

consideration of H.R. 1552, the House-passed 2-year clean extension of the Internet access tax moratorium currently being held at the desk, and that it be considered, read three times, and passed, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Is there objection?

The Senator from North Dakota.

Mr. DORGAN. Mr. President, reserving the right to object—and I shall object—let me say to the Senator from Virginia, he and I have had long discussions about this subject. I very much respect his views. He is proposing a 2-year extension of the Internet tax moratorium. I proposed an 8-month extension last week, I believe it was. But my 8-month extension to June 30 of next year included an additional proviso, and that proviso, at the end of the legislation, would have had Congress on record saying to both State governments and also to Internet and other remote sellers that we want them to, A, simplify the sales and use tax system and, B, when that is done, be able to allow the remote sellers to collect the sales and use taxes on the sale.

There are two issues here. The Senator from Virginia and I do not disagree on the first. I am not someone who supports taxing access to the Internet. As far as I am concerned, we can extend the prohibition on that forever. I also do not support punitive and discriminatory taxation with respect to Internet sales. So we have no disagreement about that. But however there is a second area of difficulty. The Senator from Virginia raises the first.

If I might continue under my reservation, Mr. President, the first issue is taxation with respect to the Internet. It actually is taxation with respect to remote sales, which is a broader issue. The second is the question, How do you effect a collection of the tax that is already owed on remote sales? As the Senator from Virginia knows, almost no one is paying that use tax and States are losing a substantial amount of money, most of which is used for funding education.

So what I want to do is find a way to solve both problems, not just one. And on the first piece, the Senator from Virginia and I will not find great disagreement. I understand his view and will support his view with respect to extension and prohibiting taxing access, et cetera.

I hope he will similarly support my view that we also ought to solve the other problems State and local governments have, and remote sellers have, for that matter, with respect to the complexity of the sales tax and the collection or lack of collection of sales taxes and use taxes. My colleague from Wyoming is, in fact, working on another piece of legislation on that issue even as we speak. I know he has consulted with the Senator from Virginia.

So, Mr. President, for those reasons, I object to the request by the Senator from Virginia.

The PRESIDING OFFICER. Objection is heard.

UNANIMOUS CONSENT REQUEST—
S. 1504

Mr. DORGAN. Mr. President, as long as the Senator from Virginia is here, I ask unanimous consent, again, that we discharge S. 1504 and proceed to it: that it be read a third time, and passed, and the motion to reconsider be laid upon the table.

Incidentally, in my request is an extension of the Internet tax moratorium. The extension would last until next June 30. The Senator from Virginia wants the extension. I say, yes, let's have an extension. I will not support the 2 years at the moment. I support him until June 30, 2002. I will be prepared to support much longer than that when we are able to reach agreement on the other piece.

The second piece I have in S. 1504 is a statement by Congress saying to both sides, on the second problem: State and local governments, simplify your sales and use tax system. And then it says to them: When you have done so, when you have substantially simplified that system, we will then allow consideration of the opportunity for you to enforce collection of sales and use taxes with respect to remote sellers. It is a two-pronged approach to solve the second problem.

The Senator from Virginia, I might say, addresses the first. I would ask Congress to address the first and second piece of this. I understand it is horribly complicated. But, by the same token, I think we need to address both problems.

So I have objected to the 2-year extension proposed by the Senator from Virginia and would like to continue to work with him on these issues.

I have now proposed and asked consent that we discharge S. 1504, proceed to it, that it be read a third time, passed, and the motion to reconsider be laid upon the table. As I have indicated, it has an extension to June 30, 2002 and has a paragraph at the end of the legislation that deals with the second important issue as well. I make such a request, Mr. President.

The PRESIDING OFFICER. Is there objection?

Mr. ALLEN. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. ALLEN. Mr. President, I respect the creativity, diligence, and ardor with which the Senator from North Dakota pursues this issue. This issue of taxing or requiring retailers or sellers to tax that are not located within the State, that do not have a physical presence in the State, do not have a nexus

in the State, is an argument that is as old as our Republic.

One of the problems our Founders had, in going from the Articles of Confederation to our current Federal Republic, was that different States were imposing fines, taxes, and tariffs on interstate commerce. So that was one of the reasons we went to the current form we have—to at least have within our country a free trade zone and not have burdensome taxes on the flow of interstate commerce.

The idea the Senator from North Dakota, Mr. DORGAN, proposes, with long, deliberative examination, may be worthwhile. But the issue at hand at this moment is that the moratorium on Internet access taxes and discriminatory taxes expired last Sunday, October 21.

