

time, money, and expertise. Until these fields are cleared, farmers—whether currently trapped in refugee camps or trapped by drought—cannot start farming their land.

Creation of full-scale hospitals and village medical clinics in Afghanistan and throughout the region. As in the case of schools, the absence of such services has created a void filled by radical groups.

People sometimes ask why extremist organizations have been so successful in recruiting support in the Muslim world. Let me tell you, they don't do it all by hate. Many militant groups provide valuable social services in order to gain goodwill, and then twist that goodwill to vicious ends.

Another thing we can provide is a crop substitution program for narcotics. This week, the Taliban reversed its short-lived ban on growing opium. As part of a long-term solution, we have to help the Afghan farmers find a new way to support their families. We cannot let Afghanistan resume its place as the world's No. 1 source of heroin.

Building basic infrastructure: Just as Saddam manipulated images of war in Iraq, the Taliban could have success doing the same. We have to counter this effort by drilling wells, building roads, providing technical expertise, and a whole range of development projects.

We are portrayed as bringing destruction to the region. We must fight that perception: we must prove to the world that we are not a nation of destruction, but of reconstruction.

This afternoon, the members of the Foreign Relations Committee and I had a very productive meeting with the Secretary of State. Everything I have said here today is an attempt to support Secretary Powell and President Bush in their efforts to send the world a simple message: Our fight is against terrorism—not against Islam. We oppose the Taliban not the Afghan people.

We stand ready as a great nation, as a generous nation, as a nation that has led the world in the past, a nation whose word is its bond, and we stand ready to match our words with our actions.

I thank the Chair. I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER (Mrs. CARNAHAN). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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 Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

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

#### THE ANTITERRORISM PACKAGE

Mr. SPECTER. Madam President, I have sought recognition to express my

concern about what is happening on the antiterrorism package. Two weeks ago Attorney General John Ashcroft met with Members in an adjacent room, 211, down the hall, and asked for legislation that week. I responded we could not do it instantly but we could do it briefly.

Since that time, we have only had one hearing in the Senate Judiciary Committee, a week ago yesterday, where we heard from Attorney General Ashcroft for about 75 minutes. Most of the members of the committee did not have a chance to question him. I did.

We really have a serious issue of prompt action by the Congress. But it has to be deliberative. We have to be sure of what is in the legislation. When Attorney General Ashcroft testified, he said on the detention of aliens, the only ones they wanted to detain were those who were subject to deportation proceedings. My response to that was that I thought they had the authority now, but the bill was much broader. It authorized detention of aliens without any showing of cause at the discretion of the Attorney General, and we could give the Attorney General and law enforcement the additional authority. But it had to be carefully drawn.

Similarly, on the use of electronic surveillance, the Attorney General said he wanted to have the availability of electronic surveillance on content only on a showing of probable cause, but the amendments to the Foreign Intelligence Surveillance Act were broader.

Here again, I think we can give the Department of Justice and law enforcement what they need, but we have to carefully craft the bill. We have not had any hearings since. There is a meeting scheduled later today with all Republican Senators, with our ranking member, Senator HATCH, to have what I understand will be compromise legislation which has been worked out. But the difficulty is that the Supreme Court of the United States has, in a series of decisions, struck down acts of Congress when there has been an insufficient record showing a deliberative process and showing reasons for why the Congress has done what the legislation seeks to accomplish. In the area of law enforcement and civil liberties, there is, perhaps, more of a balancing test than in any other field.

What we need to do is to have a record. If the Department of Justice can show that there is a need for electronic surveillance which more closely approximates the standards of the Foreign Intelligence Surveillance Act than the traditional standards of probable cause—a really pressing need with factual matters—that is something which the Judiciary Committee ought to consider. If there are pressing matters about the detention of aliens—I understand the House has a bill which would allow for detention for 7 days, which is a protracted period of time—there has

to be a showing as to what is involved. That can be accomplished only through the hearing process. Perhaps we need closed hearings. But I am very concerned, and I have communicated my concern that something may happen in the intervening time which might be attributable to our failure to act.

I hope we will let the Judiciary Committee undertake its activities. We have a lot of seasoned people there who have prosecutorial and governmental experience, who have things to add to really understand exactly what the specific needs are and to structure legislation which will meet those specific needs and which, under a balancing test that the courts have imposed, will survive constitutional muster.

But we are on notice and we are on warning that the Court will strike down legislation if there is not a sufficient deliberative record as to why the legislation is needed.

