One of them is that Milosevic has been indicted as a war criminal. That is a huge step forward for human rights in the world.

The second thing that has happened is our actions have made it clear that a Milosevic or someone like a Milosevic should not be able to murder people with impunity.

There are many challenges ahead, but I want to just say that as a Senator from Minnesota, I am very pleased that we did put such a focus on trying to reach a diplomatic solution. I would like to especially thank Strobe Talbott for his work. I think it is extremely important now that we meet a number of really tough challenges.

I am not the expert in the Balkans; I do not pretend to be, but I do know this: It is very important that we continue to keep our focus on the humanitarian crisis and make sure the Kosovars can, indeed, go home, the sooner the better.

I think an all-out effort ought to be made to make sure they can go back to their homes. If we are going to do the weatherizing and all the things in the infrastructure for people to have a home to live in, then it is better to do it back in their own country. I hope we can do so. I hope we can move as quickly and as expeditiously as possible.

Second, I think it is going to be real important that all parties to this settlement live up to their word. I think that includes the KLA. There will be an understanding, kind of determination on the part of Kosovars and the KLA for vengeance. Who can blame them? But I do think we have to make sure that we do put an end to this conflict and that the Serbs who live in Kosovo will also be protected and that somehow we will be able to make sure there is some peace in this region.

Finally, I want to say, as a Senator who supported airstrikes but who worried about some of the focus of our airstrikes, in particular, I thought there was too much of a focus on the civilian infrastructure. I thought and still believe there were opportunities to move forward with diplomacy at an earlier point in time. I always believe that is the first option, always the first option, with military conflict being the last option. I do want to say that I think the President and the administration should be proud of the fact that they have now been able to effect a diplomatic solution and that this solution, indeed, will mean that the Kosovars will be able to go home.

It will mean there will be an international force. It will be a militarized force. There will be a chain of command that makes sense. It is a huge challenge ahead for us. My guess is that we are going to be committed to the Balkans for quite some period of time. I think we should be very realistic about that. I think that we owe that to the Kosovars. We owe it to these people. I think that is part of what our country is about. It looks as if the European countries are going to take up most of the challenge of the economic aid for reconstruction, and I think that is as it should be. I think our part of this international militarized force would be somewhere at 14, 15 percent. But certainly it won't be the United States carrying this alone.

I worry about the landmines. I worry about our military and, for that matter, the men and women from other countries who are trying to do the right thing now, being in harm's way. But to now no longer be involved in airstrikes, to see the Serbs leaving, the slaughter being stopped, the Kosovars now having a chance to go back to their homes and to be protected, I think we are at a much better place than we were. Now I hope and I pray that our country will be able to make a very positive difference in the lives of the Kosovars.

I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Y2K ACT

The Senate continued with the consideration of the bill.

Mr. HOLLINGS. Mr. President, I just was trying my best to give colleagues a summary of State action on Y2K problems. This is pretty well up to date. Seven States have passed Y2K government immunity legislation; that is, Florida, Georgia, Hawaii, Nevada, Virginia, Oklahoma and Wyoming. Twelve States have killed Y2K government immunity problems: Colorado, Idaho, Illinois, Indiana, Louisiana, Kansas, Mississippi, Montana, New Hampshire, New Mexico, Utah, Washington, and West Virginia. One State has passed the Y2K business immunity bill; that is Texas. Whereas 10 States have killed Y2K business immunity bills: Arizona, Colorado, Connecticut, Florida, Indiana, Iowa, Kansas, Oklahoma, West Virginia and Washington. Two States have killed the bankers immunity bill, originally the year 2000 computer problem: Arizona and Indiana. Two States have killed the Computer Vendors Immunity Bill; that is California and Georgia. One State has killed the bill to limit class action suits; that is Illinois, the distinguished Presiding Officer's State. And 38 States have miscellaneous pending Y2K bills at this time.

I think the distinguished Senator from California wanted to point out an interesting provision in the State of Arizona.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, I thank my friend for yielding. I thank his staff for doing just a tremendous job of ferreting out all these various laws.

I have something to tell the Senate that I hope will sway them in favor of the Boxer amendment. In the research that was done by Senator HOLLINGS' staff, we find out that the law in Arizona, which was signed on April 26, Senate bill 1294, includes in it stronger language than the Boxer amendment. I repeat: The Senator from Arizona, whose bill we are debating, cannot agree to the Boxer amendment which simply says if you have a way to fix the problem for the consumer, be they individual or business, then do it. He can't accept that. But in his own State, the law says if you want to take advantage of a particular new set of laws that they have passed to protect these businesses, here is what you have to do. You have to unconditionally offer at no additional cost to the buyer either a repair or remedial measures. If you do not do that, you cannot take advantage of these new laws that will protect business.

Let me put that in a more direct fashion. In the State of Arizona, the State of Senator MCCAIN, who has the underlying bill, a company cannot take advantage of the new Y2K laws, which will help them, unless they have offered to fix the problem. They have to prove that they unconditionally offered at no additional cost to the buyer a repair or other remedial measures.

