagues and the Players' Association (copy attached) that I believe addresses the concerns of the NAPBL which we support in its final form.

Respectfully yours,

[Signature]

the minor leagues, not the relationship between major league owners and players. Mr. President, I have a letter from the Commissioner of Baseball, Mr. Allan H. “Bud” Selig, to the Executive Director of the Major League Baseball Players Association, outlining his concern that the interpretation of the use of the word “directly” and I ask unanimous consent that it be inserted in the RECORD at this time.

As in S. 53, as reported, new subsection (c) in subsection which implements the portion of the purpose section stating that the “passage of the Act does not change the application of the antitrust laws in any other context or with respect to any other person or entity.” In other words, with respect to areas set forth in subsection (b), whatever the law was before the enactment of this legislation, it is unchanged by the passage of the legislation. With the exception of the express statutory exemption in the area of television rights recognized in paragraph (d)(4), each of the areas set forth depend upon judicial interpretation of the law. But Congress at this time seeks only to address the specific question of the application of the antitrust laws in the context of the employment of major league players at the major league level.

Thus, as to any matter set forth in subsection (b), a plaintiff will not be able to allege an antitrust violation by virtue of the enactment of this Act. Nor can the courts use the enactment of this Act to glean congressional intent as to the validity or lack thereof of such actions.

New subsection “c” deals specifically with the issue of standing. Although normally standing under such an act would be governed by the standing provision of the antitrust laws, 15 U.S.C. Sec. 15, the minor leagues again expressed concern that without a more limited statutory interpretation of the antitrust laws in the context of the employment of major league players at the major league level.

New paragraph (d)(1) defines “person” for the purposes of the Act, but includes a provision expressly recognizing that minor league teams are not in the business of major league baseball. This addition was requested by the minor leagues to ensure that they would not be named as party defendants in every action brought against the major leagues pursuant to subsection (a).

New paragraph (d)(2) was added to give the courts direction in cases involving matters that relate to both matters covered by subsection (a) and to those with which the Act is neutral as set forth in subsection (b). In such a case, the acts, conduct or agreements may be challenged under this Act as they directly relate to the employment of major league players at the major league level, but to the extent the practice is challenged as to its effect on any issue set forth in subsection (b), it must be challenged under current law, which may or may not provide relief.

New paragraph (d)(5) merely reflects the Committee’s intention that a court’s determination of which fact situations fall within subsection (b) should follow ordinary rules of statutory construction, and should not be subject to any inferences or departures from these rules.

As stated in the Committee Report, nothing in this bill is intended to affect the scope or applicability of the “non-statutory” labor exemption from the antitrust laws. See, e.g., Brown v. Pro Football, 116 S.Ct. 2116 (1996).

Before yielding to my good friend from Vermont, I would like to thank him for his hard work on this bill. His bipartisan efforts have been vital to the success of this bill. I would also like to thank our original cosponsors, Senators Thurmond and Moynihan. I urge the quick adoption of this bill, which will help restore stability to major league baseball and its fans. They deserve it.

Mr. President, this summer we are being treated to an exceptional season of baseball, from the record breaking pace of the New York Yankees and the resurgence of the Boston Red Sox to a number of inspiring individual achievements, including the perfect game of David Wells and the home run displays of McGwire, Griffey and Sosa. Such are the exploits that make the game great—the game and the players on the field. And, last weekend, Larry Doby and others at long last were inducted into the Baseball Hall of Fame. These are steps in the right direction.

Today, the Senate will give baseball another nudge in the right direction by passing S. 53, the “Curt Flood Act of 1998.” Murray Chass, a gifted reporter writing for The New York Times noted that on this issue we have finally “moved into scoring position with a bill that would alter, and just enough, the antitrust exemption Major League Baseball has enjoyed since 1922.”

I am gratified that 76 years after an aberrant Supreme Court decision, we are finally making it clear that with respect to the antitrust laws, major league baseball teams are no different than teams in any other professional sport. For years, baseball was the only business or sport, of which I am aware, that claimed an exemption from antitrust law. Thorough regulation in the lie of those laws. The Supreme Court refused to undie its mistake with respect to major league baseball made in the 1922 case of Federal Baseball. Finally, in the most well-known case on the issue, Flood v. Kuhn, the Court reaffirmed the Federal Baseball case on the basis of the legal principle of stare decisis while specifically finding that professional baseball is indeed an activity in interstate commerce, and thereby rejecting the legal basis for the Federal Baseball case.