It was my hope that we could have had a markup early this week, and we still could with dispatch. There is no reason that the Senate can't have hearings on Fridays, or on Saturdays, when we are not going to be in session, to have markups and sit down with Department of Justice people to get the details as what they need perhaps in closed session and move ahead to get this legislation completed.

I think we can accommodate the interests of law enforcement, a field in which I have had some experience, and also the civil liberties and constitutional rights, a field again that I have had some familiarity with.

I thank my distinguished colleague from New Hampshire for letting me speak at this time.

#### THE FUTURE OF THE AIRLINE INDUSTRY

Mr. WYDEN. Madam President, less than 2 weeks ago, legislation providing \$15 billion to the airline industry flew through the Congress like a runaway express. The legislation moved so quickly that I am of the view that additional steps are needed to impose accountability on the airlines for this unprecedented infusion of taxpayer money.

One-third of the \$15 billion is already on its way out the door of the U.S. Treasury and will be given to the carriers according to a formula that they sought. Saturday is the deadline for deciding the basic process and rules for apportioning the remaining \$10 billion in loans and loan guarantees. The way this staggering sum of money is allocated will shape the structure of the airline industry for years to come.

Yesterday the Wall Street Journal reported that the larger and financially healthier airlines have attempted to impose their terms for the \$10 billion in loan guarantees on the smaller and the weaker carriers. If the Office of Management and Budget acquiesces to the

demands of the larger carriers, it could crush the smaller airlines in the short term and squash significantly the hopes of competition and consumer choice in the long run.

On the horizon of the aviation industry there may be only two or three carriers dominating routes, dictating prices, and reducing service to small and usually rural markets. It is for this reason that I come to the floor today, and I intend to outline several principles that I believe the Congress should insist upon in order to keep an eye on shaping the future of this industry so that there is real competition, affordable prices for consumers, and adequate service across this country.

It is obviously critically important to focus on the short-term needs of getting people traveling again on those near empty planes and restoring consumer confidence. But it is just as important to put in place policies that protect the long-term interests of the flying public and the taxpayer.

The \$10 billion package of loans and loan guarantees is going to dramatically reshape the industry for years to come. On the question of competition, on whether flights are affordable, and whether rural areas are turned into economic sacrifice zones, the decisions that are going to be made in the next few weeks will have a dramatic impact.

The entire Senate understands that there is a national airline rescue effort underway. Since September 11, Congress has heard much from the airline industry about what the industry believes needs to be done. Congress has responded. It is time now for the Congress to set out what the American people have a right to expect from the airline industry. Fortunately, this job is going to be easier because the Comptroller General, David Walker, and the Department of Transportation Inspector General, Ken Mead, are in place in order to provide a crucial reality check. Already Mr. Walker has performed an important service of pulling together a General Accounting Office team, getting me and other Members of the Senate a sense of what the industry's loss projections are, and particularly an analysis of their short-term needs. This type of independent third-party review is going to be essential in the weeks and months ahead.

Let me give the Senate just a few examples of the important questions that the public has a right to have debated now, in order to know to what the end product of this debate involving the \$15 billion is going to lead. For example, suppose that the \$10 billion in loan guarantees is allocated in a way that favors a few large carriers, which is something that is being sought by some in the industry. The end result could be consolidation to just a couple of airlines, precisely the result the Government was trying to avoid when it blocked the proposed United-US Air-

ways merger. Or suppose carriers use loan guarantees to strengthen their operations in "fortress hubs" while pulling back elsewhere. The end result for many consumers would be a monopolistic environment with little competition and few choices.

Of course, there is the risk that taxpayer dollars will be wasted on airlines that may not survive in any case or on airlines that really do not need the help. Care has to be taken to ensure that these dollars are used to get the maximum for the American public.

Responsibility for avoiding these pitfalls lies, in the first instance, with the Air Transportation Stabilization Board. The Board has the authority to decide who will receive loan guarantee assistance and subject to what terms and conditions. The Congress, unfortunately, has not provided this Board with a lot of guidance. The legislation provides only general criteria, such as the requirement that the loan in question be prudently incurred. Congress has not told the Board where to place its priorities or what the goals should be. Therefore, I believe some guiding principles are needed with respect to how that \$15 billion is allocated. I propose the following principles this morning:

First, Government assistance must be allocated in ways that are going to promote and not hinder competition between the airlines. This must be a primary goal because without competition the entire premise of the deregulated industry relying on market forces makes no sense. The Government cannot afford to focus narrowly on each individual loan guarantee application while ignoring the big picture issue of how the overall assistance package affects the balance of competition in the industry.