I want to engage my friend from South Carolina in a little discussion here, ask him a question. Does it not astound the Senator that we have an amendment before us that will not be accepted by the Senator whose own State has a tougher provision than the Boxer provision, that we can't go even halfway toward the State of Arizona law which says in order to take advantage of the new legal system you have to unconditionally offer to fix the problem?

I ask my friend, who is very knowledgeable in this, if this doesn't strike him as being very strange?

Mr. HOLLINGS. This is astounding, because in getting this information up and looking at the glossary of State action, we all say: After all, don't you remember in 1994, the Contract with America, we got the tenth amendment, the best government is that government closest to the people, let us respect the States on down the line. They had all these particular provisions. Here comes an assault with respect to actually killing all the State action and everything else, when they probably had a more deliberate debate than we have had at the local level, and they have all acted.

Here you put in a provision which responds, generally speaking, to the action taken by all the States, and yet they say, no, we know better than the States now and that we are not going to have a fix.

It is astounding to this particular Senator the course this bill has taken. Here I am trying to get a vote. I know my distinguished chairman, Senator MCCAIN, worked like a dog here in the

well. He said: I want to make sure we get rid of this thing, and I am working on Senator SESSIONS and Senator GREGG to get these amendments up and have them considered so we can dispose of the bill. So I know he is not the holdup.

The press listens, and they are sending the word down to me that they have a computer software conference or something at the beginning of the week, and they would like to have this as sort of part of the computer software program. You cannot even intelligently debate the thing. It has gotten to be on message so that you have to have the message at the right time.

This is disgraceful conduct on the part of the Senate, if that is the case. I like to cooperate. I went right over to my distinguished friend from Alaska and I said, look, I am trying to get a vote, but I know they are headed to the Paris airshow. If your plane is leaving or whatever it is, I understand. I will yield and let's go ahead then and we will have a Tuesday vote. I was trying to find a reason, a good logical reason. It was logical to me to indulge the needs of my friend from Alaska, because it is an important conference they are going to. He said, no, we don't leave until late this evening. So it wasn't that. Then I asked over here, and it isn't this. It isn't Senator MCCAIN. I keep going around trying to find out, and here we are trying to agree in order to get the bill passed and they won't agree to agree.

Mrs. BOXER. I say to my friend, I have been on my feet since I think 12:30—about 12, I think.

Mr. HOLLINGS. I asked the Senator to only take 10 minutes, does she remember that?

Mrs. BOXER. Yes.

Mr. HOLLINGS. When the Senator came to the floor, I said, ''Senator, Senator MCCAIN wants to get rid of it, and I do. Will you agree to 20 minutes, 10 to a side? Senator MCCAIN is ready to yield back his 10 minutes.''

Now, that is the way it was at noontime today. Here now, at quarter past 3, we are running around like a dog chasing his tail trying to find out why in the world, when they are having an ice cream party all over the grounds around here, you and I are trying to get the work of the Senate done, and they can't give us a good excuse. When you say, ''All right, I will amend it,'' and you are bound to agree, so we can move on, they say, ''No, no, we don't want to agree to agree.''

Mrs. BOXER. Well, I remember that the Democrats were being criticized and they were saying: You are not letting us get this Y2K bill up for a vote, because we wanted to do—I remember this very clearly—some sensible gun amendment. We were told we were holding up Y2K. We said: We can get those things done. And, thanks to the majority leader, we moved to the juvenile justice bill, and with bipartisan help we got some good, sensible gun amendments through, and we went right to Y2K.

I want to say to my friend, the ranking member on the committee, who has some real problems with the bill—more problems than this Senator has—didn't object to proceeding to the bill. He said: OK, we will proceed. He asked me to please make my case. I said: I will settle for any time agreement. I said I didn't need a vote. I said: Take my amendment. I agreed to the other side's recommendations. Then they said: Oh, we can't do it.

I don't understand why they can't take this amendment. I keep coming back to that. Every time I work my way into my best closing argument, because I think there is going to be a vote—I had my best closing argument at 1:55, because I thought we were voting at 2. Then I had to rev up again at 2:30, and I got another good closing argument. Now they say we are going to have a vote at 3:30. I don't see anybody here yet. I hope they come here, because I think it is important.

The amendment pending before the Senate is a consumer amendment, because it says fix the problem. It is weaker than the consumer amendment that is included in the Arizona law. This is incredible. In the Arizona law, which is a beautiful law, which passed overwhelmingly, they say—and this is important; it defines the affirmative defenses that will be established if you do certain things. You have to do certain things to help people. If you do these things in good faith, you get a little more protection at the courthouse. What are they?

