

that, at least on a small scale, perhaps within our own states. But in general, on a larger scale, I think we miss the mark. In my view, politics today is often too harshly partisan. Of course, politics has always been, and always will be, partisan. That is nothing new. But, I am talking about the kind of partisan warfare that dominates, and subjugates everything, including the public good, to the goal of political victory for one side or another. It sends a bad message. I wish for less of it.

Public service is an honorable calling, demanding hard work, sacrifice, and dedication from those who shoulder the responsibility. And it is good for us to keep in mind that to those young people whom we hope to involve in public service through programs like the Congressional Award, we are among the heroes they look to for inspiration.

Programs like this one can be enormously successful in encouraging community involvement and a caring attitude about the problems of others in our young people. But, the living examples we set, all of us right here in this room, through our public statements, our demeanor, the way we live our lives, and the respect that we show for each others' views also make a tremendous impact. Each of us has a chance through our personal example to inspire some youngster to greatness. And that is a gift far too precious to squander. ●

THE Y2K PROBLEM

● Mr. MOYNIHAN. Mr. President, in yesterday's Wall Street Journal Edward Yardeni, chief economist and managing director of Deutsche Morgan Grenfell, wrote that there is 60 percent chance that the year 2000 (Y2K) computer bug will cause a recession and that the U.S. may experience a \$1 trillion drop in nominal GDP and a \$1 trillion loss in stock market capitalization. A trillion dollar drop. I do not know if these predictions will come true, but I do know the millennial malady is real.

In his op-ed, Mr. Yardeni encourages States to follow the advice of Bank of England governor Eddie George, who says the British government should freeze all regulatory and legislative changes that would burden the computers of financial institutions already struggling to fix their Y2K problem. In a similar gesture, Commissioner Rossotti has asked that provisions in the IRS restructuring bill be delayed until after the year 2000. This delay would allow the IRS to solve the year 2000 problem before changes to the tax code are implemented. The Commissioner has sent us a six-page letter detailing how he would phase in such changes. Commissioner Rossotti knows what he is talking about, and I hope we will listen to him.

This past Sunday, May 3, 1998, the front page of the Washington Post called attention to another important aspect of Y2K—the legal blame game. At issue: who should pay the cost of the millennium bug. If a date-related computer failure prevents an airline from flying, for example, who will make up the millions of dollars in lost ticket revenue? Should the airline just swallow the cost itself, or are its com-

puter and software suppliers liable? How about individual programmers? Or the insurance companies that cover those parties?

The article states that there are pending lawsuits on Y2K and that the suits are the first in what legal specialists predict could be a wave of litigation that eventually could prove more expensive and time-consuming than the worldwide effort to fix the problem in the first place. According to the article, preliminary estimates for litigation and settlement costs range from \$100 billion to \$1 trillion. As a member of the recently established Special Committee on the year 2000 technology problem, I hope that we will have the opportunity to take a closer look into the legal issues surrounding the Y2K problem.

These articles illustrate the serious and far-reaching effects of the millennium bug. I have referred to Y2K as the "13th labor of Hercules." People have begun to realize the magnitude of this problem. We must all work together to ensure the proper functioning not only of our Government, but of the economy.

I ask that yesterday's Wall Street Journal op-ed, "Y2K—An Alarmist View" and the Washington Post's story, "Year 2000 Bug Could Bring Flood of Lawsuits" be printed in the RECORD. The material follows:

[From the Wall Street Journal, May 4, 1998]

Y2K—AN ALARMIST VIEW

(By Edward Yardeni)

Concerns about the Year 2000 Problem—often called "Y2K"—have focused on the cost and difficulty of finding and eliminating the software glitch in time. Most older mainframe computer software systems, many personal computers and millions of embedded semiconductor chips could malfunction or even crash on Jan. 1, 2000, simply because they read only the last two digits of the year, and may interpret it as meaning 1900. But I believe most people are not yet aware of the magnitude of the problem we face.

