on his way over, and he needs just a couple of minutes. If the leader will, I ask him to delay the unanimous consent request.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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 President, I ask unanimous consent that the order for the quorum call be rescinded.

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

UNANIMOUS CONSENT AGREEMENT

Mr. GORTON. Mr. President, I withdraw the formal text of the unanimous consent request by the majority leader, and I will reread it so it is grammatically correct.

I ask consent that the Senate turn to the House Interior bill and, immediately following the reporting by the clerk, Senator GORTON be recognized to offer the text of the Senate-reported bill, as modified, to strike page 116, lines 3 through 7; page 129, line 18 through page 132, line 20, as an amendment to the House bill. I further ask consent that the amendment be agreed to and the bill as thus amended be considered original text for the purpose of further amendment and that any legislative provision added thereby may nonetheless be subject to a point of order under rule XVI.

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

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 2000

The PRESIDING OFFICER. The clerk will report the bill by Title.

The legislative assistant read as follows:

A bill (H.R. 2466) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2000, and for other purposes.

The Senate proceeded to consider the bill.

AMENDMENT NO. 1357

(Purpose: In the nature of a substitute)

Mr. GORTON. Mr. President, pursuant to the unanimous consent agreement, I send an amendment to the desk and ask that it be reported.

The PRESIDING OFFICER. The clerk will report.

The legislative assistant read as follows:

The Senator from Washington [Mr. GORTON] proposes an amendment numbered 1357.

Mr. GORTON. Mr. President, I ask unanimous consent reading of the amendment be dispensed with.

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

(The text of the amendment is printed in today's RECORD under ''Amendments Submitted.'')

Mr. GORTON. Mr. President, I am pleased to bring before the Senate the Interior and Related Agencies Appropriations Act for Fiscal Year 2000. The bill totals $13.924 billion in discretionary budget authority, an amount that is $1.125 billion below the President's budget request and $19 million below the fiscal year 1999 enacted level. The bill fully complies with the spending limits established in the Balanced Budget Act of 1997, and the amount provided is right at the subcommittee's 302(b) allocation.

As is always the case, putting this bill together has been a tremendous challenge. While I am extremely grateful that Senator STEVENS, in consultation with Senator BYRD, was able to provide the subcommittee with an increase over its original 302(b) allocation, the amount contained in this bill is still slightly below the fiscal year 1999 enacted level. I wish to point out to my colleagues, however, that this does not mean that delivery of programs can be continued at the current level simply by holding appropriations even with last year.

The programs funded in this appropriations bill are highly personnel-intensive, supporting tens of thousands of park rangers, foresters, and Indian Health Service doctors. As such, mandated pay and benefit increases for Federal personnel and increases in rent charged by the General Services Administration—increases over which the subcommittee has no control—place a significant burden on Interior bill agencies. The committee must choose either to provide funds to cover these costs, or require agencies to absorb them by reducing services or finding more efficient ways of delivering programs. For fiscal year 2000, these fixed costs amount to more than $300 million. While the committee has provided increases to cover a majority of this amount by drawing on carryover balances and reducing low priority programs, some agencies will be forced to absorb a portion of their fixed costs.

Given the necessity of funding most fixed costs increases within an allocation that is slightly below the current year level, there is little room in this bill for new programs, increases in existing programs, or additional projects of interest to individual Members. But by terminating low priority programs and making selective reductions in others, we have been able to provide targeted increases for certain high priority programs.

The committee has provided a $70 million increase for the operation of the national park system, including $27 million to increase the base operating budgets of 100 park units. This increase is further indication of the Senate's commitment to preserving and enhancing our national park system while remaining within the fiscal constraints of the balanced budget agreement. The Senate bill puts funding for the operation of our parks at a level fully $277 million higher than the fiscal year 1995 level, and 82 percent over the amount provided a decade ago.

For the other land management agencies, the bill provides an increase of $27 million for the Fish and Wildlife Service, including more than $13 million for the operation of the national wildlife refuge system. The bill increases the Forest Service operating account by $17 million, including significant increases for recreation management, forest ecosystem restoration, and road maintenance. A $22 million increase is provided for management of lands by the Bureau of Land Management, as well as another $5 million increase for payments in lieu of taxes. The amount provided for PILT reflects a continued effort to steadily increase appropriations for this program without harming the core operating programs funded in this bill. Though appropriations for PILT were stagnant throughout the first half of this decade, the amount provided in this bill represents a 28 percent increase over the amount provided in fiscal year 1995.

Among the programs in this bill that are specifically for the benefit of Native Americans, the committee's top priority has been to provide the Secretary of the Interior with the resources necessary to fix the Indian trust fund management system. Indian land and trust fund records have been allowed to deteriorate to a deplorable state, and the Department of the Interior now finds itself scrambling to reconcile thousands upon thousands of trust records that are scattered across the country. Many of these records are located in cardboard boxes that have not been touched for years, or in ancient computer systems that are incompatible with one another. The Department is performing this task under the watchful eye of the court, having been sued by those whose trust accounts it is supposed to be managing.

I believe that Secretary Babbitt is making a good faith effort to address this problem, and as such have recommended a funding level for the Office of the Special Trustee that is $39 million over the amount originally provided for fiscal year 1999. This amount will provide for both the manpower and the trust management systems necessary to fix the problem. I will note, however, that the Federal track record in managing large system procurements is spotty at best. As such, I hope to continue to work closely with the Committee on Indian Affairs and the Committee on Energy and Natural Resources to ensure that these funds are expended wisely, and that we will not regret our decision to provide such a considerable amount for this purpose. I plead with my colleagues, however, to refrain from offering amendments to this bill that would radically change the course of action for trust management that has been laid out by the administration. Any such changes should be carefully considered and have the benefit of hearings by the authorizing committees.

With regard to other Indian programs, I will quickly note that the bill provides an $83 million increase for the Indian Health Service, as well as significant increases for both Indian law enforcement and Indian school construction and repair. Funding for Indian schools continues to be among the highest programmatic priorities expressed by members of the Interior Subcommittee.

The Interior bill also funds a myriad of programs that preserve and enhance our nation's cultural heritage. Perhaps the most visible of these programs are the National Endowments for the Arts and the Humanities. While the subcommittee's allocation did not allow us to increase these accounts by large amounts as would be the desire of many Senators, the bill does provide a $1 million increase for each program. These increases will not allow for any dramatic expansion the Endowments' ongoing programs, but do indicate the committee's general support for the Endowments and the efforts they have made to respond to the various criticisms that have been leveled at them. I hope that we may able to do even better next year.

The bill also includes the full $19 million required to complete the Federal commitment to the construction of the National Museum of the American Indian on The Mall, and $20 million to continue phase two of the comprehensive building rehabilitation project at the Kennedy Center.

The final grouping of agencies in this bill that I will mention at this time are the energy programs. The bill provides funding for both fossil energy R&D and energy conservation R&D at roughly the current year level. These programs are vital if we hope to stem our increasing dependence on foreign oil, to preserve the country's leadership in the manufacture of energy technologies, and to enable our economy to achieve reductions in energy use and emissions in ways that will not cripple economic growth. The bill also preserves funding for the weatherization and state grant programs at the fiscal year 1999 level. Maintaining current funding levels for these programs is made possible in part by the absence of any new appropriations for the naval petroleum and oil shale reserves, and a deferral of appropriations previously made for the Clean Coal Technology Program.

Mr. President, I would like to touch on two more issues that may be of particular interest to members. The first is funding for land acquisition. Many Senators are aware that the President's budget request included some $1 billion for a ''lands legacy'' initiative. This initiative is an amalgamation of programs, some of which the committee has been funding for years, some of which are entirely new. Many of the programs included in the initiative lack authorization entirely. While the committee may well have chosen to provide many of these increases if it were allowed to distribute a $1.1 billion increase in spending, the lands legacy initiative is absurd in the context of any overall budget that adheres to the terms of the Balanced Budget Act of 1997—the very act that has helped produce the budget surplus that the President is so anxious to spend.

To be clear, this bill does include large amounts of funding for a variety of land protection programs. The bill provides about the same amount of funding for Federal land acquisition as was included in the Senate reported bill last year. It also includes significant increases for other land protection programs such as the Cooperative Endangered Species Fund and the Forest Legacy program. The bill does not, however, include funds for the new and unauthorized grant programs requested by the administration, and does not include funds for the Stateside grant program that is authorized under the Land and Water Conservation Fund Act. While I am sympathetic in concept to the Stateside program, the subcommittee's allocation does not provide the room necessary to restart the program.

Finally, I would like to take a moment to discuss the issue of appropriations ''riders.'' This administration has leveled much criticism at this Congress for including legislative provisions in appropriations bills. This criticism is disingenuous in at least two ways. First, there are without question legislative provisions in this very bill that, if removed, would prompt loud objections from the administration itself. Among these are provisions well known to my colleagues, such as moratoria on offshore oil and gas development and a moratorium on new mining patent applications. There are also some less well-known provisions that have been carried in this bill for years, the subjects of which range from clearcutting on the Shawnee National Forest to the testing of nuclear explosives for oil and gas exploration. Nearly all of these provisions are included in the bill because Congress at some point felt that the Executive branch was tampling on the prerogatives of the legislative branch.

This leads to my second point. It should be well apparent to my colleagues that this administration long ago made a conscious decision not to engage Congress in productive discussions on a wide array of natural resource issues. Most of these issues are driven by statutes that most reasonable people admit are in dire need of updating, streamlining or reform. Instead, the administration has chosen to implement its own version of these laws through expansive regulatory actions, far-reaching Executive orders and creative legal opinions. When the administration overreaches in this fashion, concerned Senators are compelled to respond. The administration knows this, and has clearly made a political calculation that it is in its interest to invite these riders every year. For the administration to criticize the very practice that it deliberately provokes is, as I have said disingenuous at best.

If the administration wishes to take issue with the substance of these provisions rather than hide behind a criticism of the process, it is welcome to do so. Consideration of this bill is an open process. It is not done ''in the dark of night,'' as we so often read. The bill has moved through subcommittee and full committee, and is open for amendment by the full Senate. I expect that we will discuss some of these provisions during the coming debate, and hope that Senators will carefully consider the arguments made on both sides. What I hope Senators will not do, is vote to abdicate the Senate's responsibility to oversee the actions of the executive branch, or sacrifice the power of the purse that is granted to the Congress by the Constitution.

With that admonition, Mr. President, it is probably an appropriate time to turn to Senator BYRD and thank him for his assistance in drafting this bill. He has been an invaluable resource as I have tried to be responsive to the priorities of Members on that side of the aisle, and has been particularly helpful in securing an allocation for the subcommittee that enables us to report a bill that is deserving of the Senate's support. I thank Senator BYRD's staff as well—Kurt Dodd, Liz Gelfer, a detailee, and Carole Geagley for all the hard work they have done on this bill. I also want to thank my subcommittee staff for the long hours and hard work they have put in on this bill—Bruce Evans, Ginny James, Anne McInerney, Leif Fonnesbeck, Joe Norrell, and our detailee Sean Marsan. Kari Vanderstoep of my personal staff and Chuck Berwick—who has now departed my office for business school—have also done a great job of coordinating the many parts of this bill that have a direct impact on the State of Washington.

Once again, I think this is a good bill that balances the competing needs of the agencies it funds against the broader fiscal constraints that we have imposed upon ourselves. I hope my colleagues will support the bill.

There is one final point I want to make, Mr. President, and emphasize to all the Members and their staffs who are within hearing.

This is a bill created by many individual Senators' requests for projects in their home States, and sometimes for projects that are regional and national in scope. This year, at least during my tenure, we set another new record. One hundred Senators made more than 2,400 requests for specific provisions in this bill. Obviously, we could not grant all of the requests that are valid. I must say most of them were, in the sense they were for projects that would increase the ambience of the park system, the national historic system of the country as a whole.

Senator BYRD and I, working together, have done the best job we possibly could in setting priorities for those programs, within the constraints of a bill I have already said is very limited in the total amount of money we have.

So Members' requests that are not included in the bill were not ignored; they were simply omitted either because the given individual had higher priorities within his or her own State or because other priorities intervened in their way.

Mr. BYRD. Mr. President, I speak today in support of the fiscal year 2000 Interior and Related Agencies appropriation bill. This is an important bill which provides for the management of our Nation's natural resources, funds research critical to our energy future, supports the well-being of our Indian populations, and protects the historical and cultural heritage of our country. I urge the Senate to move swiftly in its consideration of this appropriation bill.

It has been my privilege to serve as the ranking member for this bill at the side of our very able chairman, the senior Senator from Washington. Senator GORTON has done an outstanding job in crafting the bill and balancing its many competing interests, a particularly daunting challenge this year in light of the spending caps within which the Appropriations Committee must operate. Even in the best of years, crafting the Interior bill is not an easy task.

The Interior bill remains one of the most popular appropriation bills, funding a diverse set of very worthy programs and projects. The bill is full of thousands of relatively small, yet very meaningful details. Our chairman is a master of the complexities of the Interior bill. It is a pleasure to work on this appropriations bill with Senator GORTON at the helm. He has treated the Senators fairly and openly. This bill was put together in a bipartisan manner, and it reflects priorities identified by Senators, by the public, and by the agencies which are charged with carrying out the programs and projects funded in the bill.

The breadth of the activities covered by the Interior bill is vast—ranging from museums to parks to hospitals to resources to research—with most of the funds being spent far away from the capital. This bill funds hundreds of national parks, wildlife refuges, national forests, and other land management units. This bill supports more than 400 Indian hospitals and clinics and thousands of Indian students. A wide variety of natural science and energy research and technology development are funded through this bill, providing immediate and far-reaching benefits to all parts of our Nation and to our society as a whole.

This bill makes its presence known in every State—from the rocky coasts of Maine to the mountains of California, from the coral reefs of Florida to the far flung island territories of the Pacific, from the Aleutian Islands in Alaska to the Outer Banks of North Carolina. And the number of requests Senator GORTON and I have received from Senators for project funding in the Interior bill—more than 2,400 requests for specific items—reflects its broad impact. While it is impossible to include every request, Senator GORTON has done an admirable job of accommodating high-priority items within the allocation, an allocation that is $1.13 billion below the President's budget request and nearly $20 million below last year's enacted level of $13.94 billion in new discretionary spending authority.

Highlights of this bill include:

A total of $234 million for federal land acquisition, which is $178 million below the President's fiscal year 2000 request (with reprogrammings) and $94 million below the level of funding included in the fiscal year 1999 act for land acquisition.

A continuing emphasis on operating and protecting our national parks. Park operation funds are increased by $70 million, including increases of $19 million for resource stewardship, $16 million for visitor services, and $20 million for park maintenance.

A continuing focus on the operational needs of the other land management agencies. The bill contains an increase of $24 million for the operating accounts of the Bureau of Land Management, including a $9 million increase for range management. The bill also provides an increase of $22 million for the resource management account of the Fish and Wildlife Service, including an increase of $13 million for refuge operations and maintenance.

The bill contains $159 million for the Strategic Petroleum Reserve, allowing operation of the reserve without selling any of its oil.

Fossil energy research and development is funded at $395 million (with use of transfers and prior year balances), which is an increase above both the enacted level (by $11 million) and the request level (by $27 million). Specific increases also are provided for select energy conservation programs in building research and standards, transportation technology and specific industries of the future activities.

While this bill provides needed resources for protecting some of our nation's most valuable treasures, we still have a long way to go. The agencies funded through this bill are starting to make progress towards addressing their operational and maintenance issues, thanks to the leadership of the Congress. But we are by no means out of the woods. Many deplorable conditions remain; many important resource and research needs are unmet. We must continue our vigilance towards unnecessary new initiatives as well as unwise decreases, our support for the basic programs that provide the foundation of the Interior bill, and our careful stewardship of the resources and assets placed in our trust.

Lastly, I extend a warm word of appreciation to the staff that have assisted the Chairman and myself in our work on this bill. They work as a team and serve both of us, as well as all Senators, in a very effective and dedicated manner. On the majority side, the staff members are Bruce Evans, Ginny James, Anne McInerney, Leif Fonnesbeck, Joseph Norrell, and Sean Marsan. On my staff, Kurt Dodd, Carole Geagley, and Liz Gelfer have worked on the Interior Bill this year. This team works under the tutelage of the staff directors of the full committee—Steve Cortese for the majority and Jim English for the minority.

Mr. President, this is a good bill, and I urge the Senate to complete its action promptly.

Mrs. MURRAY addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Mr. President, what is the pending legislative business?

Mr. GORTON. I believe I have not abandoned the floor at this point.

The PRESIDING OFFICER. The Chair is advised by the Parliamentarian that the floor was open.

Mr. GORTON. Then I suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator from Washington has the floor.

Mrs. MURRAY. Mr. President, I believe I have the floor.

Mrs. BOXER. Point of order, Mr. President. You recognized the Senator from Washington, Senator MURRAY.

The PRESIDING OFFICER. The Senator from Washington has the floor.

Mrs. BOXER. I thank the Chair for that clarification.

Mrs. MURRAY. Mr. President, I rise to talk about some legislative language that is in the Interior bill, on which I will be offering an amendment shortly, which is going to give away more of our public lands for the benefit of a few and at a tremendous cost to all the rest of us. This is a cost to the American taxpayer and to our environment.

I want to begin, as I talk about this, by expressing that I am not going to be attacking the mining industry, which this amendment will be speaking to. I believe mining is an important industry in our country. While most of us don't think about it a lot, mining does produce some important minerals that are vital in every one of our lives. Mining is not only important in individual routines, but it is vital to our industrial base and rural economies. We need an active mining industry in our country. Like all of my colleagues, I support a responsible mining act, but we, as citizens of this country, need a fair deal.

Today the mining industry is treated exceptionally well by our very old laws. Unfortunately, the American taxpayers are not treated well. They receive next to nothing from this industry, and our public lands suffer as well.

A fact that should both amaze and really appall the American public is that mining in this country is controlled by a law that was written in

1872. That law was written just a few short years after the Civil War, when Ulysses S. Grant was still President of the United States. The law of 1872 allows mining interests to buy our Federal lands for between $2.50 and $5 per acre. Guess what they are paying for that now, 130 years later. They are paying between $2.50 and $5 per acre. That is quite a bargain.

And what does the hard rock mining industry pay in royalties back to us for using our land, for what they pull out of our land? Nothing, zero, zilch. The hard rock mining industry is the only extractive industry in this country that pays absolutely no royalties to the taxpayers for minerals that are coming from our public lands.