> The defendant has to notify the buyer of the product that the product may manifest a Y2K failure. And the notice shall be supplied by the defendant explaining how the buyer may obtain remedial measures, or providing information on how to repair, replace, upgrade, or update the product. The defendant [meaning the company] has to unconditionally offer, at no additional cost to the buyer, to provide the buyer the repair or the remedial measures.

All we say in the Boxer amendment is, you don't even have to do it for free—only for free if it is the last 5 years. Prior to that, from 1990 to 1995, at cost; before that, you can charge whatever you can get. The Boxer amendment doesn't even say you have to do this to avail yourself of these new laws. It simply says if you don't do it, the judge—if there is a court case—has to take into consideration the fact of these cases. I cannot believe this wasn't accepted in a heartbeat. It is weaker than the Arizona law.

What has become of us here? I don't know. I cannot figure it out. I love high-tech companies, software companies. They are the heart and soul of my State. They are good people. They are good corporate citizens. Most of them—the vast majority—are doing the right thing. They are doing these things already. So whom do we protect in this bill that was so important that we were supposed to rush to it, and now they are not going to vote on it until next week? What happened to all the rhetoric that this is an urgent problem? If we went to the CONGRESSIONAL RECORD, it would be embarrassing for people who were saying, ''Vote next week,'' just a couple of weeks ago, who said, ''This is urgent.'' I heard one of my colleagues on the other side say this is an emergency. I am baffled by it.

So I think what I will do is yield the floor, because I don't know what else I can say to convince my colleagues, who I am sure are listening to every word from their offices, that this amendment is the right thing to do for the people we represent, the people who vote for us.

I am going to tell my friends in the Senate, if you don't vote for this amendment, the phone calls will start coming in on January 1, 2, 3, 4, and 5, saying, ''I thought you took care of Y2K. You had so much fanfare about the bill. What can I do now?''

There will be nothing they can do, because without this Boxer amendment there is no requirement to fix the problem during the remediation period, or ''cooling-off period.'' The only thing required, to repeat myself, is a letter: Oh, yes, I got your letter. I know you have a problem. I will get back to you. That is it. You don't have to do the fix. It doesn't have to be for free. You can do whatever the market will bear, and you get the protections of the bill.

It is not right, my friends. It is not right. We can make it better.

When I go back home and talk to my friends in Silicon Valley and they say, ''Senator why didn't you support the underlying bill?'' I am going to be honest and say, ''This bill is an insult to you; it is an insult to you. It is assuming you are too weak to do the right thing. It is assuming you are a bad corporate actor.''

I can't do that to the people I represent. They are too good, too important, too successful to have this kind of treatment. That is how I see it.

So, again, hope against hope that we will have a change of heart here, and maybe they will take this amendment or try to go back to the offer they gave us a little while ago. Otherwise, I guess we will just have to wait for the motion to table.

I yield the floor.

Mr. HOLLINGS. Mr. President, you learn to study these things. You look closely, and you finally realize what is happening.

I remember an old-time story about the poll tax days and the literacy testing of minorities in order to vote. In South Carolina, a minority came to the poll prepared to vote, and a man presented him with a Chinese newspaper. He says, ''Here, read that.'' He takes the paper and turns it around all kinds of ways, and he says, ''I reads it.'' The man asks him, ''What does it say?'' The minority says, ''It says ain't no poor minority going to vote in South Carolina today.''

They know how to get the message. In turn, I can get this message. This goes right to what is really abused as

an expression, ''Kill all the lawyers.'' To Henry VI, Dick Butcher said, ''We have to kill all the lawyers.'' What they were trying to do was foster tyranny, and they knew they could not do it as long as they had lawyers available to look out for the individual and individual rights.

Say I am the lawyer and I have a lot of work. Generally speaking, I am a successful lawyer. And someone comes to me in January or February with a Y2K problem, and I am saying I am not handling those cases, you ought to try to see so-and-so, wherever we can find somebody, because the entire thrust is in order to really get anything done and get a result I know that I am limited. I can't take care of the poor small businessman and the lost customers. I can't take that small businessman and his employees that have had to take temporary leave because his business is down. I can't take care of the other economic damage like the lost advertising which has come about while his competition takes over. I have to tell him it is the crazy law that they passed up there in Washington. But that is how things are getting controlled whereby you just come in.

So I have to write a letter on your behalf, and after I write that letter, 30 days, then another 60 days is the so-called cooling-off period. Then, if nothing happens, which apparently you tried to get it fixed and nothing has happened, I have to draw pleadings and file and everything else. It all comes down to $5,000 or $10,000 for a computer. I have spent $5,000 of my time and costs, unless you are rich enough to start paying me billable hours. I spend $5,000 for much of my costs and staff and hours of work myself. The most I can do is get you back half of a computer.

It is a no-win situation. They have passed a law in essence not just for rushing to the courtroom or courthouse, as they talk about, but to make sure that nobody wants to handle a case of that kind because there is no way to make an honest recovery to make it partially whole. You just totally lose out.

They know what they are doing when they oppose the bill to get the thing fixed.

