SENATE—*Monday, June 15, 1981*

(Legislative day of Monday, June 1, 1981)

The Senate met at 12 noon, on the expiration of the recess, and was called to order by the Honorable JAKE GARN, a Senator from the State of Utah.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, LL.D., D.D., offered the following prayer:

Hear, O Israel: The Lord our God is one Lord; and you shall love the Lord your God with all your heart, and with all your soul, and with all your might.—Deuteronomy 6 : 4, 5 (RSV).

God of Abraham, Isaac, and Jacob, God of Moses and the prophets, God of Jesus and the Apostles, we are created to worship Thee, to love Thee, to serve Thee. Thou dost not need our worship but we need to worship, our nature demands it. We are something less than human when we fail to worship Thee.

Deliver us from all that would deny our humanity. Remind us of our weakness and fallibility. Grant us grace to listen to those with whom we disagree and out of the forge of conflicting views grant that truth and justice emerge.

Let Thy light, Thy wisdom, Thy righteousness, Thy love fill our minds and hearts and lead us in Thy way to do Thy will for Thy glory. Through Jesus Christ, Saviour and Lord. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. MAGNUSON).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., June 15, 1981.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JAKE GARN, a Senator from the State of Utah, to perform the duties of the Chair.

STROM THURMOND,
President pro tempore.

Mr. GARN thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the previous order, the acting majority leader is recognized.

THE JOURNAL

Mr. STEVENS. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. STEVENS. Mr. President, I say to my good friend, the distinguished minority leader, that it will be my intention to yield the leadership time to the Senator from Arizona to be used in conjunction with the special orders. I would like to reserve the time for that purpose. Does the distinguished minority leader seek time now?

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. Under the previous order, the distinguished minority leader is recognized.

THE UNITED STATES SENATE

THE SENATE IN THE JEFFERSONIAN ERA, 1800–1808

Mr. ROBERT C. BYRD. Mr. President, we have recently undergone a transition of party power in Washington, both in the executive branch and in the United States Senate. In both cases the transition was peaceful, amiable, and dignified, as the public has come to expect. We would be surprised and disappointed if it had been anything less. Yet when we look back over our national history to the first transition of party, we find an entirely different atmosphere, one of tension and intrigue. There were no guarantees that the new nation would survive the transfer of power between the Federalists and the Jeffersonian Republicans (a different political organization altogether, I should add, from today's Republican Party). This first transition was the greatest test of the fledgling constitutional republic, and while the process was by no means smooth and easy, it is stirring to read how successfully our predecessors passed this test, paving the way for the many orderly transitions which would follow during the next two centuries.

Since 1789, the nation had been led by Federalist presidents, George Washington and John Adams, and the Congress controlled by Federalist majorities. For the first six congresses, the Federalists were continually in the majority in the Senate and only during the Third Congress, from 1793 to 1795, did the Jeffersonians take a majority in the House of Representatives. With the election of 1800 this situation was reversed. The Republicans gained an 18 to 14 majority in the Senate and a 69 to 36 majority in the House. During the next eight years they would keep and increase these margins sharply, so that during the Tenth Congress (1807–1809) their majority in the Senate was 20 to 6, and in the House 118 to 24.

As for the presidency, both the Federalists and Republicans nominated their candidates in congressional caucuses, a system which lasted until 1824. The Federalists renominated the incumbent president, John Adams and chose Charles Cotesworth Pinckney for vice president. The Republicans chose their popular leader, Thomas Jefferson, for president. Following the voting in New York in May 1800 (in those days, each state conducted its elections on its own independent schedule), which the Republicans carried largely due to the effective campaigning of Aaron Burr, the party nominated Burr for vice president. "Burr in 1800 was not some devious plotter," Professor Noble E. Cunningham has written, "but an aggressive, practical party organizer." [1] Not until December did the last state, South Carolina, cast its ballots. Until then, Jefferson and Adams were tied with 65 electoral ballots each. South Carolina determined the victor by casting its eight electoral votes to Jefferson and Burr. But while Jefferson now had 73 electoral votes, so did his vice presidential running mate, and the tie vote forced the election into the House of Representatives.

While the Republicans would have the majority in the House, as a result of the election, it was the outgoing Federalist-dominated Sixth Congress which would determine the presidential election. Hating Jefferson, the Federalists cast their votes for Burr. For his part, Aaron Burr insisted that he was not in competition with Jefferson, but he took no action to dissuade Federalist support. The House was then meeting in the newly constructed Senate wing of the Capitol, in a room which for many years served as our disbursing office and which has recently become a part of the majority leader's suite. Outside that room is a bronze plaque describing the dramatic events which occurred there: "This tablet marks the first meeting place of the House of Representatives. Here—on November 18, 1800—the House of Representatives met for the first time in Washington, remaining through the second session of the Sixth Congress. Here, from February 11 to February 17, 1801, the House cast 36 successive ballots to elect Thomas Jefferson as President of the United States in the contest between Jefferson and Aaron Burr." [2]

Why the Federalists abandoned Burr's candidacy is still uncertain. Alexander Hamilton strongly recommended voting for Jefferson over Burr on the grounds that Burr's "public principles have no other spring or aim than his own aggrandizement." The Federalists may also have assumed the effort was futile and might cause public resentment against them. There also appeared to be some backstage assurances from the Jeffersonians on matters of policy and pa-

Footnotes at end of article.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

tronage, which won over sufficient Federalist votes. In any case, Jefferson was finally selected and was sworn in as president in the Senate Chamber, less than a month later on March 4.

President Adams left town without attending the inauguration of his successor, but two of Jefferson's chief antagonists were present in the Senate Chamber that day (today the room is commemorated as the Old Supreme Court Chamber, on the first floor of the Capitol, but from 1800 to 1810 it served as the Senate Chamber): Chief Justice John Marshall, who swore in the president; and the new vice president and erstwhile rival, Aaron Burr. What a dramatic picture those three men must have presented to the audience that day. Just before taking his oath, Jefferson addressed the assemblage with these memorable lines:

"We have called by different names brethren of the same principle. We are all Republicans; we are all Federalists . . . I know indeed that some honest men fear that a Republican Government cannot be strong; that this Government is not strong enough. But would the honest patriot, in the full tide of experiment, abandon a Government which has so far kept us free and firm, on the theoretical and visionary fear that this Government, the world's best hope, may, by possibility, want energy to preserve itself? I trust not. I believe this, on the contrary, the strongest Government on earth." [3]

Once in power the Jeffersonian Republicans intended to flex their political muscles. They controlled the executive and legislative branches, but the Federalists remained firmly entrenched in the judiciary. Shortly before the end of his term as President, John Adams had signed the Judiciary Act of 1801. Ostensibly this act was designed to relieve the burdens of Supreme Court Justices who spent several months a year in the saddle riding circuit. The Judiciary Act created a special circuit court and new district judgeships to assume these duties. However, President Adams immediately filled the new positions with Federalist judges. The Act also provided that the Supreme Court would be reduced by attrition from nine to five justices, thereby postponing Jefferson's ability to nominate new Republican justices to the Court. Jefferson and his supporters in Congress were determined to repeal this offending act.

In his State of the Union message on December 8, 1801, Jefferson called for a reexamination of the judicial system, and on January 6, 1802, Senator John Breckinridge of Kentucky moved for repeal of the Judiciary Act. Breckinridge argued that the law was both unnecessary and improper and that the courts and judgeships created by it should be abolished.[4] The Senate debated the issue for the rest of the month and on January 26 it voted 15 to 15 on the motion to repeal. Vice President Burr then cast the deciding vote in favor of repeal.[5]

The following day, however, Federalist Senator Jonathan Dayton of New Jersey proposed that the Senate reconsider its action and refer the issue to a special committee which would consider revision of the entire judiciary system. Dayton had made the same motion the day before and had been defeated by only one vote, and now argued that his motion had "not been perfectly heard and understood by one of the gentlemen who voted against it." And so he moved again to refer it to committee. Again the vote was 15 to 15, but this time Vice President Burr cast his vote with the Federalists. Burr explained that he had no reason to question the sincerity of those wishing to refer the bill to committee to "render it more acceptable to the Senate," but the Jeffersonians were outraged over what they considered Burr's duplicity and political maneuvering. Dayton, a Federalist, was known as a lifelong friend of Burr's and one of the leaders in his abortive challenge to Jefferson's election.[6]

Even today historians disagree over what motivated Aaron Burr and we may never fully understand this man who, some would aver, preferred to walk a crooked mile even when a straight path was available. In a letter to a friend the next day, Burr expressed his concern over "depriving twenty-six judges of office and pay." [7] Some of Burr's supporters argued that he was merely acceding to a desire among half the members of the Senate to have a committee appraise the legislation, and that with the return of the absent Vermont Senator Stephen Bradley the Republicans would have the necessary votes to discharge the bill and pass it—which is exactly what happened on February 3, 1802. But Burr's action had been the final straw for congressional Republicans. They were sure that he was plotting to win friends among the Federalists for a future challenge to the Jefferson administration. There was no hope that Burr would win renomination from the Republicans for vice president, or advance further in his party's ranks—and he began to conceive of bolder plans.

Reading through the *Annals of Congress*, the forerunner of our *Congressional Record*, one finds many landmarks in American history during the Jeffersonian era. On January 31, 1803, for instance, the Senate received a petition from William Marbury and several others. This was less than a month before the Supreme Court would hand down its monumental ruling in *Marbury* v. *Madison* in which, for the first time, it declared an act of Congress unconstitutional. Marbury, as constitutional scholars will recall, had been appointed a justice of the peace for the District of Columbia as one of the last acts of President John Adams, but Adams had left office before the commission could be delivered to Marbury, and the new Secretary of State, James Madison, refused to deliver the commission to him. Marbury went to court, but he also petitioned the Senate to obtain copies of the Senate's proceedings for March 2 and 3, 1801, relating to his nomination.

Now in those days—and until 1929—most discussions of nominations and related executive business of the Senate were held in secret, closed-door executive sessions. Senator Breckinridge spoke for the majority of the Senate when he expressed the opinion that "the Executive Journal is kept only for the private use of the Senate and there is an express rule that extracts should not be given without the order of the House." He considered that the President was a party to the business in the Executive Journal, and should give his consent before its materials were opened. Senator Ogden of New Jersey argued in Marbury's behalf that, although executive business was conducted behind closed doors, there was no Senate rule that the Journal must be kept secret. Senator Ross of Pennsylvania took the position that since Marbury had a case before the high court, and the material was necessary for that case, the Senate had no justification for withholding it. "It is a public record," said Ross, "of which any person interested has a right to demand a copy." The Senate, however, voted 15 to 13 to deny Marbury and the others the Executive Journal extracts they requested.[8]

On February 24, 1803, the Supreme Court dismissed Marbury's suit on the grounds that the court lacked jurisdiction. Chief Justice Marshall declared that section 13 of the Judiciary Act of 1789 had empowered the Court to issue writs of mandamus in such cases, but that this was in violation of the Constitution and therefore the Court held the law null and void. This was an incredibly shrewd maneuver on Marshall's part since he had given the immediate victory to President Jefferson against Marbury, and yet he had also established the principle of judicial review—a power which the Constitution did not specifically provide for, and one which has significantly affected relations between Congress and the Court ever since.

Also in February 1803, the Senate was preoccupied with the Mississippi question. Residents of three-eighths of the territory of the United States, living in the lands west of the Alleghenies, shipped their produce down the Mississippi River to market. But Spain controlled the city of New Orleans and therefore could interfere with American trade at will. America had enjoyed freedom of transit on the Mississippi since the 1795 Pinckney Treaty with Spain, in which Spain promised free navigation of the river and the right to deposit goods at New Orleans before shipment elsewhere. In October 1802 the Spanish governor of New Orleans suddenly revoked the right to deposit goods in that city duty free. Outraged Americans in Tennessee, Kentucky, and other affected states talked of going to war to seize New Orleans. President Jefferson dispatched James Monroe to France and Spain as minister extraordinary. Monroe's mission was to reopen the Mississippi and to prevent France from regaining control of New Orleans from Spain. The French leader, Napoleon Bonaparte, was also concerned with the American reaction to the closing of New Orleans and sought to avoid driving the United States into an alliance with

Footnotes at end of article.

his enemy Great Britain. Abandoning his colonial ambitions, Napoleon decided to sell the entire Louisana territory with the city of New Orleans to the United States, thereby raising money for France's impending war with Britain.

All of these negotiations were being conducted in secret and there was great concern over their progress inside the Senate. On February 14, Federalist Senator James Ross of Pittsburgh, Pennsylvania rose to say that his constituents were greatly alarmed over the "injustifiable, oppressive conduct of the officers of the Spanish government at New Orleans." Ross was aware of Monroe's mission, but he wanted a statement of support from the Senate. The United States should expel the wrongdoers, Ross proclaimed: "Plant yourselves on the river, fortify the banks, invite those who have an interest at stake to defend it; do justice to yourselves when your adversaries deny it; and leave the event to Him who controls the fate of nations." However, when Ross turned to discuss the rumors that Jefferson had authorized Monroe to purchase Louisiana, he was cut off from speaking until the galleries could be cleared. "I will never speak upon this subject, sir," said Ross, "with closed doors." Vice President Burr ruled that the doors could be closed at the request of any Senator, and could be opened again only by the vote of the Senate; and the doors were shut. Two days later Ross again rose in public session to introduce his resolutions "That the President be authorized to take immediate possession of such place or places, in the said . . . territories, as he may deem fit and convenient." The president should also be authorized to call up the militia in the western states, and some $5 million should be appropriated to support the war effort.[9]

After lengthy debate, on February 25, 1803, the Ross resolution was defeated, 15 to 11, and shortly afterwards the Seventh Congress adjourned. In April, French Foreign Minister Talleyrand broached the question of how much the United States was willing to pay for Louisiana, and by the end of the month the treaty of cessation had been signed. For $15 million the United States purchased enough land to double the size of the country—the whole central portion of the continental United States today, from the Mississippi river in the east to Montana, Wyoming, Colorado, and New Mexico in the west, from Louisiana in the south to Minnesota in the north. It was ironic that Jefferson, a strict constructionist and a believer in limited government, had taken this bold move. However, if Jefferson was inconsistent in expanding the power of the presidency, the Federalists were equally inconsistent in opposing him.

President Jefferson called the Eighth Congress into session two months earlier than scheduled in order to approve the treaty he had negotiated with France. On October 22, 1803, Senator Breckinridge offered a bill to enable the President to take possession of the vast territory ceded from France, and the bill passed easily by a vote of 26 to 6 (among the dissenters was the new senator from Massachusetts, John Quincy Adams). On November 1, Senator James Jackson of Georgia reported from committee a bill authorizing $11,250,000 for implementing the treaty. It was this authorization, rather than the treaty itself, which caused the intense debate that dominated the Senate during the first session of the Eighth Congress.[10]

The Federalists, long identified with a strong presidency and central government, now argued that President Jefferson had acted unconstitutionally in signing the treaty with France, and that the Senate had no authority to approve the purchase of new territory. In addition they objected to delegating power to the president to determine whether the French government had fully complied with its end of the treaty. Indeed, they had serious doubts that the Spanish government would willingly abandon the city of New Orleans which it had so profitably occupied, French treaty or not. Said Senator Samuel White of Delaware, the treaty would be simply the "buying of France authority to make war upon Spain."[11]

Finally, the Federalists rejected the theory then being advanced that the new land west of the Mississippi could be preserved for the Indian population, which could be induced to leave their lands in the East. "To every man acquainted with the adventurous, roving, and enterprising temper of our people, and with the manner in which our Western country has been settled," said Senator White, "such an idea must be chimerical. The inducements will be so strong that it will be impossible to restrain our citizens from crossing the river."

Of course, White was absolutely correct on that point. However, he went on to warn that those who went west would be separated by "the immense distance of two or three thousand miles from the capital of the Union where they will scarcely ever feel the rays of the General Government; their affection will become alienated."[12] In the light of recent reports about the disaffection of our Western states with the federal government, it would seem that Senator White's prediction in 1803 turned out exactly in reverse. The Western states complain they feel the rays of Government far more strongly than they would like.

In response to these Federalist accusations, the Republicans, who had traditionally supported limited government and reduced executive authority, strongly defended the president's bold move. Although the Constitution did not specify the purchase of territory from foreign governments, Article IV, Section 3 did give Congress power to regulate the territories of the United States, thereby implying the right to obtain such territories. Senator Breckinridge of the then far western state of Kentucky dismissed fears that migration to the West would weaken the loyalty of the pioneers, noting that "the people of the Western states are as sincerely attached to the Confederacy, and to the true principles of the Constitution, as any other quarter of the Union." The vote on authorization of funds was 26 to 5, with John Quincy Adams switching his vote from negative to affirmative on the grounds that having approved the treaty the Senate had an obligation to implement it.[13]

Mr. President, in discussing the repeal of the Judiciary Act and the ratification of the Louisiana Purchase, I have several times mentioned the role of Senator John Breckinridge of Kentucky and it is appropriate to devote some special attention to that remarkable gentleman. We have eighteen new senators in the Ninety-seventh Congress who are learning the rules and procedures of the Senate and are perhaps feeling some of the frustrations that a lack of seniority inevitably causes. I think they might find some interest in the career of John Breckinridge, who became his party's most effective spokesman and legislative leader in the Senate while serving in his first term. Admittedly the party structures were only forming in those days, and seniority was not a significant issue since the standing committees had not yet been organized. Nevertheless, Breckinridge's immediate rise to leadership was a testament of his considerable abilities.

A farmer, a lawyer, and a statesman from Kentucky, John Breckinridge had migrated to that fertile state from a war torn section of Virginia after the American Revolution. Building a magnificent estate near Lexington, and a profitable law practice, Breckinridge was elected to the state legislature. There he helped to write and sponsor the famous Kentucky Resolutions—with the aid of Thomas Jefferson and James Madison—in protest to the Alien Sedition Acts. In 1800, Breckinridge won election to the Senate and arrived here in March 1801, where he quickly became the leading spokesman for the new Jefferson administration and for the new western states. He was eloquent in debate, as the *National Intelligencer* noted in reporting that his opening speech on repeal of the Judiciary Act was noteworthy for its "conciseness, for comprehensiveness, for dignity, for appropriate language, and for sound inference." In 1805 President Jefferson appointed Senator Breckinridge as Attorney General. This, as Breckinridge's biographer, Lowell Harrison, had judged, was a great mistake. Breckinridge was admirably qualified for the job, but his departure from the legislative branch meant that "there was not a senator in the Ninth Congress who was competent to manage a difficult measure for the administration as Breckinridge had done with a much smaller majority behind him . . . Breckinridge's greatest services on the national scene ended the day he left the Senate Chamber for the last time."[14]

Tragically, Breckinridge's life was cut short by typhus fever at the age of 46, just a year after leaving the Senate. Had he lived, he might well have become president, but his family carried on his tradition of public service. Two of his grandsons served as representatives from Kentucky, and one of them, John Cabell Breckinridge, became senator and vice president (under James Buchanan), and later a General in the Confederate Army.

Footnotes at end of article.

Breckinridge's great-grandson, Clifton Rhodes Breckinridge, served as a representative from Arkansas in the 1890's, and more recently, his great-great-grandson, John Bayne Breckinridge, represented Kentucky in the House in the 1970's.

Having opened with the monumental debate over the Louisiana Purchase, the Eighth Congress concluded its business with the impeachment trial of Supreme Court Justice Samuel Chase. Once again the Jeffersonian Republicans sought to influence the courts by removing an eloquent and intemperate Federalist judge. The Republicans had taken heart from the successful impeachment for a Federalist District Judge from New Hampshire, John Pickering, in January 1804. But Pickering, charged with malfeasance, loose morals, and intemperate habits, was clearly insane, and so the political issue was muted. On March 12, 1804, the House of Representatives voted 73 to 32 to impeach Justice Chase, who had been a Revolutionary War leader and a signer of the Declaration of Independence, accusing him of biased conduct on the bench and a partisan (that is, anti-Republican) harangue to a grand jury in Baltimore. Had Chase been successfully removed from the Court solely because of congressional disapproval of his opinions, it was widely believed that Chief Justice Marshall would become the next target.

In the Senate, the Republicans needed 25 of the 34 votes to convict Justice Chase—which was exactly their party's margin over the Federalists. In preparation for the trial, the Senate Chamber was hung with crimson drapery and a special gallery was constructed to accommodate the many ladies of the city who were expected to attend. On February 4, 1805, the trial began, with the erratic John Randolph of Virginia presenting the House's arguments against Chase. Adding to the drama was the appearance of Vice President Aaron Burr to preside over the trial. The previous July, Burr had shot and killed Alexander Hamilton in a duel at Weehauken, New Jersey and had fled warrants for his arrest. He appeared in Washington to preside over the Senate as if nothing had happened. While some were outraged over his behavior, the Republicans received him warmly, with the hope that he would lean to their side while presiding over the Chase trial. But Burr, that great enigma, did "himself, the Senate and the nation honor by the dignified manner in which he . . . presided," according to Senator William Plumer, and his impartiality was praised by both sides.[15]

The impeachment trial filled over 600 pages of the *Annals of Congress* for the Eighth Congress, second session, and it still makes fascinating reading today. On March 1, the trial ended with the Senate failing to convict Chase on a single count. Despite their two-thirds majority, the largest margin the Republicans could muster was a vote of 19 to 15. As I said earlier this year in my remarks welcoming Vice President Bush to this chamber, the Senate exercised, in that fine moment of drama, the kind of independence, impartiality, fairness, and courage that, from time to time over the years, it has brought to bear upon the great issues of our country.

Two days after the Chase trial, Vice President Burr bid adieu to the Senate, stepping down to make way for the new Vice President George Clinton, who had been elected to serve during Jefferson's second term. Burr's farewell speech, we are told by those who heard it, was received with such emotion that the senators were brought to tears and stopped their business for a full half hour. It is truly one of the great speeches in the Senate's history. "This House is a sanctuary, a citadel of law, of order, and of liberty," said Burr that day. "It is here in this exalted refuge, here if anywhere, will resistance be made to the storms of political frenzy and the silent arts of corruption. And if the Constitution be destined ever to perish by the sacrilegious hands of the demagog or the usurper, which God avert, its expiring agonies will be witnessed on this floor."[16] Mr. President, I ask unanimous consent that Aaron Burr's speech—recorded as was the custom in the third person—be printed in full in the RECORD.

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

(See exhibit 1.)

Mr. ROBERT C. BYRD. Mr. President, here, at mid-point in the Jeffersonian era, I should like to make some observations concerning the role of the Senate vis-a-vis the House in those years. In 1804, when New York Congressman Samuel Mitchill was elected to the Senate, he wrote to his wife: "Henceforth you will read little of me in the Gazettes. Senators are less exposed to public view than Representatives. Nor have they near so much hard work and drudgery to perform." As I have mentioned in earlier addresses, the popularly-elected House was far more active than the Senate in those early days and, therefore, drew far more public attention. Sessions in the House generally lasted longer than those in the Senate. And, as Professor Noble Cunningham has pointed out in his study of *The Process of Government Under Jefferson*, House members originated more bills and demanded more roll call votes than did senators. Much of their activity was devoted to originating revenue bills as the Constitution provided. However this did not mean that the Senate was not the "upper body." Movement from one House to the other was consistently from the House to the Senate and rarely in reverse. Samuel Mitchill described himself as no longer a "Representative of the People" but one of the "Senators of the Nation," a member of "the Supreme Executive Council of the Nation."[17]

The Senate had not yet evolved into its "Golden Age of Debate," as it would in the next few decades, and descriptions of its proceedings in those first years in Washington do not sound all that foreign from our proceedings today. Senator William Plumer of New Hampshire wrote to his son in 1806 that "in general by the time a senator has been speaking 10 minutes it is rare that there is a quorum within the Bar—and many of those that are there, are either writing letters or reading newspapers. At the fire side a majority is seated, and often in a private conversation the question under debate is there settled by a free interchange of opinions."[18]

When the Ninth Congress convened in December 1805, foreign policy became the chief concern of the senators. On December 20, Senator George Logan of Pennsylvania, a close friend and ally of President Jefferson, introduced a resolution to suspend commercial trade between the United States and the French island of Santo Domingo, today the Dominican Republic. American merchants had been trading with the black population of that island who were in revolt against France, which was clearly a violation of American neutrality. The Republicans believed such trade would draw the United States into a war with France and proposed ending all trade with the island, a solution vigorously opposed by the Federalists, especially those who represented the trading states of New England. Senator John Quincy Adams expressed his belief that "no needless interference of the Government with the regular course of commercial transactions ought ever to be countenanced." To assist in resolving this controversy, the Senate requested that the president send them all documents, papers, and any other information relative to complaints by the French Government against United States trade with Santo Domingo. Jefferson then provided them with notes from French Foreign Minister Talleyrand and Ambassador Louis Turreau protesting the Santo Domingo trade, and on February 20, the Senate voted 21 to 7 to suspend the trade and preserve American neutrality.[19]

Of course, settling the issue in the case of Santo Domingo did not solve the neutrality problem, which grew much graver during Jefferson's second term. Reading through the *Annals of Congress*, one sees the frequent references to British interference with American shipping. Great Britain, as we recall, was at war with Napoleonic France and the powerful British Navy sought to halt American commerce with France—as, indeed, the French would also have done against trade with Britain, had their Navy been the equal of the British Navy. A particularly noxious side to this interference was the impressment of American seamen into the British Navy. While many of these seamen had once served in the British Navy, they were now American citizens and public sentiment was outraged by their capture. Senator Robert Wright of Maryland pointed to the "present degraded state of impressed American seamen, thousands of whom have been pressed on board the British ships of war, and compelled, by whips and scourges, to work like galley slaves."[20]

On January 25, 1806, the Senate received from Secretary of State James Madison a report on the "unjustifiable British violations" of American neutrality rights. The Senate unanimously re-

Footnotes at end of article.

sponded with a resolution declaring the British actions "an unprovoked aggression upon the property of the citizens of these United States, a violation of their neutrality rights and an encroachment upon their national independence." [21] As a means of punishing Great Britain, the resolution recommended prohibiting the importation of numerous goods manufactured in Great Britain, ranging from woolens and linens, to mirrors, boots, shoes, and rum. This eventually became the Non-Importation Act of 1806, enacted that April, the first step on the road to Jefferson's Embargo. The Federalists argued that the president and Senate had no such right to interfere with United States trade, but they fought a losing battle.

The Non-Importation Act was due to go into effect by December 14, 1807, but long before then, it was clear that it would not influence British policy, which if anything was becoming even more aggressive and restrictive. On December 18, Jefferson sent Congress a warning about the "increasing dangers with which our vessels, our seamen, and merchandise, are threatened on the high seas" and recommended a complete embargo on all United States overseas trade. The overwhelmingly Republican Senate suspended its rules and passed the measure that same day, 22 to 6.[22] During the next few months, however, evidence became unmistakable that American smugglers were successfully circumventing the Embargo Act, particularly by carrying goods across the Canadian border, and so the Embargo had little effect on the British economy. On the contrary, it was having its most adverse effect on the old, predominantly Federalist, merchant class in New England and New York, whose normal foreign trade had been officially severed.

Thus, when the Tenth Congress convened in November 1808, the Embargo was the subject of bitter debate. Senator James Hillhouse of Connecticut complained that the Republican notion that a cut-off of American food products would starve Britain was "a farce, an idle farce." Instead of affecting the nations that had violated American neutral rights, Hillhouse charged that it was "fraught with evils and privations to the people of the United States. They were the sufferers."

It reminds one of the recently imposed and subsequently lifted embargo on grain to the Soviet Union. There were those who said that the American farmers—not the Soviet Union—were the sufferers.

The Republicans conceded the weaknesses of the Embargo but argued that its alternatives were submission or war. The Senate then debated the Enforcement of the Embargo Act, which on December 21 passed by a vote of 20 to 7. These enforcement provisions established stern penalties for violations of the Embargo, a highly unpopular move in mercantile New England, where the Federalists made strong gains in local and congressional elections. Outcry was so great that by February 22, the Senate voted 21 to 12 to repeal the Embargo and to pass in its stead the Non-Intercourse Act, reopening all sea trade except with England and France.[23] Thomas Jefferson admitted defeat on his controversial Embargo, but to his dying day maintained that the measure would have worked had it been given sufficient time.[24] Time, however, had run out for Jefferson, and on Saturday, March 4, 1809, the Senate of the Tenth Congress returned in extra session to witness the inauguration of his successor, James Madison.

In telling the story of the Senate during the Jeffersonian era, it is fitting to conclude with the mysterious figure with whom we began: Aaron Burr. In these eight years, Burr contested with Jefferson for the presidency, served as vice president, shot Alexander Hamilton, and then was tried for treasonous conspiracy. After leaving the vice presidency, Burr first tried to persuade President Jefferson to appoint him to a high government post. Failing that, he headed west to rebuild his personal and political fortunes. Soon rumors began drifting east to Washington that Burr was seeking to separate the new western territories to create an independent state, with himself as its ruler. It was said that he was plotting with the British and the Spanish, and with the American military governor of Louisiana, James Wilkinson.

Undercover agents pursued Burr and collected evidence against him. On January 22, 1807, Jefferson sent a remarkable message to the Senate warning its members of Burr's activities.[25] The next month, Burr surrendered to authorities in Mississippi, and a trial was set for him in the federal circuit court in Richmond, Virginia. Presiding over this trial was Jefferson's other nemesis, Chief Justice John Marshall. Burr's trial lasted from August 3 to September 1, and resulted in his acquittal. Shortly afterward, Aaron Burr went into exile in Europe. Dissatisfied with the results of the trial, President Jefferson sent Congress the transcripts to examine for possible defects in the law, to protect the nation from treason. But Congress was preoccupied with the Embargo and offered no resolution to the problem. The transcripts of that dramatic trial are preserved for us today in the *Annals of Congress*, Tenth Congress, first session.

The Senate remained aloof from the Burr trial, but could not ignore the involvement of one of its own members, Senator John Smith of Ohio, who was indicted for conspiracy along with Burr. Smith was accused of having entered into the conspiracy in 1804, when President Jefferson had sent him on a special mission to Louisiana and Florida. A special Senate committee, chaired by John Quincy Adams, reported on December 31, 1807, a resolution "That John Smith, a Senator from the State of Ohio, by his participation in the conspiracy of Aaron Burr against the *peace, union,* and liberties, of the United States, has been guilty of conduct incompatible with his duty and station as a Senator of the United States. And that he be therefore, and hereby is, expelled from the Senate of the United States." Smith responded with a 96-page defense of his actions.[26]

Now, when Burr had been acquitted, the government had dropped charges against Senator Smith, but the Republican members of the Senate felt the evidence against him warranted pursuing the case, even though he was a member of their own party. Smith denied all the charges of conspiracy, that he had no desire to separate off the western territories or participate in a military rebellion against the government. His only fault, he insisted, was in opening his doors hospitably to Aaron Burr. Senator James Bayard of Delaware led much of Smith's defense in the Senate, which was particularly crucial to the case, since Bayard, as a member of the House, had been one of the managers of the impeachment proceedings against Senator William Blount, who was expelled in 1797, a case which provided most of the precedents for the Smith proceedings. Bayard fully believed that Burr had conspired against the country, adding that "scarcely a man in the United States doubts it." Yet he would find no evidence to substantiate the charges against Smith.[27] It is indeed a painful task for members of the Senate to try one of their colleagues for possible censure or expulsion, and the Senate debate moved slowly and deliberately from December through the following April, filling page after page of the *Annals*. At last, on Saturday, April 9, 1808, the Senate voted 18 to 10 to expel Smith. However, this was less than the necessary two-thirds margin, several Republicans having found it impossible to vote against their colleague. The matter was settled later that month when Smith resigned from the Senate at the urging of the Ohio legislature.[28]

Mr. President, the events in the history of the United States Senate between 1800 and 1808 were certainly dramatic and crowded ones.[29] These events were faced by a Senate of thirty-four members representing seventeen states. Yet, in the eight years I have been discussing, there were eighty-four different senators serving in this body. Only three senators served consistently from the Seventh to the Tenth Congresses: James Hillhouse of Connecticut, Samuel White of Delaware, and Jesse Franklin of North Carolina.