In addition, over the course of these past 130 years since this law was written, the mining industry has caused tremendous environmental damage throughout the West. Mining waste dumps are responsible for poisoning streams, lakes, and ground water with toxic minerals such as lead, cadmium, and arsenic. Mining in the United States has left a legacy of 12,000 miles of polluted streams and 180,000 acres of polluted lakes. There are 500,000-plus abandoned mines in this country. Guess who pays for the cleanup. The taxpayers. That bill is estimated to be between $32 and $72 billion. We, the taxpayers, pay for the cleanup of these mines.

The 1872 mining law did make sense when it was written 130 years ago. I think everybody here agrees that a lot has changed in 130 years. Our Nation is very different. The value of our public lands has increased dramatically, far more than $2.50 an acre. We no longer need incentives to get people to move out west, which is why that mining law was written. The West, I think, has been settled. Our commitment in this country to protect the environment is now extremely intense. It was nonexistent 130 years ago when this law was written, in part because our natural resources seemed unlimited 130 years ago. I think all of us know that is not true anymore.

Mining technology has changed radically in 130 years. Today a lot more land is needed for every ounce of mineral that is extracted. When this law was written, an old man with a pony or a mule would ride up with his pickax and do his mining on his claim. Today we extract hundreds of pounds of rock that is waste. They use cyanide to leach through it to get just a tiny amount of gold. Technology has changed dramatically.

No one can stand up and say we should continue to regulate the mining industry under the law that was written 130 years ago. Everyone knows it is time to make changes. The question is how and when. Do we engage in a comprehensive overhaul, or do we do as we have done in this bill and just fix the section of the 1872 law that offends the mining industry? Do we try to move forward with the 1872 mining law, or do we move backwards?

There is one provision in the 1872 mining law that provides minimal protection for the environment and for the taxpayers. When someone stakes a mining claim, the law provides that that person can obtain up to, but no more than, 5 acres of additional nonmineral land for the purpose of dumping mining waste. You would think, given the incredible deal that the mining industry is getting on access to public lands, the industry would be more than willing to comply with that provision.

Yet when the mining industry was faced with having to comply with the one and only environmental provision of the 1872 mining law, it went running to its champions in Congress to change that provision. The mining industry says it cannot mine if it is only given 5 acres of public land on which to dump its waste. Indeed, it argues, and Senator CRAIG's amendment in this Interior appropriation bill guarantees, the mining industry should get as much public land as it desires to dump its waste. The contention of the industry as well as the language in this bill is that the 5-acre limitation in the 1872 mining law is without meaning. They are wrong. The 5-acre provision provides a small amount of protection for our public lands, and this Senate should retain it.

The Senate has already done some work on this issue. Senator GORTON amended the emergency supplemental appropriations bill that we passed a few months ago to exclude a mine in my home State of Washington from this 5-acre mill site limitation. Of course, other mining industries now want the same good deal. So Senator CRAIG put a rider on the Interior appropriations bill we are now considering, in full committee, that completely voids any limitation on mill sites for all current and future mining operations.

We have to ask: Where is the balance? Where is the fairness in this limited approach? Where is the fix for the public and their lands to this outdated mining law? It is absolutely absent. The sort of reform to the 1872 mining law that we are witnessing in this bill is not taking us forward but it is taking us backwards.

The environmental provisions in the mining law should be strengthened, not eliminated. Taxpayers should be compensated much more by the mining industry rather than being asked to expand the giveaway of public lands that we are doing in this bill.

Senator GORTON's amendment on the supplemental appropriations bill and Senator CRAIG's amendment on the Interior bill give the mining industry everything it wants and give the American public larger dumps. Companies that paid next to nothing for the public land they are mining, $2.50 an acre, are still paying absolutely no royalties and dumping more waste rock than ever on our precious public lands.

I am not going to stand by and let this industry dump waste rock on our public lands without limitation and without true compensation. We do need comprehensive mining law reform, but until then I am going to fight this effort to piecemeal reform, especially piecemeal reform that benefits the one side that already enjoys tremendous advantages under the current system.

Let me show Senators a photo of Buckhorn Mountain in Washington State. This is the area in Washington State. It is a gorgeous piece of public land, our land. This is what it will look like once a mill moves forward, from this to this. What does it cost the mining industry to go from this to this? Mr. President, $2.50 an acre. They won't have to pay for the extra land to dump their rock, the cyanide-leached rock that they put there. They won't pay the taxpayers anything, and this is our public land. We know we need a mining industry, but if the mining industry wants to continue to make profits in this country, then they should at least compensate the public for what they are going to do.

Let me show my colleagues what this area will look like in a few years. What will the mining industry pay us for changing it from the beautiful photo I showed to this? Just $2.50 an acre. Under this bill and under the bill that passed recently, they are going to get as much acreage as they want to dump their rocks onto our public lands.

I want to make some points that I think are worth remembering. The mining industry has been very slow to embrace any mining law reform. Now that it has encountered a part of the law it doesn't like, it is trying to eliminate the one provision that can limit some of the damage that has been caused by the mining.

The mining law permits mining companies to extract gold, silver, copper, and other hard rock minerals without paying a cent in royalties to the taxpayer. Hard rock mining is the only extractive industry to get this benefit. I will show this to my colleagues. Coal pays 8-percent royalties for underground mining. Hard rock mining, none; they pay nothing.

As we look at this chart, we see that hard rock mining clearly has been given a great gift by the taxpayers of this country, and now in this bill, we see them wanting more and more public lands. Have they negotiated a change to the 1872 mining law in exchange for the more land on which they want to dump? No. They are not going to be paying any more royalties. They are not going to be paying any more for the land. We have simply given it away to all current and future mines in this bill.

Coal, oil, and gas miners all pay 12.5-percent royalties from what they take from public lands. Since 1872, taxpayers have given away $240 billion worth of minerals to the hard rock mining industry. By contrast, all Western States collect a royalty or production fee for minerals removed from State lands. We are talking Federal lands in this bill.

Western States collect a royalty or production fee on State lands, collecting between 2 and 10 percent on the gross income of mineral production. We collect nothing for Federal lands.

The 1872 mining law is in need of environmental and fiscal reform. Congress should not overturn the mill site decision and expand it to allow more dumping of mining waste on public lands without getting something back. The mill site decision does not halt hard rock mining on public lands. I want to make that clear. The mill site decision does not halt hard rock mining. Don't believe the false rhetoric you will hear about the Solicitor's opinion enforcing a provision of the 1872 mining law, at the expense of millions of dollars and thousands of jobs. That is simply not true. They can pay for it as everybody else does if they need more land.

The Department of the Interior will not enforce the mill site waste limitation retroactively. For future mine proposals and mine expansion, the limitation will apply. The industry says the mill site decision is not consistent with existing law and instead is policy advocacy by the Interior Department. I am sure we will hear that from our colleagues. That is incorrect. The 1872 mining law clearly limits mill site claims to 5 acres for each lode or placer claim. If the industry is so sure of its legal position, it can fight the Solicitor's opinion in court.

For the Record, let me show my colleagues what the law actually says. The mill site statute we referred to throughout this debate is right here. It says:

> Where nonmineral land not contiguous to the vein or lode is used or occupied by the proprietor of such vein or lode for mining or milling purposes, such nonadjacent surface ground may be embraced and included in an application for a patent for such vein or lode, and the same may be patented therewith.

And it goes on and it says:

> Such land may be included in application for a patent for such claim, and may be patented therewith subject to the same requirements as to survey and notice as are applicable to placers. No location made of such nonmineral land shall exceed five acres.

That was the law written back in 1872. It is very clear. Five acres. It says so right here. If the industry doesn't agree with the Solicitor's opinion that this law doesn't say exactly what we have just read, they can go to court and fight it. But to come and give this huge giveaway to an industry that already receives an awful lot from the taxpayers I believe is wrong.

Clearly, we need to reform the mining law of 1872 and maybe, in fact, the mill site limitation needs revision, but not here, not in this way. We need to hold hearings and mark up an authorization bill. We ought to give the American public time to learn of the issue and revise input. If we are going to revise the 1872 law—and we should—we, the taxpayers, ought to give something back.

Mr. DURBIN. Will the Senator yield for a question?

Mrs. MURRAY. Yes.

Mr. DURBIN. I am glad I can join the Senator in her effort to oppose section 336. This is an environmental rider that is part of the Interior appropriations bill. The administration said that it is 1 of the 13 riders—I think there are 9 remaining—which would be the basis of a veto of the legislation. I want to make sure the Record is clear and ask the Senator from Washington several questions.

In every instance when she referred to mining, are we talking about mining on public land?

Mrs. MURRAY. We are absolutely referring to mining on our public land.

Mr. DURBIN. So this is land that is owned by all of us, all American taxpayers, land that has been purchased or obtained and supervised over the years at the expense of Federal taxpayers?

Mrs. MURRAY. The Senator from Illinois is absolutely correct. In order to have a claim, you stake your claim on our public lands, lands owned by the taxpayers, and then you have the right to go ahead and move forward and dig your hard rock, and all you have to pay is $2.50 an acre.

Mr. DURBIN. So for $2.50 an acre, these companies—even foreign companies—can go to our federally owned, publicly owned lands and they can start mining for various minerals of value, is that correct?

Mrs. MURRAY. That is correct.

Mr. DURBIN. Now, as I understand the Senator from Washington, you can take up to 20 acres for the actual mining of the mineral, and then you can use 5 acres under the law, nonadjacent, not connected, for the so-called mill site.

Mrs. MURRAY. That is correct. That is where they dump the rock they have extracted.

Mr. DURBIN. Will the Senator show us the photo of what the mill site dumping ground looks like for those who have decided to mine on land owned by taxpayers? If you could show us as an example——

Mrs. MURRAY. This would be one example, I say to the Senator from Illinois, of what a dump site looks like. Here is another one we have. I will put this up as well. This shows where we have an open pit mine, which is what we are talking about, and where the rock is dumped.

Mr. DURBIN. Let me ask the Senator from Washington, if some company—and it could be a foreign company—pays $2.50 an acre, they can start mining these minerals, and then they can take 5 acres of public land and dump all of the rock and waste that is left over after they have mined, is that correct?

Mrs. MURRAY. That is correct.

Mr. DURBIN. Does that company have an obligation under the law, or otherwise, to clean up the mess they have left behind?

Mrs. MURRAY. No, they do not.

Mr. DURBIN. That is an important point. After they have gotten this wonderful deal—$2.50—to go ahead and mine for valuable minerals, they then dump on the mill site all of their waste and rock and leave it for generations to come—some of those pictures look like a lunar landscape—if I understand what the Senator from Washington is saying.

Mrs. MURRAY. Well, the Senator from Illinois is correct. Currently, there are 500,000 more abandoned mines in this country today, and the cleanup for that is estimated to be between $32 billion and $72 billion. That is our money.

Mr. DURBIN. Do they monitor the dump sites, mill sites, for these mines to make sure they don't have at least any environmental danger? They are ugly, but are they environmentally dangerous?

Mrs. MURRAY. In the permanent thinking of mining, those decisions are looked at. But once this is there, it becomes abandoned. It falls to the taxpayers to have to clean it up.

Mr. DURBIN. Let me ask the Senator from Washington, section 336 of this bill, the so-called environmental rider, called a prohibition on mill site limitations, if I read this correctly—I would like to read it to the Senator from Washington for her response—says:

> The Department of Interior and the Department of Agriculture, and other departments, shall not limit the number or acreage of mill sites based on the ratio between the number or acreage of mill sites and the number or acreage of associated load or placer claims for any fiscal year.

I want to ask the Senator from Washington, as I read this, the 1872 mining law put a limitation of five acres on those who mine on our Federal lands to use as a dump site for their mill tailings. If I understand this environmental rider, this says there is no limitation whatsoever—that if this is enacted, these mining companies paying $2.50 an acre and literally taking millions of dollars of minerals out of our land and not paying us for it can then turn around and dump their waste in every direction with no limitation on the number of acres they can cover with this waste.

Mrs. MURRAY. The Senator from Illinois is exactly correct. If we allow the language that is in the Interior bill to move through and to become law, that is exactly correct.

Mr. DURBIN. I ask the Senator from Washington the following question. It almost boggles the mind that we would be so insensitive to the legacy of our generation that we would take beautiful land owned by our country which could be visited and used by future generations and turn it into a landscape dump site of these mill tailings with absolutely no obligation by the company that has made the mess.

Is that the outcome of this amendment?

Mrs. MURRAY. The outcome of this amendment is that we will have hundreds of acres in this country—maybe thousands of acres—with tailings on

them and cyanide-leached rock left on them, and it will be our responsibility to clean it up. And the mining industry will not have given us a dime for that.

Mr. DURBIN. If I understand, if I might ask the Senator from Washington, this so-called cyanide leach process—I am not an expert, but as I understand it, those who are able to mine on Federal public lands bring up the dirt and the rock and then pour some form of cyanide over it hoping they will derive down at the bottom of this heap some handful of gold, for example.

Mrs. MURRAY. The Senator from Illinois is correct. The technology that is available today allows mining companies to haul out rock, pour cyanide through it, and come up with an ounce of gold. The price of gold today allows them to do that. It has been profitable for them. Therefore, they take tons of rock, and they are claiming of course that they need more acreage for mill sites because it takes so much more rock to get a small amount of gold.

Mr. DURBIN. Am I correct that the Senator from Washington is saying that after they have poured the cyanide over the rock and the dirt is taken away, they have a handful of gold, and they walk away from the mess that is left behind?

Mrs. MURRAY. The Senator from Illinois is absolutely correct. This is what it would look like.

Mr. DURBIN. Let me ask the Senator, if we are dealing with a law that was written 127 years ago, the obvious question is, Why would they want to amend one section to allow these mining companies to befoul so much more public land and leave the mess behind after they have taken the profits? Why aren't we addressing a wholesale reform or change of this mining law so that taxpayers have a fighting chance?

Mrs. MURRAY. I respond to the Senator from Illinois, I am as baffled as he is, that every Senator knows the 1872 mining law needs to be reformed. It needs to be reformed in a fair and responsible manner. If, indeed, the mining companies need more mill sites, then the taxpayers ought to get something in return. In fact, the mill site limitation is truly the only part of this law that allows us some control over what is left behind because the mining industry did not want to give and take, they just took, and got their rider put into this bill.

Mr. DURBIN. I would like to ask the Senator from Washington to compare—I think this really tells an interesting story, too—the difference in standards that we apply for those who want to use Federal public lands owned by the taxpayers to mine coal and those who want to use them for hard rock mining or for other minerals. I am amazed. I would like to ask the Senator from Washington if she can tell me why. It is my understanding that when it comes to the selection of the mining site, there has to be approval by the Bureau of Land Management through a leasing process for the mining of coal on Federal lands.

Mrs. MURRAY. If the Senator will yield, I have a chart that shows what you do if you are going to mine coal and what you do if you are going to mine hard rock. On the selection of the coal mining site, you have to get approval through a leasing process under the Mineral Leasing Act. In comparison, if you are going to do hard rock mining, which we are talking about in this bill, it is self-initiation on the location. In the mining law based in 1872, there is no BLM approval that is required.

Mr. DURBIN. I would like to ask the Senator a second point. What a giveaway this is—$2.50 an acre. They can literally mine millions of dollars' worth of minerals. The amazing thing is, they do not pay the taxpayers of this country any percentage for what they bring out.

I would like to ask the Senator from Washington to compare the mining of coal on Federal lands when it comes to royalties to mining under the hard rock provisions.

Mrs. MURRAY. The Senator from Illinois is correct. Coal miners have to pay 8 percent for underground mining and 12½ percent for surface mining where hard rock pays none.

I would think the Senators from States who have coal miners who are paying 8 percent would be rushing to the floor and saying: Where is the fairness here where you can mine hard rock for gold and pay not one dime back to the taxpayers for the use of that public land and for what you have extracted from that public land, and yet coal is 12½ percent?

Mr. DURBIN. Is the Senator from Washington aware of the fact that in 1959 a Danish mining company—not an American company—successfully patented public lands in Idaho containing over $1 billion worth of minerals and paid the Federal taxpayers $275?

Mrs. MURRAY. I would say to the Senator from Illinois that there are a lot of taxpayers out there who would like to earn $1 million and only pay $275.

Mr. DURBIN. Is the Senator aware as well that since 1872 there has been more than $240 billion of taxpayer subsidies to this mining industry?

Mrs. MURRAY. I was unaware of the figure, but $240 billion in subsidies does not surprise me.

We are saying that if we are going to hand you another giveaway, which this bill does, what are you going to give us back? In this bill, they give nothing back.

Mr. DURBIN. Is my understanding correct, I ask the Senator from Washington, if you are going to mine coal on public lands, you have to have a detailed permitting and reclamation standard filed which says you are going to clean up your own mess, but when it comes to hard-rock mining you can literally leave your mess behind, from what appears to be a very weak standard?

Mrs. MURRAY. The standard criterion is absolutely correct. If you are going to dig coal, you have to have a detailed permitting and reclamation standard. But if you are going to mine hard rock, which we are talking about in this bill, this giveaway in this bill, you have to show reasonable measures to prevent unnecessary or undue degradation of the public land. It is very minimal.

Mr. DURBIN. I say to the Senator from Washington, I am happy to join her in this effort. This debate will continue. I am happy to say that when she has completed her statement on the subject, I will have some other things I would like to add.

I see the Senator from California on her feet to ask another question.

Mrs. BOXER. Yes. Thank you very much. I ask the Senator from Washington to yield for a few questions.

Mrs. MURRAY. I would be happy to yield for a question.

Mrs. BOXER. I appreciate the leadership of the Senator from Washington and Senator DURBIN from Illinois on the Appropriations Committee fighting this antienvironmental rider all the way from the day they heard about it. I am just pleased to be here in a supportive role.

The reason I came to the floor is that the Senator from Washington has spoken in depth about a particular mine in her State. I want to ask her a few questions about a mine in my State, not that I expect her to be aware of all of this, but to see if she agrees with some of my conclusions on this.

First, I want to underscore through some questions what the Senator from Illinois asked; that is, I say to the Senator from Washington, I have learned by listening to this debate that when one mines for coal, there is in fact a royalty payment due to the Federal taxpayer. Is that correct?

Mrs. MURRAY. The Senator from California is correct. If you are mining for coal, you have to pay 8 percent for underground mining and 12½ percent for surface mining. That is royalty that you pay back to the taxpayers for the use of that land.

Mrs. BOXER. Is it kind of like a rent payment? You go onto Federal land, and for that privilege you pay a percentage of the value of the coal that is mined and extracted from that land. Is that correct?