That is what I was thinking.

I know with all the State action and the moving forces behind it because I saw it last year. All you have to do is run for reelection and go from town to town and meeting to meeting all over your State. You learn your State. You learn the issues. You learn the opposition. You learn the movements afoot—or the NRA with respect to rifles. You learn about the abortion crowd. You learn about the other groups that have come in now with respect to any and every phase of lawyers.

It is sort of ''kill all the lawyers''—take away, holding up the lawyers for everybody to vote against. But the consumers are the ones who suffer.

The distinguished Senator from California ought to really be commended for finally bringing—after 3 days of debate—this into sharp focus. Lawyers, one way or the other, are not going to be handling these cases. Trial lawyers have bigger cases to handle.

But I can tell you here and now that consumers and small business are going to suffer tremendously.

Almost since I opposed the bill I have felt that it serves them right. Maybe I will prove I was right in the first instance, and maybe they will start sobering up with this intense messianic drive that they have on foot to ''kill all the lawyers.''

That looks good in the polls. That is why we don't do anything about Social Security or campaign finance or budgets or deficits or Patients' Bill of Rights and the important things. But if we can get that poll—and if that poll will show something about the lawyers—then we can get a bill up here, take the time to amend it, and then when we want to cut it off and argue everybody into doing so, and then finally agree that we can all agree and get rid of it, they say no way.

Mrs. BOXER. Will my friend yield for just a moment?

Mr. HOLLINGS. I am glad to yield.

Mrs. BOXER. I appreciate it. I wanted to talk to him about it.

Mr. President, I wonder if I can now send a modified amendment to the desk.

Mr. HOLLINGS. I yield the floor.

AMENDMENT NO. 621, AS MODIFIED

Mrs. BOXER. Mr. President, I send a modified amendment to the desk to replace my own amendment.

The PRESIDING OFFICER. Is there objection to the modification?

The amendment is so modified.

The amendment (No. 621), as modified, is as follows:

In section 7(e) insert at the end the following:

(5) SPECIAL RULE.—

(A) IN GENERAL.—With respect to a defendant that is a manufacturer of a device or system (including any computer system and any microchip or integrated circuit embedded in another device or product), or any software, firmware, or other set or collection of processing instructions to process, to calculate, to compare, to sequence, to display, to store, to transmit, or to receive year-2000 date-related data that experienced a Y2K failure, the defendant shall, during the remediation period provided in this subsection—

(i) make a reasonable effort to make available to the plaintiff a repair or replacement, if available, at the actual cost to the manufacturer, for a material defect in a device or other product that was first introduced for sale after January 1, 1990 and before January 1, 1997; and

(ii) make a reasonable effort to make available at no charge to the plaintiff a repair or replacement, if available, for a material defect in a device or other product that was first introduced for sale after December 31, 1996.

(B) DAMAGES.—If a defendant knowingly and purposefully fails to comply with this paragraph, the court shall consider that failure in the award of any damages, including economic loss and punitive damages.

Mrs. BOXER. Is it necessary that the clerk read it, or can I just proceed to explain it?

The PRESIDING OFFICER. It is not necessary to have the clerk report.

Mrs. BOXER. Thank you very much.

I wanted to explain to my friend what I have done to make this even more palatable to the Senate. We are now saying the fix only has to be made to small businesses and individuals.

So we have narrowed the scope of the repair. Now it becomes even easier for the companies to make these repairs. I say to my friend when he talks about this attack on lawyers that I find it very interesting, because I read when Newt Gingrich was in power on the other side of the aisle that they had a poll done. They had a document prepared which everyone was able to see at some point or other. Their pollsters said in order to divert attention from an issue, attack the lawyers. Just take the attention away from what it is about.

In other words, if there is a dangerous product—let's say a crib—we had these before where the slats in the cribs are made in such a way that a child could die because they could fit their head through those cracks and choke to death—divert attention from the product, and say look at that greedy lawyer, he made X million dollars.

What they do not understand is that all of these kinds of cases—we are not talking about personal injuries, because this bill doesn't involve personal injuries. But I am just making the point here that when a lawyer takes on such a case—I want to ask my friend to talk about this because he knows this for a fact—they don't get paid unless there is a recovery in the suit. They put out maybe sometimes years of work and much expense, and they take a chance because they know the company is powerful and big and strong, and by the way, it has many lawyers. So they go to the people to divert attention from the tragedy that occurred. This is what a lot of politicians do, and they say it is all about the lawyers in Washington.

I hope the people of the United States of America know that there is a rule against frivolous lawsuits and that you can't bring a frivolous lawsuit because a judge can throw it out.

In addition, what lawyer would bring a frivolous lawsuit knowing that he or she is going to be out of pocket for all of these expenses and know that they only get paid if it was really an important lawsuit?

