victim of essentially criminal conduct: We are going to impose a 50 percent tax on you. That is what we are going to do. We are going to say to the victim of this conduct: There is a 50 percent tax on the damages that a jury, after hearing the whole case, has decided you are entitled to, 50 percent. That is going to go to the Government.

Is that the signal we want to send as a Congress, as the U.S. Senate? Do we want to say to the American people that we as a body want to impose a 50 percent tax on a child who has been the victim of what is essentially criminal conduct? This is crazy. It doesn't make any sense. It also violates our basic notions of fairness and responsibility and accountability.

We have talked a great deal on the floor about doing things about the victims of criminal conduct. This essentially falls in the same category. It makes no sense for the government to impose a 50 percent tax on a child who has been the victim of what amounts to criminal conduct.

These provisions—and there are others—are wrong: getting rid of what is called joint and several liability, which means the wrongdoers don't necessarily have to pay for all of what has happened, while some of it gets shifted to the victim. That is wrong.

Second, to say we are going to impose a 50 percent tax on a victim, a child who has been essentially the victim of criminal conduct, that is wrong.

More important than all of that, this whole effort is misguided. If what we want to do is do something about health care costs, we should not focus on what is well less than 1 percent of health care costs. We ought to focus on the things that really make a difference, such as the rising cost of prescription drugs.

More importantly, the people who need us to look out for them are the very people that this amendment is aimed at—the kids, the families, the victims. We need to stand up for them. They need us to be willing to stand up for them no matter who is outside the floor of the Senate representing the most powerful interests in America.

No matter how many lobbyists the insurance industry has, no matter how many lobbyists the HMOs have, the big energy companies, the big oil companies, who is going to stand up for these kids and these families? If they don't have us to stand up for them, they have nobody.

On all of these fronts, whether we are talking about doing something about the high cost of prescription drugs for people, whether we are talking about kids and families who are the victims of bad medical care, whether we are talking about trying to protect our air for our children and for our families, on all these fronts, we have to stand up for them. The people who voted for us and sent us to the Congress are counting on us because they don't have lobbyists up there. They have nobody here outside the halls of Congress representing them. They count on us to stand up for them.

As we go through these fights, we will stand up for them. This is one of them.

How much time do we have remaining?

The PRESIDING OFFICER. Forty-five and a half minutes.

Mr. EDWARDS. Madam President, I reserve the remainder of my time and yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Before the Senator from North Carolina leaves, I would like to ask him a question or two. I am sorry I was not able to hear all of his remarks. Having tried a few cases in my day, one of the concerns I have about this tort debate is the fact that the insurance industry is the only one that I know of, other than baseball, that can sit down in a restaurant in sight of everybody or in some dark room, wherever they want, and knowingly and openly conspire to set prices. There is nothing wrong with that. That is because of the McCarran-Ferguson law passed during the depths of the Depression. They can do this.

Let me say to my friend, to show how unnecessary the debate is here in the Senate, first of all, this is something the States should be doing, as is happening in Nevada.

This coming Monday, the Nevada State legislature is convening in a special session to deal with medical malpractice. I may not agree with what the State legislature does or doesn't do, but that is where this should be settled.

The State of Nevada is different than the State of North Carolina. We have all kinds of different problems with our torts than the Senator does.

I have two questions for my friend. First of all, do you think it would be a good idea for the Congress, after some 70 years, to take a look at McCarran-Ferguson to find out if insurance companies should be exempt from fixing prices, be exempt from the Sherman Antitrust Act? That is my first question.

The second question is, don't you think that tort liability, whether it is medical devices, medical malpractice, or products liability, should be settled by State legislatures?

Mr. EDWARDS. The Senator asked two very good questions. First, I think it is a terrific idea for us to look at the insurance industry, its practices in general, and what effect McCarran-Ferguson has on those practices. The Senator describes a large part of the problem.

The Senator knows as well as I do, you can't move in Washington without bumping into some lobbyist representing the insurance industry. They are so well heard and so well represented. I think it is a very good idea.

As to the second question, we have differences between North Carolina, my State, and the State of Nevada, and differences between us and California. These are the kinds of issues that ought to be resolved at the State level. We have always believed that. There is a little bit of an inconsistency for the administration that normally says these are matters that ought to be left to the States, we trust the States to make these decisions; but in the case where they want to do something on behalf of the insurance industry, which is what this is, they want to take it away from the States; they want to do it at the national level.

What has historically been done in this area is the way it should be done, which is these are matters about State courts, how State courts handle these kinds of cases. They are in touch with it. They know what is happening in their individual States, what the problems are, and they can address them in a responsible and equitable way.

I thank the Senator for his questions.

We reserve the remainder of our time, Madam President.

The PRESIDING OFFICER. Who yields time?

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

The PRESIDING OFFICER (Mr. REID). In my capacity as a Senator from the State of Nevada, I ask unanimous consent that the order for the quorum call be rescinded.

Without objection, it is so ordered.

In my capacity as a Senator from the State of Nevada, I ask unanimous consent that the quorum call that will shortly be called for be charged equally against both sides for the time remaining.

Without objection, it is so ordered.

I suggest the absence of a quorum, and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. SARBANES). Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. BENNETT. Mr. President, I ask unanimous consent that I be allowed to proceed as in morning business.

The PRESIDING OFFICER. The Chair would inform the Senator that it is the Chair's understanding there is running time off of the allocated time on this amendment. I suggest to the Senator that he may want to use the time that has been allocated to his side on the amendment.

Mr. BENNETT. Mr. President, I ask unanimous consent that that be the case, that I be allowed to speak with the time being charged.

The PRESIDING OFFICER. The Senator will be recognized and the time remaining on the amendment will be

charged to his side of the aisle, which is 6½ minutes.