Mrs. MURRAY. The Senator is correct. If the Senator from California had a mine and wanted to go in and dig coal out of our public lands, she would have to pay the public back something for that coal. It is ours, after all. But if you are going to dig for gold, hard rock mining, you do not have to give us anything back.

Mrs. BOXER. Is the Senator aware—I know she is because she is working with me on this issue, too—that if an oil company finds oil on Federal land, they must pay a royalty payment as well? Is that correct?

Mrs. MURRAY. The Senator from California is well aware that when you

extract oil, you pay a royalty; you pay us, the public, who owns the lands, something back.

Mrs. BOXER. As a matter of fact, the Senator knows, because she is helping me on this, as is the Senator from Illinois, we have problems with some of the large oil companies. We don't believe they are paying their fair share of oil royalties, but at least they are paying some royalties.

Mrs. MURRAY. The Senator from California is correct. She may not agree they are paying enough, but they are paying something. Under the current mining laws in this country, hardrock mining pays nothing back to the taxpayers.

Mrs. BOXER. Is it not further the case the Senator from Washington is not suggesting that there be any royalty payment?

Mrs. MURRAY. I am only suggesting, I say to my colleague, that if in this bill we are blatantly going to give them use of our public lands far in addition to what they have had before, they give the public something back. Maybe we should negotiate that in terms of royalties; maybe it should be in a higher percentage that they pay the public; maybe it should be in the requirement that they clean up the land that they have left behind.

Certainly we should get something back for our public lands rather than what we have done in this bill, which is to just give them more of our land.

Mrs. BOXER. Right now, what these hardrock miners want to do is ignore the 1872 mining law. Is it not a fact that in this bill we agree with those mining companies that they can use as much land as they may choose for the waste that comes out of these mines?

Mrs. MURRAY. I say to my colleague, what has occurred is that the technology for taking rock out and getting just a little bit of gold has changed dramatically. The mining companies who used to be able to get by on five acres can no longer get by on five acres. They want a lot more. Instead of negotiating with Congress to pay something back for additional shares, they are saying, no, in this provision in this bill, we have given it away to them for nothing else.

Mrs. BOXER. I ask my friend, because she is the expert on this, if she thinks my description is a good description of why they seem to need so much more land for their waste. From the cyanide leach mine pits, piled hundreds of feet high, over an area of several football fields, is a cyanide solution that is sprinkled over the piles. The cyanide, which is poison, trickles down through the ore, chemically combines with the gold and ore, and collects and pools at the base of the piles. The gold is stripped from the cyanide solution, but the cyanide solution is left on the site.

That is what is so contentious. We have poisoned and dumped on beautiful Federal lands. In this bill, we say: Amen; continue to do it. My friend from Washington is trying to say no to that environmental degradation.

Mrs. MURRAY. The Senator from California gives a very accurate description. Yes, maybe we need gold. We all know there are reasons to have gold. But if the mining companies are going to extract that rock and use cyanide leach, and need more acreage for the dumped rock with cyanide on it, they should pay something back. We should not give it away in the bill. That is what we have done.

Mrs. BOXER. I have a last question, and I don't expect the Senator to know about this particular proposal, but hopefully she can respond to this. In southern Imperial County, CA, a Canadian mining company called Glamis Imperial proposes to build a massive, open pit, cyanide heap leach mine, the kind I have described in my question to the Senator from Washington.

I want the Senator to know how much the people of California treasure their environment, particularly in these areas where we have Native Americans who have very serious tribal concerns over this area. When she fights for the environment in this way, it is not just for the precious State she represents so well, but it is for many other States, including California.

My question is, is my friend aware at the reach and breadth of the fight she is waging?

Mrs. MURRAY. I appreciate the comments from the Senator from California. There are mines in her State as well as many other States where this amendment will simply allow acres and acres of mill site waste to be dumped, with nothing back to the taxpayers.

I hope my colleagues will support me when I offer the amendment to strike the language in this bill, and I hope, as a Congress, we do what we should have done so long ago, which is to look at the 1872 mining law. If the mining companies, indeed, do need more dump sites, ask what we get in return. We should have a fair debate on the mining law. It should not just be in this Interior bill which comes to us at 5 o'clock, when we need to pass a tax bill that we want to start on tomorrow and everybody wants to finish tomorrow, forcing a bill to pass with a huge giveaway. Let's give something back, make sure we have responsible mining reform, and make sure we do it right for the taxpayers who deserve a lot better.

I appreciate the questions from the Senator from California. I will be offering my amendment in a short while. I urge my colleagues to support this amendment on behalf of the environment, on behalf of the taxpayers, on behalf of what is right and fair for people who pay their taxes every day, for other industries to pay their royalties, to pay a fair share. Let's do the mining reform law correctly.

I thank my colleagues. I know the Senator from Illinois wants to discuss this, and I see the Senator from Nevada.

The PRESIDING OFFICER. The Senator from Washington.

AMENDMENT NO. 1359

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Washington [Mr. GORTON], proposes an amendment numbered 1359.

Mr. GORTON. I ask unanimous consent reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 79, line 19 of the bill, strike ''under this Act or previous appropriations Acts.'' and insert in lieu thereof the following: ''under this or any other Act.''

Mr. GORTON. Mr. President, this is merely a technical amendment sent up simply so Members proposing amendments should ask to have it set aside. We will proceed in a more orderly manner in that fashion.

I expected the Senator from Washington to make a motion to strike. If she wishes to do so now, there will be an amendment to that, and we can complete this debate. If she does not wish to do so, the Senator from New Hampshire is prepared to offer an amendment on which there could be a vote probably in an hour or so.

Does the Senator from Washington wish to make a motion to strike or some other motion at the present time?

Mrs. MURRAY. Mr. President, I do intend to offer this amendment. My colleague from Illinois, Senator DURBIN, desires to speak first and then I will.

Mr. GORTON. There is plenty of time to speak after the amendments are before the Senate. If the Senator, my colleague from Washington, wishes to make a motion to strike now, I will yield the floor for her to do so. If she does not, I suggest we go on to an amendment we can deal with right away.

Mrs. MURRAY. Mr. President, if my colleague from Washington State will yield for a question.

Mr. GORTON. Yes.

Mrs. MURRAY. We want to make sure that all the Members on the other side who wish to speak on this are ready to do so.

Mr. GORTON. There will be no limitation on debate until the amendment is agreed on both sides.

Mrs. MURRAY. With that understanding, I am happy to offer my amendment at this time.

Mr. GORTON. I yield the floor.

AMENDMENT NO. 1360

(Purpose: To strike the provision relating to millsite limitations)

Mrs. MURRAY. Mr. President, I send my amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the pending amendment is laid aside.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Washington [Mrs. MURRAY], for herself, Mr. DURBIN, and Mr. KERRY, proposes an amendment numbered 1360.

Mrs. MURRAY. Mr. President, I ask unanimous consent reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 122, strike lines 1 through 15.

AMENDMENT NO. 1361

Mr. REID. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID], for himself, Mr. CRAIG, and Mr. BRYAN, propose an amendment numbered 1361 to the language proposed to be stricken by amendment No. 1360.

Mr. REID. Mr. President, I ask unanimous consent the reading of the amendment be dispensed with.

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

The amendment is as follows:

In lieu of the language proposed to be stricken, insert:

SEC. . MILLSITES OPINION.

(a) PROHIBITION ON MILLSITE LIMITATIONS.—Notwithstanding the opinion dated November 7, 1997, by the Solicitor of the Department of the Interior concerning millsites under the general mining law (referred to in this section as the ''opinion''), in accordance with the millsite provisions of the Bureau of Land Management's Manual Sec. 3864.1.B (dated 1991), the Bureau of Land Management Handbook for Mineral Examiners H–3890–1, page III–8 (dated 1989), and section 2811.33 of the Forest Service Manual (dated 1990), the Department of the Interior and the Department of Agriculture shall not, for any fiscal year, limit the number or acreage of millsites based on the ratio between the number or acreage of millsites and the number or acreage of associated lode or placer claims with respect to any patent application grandfathered pursuant to Section 312 of this Interior Appropriations Act of __; any operation or property for which a plan of operations has been previously approved; any operation or property for which a plan of operations has been submitted to the Bureau of Land Management or Forest Service prior to October 1, 2000; or any subsequent amendment or modification to such approved or submitted plans.

(b) NO RATIFICATION.—Nothing in this Act shall be constructed as an explicit or tacit adoption, ratification, endorsement or approval of the opinion.

Mr. REID. Mr. President, I simply want to say I have every understanding of the consternation and the concern of my friends from Washington, California, and Illinois about the state of mining in America. They have concerns that should be raised. They have concerns that have been raised. However, this very narrow issue is being talked around.

The fact of the matter is, the picture that my friend from Washington held up, a beautiful mountain area in Washington, has nothing to do with what we are talking about tonight.

The fact is the pictures she showed were pictures from some other mining operation that probably took place at least 60 years ago.

Let's take, for example, a mine that is right over the Nevada border in California. It is called Viceroy Gold. It is in the State of the Senator from California, but it is a mine that is very close to the people of the State of Nevada. It is a short distance from the place I was born, Searchlight, NV. It took $80 million to get that operation in a situation where it could be mined. It started out as an old mine and was originally called Big Chief Mine around the turn of the century. After spending $80 million, this mine was developed. It is an open-pit mine.

I invite everyone to look at that mine because part of the requirements of being allowed to mine there is the land has to be reclaimed. This is an area where they have Joshua trees and some small cedar trees, lots of sagebrush. They have a nursery. When they decide to take some ore, some muck, some dirt out of the ground, they take the trees that are where this open-pit mine is going to be, and they save them. When that area is mined out, they have to reclaim the land. They fill it up and replant these trees. That is going on right now.

That mine only has about a 2-year life left. When the mine is finished, the land will look like it did before. That is one of the requirements. They put up a big bond which makes that necessary. It is not a question of they do it because they like to do it; they do it because that is a requirement of the State of California that they replace the land the way it used to be.

It is good to do all these scary pictures about mining. My father was a miner, and if my father thought there was gold under my desk, he would dig a hole. That is the way he used to do things. But you cannot do that anymore. There are requirements that say you cannot do that.

I say to my friends from the State of Illinois, from the State of California, and the State of Washington, I have tried to change the 1872 mining law. We have been trying to do that for 10 or 12 years. We offered legislation to change that. We have been as far as conference to change it, but it is never quite good enough. No one is willing to go 50 yards; they want to go 100 yards.

I have always said: Let's change it; let's do it incrementally. It is similar to the Endangered Species Act in which I believe. People want to rewrite the Endangered Species Act totally. It will never happen. We are going to have to do it piece by piece.

Superfund legislation: I believe in the Superfund legislation. We are never going to reauthorize Superfund totally. We need to do it piece by piece. That is what we need to do with this mining law.

What are we talking about? Secretary Bruce Babbitt is only going to be Secretary of the Interior for another year and a half. He is not willing to go through the legislative process. What he wants to do is legislate at the Department of Interior, down at 16th Street or 14th Street, wherever it is. He is legislating down there, and he has admitted it.

Secretary Babbitt has indicated he is proud of his procedure and proud of the way he is doing it. This is what he has said:

. . . We've switched the rules of the game. We're not trying to do anything legislatively.

Here is what else he says:

One of the hardest things to divine is the intent of Congress because most of the time . . . legislation is put together usually in a kind of a House/Senate kind of thing where it's [a bunch of] munchkins . . .

The munchkins, Mr. President, are you and me. He may not like that, but I think rather than taking an appointment from the President, he should do as the First Lady and run for the Senate and see if he can get it changed faster.

Our country is set up with three separate but equal branches of Government. The executive branch of Government does not have the right to legislate. It is as simple as that. What has been done in this instance is legislating. That is wrong.

What we are doing—and that is what this debate is all about—is not changing anything. We are putting it back the way it was before he wrote this opinion—he did not write it; some lawyer in his office wrote it—overturning a law of more than 100 years.

All these pictures are not the issue at point. I do not think any of my colleagues will agree that President Clinton or any of his Cabinet officers or anybody in the executive branch of Government have the legal ability to write laws. That is our responsibility, and that is what this debate is about today.

I recognize the 1872 mining law needs to be changed. Let's do it. I am not debating the fact that it needs to be changed. I have offered legislation at the committee level and the conference level to change the amount of money that mining companies pay when they get a patent. We all agree that should be done, but they do not want to do it because it takes away a great piece of argument they have: You can get land for $5 an acre.

We have agreed to change it. It has been in conference where we said: If you go through all the procedures to get a patent, then you should pay fair market value for the land. We agree. Let's do it.

They keep berating these mining companies. Mining is in a very difficult time right now. The price of gold is around $250. Yesterday, the press reported that a company from a little town in Nevada called Battle Mountain in Lander County laid off 200 more workers. That little community has had a little bar and casino for some 60 years. That just closed. Mining is in very difficult shape.

I say to my friends who care about working men and women in this country, the highest paid blue collar workers in America are miners. I repeat: The highest paid blue collar workers in America are miners. They are being laid off because mining companies cannot proceed as they have with these jobs when the gold price has dropped $150 an ounce. It went from almost $400 to $250. They are really struggling. England just sold I do not know how many tons of gold. The IMF is threatening to sell gold. Switzerland is talking about selling gold.

Mining companies are having a difficult time maintaining. One of the largest mining companies in Nevada—the State of Nevada is the third largest producer of gold in the world. South Africa and Australia lead Nevada. We produce a lot of gold, but the confidence of the mining industry has been shaken tremendously. It is getting more and more difficult to make these mines profitable.

One mining company in Nevada, a very large company, has had two successive years of tremendous losses. We have one mining company that still has some profits, the reason being that they sold into the future. They are still being paid on a high price of gold which the free market does not support.

I say to my friends, let's change the mining law. All we are trying to do, I repeat, is not let Secretary Bruce Babbitt legislate. That is what he did. All this does is take the law back to the way it existed.

I heard my friend from Washington say: Why don't the mining companies—I may have the wrong word; ''dialog'' is not the word she used—have some dealings with Congress? They have tried. We are trying to come up with legislation on which we should all agree.

I hope my friends, for whom I have the deepest respect, understand this is a very narrow issue. I do not mind all the speeches. My friend from California, my friend from Washington, and my friend from Illinois are some of the most articulate people in the Senate. They have great records on the environment. My record on the environment is second to no one. I acknowledge I have defended the mining industry in this Chamber for many years, and I will continue to do so. I want everyone to understand I have tried to be reasonable on this issue, at least that is according to through whose eyes you look. I have tried to be reasonable on this issue before us today.

Also, I have tried to be reasonable on the mining issue generally. As my friends will acknowledge, in the subcommittee I offered a very minimal amendment. It was broadened in the full committee, which is fine. But what I have done, along with Senators BRYAN and CRAIG, is tried to change what was done in the full committee.

I think what we have done is reasonable. I tell my friends, basically, here is what it says. It says Babbitt's opinion does not apply to mining operations that are now ongoing and mining operations that are ongoing that need additional mill sites. It does not apply to new applications. I think that is fair.

Mrs. MURRAY. Will the Senator yield for a question?

Mr. REID. In a second.

I think it is fair. I say to my friends, I think it should not apply to anything because I think the opinion is worthless and does not have any meat on its bones. I do not think the Solicitor has any right to offer the opinion that he did. But I think this amendment is an effort to kind of calm things down, to compromise things. I say to my friends, if you want the law changed, let's change it. I am happy to work with you.

I am happy to yield for a question without losing my right to the floor.

Mrs. MURRAY. I appreciate the Senator yielding for a question because the Senator has a second-degree to my amendment that strikes the language. I understand the Senator from Nevada would like to find a compromise, but the language of the second-degree says that:

> . . .any operation or property for which a plan of operations has been previously approved; any operation or property for which a plan of operations has been submitted to the Bureau of Land Management or Forest Service prior to October 1, 2000; or any subsequent amendment or modification to such approved or submitted plans.

To me, it says that leaves the door open for any future, not just current, mine.

Mr. REID. We can even talk about the effective date of this legislation. But the intent of the amendment is to protect those operations that are now ongoing. Secretary Babbitt has written a letter to me—that is part of the record of the committee—saying that mining operations that are now in effect would not be harmed by his Solicitor's opinion. What this amendment does is go one step further and say, not only the mining operations that are now in effect but those that are ever in effect that have filed a plan of operation to expand would also be protected.

So that is really the intent of the amendment.

I say to my friends, don't beat up on the mining industry. They supply good jobs. We are willing to change the law. I do not know if any of my friends are on the committee of jurisdiction, the Natural Resources Committee. I am not. I would be happy to work with you in any way I can, as I have indicated on at least one other occasion tonight.

We have tried. We have had legislation that dramatically changes the 1872 mining law that has gotten as far as the conference between the House and Senate, but it was not good enough. We have made absolutely no changes in the law since I have been in the Senate, going on 13 years. I want to make changes. There aren't too many people who are not willing to make changes.

So I would hope we could tone down the bashing of the mining companies. They supply jobs. They are not trying to rape the environment. Under the rules that are now in effect, if they wanted to, it would be very hard to do.

In the place where I was raised, we have hundreds of holes in the ground, created in the years when mining took place there. There are a lot of abandoned mines we need to take care of. There are laws in effect.

In the State of Nevada you have to have fences around some of the holes so people do not ride motorcycles into them or do things of that nature. Abandoned mines that create a harm to the environment, we need to clean them up. I am willing to work harder to have money to do that. But let's limit what we are talking about to the harm that has already been done. Certainly we have a right to do anything legislatively we need to do to protect harm from happening in the future. That is what I am willing to do.

PRIVILEGE OF THE FLOOR

I ask unanimous consent that Mike Haske, a congressional fellow in my office, be granted privileges of the floor during the pendency of S. 1292.

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

Mr. REID. Mr. President, if the Chair would indulge me for a second.

I apologize to my friend from Illinois who I understand wants the floor.

I yield the floor at this time.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, I want to make a quick unanimous consent request.

PRIVILEGE OF THE FLOOR

I ask unanimous consent that Sean Marsan and Liz Gelfer, both on detail to the Appropriations Committee staff, and Kari Vander Stoep of my personal staff, be granted floor privileges for the duration of the debate on the fiscal year 2000 Interior and Related Agencies Appropriations Act.

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

CLARIFICATIONS TO SENATE COMMITTEE REPORT NO. 106–99

Mr. GORTON. I note for the RECORD technical clarifications to the committee report:

On page 37 of the report, the section of the Alaska National Interest Lands Conservation Act that is cited should be section 1306(a), not section 1307(a).

In the last paragraph on page 13 of the report, the reference to the ''Las Vegas Water Authority'' is an error. The language should have referred to the ''Las Vegas Valley Water District.''

