

only on the Agriculture Committee but on the floor in pitched battles for some time.

I can remember vividly 2 years ago this December when it was very difficult to close down the session of the Congress because the distinguished Senator from Wisconsin, Mr. KOHL, felt that somehow, despite his very best efforts, behind the scenes, somebody, trying to wind up the appropriations process, was, once again, renewing the New England Dairy Compact, which was supposed to be over at that point. The Senator's suspicions were correct. Amazingly, as we left town, the dairy compact was still alive. And Senator KOHL vowed that he would stop this sort of thing. He has tried valiantly to do so on behalf of Wisconsin dairymen and people from the Midwest but without visible success.

I would say to the distinguished Senator from Wisconsin, Mr. KOHL, if he had read the first dairy section coming out of the Agriculture Committee, he would have been even further outraged by the process. He may have read that and may have contributed, for all I know, to other iterations subsequently. But my hope is we will adopt the amendment offered by the distinguished Senator from Idaho. It is a clean-cut way of getting us back to some reality in the dairy area. Clearly, it will be useful for the Congress at this point—without the encumbrance of all of the layers of dairy programs that we have produced, plus some that we have not ever debated but have been produced somewhere else—to sort of clear the deck. The Senator's amendment does that magnificently and cleanly.

So I am hopeful that as we approach the time for final consideration of this amendment and a rollcall vote on the amendment, Senators will be found to have voted in the affirmative for it. I certainly will be. I commend the Senator for crafting this amendment.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. EDWARDS. Mr. President, I ask unanimous consent that I be allowed to speak as in morning business for up to 10 minutes.

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

WE MUST LIVE BY OUR PRINCIPLES

Mr. EDWARDS. Mr. President, today we are commemorating the anniversary of a despicable act against our country and against our people. We all pay tribute to those who died on September 11. At the same time, we salute those defending freedom today at home and halfway across the globe.

War brings out the best in America. The soldiers who stormed Omaha Beach are still our heroes. The fire-

fighters who marched into the World Trade Center will be our grandchildren's heroes.

But the heat of battle and the crush of necessity can also bring out America's worst, especially here at home. And that is the risk I want to talk about today.

During World War II, one of our greatest Presidents authorized the internment of more than 100,000 innocent people, mostly United States citizens, simply on account of their ancestry.

Today, we are ashamed of that episode. And we are resolved that our actions should make our grandchildren proud, not ashamed.

President Bush himself has expressed that resolve. In his speech to the Congress on September 20, he said something that was very important. He said:

We are in a fight for our principles, and our first responsibility is to live by them.

That is exactly right. One of our principles is vigorous debate. I was saddened when the Attorney General of the United States last week said that unidentified critics "aid terrorists" and "give ammunition to America's enemies." Mr. Ashcroft did not offer any evidence that terrorists benefit when Americans speak their mind.

In our American tradition, it is the responsibility of leaders to promote the free exchange of ideas, not stifle them. That responsibility carries over from peacetime to wartime. We don't encourage different ideas because we owe it to critics. We encourage different ideas because we owe it to ourselves. Robust debate has made America stronger for more than 200 years.

It is only because of open debate that we have a legal right to speak our minds at all. The way the Constitution was initially drafted back in 1787, there was no guarantee for free speech. There was no protection for religious freedom, for privacy, for individual liberty, for so many rights all Americans now take for granted. The original Constitution contained no Bill of Rights.

Without a Bill of Rights, many veterans of the American Revolution furiously opposed the original Constitution. My State of North Carolina flatly rejected it. The first Congress approved the Bill of Rights only after those patriots spoke their minds, spoke up and demanded it. Today, we are all grateful for their speaking their minds, for their patriotism that has meant so much to many Americans who followed.

A few years later, in the late 1790s, our Nation was on the brink of war. The French Government was torturing American soldiers and seizing American ships. At that point, an enraged Congress passed a seditious act criminalizing "scandalous" writing "against the Government." Chief among the opponents of that legislation was Vice President Thomas Jefferson. As he put it, the country's critics

should be allowed to "stand undisturbed as monuments of the safety with which error of opinion may be tolerated where reason is left free to combat it."

Closer to today, President Richard Nixon moved to expand the Subversive Activities Control Board's oversight of political protests during the Vietnam war. Sam Ervin, whose seat in the Senate I now hold, supported that war. But he challenged President Nixon's proposal. What he said on the floor echoed Jefferson:

Our country has nothing to fear from the exercise of its freedoms as long as it leaves truth free to combat error.

I believe that is still true today. Like the vast majority of Americans, I strongly support America's war on terrorism overseas. Unlike some, I also support much of the administration's law enforcement effort here at home. We live in a new world after September 11. We simply must take steps that we would not have accepted 3 months ago.

I also believe that vigorously discussing each of those steps strengthens our war effort. Thanks to the courage and skill of our soldiers, we will win this war against al-Qaida. But there is a totally different question whether we will win the war for the minds and hearts of those around the world.

I believe we will do that if we hold true to our values—values such as justice, fairness, and the rule of law. Those are the values that make America the beacon of freedom for the rest of the world. And nothing reminds us of our values like open discussion.

The debate over military tribunals is a perfect example. The order of November 30 that authorized tribunals came with very little explanation. Many Americans, including many past Federal prosecutors, asked why our ordinary criminal justice system was not adequate. The administration responded with a much more detailed explanation for their action. That explanation built broad support for the use of tribunals in very narrow circumstances. In fact, I support the use of military tribunals under the right circumstances.

But even since that exchange, serious questions remained about the gap between the specific terms of the order and basic norms of fairness that Americans share and believe in deeply.

In answer to some of the questions last Thursday, Attorney General Ashcroft was able to clarify that many things apparently allowed on the face of the order will not happen. For example, secret trials, indefinite detentions, executive reversal of acquittals by the military tribunals.