Second, companies receiving assistance need to be monitored closely to make sure they are using the money responsibly. Are the taxpayer funds being used to subsidize dividends to the shareholders, lucrative compensation for top executives, or increased lobbying? The legislation does contain some provisions with respect to executive compensation, but the additional issues I am raising could send a message, at a time when America is hurting, that some of the powerful may be profiting.

Third, companies receiving assistance and their major stakeholders should be required to demonstrate that they are doing everything in their power to improve the situation. Companies would have to show that they have a plan for returning to profitability and that the plan is actually being followed. Top managers should take salary reductions and debtholders and employees should make sacrifices as well. Taxpayers who are funding that \$15 billion legislative package should know that all of the company's

stakeholders are helping to shoulder the burden.

Fourth, there needs to be an upside for the taxpayer. In the Chrysler bailout legislation, the Treasury Department received stock options that eventually led to a substantial profit for the taxpayers. Similarly, this effort should be coupled with a mechanism for the public to recoup its investment when airlines return to profitability.

Fifth, service to small markets must not be a casualty of this crisis. As airlines cut flights or routes in response to the current predicament, their first instinct may be to eliminate small market service and turn small communities in Nebraska and Oregon and other rural States into sacrifice zones. Americans need an airline system that connects the entire country and not just the large hubs. Any program of Government assistance to the airlines must seek to encourage the airlines to maintain and indeed improve service in the small markets.

Sixth, companies should be rewarded for treating employees in a responsible manner. Approximately 100,000 airline workers have already been laid off—but there are significant differences from airline to airline in the type of severance arrangements offered, and also in the efforts the airlines make to rehire workers when conditions begin to improve again. When it comes to public assistance, companies with more responsible labor policies should have a significant leg up in those loans and loan guarantees.

Seventh, and finally, the current focus on the interests of the airlines should not come at the expense of efforts to protect the interests of consumers. The fact is, this is a concentrated industry in which consumers often face limited choices. There is a real risk that, if some air carriers fail, the competition situation may get worse before it gets better.

That makes consumer protection all the more important in a number of basic areas—areas where the Department of Transportation Inspector General has already said there is a serious problem, and that Members of this body have tried to address in passenger rights legislation.

There may be a need as this new effort goes forward for proconsumer rules in order to protect consumers.

Adhering to these seven core principles that I have laid out this morning is not going to be easy. There is no simple rule or formula that Congress should impose, or that the board could follow that would automatically achieve all of the objectives that I have laid out today.

It is critical, in my view, in order to make sure this job is done responsibly, for Congress to obtain on a weekly basis the information necessary to exercise responsible oversight over the airline industry. This information

must be real-time data, including load factors, yields per mile, fares, type of aircraft, dividend payments, service to small markets, cancellations, workforce statistics and route information.

In the coming weeks, the Air Transportation Stabilization Board begins to implement the loan guarantee program. I am certain the Senate Commerce Committee under the leadership of Chairman HOLLINGS will be actively engaged. I am anxious to work with my colleagues to put in place the principles that I have outlined today, as well, I am sure, as other Members of the Senate who will propose what they believe should govern how this \$15 billion is allocated.

The airline industry has been heard from. Now the public has a right to ask the airline industry to support policies and to work with the U.S. Congress to ensure that this is true competition, affordable prices, and decent service.

In closing, I am of the strong view that the work of the Congress on that \$15 billion legislation began when the bill passed. I hope and trust that my colleagues will join with me in doing everything we can to ensure that at the end of the bailout process the American people are left with a more competitive airline industry, one that offers high-quality service to every area of the country and gives the public what they have a right to expect will be the end process of that unprecedented legislation that the Congress passed a little less than 2 weeks ago.

Madam President, I yield the floor.

#### MEMORIAL TRIBUTE TO D. MICHAEL HARVEY

Mr. BINGAMAN. Madam President, it is both with a sense of sorrow and with great admiration that I rise today to pay tribute to an exemplary public servant and a good friend, D. Michael Harvey, who died on August 31, 2001. Mike served the United States Senate and the Committee on Energy and Natural Resources with distinction for some 22 years. He often said that there was no higher calling than public service. Mike worked for and counseled some of the giants of the committee: Clifford Hansen of Wyoming; Lee Metcalf of Montana; Henry M. (Scoop) Jackson of Washington; Mark Hatfield of Oregon; Dale Bumpers of Arkansas; and J. Bennett Johnston of Louisiana. He served at the direction of the committee's leaders, but all the committee's members—Democrats and Republicans alike—had access to and benefit of his counsel.

