MORNING BUSINESS

Mr. DOLE. Mr. President, I ask unanimous consent that there be a period for the transaction of routine morning business, with Senators permitted to speak for up to 5 minutes each.

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

HEARING ON THE GOOD OLD BOYS ROUNDUP

Mr. LEAHY. Mr. President, as an American citizen, public official, and former prosecutor, I am appalled at the news accounts I have seen of State, local, and Federal law enforcement officers getting together to wallow in racism. There is no room for racism in law enforcement. Law enforcement officers, in particular, have to be held to the highest standards of conduct. People have to know that they will be treated fairly by those who act on behalf of the Government and wield its power.

As we proceed with the Judiciary Committee hearing, I expect that we will hear a chorus of condemnation. I expect that we will hear each agency join in that refrain, explain that it is investigating the situation and that it will be taking appropriate action based on the facts. We should all act based on the facts. I look forward to the prompt completion of ongoing investigations and to our following up, when the facts are known.

It is tragic that racism is still a fact of life. It is most disconcerting if racism taints law enforcement actions. That is wholly unacceptable. I note that the reports of the activities at the recent Good Old Boys Roundup in Tennessee do not go that far, however—I have yet to hear any allegation that the official duties of the State, local, and Federal law enforcement agents who chose to attend the gathering were affected. That should be our first concern.

Next, we should be concerned whether Federal law enforcement resources were devoted to organizing or supporting these gatherings. The American people need to know that their tax dollars are not being diverted to such activities.

Further, we have to be concerned that our culture, and the culture in which these various law enforcement officers live and work, still abide these gatherings and displays.

As we consider whether additional steps, policies, regulations, or laws are needed to root out the evils of racism, we must be mindful that we not create political litmus tests or become thought police. We need to be sensitive to the limits of law and preserve some place for private lives and private thoughts.

We must also be careful to avoid being exploited by those with ulterior motives who oppose valid law enforcement. Our actions and those of the executive branch must be based on facts, not third-had news accounts.

Finally, we must not allow this shameful incident to taint the vast majority of fine and dedicated men and women who risk so much to protect us and the rule of law every day.

COMPREHENSIVE REGULATORY REFORM

Mr. ROTH. Mr. President, why did S. 343 fail last night? As Casey Stengel would say, we did not have enough votes. And we did not have the votes we needed because no matter what changes were made to S. 343, it continued to be mischaracterized. From the beginning of its journey through the Judiciary Committee, S. 343 was demonized. Likewise, the bill reported from the Governmental Affairs Committee, S. 291, was beatified.

Scores of improvements were made to S. 343 since it was reported by the Judiciary Committee. None of the few who understands the legislation would disagree. Moreover, yesterday proponents agreed to make significant additional changes requested by the bill's critics. But just as it went throughout the long floor debate, the opponents would not accept some improvements unless we agreed to all of their demands. Yes, opponents blocked our attempts to improve the bill because they preferred to preserve talking points against the bill. This is masterful politics, but this is also what disgusts the American people about Congress.

In addition, it appears that proponents managed to create the impression that negotiations were ongoing that promised fruitful results. If such negotiations took place, like Senator JOHNSTON, I can say that I was completely unaware.

In contrast to S. 343, S. 291 and its successors have led charmed lives. The Glenn substitute, which the Senate rejected, was offered as the text that was unanimously reported by the Governmental Affairs Committee. But such a claim is highly misleading. Let me tell you why.

This legislation is rather complicated. The competing versions are each over 75 pages in length. Yet the real heart of reform can be crystallized in a few concepts and in language that takes just a few pages. In fact, judicial review—perhaps the most significant and most controversial part of these bills—is provided in just one sentence. Yes, just one sentence.

Suppose that sentence were stricken. Could you say that the bill was just about the same? The length of the bill would not be changed; over 99 percent of the words would be the same. But the impact of the legislation would be entirely different. This exemplifies what happened to S. 291 as it was transformed into the Glenn substitute.

There are, as I said, just a few concepts one needs to grasp to understand regulatory reform.

First. The agency should undertake a cost-benefit analysis.

Second. The agency should apply the cost-benefit analysis.

Third. If the agency does not comply with the first or second item, there is judicial review.

Fourth. The agency must review existing rules under the above procedures.

Fifth. There must be some way to ensure the agency reviews existing rules.

Proponents and opponents appear to agree only on the first item, that agencies should perform cost-benefit analyses. That is because that is the status quo. That is what Executive Order 12866 requires today.

But the Glenn substitute did not require that an agency actually use the cost-benefit test. While the Glenn substitute used language similar to S. 291 to require that a cost-benefit analysis be performed for major rules, the Glenn substitute has no enforcement provision to make clear that the cost-benefit analysis should matter—that it should affect the rule. The Glenn substitute excoriated the sentence on judicial review in S. 291 that made clear that the court was to focus on the cost-benefit analysis in determining whether the rule was arbitrary and capricious. That provision in S. 291 was taken from a 1982 regulatory reform bill, S. 1080, which was approved by a 94–0 vote in the Senate before it died in the House. In contrast, the Glenn substitute only required that the cost-benefit analysis be inserted in the RECORD with thousands of other documents and comments. This is essentially what happens under the current Executive order.

The Glenn substitute had another fatal defect—it did not provide for an effective review of existing rules. Effective regulatory reform cannot be prospective only; it must look back to reform old rules already on the books. Since 1981, repeated presidential attempts to require the review of rules by Executive order have only met with repeated failures.

But the Glenn substitute does not cure the problem. Like the Executive orders, the Glenn substitute makes the review of rules an essentially voluntary undertaking. There are no firm requirements for action—no set rules to be reviewed, no binding standards, no meaningful deadlines. The Glenn substitute merely asks each agency to issue every 5 years a schedule of rules that, ''in the sole discretion'' of the agency, merit review.

The Glenn substitute seriously weakened the lookback provision in S. 291. While not perfect, S. 291 did have firm requirements. S. 291 prescribed the category of rules that the agencies were to review. If the agency failed to review any of those rules, they terminated automatically. The Glenn substitute had no such firm requirements.

What a review of these elements shows is clear: the Glenn substitute was an elaborate re-write of the status quo. Reform—without change. For those few who understand what was