With that, I yield the floor.

Mr. DURBIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. I rise in opposition to the motion that has been filed by the Senator from Nevada, Mr. REID, on behalf of himself, Senator CRAIG, and Senator BRYAN.

As I read the amendment that has been proposed by the Senator from Nevada, there is virtually no change in the original language offered by Senator CRAIG.

What the Senator from Nevada seeks to do is to say those mining operations currently in operation, those which have the plans of operations submitted to the Bureau of Land Management prior to October 1 of the year 2000, will not be subject to limitation on the acreage that can be used for their dumping of their mill site. I would suggest to the Senator from Nevada it is a slightly different approach, but the net impact is the same.

I have the greatest respect for the Senator from Nevada. I understand his knowledge and familiarity with this subject is certainly far better than my own. But I can tell the Senator, if he drives across my home area in down State Illinois, he will see the legacy of mining which we continue to live with.

In years gone by, in the State of Illinois, and many other States, mining companies literally took to the land, extracted whatever was valuable, and left the mess behind for future generations. You can see it, not only in the areas where we had shaft mining, but you have on our prairies small mountains of what was left behind, often toxic in nature, that now have to be reclaimed by today's taxpayers. Or you might visit Fulton County or southern Illinois and find areas that were strip mined. What is left behind is horrible. It is scrub trees, standing lakes, but, frankly, uninhabitable and unusable—left behind by a mining industry that had one motive: Profit.

It is interesting to me this debate really focuses on a law which was written 127 years ago. Not a single Member of the Senate would suggest that our sensitivity to environmental issues is the same today as it was 127 years ago. We know better. If you want to mine coal in Illinois today, you are held to high standards. The same is true in virtually every State in the Union. You can no longer come in and plunder the land, take out the wealth from it, and leave behind this legacy of rubbish and waste, this lunar landscape. That is today. That is the 20th century. That is 1999.

But when it comes to hard rock mining, we are driven and guided by a law that is 127 years old. It is interesting that the hard rock mining industry has not really worked hard to bring about a real reform of the law. I think that has a lot to do with the fact they have a pretty sweet deal.

For $2.50 an acre, they can take taxpayers' land—owned by Americans—and use it for their own profit, leaving their waste and mess behind, and move on.

For hundreds of dollars, they can extract millions of dollars of minerals and not pay the taxpayers a penny.

The Senator from Nevada says: Don't beat up on the mining industry. I think that is a fair admonition. I don't believe we should beat up on the environment either. We certainly shouldn't beat up on taxpayers. The 1872 mining law does just that.

What is this all about? You will undoubtedly hear in a few minutes from the Senator from Idaho and others that some bureaucrat in the Department of the Interior in November of 1997 took it upon himself to decide what the law would be and all this amendment is about is to try to say to that bureaucrat: It is none of your business. We will decide how many acres you can use to dump your waste after you have mined on Federal land.

What is it all about? On November 7, 1997, the solicitor of the Department of Interior, Mr. Leshy, issued an opinion enforcing a provision of the 1872 mining law which restricts the amount of public land that can be used to dump waste from hard rock mines.

Now, some of those who support this amendment believe that the 1872 mining law is open to interpretation. Interestingly enough, the other body, the House of Representatives, by a margin of almost 100 Members, said that that interpretation is wrong. They go along with the position supported by the Senator from Washington and myself. With respect to mill site claims, the law states: ''No location made on and after May 10, 1872, shall exceed 5 acres.'' The law allows one 5-acre mill site claim per mineral claim. It means that if you buy, at $2.50 an acre or $5 an acre, the right to mine for these minerals, you can only use a 5-acre plot to dump your waste on the so-called mill site.

The effect of the amendment offered by the Senator from Nevada and the Senator from Idaho is to say: No, you can dump on as many acres as you want to, unlimited. Go ahead and leave the waste behind. Let the taxpayers in future generations worry about the environmental impact and what it does visually to America's landscape.

The Leshy opinion in 1997 simply reaffirms the plain language of the law and prior interpretations by Congress and by the mining industry.

I have in my hand citations of the mill site limitations under the 1872 mining law. I ask unanimous consent to have this printed as part of the RECORD.

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

MILLSITE LIMITS UNDER THE 1872 MINING LAW

1872—Mining Law enacted, stating: ''no location [of a millsite] shall exceed five acres.'' 30 U.S.C. §42(a).

1872—One month later, General Land Office issues regulation stating: ''*The law expressly limits mill-site locations made from and after its passage to five acres . . .*'' Mining Regulations §91, June 10, 1872, Copp, U.S. Mining Decisions 270, 292 (1874) (emphasis in original).

1884—Secretary of the Interior rules in J.B. Hoggin, 2 L.D. 755, that more than one millsite may be patented with a lode claim, provided that the aggregate is not more than five acres.

1891—Secretary of the Interior rules in Hecla Consolidated Mining, 12 L.D. 75, that the Mining Law ''expressly limits the amount of land to be taken in connection with a mill to five acres.''

1891—Acting Secretary of the Interior rules in Mint Lode and Mill Site, 12 L.D. 624, that the Mining Law ''evidently intends to give to each operator of a lode claim, a tract of land, not exceeding five acres in extent, for the purpose of conducting mining or milling operations thereon, in connection with such lode.''

1903—Acting Secretary of the Interior rules in Alaska Copper Co., 32 L.D. 128, that the ''manifest purpose [of the millsite provision of the Mining Law] is to permit the proprietor of a lode mining claim to acquire a small tract of . . . land as directly auxiliary to the prosecution of active mining operations upon his lode claim, or for the erection of a quartz mill. . . . The area of such additional tract is by the terms of the statute restricted to five acres as obviously ample for either purpose.''

1914—Curtis H. Lindley writes in the third edition of his oft-cited treatise Lindley on Mines, §520, that a ''lode proprietor may select more than one tract [for a millsite] if the aggregate does not exceed five acres.''

1955—Denver mining attorney John W. Shireman writes in the First Annual Rocky Mountain Mineral Law Institute that ''Each lode claim is entitled to one mill site for use in connection therewith . . .'' Shireman, ''Mining Location Procedures,'' 1 Rocky Mtn. Min. L. Inst. 307, 321 (1955).

1960—Congress amends the Mining Law to allow location of millsites in connection with placer claims. In its report on the bill, the Senate Interior Committee explained that it had modified the language of the bill ''so as to impose a limit of one 5-acre millsite in any individual case preventing the location of a series of 5-acre millsites in cases where a single claim is jointly owned by several persons. . . . In essence, [the bill] merely grants to holders of placer claims the same rights to locate a 5-acre millsite as has been the case since 1872 in respect to holders of lode claims . . .'' S. Rep. No. 904, 86th Cong., 1st Sess., at 2.

1960—The first edition of American Law of Mining (which is written primarily by attorneys for the mining industry) states: ''A mill site may, if necessary for the claimant's mining or milling purposes, consist of more than one tract of land, provided that it does not exceed five acres in the aggregate.'' 1 Am. L. Mining §5.35 (1960).

1968—The American Mining Congress (the leading trade association for the mining industry) presents the following argument for mining law reform to the Public Land Law Review Commission:

''When the mining laws were enacted in 1872, provision was made for the acquisition of five-acre millsites to be used for plant facilities on mining claims. The typical mine then was a high-grade lode or vein deposit from which ores were removed by underground mining. The surface plant was usually relatively small, and acquisition of five-acre millsites in addition to the surface of mining clams . . . adequately served the needs of the mines. . . .

''Today, the situation is frequently different. . . . A mine having 500 acres of mining claims may, for example, require 5000 acres for surface plant facilities and waste disposal areas. It is obvious that such activities may not be acquired through five-acre millsites.''—American Mining Congress, The Mining Law and Public Lands, at 29 January 11, 1968).

1970—An analysis of the Mining Law prepared for the Public Land Law Review Commission by Twitty, Sievwright & Mills (a Phoenix, Ariz. law firm that represents the mining industry) closely tracked the argument by the American Mining Congress two years earlier:

''*When the mining laws were enacted in 1872, provision was made for the acquisition of five-acre mill sites to be used for mining or milling purposes.* The typical mine then was a high-grade lode or vein deposit from which ore was removed by underground mining. The surface plant was usually relatively small, and the surface of the mining claims together with the incident mill sites adequately served the needs of the mines for plant facilities and waste disposal areas.

''Today, the situation is frequently different. The high-grade underground mines have, for the most part, been mined out. Open pit rather than underground mining is, with increasing frequency, the most economical way to mine the low-grade deposits which now comprise a major portion of the reserves of many minerals. The mining industry now relies on mechanization, the handling of large tonnages of overburden and ores and the utilization of large surface plants in order to keep costs down so that these low-grade deposits may be mined and treated at a profit. Such mining operations require not only substantial areas for plant facilities, but much larger ares than formerly for the disposal of overburden and mill tailings. *The surface areas of mining claims and mill sites are no longer adequate for such purposes.* * * *

''If a mineral deposit is partially or entirely surrounded by the public domain, the acquisition of adjacent nonmineral land from the United States for necessary facilities is now frequently extremely difficult because *the laws do not provide a satisfactory way to make these acquisitions. Small areas may be acquired as mill sites,* and in certain instances, if the lands meet the statutory requirement as isolated or disconnected tracts, larger acreages may be acquired at public auction. *Mining companies planning large mining operations have been obliged to meet their needs for nonmineral lands by obtaining the necessary lands by other means.*''

Twitty, Sievwright & Mills, ''Nonfuel Mineral Resources of the Public Lands; A Study Prepared for the Public Land Law Review Commission,'' (Dec. 1970), at vol. 3, pp. 1047–48 (emphasis added).

The Twitty, Sievwright study also states: ''Under the first clause of subsection (a) of [30 U.S.C. §42], *each lode claimant is allowed, in addition to his lode claim, five acres of land to be used for mining or milling purposes.*'' *Id.* at vol. 2, p. 323.

1974—the Interior Board of Land Appeals rules in *United States* v. *Swanson,* 14 IBLA 158, 173–74, that:

[A millsite] claimant is entitled to receive only that amount of land needed for his mining and milling operations, and this amount can embrace a tract of less than five acres. The statute states that the location shall not ''exceed five acres.'' . . . The reference to five acres in the statute is clearly a ceiling measure, not an absolute, automatic grant.''

1977—Salt Lake City mining attorneys Clayton J. Parr and Dale A. Kimball write that ''Theoretically, one five-acre millsite can be acquired for each valid mining claim.'' Parr & Kimball, ''Acquisition of Non-Mineral Land for Mine Related Purposes,'' *23 Rocky Mtn. Min. L. Inst.* 595, 641–42 (1977).

1979—In an analysis of federal mining law, the Congressional Office of Technology Assessment states:

''[I]t is highly doubtful that [millsites] could satisfy all the demands for surface space.There could be at most as many millsites as there are mining claims, and each milliste would be at most one-fourth the size of the typical 20-acre claim, so that the millsites, in the aggregate, would be one-fourth the size of the ore body encompassed by the claims.''

Office of Technology Assessment, *Management of Fuel and Nonfuel Minerals in Federal Land,* at 127 (April 1979).

1984—In the second edition of *American Law of Mining,* Patrick J. Garver of the Salt Lake City law firm Parsons, Behle & Latimer (Mr. Garver is now executive vice-president of Barrick Gold Corp.) writes: ''Uncertainty also surrounds the issue of the amount of land that may be used by millsite claimants.'' 4 *Am. L. Mining,* §110.03[4] (2d ed. 1984).

1984—Salt Lake City mining attorneys Clayton J. Parr and Robert G. Holt write in the second edition of *American Law of Mining:* ''Because of the relatively uncertain tenure of mill site claims, few miners choose mill sites as a location for permanent mining support facilities.'' 4 *Am L. Mining* §110.03[1].

1987—In the revised second edition of *American Law of Mining,* Phoenix mining attorneys Jerry L. Haggard and Daniel L. Muchow write:

''The acquisition of federal lands or interests therein by means other than the locating of mining claims or mill sites is sometimes necessary to provide the additional ground needed for a planned mining operation. The restraints on the number and sizes of mill site claims can limit their usefulness as a land acquisition method.''—4 *Am. L. Mining,* §111.01 (2d ed. rev. 1987).

1997—Solicitor of the Department of the Interior John D. Leshy issues opinion titled ''Limitations on Patenting Millsites Under the Mining Law of 1872.''

Mr. DURBIN. I thank the Chair.

I have quoted the specific words from the mining law of 1872. I can tell Senators that year after year, the 5-acre limitation was restated. There is nothing new about it. In 1872, again, the General Land Office refers to the law expressly limiting mill site locations made from and after its passage to 5 acres.

Twelve years later, in 1884, Secretary of the Interior J.B. Hoggin provided that the aggregate for lode claims is not more than 5 acres. In 1891, similar references; 1903, the same reference is made by the Acting Secretary of the Interior; the area of such additional tract is, by the terms of the statute, restricted to 5 acres. He goes on. In 1914, a treatise on mining by a gentleman named Curtis Lindley:

Lode proprietors may select one tract per mill site if the aggregate does not exceed 5 acres.

In 1955, Denver mining attorney John Shireman writes in the First Annual Rocky Mountain Mineral Law Institute:

Each lode claim is entitled to 1 mill site for use in connection therewith.

In 1960, Congress amended the mining law to allow location of mill sites in connection with placer claims. In its report on the bill, the Senate Interior Committee explained that it modified the language of the bill ''so as to impose a limit of one 5-acre mill site in any individual case, preventing the location of a series of 5-acre mill sites.''

The references go on and on. The American Mining Congress has acknowledged the 5-acre limitation, and of course the branches of government have done the same.

What is in dispute here is, in the minds of a few Senators and the mining industry, the mining process has changed. They want to be able to use more acreage to dump what is left over from this mining process.

It is interesting that the mining industry is so confident that a court would hold up the 5-acre limitation that they have not in any way tested the solicitor's decision in court. They would rather find their friends here in the Senate. That opinion was issued by the solicitor almost 2 years ago.

You will hear a lot of comment—I have heard it in committee—that what Mr. Leshy did in this situation was unfair, illegal, and we are going to stop this bureaucrat from overreaching.

The obvious question is, If it is so unfair and illegal on its face, why didn't the mining industry go to court? They didn't go to court. They went to Congress because they know that their interpretation, their opposition to Mr. Leshy, can't stand up in court.

The Craig rider and now the Reid amendment will allow more dumping of toxic mining waste on public lands and undermine efforts to reform the last American dinosaur, the 1872 mining law.

What can we find in this mined waste? Lead, arsenic, cadmium, in addition to heavy metals. Because of irresponsible mining practices and poor regulation, the mining industry has left behind a legacy of 557,000 abandoned mines in 32 different States. The cost of cleaning up these sites is estimated to be between $32 billion and $72 billion. According to the U.S. Bureau of Mines, mining has contaminated more than 12,000 miles of rivers and streams and 180,000 acres of lakes in the United States.

Let me speak for a moment about the environmental damage. For those who say this is an industry which, frankly, may not cause environmental damage, I hope they will listen closely to what I am about to say: 16,000 abandoned hard rock mine sites have surface and ground water contamination problems that seriously degrade the water around them—16,000 of them. Over 60 of these abandoned hard rock mines pose such severe threats to public health and safety that the EPA has listed them as Superfund priority sites.

There are two or three things that I found incredible that I want to share and make a part of the RECORD.

Each year the mining industry creates nine times more waste than all of the municipal solid waste generated and discarded by all of the cities in the United States of America. In 1987, mines in the United States dumped 1.7 billion tons of solid waste onto our land while the total municipal solid waste from all cities in America totaled 180 million tons.

The second point—and this is hard to believe—each year the hard rock mining industry generates approximately

the same amount of hazardous waste as all other U.S. industries combined—one industry, hard rock mining, generating the same amount of hazardous waste as all other U.S. industries combined. You would think when you listen to the arguments from those who would make this dumping unlimited that this is somehow a passive thing, that it is no threat to the environment.

According to the EPA, the U.S. hard rock mining industry generated approximately 61 million tons of hazardous waste in 1985 compared to 61 million metric tons for all other American industries. And what the Craig and Reid amendment says is, for this dangerous waste, we will now give to the mining companies an unlimited landscape of taxpayer-owned land to dump it.

Although the mining industry claims that modern mines employ state-of-the-art technology that prevents contamination, it is not consistently used or managed properly. Some have said our references to contamination are ancient. In 1995, reporting to Congress on mine waste, the EPA stated not only had past mining activities created a major waste problem, but some of the very waste practices that contributed to these problems were still being used by the mining industry.

What kind of mining pollution? Acid mine drainage generated when rock which contains sulfide minerals reacts with water and oxygen to create sulfuric acid. Iron pyrite, fool's gold, is the most common rock type that reacts to form acid mine drainage. Acid leached from the rock severely degrades water quality, killing aquatic life and making water virtually unusable.

Second, heavy metal contamination is caused when metals such as arsenic, cobalt, copper, cadmium, lead, silver, or zinc contained in excavated rock or exposed in an underground mine come in contact with water. Heavy metals, even in trace amounts, can be toxic to humans and wildlife. When consumed, the metals can bio-accumulate.

Processing chemical pollution occurs when chemical agents used by mining companies to separate the target mineral from the ore—cyanide, sulfuric acid, or liquid metal mercury—spill, leak, or leach from the mine site into nearby waters. These chemicals can be highly toxic to humans and wildlife.

The purpose of the amendment before us now is to expand the opportunity for dumping this kind of waste on public land, creating the opportunities for more environmental disasters and hazards to wildlife and humans as well.

A teaspoon of 2 percent cyanide solution can be lethal to humans; over 200 million pounds of cyanide is used in U.S. mining each year.

I have a lengthy list of examples here.

Gilt Edge Gold and Silver Mine, South Dakota: Shortly after opening in 1988, the Gild Edge gold and silver mine cyanide leaked into the groundwater and nearby streams as a result of torn containment liners, poor mine design, and sloppy management practices. Beginning in 1992 the mine began generating acid mine drainage. As a result of acid drainage from Gilt Edge waste piles, pH measurements in nearby steams in 1994 and 1995 were as low as 2.1 (battery acid has a pH of approximately 1; pure water has a pH of approximately 7.0). Due to pollution from the Gilt Edge Mine, area streams are unable to support viable populations of fish and bottom dwelling invertebrates

Summitville Gold Mine, Colorado: In 1986 Canadian based Galactic Resources opened the Summitville Gold Mine in Colorado. The company characterized the mine as a ''state-of-the-art'' cyanide heap leach gold mine. Immediately after gold production began, the protective lining under the massive heap of ore being treated with a cyanide solution tore, allowing cyanide to leak into the surface and groundwater. The cyanide, acid, and metal pollution from the mine contaminated 17 miles of the Alamosa River. Galactic declared bankruptcy and abandoned the site in 1992. The State of Colorado which had provide scant regulation of the mine asked the Environmental Protection Agency to take over the site under the Superfund program. As of 1996 taxpayers had spent over $100 million to clean up the site.