A survey released in March by the Information Technology Association of America indicates that 44% of responding companies have already experienced Y2K-related failures under operating conditions, and 67% report failures under test conditions. The entire Y2K problem will not be solved. We must prepare for the possibility of business failures and the collapse of essential U.S. government services, including tax collection, welfare payments, national defense and air traffic control.

SITUATION WORSENER

I am a Y2K alarmist, having previously predicted a 40% likelihood of recession in the wake of Y2K computer crashes. Despite many warnings, the situation has only worsened: The recession odds are now up to 60% in my estimation, and there is even a possibility of a depression. The time has come to mobilize against Y2K as if for a war. While we work to minimize government and business exposure to Y2K, we must also begin preparing to soften the inevitable disruptions that will occur when the millennium bug bites.

Our global and domestic markets for financial securities, commodities, products and services depend completely on the smooth functioning of the vast information technology infrastructure. Information tech-

nology has helped create modern versions of the division of labor, like just-in-time manufacturing, outsourcing and globalization. Imagine a world in which these systems are either impaired or completely broken. Suddenly, people will be forced to do without many goods and services that cannot be produced without information technology.

The likely recession could be at least as bad as the one during 1973-74, which was caused mostly by a disruption in the supply of oil. Information, stored and manipulated by computers, is as vital as oil for running modern economies. If information is harder to obtain, markets will allocate and use resources inefficiently. Market participants will be forced to spend more time and money obtaining information that was previously available at little or no cost.

How much could GDP fall? In the U.S., it dropped 3.7% from peak to trough during 1973-74. We should prepare for a similar fall in 2000. Furthermore, a 2000 recession is bound to be deflationary. The U.S. may experience a \$1 trillion drop in nominal GDP and a \$1 trillion loss in stock market capitalization.

Why am I so sure that we will fail to have all our information-technology systems ready and that the disruptions will be severe enough to cause a major global recession? Fixing and responding to Y2K requires a cooperative and collective approach, which has yet to be adopted by businesses and nations facing the millennial malady.

There is currently no global Y2K battle plan. Each company and government agency is responsible for fixing Y2K on its own. Even worse, there is no global campaign to increase awareness of Y2K, and very few national efforts to alert the public. Preventing disaster will depend on launching a centralized international effort to direct several crucial damage-control initiatives.

British Prime Minister Tony Blair plans to put the Y2K matter before the Group of Eight at its May meeting in Birmingham, England. This should be an occasion for concerted action. An international Year 2000 Alliance must emerge from the meeting—which should include all 29 members of the Organization for Economic Cooperation and Development—to deal comprehensively with the worldwide Y2K problem.

U.S. government reports indicate that the Pentagon has a "tight schedule for meeting its massive Y2K challenge," and the situation in other nuclear countries is no better. The military leaders of the G-8 states, especially the U.S. and Russia, must jointly assess the risk of an accidental nuclear missile launch or a provocative false alarm. They must rapidly develop a fail-safe joint communication and intelligence network to eliminate any such risks.

The international alliance should establish Y2K "sector alliances" to deal with the bug on an industry-by-industry basis. The top priority should be to ensure the world-wide supply of electricity, water and other utilities. Contingency plans for rationing utility use should be prepared.

Nothing should divert government or business resources from fixing the millennium bug. The Y2K Alliance should encourage states to follow the example of Bank of England governor Eddie George, who says the British government should freeze all regulatory and legislative changes that would burden the computers of financial institutions already struggling to fix their Y2K problem. Canadian Prime Minister Jean Chretien is informing his cabinet that Y2K should be their top priority.

The Y2K Alliance should consider requiring all nonessential employees to stay home during the first week of January 2000. Financial markets might have to be closed during

this period. This global Y2K holiday would give information-technology personnel an opportunity to stress-test their systems with a slow "reboot," rather than under peak load conditions. They could first test the integrity of basic utility services. Then they could bring their own systems on-line in a phased sequence that can pinpoint weak links.