One of the chief reasons for this high turnover was the change in party structure in the United States, as the Republican party became the predominant party and the Federalist party began to fade from the scene. The Senate in the Jeffersonian era was also growing younger, with the average age of senators falling from 44.4 years in 1800 to 40.6 in 1810. This, in fact, is the lowest average age in the history of the Senate. (For the Ninety-seventh Congress, the average age of senators is 52.5 years.)

The youngest member of the Senate in this era was an ambitious politician named Henry Clay from Kentucky, of whom I will have considerable more to say in later addresses. Clay was elected by the Kentucky legislature to fill a vacancy in November 1806 and took his oath on December 29, 1806, when he was twenty-nine years, eight months, and

Footnotes at end of article.

seventeen days old, a little over three months younger than the constitutionally-provided thirty years of minimum age for a senator. The *Annals of Congress* do not show anyone challenging Clay for his unconstitutional act, although legend has it that when asked by a fellow senator he responded: "I hope my colleague will propound that question to my constituents," and let the matter drop there.[30] Clay filled out the remainder of the term until March 3, 1807, when he left the Senate, still a month shy of his thirtieth birthday. He served another partial term from 1810 to 1811, but his major service in the Senate did not begin until 1831 and then continued intermittently until his death in 1852.

These young senators served a young nation—whose median age was only sixteen years old. But it was a growing nation in size and population. Between the censuses of 1800 and 1810 the population of the United States increased 36 percent, from 5.3 million to 7.2 million; while the physical size of the nation doubled from 865,000 square miles to 1,682,000 square miles, as a result of the addition of the Louisiana Purchase. With a doubling of the land area the number of people per square mile declined from 6.1 to 4.3. This statistic illustrates graphically that the United States was predominently a rural, agricultural nation. Only half a million Americans lived n cities and town with populations over 2,500 back in 1810, while 6.7 million lived in areas with less than 2,500 people. It was to this rural, agricultural, westwardly moving population that the Jeffersonian Republicans appealed and why the party prospered to the point of wiping out the very existence of its opposition. In just a few short years the United States would move into a unique era of single party politics, which we refer to rather wistfully as "the Era of Good Feelings." The truth, as usual, was more complex—as I will be discussing in a future address on the history of the United States Senate.

NOTES TO "THE SENATE IN THE JEFFERSONIAN ERA, 1880–1808"

[1] Noble E. Cunningham, Jr., "Election of 1800," in Arthur M. Schlesinger, Jr. and Fred L. Israel, eds., *History of American Presidential Elections, 1789–1968* (New York: McGraw-Hill, 1971), Vol. I, 108.

[2] *Ibid.*, 131–132.

[3] *Annals of the Debates and Proceedings in the Congress of the United States*, 6th Congress, 2d session, 763–766.

[4] *Annals of Congress*, 7th Congress, 1st session, 11–16.

[5] *Ibid.*, 147.

[6] *Ibid*, 148–150.

[7] Herbert S. Parmet and Marie B. Hecht, *Aaron Burr: Portrait of an Ambitious Man* (New York: Macmillan, 1967), 179.

[8] *Annals of Congress*, 7th Congress, 2d session, 34–50.

[9] *Ibid.*, 83–89, 91–98.

[10] *Annals of Congress*, 8th Congress, 1st session, 26, 29.

[11] *Ibid.*, 31–35.

[12] *Ibid.*, 34.

[13] *Ibid.*, 65, 73

[14] Lowell H. Harrison, *John Breckinridge, Jeffersonian Republican* (Louisville, Kentucky: The Filson Club, 1969), 118.

[15] Everett Somerville Brown, *William Plumer's Memorandum of Proceedings in the United States Senate, 1803–1807* (New York: Macmillan, 1923), 310.

[16] *Annals of Congress*, 8th Congress, 2d session, 71–72.

[17] Noble E. Cunningham, *The Process of Government Under Jefferson* (Princeton, New Jersey: Princeton University Press, 1978), 261–2.

[18] *Ibid.*, 269.

[19] *Annals of Congress*, 9th Congress, 1st session, 30.

[20] *Ibid.*, 58.

[21] *Ibid.*, 90–91.

[22] *Annals of Congress*, 10th Congress, 1st session, 50–51.

[23] *Annals of Congress*, 10th Congress, 2nd session, 298, 436.

[24] Merrill D. Peterson, *Thomas Jefferson and the New Nation: A Biography* (New York: Oxford University Press, 1970), 916.

[25] *Annals of Congress*, 9th Congress, 2nd session, 39–43.

[26] *Annals of Congress*, 10th Congress, 1st session, 55–62.

[27] *Ibid.*, 71–72.

[28] *Ibid.*, 324–331. The story is also told in the diary of John Quincy Adams. See Charles Francis Adams, ed., *Memoirs of John Quincy Adams, Comprising Portions of His Diary From 1795 to 1848* (Freeport, New York: Books for Libraries Press, 1969), Vol. I, 485–529.

[29] For those interested in pursuing the events of this period in greater detail I highly recommend the doctoral dissertation or Alex B. Lacy, Jr., "Jefferson and Congress: Congressional Method and Politics, 1801–1809" (University of Virginia, 1963), which regrettably remains unpublished.

[30] *Washington Star*, November 30, 1925.

EXHIBIT 1

BURR'S ADDRESS

The Vice President took an affectionate leave of the Senate, in substance as follows:

"Mr. BURR began by saying that he had intended to pass the day with them, but the increase of a slight indisposition (sore throat) had determined him then to take leave of them. He touched lightly on some of the rules and orders of the House, and recommended, in one or two points, alterations, of which he briefly explained the reasons and principles.

"He said he was sensible he must at times have wounded the feelings of individual members. He had ever avoided entering into explanations at the time, because a moment of irritation was not a moment for explanation; because his position (being in the chair) rendered it impossible to enter into explanations without obvious danger of consequences which might hazard the dignity of the Senate, or prove disagreeable and injurious in more than one point of view; that he had, therefore, preferred to leave to their reflections his justification; that, on his part, he had no injuries to complain of; if any had been done or attempted, he was ignorant of the authors; and if he had ever heard, he had forgotten, for, he thanked God, he had no memory for injuries.

"He doubted not but that they had found occasion to observe, that to be prompt was not therefore to be precipitate; and that to act without delay was not always to act without reflection; that error was often to be preferred to indecision; that his errors, whatever they might have been, were those of rule and principle, and not of caprice; that it could not be deemed arrogance in him to say that, in his official conduct, he had known no party, no cause, no friend; that if, in the opinion of any, the discipline which had been established approached to rigor, they would at least admit that it was uniform and indiscriminate.

"He further remarked, that the ignorant and unthinking affected to treat as unnecessary and fastidious a rigid attention to rules and decorum; but he thought nothing trivial which touched, however remotely, the dignity of that body; and he appealed to their experience for the justice of this sentiment, and urged them in language the most impressive, and in a manner the most commanding, to avoid the smallest relaxation of the habits which he had endeavored to inculcate and establish.

"But he challenged their attention to considerations more momentous than any which regarded merely their personal honor and character—the preservation of law, of liberty, and the Constitution. This House, said he, is a sanctuary; a citadel of law, of order, and of liberty; and it is here—it is here, in the exalted refuge; here, if anywhere, will resistance be made to the storms of political phrensy and the silent arts of corruption; and if the Constitution be destined ever to perish by the sacrilegious hands of the demagogue or the usurper, which God avert, its expiring agonies will be witnessed on this floor.

"He then adverted to those affecting sentiments which attended a final separation—a dissolution, perhaps forever, of those associations which he hoped had been mutually satisfactory. He consoled himself, however, and them, with the reflection, that, though they separated, they would be engaged in the common cause of disseminating principles of freedom and social order. He should always regard the proceedings of that body with interest and with solicitude. He should feel for their honor and the national honor so intimately connected with it, and took his leave with expressions of personal respect, and with prayers, and wishes," &c.

ORDER OF PROCEDURE

Mr. ROBERT C. BYRD. Mr. President, if the distinguished acting majority leader would like to utilize my remaining time, I will be glad to yield.

Mr. STEVENS. I thank the Senator.

Mr. ROBERT C. BYRD. Mr. President, I yield my remaining time under the standing order to the acting majority leader.

ORDER FOR RECOGNITION OF SENATOR FORD

Mr. STEVENS. Mr. President, I ask unanimous consent that Senator FORD be permitted a special order for 15 minutes following the time under the control of the distinguished Senator from Arizona today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I yield control of the acting majority leader's time, and the time that the distinguished Senator from West Virginia has so graciously yielded to us, to my good friend from Arizona.

TRIBUTES TO SENATOR JOHN TOWER ON 20 YEARS OF SENATE SERVICE

The ACTING PRESIDENT pro tempore. The Senator from Arizona is recognized.

Mr. GOLDWATER. Mr. President, before beginning my remarks, I submit a statement on behalf of our distinguished majority leader (Mr. BAKER).

© Mr. BAKER. Mr. President, I would like to join my colleagues in taking note of this day of special significance in the rich history of the U.S. Senate and memorable accomplishment in the life and

career of our most distinguished colleague from Texas (Senator TOWER).

As has been duly noted, this day marks the 20th anniversary of JOHN TOWER's diligent service and dedicated leadership in this body. I commend Senator TOWER and I congratulate him.

I am especially delighted that the occasion of Senator TOWER's 20th anniversary in the Senate comes at a time of unparalleled accomplishment by him. As the chairman of the Senate's Committee on Armed Services, JOHN TOWER is rendering this body and this Nation great service and leadership in an arena of acute importance not only to America, but to all of the free world. Throughout his 20 years in the Senate, JOHN TOWER has recognized and advocated the most sound and prudent principle that genuine and longstanding peace throughout the world can come only through genuine and long-standing power to resist aggression. And as Senator TOWER now enters his third decade in this body, we are fortunate that he is in a position whereby he can contribute mightily to our ability to secure that long-standing peace.

But if I might, Mr. President, I would like to spend just a few moments exploring perhaps a more partisan, but a nonetheless relevant and important aspect of JOHN TOWER's service in the Senate.

When first elected to this body on May 27, 1961, JOHN TOWER became the first Republican elected to the U.S. Senate from the 11 States which had formed the Confederacy since the time of Reconstruction. That in itself was a remarkable accomplishment. But it was merely a harbinger of things to come.

As one examines the composition of the Senate today, 20 years later, one can see easily the magnitude of what JOHN TOWER began—myself from Tennessee; Senator COCHRAN from Mississippi; Senator DENTON from Alabama; Senator MATTINGLY from Georgia; Senator HAWKINS from Florida; Senator THURMOND from South Carolina; Senator WARNER from Virginia; Senators HELMS and EAST from North Carolina.

It has been a remarkable Republican wave that has swept through our beloved South. And at its crest has been JOHN TOWER, of Texas. As a Southern Republican and as the Republican leader of this Senate, I want to express my appreciation to Senator TOWER for the course he charted for those of us fortunate to follow him. And I am certain I say that for my other Republican colleagues from the South, as well.

However, so that this is not a wholly somber—and therefore inappropriate dissertation on JOHN TOWER—allow me to extend for just a moment longer my remarks in this regard. Although Senator TOWER inexplicably refuses to acknowledge the point, most historians of note concur that there may well have not been a Texas at all were it not for a handful of Tennessee Volunteers at the Alamo. I have raised this point judiciously with Senator TOWER throughout the years, on each occasion prompting this response: "HOWARD, if there hadn't been a Texas, I would've invented one!"

What frightens me, Mr. President, is that I think he means it.

Seriously, to my dear friend and colleague, I offer my congratulations, my appreciation and my best wishes for 20 more years of distinguished service to the people of Tennessee's favorite annex—the great State of Texas.●

Mr. GOLDWATER. Mr. President, in my 24 years serving as a Senator from my State of Arizona, it has been my privilege and pleasure to have campaigned for literally dozens of men and some women running for office from the Republican Party, offices at the State level, the local level, but principally at the national level.

People have often asked me what I consider to be my crowning contribution to the Republican effort in that field, and I have to say that one person stands out particularly. His name is Senator JOHN TOWER, of Texas.

It was just 20 years ago when JOHN GOODWIN TOWER, a political science professor, was elected to the U.S. Senate in a special election, to become the first Republican U.S. Senator from the State of Texas in this century.

JOHN TOWER first ran for political office in the 1954 State legislature election. He gained high recognition in 1960 as the "little professor" running against Lyndon Johnson, who was running for Vice President and the Senate at the same time.

JOHN TOWER lost. But when a special election was held in 1961 to fill the vacancy left when Johnson was elected Vice President, JOHN TOWER ran again and won.

It is reported that when Senator TOWER was campaigning in one of his early political efforts, he was flying in a single-engine plane and had to land on a highway when the aircraft ran out of fuel.

Mr. President, I can vouch for that.

It is well known that Senator TOWER left his job as a political science professor at Midwestern University to enter politics. It is not so well known that he left a budding career as a radio broadcaster at KTAE in Taylor, Tex., where he read the news.

Nor is it often told that after Senator TOWER had enlisted in the Navy at 17 and was the only Texan assigned to his Navy ship, he took to wearing his cowboy boots on board. Rumor has it that Senator TOWER got tossed overboard and those boots are still lying at the bottom of the ocean.

Throughout his Senate career, Senator TOWER has stressed the importance of meeting America's defense needs. A summary of his activities on the Armed Services Committee is attached. He recently told a reporter one of his most satisfying accomplishments was his successful work in helping to steer through congressional approval of the antiballistic missile system in 1969 by a single vote majority.

In an initiative designed to bring greater understanding to the congressional budget process, Senator TOWER, on March 25, 1980, submitted to the Senate Budget Committee his detailed recommendations for increased defense spending. He called for a basic increase of $6.4 billion to protect the President's request against faulty economic assumptions such as underestimates of inflation and fuel costs. Furthermore, he insisted that an additional $2 billion be made available for military compensation, including a lifting of the military pay cap. Added to these basic adjustments, Senator TOWER presented three funding options for the next fiscal year to enhance our Armed Forces, ranging in cost from $7 billion to $23 billion, each option taking us further toward the U.S. force posture which would be necessary to support official U.S. national security strategy. Senator TOWER's ability to identify in detail the relationship between levels of defense spending and the ability of our Nation to fulfill its national defense commitments played an important role in the increased defense spending authorized by the Congress during the last year.

Having made room in the defense budget for lifting the military pay cap, it was Senator TOWER himself who introduced the amendment in the Senate Armed Services Committee which ultimately led to the 11.7 percent pay increase for military personnel.

Senator TOWER has always understood the importance to our national security of the men and women who serve in uniform. In recent years, he has sponsored legislation to correct deficiencies in the retired servicemen's family protection plan and was the author of the provision in law whereby active duty personnel who choose to retire at a date after they first become eligible will not suffer a pay cut for their patriotism.

Mr. President, I could go on at great length concerning Senator TOWER and his great contributions to the Senate, to his State of Texas, and to our country, but I know there are others who want to address this subject. It is more than just a relationship of Senator to Senator that I have always enjoyed. Senator TOWER happens to be the godfather of one of my grandchildren. I hope that that grandchild can grow up to resemble the Senator in many ways. I am not going to go into detail, because it might embarrass the Senator. I do not intend to do that. But I have enjoyed these years with him, enjoyed working with him on the Committee on Armed Services, enjoyed working under him as one of the leaders of our party here, on the floor. All I can say is that I pray for him and my country that he will have many, many more years of service to give us.

Mr. President, I ask unanimous consent that two articles appearing in recent newspapers—one is entitled "His Name is Tower and How He Does It," and the other is entitled "Prime Time for John Tower"—be printed at this point in my remarks.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

PRIME TIME FOR JOHN TOWER

(By Laurence Jolidon)

"When I was a boy, I used to sit at the foot of my grandfather for hours. He was an old unreconstructed rebel raised in Louisiana during Reconstruction. I was tremendously influenced by him."—John Tower, when asked why he was a conservative during his 1961 campaign for the U.S. Senate.

In 1925, Doucette was a thriving lumber mill town of several thousand souls, a buzzsaw in the sawdust heaven of East Texas timber country. There was a company store, a private store and a community church where mill workers of all denominations and sinners of every stripe were welcome. The preacher then was the Rev. Joe Z. Tower, a stern, earthy country person who could summon the Lord, stare down the devil and prescribe for a fever with great conviction and persuasion. He was a Methodist minister by both training and family tradition and an ex-Navy corpsman who had acquired a pharmacist's certificate after peace was declared.

Doucette is where John Goodwin Tower was all but born that year, the place he would have been born if not for the natural, maternal caution of the Rev. Tower's wife. In late September 1925, when the whole country was in a hot lather over the coming court-martial of Capt. Billy Mitchell and Mrs. Tower knew she was about to give birth, she had her husband take her into Houston so the child could be delivered at a hospital. There was no hospital in Doucette, she recalled recently, "and we weren't too sure about the mill doctor."

The Towers later moved to Houston for a brief period, but for the first dozen or so years after John was born, they lived mostly in a succession of East Texas towns—Jacksonville, Alvin, Tyler—where the Rev. Tower took his healing messages to Methodists and others.

Three years after John was born, the Towers had a baby girl, Beryl Joe. Mrs. Tower devoted all her time and energy to her husband and children. "I never did get bored at home," she says of those early years. "I always wonder about these women who write to these counselors that they don't know what they're going to do, they're so bored staying home with an 18-month-old child. I wasn't bored with John. I taught him something every day, and that made it a very interesting business."

Mrs. Tower is 82 and has been a widow since 1970. She lives in a log-cabin-style house she and her husband built as a summer home in 1934 and retired to in 1965. The Rev. Tower used the straightest cedar logs he could split and strip and his World War I veteran's bonus to build the place and, with the exception of patched roof, it has stood firm and dry since the day it was done.

The house sits on a 777-acre farm between Atlanta and Douglassville. Mrs. Tower rents a few hundred acres to cattle-owners for pasture. The rest is timber. At Christmastime every year, and some years more often, John Tower comes back to this farm to visit his mother. Usually, it is a very private, peaceful, reflective time, a chance for him to listen to the pine needles crackle underfoot and let boyhood memories of summers spent there with his family and friends, among the loblolly pines, drift back.

A few days before Christmas 1980, John Tower came back once again, but under slightly different circumstances. He was accompanied by a West German television crew that had been assigned to film a feature of the new Senate Armed Services Committee chairman. The NATO countries, it appears, have developed a keen curiosity about the newly powerful Republican senator and his geopolitical roots in East Texas.

So on a crisp winter morning, the senator, the television crew and another visitor or two arrived at the farm. While field producer Thia Rosenbaum, a tall blonde in brown leather jacket and denim jeans, marched with Tower and her three-man crew into the woods and toward one of Mrs. Tower's leased-out pastures, in hopes of finding a bovine background for some shots of the senator, Mrs. Tower talked to the other visitors about bringing up John. "We didn't try to influence him to follow his father and grandfathers into the ministry. We brought our children up to do their thing, whatever it was, as long as it was decent."

When she wasn't allowed to enroll him in first grade in the Jacksonville schools because his birthday, Sept. 29, fell after the Sept. 1 cutoff for admission, "John cried, because he wanted to go to school. I said, 'Don't worry, John, we'll have school at home.' So every morning, from 9 until 11, we had school. And when we entered him in second grade the next year, he was ahead of his classmates. Which made him a problem, because he knew what it was all about and he amused himself, and most of the students."

His mother saw that he took piano lessons, but the lure of the football was strong. Eventually, he abandoned his piano lessons to have time for football practices and became manager of the school team in Tyler. "His daddy said when he became manager—he was always small, John was—that means he's the waterboy." But there were other lessons that could be taught at home. "I've always said the mother can teach any child if she'll set in and do it," says Mrs. Tower, "but a doctor told me I was wrong, that it takes certain brain convolutions to be ready. There had to be some brilliance there in John, I think".

She "watched his voice," she remembers. "He has a splendid voice. But children have a tendency to pitch their voices wrong, you know. I watched that. I'd say, 'Here John, you don't want to talk like that, run the scale with me.' He didn't resent it. We just made a game of it. And I worked on his posture some. I don't think there's any reason to let a child get into bad habits. It's easier to teach them what we do to start with, when they're very young."

While the voice of John Tower was being trained for the lectern, the Sunday school class and the U.S. Senate chamber, while the spine of John Tower was being encouraged to remain straight as a rod, straight as a minister's finger pointed at the wrong, John Tower's mind was working on the history of Texas and the South.

"I have a picture of him in his Navy outfit and cowboy boots," says Mrs. Tower with a smile. "The cowboy boots are very evident. He was very much the Texan. And he fought the Civil War right on through World War II'" Both of John Tower's grandfathers—C. A. Tower and John W. Goodwin—were Confederate army veterans who laid down their rifles and took up the scripture, circuit riders of the old school who believed in the correctness of the Confederate cause and of Methodist doctrine.

The Rev. C. A. Tower lived in San Augustine and John spent some summers there. When he was old enough, he also worked behind the soda fountain at Rushing's Drugstore in San Augustine, an ice cream parlor owned by "Uncle Ace"—Asa Rushing. It was there in San Augustine that the Towers became acquainted with a man who in the 1970s would startle his fellow Democrats by announcing his support for Republican Tower's reelection: Ed Clark, former ambassador to Australia during the Johnson administration. But to those who knew where the roots were buried in East Texas, it made more sense than most things do these days.

When John was nine, his parents decided to build the summer place in Cass County. His father named it "The Anchorage," as befitting the haven of an old sailor, and erected a sign with that on it at the entrance.

John and his sister, cousins and friends went there to ride horses, eat watermelons and, of course, learn. "I wanted my children to grow up knowing something about the country," says Mrs. Tower. "I said my children aren't going to be city children who don't know anything about the country, because the country is basic."

As for politics, Mrs. Tower says, "We came up Democrats, of course, our part of the country. I was the first member of the family, as far as I know, to vote for a Republican. The year I was 21, my first vote was for the Republican candidate for governor. I can't remember his name, but I had been reading what he said he thought ought to be done and I liked what he said."

The Rev. C. A. Tower, who his grandson would later describe as "an unreconstructed rebel from Louisiana," supplemented his meager church income by learning the surveying trade and hiring out to settle boundary disputes. But the never-settled issues of southern obedience and obedience to the scriptures were his strongest passions. When the Rev. C. A. Tower died in San Augustine in 1941, John Tower's other grandfather, the Rev. John Goodwin, wrote a memorial published in that year's Methodist conference annual that began:

"Brother Tower was a great preacher. It has been said that he could take a text and entering at once into the heart of it, preach a logical, scriptural and interesting sermon without unnecessary preliminaries, digressions or conclusions that were not well within the text, as few of his contemporaries could."

If a future U.S. senator ever needed a grandfather to take after, John Tower, it would seem, had one for all time.

"John, the mighty mite of BHS, wishes to take up international law, and his hobby is Texas history. He is also fond of baseball and blondes. After he finishes high school, John (you'd never know he was a preacher's son) will carry himself and his antics to SMU."—from the senior yearbook, class of 1942, Beaumont High School.

Dr. B. L. "Buddy" Payne is a podiatrist in Austin. He was graduated from Beaumont High School in 1942 and his annual for that year bears this penned inscription from a classmate: "Although you are often unwise, you are a swell guy. I wish you luck in your love affairs, pal." The note is signed "Tower."

Dr. Pat Blair is a professor in the school of business administration at the University of Texas at Austin. David Switzer is a Methodist clergyman who teaches at the Perkins School of Theology at Southern Methodist University. Tower, Payne, Blair and Switzer have been friends "from the seventh grade on," when they lived within a few blocks of each other in a south-central Beaumont neighborhood that included the First Methodist Church and parsonage.

"We were a very close-knit bunch," says Blair, and have stayed in touch over the years, during the war and afterward, through letters and periodic get-togethers.

"If you check into it," says Payne, "you'll find many of us are still in contact. It was a very unique high school class, the class of '42."

One of Payne's most vivid memories of the class of '42 and the small circle of friends that included Tower was the afternoon when he and John ("We had a nickname for him but I don't want to tell you") got into a "real heated argument and he challenged me to a fight." Asked what the argument was over, Payne says drolly, "probably a girl. What else? Actually, there wasn't much fight to it."

Switzer had saved enough money one summer to buy a Model A, two-door sedan, and every day the group of boys and a "couple of girls" from the same neighborhood around Park Street and Railroad Avenue would ride back and forth to school in Switzer's snazzy car. The car, Payne recalls, was named "Spitfire," because it was always doing just that.

The argument between Payne and Tower "got pretty loud and boisterous in the back seat," says Payne, "so David stopped the car and we got out and got after it. John took a

couple of swings, but I kept backing up and before long, David jumped on top of John and broke it up." The next day, the car pool was back in action as though nothing had happened.

"Everybody liked John," says Payne, "but you know being a minister's son had its handicaps, especially back in those days. He had two handicaps, really. His size, naturally, and being a minister's son. But I think he carried the burden very well."

Blair, who last saw Tower two years ago, right after his most recent re-election victory when he stopped in Austin and called a few old friends to get together for a chat, says Tower was "one of those guys who was a very good student in what he liked, and a very poor student in what he didn't. In things like math and Latin, he really did rather poorly. And chemistry. I know because among other things I tutored him in math one summer up on his family's farm.

"But in political science and history and English, he did very well. And he had another side, too. He was kind of the Mark Twain version of the preacher's son."

Tower's sister, who lives in Houston, says it was kind of tough following John at Beaumont High because "he was always well-known . . . a bit of a clown in high school."

"John had some of the rebel in him," says Switzer, "and like a lot of us, if everybody knew everything we did, we wouldn't come off looking so good." But the Methodist parsonage was not as calm and quiet as the public library, thanks to John Tower. "There was a lot of life in that household," says Switzer.

Tower took roles in school plays, an activity that would keep him interested through college and even later. But his main interest, his family and close friends all agree, was history and the Civil War. "A lot of our going to and from school in my car," says Switzer, "was a reciting of battles of the Civil War, with John's taking the South's position."

Says Blair, "John was always fighting the Civil War over and over again. He was one of those guys who sort of romantically felt that the wrong side had won the war."

While Tower was preoccupied with history and the shortchanging of the South, the call of the ministry was tugging—not at him, but at his friend Switzer. But it was all due to the minister at the Methodist church.

"I had gone through seven grades of school and had always gone to Sunday school and church," says Switzer, "and Joe Z. Tower was the first human being I ever saw in the pulpit of our church. He was so courageous and so earthy-talking, even to the point of offense to some people. He knew what life was all about, he really tied into things, and spoke in a very clear, understandable way about things that were important. In some ways, I found John the same way. Frankly, John and I do not agree on the majority of our positions. On the other hand, I've heard him speak in public and field questions, and there's never—or seldom—any doubt as to where he stands."

There wasn't much doubt about what the near future held for the able-bodied young scholars and practical jokers of the class of '42, either, thanks to Pearl Harbor. Pat Blair went directly from commencement to the Seabees. Tower enlisted in the Navy and Switzer in the Marines, but they were too young to qualify for active duty immediately.

So they both entered Southwestern University in Georgetown and became roommates for a year. "As far as I know," says Switzer, Tower is "the only college freshman who read Marx's Das Kapital just because he wanted to, while the rest of us were doing our algebra and stuff like that because it was assigned. John did well in what he was interested in and didn't fool around too much with what he wasn't interested in. Therefore, he would make some very good grades and some very poor grades."

In a few short months, though, grades were of no importance whatsoever. There was a war to fight.

"I saw those creeps moralizing on how they would consider nothing less than unconditional amnesty . . . they can go to hell."—Sen. John Tower, responding to the appearance on television of U.S. military deserters, 1974.

The German television crew returns to the cabin on the hill with their camera, the senator, and looks of disappointment. The cows in the pasture refused to cooperate, and wouldn't stay within camera range.

But producer Rosenbaum, with Teutonic determination, has devised another shot. To catch the informal nature of the senator's visit, he is to back his car down the hill, away from the house, and then drive back and run up to his mother as though he had just arrived. Tower goes into the cabin to get his mother.

"You're about to become a German television star," he tells her. "After they see you, they'll throw rocks at Marlene Dietrich." Mrs. Tower laughs. The senator explains the skit. "They want you to come out; I'm going to drive up and spring from the car. You're going to welcome the prodigal son home."

Mrs. Tower laughs again. "Don't run into any of my trees."

While the television crew is setting up, Tower takes a photograph from the cedar mantel and shows it to his visitors. The photo is of a woman in a high-necked, lace-collar dress, with grayish hair and a stern gaze. "This is Charlie," he says. "My grandmother Goodwin. Mean as hell. Had the mentality of a drill sergeant."

Charlie, the visitor observes, is an odd name for a woman. "The name Charlie?" says Mrs. Tower. "Yes, she hated it. Of course, most women would have changed it. She kept it and hated it."

The German television crew announces it is ready to shoot. Tower climbs into his rental car, backs down the hill and drives slowly back to the house as his mother opens the front door of the cabin and walks outside. Tower stops the car, jumps out and trots briskly around it and embraces her. The Towers turn expectantly toward the producer, but she is still wearing a look of disappointment.

Pointing to a crewman hidden behind a nearby tree with a microphone, she says, "Have to do it over. You forgot to turn off the motor in the car and we cannot hear your mother."

Tower is a study in patience as he gets back in the car and re-enacts the scene. The German television crew signals a successful shot and begins to pack up its equipment.

Since only the producer speaks English, the German crew may not have appreciated that they were dealing with an unpaid actor, but not an inexperienced one.

Of all the roles he played in school and afterward, when he helped organize the community theater in Wichita Falls, Tower says his favorite was the prosecutor in the Caine Mutiny court-martial. Theirs was the first amateur production permitted in the U.S., he says.

As for his own record in the Navy, Tower says, he never had to sample military discipline, "not even a captain's mast." He served for three years aboard a landing craft support ship in the Western Pacific, where some days the kamikaze planes seemed as thick as bees in the summer.

Then it was home, and a discharge.

"John caught hell" during the war, says Payne. "He was on one of those picket boats out there and they were shooting down kamikazes. He had a belly full of that. We all were 22, 23 years old, with no background except how to fight. You get out of an experience like that you're expected to pick up your life and put it back together. It was confusing."

"We have no militaristic tradition, although we have a tradition of military capability. I think you have to distinguish between the two. The reason that we have deteriorated in terms of military capability vis a vis that of the Soviet Union has been the result of political decisions. It's not the military's fault."—Sen. Tower, in an interview at his mother's farm, December 1980.

When her son came back from the war, Mrs. Tower recalls, he "had gotten so quiet it worried us," but he went back to Southwestern and finished up his bachelor's degree, graduating in 1948. He worked as a radio announcer in Beaumont and Taylor, then spent a year as an insurance agent in Dallas before entering a graduate program in political science at SMU.