Mike was born in Winnipeg, Manitoba, and raised in Rochester, NY. He received his B.A. from the University of Rochester in 1955. He joined Eastman Kodak Co., for 4 years, before moving to Washington.

Mike began his public service career in 1960 with the Bureau of Land Man-

agement in the Interior Department, spending his last 4 years there as chief of the Division of Legislation and Regulatory Management. He received a J.D. from Georgetown University in 1963, while working at BLM. In the mid-1960s he served with the Public Land Law Review Commission and the Federal Water Pollution Control Administration.

In 1973 Mike accepted an invitation from Senator Henry M. Jackson to become special counsel to the Senate Committee on Interior and Insular Affairs. In February 1977, when the Senate reorganized its committee structure and created the Senate Committee on Energy and Natural Resources, Mike was appointed its first chief counsel. Until his retirement in 1995, he served as majority chief counsel during the years that the Democrats controlled the Senate and as chief counsel and staff director for the minority when Republicans held the majority.

During his tenure with the committee, Mike played a key role in developing landmark legislation involving Alaska lands, the regulation of surface coal mining, and Federal energy policy and land management. His knowledge of the law regarding natural resources was encyclopedic and his judgment was well-respected. Mike was dedicated to achieving good public policy and his counsel was always given with that paramount objective in mind. In addition to providing a sounding board on a huge range of issues, Mike was a role model, a teacher and a mentor for his colleagues. He established a high standard of professionalism among the committee staff and instilled it, by his example more than by precept, in the generation of young staff members that he trained.

Mike was known by all who worked with him for his dedicated professionalism and the breadth and depth of his substantive expertise. But he was perhaps known best for the extremely high standard of ethics he brought to public service. You could always get a legal opinion from Mike of the highest caliber, and you could be absolutely confident that the opinion was free of any special interest or personal prejudice. He was a talented professional and a fine human being.

Mike was actively involved in American Bar Association activities. He served on the council of the ABA Section of Natural Resources Law. He was past chairman of the Fairfax County Park Authority. He served as a congressional adviser to the U.S. delegation to the third U.N. Conference on the Law of the Sea and served on the board of governors of the Henry M. Jackson Foundation and the board of directors of the Public Land Foundation. Mike often attended the theater, loved poetry, and was known to quote Shakespeare at length.

The Senate was fortunate to have the benefit of Mike Harvey's considerable talents for many years. I was privileged to have worked with him and to have known him. Our deepest sympathies go out to Mike's family: his wife, Pat; his four children, Michelle, Jeffrey, David, and Leslie; and his 10 grandchildren. We share in their loss.

In eulogizing the great Scoop Jackson, Mike relied on a quotation from Shakespeare. I believe that Shakespeare's eloquent words apply as well to the late Mike Harvey:

His life was noble, and the elements so mixed in him that Nature might stand up and say to all the world: "This was a man."

I yield the floor.

#### CAPITOL HILL POLICE

Mr. WELLSTONE. Madam President, regarding the Capitol Hill police, I will try to write a resolution and have it passed by the Senate, I hope they will do the same on the House side. I want to thank the Capitol Hill police for what they have been doing for us. I think my colleagues are aware, but sometimes in the rush of war it is easy to forget. Many of the Capitol Police are putting in 17- and 18-hour days. You can see the exhaustion on their faces.

I have been thanking the officers individually when I walk by, and they are very gracious, but it is almost as if they are saying: Well, it is hard, but we want to do this.

We owe a real debt of gratitude to them. I will try to bring a resolution to the floor tomorrow and have that passed. It would mean a lot. I think all Senators are very grateful. Those are long days and weeks. They are doing the extra work for the security for all of us.

#### LOCAL LAW ENFORCEMENT ACT OF 2001

Mr. SMITH of Oregon. Madam President, I rise today to speak about hate crimes legislation I introduced with Senator KENNEDY in March of this year. The Local Law Enforcement Act of 2001 would add new categories to current hate crimes legislation sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred March 6, 2001 in Middleburg, PA. Two brothers, Todd Justin Clinger, 20, and Troy Lee Clinger, 18, were charged with attempted homicide after severely beating a neighbor, Michael Aucker, 41. Police allege that one of the brothers, Troy, said that Aucker tried to make a pass at them while the trio drank beer in their trailer. Police said the three men walked out on the deck, where the brothers allegedly punched and stomped on Aucker with heavy work boots several times before taking the bleeding Aucker to his nearby trailer.