Iron Mountain, California: Until production was halted in 1963, the Iron Mountain mine produced a wealth of iron, silver, gold, copper and zinc. It also left a mountain of chemically-reactive ore and waste rock that continues to leach enormous amounts of acid and heavy metals pollution into nearby streams and the Sacramento River.

Despite expensive efforts to reduce pollution—Iron Mountain is now on the Superfund National Priority List—enormous amounts of contaminants continue to wash off the site. Each day Iron Mountain discharges huge quantities of heavy metals including 425 pounds of copper, 1,466 pounds of zinc, and 10 pounds of cadmium. Acid waters draining from the site have decimated streams, where the acidity in the water has been measured as low as minus 3 on the pH scale—10,000 times more acidic than battery acid. Streams downstream from the mine are nearly devoid of life. Experts have estimated that at present pollution rates the Iron Mountain site can be expected to leach acid for at least 3,000 years before the pollution source is exhausted.

Oronogo Duenweg Superfund Site, Missouri: Drinking wells near this sprawling complex of lead and zinc mines in Southwestern Missouri have been contaminated by past mining activities.

Chino Copper Mine, New Mexico: The mine has been plagued by spills, leaks and discharges of contaminated mine waste material. Much of the pollution has spilled into Whitewater Creek which runs through densely populated communities. In several incidents in 1987, the mine spilled more than 327,000 gallons of mine wastewater off the site. In 1988 another spill discharged more than 180 million gallons of mine wastewater. More than 90,000 gallons of wastewater were spilled in 1990, and another 120,000 gallons were spilled in 1992.

Brewer Gold Mine, South Carolina: Nearly 11,000 fish were killed in 1990 when heavy rains cause a containment pond to breach, dumping more than 10,000 million gallons of cyanide-laden water into the Lynches River.

DeLamar Mine, Idaho: The DeLalmar silver and gold mine in Idaho has repeatedly dumped heavy metal laced wastewater into nearby streams. Migratory waterfowl have been poisoned by cyanide from its ponds.

Stibnite Mine, Idaho: The Stibnite gold mine has leaked cyanide into nearby groundwater and the East Fork of the Salmon River, an important salmon spawning run.

Ray Mine, Arizona: The Ray Mine was polluted nearby groundwater with toxic levels of copper and Beryllium. In 1990, rainwater washed more than 324,000 gallons of copper-sulfite contaminated wastewater from the mine into the Gila River.

Mr. President, what we are doing today—and I am supporting the amendment of the Senator from Washington, Mrs. MURRAY—is asking the mining industry to take responsibility for their actions, to follow the law as it is clearly written, which limits to 5 acres the mill site, or dump site, they can use for their mining activities. Some of the pictures here—I am sure the Senator from Nevada and others think this picture, as graphic as it is, is ancient. I don't know. There is no date on it, and I won't represent that it is a modern scene, but it shows what unregulated mining has led to. It is a clear indication of a stream that is still in danger because of the pollution from the mining activities.

Modern mining techniques are represented in these photographs, and although they are hard for those following the debate to see, they suggest that when we get into hard-rock mining, we are talking about literally hundreds, if not thousands, of acres that become part of the dump site of this activity. A mining operation, after it has derived the valuable minerals from this Federal public land owned by taxpayers, got out of town and left this behind. So for generations to come, if they fly over, they will look down and say: I wonder who made that mess.

That is as good as it gets under the 1872 mining law. That is a sad commentary. Those who support the Craig-Reid amendment would like us to expand the possibility that these dump sites near the mines would basically be unlimited. They could go on for miles and miles, and we, as taxpayers, would inherit this headache in years to come. There is clearly a need for comprehensive mining reform.

About $4 billion worth of hard-rock minerals—gold, copper, silver, and others—are taken annually from public lands by mining companies without a penny paid to the U.S. taxpayer in royalties—not one cent. That is $4 billion each year out of our land, and not a penny is paid back to the taxpayers.

What would you think about it if your next-door neighbor knocked on the door and said he would like to cut down the trees in your back yard, incidentally, and said he will give you $2.50, and I am sure that is no problem. Of course, it is a problem. It is our property. On that property are treasures of value to us. We are talking about public lands that are our property as American citizens. Those who live in some States believe that that land belongs to them, for whatever they want to use it for. Some of us, as part of the United States of America—''E. Pluribus Unum,'' as it says above the chair of the Presiding Officer, ''of many one''—believe that as one Nation we have an interest in this public land,

an interest that goes beyond giving somebody an opportunity to profit and leave a shameful environmental legacy.

Since 1872, there has been more than $240 billion of taxpayer subsidies to the mining industry.

In 1993, the Stillwater Mining Company paid $5 an acre for 2,000 acres of national forest lands containing minerals with an estimated value of $35 billion. I will repeat that. They gave us, as taxpayers, $10,000 for access to $35 billion worth of minerals. Pretty sweet deal for the mining company. Not for the taxpayers.

In 1994, American Barrick Corporation gained title to approximately a thousand acres of public land in Nevada that contained over $10 billion in recoverable gold reserves. Now, for access to $10 billion on Federal public lands, America's lands, how much did they pay? Five thousand one-hundred and forty dollars. A pretty sweet deal.

In 1995, a Danish mining company—not an American company—successfully patented public lands in Idaho containing over $1 billion worth of minerals, and this Danish company paid the American treasury $275—for $1 billion in minerals.

Due to irresponsible mining practices and poor regulation, the mining industry has left behind a legacy of 557,000 hard-rock abandoned mines in 32 States. As the Senator from Washington said earlier, the estimated cost of cleanup is $32 billion to $72 billion.

If this amendment passes that is being pushed on us today, it means there will be more land to be cleaned up. The estimate of $32 billion to $72 billion will grow as the profits are taken out of America's public lands.

There is one case I would like to tell you about: the Zortman-Landuski Mine. The Pegasus Gold Corporation operated these mines for years using Federal and private lands for mining and waste dumping, accumulating numerous citations for water quality violations. In January of 1998, Pegasus Gold Corporation filed for bankruptcy. The mines are now in the hands of a court-appointed judge. But the story gets better. Cost estimates for reclamation of these lands range from $9 million to $120 million. In other words, if we want to clean up the mess they left behind, it will cost taxpayers $9 million to $120 million.

Keep in mind, the amendment before us wants to expand the opportunity to leave that waste behind. More bills for future taxpayers to pay.

I know you are going to like this part. There are questions about whether the mine's reclamation bonds will be sufficient to pay for the cleanup. Here is where it gets good. In the meantime, Pegasus Gold Corporation has petitioned the bankruptcy court to provide $5 million in golden parachutes for departing executives. The same executives who left this trail of contamination now want to take out of the bankrupt corporation $5 million in golden parachutes because they have done such a fine job for the shareholders. They certainly didn't do a fine job for the taxpayers. They didn't do a fine job when it came to the environment.

If this amendment in the Interior Appropriation bill passes, it is an invitation for more greed and more environmental disasters. The mining industry has to accept the responsibility to come to Washington, deal across the table in a fair manner and in good faith to revise this law so they can pay royalties to the taxpayers for what they draw from this land. Instead, what they have done is try to force-feed through the Interior Appropriations bill a change in the law that will say that the number of acres used for disposal of waste and tailings is unlimited—unlimited.

So we will see further environmental disasters which undoubtedly will occur as a result of it.

The Senator from Washington started with the right amendment, an amendment which recognizes our obligation to future generations. It is not enough to make a fast buck or even to create a job today and leave behind a legacy for which future generations will have to pay. We don't accept that in virtually anything. Businesses across America understand that they have an obligation to not only make a profit, to not only employ those who work there, but to also clean up the mess and not contaminate the environment.

We have said that in a civilized nation it is too high a price to pay for those who just want to glean profits and to leave behind pollution of our air and water and other natural resources. For some reason, many people in the mining industry haven't received that message. They believe they can take the minerals from public lands and leave the environmental contamination behind.

Mr. REID. Will the Senator yield?

Mr. DURBIN. I yield for a question.

Mr. REID. I said in my statement that since I have been here, the 1872 mining law hasn't changed. I meant it had not changed in its entirety. The fact is that we in the Senate and in the House changed the 1872 mining law. It was changed in significant ways, such as passage of the moratorium on patents and a number of things. I didn't want the Senator to think the law hasn't been changed.

I ask my friend from Illinois, what does he think the mining companies should do? Does he think there should be mining to some degree? Can he tell me? I would be happy to translate the message to them. What more does the Senator think can be done than they have done in the past few years?

Let me tell the Senator what they have done. They met with us when we were in the majority. They met with us when we were in the minority. They met with the other side of the aisle when they were in the minority and in the majority. They have agreed to bills. They have agreed to pay royalties.

I say to my friend, what more can they do? They want to be good citizens. They help with things. I can only speak for the State of Nevada. I think around the country they are good corporate citizens. They help with the schools. They pay their taxes. What more should they do?

Mr. DURBIN. I say in response to the Senator from Nevada that I think there is a good starting point. It is existing law that has been there for a long time. They should look at the current law as it applies to those who would mine coal on Federal public lands. If they would follow the standards that apply to the mining of coal, here is the difference. We would have approval by the BLM through a leasing process for the selection of mining sites.

Mr. REID. Could I say to my friend that we have that now?

Mr. DURBIN. What we have now is self-initiation and location under the mining law of 1872 with no BLM approval required.

Mr. REID. That simply isn't true. In fact, I say to my friend from Illinois, the cost of patenting a claim is in the multimillions of dollars now. It is not easy to get through the process that has been set up.

Mr. DURBIN. I say to the Senator that I stand by my remarks. We could certainly resolve this later when we look more closely at the law.

The second thing I would suggest is they pay a royalty. I think it is an outrage that they would pay $2.50 or $5 an acre and not pay a royalty to the taxpayers when they take millions, if not billions, of dollars worth of recoverable minerals out of our federally owned public lands.

Mr. REID. I say to my friend that there is general agreement. The mining companies agree. Eight years ago, we went to conference and agreed to change the amount they paid when a patent is issued.

I also say to my friend that the mining companies signed off on a royalty. That was something initiated here. I have to ask someone here. It passed. I can't tell you that it passed. But it was on the Senate floor that a royalty was agreed to.

I say to my friend that I hope this is the beginning of a dialogue where we can really get something done. There is nobody that I have more respect for than the Senator from Arkansas, who was the spokesperson against mining companies for all the years I was here—the greatest respect in the world. But I say to my friend that he wanted all or nothing, and we kept getting nothing.

I hope my friends will allow us to improve something. We have made very small improvements. I say to my friend that those of us who support mining and the mining companies want changes. They know it doesn't look good, from a public relations standpoint, for them to pay $2.50 or $5 for a

piece of land. They know that. But there was something that passed the Senate which allowed the payment of fair market value. That was turned down in conference.

I say to my friend that I know how sincerely he believes in this. I will give him the line and verse. In fact, the Forest Service handbook talks about this very thing. In effect, the solicitor's opinion overruled their own handbook. I hope this will lead to improvement of the law. We all recognize it needs changing. I am willing to work with the Senator in that regard.

Mr. DURBIN. I thank the Senator from Nevada.

Mr. REID. I thank the Senator for allowing me to interrupt. I appreciate it very much.

Mr. DURBIN. I thank the Senator from Nevada, because I believe the statements he made are in good faith and reflect where we should be. We should be sitting down and rewriting this law that is 127 years old instead of having other environmental riders in an Interior appropriations bill. We should be looking to the royalty question, which is a legitimate question that every taxpayer should be interested in instead of saying we are going to take the limitation of the acreage used by mining companies that dump their waste.

I think that is a legitimate concern. Maybe 5 acres isn't enough. But I also think it wouldn't be unreasonable to say to the mining companies: If we give you additional acres for mill sites, we will also require you to reclaim the land so that you can't leave the mess behind.

That is part of the law when it comes to coal mining on Federal public lands. Why shouldn't it be the case when it comes to hard-rock mining?

How can they step away from this mess and say: Frankly, future generations will have to worry about it, and we will not. Mandatory bonding, detailed permitting reclamation, mandated inspections—things that are part of the law when it comes to mining coal—should be part of the law when it comes to hardrock mining.

I reject the idea that we will come in with this bill and make amendments friendly to the mining industry but not hold them to any new standard when it comes to reclamation or royalties. I think the taxpayers deserve better. I think the environment deserves better.

That is what is necessary in this debate. We have seen it, first, on the emergency appropriations bill, where a similar provision was put forward for one mining operation in the State of Washington. Now, if this amendment goes through, we have literally opened the door for mining operations across the United States to literally use as much acreage as they want for their mill sites.

Mr. BURNS. Will the Senator yield for a question?

Mr. DURBIN. I would be happy to yield.

Mr. BURNS. I ask my good friend from Illinois, what environmental law? What environmental law are we talking about here?

Mr. DURBIN. We are talking about the 1872 Mining Act.

Mr. BURNS. That is not an environmental law.

Mr. DURBIN. I would suggest to the Senator that it has an impact on the environment.

Mr. BURNS. What environmental law are we talking about here?

Mr. DURBIN. I have responded to the Senator. If he has another question, I will be happy to answer it.

Mr. BURNS. What environmental law? Is it the Clean Water Act? Is it the Clean Air Act? Is it the National Environmental Policy Act? Is it the National Federal Lands Management Act? What environmental law is the Senator talking about when he refers to environmental law?

Mr. DURBIN. I am talking about the 1872 Mining Act.

Mr. BURNS. I suggest to the Senator that is a land tenure law and subject to all of the environmental laws. The miners are not exempt from them.

I thank the Senator.

Mr. DURBIN. I say to the Senator from Montana, I think he knows well the environmental laws which we mentioned are not applied seriatim to all of these mining claims, and that is why we have the environmental contamination which we have today. That is one of the reasons why it is there. If we are going to have a mining law, I think we need one that talks not only about the profitability of the venture but about the environmental acceptability of this venture. That is the difficulty we run into.

I suspect that the mining industry may want to talk about more acreage for mill sites and dumping but may not be as excited about an environmental response bill. That is part of the discussion, as I see it. Sadly enough, this amendment, which has been added to the Interior appropriations bill, addresses the profit side of the picture and ignores the environmental and taxpayer side of the picture. That, to me, is shortsighted and something that should be defeated.

The fact that this was done in committee and has at least been attempted in the past is a suggestion to me that the mining industry, even with the Republican majority in the House and the Senate, really hasn't gone to the authorizing committees for the changes which have been suggested on the floor. I think they should. I think it is certainly time, after 127 years, to update this law.

In closing, if we are going to change this law and change it in a comprehensive and responsible way, let us do it through the regular authorizing process.

It is interesting to me that yesterday we had a fierce debate on the floor about rule XVI, and we said of rule XVI: We will not legislate on appropriations bills. Of course, there are always exceptions to every rule.

In this case, because there was a reference to the mining act in the bill coming over from the House, they were allowed to offer this amendment. As Members may glean from the length and breadth of this debate and its complexity, we should not be putting this environmental rider on an appropriations bill at the expense of the environment and the taxpayers.

I say to the mining industry, a legitimate industry employing many hardworking people, certainly the things which are done are important to America's economy and its future, but it is not unreasonable for Americans to think that we have a vested interest in our own public lands. Companies cannot leave behind this legacy of waste. Unlimited acreage being used for dump sites is not being held accountable.

This amendment, if it passes, will say to these mining companies: These hard rock mining companies will not be held accountable. Use as much of America's land that is needed to dump your waste after you have mined the minerals. As taxpayers, we will accept it.

For this Senator from Illinois, the Senators from Washington and California and many others, that is unacceptable.

I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, let me speak directly to the Senator from Illinois, the Senator from Massachusetts, and the Senator from Washington. I have heard statements from the Senator from Illinois that I know he means in good faith but I think are wrong. The record must be corrected in that regard. The law does not allow many of the things he has suggested might happen.

For example, tonight he suggested that the Craig-Reid amendment would allow unlimited surface land domain. That is simply not true. Let me repeat for the record, that is an inaccurate statement.

Here is what the law allows today and what the Reid-Craig amendment does: It simply reinstates the law as it exists today. The Senator from Illinois is absolutely right as to what the 1872 mining law says as to the 5 acres per claim. However, what attorneys have said who were brought before the subcommittee that I chair, while that was the law, it was based on the concept of the Comstock Lode, which was the mining activity in the State of Nevada that generated the 1872 mining law. From that time forward to today, it was viewed in the law as a minimum necessary requirement.

What the Senator from Illinois did not say, which refutes the idea that this is some kind of unlimited land surface grab, is the BLM, the administrator of claims on public land, in the

process of working with a mining company that is establishing a mining operation establishes the 5 acres and additional acres as is necessary to conduct that mining operation.

What does that mean? That does not mean unlimited acreages. It means exactly what I said it means. It means that the Bureau of Land Management develops a mining plan consistent with the mining operation all inclusively consistent with the Clean Air Act and the Clean Water Act for a mining company to effectively mine the mineral estate they have established under the mine plan and with their permit. That is not unlimited. It is our Federal Government. The BLM under the law establishes the surface domain that a mining company can have for the purpose of operations.

Is that unlimited? I repeat to the Senator from Illinois, no, it is not. It is restricted by the character of the process and by 127 years of operation. That is what it is. That is what we are attempting to reinstate.

The Senator from Illinois went on to say: Why didn't they go to the courts? Why have they come to Congress? The reason they have come to Congress is because the act of the Solicitor would be automatic and immediate. The Senator from Nevada earlier spoke to the consequence of this decision.

Mining stock in this country dropped by a substantial percentage point on the stock exchange because the Solicitor's opinion was saying if it were fully implemented both prospectively and retroactively, it would dramatically halt existing mining operations and cost mining companies that were operating under good faith, the law, and the historic practice as prescribed by the Forest Service and the BLM, by their manual, and by their current handbooks, it would have simply stopped them, and they would have waved literally hundreds of millions of dollars in the process of developing a mining plan that was environmentally accurate and environmentally sound.

I know the Senator from the State of Washington is upset because the crown jewel mine in her State was, by her own State's environment director, announced to be the best ever; that they had met all of the environmental standards; they were complying with all the Clean Air and Water Act and somehow the Solicitor stepped in and stopped the process.