There was a turmoil, the "period of adjustment" most veterans experienced in some form or other, and it gnawed at John Tower as it did the rest. While he was doing graduate work, he even gave serious consideration to the ministry, a field he had shunned in the past. But it would have been a different ministry from his father's and grandfather's had he chosen it. He had become intellectually drawn to a faculty member who was an Episcopalian, and Tower says he thought for a time he should study to enter the Episcopalian priesthood.

But the urge passed, and with his master's degree in political science, he gained a job on the faculty at a small college in Wichita Falls, where his family had moved while he was away in the service. It was there he married into a family active in Republican politics and, after nine years of teaching at Midwestern University, he gained enough of a political foothold to work his way into the race to fill Lyndon Johnson's vacated seat in the Senate.

But all that time, and since then to this day, his fortunes have remained of interest to the class of '42, Beaumont High, particularly the "close-knit bunch" that traveled back and forth to school in Dave Switzer's Model A.

"Being the first Republican senator from Texas since Reconstruction," says Pat Blair, "he got a lot of national attention. That sort of flashed and then disappeared. Then everybody began to write him off, saying he'll lose the election the second term."

And not all of his detractors have been Democrats, by any means. Periodic revolts flare among Texas Republicans, some of whom thought Tower took his high position too lightly and failed to build a stronger party organization soon enough. Then there was what his friends call "a serious bout with drinking," that he has won, he assures acquaintances, but that gave his early supporters second thoughts about whether he was the right person to lead the way for an obviously weak GOP organization.

But it has been 20 years since John Tower first surprised his friends and startled the experts by grabbing the Senate coonskin that LBJ had left hanging on the bunkhouse wall when he moved over to the White House.

Asked if he ever came close to conceding in that race, when late in the count he was running considerably behind, he answered: "I took my advice on that from H. J. Porter, the father of the modern Republican Party in Texas. He said, 'Never concede. That's when they start stealing from you.' "

As the first Republican senator from Texas since Reconstruction, Tower received a lot of attention at a young age. He was 35 when first elected, making him the youngest member of the 87th Congress. The liberal element then thriving in Texas gave the upstart college professor their votes in 1961, thinking

they could easily knock him off later. His first few years were a continuous battle to convince the folks back home they hadn't sent a political accident to Washington.

"The biggest thing he wanted to get over to people then," says a former aide, "was that he wasn't a fluke in that first election." As the flash of national attention faded, the corridor talk of "playboy senator" and "hard drinker" began to follow him. As a debator, however, he never lost his hard edge, and when he had not lubricated his vocal cords in advance, a former staff aide recalls the saying in Washington then was that Tower was "a fearsome debater when he wants to be."

He became a favorite of the Taiwan lobby, personified by the tigerish Anna Chenault. Their friendship led him into a circle that came to include a young student at Georgetown University from South Korea named Tongsun Park. Their friendship brought Tower's only close scrape with scandal when Park later bragged that Tower was among the members of Congress he had cultivated with gifts in return for influence. But Tower proved to an investigating committee's satisfaction that Park had greatly exaggerated their relationship.

His image took on another aspect in the mid-'70s when he divorced Lou Bullington, the mother of his three daughters (they met when she was an organist at the First Methodist Church in Wichita Falls, where Tower's father had taken the pulpit during World War II) and married Lilla Burt Cummings, a Washington lawyer from Philadelphia.

There followed a rapid turnover in Tower's staff, plus a switch in his political ad consultant, moves that those in a position to know said were directly influenced by the new Mrs. Tower, a woman of independent means and direct manner. Friends and associates also noticed a marked change in the Senator's drinking habits; an absence of excess. Tower himself says that he has avoided "spirits" for the past four years, while still enjoying a glass of wine with dinner or for relaxation.

"I felt more involved in the Vietnam War than the one I fought in."—Sen. John Tower, talking with reporters in a waiting lounge at DFW airport, December 1980.

During the war in Vietnam, Tower made nine trips to that country to visit with the troops and to be briefed by the officers. A boatswain's mate during World War II, Tower has remained a member of the Naval Reserve since then and throughout his Senate career has continually stressed the importance of meeting the needs and maintaining the morale of the rank-and-file military personnel, in the field and at the battle stations.

Analyzing the country's current defense priorities, Tower says the problems America now confronts "cover virtually every aspect of military capability, strategic, conventional, nuclear, maritime. We need to move on a broad front."

And while some of the deficiencies, he believes, will require up to 10 years to correct, the principal problem "in the near term . . . is the retention of our experienced non-commissioned officers. If we went to the draft tomorrow, it wouldn't solve this problem. Without trained cadre, you can't function. You can't send a rifle platoon out into action without a sergeant."

For this preoccupation with military matters, Tower has earned the gratitude of defense-related interests and tongue-lashings from those who see America's tax money going for guns when it should be buying butter.

"He is a hostage of the Pentagon," says one Texas Democrat who used to labor on Capitol Hill. The charge is made anonymously, a subtle but telling recognition of the power inherent in the office of U.S. senator, even if the holder is in the opposite party.

Tower, he adds, "wants all the wars the Pentagon wants. He is a powerful ally of the Defense Department and the contractors who do business there. That's why he's so powerful in Texas." (The most recent figures show Texas companies pulling down slightly more than 8 percent of the defense procurement dollars spent by the Pentagon: during the fiscal year ending last September, $5.3 billion came to Texas, third after California's $13.8 billion and New York's $5.6 billion.)

Tower's reply to such criticism: "The United States can afford both guns and butter."

While most of the 8–9 percent increase he is urging in the defense budget left by Jimmy Carter would go mostly for non-hardware items such as increased military pay, Tower also wants to beef up the hardware in the U.S. arsenal. He has stepped up his lobbying for a new bomber for the Air Force, to make up for the B–1 that was scrapped by the Carter administration, and also wants the Pentagon to move with determination toward a neutron bomb and the deployment of the controversial MX missile system.

America must move quickly to make up for lost time and capability, he believes. By Tower's figures, the Soviets have out-spent the U.S. by about $240 billion over the past 15 years. Defense spending critics, of course, argue that if the Russians want to spend themselves into a well-armed but ill-housed and ill-fed nation, let them.

The first major hearings Tower has scheduled for the Armed Services Committee will focus on the new Rapid Deployment Force, an innovative, multi-service squad whose mission is to respond quickly and with stunning firepower to a breakout of hostilities (a "dust-up," in Tower's lingo) anywhere in the world. Most military planners see the Mideast as the force's most likely inauguration site.

But Tower's two decades in the Senate haven't been taken up entirely by concern for the military. When he first went to Washington, he informally declared that his main task would be to sabotage anything that came out of the office of super-liberal Ralph Yarborough, whose Senate term overlapped his. As a conservative Republican representing a state with a conservative Democratic majority, Tower has made a lot of friends among voters simply by working to sidetrack new programs devised by a Democratic-controlled Congress.

And there was that acting kernel that Tower bit in high school and college days and that kept him behind the amateur footlights into his college teaching days, which burst like popcorn seeds in a hot pan. For three years running, he starred in an annual media skit in Dallas where the lines were like nothing ever heard in the Senate chambers.

His most recent role, in 1979, was as Superman, for which he adopted a cape, leotard, slippers and a stiff-legged leaping style that catapulted him onto the photo pages of newspapers throughout the U.S. and Europe.

His duties during 1980 as the chairman of the Republican Platform Committee, which took him to hearings in several cities for primary-season shaping of the GOP planks, and as a member of the Reagan-Bush "truth squad" that dogged Carter's heels on the campaign trail, kept him from an appearance last year.

Having played Superman, however, most such roles would surely appear to be a dramatic comedown from a career high. What role now for John Tower? With Congress back in session, the hostages home and a patriotic tide running high along the nation's emotional banks, Tower can count on hearing many of his views echoed as never before.

Dave Switzer, the old Beaumont High buddy, thinks his long-time friend is "probably in for a time of reaping some of the fruit of his long labor" now that the conservatives have captured the Senate. Political fortunes turning as quickly as they do, what exactly lies ahead in terms of a lasting reputation is difficult to determine. At 55, with 20 years of senatorial miles on his feet, he is second in seniority in the house he joined as a Goldwater prospector on the New Frontier. It is too soon for him to want to declare his intentions in 1984. Asked how long he expects to serve in the Senate, he adopts a mischievous preacher's-son grin and replies, "at least four more years." Whatever reputation he achieves, for the next several years he will be forging it with the help of a broader forum—a taller soapbox, one might say.

Pat Blair, another member of the old Model A gang from the class of '42, says it this way: "The real test will come now that John has a chance to be a really influential senator. That's a different role. When you're not a major character, you can kind of stay in the background. It's going to test his mettle, no doubt about that."

HIS NAME IS TOWER, AND HOW HE DOES IT

(By Jack M. Kneece)

WASHINGTON.—It was 20 years ago when John Goodwin Tower, a political science professor with a paper-thin support base, was elected to the U.S. Senate in a special election to become the first Texas Republican in the Senate since 1877.

Chagrined Democrats pronounced him a fluke, a GOP one-termer who could never survive a general election. They talked of the next general election with the same glee cannibals might have used in anticipating the arrival of a plump missionary.

That was back when Democrats joked that most of the Republicans in Texas could caucus in a telephone booth. And not many Republicans would have challenged that joke in 1961.

Now that obscure academic from Midwestern University in Wichita Falls is the second most senior Republican in the Senate (Sen. Strom Thurmond is first) and chairman of its Armed Services Committee. And after two decades, Democrats are no longer joking.

Tower first vaulted into national prominence when he volunteered for the suicide mission of running against Sen. Lyndon Baines Johnson, achieving vital name recognition by his own account, as "the little guy" who took on LBJ.

"My name is Tower, but you can see I don't," was the Henny Youngman type one-liner that Tower used to win over audiences as he often, at 5-feet-6, stood atop soft drink crates behind podiums from El Paso to Longview.

There was some disgruntlement because LBJ was running for vice president and the Senate at the same time, having suggested the rearrangement of Texas law to allow this with a little help from friends in Austin.

Tower lost, but when a special election was required later to fill the vacancy left by LBJ, who was elected vice president, he ran again and won. By then, people knew the feisty little politician, and he said this helped him defeat Braniff executive Bill Blakely.

Texas Gov. Bill Clements, noting the anniversary, described Tower Tuesday as a fine, high-quality conservative senator . . . who has demonstrated his good judgment in his service to this state as well as to the country."

But not everyone obviously, is a Tower admirer.

"He is obviously a very good politician. Nobody with a record as bad as his could have survived otherwise," said Ron Dugger, editor of the Texas Observer, a longtime foe of political conservatives.

Dugger said Tower has survived because

the Democrats have never really fielded a good candidate, often putting up men almost as conservative as Tower.

"When it's a case of eeny, meeny, miney moe, people don't give a darn who wins," said Dugger. "If the Democrats ever nominate a real Democrat, he will be in for the fight of his life."

"He is a very good rhetorician who has been snickering at the people. He is against the people and for big industry,' said Dugger.

But Tower did not become the footnote to history Democrats thought he would.

Now, at the age of 55, he heads not only the powerful Senate Armed Services Committee, but the Senate Republican Policy Committee as well.

Although columnist David Broder once described him as "a tiny dandy who dangles his toes from his swivel chair and favors English cigarettes," Tower must—as the saying goes—be doing something right.

Usually immaculately turned out in Saville Row three-piece suits, Tower said he thought his most influential work in the Senate involved his efforts in 1969 in behalf of the U.S. anti-ballistic missile system, for which he was praised by President Nixon after it won by a single vote.

Tower, who consistently is rated high by the Americans for Conservative Action (and low by the liberal Americans for Democratic Action), also has worked in behalf of most new bombers and armament, including the B-1 bomber and A-7 fighter. He is viewed as a team player by the Republicans, even to subordinating his own leanings.

He stayed with Nixon, for example, until after the smoking gun tape, and remained loyal to Gerald Ford despite a groundswell in Texas for Reagan when Ford sought the presidency.

The son of a Methodist minister, Tower joined the Navy as an enlisted man at the age of 17. After the war, he graduated from Southwestern University and got a masters in political science from Southern Methodist University. He also did graduate work at the London School of Economics.

Some say it may have been in London that he began to like the three-piece, Churchillian style suit that is one of his trademarks. He said that Churchill is his choice for greatest man of this century.

Regardless of how one views Tower and his two decades on Capitol Hill, future Texas historians may very well date the emergence of a viable two-party system in the state to Tower's 1961 election or, most certainly, his reelection in 1966.

In 1961, for example, aside from Tower, Republicans did not hold a single statewide office. Now the House and Senate delegation in Washington includes five out of 19 on the House side and Tower in the Senate.

In many ways, Tower has changed over the years—in lifestyle when he divorced his first wife of many years and married an attractive Washington attorney, 52-year-old Lilla Burt Cummings, and politically as he edged away from the hard right.

He acknowledges that the Goldwater debacle of 1964 left him more depressed than he had ever been. And he now at least talks of disarmament as if it were one alternative, having shed just a bit of his hawkishness.

Tower seemed to function best as a member of the loyal opposition when Democrats were in power. No doubt he picked up some ideas when he did a long paper as a student in London on the conservative party.

He was noted for rapier-like criticism of Democratic policies and used to enjoy picking holes in the Carter budget and calling it a ruse designed to fool the people without substantive cuts.

A shy man who has emphasized constituent service, Tower is on demand around the nation on the lecture circuit, primarily in the pre-Reagan era because of his role as part of the loyal opposition.

In an interview, there is still very much that is professorial about his style as he interrupts himself to take a telescoping pointer and demonstrate a global grasp of geopolitics. And though he seems to be vaguely ill-at-ease, he displays a hearty sense of humor. He laughed uproariously when recalling how he dressed up in a Superman costume at a Dallas gridiron dinner.

SOVIET GLOBAL OBJECTIVES WILL NOT GO UNCHALLENGED

(By Jack M. Kneece)

WASHINGTON—Following are excerpts from an interview with Sen. John Tower on the occasion of the 20th anniversary of his election.

Q. What are some of the accomplishments that you are most proud of over the last two decades?

A. It's awful difficult to view these things in retrospect. I think, looking back, it was the work I did on the authorization of the antiballistic missile system back in '69. We won that issue by one vote in the Senate. Richard Nixon once told me that was a critical vote and without it we could not have proceeded to the ABM Treaty and SALT I. In retrospect you might not think much of ABM or SALT I, but in fact our defenses vis a vis the Soviet Union had deteriorated to the point where the President thought he better get some limitation to permit us to play catch-up. That's because of the enormous momentum the Soviets were building, and that momentum has continued. Soviet (defense) spending has increased in real terms by double-digit percentages. It is said that they have outspent us by more than $300 billion in the last decade.

Q. Can we achieve parity in nuclear defense capability?

A. Parity is a difficult thing to accomplish because you accept certain differences in doctrine, differences in resources that dictate certain symmetries. What we have striven to do is maintain a technological edge over the Soviet Union and accept superiority of numbers. Now we don't feel we need, for example, the large land army that the Soviet Union has. They have four million men under arms. That's dictated by different geographical considerations, China and Europe and the fact that they are a great land mass with inland lines of communication. Therefore we have to maintain a degree of naval superiority because our lines of communication are stretched all over the world. Our source of energy and raw materials are deployed everywhere. One thing that gives me cause for concern is that the Soviets have built up a bluewater navy with a global capability that gives them a force projection power that they don't really need just for the defense of their country. The question is, if they don't need it for the defense of their own country, what are they doing with it? Well, the answer is unpleasant to contemplate.

Q. It's been said that there are no disincentives on either side for the great powers to disarm. We have the military-industrial complex and the Russians have a system of perks for their top military people.

A. What we have to do is convince the Soviet Union that they can't beat us in an arms race, and that the pursuit of their global objectives will not go on unchallenged. Then maybe they will be prepared to sit down and consider arms reduction and an end to the arms race and a rededication of their resources away from the military toward economic pursuits. If we got into an all-out arms race with the Soviets, economically we could have it much better than they could. We've got a bigger industrial base, a bigger technological base, and we have more efficient farmers than they have. So what occurs to me is that the Soviets would be much better off if they turned their attention to competing in the world economy. They're seeking economic domination of the world through military power.

Q. There are those who say their nuclear power is a diversion so that they can achieve their objectives by other means.

A. Well, you know, the possession of it can allow you to accomplish your political objectives without ever firing a shot. It's just the idea that if I hold a .45 on you and say that I want your wallet and your watch, the prospect is that you will give it to me without my having to blow your brains out.

Q. Your dad was a minister, I understand. What were you like as a boy? What were your goals?

A. I was interested in politics.

Q. You didn't have much of a power base when you first ran for the Senate did you?

A. Ha, that's an understatement. I didn't have any, except for a very dedicated group of Republicans down at the grassroots level who wanted to establish a two-party system in the state and they worked hard at it. Of course in a special election they were able to compensate by superior enthusiasm and hard work. I had run against Lyndon in 1960 and subsequently that summer he was nominated for vice president. So, because he was running for both offices, I attracted some attention: there's a little guy down in Texas running against Lyndon for the Senate. I did attract quite a bit of media attention and built up name identity. As a result of that, I had superior name identity, actually, to the incumbent Democrat I ran against in the special election in 1961. And I would say better organization and grassroots workers who turned out the vote.

Q. At that time did you think of yourself as a one-term senator?

A. I knew that it would be very difficult to win reelection because I felt the Democrats would gang up on me in 1966. And, too, it would be a general election situation instead of a special election, with everybody coming out to vote on everything else, constitutional amendments and what have you. But in fact I ran against an attorney general who was a well known figure in the state and a good vote getter and I beat him substantially.

Q. Who do you think was the greatest man of this century—or say since 1900?

A. I would say Winston Churchill . . . I certainly think he was the most heroic figure of the century.

Q. Were you seriously considering the job of secretary of defense?

A. Yes, I was interested. That's not to say that I would have willingly or quickly left my Senate seat. I still can influence defense policy here in the Senate. And, too, I have the privilege of continuing to represent the greatest state in the union.

Q. I think even people who voted for Carter have come to see Reagan in a different light. Some of it has been because of the courageous way he came through the assassination attempt. Do you think he will shape up as one of the great presidents we have had?

A. I think it's too early to say. Certainly, up until this point he has been an enormously effective president. When you consider the first four months of his presidency he has gotten along very well.

Q. Do you have a fairly close relationship with the president? Do you talk to him fairly often?

A. Yeah. I attend leadership meetings regularly. And I have talked to him on the phone a few times, not a lot of times, but on matters that were current that I was involved in. And I debriefed him when I came back from a trip in February from Europe,

North Africa and the Mideast. I spent about 35 or 40 minutes debriefing on that.

Q. Where do you see the Republican party headed?

Q. Looking at our prospects next year, still the arithmetic favors us. What is it, 20 to 13. Last time it was 24–10. You had 10 Republican seats up and 24 Democrats. Next time I think it's 20 Democrats and 13 Republicans incumbents. So the arithmetic still favors us.

Q. How about in the House? Could Democrats lose control of the House?

A. I think we can take control of the House next year. Reallocation of seats and redistricting will have a big impact on that.

Q. During the campaign, Reagan said there was enough energy in this country to supply our needs. Was he correct?

A. Most of the people who are heavily into the energy field say we have a lot of untapped resources we haven't identified yet.

Q. Do you think mankind could survive a global nuclear war?

A. I'm not even going to speculate on that. Obviously, we don't want a nuclear holocaust. And the idea is to never let the Soviets become convinced that a nuclear war against the West is an acceptable risk to them. Or that their gains would outweigh their losses. We want them to continue to think that nuclear war is unthinkable.

Q. How has our relationship with mainland China affected the international balance of power?

A. The normalization of relations with China was necessary from a geopolitical standpoint.

Q. Do you think this will be considered Nixon's major accomplishment?

A. That probably will be.

Q. Can there evolve another LBJ, powerful and bigger than life, in the Senate?

A. I don't think that's likely because of changes in rules and the fact that there is more dissemination of power among senators. It is more difficult now for one senator to assume a position of almost preeminent influence in the Senate.

Mr. STEVENS. Mr. President, I am pleased to join my colleagues in celebrating the 20th anniversary of service in the Senate by Senator JOHN TOWER of Texas. It is a special day for all who have served with him in the Senate. Few men in the history of the United States have had the privilege of serving our country in the Senate for over 20 years. Today, our friend and distinguished colleague joins that honored fraternity.

I first met JOHN TOWER, I believe, at President Eisenhower's farm in the 1950's. As a matter of fact, I still have a photograph on the wall today in remembrance of that experience. The photograph contains an image of a new Republican Senator from Texas, a Republican Governor from Oregon, now Senator HATFIELD, and me. We were together at one of the gatherings that President Eisenhower had for young Republicans throughout the country.

Since the time that Senator TOWER has been in the Senate, he has contributed very significantly to the development of our party. Not only as a Senator, but, as a leader of the party, he attended every Republican National Convention since 1952, with the exception of the 1976 convention.

As has been said here often already, he holds the seat first held by Sam Houston and later by Lyndon Johnson. He is the only Republican Senator from Texas since 1870.

Others have gone into his accomplishments here in the Senate. We know them well. He has not only contributed significantly to the State of Texas but, as a Senator from Texas, he is recognized as a strong leader in the Senate.

As a public servant, JOHN TOWER, we feel, has placed his country first and above all. He has worked to preserve the freedom and integrity upon which this Nation has been founded. The principles to which he has dedicated his life and public service have been strengthened by the contribution he has made to the development of our Republic.

Mr. President, one of the beauties of this Nation is the freedom of debate. Throughout the years I have been in the Senate, I have debated on numerous occasions with my good friend from Texas and I must say it is much more pleasant to be on the same side with him than it is against him, because those are hard lessons to learn, to oppose the Senator from Texas.

The Republican Party, the State of Texas, the U.S. Senate, and our country as a whole have benefited from his 20 years of service, a service that we all hope Senator JOHN TOWER will continue.

I take pride in having had the opportunity to join him here in the Senate and look forward to many more years with my good friend, the senior Senator from Texas.

Mr. JACKSON. Mr. President, I am honored to join with my colleagues in this celebration. It has been my good fortune to be closely and continuously associated with JOHN in the handling of national security issues since he came to the Senate 20 years ago today, in 1961.

During these dangerous and turbulent 20 years, JOHN TOWER has been stalwart in standing up for the safety of the Nation and the future of individual liberty. He understands the relation between a strong national defense and the conduct of a steady, responsible foreign policy. He is nonpartisan in national security affairs and a marvelously reliable partner in bipartisan struggles. And, as all of us in the Senate know, he has a terrific sense of humor and is a constant delight to work with.

I know from long personal experience JOHN's remarkable value as an ally in committee deliberations and on the Senate floor, when votes are close and feeling runs high. He is eager for the fray, cool as a cucumber, resourceful in tactics, decimating in argument—all the time, with that disarming twinkle in his eye.

Now JOHN is showing his special mettle as chairman of the Senate Armed Services Committee, serving in the great tradition of three Senators who held that post since I came to the Senate in 1953—Leverett Saltonstall, Richard B. Russell, and JOHN C. STENNIS.

As our new chairman, JOHN is giving superb leadership, digging into the tough defense issues and probing alternatives with the best available advice; making the hard choices, and going to bat for them; moving business along at a faster-than-usual clip; looking for ways to save money and reduce waste in a growing defense budget; and providing an experienced committee staff under the skilled tutelage of Rhett Dawson.

Mr. President, I am proud to serve with JOHN TOWER on the Armed Services Committee. I relish his friendship. And I look forward to being at his side in the fateful battles to safeguard our national security in the years ahead.

Mr. STEVENS. Mr. President, I shall control my time and the remainder of the leadership time and the special orders. I yield such time as the Senator from Utah seeks in connection with Senator TOWER and then to my good friend from Virginia (Mr. HARRY F. BYRD, JR.).

The PRESIDING OFFICER (Mr. SPECTER). The Senator from Utah is recognized.

Mr. GARN. Mr. President, 20 years ago today, history was made when JOHN TOWER was sworn in as the first, in fact, the only, Republican Senator from the State of Texas since 1870. He was elected to fill the seat vacated by Lyndon Johnson who, of course, had just been elected Vice President of the United States. The seat had first been held by Sam Houston. By any measure, the seat has a heritage established by some of the giants of our Nation's history. JOHN TOWER's service perpetuates that heritage.

Senator TOWER was one of the first men I looked to for leadership when I came to the Senate a little over 6 years ago. He was the ranking minority member of the Banking, Housing, and Urban Affairs Committee, to which I was appointed in 1975.

Most of my colleagues have been referring to his service in armed services and defense, but I felt it was noteworthy to talk very briefly about his service on the Banking Committee and his expertise in the financial affairs of this country as well.

I learned much from him of the committee process, which has served me well in the years since.

In 1977, I was fortunate enough to join JOHN TOWER on yet another committee, the Armed Services Committee, which he, of course now chairs with such distinction. Senator TOWER and I share a common commitment to the improvement of the defense capabilities of our Nation. His tremendous abilities and leadership in that area, and now his important major role in guiding our Nation's defense policies in the Senate, give us all cause for reassurance that we will be able to meet the security challenges of the coming decades.

Mr. President, I shall not repeat what others have said about the personal history of this great son of Texas, who represents the fire and spirit of his fellow Texans so well. Let me simply say that JOHN TOWER is a man whose strength, intellect, and leadership I respect, and whose friendship I value highly. He is a pillar of resolve in this body. In thinking of the words to sum up the character of this man, I am reminded of his own words, which I once heard him use to describe another of our colleagues, Senator

TED STEVENS of Alaska, our distinguished majority whip. I believe the phrase applies equally to JOHN TOWER: "He could fight a buzz saw at parade rest."

My congratulations to my friend and colleague, Senator JOHN TOWER.

Mr. STEVENS. Mr. President, I yield to the distinguished Senator from Virginia (Mr. HARRY F. BYRD, JR.).

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. HARRY F. BYRD, JR. Mr. President, it is a privilege to join my colleagues today in tribute to the senior Senator from Texas, JOHN TOWER.

On this 20th anniversary of Senator TOWER's swearing-in as a U.S. Senator, it is fitting that we who have worked with him over the years recognize his great accomplishments and contributions.

It has been my pleasure to serve with Senator TOWER on the Armed Services Committee since I first came to the Senate nearly 16 years ago.

I can say from firsthand experience that no man in this body is more unswervingly dedicated to the national security of the United States than is JOHN TOWER.

He is fond of pointing out that he is the only active enlisted reservist in the Congress. He enlisted in the Navy at age 17, in 1942, and served through World War II, including combat on a gunboat in the Western Pacific. He is a Reserve chief petty officer.

His unique perspective makes JOHN TOWER a consistent champion of the reserves and of the rank-and-file men and women who make up the backbone of our armed services.

He is also a close student of national defense and the related issues in the field of foreign affairs. And he brings to his study of those critical problems not only years of experience in the Senate but also the background of a history professor. This enables Senator TOWER to look at the issues of the day in the perspective of the long-term trends of history, and he does just that.

Today, of course, he is the chairman of the Armed Services Committee. He has served in that capacity only a few months, but already he has demonstrated keen judgment and even-handed fairness to his colleagues. He is discharging a very difficult and demanding duty with rare distinction.

Through the years, Senator TOWER also has made great contributions in his service on the Committee on Banking, Housing, and Urban Affairs, and more recently on the Committee on the Budget. Wherever he has served, he has made a contribution.

I take pleasure in paying tribute today to JOHN TOWER, a Senator in whom both the people of Texas and the Senate itself can justifiably take pride.

I salute him as an outstanding Senator.

The ACTING PRESIDENT pro tempore. The Senator from Alaska.

Mr. STEVENS. Mr. President, I yield to the Senator from Iowa (Mr. GRASSLEY) such time as he needs, and following that, I yield to the Senator from Pennsylvania (Mr. SPECTER).

Mr. GRASSLEY. I thank the Senator from Alaska for yielding.

Mr. President, as a new Member of the U.S. Senate, it is a special privilege for me to join in this tribute to the senior Senator from Texas, JOHN TOWER.

I compliment the Senator from Texas for his outstanding service to the people of his State and our Nation.

His election in 1961 received my attention—and I wish to emphasize that it did receive my attention—as a young member of the Iowa Legislature. It received my attention for two reasons:

First, as a Republican and as a conservative, I read it as a hopeful sign that, perhaps, the people of our country were turning more conservative and that, in fact, it would lead to the election of a conservative President in 1964. I was obviously wrong in that interpretation, for it was not until 20 years later—now—that persons with a conservative political philosophy have prevailed in a national election.

Second, it received my attention because he, as I, has a background as a political scientist. That was my discipline. I felt a kinship for any political theorist who was desirous of putting his beliefs into practice, and that is what JOHN TOWER has done in the last 20 years as a U.S. Senator.

Now, 20 years later, the Senator from Texas is still here, with the experience and expertise to help lead America in reestablishing its military strength, which reestablishment is a necessary prerequisite to America once again being the leader of the free world.

President Reagan's administration will accomplish its goals of economic recovery and a strong military. It will be much easier because of Senator TOWER's tremendous background of service in the U.S. Senate, as that background is put to use to accomplish these goals.

My congratulations to Senator TOWER.

The ACTING PRESIDENT pro tempore. The Senator from Pennsylvania is recognized.

Mr. STEVENS. Mr. President, I will be happy to yield to the Senator from Mississippi following the statement by Senator SPECTER.

Mr. SPECTER. Mr. President, I am happy to yield to the Senator from Mississippi.

Mr. STENNIS. I thank the Senator from Pennsylvania, and I thank the Senator from Alaska. Let me make clear that I do not like to intrude on anyone, but I do wish to say something about the Senator from Texas.

He and I have been here, shoulder to shoulder, for these 20 years that have been referred to, and that includes some pretty rocky times. During that time, we have never had anything even bordering on personal ill-feeling, and our relationship has been one of friendliness and cooperation.

I certainly admire Senator TOWER's energy. Being a Senator is not an easy job. It is difficult on a person in many ways including physical energy as well as mental energy, and the job is never done, either here or at home. There is always a waiting list of things to be done. But he does not hold back; he does not spare himself.

Another thing that makes him an effective Senator is his innate ability. He has a keen mind and is usually constructive; he wants to be and tries to be, and that goes to make up a Senator's work here.

In addition, he has what I would call good judgment. I do not recall his ever going off on a wild goose chase. Whether you agree with him or not, he certainly arrests your thought and makes you rethink your own points and consideration of a matter. That, in itself, is worth a great deal in the legislative process. I have tried to worship at the shrine of the legislative process. That is the constitutional part of the Government that is delegated to us for the time being.

I am also impressed with the fact that he is not the type who holds back. He will go on and tackle the hard problems, the ones that may take time and work, matters that may be politically sensitive or sensitive at home, or anything that might bear on matters of that kind. He does not try to dodge them or duck them or avoid them. He is willing to pitch in and do the best he can.

Many times, JOHN TOWER and I have talked about the committee system in the Senate, and I believe we have a great deal in common as to that. We have worked toward the end of a nonpolitical and nonpartisan committee, the Senate Armed Services Committee. I am proud of the record of the Senate Armed Services Committee, and I am thinking about what little contribution I might have made. But I know that, over the years, it has been a tower of strength on this floor and in the Nation. A great deal of that is due to the fact that it earned and kept the reputation of being nonpartisan and nonpolitical—not playing politics, so to speak, with our national security.