Mr. Ashcroft could not rule out other disturbing possibilities. Could a lawful resident in this country be convicted and sentenced to death by a tribunal on a 2-to-1 vote? Could it happen under a burden of proof requiring only a 51-

percent likelihood of guilt; that is, a lawful resident of this country being convicted and receiving the death penalty on 51 percent of the evidence? And could it happen without an independent review to see whether there was evidence that should have been admitted that was not admitted, evidence that would have shown that this particular defendant did not commit the crime?

Members of Congress and members of the general public have much more than a right to raise those questions. We have a responsibility to raise those questions.

The give and take over military tribunals hardly helps terrorists. I believe that it undercuts America's enemies, for open exchange ensures that our actions reflect our commitments. It signals that a great nation fears nothing from peaceful debate. We should welcome that debate. It is a proud, necessary tradition, both in peace and in war.

I yield the floor.

The PRESIDING OFFICER. What is the will of the Senate?

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

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

RECESS

Mr. REID. Mr. President, there is presently in effect an order that we would go into recess for the party conferences at 12:30. I ask unanimous consent that we expedite that by 3 minutes and start the recess for our conferences now.

There being no objection, the Senate, at 12:27 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. MILLER).

The PRESIDING OFFICER. The Senator from Nevada is recognized.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

AGRICULTURE, CONSERVATION, AND RURAL ENHANCEMENT ACT OF 2001—Continued

Mr. BINGAMAN. Mr. President, I start by thanking Senator HARKIN for his hard work on this farm bill. I know

he has a difficult task pulling people together to craft a bill. As chairman of the committee, he and his staff need to be complimented for the fine work they have done on the bill. It is important legislation for farmers in New Mexico, and I hope the Senate can move ahead to complete action on the farm bill.

The bill has several provisions important to my State. I thank the chairman for working with me on those. I also thank Senator HARKIN for the strong efforts he has made to improve the conservation programs in the bill which are particularly important to my State.

However, all that being true, I wish to express a serious concern about the dairy provisions in the bill. As I understand it, the substitute bill creates a totally new dairy program. I believe the new dairy scheme in the bill is wrong for the Nation's dairy farmers and wrong for consumers as well. That is why I support Senator CRAPO's amendment to strike this provision and to instead have a study to determine which, if any, of the proposals that are currently floating in the Senate ought to be considered in the future.

I do appreciate the effort that Senator HARKIN and Senator DASCHLE and others, as well as our staffs, have made to come up with a balanced dairy policy. The latest version I have seen is a dramatic improvement over previous versions, and I appreciate that.

My State of New Mexico is the 10th largest dairy producing State and one of the fastest growing dairy producing States. Dairy production in my State has grown 200 percent in the past 10 years. We have large, efficient dairies which are clearly the big losers under this latest proposal. These are family-owned dairies, just as in other States. They are larger in my State because we have the land and the resources to support those larger dairies.

Because the latest version of the proposal has only been available a few hours, we do not know the full impact on milk prices and dairy farm income. However, I think it is fair to say that the legislation clearly favors certain regions and certain sizes of farms. Moreover, we do not know what the real impact will be on future production rates, prices the farmers receive for their milk, and nobody has had time to do proper analyses to consider all the complex ramifications of this dramatic change in policy.

We just received a very preliminary analysis of the new proposal. The analysis compares the subsidies to farmers in terms of Federal payments per hundred pounds of milk produced, and our analysis shows that States in the Northeast would receive on average a Federal payment of more than \$2 per hundred pounds of milk. Farmers in my State would receive 40 cents, five times less than the Federal payments to farmers in the Northeast.

Based on this analysis, my State of New Mexico would be 50th out of 50 States in Federal payments per hundredweight. Arizona, Florida, Wyoming, California, Idaho, and Washington State would all receive less than \$1 per hundredweight. Farmers in Georgia, North Carolina, Rhode Island, Louisiana, Oregon, and Arkansas would receive half as much as farmers in Northeastern States.

Mr. President, I ask unanimous consent that a table prepared for my office by Mr. Ben Yale be printed in the RECORD at the conclusion of my remarks. This table shows the Federal payments per hundred pounds of milk produced in each State. The table is based on the preliminary analysis performed by the Independent Food and Agriculture Policy Research Institute.

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

(See exhibit 1.)

Mr. BINGAMAN. Mr. President, I do not know of any other farm program that favors one region to this extent and has such a dramatic disparity in the use of taxpayers' dollars. In this case, one region will receive 25 percent of the Federal payments, though it produces less than 18 percent of the Nation's milk. Moreover, in one region, farmers are guaranteed a price of nearly \$17 per hundredweight, while prices elsewhere are based on market rates and undoubtedly will be substantially lower.

In my view, this is not a balanced program. In addition, I am concerned that indirect payment schemes, such as that proposed here, would distort the market by encouraging overproduction. I know that is a point the Senator from Idaho made in his remarks. Overproduction drives down the prices that farmers receive for their milk. When there is overproduction, the Government will step in and purchase surplus dairy products in the form of cheese, butter, and nonfat dry milk.

We simply have not had the time to digest properly the dramatic new proposal and to make sure we know the implications of this new proposed scheme.

I do believe a market-oriented policy that includes a minimum dairy price support program and the Federal milk marketing orders is the basic approach we need for national dairy policy.

These are the programs that are currently in place. This amendment would simply ensure that these programs continue. I appreciate the efforts of the proponents of the new program to develop a national policy that benefits dairy farmers everywhere. I do not believe that what we have before us does that. I believe we should work toward a balanced national dairy policy that is fair to all farmers, not one that pits one State against another or one region against others. We need a policy that is fair to consumers and processors and promotes a market-oriented