The senior Senator from the State of Washington and the supplemental appropriations bill this year said it is just blatantly unfair for a company to operate in good faith under the law and under the environmental laws of our country. For the Solicitor, an appointed bureaucrat, to step in and stop them without any public process is against the very character of the law we create on this floor.

So the senior Senator from the State of Washington was right in doing what he did. At that supplemental appropriations conference, while I was trying to do exactly what the Senator from Nevada and I have just done with this amendment, we said: No, let's not do that.

I chair the Public Land Subcommittee, the mining subcommittee. Let's hold hearings on this issue. Let's see if the Solicitor is right in doing what he has done. We brought in mining authorities, lawyers who practice this law professionally full time before the committee, asking if the Solicitor was right in doing what he did. Their answer was absolutely not; 127 years of practice would argue that the Solicitor reached out in thin air and grabbed an opinion that he knew would bring the mining industry to its knees.

Why would he know it? Surely, he wouldn't do it arbitrarily or capriciously. Surely, he wouldn't do that for political purposes. Want to bet? Let me state why he did it. Let me speak to Members in Mr. Leshy's own words, words written in his own book, called ''Reforming the Mining Law: Problems and Prospects.'' This Solicitor knew exactly what he was doing. He did it for political purposes. He did not do it for the kind of benevolent, benign, environmentally sound reasons that the Senator from Illinois suggested.

The Solicitor said:

> A hoary maxim of life on Capitol Hill is that Congress acts only when there is either a crisis or a consensus.

The Solicitor at the Department of Interior attempted to establish a crisis in the mining industry with the mining law.

He went on to say:

> Currently there is no genuine crisis involving hardrock mining—

although the Senator from Illinois worked for about an hour to gin one up—

> but with a little effort crises sufficient to bring about reform might be imagined.

That is what the Solicitor said when he was a private citizen environmental advocate against mining.

So then he went on to say:

> At the extreme, it might even be appropriate for the Interior Department and the courts to consciously reach results that make the statute unworkable.

The Solicitor himself in a former life, in 1988, said: You know what we could do? We could create a crisis and make the statute unworkable, and we would force the Congress to change the law. And then all of a sudden John Leshy was no longer private citizen, environmental advocate; he was public citizen appointed Solicitor of the Department of Interior. And what did he do? He followed his own words and his own edicts. He attempted to create a crisis. And a crisis it was, and we have spoken to it already, the crisis that tumbled mining stock dramatically in the stock markets of this country.

A message went out to the mining industry: You are not only unwelcome on public lands, we are going to try to run you off from them. That is a hundreds-of-millions-of-dollars industry, with tens of thousands of employees across this country, yet the Solicitor, a nonelected public official with no public process, did this. The Solicitor's opinion was not subject to public comment or review. The Department of Interior failed to provide a forum for interested parties to express their views. The Solicitor's opinion is a change in the law that the administration made without any kind of review. It just simply said: That's the new law. And I say ''new law'' because for 127 years the Department of Interior, the BLM, and the Forest Service operated under the law that Senator REID of Nevada and I are attempting to reinstate this evening. That is what the Solicitor did.

Mr. KERRY. Mr. President, may I ask my colleague how long he will be going, just so I can plan accordingly?

Mr. CRAIG. Probably for about another 10 or 15 minutes.

Mr. KERRY. I thank my colleague.

Mr. CRAIG. The Solicitor went on to say:

> Some particularly dramatic episode that highlights the particular anachronisms of the Mining law might also encourage Congress to perform surgery on the Law.

That is what the Solicitor said, and that is what the Solicitor did.

What John Leshy failed to say is that over the years he and I have met around the country, debating, and he has wanted to change the mining law in such a dramatic way that the mining industry of this country simply could not operate.

The Senator from Illinois suggested we ought to change the law. You know, he is right. As chairman of the Public Lands Subcommittee and as chairman of the mining committee for the last 5 years, I say to the Senator from Illinois, we have tried to change the law. We even brought it to the floor once, passed it in a supplemental, and guess what happened. President Clinton vetoed a major change in the 1872 mining law. What did that law have in it? Major reclamation reform. It had within it a hard rock mining royalty that would have funded that reclamation reform so if mine industries went bankrupt, there was a public trust provided by the mining companies to do that kind of reclamation reform. But this President and his Solicitor will not allow that kind of reform to happen.

I have worked in good faith, and, I must say, the Senator from Nevada has, for the last 5 to 6 years to make significant change in the 1872 law. We recognize the need for its modernization. That is not denied here. But what you do not do is the very backdoor, unparticipatory, nonpublic effort of the kind the Solicitor did.

The Senator from Illinois talked about the degradation that happened in his State. What the Senator did not say is, it does not happen anymore. The reason it does not happen anymore, and the reason he should not use it as an example, is that there is a law that disallows it today. There is full mine reclamation on surface mining, especially in the coal industry.

So let me suggest to the Senator from Illinois, let's talk today and not 50 years ago, when he and I would both agree those kinds of practices now are unacceptable. They may have been acceptable then, but they are not acceptable now. In fact, the Senator from Illinois held up a picture. He did not quite know where it was. I will tell him where it was. It was in the State of Montana. I have been to that site. I have traveled and seen these problems. Three times we tried to get that issue in Montana cleaned up. Environmental groups stepped in and sued.

You kind of wonder if they do not want the issue instead of a resolution to the problem. We have worked progressively with them to try to reform the 1872 mining law, and in all instances they have said no. Here is why they said no. They said: We don't want you to have the right to go find the mineral if you find it in a place in which we don't want you to mine.

That is an interesting thesis because gold is, in fact, where you find it. It is not where you might like to have it for environmental reasons. What do we do with a thesis like that? We say OK, gold is where you find it, silver is where you find it, but because of our environmental ethics and standards today, you have to do it in an environmentally sound way.

That is what you have to do. You have to comply with the Clean Air Act. They did in the State of Washington. You have to comply with the Clean Water Act. They did in the State of Washington. You have to meet all the State standards—tough standards in the State of Washington. You have to meet all the Federal standards—tough standards in the State of Washington.

That is what the Crown Jewel Mine did. And yet, at the last moment, in the 12th hour, by pressure from environmental groups, Mr. Leshy came out of his closet and said: No, you can't. And the senior Senator from the State of Washington said: Wrong, Mr. Leshy. That is not the way a democracy works. That is not the way a representative republic works. If they played by the rules and they played by the law, then they must have the right to continue. That is the issue we are talking about. We are talking about dealing fairly and appropriately with the law.

Let me go ahead and talk about Mr. Leshy some more because he is being talked about tonight as the savior of the environment. Let me tell you what he is really out to do. It is not to save the environment but to destroy the mining industry. He has worked for decades with this goal in mind. What did he say in this book he wrote in 1988? What he said was:

> Bold administrative actions, like major new withdrawals, creative rulemaking or aggressive environmental enforcement, could force the hand of Congress.

Mr. Leshy is right. He forced the hand of Congress. The Senator from Washington and I discussed this briefly in the Appropriations Committee.

I do not stand tonight to impugn the integrity or the beliefs of the Senator from Illinois or the Senator from Washington or the Senator from Massachusetts. But it is important that when you say unlimited withdrawal of surface, I say it is wrong, because it is not right; that is not what the law allows. The Department of Interior does not allow that unless it is within the plan, unless it is bonded, unless it meets all the environmental standards, and it is proven to be required by the mining operation as appropriate and necessary.

Those are the laws as we deal with them today.

I suggest the Senator from Montana was absolutely right. I am talking about reforming the 1872 mining law. It is a location and a withdrawal law. It is not an environmental law. Modern mining companies must adhere to the law, and that is the Clean Air Act, and that is the Clean Water Act, the National Environmental Policy Act, and all of those that are tremendously important. That is what we debate here this evening, and that is why it is critically important that we deal with it in an upfront and necessary manner.

Mr. DURBIN. Will the Senator yield for a question?

Mr. CRAIG. I will be happy to yield in a moment.

I would like to reform the 1872 mining law, and I would like the Senator from Illinois to help me. The Senator from Nevada has stood ready with me for now well over 5 years for that purpose, only to be denied it by this administration. They kept walking away from the table. They would very seldom come and sit down with us. I must tell you, I do not know why. I ultimately had to draw the conclusion that they preferred the issue over the solution because it was our effort in the State of Nevada, a very important mining State for our country, and my State of Idaho, a very important mining State, that we resolve this issue. That, of course, is why I think it is necessary.

A mining claim is a parcel of land containing precious metal in the soil or the rock. That is what a claim is.

A mill site is a plot of ground necessary to support the operations of a mine. That is what a mill site is.

Mill sites are critical to mining because, amongst many uses, they hold the rock extract, that which is brought up out of the ground from the diggings of the mine, containing milling facilities that extract valuable minerals from the ore and provide a location to house administration and equipment and repair and storage facilities.

Let me suggest a comparative to the Senator from Illinois. If I bought a half acre of ground in downtown Chicago for the purpose of building a 50-story building, and they said I could go down 50 feet and establish parking, but I could not go up any, and I was not given any air rights, then I could not build the building. I could acquire the property and I could dig down, but I could not go up.

That is exactly what the Senator is suggesting tonight, that you can gain a mining claim under the law but you cannot build a mill site because 5 acres, I think as most of us know, is a fairly limited amount of ground, and that is exactly what the Federal Government has recognized for 127 years.

As a result of that, what the Government has said is, if you meet these standards and you incorporate it in a mining plan, you can have additional acres we will permit you for that purpose. Is that unlimited? I say to the Senator from Illinois, it is not. To suggest to anybody in the BLM, including this administration's BLM, that they give carte blanche acreages of land to mining companies is, in fact, not true. That is the reality of working with the BLM. Whether it is a Republican BLM or a Democrat BLM, both administrations, all administrations, have adhered to the law. It is important that the law not be misrepresented.

I suggest to the Senator from Illinois that mining is not necessarily a clean business. Digging in the ground is not necessarily a clean business. It is not environmentally pristine. That is the character of it. There are few businesses where you disturb or disrupt the ground that are. It is how you handle them after the fact with which I think the Senator from Illinois, the Senator from Washington, the Senator from Massachusetts, and I would agree. I hope they do not want to run the mining industry out of our country. We already have substantial exodus from our country because of costs of mining based on certain standards. They all attempt to comply.

The greatest problem today is access to the land. The Senator from Illinois does not have any public land in his State, or very limited amounts. My State is 63 percent federally owned land—your land and my land. I am not suggesting that it is Idaho's lands, nor would the Senator from Nevada suggest that only Nevadans ought to determine the surface domain of the State of Nevada. We understand it is Federal land.

Nevadans and Idahoans and Americans all must gain from the value of those resources, but we also understand that they must be gained in an environmentally sound way. We have worked mightily so to build and transform a mining law for that purpose. I must tell you that the Solicitor, both as a private citizen environmental advocate and now as a public citizen Solicitor, has fought us all the way, because he wanted a law that fundamentally denied a mining company the right of discovery, location, and development unless it was phenomenally limited. Those are the issues that clearly we deal with when we are on the floor.

Let me say in closing, Mr. President—and it is very important for the Senators to hear this—we are not

changing the law. We are simply saying: Mr. Leshy, you do not have it your way until policymakers—the Senator from Illinois and the Senator from Idaho—agree on what the law ought to be. That is our job; that is not John Leshy's job. Ours will be done in a public process with public hearings and public input and not in the private office of a Solicitor down at the Department of Interior who, in the dark of night, slips out and passes a rule and the stock market crashes on mining stock.

I do not think the Senator from Illinois would like that any more than we would if we did it to major industries in his State, because he and I are policymakers and we should come to a meeting of the minds when it comes to crafting reform of the 1872 mining law. That is what I want to do. I hope that is what he wants to do.

Are we legislating on an appropriations bill? No. We are saying: Mr. Solicitor, you do not have the right to change the law. We will leave the law as it is, as the current 1999 or 1998 handbook at BLM says it is, as the current handbook down at the Forest Service says it is, and that is the handbook a mining company uses to build a mining plan, to build a mining operation. He said at the last hour: The handbook is no good even though we wrote it, even though we OK'd it, and even though that is the way we operate.

I do not think so. We now know why. Because, for goodness sake, we read his book, the book he crafted in 1988 saying: Let's create a crisis, let's bring the mining industry to its knees, and just maybe then we will get the Congress to move.

I heard John Leshy in 1988 and again in 1990, as did the Senator from Nevada. We worked mightily to change the law, and we are still working to do it. We have not been able to accomplish that. I hope we can, and we will work hard in the future to do that. But I hope my colleagues and fellow Senators will support us tonight in leaving the current law intact and not allowing this administration, or any other one, through their attorneys, to arbitrarily change a law without the public process and the public input that the Senator from Illinois and I are obligated to make, and yet tonight he defends the opposite. I do not think he wants that. I do not think any of us want a private process that will deny the right of public input.

Mr. REID. Will the Senator yield for a question?

Mr. CRAIG. I am happy to yield.

Mr. REID. The reason I ask the Senator to yield is, the two leaders, I am sure, are curious as to how long we are going to go with this. There are a number of people who wish to speak. I am wondering if there is any chance we can work out some kind of time agreement on this on the minority side and majority side.

Mr. CRAIG. Let me say to the Senator from Nevada, I am ready to relinquish the floor. The Senator from Massachusetts has been waiting a good long while. I will work with the Senator from Washington. It is certainly her amendment. We have second-degreed it. If we can arrive at a time agreement, I would like to do so to accommodate all who have come to speak on this issue. It is important that they have that opportunity.

At the same time, we want to finish this before the wee hours of the morning, and we want to conclude it either with a vote on the second degree, or, if that is not going to happen, if we cannot arrive at something, we will want to look at finalizing this by a tabling motion. Let me work with the Senator from Washington.

Mr. STEVENS. Before the Senator yields the floor, will he yield for a question?

Mr. CRAIG. I will be happy to yield the floor.

Mr. STEVENS. I have been listening to the debate, and it has primarily been proponents of the amendment. I am willing to have some time. We should have a time certain to vote. I hope there is going to be some accommodation for those who have been waiting for these opening speeches to end. I will be more than willing to set a time, such as 8 o'clock, to vote, provided we get some time to respond to the statements that have already been made.

Mr. CRAIG. I say to the Senator from Alaska, I am going to relinquish the floor and sit down with the Senator from Washington to see if we can work out a time agreement to accommodate the Senator's concern. I hope we can shoot for the 8 o'clock hour or somewhere near that, recognizing everyone's right.

Mr. REID. Will the Senator yield for another question?

Mr. CRAIG. Yes.

Mr. REID. I say to my friend from Idaho and to the Senator from Alaska, there has been a debate on both sides. It has not been dominated by the proponents of the underlying amendment. There has been a good discussion here.

Mr. STEVENS. Maybe I was just listening at the wrong time.

I thank the Chair.

Mr. CRAIG. I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. BURNS. Mr. President, will the Senator yield so I can propound a unanimous consent request?

Mr. KERRY. I yield.

Mr. BURNS. I thank my friend from Massachusetts.

PRIVILEGE OF THE FLOOR

Mr. BURNS. Mr. President, I ask unanimous consent that the privilege of the floor be granted to Terry L. Grindstaff, a legislative fellow in my office, during the debate of the Interior appropriations bill.

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

Mr. BURNS. I thank my friend from Massachusetts.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KERRY. I thank the Chair.

Mr. President, I have listened with interest to the debate for some time now, and I listened with great interest to the Senator from Idaho. After listening to the Senator from Idaho, I really believe the fundamental confrontation here was not addressed by the Senator in his comments. He made a lot of references to the Solicitor of the Department of the Interior and to the decision that he alleges was made in the dead of night and that we should not rush forward with a sudden decision by a bureaucrat to change the how we regulate mining on public lands and the relationship between mining companies and the Bureau of Land Management and the Congress.

Let's try to deal with facts. Let's try to deal with the reality of the situation rather than obfuscating and avoiding the confrontation that has been going on in the Congress for a long period of time.

This is not something that is happening just at the whim of a bureaucrat. This is not something that is happening this year, now, suddenly for the first time. There has been a 10-year effort to try to change how we regulate mining in this country, and every time we get close to accomplishing that, some argument or another is used to try to avoid making the right choice—the choice that is part of the original law itself on which all of this is based.

That law is the Federal Land Policy and Management Act of 1976 by which the BLM published its current regulations in 1980. Those regulations are required under the law. It is the law of the land that the Secretary of the Interior must take any action necessary, by regulation or otherwise, to prevent unnecessary or undue degradation of public lands. That is the law.

The Secretary is required to take action to prevent undue or unnecessary degradation of the public lands. We have been debating in the Congress, as long as I have been here, the level of degradation that is taking place, and its impacts, as a result of the hard rock mining.

The BLM published regulations in 1980. They became effective in 1981. That was the first attempt of the BLM to try to provide some kind of effective management ever since the mining law of 1872. A review was supposed to take place 3 years later. That review never took place. But in 1989 a task force was created, and a rulemaking was begun in the Bush administration to consider amendments of the 3809 regulations. The fact is, there was a failure to enact that. Why? Specifically, to give Congress the opportunity to develop its own reform and pass it.

Contrary to what the Senator from Idaho said about secret, last-minute meetings, the fact is that in the 103rd Congress Senator Bumpers introduced

legislation. Representative NICK RAHALL of West Virginia introduced legislation, and the House passed his legislation by 316–108. One of the major concerns of those who opposed the measure was that it included an 8-percent royalty on net smelter returns, which would have, according to the arguments of some, and I suspect that includes Western Senators and Representatives, made some mines uneconomic.

So we go back to 1993 when legislation was introduced that would have instituted the very royalties that we were just heard the opponents of the Murray amendment tell us they would accept. But they fought the royalties, and they fought the bill, and the bill died.

Two less comprehensive and almost identical bills were introduced in April of 1993. In those, patents were to continue to be an option, but patent fees were going to reflect the fair market value of the surface estates. A 2-percent net value mine mouth royalty was going to be imposed. In the Senate that year, there was an industry-backed bill. That was passed by the Senate in May of 1993, but once again it was stopped dead because the House and Senate conferees could not bridge the gap between the industry-backed legislation and the environmentally-backed legislation. It died.

In the 104th Congress the Mineral Exploration and Development Act of 1995 was introduced by, again, Representative Rahall and others to overhaul the mining law. That was almost identical to the bill the House passed in the 103rd Congress.