And I think that that is reflected here, if I may say, in our chairman, Chairman TOWER, of Texas. I believe that his judgment is that he and I have tried to work along that line in a large measure. We run into subject matters that are highly important that do have political implications but primarily, I think, he tries to steer away from that and I know I try to. I think a great deal of the good that this committee has done in the past, and when I say "past" I mean going back before World War II and way on back before then down to now, has been due to the fact that the committee had this reputation, and I warn now, since we are just human beings, and this can be lost overnight also if it is not maintained by more than just the chairman and the so-called senior member of the minority. It has to be maintained by the committee as a whole, and under the leadership of Chairman TOWER I charge him with that responsibility as he charges me with my responsibility in this field and look to him for leadership there that I think that he will fulfill.

So I am glad to join in this tribute that is deserved so well and wish him well in every way in the future years to come.

Mr. SPECTER. Mr. President, I am pleased to join my colleagues in the U.S. Senate in paying tribute to Senator JOHN TOWER on the occasion commemorating his 20 years of service in the Senate.

As a citizen from afar, for many years I have admired JOHN TOWER's work in the Senate. He has demonstrated great capacity for constructive solutions for the problems of his Nation as well as his State.

I had the pleasure to meet Senator TOWER some 5 years ago when I was first a candidate for the Senate and found him to be most courteous and helpful.

Since coming to the Senate with the attendant opportunity to observe Senator TOWER at close range, I have been enormously impressed with his breadth and capabilities. I have been impressed with his leadership on the Senate floor as he has guided complex legislative matters relating to the Armed Services Committee which he so ably chairs. His skills at expression and debating interchange are in my opinion extraordinary.

His leadership in being elected as a Republican from the State of Texas has been enormously important to the party in setting the stage for Republican victories throughout his region of the country.

Beyond his virtues of ability and integrity, it has been a pleasure to work with JOHN TOWER on the personal level. His leadership and camaraderie make it very pleasant to be a Member of this body.

Mr. BENTSEN. Mr. President, for more than a decade it has been my pleasure to join with the senior Senator from Texas and work with him on behalf of the people of our State and our Nation. JOHN TOWER has been a friend, and I would like to join my colleagues in paying tribute to his truly distinguished record in the Senate. I would also like to take this opportunity to thank JOHN TOWER for the many courtesies he has extended to me over the years and commend him for his sense of fairness and dedication to public service and ask him if 20 years ago he really thought it would be 20 years.

Senator TOWER and I serve the same constituency. We have consistently attempted, and generally succeeded, in reaching out across party lines to work together in the best interest of Texas and America. In my opinion that is the sort of relationship that makes for effective representation in Congress. It requires, however, a sense of trust, good will, and a willingness to foresake partisan politics in the interest of good government. I think it is eloquent testimony to the character of JOHN TOWER that we have been able to foster this sort of relationship and make it work so well for so long.

During his 20 years of service to the people of Texas, JOHN TOWER has established an enviable Senate reputation for effectiveness, ability and hard work. As chairman of the Armed Services Committee, my senior colleague will be playing a key role in helping our country build a national defense that will enable us to look with confidence to the challenge of the eighties.

Those of us who work with JOHN TOWER day in and day out understand, however, that his talents and interests extend far beyond defense issues. We appreciate his ability to bring the intellect of a professor and the dogged determination of a petty officer to the whole broad range of problems that are of vital concern to the people he represents.

As the junior Senator from Texas, I sincerely believe, Mr. President, that I am in a unique position to observe and appreciate the talents of JOHN TOWER. I know this is a very special day for him and his family.

It is also an opportunity for those of us who have served with JOHN and who count him as a friend to congratulate him on a job well done and wish him well for the future.

Mr. EXON addressed the Chair.

Mr. STEVENS. Mr. President, following the comments of the Senator from Nebraska, I yield to the distinguished Senator from North Carolina and the distinguished Senator from Virginia.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. EXON. Mr. President, I thank my friend from Alaska for yielding.

I wish to be one of a whole series of colleagues of Senator TOWER who are rising on the floor of the Senate today to pay tribute on this his 20th anniversary of service in this body.

As the Senator from Texas knows, I am a relatively new Member of this body. I was assigned by request to the Armed Services Committee when I first came here. I served on that committee under the direction of the chairman of that committee the first 2 years and now I am pleased and privileged to serve on that committee with the distinguished chairman whom we have now.

JOHN TOWER was not known to me when I came here about 2½ years ago. But, Mr. President, I have come to respect his fairness and his knowledge of defense and other matters.

I consider him a friend and I consider him most of all a very effective colleague as we continue to build up this Nation's defenses.

I was not aware that we were going to salute my friend and colleague from Texas until I received a "Dear Colleague" letter from Senator GOLDWATER and as I came in the Chamber today I heard the very eloquent message from the junior Senator from Iowa.

I rise to thank my friend for his cooperation and understanding during my short tenure here and his tutelage.

We have not always agreed, but I have always found him a man of openness and fairness.

So I rise to salute him not because he is a Republican or not because he is a conservative, and I do not think that it is appropriate for us to put the term of sainthood on him at this particular juncture in his career. Maybe that will come later. But in all sincerity I congratulate my friend for 20 outstanding years and thank him for the help that he has been to me as a new member of this body.

Godspeed.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, I thank the Chair. Mr. President the distinguished senior Senator from Texas (Mr. TOWER) frequently engages in jests about his height. It is a measurement of his good humor that he does. The record should be made clear, however, that when it comes to principle, dedication, and courage JOHN TOWER is 10 feet tall.

Through the years, dating back to prior to my own election to the Senate in 1972, I have admired Senator TOWER. And today being the 20th anniversary of of his having been sworn in as a U.S. Senator, it is appropirate that all of us who have been privilege to serve with him use this occasion to pay our genuine respects to him.

I was not here on the day that JOHN TOWER took the oath of office 20 years ago, but I am told that another distinguished Texan, the late Lyndon B. Johnson, was presiding at the time Senator TOWER was sworn in, and the galleries erupted with applause, I am told, and had to be gaveled to order by a Texan who was, in effect, restraining the applause for another Texan.

But JOHN TOWER on countless occasions not merely the eyes of Texas but the entire country have been focused on him. He has been a stalwart in opposing the growth of an all-powerful Government. He has fought to preserve the free enterprise system. And most of all, he has been unyielding in his support for rebuilding America's defense capability.

Mr. President, I am proud of the distinguished Senator from Texas. I congratulate him on this anniversary of his first 20 years of service in the Senate. I trust that his next 20 years in this body will be equally fruitful and productive, so that when the year 2000 rolls around, he will still be 10 feet tall in the hearts of Americans who love their country and its principles.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President and distinguished colleagues, it is a great pleasure for me to join in recognition of this day of accomplishment by the senior Senator from Texas.

Well over a decade ago I first made his acquaintance, at which time I was serving in the Department of the Navy in the Department of Defense. I came before him at confirmation hearings on two occasions. But on many occasions respecting the particular problems of the U.S. Navy his wisdom—as a matter of fact I would have to say his love for the U.S. Navy goes way back, as we all know, to the beginning of his service in World War II. On these occasions it was always his steady hand and sound counsel that enabled me and others to work our way through the problems respecting the Navy, and particularly during the difficult days of the war in Vietnam.

When I had the great fortune to be elected to this distinguished body—I cannot recall whether it was at that time the minority leader or Senator TOWER who called me first to congratu-

late me, but I know the calls were back to back—calls were made urging further that I join with him on the Armed Services Committee. That has been a great pleasure and privilege now for these 2½ years serving as one of his lieutenants on that committee.

He has treated all of the new members with total equality and fairness, and he relies on us. He delegates, gives us, responsibility, and when we step out of line we know it, again with firmness and fairness.

It is indeed a fortunate thing that America has men such as JOHN TOWER who have dedicated almost their entire lives in the service of their country.

I thank the Chair.

Mr. STEVENS. Mr. President, I yield such time as the Senator from Minnesota desires.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. BOSCHWITZ. Mr. President, I rise also on the occasion of JOHN TOWER's 20th anniversary in the Senate. It is interesting to reflect for a moment on the manner in which he got here because this is a rather unsual time of year for a Senator to be sworn in as a Member of the U.S. Senate.

JOHN TOWER had to run twice to get here, something I did not have to do, Mr. President, nor did you. But through a quirk in the Texas law his first run for this office was against Lyndon B. Johnson, the man who had to quell his supporters who were in the galleries at the time that JOHN TOWER was sworn in, and in a very strongly Democratic State, JOHN TOWER received approximately 42 percent of the vote against Lyndon Johnson who, through a quirk in the Texas law, was running not only for the U.S. Senate but was simultaneously running for the Vice Presidency with John F. Kennedy. So it is an unusual time.

Then, of course, there was a by-election. There was an election to fill the seat that was vacated by President Johnson's elevation to the Vice Presidency, and at that time Senator TOWER, who just kept right on running, in a very hostile political atmosphere, was able to come through and, to the best of my knowledge, to be the first Republican Senator from the State of Texas since reconstruction days.

But now that he is here we speak of him as a colleague and as a friend, and my comments about JOHN TOWER are on the basis of my friendship for my colleague.

Indeed, JOHN TOWER is first and foremost, in my judgment, feisty. He is kind of fun to be around. You do not have to wonder exactly where you stand with our colleague from Texas because he tells you and he tells you very often quite directly, and that is very refreshing in this body because not all of the Members react in quite that way.

But, perhaps, more importantly, JOHN TOWER, because of his background as a professor of history, has a sense of history so that he talks about the problems that face us not only on a short-term basis but he talks about them with a sense of history that is far more expansive than I see in some of our other colleagues, and that, indeed, gives his argument more potency.

Then JOHN TOWER is as much as any Member of this body a very fervent defender of his point of view. I do not always share his point of view, Mr. President, but I always have respect for his point of view because again he comes at it with a sense of history and he comes at it with such a fervent desire to see his point of view prevail.

Finally, Mr. President, I find JOHN TOWER, who is one of the leaders of the Republican caucus, to be a very excellent leader indeed. He presides over the lunches that we have each Tuesday to discuss where we are in the Senate, how we stand, where we are going, and quite customarily he leads that Republican caucus in a firm, strong, and deliberate way. In the leadership of our Republican group, our Republican Members, he is indeed one of our outstanding Members.

I was proud, Mr. President, when he came to me and asked me to serve on the Armed Services Committee. I thought for a moment I might be getting too hawkish, and we spoke about it, and in the balance of my various priorities and what I wanted to achieve I did not join. But I was proud that a man of his substance, his sense of history, and his leadership would ask me to serve on his committee.

So it is with great joy and it is a great privilege that I join many of my colleagues in congratulating Senator TOWER on the first 20 years that he has served with us here in the Senate.

I yield the floor.

Mr. DOLE. Mr. President, today is a special one for the Nation, a nation-state, and a political party that governs both. It is a celebration of two decades of service by one man to the people of Texas. It is a commemoration of a political milestone, and of the candidate who, in his victory 20 years ago, did as much as anyone in history to usher in the new South.

JOHN TOWER has never been content to merely shatter precedents. He came to the Senate intending to be much more than a symbol, and he rapidly widened the breach he had opened in the old solid South. He made it possible for other Republicans whose philosophy and ideals proved to reflect those of Americans from Richmond to El Paso to serve in the Halls of Congress and in Southern statehouses.

And he proved as well that 14,000,000 Texans made the right choice in electing him to fill Lyndon Johnson's chair in the Senate Chamber. Three times since, he has been returned to office, and he has come to hold a special place in this body in its own way as significant as Johnson's was, a quarter century ago.

At a time when Americans, as never before, are concerned about the state and purpose of their national defense, JOHN TOWER speaks with a forceful and effective voice for a defense second to none. And, as if all this were not enough, the senior Senator from Texas combines a sense of puckish humor with healthy perspective. He is equally at home in professional garb or a superman suit. He distinguishes this Chamber by his presence, and enlivens Washington with his wit. Like all of his colleagues, of whatever political inclination, I am honored to call him my friend.

Mr. RUDMAN. Mr. President, I rise on this occasion to pay tribute to an accomplished statesman and outstanding American: The very able and well-respected senior Senator from Texas.

As previously noted, it was 20 years ago today that the State of Texas elected to the U.S. Senate a man of great fortitude and extraordinary insight, a man whose many talents and abilities soon distinguished him as a leading and thoughtful individual whose voice would be heard and his counsel heeded. In observing this anniversary, I feel it appropriate to note that his election 20 years ago was a boon not only to his home State but to the Nation as a whole. For if it is true that you measure a man by his accomplishments, then the very able Senator from Texas has secured for himself a prominent place in this Nation's history. As the ranking minority member, and now as chairman of the Senate Armed Services Committee, JOHN TOWER has established a reputation for unsurpassed expertise in vital defense matters.

It is truly a tribute to this outstanding individual that much of the Nation is only now recognizing the importance of implementing programs and policies that he has long supported and advocated. His tremendous insight into this country's defense structure and corresponding requirements have presaged the military debate we now see unfolding on a national level. His tireless efforts in this area will certainly be prominent in his legacy.

In closing, I would like to take this moment to extend a personal note of appreciation to the Senator from Texas for his many kindnesses. It is testament to his great devotion to this body that he has taken the time and exhibited patience in working with the freshman Members of the Senate and has extended to us the benefits of his knowledge and experience.

IT'S A BIRD, IT'S A PLANE, IT'S JOHN TOWER

Mr. MATHIAS. Mr. President, I am happy to add my voice to those of my colleagues in saluting the 20th anniversary of JOHN TOWER's swearing-in as the first Republican in modern times to represent the State of Texas in the U.S. Senate.

Following Lyndon B. Johnson in office had to be one of the toughest performances on the American political stage—tough enough for a Texas Democrat, next to impossible for a Texas Republican. I can appreciate JOHN TOWER's particularly uncommon electoral successes over the years, for in my own State of Maryland we Republicans are outgunned by Democrats by 3 to 1 .

Ever since he raised his right hand in this Chamber on June 15, 1961, JOHN TOWER has played more than a bit part in our national political drama. He entered the Senate as its youngest member at age 35. Without pausing for the niceties, he plunged into the thick of debate making his views known vigor-

ously and fully. Maybe you did not agree with him on all things, but one thing was certain, you always knew where he stood on an issue. Early on he proved that he sprang from the same fertile soil which has produced some of our most colorful, canny, and capable political leaders, from "Cactus Jack" Garner and Sam Rayburn to John Connally and GEORGE BUSH.

Today, JOHN GOODWIN TOWER has joined those Texans who have and are continuing to shape and direct the policies of the United States in this remarkable century. As chairman of the Senate Armed Services Committee, he is leading the way toward restoring our defenses and keeping our country strong and flexible in a dangerous world. As chairman of the Republican Policy Committee, he is guiding the legislative program under which the country will be governed in the years immediately ahead. As the second most senior Republican, he is an elder statesman of the Senate, whose voice is heeded and whose counsel is sought.

But more than anything else, he brings to his job in the Senate a sense of perspective. He is a man possessed of the enviable capacity to view history from the perspective of the average American, from the perspective of the highest level of national leadership and from the perspective of the political scientist that he was before his election by the people of the Lone Star State.

Many of us in public life like to think we can do anything, that we are Superman. Well, JOHN TOWER is the only man I know who has actually pulled on the electric blue uniform, furled his cape and shouted "Up, Up and Away."

Mr. DOMENICI. Mr. President, if there is a term that aptly describes my good friend and Senate colleague from Texas, JOHN TOWER, it is a political pioneer. Senator TOWER has been able to step right into a situation and succeed where weaker men would never dare venture. Elected to the Senate in a special election in 1961, he was the first Republican Senator to be elected in the old South during modern times. This in itself was a tremendous feat, but it was even more remarkable because he was elected to the seat vacated by the Democratic Vice President Lyndon Johnson, one of the most imposing political figures of the 1960's.

Adjectives used to describe JOHN TOWER's Senate career include effective, thoroughly competent, and highly respected. He has always been a strong backer of national defense and his hard work backing up his beliefs has made his name synonymous with strong national security. It is indeed fortunate that in this time of history when the world situation is one of instability and turmoil, we have as chairman of the Senate Armed Services Committee, JOHN TOWER, whose intelligence and experience have earned him this respected post.

As a Senator who has only been here since 1972, I have grown to admire and respect Senator TOWER and have looked to him for his wisdom and guidance when difficult questions arise.

Twenty years is a long tenure of service for your country, but this Nation is grateful for your self-sacrifice in working for what you believe in. May you always have this respect your colleagues in the Senate have for you now, and that this 20-year anniversary of service be not a pinnacle, but simply another mark in your monument of accomplishment.

Mr. QUAYLE. Mr. President, I am honored to stand here today with my colleagues and add my voice to the chorus of praise we extend to one of the most respected Members of this body—Senator JOHN TOWER. His has been a remarkable career, all the more so because it is far from over. A sailor during World War II, a student of political science, an educator and now a distinguished Senator of prodigious accomplishment, Chairman TOWER stands on the threshold of his third decade in the Congress. All this, and still not a gray hair in sight.

As a member of the Senate Armed Services Committee, which he chairs, I have had the privilege of working closely with him. I could not help but think when I first saw him in action, that with his broad knowledge, deep commitment, and boundless energy, he was, without question, the right man, in the right job, at the right time. I was also struck by the professionalism with which he conducted the committee's day-to-day business. It is a caliber for which we all can strive

But one of the things that impresses me most about JOHN TOWER is his sense of fair play. As important as his responsibilities are and as intense as his convictions are about where this country must go to insure its security, he repeatedly goes out of his way to make certain that the members of the committee, both majority and minority, are given the opportunity to express themselves and communicate their concerns and those of their constituencies. To JOHN TOWER, the Nation's defense is too important to play political games. He knows that our security, if it is to be maintained, must be based on a broad, nonpartisan consensus. It is in this spirit that he conducts the committee's affairs.

It is with great pleasure that I join my colleagues in wishing JOHN TOWER 20 more years as fruitful as the last.

(By request of Mr. GOLDWATER, the following statement was ordered to be printed in the RECORD:)

● Mr. HATCH. Mr. President, I want to join my colleagues in honoring one of the great men of the U.S. Senate. Twenty years ago today JOHN TOWER was sworn in as the first Republican Senator from Texas in modern times. The people of Texas used sound judgment 20 years ago and have continued to demonstrate that same judiciousness in returning JOHN TOWER to the Senate for three more terms since then.

Today JOHN TOWER sits as the chairman of the Senate Armed Services Committee. He has long been a champion of our national defense while being involved in one of the more interesting dramas of military history. Senator TOWER enlisted in the Navy during World War II as a boatswain's mate. After his discharge he continued in the Active Reserves and currently holds the rank of BMC, achieved through competitive examinations. The deep human interest of this situation lies in the number of admirals, to include the CNO's of the Navy who have been in the Senator's office to seek his wise counsel. While others might have used their position to advance themselves to a more prestigious rank, Senator TOWER saw the real significance of the enlisted force in today's military and chose to sustain and honor these men by remaining within their ranks.

As a Senator, he is without peer in his ability to deal effectively with any legislation on the Senate floor. He commands the respect of all who know him and I stand here today to offer him both my admiration and gratitude for a job well done. I look forward to serving with him in the coming years.●

Mr. GORTON. Mr. President, one of the most exciting byproducts of the 1960 Presidential election was, of course, Senator JOHN TOWER's remarkable achievement in being elected to succeed Lyndon Johnson 6 months after that Presidential election. In so doing, he became the first Republican U.S. Senator to be elected from the State of Texas in this century but the people of Texas have been wise enough to keep him here ever since.

I can remember, quite clearly, celebrating that very special event, as a young State legislator in Olympia, Wash. It is now an honor to me to able to celebrate Senator TOWER's 20th anniversary in the U.S. Senate, from what is, I might add, a different but delightful vantage point as one of his admiring colleagues.

Mr. THURMOND. Mr. President, today marks a great occasion for one of our colleagues. Twenty years ago today, JOHN TOWER began his service in the Senate. During these 20 years, Senator TOWER has made outstanding contributions to both the Senate and to our Nation.

It is a great pleasure for me to join with my colleagues in paying tribute to Senator TOWER. Even before he came to the Senate, I admired JOHN TOWER for his sound judgment and firm beliefs. In the Senate, JOHN TOWER has helped provide outstanding leadership and advice on matters of great national importance for two decades.

Senator TOWER is a man of courage, ability, and compassion. He has worked long and hard to preserve the fundamental principles on which this Nation was founded. He also has the foresight to realize that these principles are meaningful only if we have a strong national defense. I have had the opportunity to observe his dedication during my service with him on the Armed Services Committee. His leadership efforts there as ranking member, and now as chairman, have materially strengthened our Nation.

For years, Senator TOWER warned of the glaring weaknesses in our national defense. He instigated alternative defense proposals to prevent a further weakening of our defense posture. Now, he is at the forefront of the congressional effort as we respond to the recently acknowledged need for a strong

national defense. The leadership of Senator TOWER in the early days of the 97th Congress, in particular, has been crucial in this area.

Mr. President, today, we pay tribute to a great American patriot. By taking this time to recognize Senator TOWER, the Senate is acknowledging his courage and unyielding devotion to this Nation. He is a man who has a vision to see beyond political pressures to understand the best long-term interest of this country. His ability to marshal facts and figures to support his positions has been a credit to the Senate.

The past 20 years of service by Senator TOWER have been in the finest tradition of the U.S. Senate. The American people have benefited greatly from the efforts of Senator TOWER, and the Senate is richer for his service. I want to commend Senator TOWER for the past 20 years, and I look forward to many more years of his outstanding leadership.

Mr. D'AMATO. Mr. President, the United States and the American people owe a great debt of gratitude to the late Reverend and Mrs. Joe Z. Tower of Texas, for they were the parents of JOHN GOODWIN TOWER, our esteemed colleague who has graced this Chamber for the past 20 years.

While it has been my privilege to work with Senator TOWER for only 6 months, I have witnessed the leadership and statesmanship which has earned Senator TOWER the respect and admiration of Presidents and legislators, alike. Most of all, he has earned the respect and loyalty of Texans fortunate enough to be represented by a man so completely dedicated to their interests as JOHN TOWER.

On behalf of the citizens of New York State, I salute my colleague and friend from the great State of Texas and wish him the privilege of serving another 20 years in this body.

Mr. HEINZ. Mr. President, I rise to salute my friend and distinguished colleague from Texas, JOHN TOWER, on this the 20th anniversary of his inauguration as Texas' first Republican Senator in modern times.

During my tenure in the Senate, I have found him to be a most dedicated and effective public servant who puts the national interest first and above political considerations. At the same time, I know of no more loyal member of the Republican Party, or anyone more committed to the principles for which our party stands.

Mr. President, JOHN TOWER has long demonstrated deep concern about our national defense posture and the deficiencies of previous administrations' defense policies. As chairman of the Armed Services Committee, he has exercised great good judgment in trying to remedy those deficiencies and restore America's defense credibility.

As chairman of the Republican Policy Committee, Senator TOWER has been resourceful and forceful. He has continually drawn on the talents of other Republican Senators by creating task forces on the major issues of the day: On the economy, on energy, on defense, and foreign policy, to name but a few. And largely because of Senator TOWER'S superb leadership, these task forces have produced not political rhetoric, but the conceptual framework and the specific policy proposals which, by virtue of these timely and articulate Republican initiatives, have helped the Senate steer a stronger, sharper course for our Nation.

Mr. President, let me say, too, that I know Senator TOWER to be a most gracious man. Presiding over our weekly Policy Committee luncheons, he is unfailingly courteous and proper, and he always exhibits the sense of good humor so vital to our effectively pursuing our work. His only failure as a host is that we have to pay to go to his weekly policy luncheons. But then again, Senator TOWER has always been a fiscal conservative.

Finally, I want to express a personal note of gratitude for the extraordinary amount of assistance that JOHN TOWER has rendered to our party, especially to me during the 96th Congress. As chairman of the National Republican Senatorial Committee, I always found JOHN TOWER willing to lend an invaluable helping hand, no matter the time or place. Perhaps it is his own distinguished service in the same role in previous years that made him so understanding and generous. In any event, I am grateful.

Once again, let me join with my colleagues in congratulating my friend from Texas, who has done so much to make the Republican Party and America good and great.

Mr. SCHMITT. Mr. President, 20 years of Senate service by JOHN TOWER provides only a small measure of his contribution to the Nation and New Mexico's friendly neighbor, his home State of Texas.

The distinguished Senator from Texas has steadily risen in influence over the most critical area of our national activities, our national defense. His detailed knowledge of national defense programs is second to none and now is being applied with his irrepressible vigor through the chairmanship of the Armed Services Committee.

In addition to the political activities we have shared in our home States, my own personal memories of JOHN TOWER'S continuing history will include recollections of vigorous, knowledgeable, and eloquent debate with other stalwarts of the Senate. I look forward to many more years of association with and education from this remarkable Senator from Texas.

Mr. DENTON. Mr. President, I rise today to join with my colleagues in paying tribute to a man, who since the age of 17 when he enlisted in the Navy during World War II, has dedicated himself to the service of his country. I speak, of course, of the most distinguished chairman of the Armed Services Committee, Senator JOHN TOWER, who 20 years ago today was first sworn in as a Member of the U.S. Senate.

Although I have been a Member of this body for but 6 months, my respect for JOHN TOWER was forged many years ago during my own Naval career. Senator TOWER'S longstanding affiliation with the Naval service, his expert knowledge of defense requirements and foreign affairs, have earned him the highly deserved reputation as one of the foremost guardians of our national security. This unparalleled guardianship, steeled by leadership and conviction, has been a major force over the past 20 years in preserving, protecting, and defending the precious liberties which our forebears set forth over 200 years ago.

During the course of my brief tenure in the Senate, I have come to recognize firsthand the qualities which have established JOHN TOWER as one of the most highly regarded Members of this body. His leadership has proven invaluable; his counsel reassuring; his friendship rewarding.

Mr. President, today we pay tribute to more than a long and illustrious Senate career, we are formally recognizing a classic combination of soldier, stateman, and public servant. Senator JOHN TOWER'S selfless dedication to the State of Texas, and to this Nation can best be expressed in three words: Duty, honor, country.

Mr. McCLURE. Mr. President, it is my honor to pay tribute to Senator JOHN TOWER on his 20th anniversary of service in the Senate. On this date in 1961 Senator TOWER became the first statewide Republican officeholder in the Old South in the 20th century. His election was a harbinger of the growth of Republican Conservatism in the South.

The 20th anniversary year of that historic political occasion also marks the seating of senators from Alabama and Georgia and for the first time in this century a Republican served as a Governor or Senator in every State in the Old South.

Without the 10 present Republican Senators from the South the Republican Senate majority would not be possible.

After taking the seat of the late Lyndon B. Johnson, Senator TOWER rapidly became one of our most respected colleagues and has now served in the U.S. Senate as long as any Texan.

As chairman of the Conference Committee I work closely with the Senator from Texas in his position as chairman of the Policy Committee, and this relationship increased the respect and admiration I had long felt for his leadership in the banking and national defense areas.

Mr. President, I am proud to salute JOHN TOWER on this historic day.

Mr. WEICKER. Mr. President, I am pleased to join with my colleagues in paying tribute to the senior Senator from Texas, JOHN TOWER, as he begins today his third decade in this Chamber.

It is difficult, in these heady days of Republican control of the Senate, to comprehend the magnitude of JOHN TOWER'S achievement in being elected to the Senate from the State of Texas in 1961. He was the trailblazer for the Grand Old Party in the southern United States. Those who have followed him have not only made the party a respectable political force in the South but have brought about a historic shift in the balance of power in this body.

Throughout his service in the Senate, JOHN TOWER has demonstrated a courage of conviction and strength of char-

acter which have brought credit to this institution. As a worthy opponent or a valued ally, he is a force to be reckoned within this body. The people of Texas can be proud of the quality of representation he has given them and the Nation can be grateful for the leadership he has provided.

As far as the Republic Party is concerned, JOHN TOWER embodies an important principle. By expanding the party's horizons in the Old South, he demonstrates the need for the party to continually seek to expand its appeal to all groups and regions of this society. Without that dynamic outreach, our days in the majority and as a functioning participant in the national political debate are numbered.

I congratulate the Senator on this special day and applaud his record of distinguished national service.

Mr. NICKLES. Mr. President, it is with distinct pleasure that I join my colleagues today in paying tribute to JOHN GOODWIN TOWER from Texas, Oklahoma's good neighbor to the south.

The election in 1961 of JOHN TOWER as U.S. Senator from Texas was a harbinger of the breakthrough for the Republican Party in the South. The next year, Henry Bellmon was the first Republican to be elected Governor of the State of Oklahoma. The late Dewey F. Bartlett was elected Governor the following term. And, as most of my fellow colleagues are well aware, both of these gentlemen served as colleagues of JOHN TOWER in the U.S. Senate.

I take a great deal of pride in the privilege granted to me by the voters of Oklahoma in November to take up the scepter alongside JOHN TOWER.

JOHN TOWER is representative of what has made America great. He grew up in the small towns of Texas, fought in World War II as an enlisted man and taught government in a small university in Texas. This perspective no doubt has served him well in his approach to solutions to problems under consideration by the U.S. Senate.

One of the greatest challenges to the 97th Congress and to President Ronald Reagan is to insure the protection of our people, our country, and our freedom. During the last few years, our defense strategy has been allowed to deteriorate to the brink of disaster. The leadership provided by JOHN TOWER at the helm of the Senate Committee on Armed Services has, in these few short months, made possible the first giant step to recovery as evidenced by the fiscal year 1982 authorization.

Thank you, JOHN, for your friendship, your guidance, and mostly for your dedication to the people of Texas and to these United States of America.

Mr. PACKWOOD. Mr. President, we are often given in politics to unjustified superlatives. We often will say of each other "My great and good friend of longstanding." We will often make that statement of someone we have met once or twice and have known only 6 months.

Of JOHN TOWER, however, I can honestly say that this is my close and good friend of longstanding.

I first met JOHN TOWER in the summer of 1961, shortly after he was elected to the U.S. Senate. I was then chairman of the Multnomah County (Portland area) Republican Central Committee. JOHN TOWER had agreed to come to Oregon for a series of speeches on behalf of the Republican Party, culminating in a speech at a large Republican picnic in Portland.

I joined JOHN TOWER at the start of his tour in Medford, a town in southern Oregon. I watched and listened to him speak to the Republican gathering in that area. I then moved with JOHN TOWER north as he gave speech upon speech to different Republican groups until he reached Portland and spoke before about 5,000 people. Each of the speeches JOHN TOWER gave was different. Each of the audiences was different, although they were all Republican groups. On every occasion to every group, JOHN had the appropriate words for the situation. From that day onward, I have held him in esteem and respect. Never did I dream in the summer of 1961 that I would be joining JOHN TOWER in the U.S. Senate a few years later.

Everything I know about JOHN TOWER, everything I have observed working with him, and on occasion, working against him, confirms what I learned in that summer of 1961. He is able; he is astute; he is a leader.

Mr. President, I am delighted to join my colleagues in offering these few words of tribute to an extraordinary man. He is a credit to his country, to his State, and to his party.

Mr. JEPSEN. Mr. President, I am priviledged to have this chance to recognize my colleague and personal friend, the distinguished Senator from Texas, JOHN G. TOWER. Twenty years ago today, he began a career in the Senate which has been marked by a clear perception of public service and the strength and courage needed to realize that vision. His firm leadership in the full Senate and as chairman of the Armed Services Committee now plays a critical role in implementing the programs that this country sorely needs to regain its economic health and preeminent military strength.