There are many lawyers out there who are not good citizens, who are not good corporate citizens, who do not have social conscience, because it is just like any other profession—just like we are talking about the software industry, or in the computer hardware industry. Most of the people are wonderful, and there are some bad actors.

But let us not get to the floor of the Senate and turn these debates into lawyers versus everybody else, because that is not what it is about. It is about making sure that people have their

problems resolved. If we start talking about lawyers, it isn't really relevant to real people who are going to deal with this real problem on January 1; they wake up, go to their computer and try to conduct business, and find themselves in deep trouble.

I ask my friend if he would comment.

Mr. HOLLINGS. Mr. President, commenting with respect to the attention that the Senator from California gives to consumers, and the comments made about frivolous lawsuits, I am an expert witness on frivolous lawsuits. I can tell you categorically that the courts will take care of frivolous lawsuits quickly. You can see it. I could mention some that have been in the news with respect to the computer people very recently.

But the reason I say an expert witness is because I used to bring individual injury suits with respect to the citizenry around my hometown and sometimes in bus cases. I had a good friend who was a professor at the law school when I was there, and thereupon the chairman of the board of the South Carolina Electric and Gas, which operated the city bus transit system, an event I said I had not been involved with, but that is wrong.

These corporate lawyers get really lazy. They get too used to the mahogany walls, the oriental rugs, somebody with a silver pitcher and some young lady to run in and give them a drink of water.

Rushing to the courtroom and trying cases is work. I remember saying to a man named Arthur Williams: I could save you at least $1 million if I were your lawyer. Later on he retained me.

Right to the point: The first or middle of the month of November, what I call the Christmas Club started to develop. Nobody could get on the transit bus who didn't slip on a green pea, get their arm caught on a door, or the door didn't jerk open and they fell and hurt their back.

This is back in the late 1950s when we were trying these cases.

I said we should try these cases. The claims were around $5,000 to $10,000. The settlements were half, $2,500 or $5,000. The lawyers thought they were too important to go to court to try cases.

Let me tell about a lawyer who was willing to try cases. His name was Judge Sirica. He wrote a book. While he was writing that book, he was being driven around Hilton Head by myself.

He looked at me and said: Senator, don't ever appoint a district judge to the Federal bench who hasn't been in the pitch.

I said: Judge, you mean trying cases?

He said: That is right.

He said when he got out of law school he flunked the bar exam three times. When he finally passed that bar exam, he didn't have any clients, he had to go to magistrate court and take what trials he could pick up. He said he got pretty good at it. He said after a few years, Hogan and Hartson asked: Will you come on board and start trying our cases?

It is work. Frivolous cases—they are small cases, some of them without foundation, a lot of them with foundation—but lawyers with this billable hour nonsense have gotten awfully lazy as a profession.

Talk about delays. When lawyers have billable hours, the opposition wants to play golf in the afternoon. We don't have to go to the judge, I will give you a continuance.

You agree, and the poor client is sitting there paying for the billable hours.

In any event, Judge Sirica said when he walked in the first day and listened to the witness, he told counsel to meet him in chambers. This is the first day of trial. When he got them back in chambers, he said: You are lying, and I'm not going to put up with this nonsense in my courtroom. He said: I could tell it from my trial experience. You are starting tomorrow morning, and you are going to bring out the truth, and you are not going to put up with these kinds of witnesses. It is not going to be just a citation and dock your pay. I will put you in jail if you all don't straighten up and start trying the cases in the proper manner.

He said that broke Watergate. To this practitioner, that goes right around to the so-called frivolous cases that all the politicians are running around about. It is work. You don't run to the courthouse.

As I pointed out earlier today, if you filed a case this afternoon, you would be lucky to get a trial in that courtroom in the year 1999, I can tell you that. The civil docket is backed up that much. I don't know of any court that can actually get to trial.

Who uses that? Not the fellow making the motions and paying the expenses and time and the depositions and interrogatories. The corporate billable hour lawyer, he likes that. He keeps a backup. It is to his interest you don't dispose of justice too quickly. All during the year, he has money coming in. He knows he is a winner regardless of what happens to his client.

They are engaged in predatory practices, frivolous lawsuits, and are running to the courthouse.

The Senator from California is rendering a wonderful service. This is about consumers. The amendment of the Senator from California seeks to get us away from the courthouse, get us away from lawyers, get us away from law, get away from legal loopholes, hurdles, and jumps.

The businesses say: Just give me a fix. I have to do business, and I don't want to lose my customers, service, and reputation. So she requires a fix—all for the consumer.

That is what the Senate and the entire Congress has heard.

There is no question, looking at the results at the State level, how they have turned back all of these things, that is why they are coming to Washington after the ''turn backs.'' Look at all of the States that have debated this issue. The only State in the glossary of State action that passed a Y2K business immunities bill, the only State, is the State of Texas.

Mrs. BOXER. Will the Senator yield?

Mr. HOLLINGS. I yield the floor.

Mrs. BOXER. Mr. President, I seek recognition at this time.