Three mining reform bills were introduced in the Senate. One was introduced by Senator CRAIG. It was supported by the mining industry. Another was introduced by Senator Bumpers. The one introduced by Senator CRAIG more closely resembled the Rahall bill. The bill Senator Bumpers introduced was supported by most of the environmental and conservation community. And a third bill was introduced by Senators Johnston and CAMPBELL that resembled a later version of what then-Chairman Johnston incorporated into the conference debate.

But again no further action was taken. Why? Because once again the industry refused to accept some of the provisions that included to protect the land adequately, including clean up, holding sufficient bonding, do the things necessary which the Senator from Nevada has offered to do on the floor tonight. But there is a long legislative history of the opponents of the amendment refusing to do that. That is why the Bureau of Land Management has finally come to the point of saying we have to do something. And what they are doing is justified.

Since 1980, the gold mining industry in the United States has undergone a 10-fold expansion. I know it is now on facing many challenges as the world market for gold has pushed prices down, but nevertheless, it has grown substantially over the past two decades. Many of those gold mines are located on the public lands that we are suppose to be protecting. Much of this increased production comes from the fact that, as a result of new discoveries and technologies, you can mine ore of a much lower grade. Mine operations are able to move millions of tons of material and move it around the landscape to produce just ounces of gold. The new techniques use cyanide and other toxic chemicals for processing.

In short, even though I agree that we are more environmentally concern today than in years past, the fact is that today's mines have an even greater capacity to cause environmentally negative impacts. We did not hear the Senator from Idaho talk about how we are going to ensure that these mine clean up. Of course, there is an economic impact in trying to clean up a mine. But, I respectively as my colleagues that they don't come to the floor of the Senate and start complaining that suddenly a bureaucrat is coming in the dead of night to do what we have been fighting to do for 10 years in the Senate, and what I think most people understand is a huge struggle between those who want to protect the lands adequately and those who want to continue the practices that are endangering them.

The fact is—and this is a fact—this provision is simply the latest addition in a series of riders that have prevented the Clinton Administration from enforcing the 1872 mining law and reforming the sale of our Nation's mineral assets.

Coal does not get the privileges of hard rock mining. Oil and gas do not get the privileges of hard rock mining. It is absolutely extraordinary that at a time when Senators will come to the floor of the Senate and talk about giving money back, in tax cuts, to the citizens of this country, who deserve the money, that they will vote against giving them the money they deserve from the land that they own. This land belongs to the American citizens, and it is nearly being given away, without royalties, to mining companies that leave behind devastation. The are not paying their fair share, not just for cleaning it up, but also on the gold, silver and other minerals that they profit from, and that Americans own. I think it is the wrong way to legislate the priorities of our lands and the protection of them.

The Bureau of Land Management tried to update environmental protections in 1997. Respectfully, I ask that my colleagues not come to the floor and tell us that this all of this happened in the dead of night or some secret effort. The Clinton Administration tried to enact some reforms in 1997, and they were blocked by a rider on an appropriations bill. It was stopped again by a rider in the 1998 Interior appropriations bill that prohibited them from issuing proposed rules until the Western Governors were consulted and, then, until after November of 1998.

Here we are in July of 1999. The BLM satisfied the requirements of that rider of 1998.

They then resumed the rulemaking process. It wasn't in the dead of night. It wasn't a surprise. The Clinton Administration, again, took up the rulemaking after they had been required to consult with the western Governors. The BLM satisfied that. But then they were stopped again by a rider in the fiscal year 1999 omnibus appropriations bill calling for a study by the National Academy of Sciences and delaying the rules at least until July, which is where we are right now. However, not even that was enough. In February of this year, the BLM issued proposed rules, and it entered a public comment period, not the dead of night, not some surprise effort by the rulemakers. They were proceeding according to how Congress had told them to proceed. And then another rider was inserted into the year 2000 supplemental appropriations bill so that we could further delay the rulemaking process.

Now we are considering a fourth rider, the fourth rider for the mining industry since 1997 in the fiscal year 2000 Interior appropriations.

While these riders are slightly different legislatively, they have all protected a flawed system that continues to allow us to sell an acre of land for as little as $2.50; $2.50 for an acre of land to go in and mine thousands of dollars of worth minerals and possibly cause excessive environmental damage, certainly alter the landscape in a dramatic way.

I am as strong an admirer of the Senator from Nevada as anybody in the Senate. He is a friend, a good friend. He is representing his State and he has to. He has 13,000 miners there. But one has to wonder about the cost of reclaiming the land and who will pay it. At some point we may find cheaper for the United States of America to pay those miners not to mine than to pay for the kind of environmental damage that has been presented here today by the Senators from Washington and Illinois. Rivers have been ruined, the toxics spilled into the environment. What is it, $32 billion to $72 billion is the estimated cost of cleaning up chemicals that have been released in these operations and other environmental damage to drinking water and water systems. It is cheaper to tell them not to do it than to continue to do this.

What are we doing? Well, we have a law, the 1872 Mining Law, that restricts each mine claim of up to 20 acres to a mill site of 5 acres to dump waste and process material.

In his decision, the Solicitor did not amend, he did not reinterpret the law. Even the mining industry has agreed that the 5-acre mill site limit is the law, I point to an article from 1970 when a law firm representing the industry openly concede that point. They may argue a different case now, but before this opportunity presented itself,

the mining industry agreed. All the Solicitor did was recommend that the BLM start enforcing this provision again. That is all. Enforce the provision.

Mr. REID. Will my friend yield for a parliamentary inquiry?

Mr. KERRY. I will for the purpose of a parliamentary inquiry.

Mr. REID. I say to my friend, we have talked, and we would like to vote at 7:35 or 7:40. What we are going to do is divide the time between now and then between the proponents and the opponents of this particular amendment. There will be, near that time, a motion to table that will be initiated. Could the Senator indicate about how much longer he wishes to speak?

Mr. KERRY. Mr. President, I can't. I want to speak my mind on this issue. Although I am one of the original cosponsors, I can't speak for the lead sponsor. I don't know if there are other Senators on our side who would like to speak. You have the right to table.

Mr. REID. We know the Senator from Washington wishes to. We want to try to be fair.

Mr. KERRY. I don't imagine I will go more than 10 minutes or so. I don't know what the Senator from Washington needs.

Mr. REID. We could go until 7:40, which leaves 35 minutes.

Mrs. MURRAY. Mr. President, I believe the Senator from Massachusetts has the floor, but if I may clarify, is the Senator asking to divide the time equally between now and 7:40?

Mr. REID. Yes.

Mrs. MURRAY. I will not object to that.

Mr. REID. Divided equally. I ask unanimous consent, Mr. President.

Mr. STEVENS. Just a minute. I don't understand the division of time.

Mr. KERRY. Mr. President, reserving my right to reclaim the floor.

Mr. REID. The Senator has the floor. I say to my friend from Alaska, we would divide the next 35 minutes between the proponents and opponents. There would be equal time. I checked with the other Senator from Alaska and he thinks that is okay.

The PRESIDING OFFICER (Mr. ALLARD). Is there objection? Without objection, it is so ordered. The Senator from Massachusetts is recognized.

Mr. KERRY. I thank the Chair.

The BLM is simply seeking to enforce the existing law once again. No reinterpretation, no change. This is not a far reach. This is existing law, which, as I say, very clearly in 1970 and in other times has been acknowledged as the law even by the mining industry itself.

It was likely under pressure from the mining industry in the 1960s and 1970s that the Federal Government started to overlook the provision and permitted mining operations to use more than the single 5-acre mill site. What we are saying is that was a mistake of enormous environmental and fiscal consequences.

The BLM ought to enforce the law. It is one of the few protections that we have.

Let me try to share with colleagues what the consequences of the current law are, why it needs reform and why it should be enforced. According to an editorial in the USA Today newspaper, in 1994, a Canadian company called American Barrick Resources purchased 2,000 acres of public land in Nevada that contained $10 billion in gold. How much do you think they paid for the 2,000 acres and the $10 billion of gold? They paid $10,000.

Every time in the last few years that we have tried to have a fair meeting of the minds on the subject of what is an appropriate royalty or what is an appropriate bonding, it hasn't worked. It is public land. There ought to be requirements, more than we have now, for a mining company that wants to mine public land, take out billions of dollars of gold, and pay the taxpayers only $10,000. They don't say to you: We are going to degrade the land, damage rivers and leave the place unusable for other purposes.

If they said that, do you think anybody in the Senate would stand up and vote for it up front? No. But you are voting for it. That is the effect of what happens here, unless we turn around and say, no, we are going to enforce the law.

I understand the economics of this, but one of the problems we have across the board nationally and globally is that we don't value the environmental impact on the cost of goods. Nobody wants to be responsible for doing that, for incorporating in the cost of a product the cost reducing our national resources. So we keep doing things that actually cost us an awful lot more, but it is never reflected in the cost of the product. But we pay for it; the American taxpayer pays for it.

The environmental toll is high. Over 12,000 miles of streams have been destroyed, according to the Mineral Policy Center, which is group expert in the impacts of mining. I don't understand how we can risk, especially in the West where water availability is a problem, polluting our watersheds this way. We have one major, enormous reservoir for water for the United States under most of the mid-central section of the nation. We are increasingly depleting that reservoir of water. And we are currently, mainly through agriculture, using that water at a rate exceeding its resupply. We can't afford to destroy 12,000 miles of streams.

What is the economic value of those streams? Has anybody calculated that?

Has anybody calculated the economic value in the cost of lost drinking water because of chemical that contaminated it? This is a matter of common sense, and we are not exhibiting that kind of common sense as we approach it. The fact is that there are almost 300,000 acres of land owned by the citizens of the United States of America, public land that has been mined and left unreclaimed. Abandoned mines account for 59 Superfund sites. There are over 2,000 abandoned mines in our national parks. The Mineral Policy Center estimates the cleanup cost for abandoned mines, as we mentioned earlier, is at the high end, $72 billion, and at the low end, $32 billion.

Will the Senators from the West come forward with that $32 billion? Where is the offer by those who want to continue these practices and run that bill up even higher to pay the bill? Is there an offer to pay the bill?

I think the Senate ought to put an end to this process, to protecting a flawed policy, by supporting the Murray amendment, by opposing rider or provision of Senator CRAIG and Senator REID. I will, if for no other reason so I can simply represent the taxpayers in good conscience. The costs of continuing this program are far greater than the costs of enforcing the law and doing what is required. The Senator from Nevada asked, a moment ago, of the Senator from Illinois: What would you like us to do? He said: What do you think the mining companies ought to do?

Let me respectfully share with you what the Bureau of Land Management wants them to do, which the mining companies and these constant riders are blocking us from doing. Here it is very simply: Protect water quality from impacts caused by the use of cyanide leaching, thereby safeguarding human environmental health in the arid West. Second, protect wetlands in riparian areas, which provide essential wildlife habitat in arid regions, as well as promoting long-term environmental health, and sharply limit or eliminate any loopholes to the requirement to get advance approval of mining and reclamation plans.

Moreover, there are significant things that could be done. Require financial guarantees for all hard rock mining operations; base the financial guarantee amount on the estimated reclamation costs; require the miner to establish a trust fund to pay for long-term water treatment, if necessary. Is that asking too much? If you come in and use the land and you degrade the water, shouldn't you be required to provide water treatment in order to protect the water?

Is it asking too much that you should post a bond in order to guarantee that once you strip the mine of all of its economic value and have taken out billions of dollars and walked away with your profits, that you should have some requirement for reclamation, and that there is a sufficient bonding from those profits. Even if you don't pay royalties, shouldn't you pay to guarantee the land is going to be cleaned up?

So they ask what should we be able to do. The things they should do are clear as a bell, and they have been blocked. Blocked for the 10 years that I have watched this being fought here. I watched Senator Bumpers from Arkansas pace up and down there with

these arguments year in and year out. And year in and year out, unfortunately, the industry works its will against the better common sense of true conservationists, against the better common sense of those whom I believe care deeply about the land.

It is incredible to me that we of good conscience can't find adequate language and compromise to protect this land, to be able to do this properly. We require more of coal miners, and we require more of oil and gas than we do of hard rock mining, and it is public land.

So I say to my colleagues we have an opportunity to do what we have been trying to do as a matter of common sense, which is enforce the law of the land. That is all we are asking—enforce the current law of the land as it was before, as it should have been, and as it must be now, in order to adequately protect the interest of the citizens.

I reserve the remainder of our time.

Mr. STEVENS. Mr. President, may I have 8 minutes?

Mr. GORTON. I yield 8 minutes to the Senator.

Mr. STEVENS. Mr. President, I find myself in a strange position because I was Solicitor of the Interior Department. At the time, I followed the law and I interpreted the law; I did not make law. The BLM manual, in case you are interested, says specifically:

> A mill site cannot exceed 5 acres in size. There is no limit to the number of mill sites that can be held by a single claimant.

Now, that is a regulation made pursuant to the law that was in existence at the time the Solicitor rendered his opinion. He ignored that. But the main thing is, I am hearing things on the floor that amaze me. The Senator from Illinois says that, apparently, the environmental laws don't apply to mining claims. Why is it, then, that there is a requirement for mill sites? The mill sites are there primarily for the purpose of the tailings disposal of the ponds that must be built to provide protection under the Clean Water Act. Many of them are enormous in size and require several mill sites in order to have one disposal site. Those environmental laws are there to protect the public lands. But the Solicitor's opinion says you can only have up to 5 acres, which is the Catch-22. This opinion was not intended to validate the mining law. It was made to invalidate the mining law of 1872.

In my State—and, after all, my State has primarily half of the Federal lands in the United States—the mining law is working. Our State has a small mining law that is compatible in terms of requiring claims to be pursued by production of minerals to take actions to protect the lands. In Alaska, it is our fourth largest industry. The Greens Creek Mine has twice as many mill sites as does active claims under a plan filed with and approved by the Federal Government. As a matter of fact, it is mandated by the Federal Government that such lands be used for specific environmental purposes to protect the lands that are being mined and protect the waters, in particular. The Clean Water Act applies.

I am appalled—and I wish my friend from Massachusetts had stayed here—at his comments. I would like to take you to Alaska. Come up to Alaska and I will show you mining claims, and I will show you the extent to which we require them to comply with the environmental laws. As a matter of fact, we have enormous mining claims. The Kensington, Donlin Creek—they would never get off the ground if this amendment were passed.

Currently, there are 235 jobs on one mine alone. This is going to put thousands of people out of work in my State. The fourth largest industry will go out of existence if this passes, because you cannot mine in Alaska with just 5 acres to comply with the mining laws and the environmental laws.

The other thing is, I want to make sure you understand mill sites cannot be on mineral land. Under the law, they cannot be on mineral land. They are lands that are located somewhere in connection with the mining activities, and they have mining operations on them. So most of this entirely misses me. I don't understand what is going on. As a matter of fact, we have had fights over mining claims for years. My good friend from Arkansas is not with us anymore, but we had fights over mining claims. This is the first time people have attacked mill sites. The amendment of the Senator from Washington attacks mill sites under the Solicitor's opinion—a misguided opinion at that—with regard to the number of mill sites. The Forest Service manual states:

> The number of mill sites that may legally be located is based specifically on the need for mining and milling purposes irrespective of the types or number of mining claims involved.

That has been a regulation issued by the Forest Service pursuant to the mining law, and it has been valid for years. Suddenly, the Solicitor's opinion says all that is nonsense; you can only have one mill site per mining claim. I am at a loss to understand why all of this rhetoric is coming at us with regard to the sins of the past.

Why don't we talk about the tremendous destruction in the East? Why is this all about the West? As a matter of fact, as the companies from the East moved into the West, they laid the West to waste, and that is what led to the environmental laws that we have and live by. We abide by them, particularly the Clean Water Act, the Clean Air Act, and the basic Environmental Protection Act.

Every one of these mining claims must have a mining plan approved by the agency that is managing the Federal lands for the Federal Government. Those agencies approved those plans. To suddenly come in and to say there is something wrong about this, I don't understand the Senators from the East, nor do I understand the Senator from the West, raising this kind of an objection to the lands that are necessary for environmental purposes. If this mining claims decision is upheld, that decision made by the Solicitor, every mine in my State must close. Every mine must close. That is nonsense.

Senator MURRAY's amendment merely states that the Solicitor is not going to make law. If you want to bring the law in and change the law of 1872, bring in the bill. We will debate it, as we did Senator Bumpers' bills. But don't come in and try to validate a Solicitor's opinion which is erroneous, and it is not good law.

The PRESIDING OFFICER (Mr. THOMAS). Who yields time?

The Senator from Washington.

Mrs. MURRAY. How much time remains on our side?

The PRESIDING OFFICER. Eight minutes 27 seconds on the Senator's side, and 10 minutes 5 seconds on the majority side.

Mrs. MURRAY. Mr. President, I yield 4 minutes to the Senator from Illinois.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, I thank the Senator from Washington for her leadership on this important issue.

I have listened carefully to this debate. I will gladly acknowledge that many of the Senators, including the Senator from Alaska, have more personal knowledge of the mining industry than I do. But I believe that the environmental issues here are clear-cut issues, whether you live in the East, West, North, or South.

What we are talking about here is public land—land owned by every taxpayer. The people in a certain State with public land have no more claim to it than those in every other State. That is why this is a national issue.

Allow me, if I may, to put this in a political context. It is my understanding that this was based on a decision in 1991—I underline 1991—in a manual that was issued by the Department of the Interior, which has now become the handbook, or so-called ''manual,'' which has now become the basis of this debate. This so-called manual, or handbook, was neither a regulation nor a law. It was an interpretation which varied from interpretations which had been in existence since 1872.

For the first time since 1872, in 1991 in the closing days of the Bush administration, someone working in the Department of the Interior raised a question as to whether we would limit these mill sites to 5 acres. That limitation had not been questioned seriously at any point in the promulgation of the Surface Mining Act or in any other law until that date.

The mining industry seized that interpretation in 1991, in the closing hours of the Bush administration, and said: Now the lid is off. We can use as many acres as we want to dump next to our mining sites.

When Mr. Leshy came back in 1997 and said there is no basis in law for

that handbook decision, that is when the industry went wild, came to Capitol Hill, and said what we cannot overturn it in the courts and we want you to overturn it with riders on appropriations bills.

Those who talk about the sacred law in this handbook, let me tell you, one person in 1991, and one variation on the 5-acre limitation, and that is the basis for all of the argument that is being made by the other side.

Let me raise a second point. The Senator from Alaska, as well as the Senator from Idaho, said that the Clean Water Act applies to those who are involved in hard rock mining.