The Year 2000 Alliance should further require all members to fund a Y2K emergency budget with an initial minimum balance of \$100 billion. This money should be spent on both last-ditch efforts to repair or replace key computer systems around the world and to implement contingency plans once the weakest links have been identified. The funds may also be needed to purchase strategic stockpiles of fuel, food and medicine.

The alliance should direct and supervise current efforts by governments and companies to fix or minimize their Y2K problems. Currently, each organization with a Y2K liability establishes a triage process to identify "mission-critical" systems. But there are no objective standards to determine what is mission-critical. As a result, Y2K fixers are free to reclassify mission-critical systems as noncritical.

For example, the number of U.S. government mission-critical systems dropped from 8,589 to 7,850 in just the three-month period ending Feb. 15; much of the reclassification was done by the Department of Defense. As the deadline approaches, the pressure will only increase for organizations to define down their systems, making it seem they have made greater progress. Only improved monitoring and verification can prevent such dangerous fudging.

COOPERATIVE APPROACH

Those responsible for dealing with Y2K must decide whether to fix their noncritical systems or to let them fail in 2000. But without a cooperative or collective approach, it is likely that some entities will kill supposedly noncritical systems that are actually mission-critical to some of their external, and even internal, dependents.

Therefore we need to know if the products, services, information, incomes and payments we rely on have been doomed by the triage decisions of those who provide them. If so, we might already be toast in 2000 and not know it in 1998 or even in 1999.

[From the Washington Post, May 3, 1998]
YEAR 2000 BUG COULD BRING FLOOD OF
LAWSUITS

(By Rajiv Chandrasekaran)

The year 2000 is still 20 months away, but the legal blame game already has begun. At issue: who should pay the costs of the "millennium bug," a glitch that has left computers all over the world unable to recognize dates after Dec. 31, 1999.

Near Detroit, a grocery store is suing a cash register manufacturer whose machines can't accept credit cards that expire in 2000. In Ohio, a firm that makes accounting software is being hauled into court by a Connecticut computer company. And in New York, a well-known law firm is spearheading a class action lawsuit against the developer of popular computer virus-blocking technology.

The suits are the first in what legal specialists predict could be a wave of litigation that eventually could prove more expensive and time-consuming than the world-wide effort to fix the glitch in the first place. The cost of hiring programmers and buying new computers is forecast by industry analysts to be \$300 billion to \$600 billion. The price tag for lawyers' fees and compensating peo-

ple for any failures that occur, through no one knows how many there will be, could reach \$1 trillion, according to some new estimates.

"We used to think that programmers would be the ones to profit from this," said Lou Marcoccio, a research director at the Gartner Group consulting firm. "Now it's becoming clear that lawyers stand to gain the most here."

Lawyers have started attending seminars on how to bring and defend Year 2000 cases. Law firms eager to get in on the action have set up Internet sites and sent out mass mailings to attract clients.

"There'll be as many, if not more, lawyer-driven cases as there will be customer-driven ones," said Kirk R. Ruthenberg, a partner in the Washington office of Sonnenschein Nath & Rosenthal who teaches a seminar on Year 2000 legal issues.

Corporate executives complain that people already are so afraid of being sued that they can't get a straight answer from their banks, suppliers or vendors on whether their computer systems will be ready to function in the new century. Requests for information about readiness are routed through lawyers—not technicians—who send out boilerplate language saying the company is working hard and is highly confident its systems will be ready.

At the same time, insurance companies are furiously rewriting policies and seeking legislative changes to protect them from what they expect to be a wave of claims—and finger pointing—when computer systems fail.

If a date-related computer failure prevents an airline from flying, for example, who will make up the millions of dollars in lost ticket revenue? Should the airline just swallow the cost itself, or are its computer and software suppliers liable? How about individual programmers? Or the insurance companies that cover those parties?