Mr. President, as a result of that and subsequent decisions, and with the end of the major league reserve clause as the result of an arbitrator’s ruling in 1976, there has been a growing debate as to the continued vitality, if any, of any antitrust exemption for baseball. It is for precisely this reason that this bill is limited in its scope to employment relations between major league owners and major league players. That is what is at the heart of turmoil in baseball and what is at the heart of the breach of trust with the fans that marked the cancellation of the 1994 World Series. At least we can take this small step toward the continuity of the game and restoring public confidence in it.

When David Cone testified at our hearing three years ago, he posed a provocative question: if baseball were coming to Congress to ask us to provide a statutory antitrust exemption, would such a bill be passed? The answer to that question is a resounding no. Nor should the owners, sitting at the negotiating table in a labor dispute, think that their competitive behavior cannot be challenged. That is an advantage enjoyed by no other group of employers.

The certainty provided by this bill will level the playing field, making labor disruptions less likely in the future. The real beneficiaries will be the fans. They deserve it.

Mr. President, I just wanted to comment briefly on a couple of changes made in the substitute bill as reported by the Committee. First, the changes in the language in subsection (a) are not intended to limit in any way the rights of players at the major league level as they would be construed under the language of the bill as reported by the Judiciary Committee.

The additional language was added to ensure that a minor league player, or someone who had played at the major league level and returned to the minor leagues, cannot use subsection (a) to bring an antitrust case at the major league level, to attack what is a really a minor league employment issue only. Alternatively, neither can the major leagues use the wording of subsection (a) and that of subsection (d) to subvert the purpose of subsection (a) merely by linking a major league practice with a minor league practice. That linkage itself may be an antitrust violation and be actionable under this Act. It cannot be used as a subterfuge to bring in to suits against players at the major league level to tactics, practices or agreements that teams or owners in other sports could not subject athletes to.
Finally, the practices set forth in subsection (b) are not intended to be affected by this Act. While this is true, it should be remembered that although the pure entrepreneurial decisions in this area are unaffected by the Act, if those decisions are made in such a way as to implicate employment of major league players at the major league level, once again, those actions may be actionable under subsection (a). More importantly, we are making no findings as to how, under labor laws, those issues are to be treated.

In closing, Mr. President, I would like to thank all those involved in this undertaking: Chairman HATCH, of course, without whose unfailing efforts this result would not be possible; our fellow cosponsors, Senators THURMOND and MOYNIHAN, and other members of our Committee; and J O H N C O N Y E R S, the Ranking Democrat on the House Judiciary Committee, for making this bill a priority. And I want to commend the interested parties for working to find a solution they can all support. Not only have they done a service to the fans, but they may find, on reflection, that they have done a service to themselves by working together for the good of the game.

Finally, Mr. President, I would be remiss if I did not comment on the man for whom this legislation is named, Curt Flood. He was a superb athlete and a courageous man who sacrificed his career for perhaps a more lasting legacy. When others refused, he stood up and said no to a system he thought un-American as it bound one man to another for his professional career without choice and without a voice in his future. I am sad that he did not live long enough to see this day. In deference to his memory and in the interests of every fan of this great game, I hope that Congress will act quickly on this bill. I am delighted that we are moving forward so that we are finally able to enjoy the game once again.

Mr. JEFFORDS. I ask unanimous consent the amendment be considered as read and agreed to, the bill be considered read a third time and passed as amended, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed at the appropriate place in the Record.

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

The amendment (No. 3479) was agreed to.

The bill (S. 53), as amended, was considered read a third time and passed.

INTERSTATE FOREST FIRE PROTECTION COMPACT

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 471, S. 1134.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

A bill (S. 1134) granting the consent and approval of Congress to an interstate forest fire protection compact.

The Senate proceeded to consider the bill:

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the bill be read three times and passed; that the motion to reconsider be laid upon the table; and that any statements relating to the bill be placed at the appropriate place in the Record.

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

The bill (S. 1134) was deemed read the third time and passed, as follows:

The bill was enacted by the Senate and House of Representatives of the United States of America in Congress assembled.