For the RECORD, I would like to make this clear. The Clean Water Act—I quote from ''Golden Dreams, Poisoned Streams'' by the Mineral Policy Center, certainly an organization which has an environmental interest in this, and I am proud to quote it as a source. If there are those who can find them wrong, make it a part of the RECORD. But I would gladly quote them as they say:

> The Clean Water Act, for instance, only partially addresses oversight surface water discharge. While the act sets limits on pollutants which can be discharged from surface waters from fixed point sources, like pipes and other outlets, it fails to directly regulate discharge to ground water, though ground water contamination is a problem at many mine sites. The Clean Water Act does not set any operational or reclamation standard for a mine to assure that sites will not continue to pollute water sources when they are abandoned.

So for those who are arguing on the side of the mining industry to come to this floor and argue that the Clean Water Act will guarantee no environmental problems, let me tell you, it does not do it.

Mr. STEVENS. Will the Senator yield for 30 seconds on our time?

Mr. DURBIN. Yes.

Mr. STEVENS. The Great Malinda Mine in southeast Alaska never opened because of the Clean Water Act. The Senator and his source could not be further wrong.

Mr. DURBIN. I say to the Senator from Alaska that I have no idea about that particular mine. But it could be that they couldn't meet the Clean Water Act test, the fixed-point source test, because if it came to ground water contamination, there is no regulation under the Clean Water Act on mining.

The PRESIDING OFFICER (Mr. ALLARD). The time of the Senator has expired.

Who yields time?

Mr. GORTON. I yield 3 minutes to the Senator from Nevada.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. BRYAN. Mr. President, I thank the Senator from Washington State. I thank the Chair.

There are a couple of points I would like to make. I know we are winding up this debate.

No. 1, I think it is important for the public to understand that this industry faces a very dire financial situation.

In Nevada, we have witnessed in the last decade the third renaissance of mining activity. It has employed thousands and thousands of people in my State with an average salary about $49,000 a year with a full range of benefits. These are good jobs.

Because of the declining price of gold on the world market, we have lost more than 2,000 jobs in the last 6 months alone, and more are scheduled to be laid off. In part, this is because of some proposals by the British Government and the IMF gold sales. It is a separate issue for us. But we are facing a very difficult time.

The second point I would like to make is that this has been framed as an environmental issue. It is not. The full panoply of all of the environmental laws enacted since the late 1960s applies to this industry. So they are not exempt from any of these provisions.

Finally, the point needs to be made that with respect to the reclamation, or lack thereof, we are frequently invited to the specter of what happened decades ago. I don't defend that. This is a new era, and every mine application for a permit requires a reclamation process and the posting of the bond to make sure these kinds of problems do not develop.

Why are we so upset about the Solicitor's opinion? For more than a century unchallenged, the interpretation given by the Solicitor's office was never viewed as the law. In this current administration, when the Clinton administration came into office, at no time during the early years was this kind of interpretation attached.

All of those in this industry relying upon the law as it is—I agree with my colleagues who point out that the law of 1872 needs to be changed. I support those provisions. I think there should be a fair market value for the surface that is taken. There should be a royalty provision. There should be a reverter if the land is no longer used for mining purposes. I agree that there should be a reclamation process that is required. The devil has been in the details. Unfortunately, we have not been able to reach an agreement on that.

But those who have sought and applied for the permits have done so based upon the law as it is today, and the regulations and the manual passed along to us by the Bureau of Land Management say nothing about one mill site for every mining claim—not a word, not a jot, not a title.

This is a new development. It is unfair. I urge my colleagues to reject the proposal.

Mr. GORTON. How much time is available?

The PRESIDING OFFICER. The opposition has 4 minutes 13 seconds and the proponents have 6 minutes 56 seconds.

Mr. GORTON. I yield 4 minutes to the Senator from Alaska.

Mr. MURKOWSKI. Mr. President, this is deja vu all over again, with the exception of the former Senator from Arkansas, Mr. Bumpers, who obviously led this charge before.

I have heard things on the floor of the Senate tonight that are so inaccurate that I am surprised. Some have suggested that cyanide is poured on the grounds of our mines in this country, that there are 12,000 streams that have been polluted and damaged from our mining industry—and ruined, I think was the terminology used. These are totally inaccurate, false statements.

They are rock. There is no cyanide from the mining industry leaching out in the area where mining has occurred. They are all closed systems.

These are emotional appeals based not on fact but on fiction. They are directed by misleading environmentalists who have decided the mining industry and America's can-do spirit and technology can't take resources from the ground and do it properly.

We are not talking about a mining bill. We are talking about the proposal of the Senator from Washington which would limit what the Solicitor has proposed—one site, one mill site in a mining claim.

The reality is we will shut down the industry. That is all there is to it. Companies cannot operate the industry on that kind of a land availability.

They generalize in their criticism. They talk about Superfund, the ground water contamination. There are 55,650 sites. These are sites where mining has occurred. Let's look at their record. Reclaimed or benign, 34 percent, 194,000; landscaped disturbances, the landscape retakes its ability for regeneration, 41 percent; safety hazard, 116,000, 20 percent; surface water contamination, 2.6 percent; ground water contamination, eighty-nine one-hundredths; Superfund, eighty-nine one-hundredths.

My point is this is not a crass dereliction of responsibility. This is the mining industry's history as evaluated by the U.S. Abandoned Mines. Certainly we have exceptions on past practices.

To suggest cyanide is leaching out, to suggest we have an irresponsible industry, to suggest the States are not doing their jobs—and the States obviously oversee reclamation; they oversee the mining permits—and to try to kill the industry with a proposal that is absolutely inaccurate, impractical, and unrealistic is beyond me. I don't think it deserves the time of the Senate today.

Nevertheless, that is where we are. This creates an impossible situation. If we want to run the mining industry offshore, this is the way to do it. Canada did it by a gross royalty. Mexico did it by taxing them.

What is the matter with this body? There are 58,000 U.S. jobs, good paying jobs. We need to be a resource-developed country. Otherwise, we will bring them in from South Africa.

What happened in South Africa? It speaks for itself. I hope my colleagues recognize what this does. This kills the

mining industry and exports the jobs offshore.

Mrs. MURRAY. How much time remains?

The PRESIDING OFFICER. Four minutes twelve seconds and three minutes on the other side.

Mrs. MURRAY. Mr. President, we are coming to the end of this debate.

Obviously, there will be a tabling motion on my amendment. We have heard a lot on both sides. The one thing we all share is the understanding that the mining industry is an important industry in this country. We understand it provides jobs in many of our communities. We want to make sure that is retained in a fair way. The mining industry did not like the position of the mining law. Instead of allowing reform of a law that was written almost 130 years ago in a give-and-take fashion, they have come sweeping into the Interior bill, and in that bill the proponents have changed that portion of the law that the mining industry does not like.

Maybe that portion of the law needs to be changed because of current technology that is out there. However, they should give something back. They already have an incredible deal. They pay $2.50 to $5 an acre for the land they use. They pay no royalties and now in this Interior bill they are allowed incredible mass use of our public lands.

We have heard a lot about the law and the BLM manual. Let me show Members what the statute says. This is the 1872 law. It is very clear. It says:

> Such nonadjacent surface ground may be embraced and included in at application for patent for such vein or lode, and the same may be patented therewith . . . on no location made on or after May 10, 1872, of such nonadjacent land shall exceed five acres.

And for placer claims:

> Such land may be included in an application for a patent for such claim and may be patented therewith subject to the same requirements as to survey and notice as are applicable to the placers. No location made of such nonmineral land shall exceed five acres.

The law is clear. The BLM manual from 1976 to 1991 was also very clear and talked about 5 acres. This was changed in 1991 at the end of the Bush era. It was changed to read:

> A mill site cannot exceed five acres in size. There is no limit to the number of mill sites that can be held by a single claimant.

We are not here to debate the BLM manual. We are here to say: Should the law that was written in 1872 be changed to favor one side of this debate in this Interior bill before the Senate right now? We are saying if we are going to change a part of the law, this law, then we should ask the industry what they will give us in return. Will it be royalty that other industries have to pay? Is it more per acre? Should environmental law apply? Should they clean it up?

We should debate it. It should be part of the 1872 Mining Act reform. I think this Congress ought to get into this debate. To do it blatantly for one side in this bill, this night, is not the way to do it. That is why we are debating this issue. I hope many of our colleagues will understand this is a giveaway to an industry that does not pay royalties, that only pays between $2.50 and $5 an acre, less than any Member would pay to go camping on our public lands.

I think it needs to be done in a fair way. I urge my colleagues to step back. What are we doing for the taxpayers of this country? Let's be fair to them. Let's be fair to our public lands. Let's be fair to the law and do it right and not do it in a rider on the Interior appropriations bill. I urge my colleagues to vote against the motion to table.

I thank all of our colleagues who came to the floor to help with this debate.

Mr. GORTON. Rarely has a debate on an amendment had less to do with the content of the amendment itself. This debate is not about past mining practices or the leftovers from those practices or who will pay for them. The passage of the amendment will not affect that whatever, nor will the passage of the motion to table.

Royalties for mining on public lands is not a part of this debate. Passing the Murray amendment will not change those royalties. Passing a motion to table won't change those royalties. The past simply is not involved in this matter. The way in which mining claims are patented is not involved in this matter, nor does this debate involve the environmental laws of the United States. Every plan of operation of a mine must meet the requirements of the Clean Water Act, must meet the requirements of the National Environmental Policy Act, must meet the requirements of the Endangered Species Act. You don't get the permit unless you have met all of those requirements. The mine in the State of Washington that was the subject of the earlier amendment in this body met all those requirements, got all those permits, and won tests against them in courts of the United States. And every other mining claim that will come up, if this motion to table is agreed to, will have to meet the same environmental laws.

What this debate is about is whether or not the laws of the United States are to be amended by the Congress of the United States or by an employee of the Department of the Interior. This 1872 law has been amended by the Department of the Interior's ruling. No Member of Congress, whatever his or her views of the Mining Act of 1872, should favor the proposition that a bureaucrat can amend the laws of the United States. Of course, we ought to debate the 1872 Mining Act. Of course, we ought to vote on it. We have in fact debated and voted on it here in the Congress. But the fact that the changes have not taken place to the satisfaction of some does not delegate the authority to change the laws of the United States to the Department of the Interior.

The subject here is simply that. If this motion to table is agreed to, as the person who will probably chair the conference committee on this subject, I assure you that no final provision will be any stronger than the Craig-Reid amendment because of what the House has done and may well be less sweeping even than that. So at the most, Members, by voting for this motion to table, are voting for the Craig-Reid amendment and probably for something somewhat less stringent.

The PRESIDING OFFICER. All time has expired.

Mr. STEVENS. Mr. President, on behalf of myself and the Senator from Nevada, Mr. REID, I move to table the Murray amendment, No. 1360.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table amendment No. 1360. The yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Mississippi (Mr. LOTT) is necessarily absent.

Mr. REID. I announce that the Senator from Delaware Mr. (BIDEN), the Senator from Massachusetts (Mr. KENNEDY), and the Senator from New York (Mr. MOYNIHAN) are necessarily absent.

The result was announced, yeas 55, nays 41, as follows:

[Rollcall Vote No. 223 Leg.]

YEAS—55

Abraham	Daschle	Lugar
Allard	DeWine	Mack
Ashcroft	Domenici	McConnell
Bennett	Enzi	Murkowski
Bingaman	Frist	Nickles
Bond	Gorton	Reid
Breaux	Gramm	Roberts
Brownback	Grams	Santorum
Bryan	Grassley	Sessions
Bunning	Hagel	Shelby
Burns	Hatch	Smith (NH)
Byrd	Helms	Smith (OR)
Campbell	Hollings	Stevens
Chafee	Hutchinson	Thomas
Cochran	Hutchison	Thompson
Conrad	Inhofe	Thurmond
Coverdell	Inouye	Warner
Craig	Kyl	
Crapo	Lincoln	

NAYS—41

Akaka	Gregg	Murray
Baucus	Harkin	Reed
Bayh	Jeffords	Robb
Boxer	Johnson	Rockefeller
Cleland	Kerrey	Roth
Collins	Kerry	Sarbanes
Dodd	Kohl	Schumer
Dorgan	Landrieu	Snowe
Durbin	Lautenberg	Specter
Edwards	Leahy	Torricelli
Feingold	Levin	Voinovich
Feinstein	Lieberman	Wellstone
Fitzgerald	McCain	Wyden
Graham	Mikulski	

NOT VOTING—4

Biden	Lott
Kennedy	Moynihan

The motion was agreed to.

Mr. GORTON. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 1361, WITHDRAWN

Mr. REID. Mr. President, I ask unanimous consent that the Reid amendment No. 1361 be withdrawn.

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

MORNING BUSINESS

Ms. COLLINS. Mr. President, I ask unanimous consent that the Senate now proceed to a period of morning business with Senators permitted to speak for up to 10 minutes each.

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

(The remarks of Mrs. COLLINS pertaining to the submission of S. Res. 167 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mr. SESSIONS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Mr. President, I ask unanimous consent to proceed as in morning business for 15 minutes.

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

JUDGE FRANK M. JOHNSON, JR.

Mr. SESSIONS. Mr. President, I would like to make a few comments at this time upon the death of Judge Frank M. Johnson, Jr., a native Alabamian born in Haleyville, AL, who was appointed to the Federal bench in 1953 by President Eisenhower and who was buried today in his native Winston County, aged 80.

That Frank M. Johnson, Jr., was a great judge, there can be no doubt. It is appropriate and fitting that this body, which reviews and confirms all members of the judiciary, pause and consider his outstanding life. His death has attracted national attention. While I knew him and considered him a friend, I am certainly unable to effectively articulate in any adequate way what his long tenure has meant to America and to Alabama, but the impact of his life on law in America is so important, I am compelled to try. I just hope I shall be forgiven for my inadequacies.

Many will say that his greatness was to be found in his commitment to civil rights and his profound belief in the ideal of American freedom, which was deep and abiding. These were, indeed, powerful strengths. Others will say that his greatness is the result of his wise handling of a series of pivotal cases that changed the very nature of everyday life throughout America, cases which were at the forefront of the legal system's action to eliminate inequality before the law. Indeed, it is stunning to recall just how many important cases Judge Johnson was called upon to decide and how many of these are widely recognized today as pivotal cases in the history of American law.

How did it happen? How did so much of importance fall to him, and how did he, in such a crucial time, handle them with such firm confidence?

I tend to believe those cases and his achievements at the root arose out of his extraordinary commitment to law, to the sanctity of the courtroom, and to his passionate, ferocious commitment to truth. That was the key to his greatness. Judge Johnson always sought the truth. He demanded it even if it were not popular. He wanted it unvarnished.

Once the true facts in a case were ascertained, he applied those facts to the law. That was his definition of justice. Make no mistake, he was very hard working; very demanding of his outstanding clerks; and, very smart. He finished first in his class at the University of Alabama Law School in 1943. This combination of idealism, courage, industry, and intelligence when applied to his search for truth along with his brilliant legal mind was the source, I think, of his greatness. This explains how when he found himself in the middle of a revolution, he was ready, capable and possessed of the gifts and grades necessary for the challenge.

The historic cases he handled are almost too numerous to mention. There was the bus boycott case in which Rosa Parks, the mother of the civil rights movement, was arrested for failing to move to the back of the bus. There, he struck down Alabama's segregation law on public transportation. That was the beginning. Later, there was his order in allowing the Selma to Montgomery march in 1964, the order to integrate his alma mater, the University of Alabama, despite the famous and intense opposition by Governor George C. Wallace, the desegregation of the Alabama State Troopers, historic prison litigation cases and his mental health rulings which were quoted and followed throughout the nation. Each of these and many other cases were truly historic in effect and very significant legally. Did he go too far on occasion? Was he too much of an activist? On a few occasions, perhaps. Some would say, on occasion, the remedies that he imposed maybe went further than they should have, even though most have agreed that his findings of constitutional violations were sound. But, most of the time and in most of the cases he simply followed the law as we had always known it to be, but unfortunately, not as it was being applied.

When the State tried to stop the Selma to Montgomery march, Judge Johnson concluded, in words quoted, in a fine obituary by J. Y. Smith in the Washington Post Sunday, that the events at the Pettus Bridge in Selma.

> Involved nothing more than a peaceful effort on the part of Negro citizens to exercise Constitutional right: that is, the right to assemble peaceably and to petition one's government for the redress of grievances * * *
>
> It seems basic to our Constitutional principles that the extent of the right to assemble, demonstrate, and march peaceably along the highways and streets in an orderly manner should be commensurate with the enormity of the wrongs that are being protested and petitioned against. In this case, the wrongs are enormous. The extent of the right to demonstrate against these wrongs should be determined accordingly.

These simple, direct and powerful words are typical of the man and his way of thinking. The years in which he presided were tumultuous, the times very tense. I remember the times. Few who were alive in those days do not. Rosa Parks and Frank Johnson-were there. They were present and participating in the commencement of a revolution and the creation of a new social order in America—a better society in which we undertook as a nation to extend equality to all people. True equality has not been fully achieved, but is indisputable that when the hammer of Rosa Parks hit the anvil of Frank Johnson, the sound of freedom rang out loud and clear and to this day that sound has not been silenced. His actions, the cases he decided have caused the anvil of freedom to ring again and again, and that sound changed, not just the South and America but the entire world.

Though I never tried a jury case before Judge Johnson, I did have appellate cases before him when he was a member of the U.S. Court of Appeals for the Eleventh Circuit, to which he was appointed by President Carter in the late 1970's. I was honored to meet him occasionally when I was a United States Attorney and when I was a private attorney. I considered him a friend. He had himself been a United States Attorney and he had great respect for the office. In several ways, and at various times he made comments that affirmed me and my service. It made me feel good. Of this I am certain. If the law, in a case before Judge Johnson, and facts were on my client's side my client would win, if not, my client would lose. This was his reputation throughout the Bar and it was one of his highest accomplishments. He was respected by all members of the bar.

The stories told by lawyers practicing before Judge Johnson were many and some are now legendary. None were better told than those by the long time federal prosecutor, Broward Segrest, who practiced in Judge Johnson's Courtroom throughout his career. No one knew more of the courtroom events and could tell them better than Broward.

There were almost as many Frank Johnson stories as Bear Bryant stories. The point is this: yes, he was famous. Yes, he played an historic role in making this land of equality. And, yes, he was brilliant and fearless. He stood for what he believed in no matter what the consequences at risk to his life. But, it was not just in these great trials that one could divine the nature of his greatness. It was also in the lesser cases that he demonstrated his fierce determination to make justice come alive in his court, for every party in every case.

Lawyers who failed to follow the rules of court or to do an effective job