I have the honor to serve under Senator TOWER on the Armed Services Committee. His association with the military goes back to his service with the U.S. Navy in World War II aboard an amphibious gunboat in the Western Pacific. He has continued to serve his country as a chief petty officer in the Naval Reserve. Senator TOWER has shown a clear understanding of the need for a strong U.S. military as the best way to maintain national security and international peace.

Over the last 20 years, the distinguished Senator from Texas has fought an often lonely battle to insure that the United States has the military strength it needs to meet is commitments. Long before it was popular to do so, he warned of the continuing buildup of Soviet forces around the world. He strongly opposed any short-sighted move to dismantle our Armed Forces. During my tenure on the Armed Services Committee, I have watched Senator TOWER, first as minority leader, then as chairman, skillfully pursue the goal of a strong U.S. defense posture. He has refrained from alienating anyone on the committee and kept the atmosphere amicable between both parties. The Armed Services Committee is an epitome of bipartisan cooperation toward a common goal. This is no minor achievement when one considers the widely divergent views on some aspects of national defense that are represented on the committee.

Mr. President, JOHN TOWER is an outstanding public servant and a vital asset to the U.S. Senate. I congratulate him on 20 years of service to the people of Texas and to the people of the United States. May God grant us his service for at least 20 years more.

Mr. WALLOP. Mr. President, 20 years ago JOHN TOWER was big news. The Kennedy administration had just taken office in a narrow victory, and some of its leading lights were telling the world that the country was going to make itself over according to the abstract tenets of political liberalism. But the voters of Texas, the first chance they got, told a different story. In the election held to fill Lyndon Johnson's seat they selected JOHN TOWER, a man who described himself as a Goldwater conservative. Too few people today remember that during 1961, 1962, and 1963 JOHN TOWER and BARRY GOLDWATER were advancing the very same things which, in the 1980's, have become the Nation's agenda. In 1961 JOHN TOWER knew that the American people were demanding military forces capable of protecting the United States.

He knew that the American people wanted to see a foreign policy which would show the world that Soviet totalitarianism is the wave of the past, and that the future belongs to freedom. He knew that the American people want to be left alone, in their sovereign wisdom, to regulate the moral order of their communities.

He knew that the American people want to be free of excessive regulations and taxes in order to prosper.

Above all, when it was unfashionable to do so, JOHN TOWER said that the American people, the people of Texas, were right and that a host of prestigious folks in the media, foundations and universities were wrong. Today, 20 years of history have validated JOHN TOWER's judgment and have borne witness to the faith he has kept with his State.

As one who came of age politically in those days, I have counted JOHN TOWER as my mentor. Over the past 4 years during which I have served as his colleague it has been my privilege to observe firsthand the quality of his judgment. I have seen him in the Soviet Union, face to face with the leaders of the world's greatest totalitarian power, when these were trying to persuade the U.S. Senate to ratify the SALT treaty by a mixture of threats and blandishments. Where lesser men of both parties have either been charmed or frightened, JOHN TOWER grew in both insight and determination. Thanks in large part to JOHN TOWER the Senate fulfilled its constitutional duty, albeit informally, and let the Nation know that our safety lies not in illusory negotia-

tions with a totalitarian party determined to use the very process of negotiations to stymie us, but on our own ability to defend ourselves.

Today this Nation is in greater danger than ever before. Because, until recently, JOHN TOWER's ideas were in the minority, the Nation's armaments are inadequate to their task. Today anyone who knows the strategic balance can describe any number of ways in which the Soviet Union could win a war. Today no one who knows the strategic balance can describe how the United States could defeat the Soviet Union. Therefore today as never before the American people should be grateful to the people of Texas for having sent JOHN TOWER to this body. Of course everyone today agrees that more money should be spent on defense. But lesser men than JOHN TOWER would not think beyond present programs, would not think beyond more of the same approach which got us into the dangerous fix we are in. I am confident, however that the Nation can trust a man with JOHN TOWER's academic record, with his record as a critic of the ways of the past, to demand measures that will actually safeguard the American people in case of war. We can count on such a man to choose one course or reject another on the basis of one supreme criterion: The need to provide the Armed Forces of the United States with the ability to fight and win wars, and to safeguard the American people in the process.

Finally, Mr. President, on this 20th anniversary of JOHN TOWER's accession to this body, I can do no better than to thank the people of Texas on behalf of the people of Wyoming, who care greatly about our country, for having sent him here.

Mr. PRESSLER. Mr. President, it is a pleasure to recognize with my colleagues today the distinguished service of Senator JOHN TOWER of Texas in the U.S. Senate.

As a World War II veteran, Senator TOWER survived that terrible conflict while serving courageously on a gunboat in the western Pacific Ocean.

Following the war, JOHN TOWER excelled as a political science major at Texas universities, receiving a B.A. in that field from Southwestern University and a M.A. degree from Southern Methodist University. His studies also included graduate work at the University of London.

JOHN TOWER's public service did not begin with his election to the U.S. Senate. His excellence in the study of political science led to an 11-year stint as a professor at Midwestern University in Wichita Falls, Tex. His public service in the education field has also included membership in the Texas Historical Society and the Texas Philosophical Society, as well as trusteeship positions for Southwestern University and Southern Methodist University.

Thus, Senator TOWER's public life was marked with great distinction before being elected to the Senate seat formerly held by Senator Lyndon B. Johnson. His commitment and his keen devotion to public service and to his constituents explain his reelection in 1966, in 1972, and again in 1978.

As a political scientist by training, Senator TOWER's many accomplishments in this body should come as no great surprise. But his academic expertise does not alone explain his rise to the topmost positions in Congress and in the Republican Party in the Senate.

Frankly, he is one of the most powerful leaders among us. His peers have recognized his leadership acumen by electing him chairman of the Republican Policy Committee and making him chairman of one of the most powerful and important committees in the entire Congress—the Senate Armed Services Committee. With the anticipated major increase in defense spending, his abilities as chairman of this critical committee will be extremely important to have—not only because of his detailed, vast knowledge of our national security programs and needs, but also because his proud conservative consciousness will help to reduce unnecessary or wasteful spending wherever that may occur.

Mr. President, it is reassuring to me, and it should be reassuring to all Americans, and people everywhere, who value freedom and liberty, to realize that this masterful and patriotic person is at the helm of the U.S. Senate's defense policy-making leadership.

Thus, I congratulate my dedicated friend from Texas on the arrival of his 20th anniversary as a distinguished Member of the U.S. Senate.

Mr. HUMPHREY. Mr. President, for 20 years now, the people of Texas, the citizens of the United States and indeed all those in the world who cherish freedom and democracy have been fortunate to have had Senator JOHN TOWER, a Member of this great Chamber. As JOHN TOWER begins his third decade of service as a U.S. Senator, I am honored that I can join my colleagues in offering a tribute to his achievements.

It has been a personal privilege and pleasure to have worked with Senator TOWER as a member of the Committee on Armed Services. As the ranking minority member and now as chairman of the committee, Senator TOWER has always been a bold spokesman for the effort to insure a strong national defense. Although, as a Member of the Senate, I know best his contributions to our national defense, I am not unfamiliar with the important role Senator TOWER has played as a Member of the Senate Committee on Budget at this watershed in our history. Senator TOWER's legislative interests are diverse and the beneficial influence he has exerted on legislation in this body over the past two decades is unquestioned.

At this time, it is perhaps most important to remember that Senator TOWER was one of a handful of men in the Senate who, sharing values similar to those I hold dear, held the fort during difficult, trying times.

Never compromising their beliefs, they fought doggedly looking forward to a time when they could lead; never giving up faith, they waited for their ranks to grow. Now, the ranks have swelled, and JOHN TOWER fully enjoys the rewards of leadership he so richly deserves. We, in the Senate, are grateful for his work and his friendship.

Mr. HART. Mr. President, I join in this tribute to JOHN TOWER's 20 years of service in the U.S. Senate. For the last 6½ years, Senator TOWER and I have worked together on the Armed Services Committee on a number of complex issues critical to our national defense.

Since Senator TOWER became chairman of the Armed Services Committee this year, I have been particularly impressed with his fairness, his dedication, and his commitment to building a stronger America. I congratulate JOHN on this milestone in his career and join with my colleagues in honoring his achievements.

A SALUTE TO THE SENATE'S TOWERING TEXAN

Mr. WILLIAMS. Mr. President, a lot of new folks arrived in Washington in 1961 and it was a time of great change, new policies and renewed hope for the American people. 1981 presents this town with a similar situation and it's interesting, I think, that the 2 years have in common the very extraordinary and uncommon figure of Senator JOHN TOWER.

He might have been missed when he first arrived in this Chamber. It was the advent of a new Democratic administration which included a President of the Senate from Texas of all places and Senator TOWER was not a man of, shall we say, towering physical proportions. But we Democrats were soon to learn just what a standout he truly is.

In 20 years, JOHN TOWER has bedeviled many of us on this side of the aisle and he has always done it with a rare mix of good humor, quick wit, and sharp tongue. He is a formidable adversary but a delightful colleague, and he is one of this body's most effective and talented Members.

We have squared off on many an issue, and I suppose that my win-loss record with Senator TOWER reads like the standings of the Texas Rangers—he is ahead, but not far enough ahead that there is no chance of catching up. In our years of service together on the Senate Banking Committee, Senator TOWER has been a successful proponent of his region, a Senator concerned with the full range of Federal urban, housing, and transportation policies and a Senator whom one can always count on for vigorous and enlightened debate. When we have been in agreement on an issue, I find that Senator TOWER is the perfect ally—he supports your cause and lets others know the merits of your case.

I once had an amendment on a foreign export bill which would have banned the overseas shipment of horses for the purpose of slaughter. It was an amendment which was considered important in the animal welfare community but, I must admit, Senator TOWER was more an expert on horses than I was. Yet he spoke graciously of my amendment and even dubbed it the "Wrangler Pete" legislation—a label which fits somewhat misshapenly on this New Jersey Senator, but which seemed perfectly natural coming from the mouth of a true Texan.

Mr. President, for 20 years JOHN TOWER has served this Nation and the Senate

well. He has pointed out the need for strong defense and sensible economic programs, and though you might not always agree with the thrust of his arguments, you can indeed always say that he has been a noble and gentlemanly colleague. We all salute his stature in the Senate on the 20th anniversary of his service among us.

Mr. STEVENS. Mr. President, I yield the remainder of our time to the distinguished Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas.

Mr. TOWER. I thank my distinguished colleague from Alaska.

Mr. President, I simply want to say "thank you" to all of my colleagues who have been so generous and kind in their remarks about me today. I know what it feels like now to be present and listen at your own funeral ceremony. I think the analogy is well drawn, because at funerals you rarely say anything disparaging about the departed. I note that my colleagues today avoided saying a great number of things about me that might have been said that might not be quite so complimentary as the things they did say. And I thank them, I suppose, as much, then, for what they did not say as for what they said.

In any case, I do thank them. I feel privileged to have the opportunity to serve with men of such caliber that I think this validly and rightly may be called the world's greatest deliberative body.

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

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

Mr. STEVENS. Mr. President, I yield back the balance of the time allocated under the special orders and under the leadership time.

RECOGNITION OF SENATOR FORD

The PRESIDING OFFICER (Mr. MURKOWSKI). Under the previous order, the Senator from Kentucky is recognized for not to exceed 15 minutes.

Mr. FORD. Mr. President, I thank the distinguished acting majority leader.

DROUGHT DISASTER LOANS FOR FARMERS

Mr. FORD. Mr. President, I rise today to bring to the attention of the Senate the intolerable situation the Reagan administration is permitting to continue in the Small Business Administration disaster loan program.

Last summer, a serious drought devastated crops and killed livestock over large portions of my State and throughout the South and Midwest. Total agricultural losses exceeded $1 billion in some States and hundreds of counties were declared disaster areas.

In my State of Kentucky alone agricultural income was reduced by $500 million. Corn and soybean yields dropped 29 percent below 1979.

Drought-stricken Kentucky farmers looked to the Federal Government for some assistance—not handouts, but loans necessary to remain financially solvent through another growing season. Over 500 farmers, mostly from the western part of the State, applied to the Small Business Administration for disaster loans based on documented losses.

We know, Mr. President, that there has been a long debate in this body over whether or not the SBA should be in the business of agricultural disaster loans. Without the necessary background and experience, the SBA had considerable difficulty in efficiently managing a farm loan program. Many of my colleagues argued persuasively to get SBA out of the farm disaster loan business.

That issue was settled last year when we passed Public Law 96-302 and effectively removed SBA from farm disaster lending by requiring farmers to go to the Farmers Home Administration flirst for disaster assistance. However, the changes made in Public Law 96-302 do not apply to the drought or any other disaster that commenced on or before July 3, 1980. Thus, for this one last time SBA was involved in providing some assistance to drought-stricken Kentucky farmers.

SBA officials in conjunction with other State and local government personnel held several meetings to explain their disaster loan program. Drought victims relied on the law, regulations, and statements made by SBA officials. Through June 12, 518 applications have been received in the Louisville SBA office. Thousands of other applications were made in Arkansas, Missouri, Texas, and other States.

In the middle of processing these loans, SBA on March 19, issued emergency and final regulations making significant changes in both eligibility and loan benefits. These regulatory changes were made without benefit of public notice or comment.

The new loan regulations affected all pending loan applications. A credit-elsewhere test was imposed on applicants where none had been required before. In addition, a limitation was imposed on the amount of a disaster loan a farmer could receive. Now SBA loans could not be made for more than 60 percent of the documented drought losses.

Mr. President, drought-stricken farmers in my State were totally surprised, perplexed, and frustrated by the actions of SBA. At a time when trust in government was already low, the Reagan administration has succeeded in ignoring promises made to thousands of disaster victims.

On April 28, five colleagues joined me in a letter to President Reagan. We implored him to rescind these emergency and final regulations promulgated on March 19. We brought to his attention the fact that thousands of farmers were in desperate need of credit to provide for planting crops and replacing livestock. Time was of critical importance since the planting season cannot wait.

The administration has chosen to do nothing. The unfairness and inequity of the SBA actions continue without a word of comment from our President. SBA continues to operate under the emergency and final regulations issued March 19. As of June 12, SBA-Louisville has now turned down 134 disaster loan applications. Prior to March, only four applications had been refused. Still pending in the Louisville office are 149 loans, most of which will undoubtedly now be turned down.

Time has run out for many Kentucky farmers. The drought of last summer, the lack of credit for this year—and to top it off torrential floods this spring—has brought many of my farmer constituents to their knees. Why does the administration refuse to recognize that the Federal Government has a basic responsibility to help victims of natural disasters?

This week the Senate will begin floor action on the reconciliation resolution. A vital part of this reconciliation is S. 865, a bill put together by my distinguished colleagues Senator BUMPERS and Senator PRYOR. This legislation will provide for a return to the pre-March 19 regulation for processing all applications for drought disaster assistance pending at that date. This legislation has been favorably reported by the Small Business Committee and I call on my colleagues on both sides of the aisle to support this desperately-needed action. By doing so, we can meet the promise made to America's drought victims who in good faith relied on the Federal Government for assistance in time of need.

The administration has demonstrated quite clearly that it is deaf to the pleas of America's victims. I do not want the Senate of the United States to also turn a deaf ear.

EXECUTIVE SESSION

Mr. STEVENS. Mr. President, I ask unanimous consent that the Senate go into executive session for the purpose of considering all nominations under new reports on the Executive Calendar.

There being no objection, the Senate proceeded to the consideration of executive business.

The PRESIDING OFFICER. The nominations will be stated.

Mr. STEVENS. Mr. President, I ask unanimous consent to consider all nominations under New Reports and placed at the Secretary's desk en bloc and that they be confirmed en bloc.

The PRESIDING OFFICER. Without objection, the nominations are considered and confirmed en bloc.

The nominations considered and confirmed en bloc are as follows:

DEPARTMENT OF ENERGY

Herman E. Roser, of New Mexico, to be an Assistant Secretary of Energy.

DEPARTMENT OF DEFENSE

Russell D. Hale, of Virginia, to be an Assistant Secretary of the Air Force.

Edward J. Philbin, of California, to be Deputy Assistant Secretary of Defense for Reserve Affairs.

George A. Sawyer, of New Jersey, to be an Assistant Secretary of the Navy.

William R. Gianelli, an Assistant Secretary of the Army, to be a member of the Board of the Panama Canal Commission.

U.S. AIR FORCE

Maj. Gen. James E. Dalton [redacted], FR, U.S. Air Force, to be lieutenant general.

U.S. ARMY

Maj. Gen. Oren Edwin DeHaven, [redacted] U.S. Army, to be lieutenant general.

Maj. Gen. John Winn McEnery, [redacted] U.S. Army, to be lieutenant general.

Lt. Gen. Arthur James Gregg [redacted] (age 53), Army of the United States (major general, U.S. Army), to be lieutenant general.

Maj. Gen. Richard Horner Thompson, [redacted] U.S. Army, to be lieutenant general.

U.S. NAVY

Adm. Alfred J. Whittle, Jr., U.S. Navy (age 57), for appointment to the grade of admiral on the retired list, to admiral.

Rear Adm. James A. Lyons, Jr., U.S. Navy, to be vice admiral.

U.S. MARINE CORPS

Lt. Gen. Paul X. Kelley [redacted], U.S. Marine Corps, to be general.

NOMINATIONS PLACED ON THE SECRETARY'S DESK IN THE ARMY AND THE NAVY

Army nominations beginning Lowell L. Ballard, Jr., to be colonel, and ending Susie M. Sherrod, to be lieutenant colonel, which nominations were received by the Senate May 27, 1981, and which appeared in the Congressional Record of June 1, 1981.

Navy nominations beginning James D. Abshear, to be chief warrant officer, and ending Adrian C. Youngblood, to be chief warrant officer, which nominations were received by the Senate and appeared in the Congressional Record of June 1, 1981.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the nominations were considered and confirmed en bloc.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STEVENS. Mr. President, I ask unanimous consent that the President be notified of the confirmation of all the nominations.

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

LEGISLATIVE SESSION

Mr. STEVENS. Mr. President, I ask unanimous consent that the Senate return to legislative session.

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

REORGANIZATION ACT OF 1981

Mr. STEVENS. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 161, the Reorganization Act of 1981.

Mr. ROBERT C. BYRD. Mr. President, there is no objection.

The PRESIDING OFFICER. The clerk will state the bill by title.

The legislative clerk read as follows:

A bill (S. 893) to extend and amend the authority of the President to reorganize the executive branch of the Government under chapter 9, of title 5, United States Code.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Governmental Affairs with amendments, as follows:

On page 2, line 6, strike "of", and insert "after";

On page 3, line 7, after the period, insert the following: addition, the message shall present evidence that preliminary planning has taken place, through an interagency task force or otherwise, to achieve effective implementation of the reorganization.

On page 3, line 11, strike "also";

On page 3, line 13, strike "for", and insert "in"; and

On page 3, line 13, strike "the", and insert "such":

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Reorganization Act of 1981".

EXTENSION OF AUTHORITY

SEC. 2. Section 905(b) of title 5, United States Code, is amended to read as follows:

"(b) A provision contained in a reorganization plan may take effect only if the plan is transmitted to the Congress within four years after the date of enactment of the Reorganization Act of 1981.".

PERIOD FOR CONSIDERATION OF PLAN

SEC. 3. Chapter 9 of title 5, United States Code, is further amended—

(1) by striking out "thirty calendar days" in section 903(c) and inserting in lieu thereof "60 calendar days";

(2) by striking out "sixty calendar days" in such section and inserting in lieu thereof "90 calendar days";

(3) by striking out "sixty-day" in section 906(c) and inserting in lieu thereof "ninety-day";

(4) by striking out "45 calendar days" in section 910(b) and inserting in lieu thereof "75 calendar days"; and

(5) by striking out "45 calendar days" in section 911 and inserting in lieu thereof "75 calendar days".

INFORMATION TO ACCOMPANY PLANS

SEC. 4. Section 903(b) of title 5, United States Code, is amended by adding at the end thereof the following new sentences: "If the reorganization provided for in a plan requires the promulgation of an Executive order, Presidential directive, or other administrative action, a draft of each such order, directive, or action shall accompany such message. In addition, the message shall present evidence that preliminary planning has taken place, through an interagency task force or otherwise, to achieve effective implementation of the reorganization. The President shall submit such further background or other information as the Congress may require in its consideration of such plan.".

RESTRICTIONS ON CONTENTS OF PLANS

SEC. 5. (a) Section 905(a) of title 5, United States Code, is amended—

(1) by inserting "or renaming an existing executive department" immediately after "a new executive department" in paragraph (1);

(2) by redesignating paragraphs (5) and (6) as paragraphs (6) and (7), respectively, and by inserting immediately after paragraph (4) the following new paragraph:

"(5) creating a new agency which is not a component or part of an existing executive department or independent agency;".

(b) Section 904(1) of such title is amended by inserting ", subject to section 905," immediately after "may".

METHOD OF APPROVAL OF PLANS

SEC. 6. (a) Section 906(a) of title 5, United States Code, is amended to read as follows:

"(a) Except as otherwise provided under subsection (c) of this section, a reorganization plan is effective—

"(1) if each House of Congress, within 90 calendar days of continuous session of Congress after the date on which such plan is transmitted to it, adopts a resolution stating in substance that the House favors the reorganization plan; or

"(2) upon the expiration of such 90-day period unless, within such period, in a vote on final approval of such a resolution in either House, such resolution fails to be adopted.".

(b) Section 906(c) of such title is amended by striking out "if both Houses of Congress have defeated a resolution of disapproval" and inserting in lie uthereof "if both Houses of Congress have approved a resolution of approval".

(c) Section 909 of such title is amended by striking out the matter within the quotation marks and inserting in lieu thereof the following: "That the favors the Reorganiation Plan Numbered transmitted to the Congress by the President on , 19 .".

Mr. STEVENS. Mr. President, I am pleased to inform the Senate, on behalf of Senator ROTH, chairman of the Governmental Affairs Committee, that the committee unanimously recommends passage of S. 893, to extend executive reorganization authority.

Presidential authority to propose Executive Reorganization Plans to Congress, subject to a one-House veto, expired on April 6, 1981. The matter of reviewing the President's reorganization authority is one which has been before the Congress numerous times during the last 40 years. The Reorganization Act thus gives successive President's authority to make the national Government more responsive to their policies, while it has made them more accountable to the public for their actions.

The bill reported by the Governmental Affairs Committee is not a simple reorganization, but rather makes some important changes in the reorganization process.

The expiration date has been altered to extend authority for 4 years rather than the 2-year extension more common in the recent past. A 4-year extension will help to assure more effective implementation of reorganization proposals.

Section 5(a)(1) of S. 893 prohibits the President from renaming any existing executive department in a reorganization plan. This is intended to reinforce the existing prohibition against the creation of new departments and so minimize unnecessary friction between the Administration and the Congress.

Section 5(a)(2) adds a new subsection to the Reorganization Act which would prevent the President from creating new agencies which are not made a part of an existing department or independent agency. New independent agencies frequently diffuse accountability for programs and policies while their increasing number makes it more difficult for the President to implement and coordinate policies. The committee believes that this provision will enhance the accountability of all executive branch agencies to the President and the Congress and will reduce fragmentation.

Section 4 provides that any executive orders or other written directives which the President believes may be required to implement any plan must be made a part of the message accompanying it.

While the orders and directives are intended to provide committee members with a complete description of the scope of each proposed plan, they would be in draft form only and would not be binding on the President. During the course of its consideration, the committee heard testimony from GAO to the effect that inadequate resources are devoted to implementing reorganization plans once approved. Section 4 was therefore amended to require that the message accompanying any plan include sufficient evidence to assure the committee that preliminary planning has taken place.

Section 3 of S. 893 extends by 30 days the period of time for congressional consideration. Congress will now have 90 days in which to consider plans. The Governmental Affairs Committee in the Senate and the Government Operations Committee in the House will have 75 days for hearings or review before being discharged of further consideration. The President will have up to 60 days after a plan is submitted to Congress in which to offer amendments. Experience with the reorganization process has demonstrated the need for more time to carefully review plans and to allow the committee to work more effectively with the administration.

Finally, under section 6 of this bill, reorganization plans would become effective if any one of these conditions were satisfied during the 90-day period for congressional review:

First, each House of Congress adopts a resolution approving the plan;

Second, one House of Congress adopts an approving resolution while the other fails to vote; or

Third, neither House votes on an approving resolution.

If none of these conditions are met; for example, if one House defeats a resolution to approve, the plan is defeated. Because the approval mechanism in S. 893 provides for passage, rather than defeat, of a resolution as a method of approval, it more closely resembles the normal legislative process than the previous law.

Since its original enactment the reorganization process has served as a principal instrument for the restructuring of government. The need for such an instrument is as great today. As the President moves forward with the economic recovery program and with the return of many responsibilities to State and local governments, his effort to reform the organization of the executive branch will be aided and simplified by the authority conferred upon him through this customary measure.

I am convinced that the reorganization procedure and the new provisions for expanded review contained in S. 893 balance the Executive's need for quick and flexible action with the need for meaningful review by Congress. I recommend its prompt passage.

Mr. President, I ask unanimous consent that there be no amendments in order to this bill other than the committee amendments.

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

ORDER FOR RECESS UNTIL 2 P.M.

Mr. STEVENS. Mr. President, I ask unanimous consent that, following the statement by the Senator from Iowa, the Senate stand in recess until 2 p.m.

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

Does the Senator wish the committee amendments considered en bloc?

Mr. STEVENS. Mr. President, yes, I ask unanimous consent that the committee amendments be considered en bloc. I ask that that be done now.

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

The question is on agreeing to the committee amendments en bloc.

The committee amendments were agreed to en bloc.

Mr. GRASSLEY. Mr. President, I thank the Senator from Alaska for yielding to me. I have no opposition to the bill. In fact, I have totally supported the legislation over a long period of time. I think that this bill is a reasonable and responsible procedure for amending the law dealing with the reorganization of government.

The President's role in this process is enhanced through legislation that allows him to come to Congress with recommendations for Congress to approve or disapprove as it sees fit, but nevertheless aware that his plans will go into effect unless Congress takes any contrary action. Therefore, I am not rising to speak to the major point of the legislaiton, but I rise to remind my colleagues in this body that, involved with this legislation, as it has historically been since the 1930's, is the legislative dissapproval provision by which these reorganization programs are reviewed by the Congress of the United States. That review is what we commonly refer to as the congressional veto, a procedure by which Congress will have a certain period of time after a proposal is given to them by the President to take contrary action. If no contrary action is taken, then the proposal goes into effect.

I take this opportunity, Mr. President, to bring this issue up on this specific piece of legislation because, hopefully, later on in this Congress, we shall be discussing the subject of the congressional veto—whether or not the congressional veto, the concept or the principle of a legislative disapproval mechanism, however, you want to say it, should be applicable to regulations written by the bureaucracy, which regulations, we all know, have the same impact upon our lives as any law passed by the Congress of the United States. I hope that this issue will be up for discussion soon.

There are, undoubtedly, a number of people who hope it will never come up for discussion, because they oppose the concept of a congressional veto. I address the disapproval mechanism at this time because, when Members of this body vote for this legislation, they are endorsing the concept of a congressional veto as previous Senates have endorsed the concept of the congressional veto on previous reorganization bills.

I also take the opportunity to remind the Members of this body that the President of the United States, through his support of this legislation, is supporting the concept of the congressional veto. The President, as far as I know, to this point, has not taken a position on the congressional veto applicable to regulations. I hope that he will not do so until he gives it serious consideration and he has an opportunity to visit with some of us in the Congress who support the congressional veto, because we want to remind the President of the United States that before he announced his candidacy for the Presidency, he spoke, in newspapers and on radio programs, in support of the congressional veto.

We want to remind him that the Republican platform has come out in support of the congressional veto.

We want to remind him that he made statements in the election last fall that he supported the congressional veto.

We want to remind him that the reports of his transition teams recommended the congressional veto.

We want to remind him that one of his top advisers, David Stockman, Director of the Office of Management and Budget, has spoken out in support of the congressional veto and voted that way as a Member of the U.S. House of Representatives.

Finally, we want to remind him that one of his Cabinet members, Mr. Schweiker, supported the concept when he was a Member of the U.S. Senate.

Mr. President, we think that all of these bits of evidence are important to the President of the United States and that he ought to come out in support of the congressional veto as it applies to regulation. But more importantly, the fact that he supports the congressional veto as it is applicable to this piece of legislation and that he is willing to allow basic legislation to give Congress the opportunity to thwart any reorganization proposals, suggest likewise, that it ought to be available to the Congress of the United States, whenever his administration suggests regulations to be promulgated pursuant to legislation passed by the Congress of the United States. So, in more than one way, the President has endorsed and is endorsing the congressional veto. Most importantly, he is endorsing it on a very specific piece of legislation that we are going to pass here today. In passing this legislation, the Senate of the United States is tacitly supporting the congressional veto as well.

Mr. President, as to all the questions that have been raised by the opponents of the congressional veto as to its constitutionality—whether or not it violates the separation of powers between the executive branch and the congressional branch of Government—those questions are answered right here in this very report on this bill, where it says, in the middle paragraph on page 3:

> The limitations and procedures contained in the act have, over time, proved adequate both as a constitutional and practical matter to protect the responsibilities of both the Congress and the executive branch in accordance with the principles of separation of power between the two branches.

I continue to quote:

> Renewing reorganization authority is not an open-ended mandate to the President to

reorganize Government on his own. Congress should and must be an active participant in the process of formulating and implementing reorganization plans.

It reads, further, that the President and Congress can work together in a way neither could work alone to improve the Government as organized to meet the obligations to the people it serves.

The constitutional questions of Congress delegating some legislative authority to the President and the constitutional questions involved with administrative action taken by the President and how that may be checked by review by the Senate and the House are involved with this piece of legislation.

It seems to me that this very bill serves as a worthy precedent for any discussion of Congressional veto that has come up on individual, specific pieces of legislation or the more encompassing piece of legislation that the distinguished Senator from New Mexico (Mr. SCHMITT) and I have introduced, to establish the congressional veto.

As I look across the Chamber, I see the Senator from Michigan, who also has introduced a measure on this subject, and who has additionally tried to address this overall issue.

I hope the Senate will consider the issue of congressional veto as it is involved with this piece of legislation. I hope the Senate approves it. But I also hope the Senate will not be inconsistent when the subject of congressional review of regulations comes before this body and that it will, likewise, approve that legislation.

Mr. LEVIN. Mr. President, will the Senator yield?

Mr. GRASSLEY. I yield for discussion purposes only, on my time, to the Senator from Michigan.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. LEVIN. Mr. President, I commend the Senator from Iowa for his statement reminding the Senate that there is much precedent in the Senate, including the bill before us today, for legislative veto. There are many other precedents we can point to for the adoption of legislative veto, everything from a one-House veto to a joint resolution veto, the so-called Levin-Boren approach we adopted last year on FTC and HUD. So there is much precedent, as the Senator indicates, for adoption of the legislative veto.

I also commend the Senator for reminding us of that fact and reminding the President—as it is important to remind the President—that he also has made a commitment to legislative veto; and we hope that, in the next few months, one form or another of a Government-wide legislative veto will be passed by Congress.

I might add that, by coincidence or otherwise, the Senator from Virginia (Mr. HARRY F. BYRD, JR.) is in the Chamber. He also is the father of a form of legislative veto, a so-called two-House veto, which has much to be said for it.

As it happens, we have Senator GRASSLEY, who is part of the Schmitt-Grassley approach, and I, who am part of the Levin-Boren approach, as well as the Senator from Virginia (Mr. HARRY F. BYRD, JR.) who is the sponsor, as we know, of the two-House veto without the President, another form of veto.