Preliminary estimates for litigation and settlement costs range from \$1200 billion to \$1 trillion, a figure advanced by the Lloyds of London insurance company and the Giga Information Group, a consulting firm in Cambridge Mass.

That could rival legal fees and settlements associated with such products as breast implants, asbestos or tobacco. Andrew S. Grove, chief executive of computer chip maker Intel Corp., recently predicted that "this country is going to be tied down in a sea of litigation" over the next decade because of the Year 2000 problem. "It's going to put the asbestos litigation to shame," Grove said.

The big explosion of such suits probably won't start until next year, industry specialist said. But Marcoccio, who monitors Year 2000 work at 375 large law firms, said he knows of about 200 disputes that already have been settled out of court. "Most of them were resolved for substantial sums, between \$1 [million] and \$10 million per settlement," he said.

No Year 2000 case has yet been decided by a court, but legal observers and technology companies are watching closely the first class action suits, all of which have been brought by the high-profile New York law firm of Milberg Weiss Bershad Hynes & Lerach. A win by Milberg, the nation's most prolific filer of class action suits accusing companies and executives of securities fraud, could lead to quick flood of similar suits experts said. Even a loss wouldn't necessarily dissuade further legal action, they said—only a change in lawyers' litigation strategy.

Milberg's first case was filed in December on behalf of Atlas International Ltd., a New York computer equipment vendor, which charged Software Business Technologies Inc. of San Rafael, Calif., with breach of war-

ranty, fraud and unfair business practices. Milberg alleges that SBT is improperly forcing customers, including Atlaz, to buy a pricey new version of its accompanying software to correct the date glitch instead of providing a free "patch" to fix the problem.

"They knowingly sold them a product that was materially defective and failed to disclose that," said Salvatore J. Graziano, a Milberg lawyer representing Atlaz, which is seeking more than \$50 million from SBT. "Our position is that the upgrades should be given free."

A lawyer representing SBT said that after the suit was filed, the company started offering a free software "patch" to fix the problem in versions of its software used by Atlaz. But he acknowledged that the repair won't work for other, earlier editions of SBT's software. "The engineering task of going back and altering all the old [software] code is substantial," said David M. Furbush, an attorney representing Atlaz.

Milberg's other two class action suits—one against Ohio accounting software firm Macola Inc. and the other against anti-virus software maker Symantec Corp.—make similar claims for the same reason: The companies are requiring users to pay for new versions of software that are Year 2000-compliant.

Despite the recent lawsuits, software companies don't appear to be backing down from the upgrade charges. In January 1997 only about 1 percent of software vendors were charging for Year 2000 upgrades, Marcoccio said. By this January, 29 percent were, he said. "They see the year 2000 as a way to sell new software, to make money," he said. "It can be a risky strategy."

A spokesman for Symantec, which makes the popular Norton AntiVirus software, said that people who use virus-checking software should be buying updates anyway to get the latest protection. "You need up-to-date products to scan for viruses," said spokesman Richard Saunders, who added that the Milberg suit "is without merit."

In all three of the Milberg cases none of the plaintiffs has yet suffered actual Year 2000-related computing problems.

Produce Palace in Warren, Mich., already knows what that's like. Its cash registers will not accept credit cards that expire in the year "00" or beyond. If a cashier swipes such a card through the magnetic reader on a register, it can cause the store's entire computer system to crash, said Brian P. Parker, the store's lawyer.

"Imagine a Saturday afternoon and the registers go down in all 10 aisles," Parker said. "It's been chaotic for them."

After unsuccessfully trying to fix the problem, the store sued the cash register maker, TEC America Inc., and its distributor, All American Cash Register Inc. Last month Parker said a mediator recommended that the Produce Palace be compensated \$250,000. The store has not formally decided whether to accept the settlement; Parker said he expects the case to go to trial. A TEC America spokesman would not comment on details of the suit.