This issue in recent years has been worked on time after time. It first came up in the midst of the *Bellas Hess* decision and then came up more recently in the Supreme Court *Quill* decision. In those situations, the issue was catalog sales. But whether the catalog company is in Maine or New Hampshire or Oregon or whatever other State, the Supreme Court ruled that these States could not compel those companies—*Quill* at that particular time—to remit sales taxes to a State in which they had no physical presence. So that is the constitutional parameter we are under.

This issue of trying to get around the Supreme Court decisions, trying to come up with simplification, and hamstringing the Senate in the future to vote on whatever this may be as far as simplification is concerned, while it is a very creative and, I think, very thoughtful approach, to me, we really have no time to act.

Let's recognize that the other body, the House, has already acted. It is a 2-year extension on the very simple, clear, and clean issue of having a moratorium on access taxes and discriminatory taxes on the Internet by States or localities.

Please note, Mr. President, when this moratorium was first put on 3 years ago, several States and localities had imposed access taxes and discriminatory taxes, and they are now grandfathered. So here we are today generally stuck with those taxes being imposed in those jurisdictions, in those States.

The longer this lapses, the more likely the legislative process will apply, whether in a local jurisdiction or in a State. We will end up with more of these taxes, and we will never be able to get rid of them. They will be like the Spanish-American War tax, the luxury tax that was put on telephone service to finance the Spanish-American War. We won that war 100 years ago, but that tax is still on telephone service.

While this is a good idea and something that can be worked on over the

years, if something such as this should pass the Senate, it is obviously different from what has passed the House, which means it would have to go to a conference committee. Who knows when that might meet? We may be here only a few more weeks, and most likely those differences would not be ironed out.

It is fine to work on simplification. It has been worked on for decades. I don't think this issue of access taxes on the Internet or discriminatory taxes ought to be held hostage to that very problematic although understandable concern of the Senator from North Dakota and many others.

With that, I object to the request of the Senator from North Dakota.

The PRESIDING OFFICER. Objection is heard.

The Senator from North Dakota.

Mr. DORGAN. Mr. President, the Senator from Virginia and I have had some nice conversations on this subject. I know he feels strongly about this. I did want to clear up a couple things.

First of all, when someone purchases something on the Internet or from a catalog, there is actually a tax owed in most cases. It is just that it is never paid. Most Americans when they order something from a catalog are required to submit a use tax to the State, because the seller wasn't required to collect the sales tax. The buyer is supposed to send a use tax to the State government, but they never do and never will because it would require literally millions of tax returns being filed for a \$1.20 or \$2.80 purchase. That is why it was always much more effective to collect a sales tax at the source.

I agree with those who say we don't think catalog sellers or Internet sellers or remote sellers ought to be required to subscribe to 7,000 different taxing jurisdictions; that is not fair. I agree with that. That is why I say, if you are going to simplify the collection system and allow it to have the remote sellers collect it, then you really need to simplify it in a way that is substantive.

Let me make this point also: It is not the case that the Supreme Court has said there is no inherent right for State governments to tax in these circumstances. That is not what the Supreme Court has said. They said the sole arbiter of what the States can or can't do with respect to what is called nexus or whether they have jurisdiction is the Congress because it deals with the commerce clause. That decision is only reserved for the Congress, not for the States. That is what the Supreme Court decision said.

That is why Congress has to decide what to do and how to do it at this point. While we perhaps have a disagreement at this moment, I hope we might be able to figure out how to resolve it. It does not make any sense to me, if we are going to lose \$20 or \$30 or

\$40 billion in local revenues, to have somebody hire tens of thousands of tax collectors to go knock on doors and ask for them to submit their \$3.38 in use tax they owe. That doesn't make any sense. I don't believe the Senator from Virginia or anyone else would want to do that. All you do is add to the employment rolls of the Government and hassle people.

It makes far more sense to require State and local governments to simplify their local sales and use tax base and then to say to the remote sellers, those above \$5 million a year in sales: Collect this now and remit it to the States and save everybody from trouble. We simplified the system for you. We simplified it for the consumer. Everybody wins. That is the point of all of this.

With respect to the question of the tax incidence that the Senator from Virginia mentioned, as I said before, there is no new tax here. This is not a discussion about a new tax versus an old tax or whether there is a tax versus not a tax; this is a question of how you collect a tax that is owed, in what circumstances would it be fair to require a remote seller to collect it; that is all.