We all hope that, in one form or another, this Congress will adopt a broad, across-the-board form of legislative veto. It is long overdue. Many of us have been working very hard to adopt it, to apply to all the agencies, with a few exceptions. I know that particularly my friend, Senator GRASSLEY, the Senator from Virginia and I are among those who have worked hardest in this area.

Mr. HARRY F. BYRD, JR. Mr. President, I concur in the comments made by the able Senator from Michigan and the able Senator from Iowa with respect to the need to take some action in regard to congressional veto power.

Mr. GRASSLEY. Mr. President, I should like to participate in a colloquy at this time with the distinguished Senator from New Mexico.

We are presently considering legislation, S. 893, which would have the effect of extending and amending the ability of the President to reorganize the executive branch of Government under chapter 9 of title 5 of the United States Code. It is important to note, that contained within this legislation, is a provision which would provide Congress with a legislative disapproval mechanism.

Mr. President, it is ironic that many Members of this Chamber who have condemned the legislative veto as an unconstitutional interference with administrative duties, have no qualms about supporting legislation that contains a veto provision. The legislative veto should not be viewed as a substitute for other regulatory initiatives but rather as a complement to such legislation. It is time to recognize this tool for what it is—an essential instrument of congressional oversight.

Mr. SCHMITT. Will the distinguished Senator from Iowa yield?

Mr. President, in recent years, the Congress has made increasing use of the legislative veto procedure. Some 296 provisions of law now require some kind of congressional review of agency rulemaking. The 96th Congress took the step of applying the legislative veto to all the rules of a major agency—the Federal Trade Commission. It is necessary that we apply this procedure to all Federal departments and agencies. Senator GRASSLEY and I have introduced a legislative veto bill, S. 890, which currently has 37 cosponsors. This legislation will, in a reasonable, orderly and constitutional manner, return to the Congress some measure of responsibility for the quantity and quality of regulatory law which confronts the American people. The House bill, introduced by Congressman LEVITAS, has over 227 cosponsors, and it is time for the Senate to act favorably.

Mr. GRASSLEY. History reveals a variety of congressional motivations behind the growth of legislative vetoes. Legislative vetoes originate as a condition attached to authority that Congress had exercised in the past. In delegating to the President or executive officials the authority to reorganize executive agencies, suspend deportations, and adjust Federal salaries, Congress relinquishes power only with the assurance of a legislative veto. The authority and the legislative veto are inseparable; the administration could not have had the authority without the condition. This same reasoning applies to legislation on Federal elections, atomic energy, export administration, standby gasoline rationing plans, and public works and buildings. Without recourse to the legislative veto, the two branches might well have been stalemated in their search for an acceptable piece of legislation.

Although Presidents often object to the legislative veto as an infringement on executive power and a destabilizing force on the balance between the branches, the net effect of legislative vetoes may actually be an increase in executive power. President Reagan campaigned on a platform advocating the use of this important tool. Far more power is delegated in the company of the legislative veto than would have been tolerated without it.

Another motivation behind the growth of the legislative veto is, of course, its restraint on authority previously delegated. Here, Congress attempts to rein in power that has drifted too far from legislative control. In this category are the legislative vetoes that are applied to arms sales, trade authority, regulatory agencies, and the General Services Administration.

Finally, as illustrated by the legislation we are presently considering, some of the legislative vetoes do not concern power delegated by Congress. Instead, the problem is how the legislative branch and the executive branch can share a responsibility that combines elements of congressional and Presidential power. Unable to define by statute the precise boundary between the branches, Congress relies on a legislative veto as a procedural link between rival and conflicting constitutional interpretations. Included within this category are the legislative vetoes in the war powers resolution and national emergency legislation. Without a definitive ruling from the courts on the allocation of war and emergency powers—a ruling the courts have been reluctant to deliver—the legislative veto offers a workable arrangement on the sharing of power between the legislative and executive branches.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

The bill (S. 893) was passed.

RECESS UNTIL 2 P.M.

The PRESIDING OFFICER. Under the previous order, the Senate will stand in recess until 2 p.m.

The Senate recessed until 2 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. RUDMAN).

VETERANS' PROGRAMS EXTENSION AND IMPROVEMENT ACT OF 1981

The PRESIDING OFFICER. Under the previous order, the hour of 2 p.m.

having arrived, the Senate will now proceed to the consideration of S. 921, which the clerk will state by title.

The assistant legislative clerk read as follows:

A bill (S. 921) to amend title 38, United States Code, to extend authority to provide contract hospital care and medical services in Puerto Rico and the United States Virgin Islands.

The Senate proceeded to consider the bill which had been reported from the Committee on Veterans' Affairs with an amendment to strike out all after the enacting clause, and insert the following:

That (a) this Act may be cited as the "Veterans' Programs Extension and Improvement Act of 1981".

(b) Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

EXTENSION OF AUTHORITY TO PROVIDE CERTAIN CONTRACT HOSPITAL CARE AND MEDICAL SERVICES IN PUERTO RICO, THE VIRGIN ISLANDS, AND OTHER TERRITORIES

SEC. 2. Section 601(4)(C)(v) is amended by striking out "December 31, 1981" and inserting in lieu thereof "September 30, 1982".

LIMITATION ON CERTAIN DENTAL CARE ENTITLEMENT

SEC. 3. Clause (2) of section 612(b) is amended by inserting after "that" in subclause (B) "(i) in the case of a person who reenters active service in either the military, naval, or air service within one year after the date of such person's prior discharge or release from such service, the one-year limitation shall be measured from the date of such person's subsequent discharge or release, and (ii)".

EXTENSION FOR CERTAIN VIETNAM-ERA VETERANS TO REQUEST READJUSTMENT COUNSELING

SEC. 4. Section 612A(a) is amended—

(1) by striking out "two years after the effective date of this section" and inserting in lieu thereof "before October 1, 1983"; and

(2) by adding at the end the following new sentence: "Notwithstanding the first sentence of this subsection, in any case in which the Administrator determines that a veteran was, at any time during the period in which such veteran was eligible to request such counseling under such sentence, prevented from receiving such counseling—

"(A) because of a medical condition of such veteran, or

"(B) because such veteran was incarcerated in a Federal, State, or local jail or penal institution,

such period shall not run during the period of time that such veteran was so prevented from receiving such counseling. For the purposes of this subsection, the term, 'medical condition' means a disability, including an alcohol or drug dependence or abuse disability.".

VOCATIONAL REHABILITATION AND GI BILL PROGRAMS DELIMITING PERIODS EXTENTION BASED ON ALCOHOL OR DRUG DISABILITIES

SEC. 5 (a) Section 1501 is amended—

(1) by redesignating paragraphs (3) through (9) as paragraphs (4) through (10); and

(2) by inserting after paragraph (2) a new paragraph (3) as follows:

"(3) The term 'medical condition' means a disability, including an alcohol or drug dependence or abuse disability, of a veteran.".

(b) Section 1662(a) is amended by inserting at the end of paragraph (1) the following new sentence: "For the purposes of this paragraph, an alcohol or drug dependence or abuse disability from which the veteran has recovered shall not be considered to be the result of willful misconduct.".

EXTENTION OF VETERAN'S READJUSTMENT APPOINTMENT AUTHORITY

SEC. 6. Section 2014(b)(2) is amended by striking out "1981" and inserting in lieu thereof "1984".

EXTENSION OF TIME FOR STATE MEDICAL SCHOOLS ESTABLISHED WITH ASSISTANCE OF VA GRANTS TO OBLIGATE FUNDS

SEC. 7. Section 5073(a)(2)(G) is amended by striking out "seventh such period" and inserting in lieu thereof "seventh and eighth such periods".

AMENDMENTS TO AGENT ORANGE STUDY PROVISIONS

SEC. 8. Section 307 of the Veterans Health Programs Extension and Improvement Act of 1979, Public Law 96–151 (93 Stat. 1097), is amended—

(1) by amending subsection (a)(1) to read as follows:

"(a)(1)(A)(i) The Administrator of Veterans' Affairs shall design a protocol for and conduct an epidemiological study of the long-term adverse health effects in humans of service in the Armed Forces of the United States in the Republic of Vietnam during the period of the Vietnam conflict as such health effects may result from exposure to phenoxy herbicides (including the herbicide known as agent orange) and the class of chemicals known as the dioxins produced during the manufacture of such herbicides.

"(ii) In conducting the study provided for by division (i) of this subparagraph, the Administrator may, as the Administrator deems appropriate, expand the scope of such study to include an evaluation of the long-term adverse health effects in humans of such service as such health effects may result from other factors involved in such service, including exposure to other herbicides, chemicals, medications, or environmental hazards or conditions.

"(B)(i) The Administrator shall also conduct a comprehensive review and scientific analysis of the literature covering other studies relating to whether there may be long-term adverse health effects in humans from exposure to phenoxy herbicides (including the herbicide known as agent orange) and the class of chemicals known as the dioxins produced during the manufacture of such herbicides.

"(ii) In conducting the review and analysis of the literature provided for by division (i) of this subparagraph, the Administrator may, as the Administrator deems appropriate, expand the scope of such review and analysis of the literature to include a review and analysis of the literature covering other studies relating to whether there may be long-term adverse health effects in humans from other factors involved in service in the Armed Forces of the United States in the Republic of Vietnam during the Vietnam conflict or in other comparable situations involving one or more of the factors described in subparagraph (A)(ii) of this paragraph.

"(C) The Administrator may, in carrying out the study provided for by subparagraph (A) or the review and analysis of the literature provided for by subparagraph (B), or both, enter into such contracts or agreements with private or public agencies or persons for such necessary services, including design of the protocol for or the conduct of, in whole or part, such study, or both, or such review and analysis of the literature, or both, as the Administrator may deem practicable and necessary."; and

(2) by amending subsection (b)—

(A) by amending paragraph (2) by inserting "for administrative or legislative action, or both," after "recommendations"; and

(B) by adding at the end the following new paragraph:

"(3)(A)(i) Not later than ninety days after the submission of each report provided for in paragraph (2), the Administrator shall, based on the results described in each such report and the comments and recommendations thereon and any other available pertinent information, develop and publish in the Federal Register, for public review and comment, proposed regulations containing proposed guidelines, standards, and other criteria (together with an explanation of the bases for such proposed guidelines, standards, and criteria) for resolving claims for benefits administered by the Veterans' Administration based on exposure to agent orange during service in the Armed Forces of the United States in the Republic of Vietnam during the Vietnam conflict.

"(ii) If the Administrator expands the scope of the study provided for in subsection (a)(1)(A)(i) (as provided for in subsection (a)(1)(A)(ii), such proposed regulations shall also contain proposed guidelines, standards, and other criteria for resolving claims for benefits administered by the Veterans' Administration based on one or more factors described in subsection (a)(1)(A)(ii) related to such service.

"(iii) Proposed regulations developed and published pursuant to division (i) of this subparagraph (and, of proposed regulations are developed and published pursuant to division (ii) of this subparagraph, pursuant to such division) shall include specification of any presumptions (including any presumptions regarding service and exposure) to be applied to the resolution of the claims to which such proposed guidelines, standards, and criteria in such proposed regulations apply.

"(iv) Notwithstanding any other provision of law, the public review and comment process required by division (i) of this subparagraph shall be conducted in accordance with the provisions of sections 553 (b) and (e), 556, and 557 of title 5, United States Code.

"(v) On the same day as such proposed regulations are published as required by division (i) of this subparagraph, the Administrator shall submit to the appropriate committees of the Congress any recommendations for legislative action that the Administrator considers appropriate in light of such proposed guidelines, standards, and criteria, the report submitted pursuant to subsection (b)(2), and other available pertinent information.

"(B) Not later than ninety days after the completion of the public review and comment process provided for in subparagraph (A)(i) and (iv), the Administrator shall publish in the Federal Register final regulations containing the guidelines, standards, and other criteria (together with an explanation of the bases for such guidelines, standards, and criteria) for resolving the claims involved.

"(C) Nothing in subparagraph (A) or (B) shall be considered to limit in any way the discretion and authority of the Administrator to promulgate or prescribe regulations, guidelines, standards, or other criteria for resolving any claims described in subparagraph (A)(i) or (ii) at any time earlier than the time prescribed in subparagraph (A) for the publication of the proposed regulations described in such subparagraph.

"(D) The Administrator's compliance with the provision of, and any regulations promulgated pursuant to, this paragraph shall be subject to judicial review in accordance with the provisions of chapter 7 of title 5, United States Code.".

TECHNICAL AMENDMENT TO PUBLIC LAW 96–385

SEC. 9. Section 508 of the Veterans' Disability Compensation and Housing Benefits Amendments of 1980 (Public Law 96–385; 94 Stat. 1538) is amended by striking out subsection (b).

Amend the title so as to read: "A bill to amend title 38, United States Code, to extend the authority to provide certain contract hospital care and medical services in Puerto Rico, the Virgin Islands, and other territories, to remove a limitation on certain dental care entitlement, to extend the period for Vietnam-era veterans to request readjustment counseling, to clarify eligibility for postdelimiting date vocational rehabilitation and educational benefits based on disability, to extend the program of veterans' readjustment appointments in the Federal Government, to extend the period of availability of funds committed under the Veterans' Administration program of assistance to new State medical schools, to authorize expansion of an epidemiological study regarding veterans exposed to agent orange, and for other purposes.".

The PRESIDING OFFICER. Time for debate on this bill is limited to 2 hours, to be equally divided and controlled by the Senator from Wyoming (Mr. SIMPSON) and the Senator from California (Mr. CRANSTON), with 1 hour on any amendment in the first degree, except on Cranston amendment No. 58, on which there shall be 1½ hours; Cranston amendment No. 59, on which there shall be 1½ hours; and a Proxmire amendment No. 53, on which there shall be 30 minutes, with 30 minutes on any amendment in the second degree and with 20 minutes on any debatable motion, appeal, or point of order.

The Chair recognizes the Senator from Wyoming.

Mr. SIMPSON. I thank the Chair.

Mr. President, I am pleased to move to consideration of S. 921, the proposed Veterans' Programs Extension and Improvement Act of 1981, legislation that was reported by the Committee on Veterans' Affairs on May 15. I strongly support this legislation and would trust my colleagues to do likewise. The various provisions in the bill affect many aspects of the Government's programs for veterans, including a number of programs for Vietnam veterans.

INTRODUCTION

On April 8, 1981, as chairman of the Committee on Veterans' Affairs, I introduced S. 921 at the request of the administration. On April 30, 1981, the committee held a hearing on this and a number of other measures and, on May 13, 1981, the committee met in open session and voted to report favorably S. 921 with an amendment in the nature of a substitute and a title amendment.

HIGHLIGHTS OF S. 921 AS REPORTED

S. 921, which I will refer to as the committee bill, contains provisions that would extend the authority for and improve a variety of programs benefiting veterans, including a variety of programs targeted toward veterans of the Vietnam-era such as the VA's readjustment counseling program and the veterans readjustment appointment authority. The committee bill would also make improvements in the Federal Government's action in response to the issue of the adverse health effects resulting from exposure to agent orange, by modifying the authorized epidemiological study to ascertain the health effects of exposure to agent orange among Vietnam veterans that was mandated by Congress in 1979 in Public Law 96–151.

I should like to highlight briefly some of the provisions of the committee bill.

PROGRAMS TARGETED ON VIETNAM-ERA VETERANS

Mr. President, as I noted above, a number of provisions in the committee bill deal with programs that are targeted toward Vietnam-era veterans. Specifically, section 2 of the bill would extend the period of eligibility within which eligible Vietnam-era veterans could request readjustment counseling from the VA and make other amendments to the statutory authority for this program, section 6 would extend the authority for the veterans readjustment appointment authority, and section 8 would amend the provision in Public Law 96–151, under which the VA is to conduct the already authorized epidemiological study of Vietnam veterans who were exposed to agent orange.

The VA's readjustment counseling program was first authorized in 1979 by Public Law 96–22. The first of the storefront offices—the vet centers—established by the VA to carry out this program opened in January 1980. Under the original authority for the program, Vietnam-era veterans discharged before the effective date of the law—October 1, 1979—had 2 years within which to apply for this counseling. At the committee's April 30 hearing, it was clear that this program has proven to be quite effective in assisting in addressing the needs of those Vietnam-era veterans who have not yet made a creative and satisfactory readjustment following their service. Also, it became evident at the hearing that, because of the staggered opening dates for the 91 centers and varied external difficulties that have beset the program in the past 2 years, including agencywide personnel hiring freezes, reductions in travel and equipment funding, and uncertainty as to continuation of the program beyond the end of the current fiscal year, there would appear to be sufficient justification for an extension of the eligibility period for an additional 2 years or until October 1, 1983. I was impressed by the worth of these centers in the hearing process.

Section 2 of the committee bill would further amend the readjustment counseling authority to provide that a veteran's eligibility period for such counseling will not be deemed to run during any time in which a veteran is prevented from receiving the counseling by virtue of a disabling medical condition, including an alcohol or drug dependence or abuse disability, or because the individual is imprisoned. The provision relating to incarcerated veterans is included in the bill in order to address the committee's concern that, although incarcerated veterans are eligible for readjustment counseling, practical difficulties associated with providing the counseling to those veterans and the program's resource limitations, make it unlikely that many of these veterans will receive this counseling while imprisoned. Therefore, the committee bill would provide for a tolling of their eligibility period during their prison experience.

Section 6 of the bill would provide for an extension of another program targeted toward Vietnam-era veterans, the (VRA) veterans' readjustment appointment authority. This authority, which would otherwise expire on September 30, 1981, permits certain disabled Vietnam-era veterans—those with disabilities rated at 30 percent or greater—and educationally disadvantaged Vietnam-era veterans—those with less than 14 years of education—to be given excepted appointments in the Federal civil service. Once appointed, these veterans, through a program of education and training, are eligible to convert to regular civil service appointments.

The committee is convinced that the VRA program has been a most successful veterans' employment program and believes that extending the authority for this program at the same time the eligibility period for readjustment counseling is extended should benefit both programs. The single largest problem cited by Vietnam-era veterans seeking assistance at vet centers is employment. The VRA program—one that has a proven record of success—can help meet this problem directly not only by offering Vietnam-era veterans the possibility of a job, but by offering skill and education training as well.

The other section of the bill most directly related to Vietnam-era veterans is section 8 which would amend the Public Law 96–151 agent orange study mandate. Under that law, the VA is required to conduct an epidemiological study of Vietnam veterans exposed to agent orange, a study that I am most pleased to note is finally under way after being delayed for nearly a year by litigation and by the filing of a preaward protest with the GAO (General Accounting Office) challenging the agency's initial attempts to begin the study.

Mr. President, the provisions in section 8 of the committee bill were twice passed by the Senate during the 96th Congress—on September 4 and September 26, 1980. The committee bill would amend the study mandate in four ways: First, it would amend the description of the mandated agent orange study to require the VA to study the health of Vietnam veterans as their health may have been affected by exposure to agent orange. Second, it would authorize the Administrator of Veterans' Affairs to expand the scope of the agent orange study to include an evaluation of other factors involved in service in Vietnam, including exposure to other herbicides, chemicals, medications, or environmental hazards or conditions. Third, it would expressly provide the Administrator with authority to contract with non-VA entities for the design and conduct of the study. Fourth, it would provide a framework within which the VA would be required to translate information obtained from the agent orange study—and the other factors if the study is expanded—and information from other relevant studies or sources, into guidelines and recommendations for responding to the claims of Vietnam veterans that are based on exposure to such elements.

Mr. President, the first two of these changes are proposed in response to two concerns raised by the interagency work group formed to study the possible long-

term effects of phenoxy herbicides and contaminants—the so-called IAG. The IAG, through its scientific panel, has suggested that a study of veterans exposed to dioxin may be extremely difficult to fulfill because of many scientific problems entailed in identifying a population, prior to commencing the study, with known levels of exposure. In addition, the IAG has stated that there are many other chemicals, medications, and environmental hazards that were present in Vietnam that could have had an impact on Vietnam veterans' health.

In response to these concerns, Mr. President, the first proposed change would allow the VA to begin the study of the health status of Vietnam veterans—as their health may have been affected by exposure to dioxin agent orange—by identifying a population of veterans who served in Vietnam, without first having to determine whether each one was, without question, exposed to agent orange during their service. The second proposed change would give the VA Administrator the discretionary authority to broaden the focus of the study to include a study of other factors without, in any way, detracting from the already mandated focus on agent orange.

Mr. President, the third change in the agent orange study mandate that would be made by the provisions in the committee bill would explicitly authorize the Administrator to contract with non-VA, public or private entities for the design. There have been many expressions of concern that, although the VA is technically capable of carrying out the mandated study, it would be in the best interest of all concerned that the study be managed by a clearly neutral, nongovernmental body so that no allegations of bias could be raised to discredit the final results of the study, whatever those results may be. Several of the veterans' organizations, most notably, the American Legion and the Veterans of Foreign Wars, adopted resolutions at their most recent national conventions in support of such an approach.

Mr. President, the fourth change to the study mandate that would be made by the provisions in the committee bill would require the Administrator to establish a framework for the VA to issue regulations containing guidelines, standards, and criteria for resolving disability compensation claims based on disabilities or diseases believed to be related to agent orange exposure, and, if the scope of the study is expanded, on the other possible health-risk factors.

This provision would establish a specific timetable for the VA to report to appropriate congressional committees on the study findings, to develop and publish in the Federal Register proposed regulations, and to make recommendations to appropriate congressional committees for any legislative action that might be necessary in light of the proposed regulations.

Such recommendations would include, of course, any changes in current law that would be warranted by the study findings with respect to certain specific presumptions of disability or compensation for genetic damage that might be related to birth defects. However, this change would not, in any way, compel the VA to develop and propose any such guidelines, criteria, and standards that are not justified by the scientific information available at the times that the reports and proposals must be submitted, nor would it preclude VA actions with respect to proposals for the resolution of these claims based on scientific evidence available from other sources at any earlier time.

Although this change would not have the effect in itself of "speeding up" the scientific process of finding the answers to the very perplexing questions regarding the health of Vietnam veterans, the committee believes that, by establishing a specific framework and timetable for VA action, tied to certain reporting requirements already contained in Public Law 96–151, an important step forward will be taken toward meeting the strong concerns of many Vietnam veterans that, in the absence of an express requirement for VA actions on the findings of the mandated study, the VA might not act promptly.

Mr. President, section 5 of the bill, while not directly targeted toward Vietnam-era veterans, will have the greatest impact for those veterans because they are the veterans who are now making greatest use of the programs involved, the vocational rehabilitation and GI bill programs. This section would first amend title 38 in order to provide for an extension, or tolling, of a Vietnam-era veteran's GI bill delimiting period when the veteran has been prevented by an alcohol or drug dependence or abuse disability from which the veteran has recovered, from pursuing a program of education, and second it would provide a similar delimiting period extension with respect to a VA rehabilitation program for a service-connected disabled veteran. These two provisions are based on provisions that were passed by the Senate in the last Congress as part of legislation dealing with the GI bill and the VA's vocational rehabilitation program.

Mr. President, the committee's concerns in this area grew out of a finding of a number of instances in which the VA, acting under authority provided to the agency in the GI Bill Improvement Act of 1977, Public Law 95–202, in dealing with a GI bill delimiting date extension in the case of an eligible veteran who was prevented from pursuing a program of education due to a mental or physical disability not the result of the veteran's willful misconduct, has denied an otherwise eligible veteran such an extension on the grounds that the disability on which the veteran's claim was based was one of alcohol or drug abuse or addiction.

Mr. President, the committee has reexamined the practice consequences of denying a delimiting-period extension on the grounds of alcohol or drug disabilities and awarding other VA benefits, such as compensation or pension, based on such disabilities. As a result of this reexamination, the committee sees no substantial purpose to be served by denying a veteran GI bill delimiting-period extension when the veteran was prevented by such a disability during part or all of the ordinary 10-year delimiting period, from using GI bill benefits, and the veteran has recovered from the disability. In fact, in the committee's view, it could be expected that GI bill educational assistance would have considerable value to the social and economic rehabilitation of veterans who have recovered from disabilities related to alcohol or drugs.

In contrast, the committee notes that some undesirable consequences might flow from a similar rule being applied for purposes of other VA benefit programs, such as service-connected compensation, where the rate and duration of benefits depend directly upon the severity and duration of the disability. Under that program, an individual receiving benefits for alcoholism or drug addiction might be confronted with a strong financial incentive—in the form of a higher rate of compensation or the continuation of receipt of compensation—in contributing to the worsening or prolongation of the disability, both of which are to some very real extent within his or her control because they depend upon the amount, frequency, and duration of his or her consumption of alcoholic beverages or use of drugs. In any event, where the issue is whether to grant a GI bill delimiting period extension, the committee did not perceive that consideration of drug and alcohol disabilities not the result of willful misconduct in the case of a veteran who has recovered from the disability, would have any of the possibly undesirable consequences that may be seen to arise in other contexts.

Mr. President, because the committee strongly believes that the opportunity to use GI bill and VA rehabilitation program benefits can be extremely important to the readjustment and rehabilitation of the Vietnam era and disabled veterans involved, and that the delimiting-period extensions for those who were prevented by alcohol or drug disabilities from using those benefits would be fully consistent with the readjustment and rehabilitation goals of both programs, the committee bill includes both delimiting period extension provisions. In addition, it carries forward the same theory for readjustment counseling eligibility in the tolling provision proposed in section 4 of the bill.

EXTENSION AND CLARIFICATION OF OTHER PROGRAMS

Mr. President, section 2 of the committee bill would extend by 9 months—from December 31, 1981, until September 30, 1982—the VA's authority in section 601(4)(c)(V) of title 38 to provide, through contracts with private facilities, hospital care and such medical services as would obviate the need for hospital care for the treatment of nonservice-connected conditions in any U.S. territory, commonwealth, or possession.

This extension is being proposed in order to allow the Committee on Veterans' Affairs and the Congress to study a recently submitted VA report on the health-care needs of veterans in Puerto Rico and the Virgin Islands—two loca-

tions where this authority is used extensively—and to evaluate various options for meeting the health-care needs of these veterans.

Mr. President, section 3 of the bill would clarify the current law authority, in section 612(b)(2) of title 38, pursuant to which a recently discharged veteran receives dental care for a noncompensable service-connected dental condition. The committee bill provision would amend this authority to specify that, in the event a veteran reenters the service before the expiration of the 1-year period within which the veteran is eligible to request treatment under this authority, the 1-year period for treatment of dental conditions related to the first period of service will be reinstated after the subsequent period of service.

Mr. President, section 9 of the committee bill contains a technical amendment that would strike a provision in Public Law 96–385. The provision that would be eliminated is an amendment to a Public Law 96–330 provision relating to the retirement rights of VA Department of Medicine and Surgery title 38 employees. Provisions in Public Law 96–330 made changes in the manner in which retirement benefits are to be computed for part-time employees under section 4109 of title 38 and the Public Law 96–385 provision was enacted as a further, and as it turned out, incorrect adjustment to this title 38 authority. The provision in the committee bill would restore the law to its previous form under Public Law 96–330.

COST ESTIMATE

Mr. President, CBO estimates the fiscal year 1982 cost of the bill as $26.7 million in outlays and the 5-year cost in outlays as $75.3 million. The bulk of these costs are related to the readjustment counseling program which, as I noted earlier, the committee feels as do I, to have been a successful program.

CONCLUSION

Mr. President, I believe this bill makes a number of appropriate changes to programs targeted toward Vietnam-era veterans and to other VA initiatives. The House passed a similar measure, H.R. 3499, on June 2, and I urge that we proceed swiftly in order that we may forward a final bill to the President in a diligent manner.

Mr. President, I ask unanimous consent that excerpts of the committee's report on S. 921 be inserted in the RECORD in order that all Senators and the public may have a full understanding of the various provisions in this measure.

There being no objection, the excerpts were ordered to be printed in the RECORD, as follows:

SUMMARY OF S. 921 AS REPORTED

The basic purpose of S. 921 as reported (hereinafter referred to as "the Committee bill") is to maintain and improve the quality, scope, and efficiency of services provided the Nation's veterans through the Federal Government.

The Committee bill would accomplish this purpose by extending the authority for and improving a variety of programs benefiting veterans, including a number of programs targeted on veterans of the Vietnam-era such as the VA's readjustment counseling program and the veterans readjustment appointment authority. The Committee bill would also make improvements in the governmental action in response to the issue of the adverse health effects resulting from exposure to agent orange by modifying the epidemiological study to ascertain the health effects of exposure to agent orange Vietnam veterans mandated by the Congress in 1979 in Public Law 96–151.

The Committee bill would also extend the authority for the VA to provide hospital care and medical services in Puerto Rico, the Virgin Islands and other territories of the United States on a contract basis; and provide an additional year within which State medical schools established with VA grant assistance could expend previously appropriated funds.

SUMMARY OF PROVISIONS

Included in the Committee bill are provisions which would:

1. Extend, from December 31, 1981 until September 30, 1982, the VA's authority to provide hospital services and medical care of non-service-connected disabilities as will obviate the need for hospital admissions in the Commonwealth of Puerto Rico, the Virgin Islands and other territories of the United States.

2. Extend by 2 years the period within which eligible veterans of the Vietnam-era may request readjustment counseling from the VA.

3. Provide that the period in which an otherwise eligible veteran may request readjustment counseling shall not run during any period in which the veteran is prevented from receiving such counseling because of a medical disability, including an alcohol or drug dependence or abuse disability, or because of being incarcerated in a Federal, State, or local jail or penal facility.

4. Provide that, in the case of a veteran who reenters active duty service after less than a one-year break, the one-year period within which such a veteran can request outpatient dental care from the VA for a noncompensable, service-connected dental condition from the first period of service, would be reinstated following the individual's discharge or release from the subsequent service.

5. Provide that, for the purpose of determining eligibility for an extension of the delimiting period for vocational rehabilitation, a "medical condition" shall include an alcohol or drug dependency or abuse disability.

6. Provide that, solely for the purpose of determining eligibility for an extension of the delimiting period for the GI Bill program as a result of a disability, an alcohol or drug dependency or abuse disability from which the veteran has recovered shall not be considered to be the result of the veteran's willful misconduct.

7. Extend for 3 years the veterans readjustment appointments authority under which eligible Vietnam-era veterans may receive noncompetitive appointments in the Federal civil service.

8. Extend by one year, from seven to eight years, the period in which State medical schools established with grant assistance from the VA may use previously appropriated grant funds to defray faculty salary costs.

9. Authorize expanding the scope of an epidemiological study regarding veterans exposed to agent orange to include an evaluation of the impact on such veterans' health of other factors associated with service in Vietnam and clarify that the VA has the authority to contract with a private entity for the conduct of this study.

10. Establish timetables within which the Administrator, based on the results of the epidemiological study regarding veterans exposed to agent orange and other available pertinent information, would be required to develop regulations for the resolution of claims for benefits based on exposure to agent orange and, if the scope of the study is expanded, on other factors.