The PRESIDING OFFICER. The Senator from California is recognized.

Mrs. BOXER. Mr. President, it is 3:50. The Senator from Washington was on the floor and said he would be here at 3:30 to table this amendment.

I wonder if the ranking member knows what is going on around here. I was told originally, when I offered my amendment at around the noon hour, we would have a vote at 2 o'clock. Then it was 2:30. Then my friend from Washington State gave me the courtesy of announcing he was not going to allow an up-or-down vote on my amendment; he was going to move to table at 3:30. It is 10 to 4. Have they sent my friend any word?

Mr. HOLLINGS. They have not sent me any word. The press sent me word about the software alliance.

I know the Senator from Arizona, the chairman of our committee, that distinguished Senator, was intent on getting rid of this bill. He told me that early this morning. We got the witnesses lined up, we talked down the witnesses, we made them get the time agreements, and he had an important commitment he made to leave around 12. He tried to extend it to 12:30.

During that half hour he said: I got us down to two amendments. I said: All I know of is the Boxer amendment.

I have now talked Senator TORRICELLI into not presenting his. I hasten to add, I am glad I did not talk Senator BOXER out of her amendment, because it is the only amendment that really brings into issue the matter of consumers we are trying to defend today.

He said: Don't worry. He came back to me twice and said: I have it; I think I worked that out; you go right ahead.

I said: I don't want to vote with you not here.

He said: Go ahead; these commitments have been made.

Everybody knows Senator MCCAIN's position on the bill. We will have to have a conference when it passes. There will be a conference report.

I pressured Senator BOXER and told my colleagues we can vote. Several said: No; we have a lunch hour; let's vote at 2 o'clock. And then 2 o'clock became 2:30, and 2:30 became 3 o'clock, and 3 o'clock became 3:30. Now it is 10 minutes to 4.

I have tried to be diligent in managing the bill and moving the business of the Senate. There is nothing more I can say. I am waiting on the leadership. This is above my pay grade.

We can go ahead and call the roll. I am sure the distinguished staffer on the other side of the aisle is ready to

call the roll. He has worked hard. We are all ready.

This is above our pay grade.

Mrs. BOXER. Mr. President, if it is against the pay grade of one of the most senior respected Members in the Senate, the ranking member on the committee of jurisdiction, clearly it is way above my pay grade.

I get paid to do a job here, and the job is to represent the people of California. Make life better for them, make life easier for them, give them a chance at the American dream, keep their environment beautiful and clean, give them opportunity, fairness. What I am trying to do is take that set of values and apply it to this bill. I do not want them waking up on the morning of January 1, 2000, and finding that their small business just crashed before them and they have no remedy when, in fact, a remedy exists and the manufacturer simply has to make a simple fix.

Again, my breath is taken away when I read the law in Arizona—I might say a Republican State—which says that before any manufacturer could take advantage of the easier rules of the law to defend himself or herself against a claim, they have to do certain things affirmatively, including offering to fix at no cost. In other words, what you say in Arizona is: We are happy to help you, Mr. and Mrs. Businessperson, but it has to be after you have affirmatively tried to fix the Y2K problem.

In the underlying bill, we require very little of a business before they can get to the ''safe harbor,'' if I might use that term broadly, of this bill. What do they have to do? Write a letter:

Dear Friend: I got your letter. I know you have a Y2K problem. I am studying it. I'll get back to you.

Then they qualify for the rest of the benefits of this law. Who does it help? It helps the bad actors. Who does it hurt? The consumers. Why are we doing it? God knows.

We could have done a good bill on this. The amendment I put before you comes from a House bill that was proposed in 1998 by DAVID DREIER and CHRIS COX. This is not some provision written by a liberal Member of Congress. It was written by two Members with 100 percent business records. Why did they put it in the bill? Because I think when they sat down to write the bill that was the object of the original Y2K proposal—a cooling off period, remediation period, get the fix done, stay out of court. I think, if this amendment is taken, if it is approved, I think that will be a good step forward for consumers. If it is not, there is nothing in this bill, in my opinion, that does one thing to cure the problem.

So, it is now 5 minutes to 4. Senator GORTON said he would be back at 3:30 to table the Boxer amendment. I am perplexed at what our plans are here, whether we are just going to not have any more votes today or whether we are just whiling away the time or some Members had to go to some other obligation. I do not know what is happening because I do not have word. All I know is I have been here since 12 o'clock on this amendment. It is a good amendment. I am hoping perhaps no news is good news, I say to my friend. Maybe they are so excited about this amendment they are trying to work it out somehow.

I see Senator LIEBERMAN is here to make some remarks. I am happy to yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

AMENDMENT (NO. 621) AS FURTHER MODIFIED

Mrs. BOXER. Mr. President, if my colleague will yield for just one more minute, I send a modification to the desk to replace the other one that was sent in error.

The PRESIDING OFFICER. Without objection, the amendment is further modified.