Lawsuits against technology companies may be only the first step in a years-long stream of litigation. Specialists predict that by late 1999, when some businesses start to experience system failures, a second round of chain-reaction lawsuits will ensue among all sorts of companies.

An auto parts maker that fails to get raw material because of a Year 2000 failure at a supplier might sue the supplier. The automaker that relies on the parts maker to stock its assembly line might then sue the parts company, because it has failed to deliver its parts on time and cost the automaker sales.

Investors who see a company's stock price slide because of Year 2000-related expenses and system failures could mount class action suits, claiming that corporate officers failed to adequately inform shareholders of the problem. "Both breach of contract suits between businesses and shareholder suits will be rampant," said Jeff Jinnett, a lawyer with the New York firm of LeBoeuf, Lamb, Greene & MacRae.

Hoping to stem such lawsuits, a coalition of technology firms and other businesses in California have urged the state legislature to pass a bill that would immunize companies from Year 2000 suits if they warn customers of the problem and offer free upgrades. The bill was defeated by a key committee last month after strenuous opposition from the state's trial lawyers.

But state officials across the country are moving quickly to protect themselves against litigation. Bills that would limit state agencies from liability if their computers suffer date-related failures recently have been signed into law in Virginia, New Hampshire and Georgia.

A final wave of litigation, experts said, will begin in 2000 and involve insurance companies, as defendants seek to force their insurers to cover their legal fees and any damages they are ordered to pay. The cost to the insurance industry could reach \$65 billion, said Todd A. Muller, an assistant vice president at the Independent Insurance Agents of America, a trade group in Alexandria.

"There's going to be a huge impact on the insurance industry," Muller said. "Because the industry has deep pockets, we expect [trial lawyers] to do everything possible to drag us into these disputes."

Insurance industry executives said they expect businesses to file claims under various types of common corporate policies, including property insurance, general liability insurance, and directors' and officers' liability insurance. Property insurance claims, for example, could result from actual physical damage caused by a Year 2000 malfunction, such as fire sprinklers that accidentally go off, experts said.

The insurance industry is moving quickly to prevent such suits by revising policies to exclude Year 2000-related claims on the grounds the peril wasn't known to exist when the policies were created, and as a result, premiums never were collected for such coverage. The Insurance Services Office Inc., which authors generic policy language used by most large insurers, already has gotten regulators in 40 states to approve such exclusions, said Christopher Guidette, an ISO spokesman.

At the same time, insurers are arguing that the problem was entirely predictable, and therefore isn't coverable, because insurance is only for the unpredictable.

"This is a foreseeable event. People have known for more than 98 years that this was coming. . . . We're not going to be the bank of last resort to pay for this," said Steven Goldstein a spokesman for the Insurance Information Institute, a trade group in New York.

But whatever steps the insurers take, predicts Muller, "when their claims are denied, people are going to go to court."

Lawyers who have gone after companies over asbestos and breast implants already have started preparing litigation strategies for the date glitch.

"Insurance sells itself as a public-service operation," said Eugene R. Anderson of Anderson, Kill & Olick in New York, who has won dozens of cases against insurers. "They are the safe hands, the rock of Gibraltar, the good neighbors. When there's a problem they can't just say, 'Oh well, we don't cover that.' It's contrary to the very idea of insurance."

Unlike in breast implants and asbestos cases, some lawyers said the lack of ordinary human victims in Year 2000 litigation could make it tougher to ask a jury for multi-million-dollar damages. Others caution that the scope of the litigation will rest on the number of systems that actually fail, a figure impossible to determine today.

But there is broad agreement that no matter how severe the glitch eventually proves to be, a cadre of lawyers will find reason to sue. "There's too big of a jackpot here," Marcoccio said.●

"CINCO DE MAYO"

● Mrs. HUTCHISON. Mr. President, I rise to recognize and remember the importance of this day, known as "Cinco de Mayo" to the Republic of Mexico and to millions of Mexican-Americans. Many in this country may not realize it, but after 40 years after achieving independence from Spain, in 1862 Mexico was again subjugated to European colonial domination, this time by the French. In that year, Napoleon sent a massive military force to Mexico to unseat President Benito Juarez to install a Hapsburg, Maximilian, as monarch of Mexico.