DISCUSSION

Extension of authority to provide certain contract hospital care and medical services in Puerto Rico and the Virgin Islands

Under section 601(4)(c)(v) of title 38, as most recently amended by Public Law 95–520, the Veterans' Administration Programs Extension Act of 1978 (in conjunction with sections 610(a) and 612(8)), the VA has the authority to provide, through contracts with private facilities, hospital care and such medical services as would obviate the need for hospital care for the treatment of non-service-connected conditions in any State, territory, Commonwealth, or possession of the United States not contiguous to the 48 contiguous States. In Public Law 95–520, this authority was made permanent with respect to Alaska and Hawaii and, for other locations, to expire on December 31, 1981. Provision of authorized care and services is conditioned on the requirement that the annually-determined patient load and the incidence of the provision of medical services for veterans hospitalized and treated by the VA in each such State, territory, Commonwealth, or possession be consistent with the level of such care and services provided within the 48 contiguous States. However, with respect to contract hospital care and medical services which may be furnished in Puerto Rico and the Virgin Islands, the Administrator is authorized to waive this requirement until the current expiration date for the general authority.

At the time the Congress was considering the legislation that was ultimately enacted as Public Law 95–520, the General Accounting Office had recently completed a report on the VA's use of its then-existing contract authority to provide non-service-connected care in Puerto Rico and the Virgin Islands. In this GAO report, which is discussed in more detail in the Committee's report accompanying H.R. 5029 (S. Rept. No. 95–825), the GAO concluded that "a comprehensive assessment is needed of the health-care needs of veterans in Puerto Rico and the Virgin Islands." In response to this recommendation, the Congress directed the VA to conduct such a study and submit a report to the Congress and the President not later than February 1, 1980. Last Congress, in Public Law 96–330, this deadline was extended until February 1, 1981, and, on March 10, 1981, the report was submitted to the Congress.

The VA report found generally that the male population of Puerto Rico and the Virgin Islands has a somewhat poorer state of health than the male population of the United States and that the availability of non-VA medical resources in both locations is very limited. In addition, the report noted that the percentage of service-connected disabled veterans is higher in the Puerto Rico and Virgin Islands veteran population than in the U.S. veteran population. Based on all of the findings of the study, the contractor who actually conducted the study for the VA concluded that there is a gap between the demand for health-care services from both Puerto Rico and Virgin Islands veterans and the available supply of such services and that this gap is widening at a rate of approximately 2 percent each year.

In order to address the problems raised in the report, the VA developed a series of options, including four options for inpatient hospital care, six options for outpatient care and five options for nursing home care. The inpatient care options ranged from expanding the San Juan VA Medical Center to 1,037 beds (in order to end contract psychiatric care) to reducing the VAMC to 492 beds from

the current level of 692 beds. Outpatient care options ranged from increasing the number of visits to 401,300 to decreasing the number of visits to 112,957. The nursing home patient care options ranged from the VA constructing all 144 beds deemed necessary to the VA constructing various numbers of beds and contracting for the remainder.

So that the Committee and the Congress will have sufficient time to weigh these various options and select the most appropriate course for meeting the health-care needs of veterans in these two locations, the current contract non-service-connected care authority would be extended 9 months, until September 30, 1982, by section 2 of the Committee bill.

Limitation on certain dental care entitlement

Section 612(b)(2) of title 38 generally requires that a veteran apply to the VA within 1 year of the date of his or her discharge or release in order to receive outpatient dental care (and related dental appliances for a service-connected dental condition or disability that is not compensable in degree. When the individual leaves active-duty service permanently upon receipt of a discharge or release, this one-year limitation operates fairly and requires the veteran to seek early treatment of the service-connected, but noncompensable, condition or disability.

If, however, the individual reenters active duty service before the 1-year limitation has expired, the time for making application may expire during such service. Thus, immediately following the subsequent period of service and return to civilian life, if the veteran requires care for the condition or disability incurred or aggravated during the prior period of service, the veteran would be, according to the VA's interpretation, ineligible for such care from the VA.

In the Committee's view, it is unreasonable to expect the individual to apply to the VA for care or treatment while on active duty. Persons on active duty naturally expect the military department concerned to provide for their dental and medical needs and would, understandably and justifiably, be surprised to learn that their entitlement to any VA care may expire during such service. In fact, it is conceivable that the individual might actually receive some treatment for his or her dental condition or disability during the subsequent enlistment, and, assuming the condition was not aggravated during that enlistment, still be ineligible for VA treatment of the condition following discharge or release from that period of service.

The Committee views these results as clearly inequitable and anomalous. Section 3 of the Committee bill, therefore, amends section 612(b)(2) to reinstate, after subsequent active duty service in the cases of a person with less than a 1-year break in service, the 1-year post-service period within which an application for such dental care must be made to the VA.

Vietnam-era veterans readjustment counseling program

The principal focus of the Committee's April 30 hearing was on the VA's program of readjustment counseling for Vietnam-era veterans. During the course of the hearing, the Committee heard from a number of witnesses on this program, including two members of the U.S. Senate, Senators Chafee and Pressler, the former Administrator of Veterans' Affairs, Max Cleland, representatives of veterans' organizations, including The American Legion, the Veterans of Foreign Wars, the Disabled American Veterans, AMVETS, and Vietnam Veterans of America. In addition, there were a number of individual witnesses who testified on the program. Without exception, each of these witnesses expressed support for the readjustment counseling program and advocated an extension of the eligibility period.

Under current law, an otherwise eligible Vietnam-era veteran discharged before October 1, 1979, the effective date of Public Law 96-22, the legislation that initially provided the authority for the VA to provide readjustment counseling, will become ineligible to request readjustment counseling for the first time after October 1, 1981. At the April 30 hearing, the Committee had three measures before it that would have extended this eligibility period—for 2 years in S. 25 and S. 458, and for 3 years in S. 872.

Among the many reasons advanced for an extension of the eligibility period, the Committee was most impressed by testimony indicating that the first Vet Center did not open until January 1980, 3 months after the program was authorized, and that a number of such centers were not established until much later. As the following list of Viet Centers, arranged by official opening date indicates, many of the original Vet Centers have been open less than a year at the present time.

CHRONOLOGICAL LIST OF OPERATION OUTREACH VET CENTERS BY OFFICIAL OPENING DATE

Team	City	Official opening date
118	Williston	Jan. 3, 1980.
601	Albuquerque	Jan. 11, 1980.
505	Des Moines	Jan. 12, 1980.
410	Chicago	Jan. 14, 1980.
614	San Jose	Jan. 17, 1980.
615	do	Do.
304	Atlanta	Jan. 23, 1980.
605	Van Nuys	Jan. 26, 1980.
501	Cheyenne	Jan. 30, 1980.
516	Sioux Falls	Feb. 1, 1980.
508	Kansas	Do.
514	Salt Lake City	Feb. 6, 1980.
107	Buffalo	Feb. 7, 1980.
210	Philadelphia	Do.
115	Portland	Feb. 8, 1980.
507	Houston	Feb. 12, 1980.
102	Boston	Feb. 13, 1980.
617	Portland	Feb. 15, 1980.
415	Milwaukee	Feb. 16, 1980.
510	Minneapolis	Feb. 20, 1980.
504	Denver	Feb. 21, 1980.
116	New Haven	Feb. 22, 1980.
513	Omaha	Do.
209	Elkton	Do.
517	Wichita	Do.
618	San Diego	Feb. 26, 1980.
604	Boise	Feb. 28, 1980.
608	El Paso	Feb. 29, 1980.
310	Miami	Mar. 1, 1980.
411	Oak Park	Mar. 3, 1980.
302	Birmingham	Mar. 7, 1980.
621	Seattle	Do.
502	Dallas	Mar. 11, 1980.
202	Baltimore	Mar. 13, 1980.
201	do	Do.
108	Manchester	Mar. 24, 1980.
301	St. Petersburg	Do.
506	Fargo	Mar. 26, 1980.
104	Brockton	Mar. 28, 1980.
606	Los Angeles	Mar. 29, 1980.
305	Jacksonville	Mar. 31, 1980.
211	Pittsburgh	Apr. 1, 1980.
512	Oklahoma City	Apr. 2, 1980.
515	San Antonio	Do.
306	Jackson	Apr. 4, 1980.
311	Ft. Lauderdale	Apr. 14, 1980.[1]
509	Billings	Apr. 16, 1980.
312	New Orleans	Do.
518	Laredo	Apr. 22, 1980.
213	Washington	Apr. 25, 1980.
214	do	Do.
309	Memphis	May 1, 1980.
206	Fayetteville	May 2, 1980.
404	Cincinnati	May 7, 1980.
307	Little Rock	May 8, 1980.
416	Dayton	May 9, 1980.
401	Detroit	Do.
402	do	Do.
409	Fort Wayne	May 13, 1980.
113	Pawtucket	May 16, 1980.
207	Norfolk	Do.
208	Huntington	May 23, 1980.
406	Cleveland	Do.
405	East Cleveland	Do.
612	Oakland	May 24, 1980.
607	Venice	May 28, 1980.
610	Las Vegas	Do.
609	Honolulu	May 29, 1980.
303	North Charleston	May 30, 1980.
203	Jersey City	June 13, 1980.
204	Newark	Do.
619	San Francisco	June 16, 1980.
620	do	Do.
408	Columbus	June 20, 1980.
215	Wilmington	June 25, 1980.
616	Phoenix	June 27, 1980.
414	St. Louis	June 30, 1980.
413	Indianapolis	July 17, 1980.
623	Montabello	July 25, 1980.
308	Louisville	Aug. 8, 1980.
105	Brooklyn	Aug. 28, 1980.
109	Queens	Sept. 10, 1980.
101	Brighton	Oct. 1, 1980.[2]
106	Manhattan	Oct. 10, 1980.
603	Anchorage	Oct. 28, 1980.
624	Anaheim	Oct. 31, 1980.
110	Bronx	Nov. 24, 1980.
114	San Juan	Dec. 18, 1980.
622	Tacoma	Dec. 20, 1980.
117	Hartford	Jan. 16, 1981.
119	St. Thomas	Feb. 19, 1981.[2]
613	Reno	Apr. 24, 1981.

[1] This is the official opening date for the first Fort Lauderdale center. The present center was officially opened on Apr. 18, 1981.
[2] This is the date in which the team first occupied its site. An official opening for this center was waived.

Source: Veterans' Administration.

In view of this circumstance and in view of the many external difficulties that have beset the program in the past 2 years, including agency-wide personnel hiring freezes, reductions in travel and equipment funding, and uncertainty as to continuation of the program beyond the end of the current fiscal year, it was apparent to the Committee that there was sufficient reason for an extension of the eligibility period.

The Committee was also impressed with testimony from witnesses at the April 30 hearing on the role the Vet Centers can play beyond their primary mission of locating and providing direct counseling to Vietnam-era veterans through the Centers. One hearing witness, Mr. John Russell Smith, an individual with a great deal of personal experience dealing with the issue of the readjustment of Vietnam-era veterans and himself, both a Vietnam combat veteran and a mental health professional, indicated his view that:

The third function is one of educating the psychiatric and psychological professions about stress disorders, how to treat them, how they are different from what they normally expect, and the vet centers play an important role as Dr. Arnold has indicated in the interaction between both VA facilities and private facilities and professionals in educating them about them.

Another hearing witness, Dr. Arthur Arnold, the Chief of Psychiatry at the Bay Pines, Florida, VA Medical Center, provided an example of how Vet Centers can serve this function in his response to a question when he stated:

"But there's another spinoff from our involvement with the vet centers and our awareness of the necessity to get very clear war experience history from patients in the Veterans Administration.

"There was a man in his late 50's who had been treated in the VA hospital for probably 30 or 40 admissions for alcoholism over the last 40 years who finally because of awareness of the staff of the importance of knowing the war experience, he was asked what he had done in the World War II.

"Finally, it came out that he has had nightmares for 40 years of being pinned down on the beach in the South Pacific for 72 hours as a teenage corpsman trying to patch pieces of bodies together. This had never come out and until now, that man had never really gotten treatment that went to the core of his problems.

"So it's that kind of thing which is increasing the awareness of treatment facilities to a condition which has been approached in more traditional ways but not in relevant and effective ways."

Earlier, in response to a question from Chairman Simpson about the differences between treating Vietnam veterans and other individuals, Dr. Arnold noted:

"Many of the major differences are that psychiatrists and psychologists usually deal with people whose main problems are in fantasies and in fears and in Vietnam veterans, we're dealing with people who have real experiences which are extremely disturbing.

"When you deal with someone whose actual experience has been involved in atrocities, it's an entirely different matter for the mental health professional than listening to someone who believes he's Jesus Christ or that the FBI is after him when in fact it's not true.

"If he tells you that he was lying, pretending to be dead for four or five hours while the Vietcong were nearby in the bushes, afraid he would scream when his ears were cut off to be hung on a Vietcong gun belt he's not talking about imaginary problems and many health professionals aren't prepared to deal with that."

Dr. Arnold also provided his personal views on another function that the Vet Centers can play in conjunction with the more traditional service providers in the VA, a function that the Committee believes is very important. Dr. Arnold stated, in response to a question from Chairman Simpson:

"Mr. Chairman, I not only feel that it is possible for vet centers to be very close working partners of the VA, but I found it to be true in practice. Over the last year and a half, the vet centers have made some daring rescues of veterans who were in suicidal and other very critical situations, brought them to our hospital.

"They are able to bring people in for admission who otherwise are avoiding going to any hospital, not just VA hospitals. Many who are afraid of bringing out the difficulties that are disabling them and making them sometimes very dangerous as well as depressed and very disturbed.

"They work very closely with us at this. They have taken the long, patient time talking veterans into coming in. They accompany them into the hospital. They often come in to see them several times a day during the initial days in the hospital to help them trust the staff.

"Once in awhile when a Vietnam veteran has a very critical situation—if he's suicidal or if there's been an assaultive episode or he is attempting to leave the hospital or in a very upset situation, the staff person will come in and help him to develop a better sense of trust of the staff.

"It is often a very critical role because this is the most dangerous time in treatment, they may be the only people to get the Vietnam veterans to work with the staff on the difficult problems."

The effectiveness of the Vet Centers in these roles, together with their performance to date in their primary role, are shown in tables 1 and 2 below which present statistical information on the client contact the Vet Centers have had, first in FY 1980 (table 1) and in FY 1981 to date (table 2), in seeing and counseling Vietnam-era veterans, suggest that the VA's readjustment counseling program has been very successful at meeting its statutory role to this time, despite the external problems mentioned above.

TABLE 1.—VIETNAM VETERANS READJUSTMENT COUNSELING PROGRAM—FISCAL YEAR 1980 EOM SEPTEMBER STATISTICAL REPORT

Nationwide summary	Vet centers		VAMC S		Fee providers		Other		Total	
	Current	FYTD	Current	FYTD	Current	FYTD	Current	FYTD	Current	FYTD
1. Number of veterans seen:										
1A. Total number of veterans seen	7,114	27,850	1	13	0	0	0	0	[1] 7,115	27,863
1B. Number found ineligible at first contact	38	387	0	0	0	0	0	0	38	387
1C. Number found ineligible after readjustment counseling	1	8	0	0	0	0	0	0	1	8
1D. Total found ineligible	39	395	0	0	0	0	0	0	39	395
1E. Total eligible veterans seen	7,075	27,455	1	13	0	0	0	0	7,076	27,468
1F. Total number of veterans outreached	1,227	9,221	0	0	0	0	0	0	1,277	9,221
2. Number of visits (multiple contacts on 1 day count as 1 visit):										
2A. In outreach category	2,183	13,811	0	0	0	0	0	0	2,183	13,811
2B. For readjustment counseling	7,140	46,233	1	34	0	0	0	0	7,141	46,267
2C. For referral	621	3,361	0	0	0	0	0	0	621	3,361
2D. Total veteran visits	9,944	63,405	1	34	0	0	0	0	9,945	63,439
2E. Collateral visits	2,275	15,377	0	1	0	0	0	0	2,275	15,378
2F. Total visits	12,219	78,782	1	35	0	0	0	0	12,220	78,817
3. Number of contacts:										
3A. In outreach category	2,476	16,133	0	0	0	0	0	0	2,476	16,133
3B. For readjustment counseling	8,176	53,593	1	34	0	0	0	0	8,177	53,632
3C. For referral	671	3,898	0	0	0	0	0	0	671	3,898
3D. For followup	485	2,587	0	0	0	0	0	0	485	2,587
3E. Total contacts	11,808	76,216	1	34	0	0	0	0	11,809	76,250
4. Telephone contacts:										
4A. With veterans	4,089	25,569	0	0	0	0	0	0	4,089	25,569
4B. On behalf of veterans	8,526	59,653	0	1	0	0	0	0	8,526	59,654
4C. Total telephone contacts	12,615	85,222	0	1	0	0	0	0	12,615	85,223

[1] Includes 3,818 new clients. Source: Veterans' Administration.

TABLE 2.—VIETNAM VETERANS READJUSTMENT COUNSELING PROGRAM—FISCAL YEAR 1981 EOM APRIL STATISTICAL REPORT

	Vet centers		VAMC S		Fee providers		Other		Total	
	Current	FYTD	Current	FYTD	Current	FYTD	Current	FYTD	Current	FYTD
1. Number of veterans seen:										
1A. Total number of veterans seen	11,023	34,834	0	0	0	0	0	0	[1] 11,023	34,834
1B. Number found ineligible at first contact	117	521	0	0	0	0	0	0	117	521
1C. Number found ineligible after readjustment counseling	6	9	0	0	0	0	0	0	6	9
1D. Total found ineligible	123	530	0	0	0	0	0	0	123	530
1E. Total eligible veterans seen	10,900	34,304	0	0	0	0	0	0	10,900	34,304
1F. Total number of veterans outreached	1,649	7,863	0	0	0	0	0	0	1,649	7,863
2. Number of visits (multiple contacts on 1 day count as 1 visit):										
2A. In outreach category	2,846	13,556	0	0	0		0	0	2,846	13,556
2B. For readjustment counseling	16,268	69,526	0	0	0	0	0	0	16,268	69,526
2C. For referral	598	2,813	0	0	0	0	0	0	598	2,813
2D. Total veteran visits	19,712	85,895	0	0	0	0	0	0	19,712	85,895
2E. Collateral visits	3,844	16,943	0	0	0	0	0	0	3,844	16,943
2F. Total visits	23,556	102,838	0	0	0	0	0	0	23,556	102,838
3. Number of contacts:										
3A. In outreach category	12,939	58,017	0	0	0	0	0	0	12,939	58,017
3B. For readjustment counseling	105,629	428,481	0	0	0	0	0	0	105,629	428,481
3C. For referral	1,747	9,849	0	0	0	0	0	0	1,747	9,849
3D. For followup	2,485	12,751	0	0	0	0	0	0	2,485	12,751
3E. Total contacts	122,800	509,098	0	0	0	0	0	0	122,800	509,098
4. Telephone contacts:										
4A. With veterans	5,950	30,940	0	0	0	0	0	0	5,950	30,940
4B. On behalf of veterans	11,628	59,028	0	0	0	0	0	0	11,628	59,028
4C. Total telephone contacts	17,578	89,968	0	0	0	0	0	0	17,578	89,968

[1] includes 5,497 new clients. Source: Veterans' Administration.

The data in the above tables demonstrate another important function served by the Vet Centers, namely their work with veterans' family members. When S. 7, legislation that was ultimately enacted as Public Law 96–22, was considered by this Committee in 1979, the Committee noted its view that: "many veterans with readjustment problems experience difficulties with family relationships. These difficulties may be caused by the psychological problems of the veteran resulting from his or her service, or they may be caused or aggravated by the family's lack of understanding of the veteran's problems or the inability of the family to adjust to the veteran's return. In any case, the veteran's relationships with his or her family or household members are often extremely important to his or her psychological well-being and their involvement in counseling and mental health services may be essential in treating the veteran effectively." (S. Rept. 96–100, p. 32)

In recognition of this need, the VA readjustment counseling authority was structured so as to permit counseling of family members in conjunction with the counseling of eligible veterans. As the figures under collateral visits in the above tables indicate (15,377 total such visits in FY 80, 16,943 such visits in FY 81 through April 30), this authority has been used to a significant degree. The Committee is further aware of the value of this function by virtue of the significant volume of correspondence that has been received in recent months from spouses and other family members who have written to the Committee, urging continued support for the program and noting how important the program has been in assisting the veteran and his family to cope with the unique readjustment problems of the Vietnam-era.

Another factor that influenced the Committee's deliberations on the readjustment counseling program was the recently submitted report "Legacies of Vietnam: Comparative Adjustment of Veterans and Their Peers" prepared for the VA by the Center for Policy Research (CPR). During consideration of S. 7 in 1979, the Committee mentioned testimony that had been received from Dr. John Wilson, a noted scholar on issues related to Vietnam veterans, in which he stated:

"(W)e are currently amassing a large body of evidence which indicated that for many Vietnam-era veterans there exists a delayed stress syndrome. What this means . . . is that for many individuals the effects of the war experience may not appear until 5 to 10 years or later after discharge from the Armed Forces. It is my firm judgment that longitudinal studies of Vietnam-era veterans will ultimately show that the effects of war will significantly affect every stage of psychosocial development in the life cycle." (S. Rept. 96–100, p. 29)

The Committee then noted that:

"The VA has entered into a contract for the conduct of one such longitudinal study, mandated by section 304(b)(1)(B) of Public Law 95–202, the GI Bill Improvement Act of 1977. This study, due on September 30, 1979, will include a detailed examination and analysis of the extent to which veterans have readjusted successfully to civilian life in terms of employment achievement and satisfaction and family and other interpersonal relationships. The Committee has recently been advised by the Veterans' Administration that this extremely important study is not scheduled to be completed until September 30, 1980." *Id.*

That study, the CPR study, was finally submitted to the Congress and the Committee on March 20, 1981. Although not enough time has elapsed to bear Dr. Wilson's prediction out completely, the CPR study does show significant continuing problems for some Vietnam-era veterans, particularly those involved in combat in Vietnam.

Because the CPR study is very comprehensive and has been received only recently, all of the implications of the study have not been evaluated by the Committee. It does appear clear from the report, however, that there is a continuing need for the Vet Center program and, as the Findings of that study became more widely known, that need may become greater as veterans and their families come to realize that service during the Vietnam-era may have had an impact on an individual's ability later in life to adjust satisfactorily to his or her social environment.

At the Committee meeting on May 13 to consider, among other things, the Committee Print of S. 921, as amended, two principal issues were debated with reference to the readjustment counseling program—the appropriate length of an extension of the eligibility period and a limit on the population eligible to request readjustment counseling. On the latter point, the Committee Print contained a provision that would have limited the eligible population, as of October 1, 1981, to those veterans who qualified for the Vietnam Service Medal. After some debate, a vote was taken on a motion by Senator Cranston to strike that provision. This motion was agreed to by a vote of 8–4, leaving the eligibility criteria as in current law.

On the question of the length of the extension, the Committee Print contained a provision authorizing a one-year extension. During debate on a proposal to substitute a three-year extension, unanimous agreement was reached on authorizing a two-year extension. In conjunction with this extension, the Committee indicated its intention to conduct further oversight and evaluation of the program in an effort to determine the continued effectiveness of the program and to develop lessons learned from the readjustment counseling program for possible application to other VA programs.

Another provision in the Committee bill relating to readjustment counseling that was not the subject of debate or significant discussion at the Committee meeting on April 30 would amend the readjustment counseling authority to provide a veteran's eligibility period for such counseling will not run during any time in which the veteran is prevented from receiving the counseling by virtue of a disabling medical condition, including an alcohol or drug dependence or abuse disability, or because the individual is incarcerated. With respect to those Vietnam-era veterans who are incarcerated, it has long been the Committee's view that such veterans should be eligible to receive readjustment counseling. But because of resource limitations—at present there are only 91 Vet Centers to serve the entire Vietnam-era veterans population—and practical difficulties associated with routinely providing such services to presently incarcerated veterans, the Committee realizes that many of these veterans who could benefit from the program are unable to take advantage of it. Therefore, the Committee bill would provide for a tolling of their eligibility period during incarceration.

The Committee noted that there was significant emphasis placed on the subject of post-traumatic stress disorders at the April 30 Committee hearing. In this regard, the Committee found the prepared testimony of Mr. John Russell Smith particularly enlightening and useful. The final suggestion in his testimony, that the VA might "assume a leadership role in the study and treatment of the long-term psychological reaction to combat" and his advocacy of "(t)he eventual establishment, within the VA, of a Center for Post-Traumatic Stress Disorder" is worthy of serious consideration by the VA. Such an entity would be helpful not only to Vietnam-era veterans but could also serve as a center for the treatment of other veterans suffering from stress disorders occasioned by intense combat or by incarceration as a prisoner of war, as well as a training center for mental health practitioners who would be working with such individuals.

Eligibility extensions based on alcohol or drug dependence or abuse disabilities

The Committee bill, in section 5, contains provisions that would first, amend title 38 so as to provide for an extension, or tolling, of a Vietnam-era veteran's GI Bill delimiting period when the veteran has been prevented by an alcohol or drug dependence or abuse disability, from which the veteran has recovered, from pursuing a program of education and second, provide a similar delimiting period extension with respect to a VA rehabilitation program for a service-connected disabled veteran. These two provisions are based on provisions that were passed by the Senate in the last Congress as part of legislation dealing with the GI Bill and the VA's vocational rehabilitation program. There is further discussion on these two proposals in the Committee reports accompanying the legislation in the previous Congress (S. Rept. No. 96–314, accompanying S. 870, dealing with the GI Bill provision, and S. Rept. No. 96–746, accompanying S. 1188, dealing with the vocational rehabilitation program). A similar provision extending the eligibility period in which a veteran may request readjustment counseling is contained in section 4 of the Committee bill. These provisions would have the effect of putting alcohol and drug disabilities on essentially the same footing as other disabilities solely with respect to delimiting and eligibility period extensions.

The Committee's concerns in this area grew out of a number of instances in which the VA, acting under authority provided to the agency in the GI Bill Improvement Act of 1977, Public Law 95–202, to grant a GI Bill delimiting date extension in the case of an eligible veteran who is prevented from pursuing a program of education due to a mental or physical disability not the result of the veteran's willful misconduct, has denied an otherwise eligible veteran such an extension on the grounds that the disability on which the veteran's claim was based was an alcohol or drug abuse or addiction disability. The VA has based its denials in these cases on the legislative history of the 1977 provision that addressed the issue of how determinations of disability should be made for the purposes of the extension. In particular, the report of the Veterans' Affairs Committee, Senate Report No. 95–468, on the provision which was enacted as section 203(a)(1) of Public Law 95–202, in discussing the concept of "willful misconduct," stated at pages 69–70:

In determining whether the disability sustained was a result of the veteran's own "willful misconduct", the Committee intends that the same standards be applied as are utilized in determining eligibility for other VA programs under title 38.

The report further referenced VA regulations and manual provisions relating to the determination of willful misconduct for the purposes of determining service-connected disability. Under the VA's interpretation of those standards—38 CFR section 3.301(c)(2) and (3)—alcoholism and drug addiction and injuries proximately and immediately resulting from the effects of the deliberate ingestion of an alcoholic beverage or voluntary use of a drug—such as an injury incurred in a traffic accident caused by the veteran's driving while under the influence of alcohol or a drug—are considered to be the result of willful misconduct.

Subsequently, the Committee reexamined the practical consequences of denying a delimiting-period extension on the grounds of alcohol or drug disabilities and awarding other VA benefits, such as compensation or

pension, based on such disabilities. As a result of this reexamination, the Committee saw no substantial purpose to be served by denying a veteran GI Bill delimiting-period extension when the veteran was prevented by a drug or alcohol disability, during part or all of the ordinary 10-year delimiting period, from using GI Bill benefits and the veteran has recovered from this disability. In fact, in the Committee's view, it could be expected that GI Bill educational assistance would have considerable value to the social and economic rehabilitation of veterans who have recovered from disabilities related to alcohol or drugs.

In contrast, the Committee noted that some undesirable consequences might flow from a similar rule being applied for purposes of other VA benefit programs, such as service-connected compensation, where the rate and duration of benefits depend directly upon the severity and duration of the disability. Under that program, an individual receiving benefits for alcoholism or drug addiction would have a strong financial incentive—in the form of a higher rate of compensation or the continuation of receipt of compensation—in the worsening or prolongation of the disability, both of which are to some extent within his or her control because they depend upon the amount, frequency, and duration of his or her consumption of alcoholic beverages or drugs. In any event, where the issue is whether to grant a GI Bill delimiting period extension, the Committee did not perceive that considering drug and alcohol disabilities not to be the result of willful misconduct in the case of a veteran who has recovered from the disability would have any of the possibly undesirable consequences that may seem to arise in other contexts.

Thus, the Committee reported in S. 870—and the Senate passed in section 201(2) of H.R. 5288—a provision to establish that an alcohol or drug dependence or abuse disability from which the veteran has recovered shall not be considered to be the result of willful misconduct for purposes of deciding requests for delimiting-period extensions.

Similarly, in the bill to revise and update chapter 31, relating to VA rehabilitation programs for service-connected disabled veterans, S. 1188, the Committee reported on May 15, 1980, and the Senate passed on September 4, 1980, a comparable provision to permit a service-connected disabled veterans' delimiting period for a chapter 31 vocational rehabilitation program to be tolled—in generally the same manner as was proposed for GI Bill eligibility—on account of an alcohol or drug disability.

Despite the Committee and the Senate's action, however, the House Veterans' Affairs Committee, during negotiations to reconcile the GI Bill and vocational rehabilitation bills passed by the two houses, would not accept either the GI Bill nor the rehabilitation program provisions.

Because the Committee strongly believes both that the opportunity to use GI Bill and VA rehabilitation program benefits can be extremely important to the readjustment and rehabilitation of the Vietnam era and disabled veterans involved and that the delimiting-period extensions for those who were prevented by alcohol or drug disabilities from using those benefits would be fully consistent with the readjustment and rehabilitation goals of both programs, the Committee bill includes both delimiting period extension provisions. In addition, it carries forward the same theory for readjustment counseling eligibility in the tolling provision proposed in clause (2) of section 4 of the bill.

The Committee, in including these provisions of the Committee bill, wishes to make clear that it is not taking the position that the same results could not be achieved administratively under current law. In fact, when these provisions were deleted in negotiations with the House Committee on Veterans' Affairs, both committees stated in a document in lieu of a joint explanatory statement accompanying a conference report that was inserted in the Congressional Record in both bodies at the time of final passage—H9630, September 25, 1980, and S13583, September 26, 1980—that, with respect to the deletion of both provisions, they were "taking no position as to whether such a (statutory) provision is necessary in order to authorize the VA" to grant such extensions. The VA has for a considerable time had these issues under review but has not yet resolved them.

Extension of the veterans readjustment appointment authority

Section 6 of the Committee bill would extend for three additional years the authority set forth in section 2014(b) of title 38 for veterans readjustment appointments (VRA's). This authority, which would otherwise expire on September 30, 1981, permits certain disabled Vietnam-era veterans and educationally disadvantaged Vietnam-era veterans to be given excepted appointments in the Federal civil service. The purpose of the VRA authority is to assist these veterans by making it possible for them to be hired noncompetitively into the Federal service and to develop additional skills through a program combining education and training with the opportunity for a regular career appointment.

On March 26, 1970, President Nixon issued Executive Order No. 11521, which established a special civil service appointment authority for certain veterans and disabled veterans of the Vietnam area. Under that original authority, the eligibility requirements specified that in order to be considered for an appointment, a veteran must be qualified for the position, must have completed no more than 14 years of education, must have served on active duty during the Vietnam era, and generally must have been separated from the service for 1 year or less. Veterans who met these established eligibility requirements could be given a VRA to any position in competitive service at or below level 5 of the General Schedule (GS–5) level or its equivalent. A veteran who satisfactorily completes 2 years of substantially continuous service under a VRA and an education or training program is converted to career conditional employment and automatically acquires a competitive status for civil service purposes.