On the final subject of this issue of an expiring moratorium, I supported the moratorium. I was on the floor of the Senate at that point and worked with Senators WYDEN, MCCAIN, and others. I supported the moratorium. I now support it and would be willing to extend it until June 30, 2002 at this point. We can perhaps extend it beyond that as we go along.

My expectation is that the narrow time-frame in which this moratorium has expired will not give opportunity to those who might want to take advantage of it. I frankly don't think that is going to happen. I am here on the floor perfectly prepared to work with the Senator from Virginia and others to extend this moratorium, if he will work with me and Senators ENZI, VOINOVICH, GRAHAM, KERRY and other colleagues to help solve the other side of the equation. And we may not solve it all now, but put a provision in that says this is congressional intent. If he will work with me to solve the second side of the issue, I will work with him to solve the first side. We will make some progress on this issue.

This is a complicated issue. I admit that. It is one of some consequence with more and more remote sales occurring. More than forty Governors have now written letters saying: We have literally tens of billions of dollars we are not going to collect, much of which is needed to run our school system. You need to help us find a way to collect that revenue that is owed.

We say to the Governors: God bless you. You have a problem. We will help you solve that problem, but you have to do something for us. You have to simplify your system so that we are

not going to whipsaw businesses out there that have to comply with thousands of different jurisdictions.

I want to do two things. I want to require dramatic simplification on the part of State and local governments and require the collection of a tax that is owed on the part of remote sellers, and I want to extend the moratorium so that we don't have discriminatory and punitive taxes applied anywhere in the system, with Internet sellers, remote sellers, and so on.

I certainly am someone who works in the Commerce Committee with the Senator from Virginia. I am proud to do that. I believe technology is critically important to our country. It is an accelerator to the growth of our economy. There are a lot of important things that are happening with respect to technology. That is the reason I, too, am interested in extending this moratorium. That is why I offered the consent request last week, why I offer it today, and I will continue to offer it. It is my hope that others will continue to join me in trying to solve the second side of the equation.

I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. ALLEN. Mr. President, this issue is foundational to the formation of our Republic. It is actually similar to what Patrick Henry talked about, taxation without representation. Obviously, the use taxes are to be collected by the States.

This is not a decision to be made by the States. If it were up to the States, obviously, they would be collecting and compelling retailers who do not have a physical presence in their State, who don't vote in their State, who do not receive any fire services, any police services, any services whatsoever from that State. If it were up to the States, for their convenience, they would be requiring them to collect and remit these taxes. This really becomes an issue of convenience for the tax collectors at a locality or at a State.

It is, as Senator DORGAN rightly stated, a decision for Congress to make. It does deal with interstate commerce. However, Congress, in all the decades this has been considered, has never said, before the Internet was even contemplated for use of communications or commerce or education, when people were more concerned about catalog sales, even then Congress said, no, we are not going to burden interstate commerce.

So that is the reason why Congress has never agreed. Now, the States and the localities can simplify. There is a ZIP code reported to me in the Denver, CO, area, that within that same code there are four different sales taxes applied to the very same product. I agree with Senator DORGAN that all of this ought to be simplified. I think if the States on their own, along with their

subdivisions—counties, cities, or municipalities—worked to simplify, they will find many, especially the larger retailers that are from out of State, willing to comply as long as it is simplified and there is auditing, which is logical, and they get a reasonable remittance back for collecting and sending in those sales taxes, as is accorded to most retailers within a State. Then I think you will find it all being handled in that regard.

Again, all of this is separate from the most pressing issue, which is these access taxes and discriminatory taxes which on Senator DORGAN and I would be in absolute agreement; we would not want to see more of them coming on, and there are many in effect now. Indeed, I am researching South Carolina, where the legislature has enacted a moratorium on State sales taxes on charges for Internet access effective from October 1998 through October 2001. Outside of this moratorium period, South Carolina can subject charges for Internet access to the State's sales tax. It may be automatic, by virtue of that law in South Carolina, that such taxes can be imposed even if the legislature may not be meeting. So for the most part I don't suspect many are going to be able to go to public hearings to get them done. But this is how this may be applying in South Carolina, unless the Governor said let's hold off on this and see what happens in Washington.

Mr. DORGAN. If the Senator will yield, I believe the Senator from Virginia raised the question of South Carolina. I am not familiar with that circumstance, but I think the Senator said South Carolina could, in fact, begin collecting. I don't know that he said they would or are collecting. I say this to the Senator. We will, in my judgment, extend the moratorium. When we do that, I will be willing to join him in extending it retroactively until October 22, 2001, to say to State and local governments: Beware, if you are thinking of messing around with public policy and taking advantage of a window when we extend this—and we will, in my judgment—Congress will intend to extend it retroactively to October 22. It is not unprecedented. I would be happy to join the Senator in sending that message if that is the message he would like to send. That resolves the issue he has just discussed.