Mr. BENNETT. May I inquire, Mr. President, if the time would be running even if we were in a quorum call?

Mr. SARBANES. Yes, it would.

Mr. BENNETT. Mr. President, I ask unanimous consent that I be allowed to proceed for the next 6½ minutes, with the time charged, as in morning business.

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

STOCK MARKET VOLATILITY

Mr. BENNETT. Mr. President, I have been reading the popular press, as have most of us. As we watched the gyrations that occur in the stock market at the moment, I have been interested at the way people in the press have been portraying what has been happening.

We have been told in the last few weeks that the market went down because President Bush's speech was not tough enough when he spoke to Wall Street. We have been told that the market went up because Chairman Greenspan's presentation to the Banking Committee was encouraging. We have been told that the market went down because the Banking Committee's bill on corporate governance was too tough and was frightening people. Then we were told that the market went up dramatically because the same bill was passed and people were reassured.

The consequence of all of this is to demonstrate to me that the popular press does not have a clue as to why the market does what it does. They do not understand market forces, and they are looking for reasons with little or nothing to do with what happens in the market.

I will make a few comments about the market and what it is we might really do in Congress if we want to have an impact on the market and the economy.

In the short-term, there are two factors that we know about investors in the stock market. No. 1, they hate uncertainty. They hate a situation where they do not know what is going on. This is one of the reasons why they reacted to the recent scandals with respect to accounting: They did not have the certainty that they could depend on the numbers.

Now, as they are beginning to sort through some of the information we have, they are beginning to feel a slight increase in certainty in their reaction to the numbers. That is showing up in some of the stabilization in the market. It has nothing to do with what kind of a speech the President gives or how eloquent we are in the Senate.

No. 2, the market has a herd mentality in the short-term. If everyone is selling, we ought to sell. That is the reaction in many brokerage houses. There are those who say: We are contrarians; if everyone is selling, we are going to buy; we are out of the herd mentality. But they are in a herd mentality among the contrarians.

So there is no careful analysis of what is going on but a flight from uncertainty and a herd mentality, both of which rule the market in the short-term.

In the long term, however, which is what really matters, there are also two factors in the market we must pay attention to. No. 1, in the long term, the market is self-correcting. Errors of judgment that are made on one side of a trade are compensated for by intelligent decisions on the other side of the trade. One brokerage house or one fund manager who overreacts and makes a serious mistake is offset by another fund manager who serendipitously makes the right decision. Over time, the markets are self-corrected so that the frantic headlines we see in Time Magazine or on the front pages of the New York Times, the market this or the market that, on the basis of the President's speech or the Congress's actions, over time they have no relevance to reality whatever. The market over time is self-correcting, goes in the right direction, and rewards people who do the right thing and punishes people who do the wrong thing.

Second, over time, the market depends on fundamentals. There are periods of time when we have froth. There are periods that I call ''tulip time''—remembering the tulip mania of the Netherlands. Over time, these periods of froth are squeezed out, and the market makes its decision on fundamentals.

I say to my friends in the popular press who are trying to sell air time or newspapers: Stop trying to frighten the American people one way or the other. Come back to an understanding that fundamentals in the economy are the things that really matter—not speeches by the President, not actions necessarily by the Congress.

I think we had to act on the corporate governance area, but we didn't drive the market up or down by the action that we took. We added to the question of fundamentals.

How well the Sarbanes-Oxley bill works will play itself out in the fundamentals. If it works in a solidly fundamental way, it will benefit the markets. If it turns out it has flaws, it will hurt the market. But the speeches we imagine as we pass the bill have little or no impact.

One final comment. If we were serious about doing something to change the culture in corporate America, we ought to consider removing taxation on dividends. We have had a lot of conversation about options and managing earnings. If dividends become a reason why people buy stocks, as they once were, that would change the nature of corporate governance fairly fundamentally.

If a CEO knew his stock price would go up if his dividend were increased and if his investors knew if they get an increase in dividends it would not be eaten up in taxes, there would be a change in the corporate boardrooms of this country that would be salutary.

I don't have the time to go into this, but at some future time I will explore it. I raised this with Chairman Greenspan when he testified before the Banking Committee and asked him about the propriety of removing taxation from dividends. That was the beginning of a conversation that I want to have over time.

As we go through the experience of the present economic difficulties and the gyrations of the market, it is time to reflect on fundamental things we can do that will change the nature of the corporate culture. Addressing stock options and expensing stock options is something we can talk about. Dealing with corporate compensation is something we can talk about.

Back to my earlier point. Over time, the market responds to fundamentals, and, over time, we ought to look at some fundamental changes. That means we have to look at the tax laws. There is nothing that government does that affects corporate activity more than the Tax Code. That is where we ought to look for serious cultural changes.

I yield the floor.

ORDER OF PROCEDURE

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. CORZINE. Mr. President, I ask to speak on another subject.

The PRESIDING OFFICER. The time would be charged against the time remaining on this side for debate on the amendment. There are 32 minutes remaining. I suggest the Senator speak as in morning business but we continue to charge the time against the time remaining on the pending amendment.

Mr. CORZINE. I ask unanimous consent to speak in morning business and that the time I use be charged against the time allocated for debate on the amendment. I expect to use up to 15 minutes.

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

SOCIAL SECURITY

Mr. CORZINE. Mr. President, I bring up a subject that I have been speaking about frequently. That is our Social Security system, one that I believe the American people deserve to have a debate about before the election in November.

There have been many attempts to put off this debate until after the election so we can decide policy that will truly impact the American people for many, many years and decades to come. It is extremely disappointing we have had a hard time engaging in that debate. This week we actually made some progress, at least with regard to debate, not necessarily with regard to the content of the debate.

I express my great disappointment and, frankly, my utter amazement