SECTION 1. CONSENT OF CONGRESS.
(a) IN GENERAL.—The consent and approval of Congress is given to an interstate forest fire protection compact, as set out in subsection (b).
(b) COMPACT.—The compact reads substantially as follows:

"THE NORTHWEST WILDLAND FIRE PROTECTION AGREEMENT"

"THIS AGREEMENT is entered into by and between the State, Provincial, and Territorial wildland fire protection agencies signatory hereto, hereinafter referred to as "Members".

"FOR AND IN CONSIDERATION of the following terms and conditions, the Members agree:

"Article I"

"1. The purpose of this Agreement is to promote effective prevention, suppression and control of forest fires in the Northwest Region, to coordinate plans and the work of the appropriate agencies of the Members; and to establish procedures in operating plans that will facilitate such aid.

"Article II"

"2. The agreement shall become effective upon ratification by two or more Members, the States of Oregon, Washington, Alaska, Idaho, Montana, or the Yukon Territory, or the Province of British Columbia, or the Province of Alberta having ratified it.

"3. Any State, Province, or Territory not mentioned in this Article which is contiguous to any Member may become a party to this Agreement subject to unanimous approval of the Members.

"Article III"

"3.1 The role of the Members is to determine from time to time such methods, practices, circumstances, and conditions as may be found for enhancing the prevention, suppression, and control of forest fires in the area comprising the Member's territory; to coordinate plans and the work of the appropriate agencies of the Members, and to coordinate the rendering of aid by the Members to each other in fighting wildland fires.

"3.2 The Members may develop cooperative operating plans for the programs covered by this Agreement. Operating plans shall include definition of terms, fiscal procedures, personnel plans, and a consistent plan for the operation of programs under this Agreement. Operating plans shall be submitted to the Federal or to the appropriate agency of the Member. Operating plans must be in accordance with the requirements of the Federal government and any other interested parties, including the Members.

"Article IV"

"4.1 A majority of Members shall constitute a quorum for the transaction of its general business. Motions of Members present shall be carried by a simple majority except as stated in Article II. Each Member shall have one vote on motions brought before them.

"Article V"

"5.1 Whenever a Member requests aid from any other Member in controlling or preventing wildland fires, the Members agree, to the extent they possibly can, to render all possible aid.

"Article VI"

"6.1 Whenever the forces of any Member are aiding another Member under this Agreement, the employees of such Member shall operate under the direction of the officers of the Member to which they are rendering aid and be considered agents of the Member they are rendering aid to and, therefore, have the same privileges and responsibilities as comparable employees of the Member to which the rendering aid.

"6.2 No Member or its officers or employees rendering aid within another State, Territory, or Province, pursuant to this Agreement shall be liable on account of any act or omission on the part of such forces while so engaged, or on account of the maintenance or use of any equipment or supplies in connection therewith to the extent authorized by the laws of the Member receiving the assistance. The receiving Member, to the extent authorized by the laws of the State, Territory, or Province, agrees to indemnify and save-harmless the assisting Member from any such liability.

"6.3 Any Member rendering outside aid pursuant to this Agreement shall be reimbursed by the Member receiving such aid for all reasonable charges, including all expenses, incurred in the operation of any equipment and for the cost of all materials, transportation, wages, salaries and maintenance of personnel and equipment incidental to such request in accordance with the provisions of the previous section. Nothing contained herein shall prevent any assisting Member from assuming such loss, damage, expense or other cost or from loaning such equipment or from donating such services to the receiving Member without charge or cost.

"Article VII"

"7.1 When appropriations for support of this agreement, or for the support of common services in executing this agreement, are needed, costs will be allocated equally among the Members.

"7.2 As necessary, Members shall keep accurate books of account, showing in full, its receipts and disbursements, and the books of account shall be audited at any reasonable time to the inspection of the representatives of the Members.

"7.3 The Members may accept any and all donations, gifts, and grants in aid of equipment, supplies, materials and services from the Federal or any local government, or from any agency thereof and from any person, firm or corporation, for any or all purposes under this Agreement, and may receive and use the same subject to the terms, conditions, and regulations governing such donations, gifts, and grants.

"Article VIII"

"8.1 Nothing in this Agreement shall be construed to limit or restrict the powers of