The amendment (No. 621), as further modified, is as follows:

In section 7(e) insert at the end the following:

(5) SPECIAL RULE.—

(A) IN GENERAL.—With respect to a defendant that is a manufacturer of a device or system (including any computer system and any microchip or integrated circuit embedded in another device or product), or any software, firmware, or other set or collection of processing instructions to process, to calculate, to compare, to sequence, to display, to store, to transmit, or to receive year-2000 date-related data that experienced a Y2K failure, the defendant shall, during the remediation period provided in this subsection—

(i) make available to any small business or noncommercial consumer plaintiff a repair or replacement, if available, at the actual cost to the manufacturer, for a device or other product that was first introduced for sale after January 1, 1990 and before January 1, 1995; and

(ii) make available at no charge to the plaintiff a repair or replacement, if available, for a device or other product that was first introduced for sale after December 31, 1994.

(B) DAMAGES.—If a defendant fails to comply with this paragraph, the court shall consider that failure in the award of any damages, including economic loss and punitive damages.

(C) With respect to this section, a small business is defined as any person whose net worth does not exceed $500,000, or that is an unincorporated business, a partnership, corporation, association, unit of local government, or organization with fewer than 25 full-time employees.

Mr. LIEBERMAN. Mr. President, I see an opportunity here to make a few general comments about the bill as we await the next procedural step. With the Chair's permission, I will proceed with that, which is to say to add my strong support to the underlying bill.

Mr. President, Congress really needs to act to address the probable explosion of litigation over the Y2K problem. It needs to act quickly. This is a problem that has an activating date. It is nothing that will wait for Congress to act. It will be self-starting, self-arriving. Therefore, we must act in preparation for it.

Obviously we are now familiar, if we had not been before this extended debate, with the problem caused by the Y2K bug. Although no one can predict with certainty what will happen at the turning of the year into the new century and the new millennium, there is little doubt that there will be Y2K-caused failures, possibly on a large scale, and that those failures could bring both minor inconveniences and significant disruptions in our lives. This could pose a serious problem for our economy, and if there are widespread failures, it will surely be in all of our interests for American businesses to focus on how they can continue providing the goods and services we all rely on in the face of those disruptions rather than fretting over and financing defense of lawsuits.

Perhaps just as important as the challenge to our economy, the Y2K problem will present a unique challenge to our court system, unique because of the possible volume of litigation throughout the country that will likely result and because that litigation will commence within a span of a few months, potentially flooding the courts with cases and inundating American companies with lawsuits at precisely the time they need to devote their resources to fixing the problem.

So I think it is appropriate for Congress to act now to ensure that our legal system is prepared to deal fairly, efficiently, and effectively with the Y2K problem, to make sure those problems that can be solved short of litigation will be solved that way, to make sure that companies that should be held liable for their actions will be held liable, but to also make sure that the Y2K problem does not just become an opportunity for a few enterprising individuals to profit from what is ultimately frivolous litigation, unfairly wasting the resources of companies that have done nothing wrong, companies large and small, or diverting the resources of companies that should be devoting themselves to keeping our economy going to fixing the problem.

To that end, I was privileged to work with the leadership of the Commerce Committee and the sponsors of this legislation, particularly Senators MCCAIN, WYDEN and DODD, to try to craft a more targeted response to this Y2K problem.

Like many others here, I was actually uncomfortable with the scope, the breadth, and the contents of the initial draft of this legislation because I thought it went beyond dealing with our concerns about the Y2K potential litigation explosion and became a general effort to adopt tort reform. I took those concerns to the bill's sponsors, as others did. Together I found them to be responsive and we worked out those concerns. I am very grateful to them for that.

With the addition of the amendments offered by Senators DODD, WYDEN and others, we have a package now before us that I think we can really be proud of and with which we can be comfortable because it is one that will help

us fairly manage the Y2K litigation while protecting legal rights and due process.

Provisions like the one requiring notice before filing a lawsuit will help save the resources of our court system while giving parties the opportunity to work out their problems before incurring the costs of litigation and the hardening of positions the filing of a lawsuit often brings.

The requirement that defects be material for a class action to be brought will allow recovery for those defects that are of consequence while keeping those with no real injury from using the court system to extort settlements out of companies that have done them no real harm. And the provision in this bill keeping plaintiffs with contractual relationships with defendants from seeking, through tort actions, damages that their contracts do not allow them to get, will make sure that settled business expectations, as expressed in duly negotiated and executed contracts, are honored and that plaintiffs get precisely but not more than the damages they are entitled to under those contracts.

I also think it is important for everyone to recognize that the bill we have before us today is not the bill that was originally introduced, not even the bill that was reported out of the Commerce Committee. Because of the cooperative efforts of Senators MCCAIN, DODD, WYDEN, GORTON, and so many others who are interested in seeing this legislation move forward, this bill has been significantly tailored to meet the urgent problems we may face.