Mr. ALLEN. I say to the Senator from North Dakota, I join with him. Although we have a contentious issue on some parts, we are in agreement there. I hope that message goes out to States and localities. Just because this has lapsed, please do not rush to tax the Internet access or impose discriminatory taxes.

I yield the floor.

EXTENSION OF MORNING BUSINESS

Mr. REID. Mr. President, I ask unanimous consent that morning business be extended until the hour of 5:15. For a brief explanation, some of the papers the two managers of the bill need are not readily available because of problems with the offices. They are trying to get them now.

Mr. KENNEDY. Mr. President, reserving the right to object, may I reserve 7 minutes out of that time?

Mr. REID. Mr. President, I add to that request that Senator KENNEDY be recognized for 10 minutes.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

THE IRELAND PEACE PROCESS

Mr. KENNEDY. Mr. President, early this afternoon, my friend and colleague, Senator DODD, addressed the Senate about a very significant development that occurred today in the Northern Ireland peace process. I join him and so many others in the Senate, in the House of Representatives, and across the country in welcoming these developments. They are especially welcome at a time when we are still experiencing the dark emotions and feelings from the September 11 terrorist attacks that killed thousands. We have been further disturbed in recent days by the anthrax attacks that have taken the lives of dedicated public servants in this community.

In the midst of these tragic events, I welcome this opportunity to bring to the attention of my colleagues an historic breakthrough in the Northern Ireland peace process that occurred earlier today. This afternoon the IRA issued a statement indicating that it had begun the process of decommissioning its weapons. General de Chastelain, who chairs the international group responsible for overseeing the process, has confirmed that the decommissioning of some weapons has occurred. These actions are unprecedented in scope and are a watershed in the peace process that began a decade ago.

In 1994, after 30 years of violence, the IRA announced a historic cease-fire. That cease-fire led to the discussions, ably led by Senator Mitchell and strongly supported by President Clinton, which culminated in the 1998 Good Friday Peace Agreement. As a part of that visionary Agreement, commitments were made by the British and Irish governments and the political leaders on all sides of Northern Ireland to advance the peace process. Each party to the Agreement made important sacrifices to advance the common good and the process of peace.

The Agreement provided for a power-sharing local government and cross-

border institutions. It called for dramatic reform of the police service in Northern Ireland to ensure that it would be representative of both communities. It called for equal treatment and equal opportunity for all in Northern Ireland. It called for a reduction in the presence of British troops and on all paramilitary organizations to decommission their weapons.

This bold and historic action by the IRA to decommission its weapons will liberate the peace process, advance the cause of peace, and enable the issue of IRA decommissioning to take its rightful place as one of many reforms essential to the full implementation of the Good Friday Peace Agreement and the achievement of lasting peace for Northern Ireland.

Now the Irish and British governments and the political leaders of Northern Ireland must commit to implement all aspects of the Agreement fairly and fully, especially the critical provisions on reductions of the presence of British troops, reform of the police service, and equal treatment and equal opportunity for all of the people of Northern Ireland. Through this action, the IRA has enhanced the prospect for peace.

Sinn Fein President Gerry Adams' public call for the IRA to decommission its weapons was strong and bold, and I commend him for his leadership on this difficult issue at this critical time. This extraordinary breakthrough could never have happened without the skillful and constant leadership of Prime Minister Blair of Great Britain and Prime Minister Aherne of Ireland. I also commend President Bush and his envoy to Northern Ireland, Ambassador Richard Haass, for their skillful assistance in helping to break this extremely serious impasse.

I commend as well the leaders in Ireland, and Great Britain, and the U.S. who, over the years, have contributed so much to the beginnings and continuation of this all important peace process. They all deserve great credit for their vision and leadership in the cause of peace.

I am mindful of the extraordinary role of John Hume, who shared the Nobel Peace Prize with David Trimble. I can remember many years ago meeting John Hume, who at that time was a local political leader and who had exhibited extraordinary political courage.

His life has been one of commitment and dedication to peace. He played an instrumental role in securing the cease-fire. His voice for tolerance and understanding and his call for respect for the two great traditions in the north—the Protestant and Catholic faiths—have been eloquent.

He has recently retired as political leader for his party, the SDLP in Northern Ireland. His contribution to a political resolution of the conflict in