After capturing the port city of Veracruz, the French continued their march toward Mexico City. But the proud Mexicans did not give in without a fight. On this day in 1862, on a small battlefield near Puebla, a hastily assembled, ill-equipped Mexican force of predominantly Mestizo and Zapotec Indians bravely battled against a force of Napoleon's renowned professional French Army. Against all odds, the Mexicans actually routed the French, and the "Batalla de Puebla" became a rallying cry and watershed event for eventual Mexican independence.

The Mexicans who fought on that fateful day embodied the spirit of freedom and patriotism that eventually drove Mexico to victory and paved the way for the economic and political advances that continue in that nation to this day. It is in that same spirit that we in the United States, who have our own proud history of achieving independence, celebrate and recognize the Batalla de Puebla and the significance of this day.

In addition to signifying a military victory, the Cinco de Mayo holiday, particularly as recognized in the United States, is also a celebration of Mexican and Mexican-American culture and history. In many cities throughout the U.S., this celebration centers around grand cultural fiestas that include traditional Mexican song, dance, and cuisine. Much as we recognize the Fourth of July not only as an act of independence from Britain, but also as a cornerstone of our cultural identity as Americans, many Mexican-Americans view Cinco de Mayo as a common cultural thread and history that they share.

Mr. President, I would like to join all Americans and all Mexicans in this recognition of a very proud and colorful Mexican history. The Mexicans who

fought and died on that battlefield near Puebla in 1862 embodied the ideal to which all human beings, regardless background or status, aspire—the inalienable right of self-determination. Cinco de Mayo is therefore a chance for communities on both sides of the border to remember how important a gift freedom is, how difficult it is to achieve, and how vigilant we must all be to preserve it.●

TRIBUTE TO JEAN BROWN, UPON HER RETIREMENT AS HEAD OF LEADERSHIP GREENVILLE

● Mr. HOLLINGS. Mr. President, it is my great honor today to salute one of Greenville's most beloved business leaders on her retirement as head of Leadership Greenville: Mrs. Jean Brown.

Mrs. Brown has dedicated the last twenty years of her life to fostering an entrepreneurial environment in the South Carolina Upstate. Since 1979, she has worked with the Greenville Chamber of Commerce to develop the Leadership Greenville program, which today is a model of its kind.

Through Leadership Greenville, Jean Brown has had an influence on the life of her community few individuals can match. Graduates of her ten month program head countless civic associations, philanthropic boards, and volunteer organizations in the Upstate. These leaders possess an unselfish and admirable desire to serve their communities, which Jean Brown encouraged and channeled.

Thanks to her enthusiasm and energy, Leadership Greenville has grown into a Greenville institution. Although Jean Brown is retiring, her legacy will live on for generations in the good works of the Leadership Greenville graduates she trained.

Mrs. Brown defines a leader as "a person who has a passion for what they want to accomplish." If that is true, Mr. President, Jean Brown is a peerless leader. Today I am honored to pay tribute to such a dedicated and unselfish public servant.●

H.R. 3579 CONFERENCE AGREEMENT ON FISCAL YEAR 1998 SUPPLEMENTAL APPROPRIATIONS

● Mr. McCAIN. Mr. President, I voted in favor of the conference agreement on the FY 1998 Supplemental Appropriations Bill which funds the necessary costs of ongoing U.S. military operations in Bosnia and Southwest Asia and provides relief for those affected by the devastating natural disasters which swept through the United States in recent months.

Mr. President, frankly, I have to applaud the conferees on this bill. They did not include in the conference bill much of the pork-barrel spending that was contained in the individual House and Senate bills. In addition, the conferees wisely agreed to the House position to offset the domestic spending in