I will conclude by saying that this legislation will not protect wrongdoers or deprive those deserving of compensation. What it will do is make sure that what we have in place is a fair and effective way to resolve Y2K disputes, one that will help make sure we do not compound any problems caused by the Y2K bug, even larger problems caused by unnecessary litigation.

This is good legislation, and I am optimistic that it will soon pass the Senate and that we will, thereby, have dealt with a problem which otherwise would be much larger than it should be.

I thank the Chair, and I yield the floor.

Mr. KERREY addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. KERREY. Mr. President, I have come to the floor to make a brief statement about the Kosovo situation. I ask unanimous consent that the pending amendment be laid aside so I can speak as in morning business for 10 minutes.

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

KOSOVO

Mr. KERREY. Mr. President, like many Americans, I am very pleased with the recent agreement within the United Nations Security Council on a plan that will end the conflict in Kosovo and achieve NATO's primary objective of returning the people of Kosovo to their homes.

I take this opportunity to join with many others who have spoken on this subject to thank the aircrews and the support personnel of our Air Force, our Navy, and our Marine Corps. These men and women have demonstrated that American airpower can bring change in the course of history. Their dedication to duty and professionalism makes all of us proud.

We have just recently passed the defense appropriations bill, and I had hoped to come to the floor, especially to speak to Nebraskans, who have a big stake in this bill, not just because we are beneficiaries of the security provided to us by the men and women who will benefit from these appropriations, but also because we have significant numbers of people in my State who are part of the effort to keep the United States of America safe.

These laws that we pass—the defense appropriations bill and the defense authorization bill—are not merely words on a piece of paper; these laws are converted into human action. While it is true that men and women have to be well-trained, they need to be patriotic in order to be willing to give up their freedoms to serve the cause of peace and freedom throughout the world. It is also true that the beginning point is the kind of dream that we have in this Senate and in this Congress about the way we want our Nation and our world to be.

Operation Allied Force was very dangerous and very expensive. It is natural for us, at the moment, to want to celebrate a victory. However, I believe we must recognize the hard work is just beginning.

Two immense tasks now confront NATO. The first is to restore a refugee people to their homeland, and the second is to make the Balkan region a modern, democratic, and humane environment in which ethnic cleansing can never again occur. The first task may take a year, given the destruction of homes and farms in Kosovo. The second will take generations and will never occur without democratic change in the Yugoslavian Government.

At the outset of the NATO military action, I expressed my concern about the effect the U.S. commitment to this operation would have on our ability to meet our global security obligations. Only the United States of America has the ability to counter the threats that are posed by Iraq, North Korea, or the proliferation of weapons of mass destruction. The stability of this planet depends on the readiness of the U.S. military, and thus we must avoid squandering our capabilities on missions not vital to U.S. national security.

NATO has committed itself to provide a peace implementation force of 50,000 troops. Of this force, the United States will supply about 7,000 marines and soldiers. While I have concerns about the overcommitment of United States military forces, I am pleased our European allies have stepped forward and pledged to provide the vast majority of the implementation force. We should work to lessen the United States military involvement, with the goal of creating an all-European ground force in Kosovo within a year.

In the meantime, we must be straightforward with the American people. There are risks associated with this mission. This force will be responsible for assisting the Kosovar refugees' return home, disarming the Kosovo Liberation Army, and coping with the myriad issues, such as landmines and booby traps, that will be left behind by the departing Serbian military. American casualties remain a very real possibility.

Out of this conflict, I see reason for us to be optimistic. First, our allies in Europe, led primarily by Britain and Germany, have played a leading role in finding a solution to the conflict. It is in the interest of the Europeans to build a peaceful and stable Balkans. Their effort to find a diplomatic agreement and to provide the majority of the troops to enforce this agreement is a positive sign for the future.

Second, I am pleased with the constructive role that has been played by the Russians. There will not be a lasting Balkan peace without the active participation of Russia. It is my hope the positive atmosphere that has been created between Russia and the West will be carried forward and will reignite the relationship that has suffered over the past few months.

Finally, I hope we have begun to see the future of Balkan stability in a larger context. We cannot continue to fight individual Balkan fires. We must begin to look for preventive measures to avoid the next Balkan conflict before it begins.

The United States and our European allies have not done enough to bring the Balkans into the political and economic structures of Europe. We have not done enough to support the latent forces of democracy that exist in the region.

Our challenge today is to extend to the Balkans the peace and stability that comes from a society based on democratic principles where the rights of all people are protected, a society based on the rule of law where legitimate grievances among people are honestly adjudicated, a society based on free enterprise where commerce is unleashed to create jobs and prosperity.

More than failed diplomacy, Kosovo should have taught us the consequences of failed states. Multiethnic Balkan States are not impossible, but to succeed, they must be free-market democracies.

I believe peace and stability is an achievable goal. First, we must work with prodemocracy forces within the various Balkan States to strengthen the emerging democracies and encourage the transition to democracy.