In 1918, Public Law 93–508 codified the VRA authority as section 2014(b) of title 38, extended the eligibility period for certain veterans who enrolled in a program of education within one year after release from active duty, and provided for the continuation of the program through June 30, 1978.

The Veterans' Programs Extension Act of 1978 (Public Law 95–520), extended and expanded the VRA program substantially. Section 6(b) of that Act extended eligibility to all Vietnam-era veterans with no more than 14 years of education—not just those separated after April 9, 1969, and covered by the original 1970 Executive order—and eliminated from the eligibility criteria the limitation on the number of years of education for those with service-connected disabilities rated at 30 percent or more and those who were discharged or released because of a service-connected disability. In addition, the measure raised the grade-level limitation for VRA's from GS–5 to GS–7, expanded requirements for reporting on the use of this authority, and extended the program for three years through September 30, 1981.

The VRA program does not provide for the creation of additional Government jobs. The authority is used by those executive departments and independent agencies with employees subject to the competitive service. All VRA positions are regular civil service positions that count against an agency's staffing ceiling. Federal agencies' participation in the VRA program is influenced by such factors as budgetary considerations and the types of positions available that attract the interest and are compatible with the qualifications of VRA eligibles. Since the program's inception in 1970, VRA's have provided employment opportunities for more than 150,000 Vietnam-era veterans.

The December 1980 report on the VRA authority prepared by the Office of Personnel Management (OPM) pursuant to the statutory reporting requirements, indicates that the VRA authority continues to be of significant value in terms of assisting eligible Vietnam-era veterans in finding work. During the 6-month period from April through September 1979, the 10 executive departments and 14 independent agencies that participated in the program reported a total of 10,700 hires under the VRA authority—or nearly 5 percent of all new hires made by those 24 agencies during that period. Also during that period, minorities received 42 percent of all VRA's and women received 10 percent; service-connected disabled veterans received 6.6 percent of the appointments made.

Nearly one-half—45.4 percent—of all VRA appointments made during the April to September 1979 period were made by the Defense Department; the Navy alone hired 2,045 VRA's. The Veterans' Administration hired the most VRA's—3,798 or 36 percent of all those hired agencywide. Eight other agencies' proportional representation of VRA hires among total new hires exceeded the governmentwide proportion—4.9 percent; those included the Government Printing Office, the Departments of Justice and Transportation, and the General Services Administration.

The success of the VRA program can also be evidenced by the high governmentwide retention rates of veterans who were initially appointed under the VRA authority. OPM data indicate that of the almost 19,000 VRA's on board as of June 30, 1976, almost 75 percent have continued their Federal employment—85 percent at the GS–5 level or above—as of June 30, 1979.

The Committee agrees with the views expressed by the Director of the Office of Personnel Management, the Honorable Donald J. Devine, in a statement he submitted to the Committee in conjunction with the Committee's April 30 hearing, in which he noted that the VRA program "is a veterans' employment program which continues to be a real success". Unfortunately, as he indicated later in his statement, ". . . unemployment rates for the disabled and disadvantaged veterans continue to be quite high. The number of Vietnam-era veterans unemployed in January 1981 was about one-half million according to the Department of Labor". To help address this problem, the Committee believes the extension of the VRA authority proposed in section 6 of the Committee bill is a most appropriate action.

In addition, the Committee believes that extending the VRA authority at the same time that the eligibility period for readjustment counseling is extended, as is proposed in section 4 of the Committee bill, should serve to benefit both programs. Firsthand reports from the field indicate that the single largest problem cited by Vietnam-era veterans seeking assistance at Vet Centers is employment. The VRA program—one that has a proven record of success—can help meet this problem directly by not only offering Vietnam-era veterans the possibility of a job, but skill education and training as well. The VRA authority offers a ready, almost no-cost source of assistance to unemployed, undereducated, and disabled Vietnam-era veterans and its continued availability until September 30, 1984, will provide the Viet Centers with a valuable means for assisting some veterans.

Extension of time for State medical schools established with assistance of VA grants to obligate funds

Public Law 92–541, the Veterans' Administration Medical School Assistance and Health Manpower Training Act of 1972, established a program through which the VA could provide grant assistance for the establishment of new State medical schools. Under this authority, which was codified in subchapter I of chapter 82 of title 38, five State medical schools were established—Wright State University in Dayton, Ohio; Marshall University in Huntington, W. Va.; the University of South Carolina in Columbia, S.C.; the Quillen/Dishner Medical School in Johnson City, Tenn.; and Texas A&M University in Temple, Tex. Each of these new medical schools has received grants to assist in the alteration or repair of buildings in order to make them suitable for use as medical school facilities and to help pay the faculty salaries. Also, each of these new medical schools is affiliated with at least one VA medical center.

Although new medical schools are no longer authorized to be established under the subchapter I program, funds previously appropriated remain available—by virtue of sections 5072(b) and 5082(b) of title 38—for six years after the year for which they were appropriated. Despite a continued availability of an authorization for appropriation for this program through 1982, no new appropriation has been made for any part of the chapter 82 program since fiscal year 1979, and none have been requested for fiscal year 1981 or 1982.

Under section 5073(a)(2) of title 38, a grant made to a new medical school under the subchapter I program for the payment of faculty salaries may be used for that purpose only during the first seven years of the school's operation and only up to a statutorily specified percentage of total faculty salary costs—declining from 90 percent during the first three years of a school's operation to 50 percent in the seventh year.

Wright State University, an affiliation with the VA Medical Center in Dayton, Ohio, was the first of the five new medical schools established under this program, and it is now well into its seventh year of operation, as defined in VA regulations implementing the subchapter I program. According to information received by the Committee, Wright State, because of unanticipated delays in completing its faculty roster in the first year, was unable to expend fully the first year's VA grant for faculty salaries. Thus, at the end of that year, approximately one-third of the VA grant funds were unexpended and remained in Wright State's account.

Because of the limit on the percent of the VA's contribution to overall faculty salaries imposed by the statute, Wright State has been unable to effectively use these funds for additional faculty positions in subsequent years.

In order to resolve this problem and also to prevent similar difficulties from occurring at the other four schools, section 7 of the Committee bill would provide an additional 12-month period in which these schools could obligate the funds already committed to them under subchapter I beyond the period specified in section 5073(a)(2) of title 38.

This provision would limit the amount of remaining funds that could be used to pay faculty salaries during the 12-month extension period to 50 percent of the total cost of such salaries during that year—the same limit that currently applies in the seventh year. It is expected that providing this additional year in which these medical schools can expend grant funds should be of significant assistance in enabling the schools which have been established with significant VA assistance to make a smooth transition from Federal support to full State and local support.

Agent orange study provision amendments

At the Committee's April 30 hearing in conjunction with the various legislative items that were considered for inclusion in the Committee bill, the Committee heard testimony on the issue of the long-term adverse health effects in humans of exposure to dioxin, the chemical contaminant of agent orange. This issue continues to be of great concern to many Vietnam veterans, other Americans, and those in the Federal Government, including in the Congress, who are trying to help resolve the many difficult questions involved.

Although the Committee heard testimony on this issue, the hearing was not intended to be a comprehensive hearing on this very difficult issue but rather was meant to focus on certain provisions related to the VA study of Vietnam veterans exposed to dioxin mandated by Public Law 96–151 that were passed by the Senate twice in the 96th Congress but which were not addressed by the House Committee on Veterans' Affairs before the final adjournment of the Congress. These provisions, which are included in section 8 of the bill, were reconsidered by the Committee and are now being reported favorably to the Senate, without change, in followup to a promise made by members of the House Veterans' Affairs Committee during the last Congress to give the proposed amendments full consideration if they were passed by the Senate in this Congress.

In terms of future activity on this issue, Chairman Simpson has repeatedly indicated his intention to schedule comprehensive oversight hearings on the agent orange issue later in this session of the Congress. These hearings will be scheduled at such time so that the Committee can receive information on, among other things, the status of ongoing studies, including the aforementioned epidemiological study by the VA that is the subject of the amendments proposed in the Committee bill.

With specific reference to the VA study, the Committee is particularly pleased that, after a delay of nearly a year caused by litigation and the filing of a pre-award protest with the GAO challenging the agency's initial attempts to begin this study, the agency was exonerated and, on May 1, contracted with scientists at the School of Public Health of the University of California at Los Angeles for the development of the protocol for the study. Set out below is the text of the VA's News Release announcing this contract followed by the text of a letter to the Chairman from the Director of the Office of Technology Assessment, John H. Gibbons, regarding this action and OTA's plans to review and approve the protocol as required by section 307(a)(2)(A)(i) of Public Law 96–151.

[Veterans' Administration News Release, May 12, 1981]

A team of scientists at the University of California at Los Angeles will design a study by which the Veterans' Administration will attempt to determine what, if any, medical effects result from human exposure to agent orange, a defoliant used during the fighting in South Vietnam.

VA announced the award of a $114,288 contract under which Drs. Gary Spivey and Roger Detels of UCLA's School of Public Health will direct the design of the epidemiological study.

The work of the UCLA team will then be evaluated by experts from the National Academy of Sciences-National Research Council, Congressional Office of Technology Assessment, the Interagency Work Group to Study the Possible Long-term Health Effetcs of Phenoxy Herbicides and Contaminants and the VA's Advisory Committee on Health-Related Effects of Herbicides.

Agent orange has been a health concern among a number of veterans since allegations were raised several years ago that exposure to it had resulted in a variety of maladies ranging from headaches to cancer and birth defects. To date, no definite medical link has been established that would substantiate these claims.

The epidemiological study was mandated by Congress in December of 1979 and VA issued a request for proposals to design it in March of 1980. Legal objections raised by an advocacy organization called the National Veterans Law Center delayed award of the design contract for the study until today.

Dr. Spivey, the chief investigator on the study, is associate professor of epidemiology at the UCLA School of Public Health and the other team leader, Dr. Detels, is dean of that school.

CONGRESS OF THE UNITED STATES,
OFFICE OF TECHNOLOGY ASSESSMENT,
Washington, D.C., May 6, 1981.

Hon. ALAN K. SIMPSON,
Chairman, Committee on Veterans' Affairs, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: A significant step forward has been taken under the provisions of the Veterans' Administration Health Resources and Program Extension Act of 1979 (P.L. 96–151). On May 1, the Veterans' Administration contacted scientists at the School of Public Health of the University of California at Los Angeles, and told them to proceed with developing a protocol for the epidemiologic study of possible long-term health effects resulting from exposure to dioxins (in Agent Orange) in Viet Nam.

Under the provisions of P.L. 96–151, I am to review and approve the protocol developed for the VA study. To help accomplish that review, I shall assemble a panel representative of biomedical sciences, statistics, industry, veterans' groups, public interest groups, and, perhaps, labor organizations. Dr. Richard Remington, Dean of the School of Public Health, University of Michigan, Chairman of the Advisory Panel and Michael Gough of the OTA Health Program will assist me in assembling the panel.

Please call Mr. Gough at 226–2070 with any suggestions, comments, or questions. The OTA is working under time constraints and must complete assignments to the Panel by mid-June. Your suggestions will help to insure that the OTA review is as good as possible and that the epidemiologic study will have the best possible chance of providing answers to the questions addressed in P.L. 96–151.

Sincerely,

JOHN H. GIBBONS.

As indicated above, the provisions in the Committee bill were passed twice by the Senate during the 96th Congress, on September 4, 1980 (126 Con. Rec. S. 12012–17) and September 26, 1980 (126 Cong. Rec. S. 13586–88). Section 8 of the Committee bill, which contains these provisions, would amend the current agent orange mandate in four ways.

First, it would amend the description of the mandated agent orange study to require the VA to study the health of Vietnam veterans as their health may have been affected by exposure to agent orange.

Second, it would authorize the Administrator of Veterans' Affairs to expand the scope of the agent orange study to include an evaluation of other factors involved in service in Vietnam, including exposure to other herbicides, chemicals, medications, or environmental hazards or conditions.

Third, it would expressly provide the Administrator with authority to contract with non-VA entities for the design and conduct of the study.

Fourth, it would provide a framework within which the VA would be required to translate information obtained from the agent orange study—and the other factors if the study is expanded—and information

from other relevant studies or sources, into guidelines and recommendations for responding to the claims of Vietnam veterans that are based on exposure to such elements.

In considering these changes to the study mandate, particularly the amendment to the description of the population to be studied and the authorization for the Administrator to expand the scope of the study, the Committee was cognizant of recommendations made by the Interagency Work Group to Study the Possible Long-Term Health Effects of Phenoxy Herbicides and Contaminants (IAG). In its sixth progress report, which was submitted in August 1980, the IAG commented that the current study mandate, which requires a study of veterans exposed to dioxin as would be found in agent orange, would be extremely difficult, if not impossible, to fulfill because of the many scientific problems entailed in identifying a population, prior to commencing the study, known to be exposed to agent orange. The IAG, in its seventh progress which was submitted on April 24, 1981, reiterated this position and stated:

"Unless such an outside review suggests new approaches to records searches which are likely to produce sufficiently specific data, it is the Work Group's view that an epidemiology study of ground troops which is focused solely on agent orange exposure may be impossible to conduct with an acceptable measure of scientific validity."

In response to this concern, the first change proposed to the study mandate would remove this unintended threshold problem by requiring the VA to study the health of Vietnam veterans as it may have been affected by their exposure. This change would allow the VA to begin the study of the health status of these veterans by identifying a population of veterans who served in Vietnam, without first having to determine whether each one was, without question, exposed to agent orange in Vietnam.

The IAG also stated in its August 1980 report that it was aware of a multitude of concerns of Vietnam veterans about various other chemicals, medications, and environmental hazards that were present in Vietnam and, thus, possibly could be related to health impairments that Vietnam veterans are experiencing today.

Based on the above-described difficulty in identifying with precision a population exposed to agent orange and these other concerns, the IAG recommended in its August 1980 report that the VA study be expanded to take these other factors into account. This recommendation was renewed in the April 1981 report when the IAG stated:

"The Work Group continues to believe that an epidemiology study of grounded troops should be broadened to focus on service in Vietnam as the exposure circumstance being studied."

The provision in the Committee bill would give the VA Administrator discretionary authority to do just that while not, in any way, detracting from the study's focus, as already mandated, on agent orange.

The third change in the agent orange study mandate that would be made by the provisions in the Committee bill would explicitly authorize the Administrator to contract with non-Va, public or private entities for the design. There have been many expressions of concern that, although the VA is technically capable of carrying out the mandated study, it would be in the best interest of all concerned that the study be managed by a clearly neutral, nongovernmental body so that no allegations of bias could be raised to discredit the final results of the study, whatever those results may be. Several of the veterans' organizations, most notably, The American Legion and the Veterans of Foreign Wars, adopted resolutions at their most recent national conventions in support of such an approach.

The fourth change to the study mandate that would be made by the provisions in the Committee bill would require the Administrator to establish a framework for the VA to issue regulations containing guidelines, standards, and criteria for resolving disability compensation claims based on disabilities or diseases believed to be related to agent orange exposure, and, if the scope of the study is expended, on the other possible health-risk factors.

This provision would establish a specific timetable for the VA to report to appropriate congressional committees on the study findings, to develop and publish in the Federal Register proposed regulations, and to make recommendations to appropriate congressional committees for any legislative action that might be necessary in light of the proposed regulations.

Such recommendations would include, of course, any changes in current law warranted by the study findings with respect to certain specific presumptions of disability or compensation for genetic damage that might be related to birth defects. However, this change would not, in any way, compel the VA to develop and propose any such guidelines, criteria, and standards that are not justified by the scientific information available at the times that the reports and proposals must be submitted, nor would it preclude VA actions with respect to proposals for the resolution of these claims based on scientific evidence available from other sources at any earlier time.

Although this change would not have the effect in itself of speeding up the scientific process of finding the answers to the very perplexing questions regarding the health of Vietnam veterans, the Committee believes that, by establishing a specific framework and timetable for VA action, tied to certain reporting requirements already contained in Public Law 96–151, an important step forward will be taken toward meeting the strong concerns of many Vietnam veterans that, in the absence of an express requirement for VA actions on the findings of the mandated study, the VA might not act promptly.

Technical correction to Public Law 96–385

Section 114 of Public Law 96–330 amended section 4109 of title 38 to modify the way in which employees working on a less than full-time basis in the VA's Department of Medicine and Surgery (DM&S) receive credit for such employment when their civil service annuities are computed. This provision was enacted because, under civil service laws and regulations, an individual working on a part-time basis receives a full-year's credit toward the years-of-service portion of the civil service annuity computation. Because DM&S has the largest group of career part-time employees in the Federal workforce and because of the relative ease of transferring from part- to full-time service in DM&S, concern was expressed that some career part-time DM&S employees might convert to full-time service in their final years before retirement, so as to have a "high three" salary for annuity computation purposes based on full-time service. By this action, such employees would qualify for an annuity equal to that earned by a career full-time employee. Such an annuity would be disproportionate to the part-time employees' actual service or contribution to the civil service retirement fund.

The provision as enacted in Public Law 96–330, although derived from a provision in S. 2534 as reported by this Committee and passed by the Senate, was based on technical suggestions received from the Office of Personnel Management. In providing this technical assistance, OPM personnel indicated that it was OPM's intention to develop similar legislation that would modify the retirement provisions for the entire civil service system and a question was raised as to whether the Committee should go forward with a provision limited to DM&S employees. However, because of the significant potential for problems in DM&S, and because of the size of the part-time work force, specific legislation was pursued. To afford OPM an opportunity to propose legislation that would encompass the entire civil service, the effective date of the amendment was delayed until October 1, 1981.

Shortly after Public Law 96–330 was enacted, concerns were raised by various individual VA employees that the amendment to section 4109 by Public Law 96–330 made retroactive as well as prospective changes in the way annuity computation were made whereas the provision in S. 2534, as passed by the Senate, had made prospective changes only.

In response to these concerns, and based on an incomplete understanding of the Public Law 93–330 provision, a technical amendment to that provision, making it prospective only, was included in Public Law 96–385, the Veterans' Disability Compensation and Housing Benefits Amendments of 1980. Instead of correcting the Public Law 96–330 amendment, however, that technical correction not only nullified the Public Law 96–330 provision but also made the possibility of a part-time DM&S employee receiving a disproportionate annuity a certainty because, with the Public Law 96–385 correction in effect, an individual working on a part-time basis for an entire career, without ever converting to full-time service, would qualify for an annuity only slightly less than that received by an employee retiring after a career of full-time service.

Section 9 of the Committee bill would rectify this situation by repealing the Public Law 96–385 technical amendment, thereby restoring section 4109 to the form made by Public Law 96–330.

In compliance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate, the Committee, based on information supplied by the Congressional Budget Office, estimates that the costs resulting from the enactment of the Committee bill during the first 5 years following enactment would be $26.7 million in fiscal year 1982; $31.3 million in fiscal year 1983; $15.5 million in fiscal year 1984; $1.8 million in fiscal year 1985; and no cost in fiscal year 1986. A detailed breakdown of the costs, as estimated by CBO, over the five-year period follows:

CONGRESSIONAL BUDGET OFFICE—COST ESTIMATE—MAY 15, 1981

1. Bill number: S. 921.

2. Bill title: Veterans Programs Extension and Improvement Act of 1981.

3. Bill status: As ordered reported by the Senate Committee on Veterans Affairs, May 13, 1981.

4. Bill purpose: To extend authority to provide contract hospital care and medical services in Puerto Rico and the Virgin Islands, and for other purposes.

5. Cost estimate:

[By fiscal years, in millions of dollars]

	1982	1983	1984	1985	1986
Estimated authorization level	30.3	27.4	13.8	1	0
Outlays	26.7	31.3	15.5	1.8	0

The cost of this bill would fall in budget function 700.

6. Basis for estimate:

Section 2: This section would extend for nine months the authority of the Veterans Administration (VA) to provide contract

hospital and medical care in Puerto Rico and the Virgin Islands.

[By fiscal years, in millions of dollars]

	1982	1983	1984	1985	1986
Estimated authorization level	2.9	0	0	0	0
Estimated outlays	2.7	(1)	0	0	0

[1] Less than $500,000.

This estimate represents the normal cost of providing contract health care for nine months in these two areas, according to the VA. The VA maintains that these funds are contained in their FY 1982 budget request and that no supplemental appropriation would be required.

Section 3: This section would make a minor amendment to the entitlement of certain veterans to VA dental care. It should not result in a significant cost.

Section 4: This section would extend for two years the period during which Vietnam era veterans may initially request psychological readjustment counseling.

[By fiscal years, in millions of dollars]

	1982	1983	1984	1985	1986
Estimated authorization level	27.4	27.4	13.8	0	0
Estimated outlays	24.0	27.4	15.5	1.8	0

This estimate assumes that the fiscal year 1981 appropriation would be continued in fiscal years 1982 and 1983. Half of the 1981 level is assumed to be appropriated in fiscal year 1984 to cover the cost of those veterans who apply for counseling prior to October 1, 1983 but whose counseling would extend into the following year. The estimate also assumes, based on VA assurances, that the procedures for approving fee-basis counseling will be fully operational by the start of fiscal year 1982.

Section 5: For the purpose of determining the period of eligibility for benefits under chapters 31 and 34 (title 38, U.S.C.), this section would redefine the term "medical condition" to include an alcohol or drug dependence or abuse disability.

According to VA sources, this provision should not reentitle a large enough number of individuals to result in a significant cost.

Section 6: This section would extend for 3 years the program of veterans' readjustment appointments in the Federal Government.

Since this provision does not affect total Federal personnel levels, it would have no budgetary impact.

Section 7: This section would extend by 12 months the period during which funds appropriated for grants by the VA for the establishment and support of new state medical schools may be expended.

[By fiscal years, in millions of dollars]

	1982	1983	1984	1985	1986
Estimated authorization level	0	0	0	0	0
Estimated outlays	0	3.9	0	0	0

The above estimate represents the unobligated balance remaining in the Assistance for Health Manpower Training Institutions account at the end of fiscal year 1982.

Section 8: This section would expand the scope of study of health effects resulting from exposure to agent orange which was originally mandated by Public Law 96-151. This expansion should not result in a significant cost.

7. Estimate comparison: None.

8 Previous CBO estimate: None.

9. Estimate prepared by: K. W. Shepherd.

10. Estimate aproved by: James L. Blum, Assistant Director for Budget Analysis.

REGULATORY IMPACT STATEMENT

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee on Veterans' Affairs has made an evaluation of the regulatory impact which would be incurred in carrying out the Committee bill. The results of that evaluation are described below.

A. Estimate of the numbers of individuals and businesses who would be regulated and a determination of the groups and classes of such individuals and businesses: The Committee bill consists of eight substantive provisions, one of which (section 9) is a technical amendment to a prior law and thus, has no regulatory impact.

Of the other seven substantive provisions in the Committee bill, four (sections 2, 4, 6, and 7) would amend current law to extend existing programs or authorities, only one of which (section 4) would otherwise modify the provision of law being amended. None of these provisions would result in any significant regulatory authority beyond the modifications, where appropriate, or existing regulations to reflect the extension or, in the case of the change made by section 4, to provide by regulations the new bases for tolling the eligibility period for readjustment counseling.

Two other provisions (sections 3 and 5) would amend current law programs to provide new bases for receipt of VA benefits. There will be no regulatory activity associated with these provisions except to modify existing regulations, where appropriate, to reflect the changes.

The last provision (section 8) would amend a provision in public law mandating an epidemiological study of the health of Vietnam veterans as their health may be affected by exposure to agent orange. The amendment to this study would, among other things, require the VA, at specified intervals after reports are due to the Congress on the study, to develop regulations pursuant to which claims for benefits based on exposure to agent orange would be resolved. These regulations, once issued, will not, however, regulate any individuals or businesses but will only provide a framework for the resolution of certain claims for VA benefits.

B. Determination of the economic impact of such regulations on individuals, consumers, and the businesses affected; since, as previously indicated, there would be no such regulation, there would be no such impact.

C. Determination of the the impact on the personal privacy of the individual affected: The enactment of the Committee bill would not significantly increase the impact on the personal privacy of participants in any of the programs involved.

D. Determination of the amount of additional paperwork that will result from regulations to be promulgated under the bill: The only significant increase in paperwork that is likely to result from regulations to be promulgated under the Committee bill will be in the form of increased activity, both by veterans and the VA, in the area of claims for benefits based on disabilities attributed to exposure to agent orange once the regulations required to be issued by section 8 of the Committee bill are promulgated.

SECTION-BY-SECTION ANALYSIS OF S. 921 AS REPORTED

Section 1

Subsection (a) of section 1: Would provide that the Committee bill may be cited as the "Veterans' Programs Extension and Improvement Act of 1981".

Subsection (b) of section 1: Would provide that, whenever in the Committee bill an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code, relating to veterans' benefits.

Section 2

Would amend present section 601(4)(c)(v) relating to the Administrator's authority to provide hospital care and medical services on a contract basis in a "State" not contiguous to the forty-eight contiguous States, to extend for nine months—from December 30, 1981 until September 30, 1982—the VA's authority to provide, on a contract basis for non-service-connected disabilities, hospital care and such medical care services as will obviate the need for hospital admission in the Commonwealth of Puerto Rico and the Virgin Islands and other territories of the United States.

Section 2—Cost: Enactment of the provisions of section 2 is estimated to entail a cost of $2.9 million.

Section 3

Would amend clause (2) of present section 612(b), relating to eligibility for outpatient dental services and treatment for service-connected dental conditions that are not compensable in degree, to provide for a reinstatement, after subsequent active duty service in the case of a person with less than a one year break in service, of the 1-year postservice period within which application for dental care, based on the first period of service, must be made to the VA.

Section 3—Cost: Enactment of the provision of section 3 is estimated to entail no significant cost.

Section 4

Clause (1) of section 4 would amend present section 612A(a), relating to eligibility for readjustment counseling, to extend the date by which an otherwise eligible Vietnam-era veteran discharged prior to October 1, 1979, may request readjustment counseling to September 30, 1983.

Clause (2) of section 4 would further amend section 612(A)(a) to provide that a veteran's period of eligibility to request readjustment counseling would not run during any period that the veteran is prevented from requesting such counseling because of a medical condition, including an alcohol or drug abuse or dependency disability, or being incarcerated in a Federal, State, or local jail or penal institution.

Section 4—Cost: It is estimated that the enactment of the provision of section 4 would cost $24 million in fiscal year 1982.

Section 5

Clause (1) of subsection (a) of section 5 would redesignate paragraphs (3) through (9) of section 1501, relating to definitions applicable to the vocational training and rehabilitation program, as paragraphs (4) through (10), respectively.

Clause (2) of subsection (a) of section 5 would add a new paragraph (3) that would provide that, for the purposes of the vocational training and rehabilitation program, the term "medical condition" would include an alcohol or drug dependency or abuse disability.

Subsection (b) of section 5 would amend present section 1662(a), relating to the period of time—the so-called "delimiting period"—within which an otherwise eligible veteran is eligible to use educational assistance benefits under chapter 34, to specify that, for the purposes of determining whether a veteran is eligible for a delimiting period extension because the veteran was prevented from initiating or completing a program of education during his or her delimiting period because of a mental or physical disability not the result of the veteran's willful misconduct, an alcohol or drug dependence or abuse disability from which the veteran has received shall not be considered to be the result of willful misconduct.

Section 5—Cost: Enactment of the provisions of section 5 is estimated to entail no significant cost.

Section 6

Would amend present section 2014(b)(2) relating to veterans readjustment appointments, noncompetitive appointments to the Federal civil service for certain Vietnam-era veterans, to provide an additional 3-year period—until September 30, 1984—during which such appointments may be made.

Section 6—Cost: Enactment of the provisions of section 6 is estimated to entail no significant cost.

Section 7

Would amend present section 5073(a)(2), relating to the use by State medical schools established with assistance from the Veterans' Administration of grant funds for the payment of the salaries of the faculty of such schools, to provide an additional 12-month period in which such grant funds may be used for such purpose.

Section 7—Cost: Enactment of the provisions of section 7 is estimated to entail no significant costs.

Section 8

Would amend present section 307 of Public Law 96–151, the Veterans Health Programs Extension and Improvement Act of 1979, relating to an epidemiological study regarding veterans exposed to agent orange.

Clause (1) of section 8 would amend present subsection (a)(1) of section 307, relating to the specific mandated study, to (1) require the VA to study the health of Vietnam veterans as their health may have been affected by exposure to agent orange rather than requiring a study of such veterans exposed to agent orange, thereby removing an unintended threshold problem of requiring the VA to identify a population to be studied, each of whom had been exposed to agent orange; (2) authorize the Administrator to expand the scope of the study to include, in addition to the emphasis on the impact of exposure to agent orange, the effects of exposure to other factors related to service in Vietnam, including other herbicides, chemicals, medications, or environmental hazards, or conditions; and (3) expressly provide the Administrator with authority to contract with non-VA entities for the design or the conduct of the study or both.

Clause (2) of section 8 would amend present subsection (b) of section 307, relating to reports on the study by the Administrator to appropriate committees of the Congress, to: (1) clarify that the Administrator's recommendations in light of the results of the study should include recommended legislative or administrative action or both; and (2) require the Administrator, not later than 90 days after each required report on the study is submitted, to develop and publish in the Federal Register proposed regulations for the resolution of claims based on exposure to agent orange and, if the scope of the study is expanded as authorized by the amendment proposed in clause (1) of this section, on other factors associated with service in Vietnam. The proposed regulations, which would be based on the reported study results and other available pertinent information, would contain proposed guidelines, standards, and other criteria for resolving claims and would include specifications of any presumptions to be applied to the resolution of claims. Not later than 90 days after the completion of required public review and comment of the proposed regulations, the Administrator would be required to publish final regulations. Compliance with the requirements relating to these regulations, and any regulations promulgated, would be subject expressly to judicial review.

Section 8—Cost: Enactment of the provisions of section 8 is estimated to entail no significant cost.

Section 9

Would amend section 508 of the Veterans' Disability Compensation and Housing Benefits Amendments of 1980, Public Law 96–385, relating to technical amendments to Public Law 96–330, to strike a provision that was included in Public Law 96–385 based on an incorrect analysis of the impact of a provision in Public Law 96–330 that modified the way in which annuities are computed for personnel retiring after serving in the VA's Department of Medicine and Surgery. This repeal of the Public Law 96–385 amendment to Public Law 96–330 thereby restores the relevant section of title 38, section 4109, relating to retirement rights of DM&S employees, to the form made by Public Law 96–330.

Section 9—Cost: Enactment of the provisions of section 9 is estimated to entail no significant cost.

TABULATION OF VOTES CAST IN COMMITTEE

In compliance with paragraph 7 of rule XXVI of the Standing Rules of the Senate, the following are tabulations of votes cast in person or proxy by Members of the Committee on Veterans' Affairs at a May 13, 1981, meeting to consider S. 921.

The Committee agreed to report S. 921, with an amendment in the nature of a substitute, and a title amendment, favorably to the Senate by a unanimous voice vote.

Prior to that vote, votes were taken on five motions made by Senator Cranston to amend S. 921, as amended. First, Senator Cranston moved to amend section 4 of the Committee Print on S. 921 to strike a provision that would have amended current law eligibility for readjustment counseling for Vietnam-era veterans to limit eligibility to veterans whose service made them eligible for the Vietnam Service Medal. This amendment was agreed to by an 8–4 vote, as follows:

Yeas—8	Nays—4
Strom Thurmond	Alan Simpson
Robert Stafford	Bob Kasten
Arlen Specter	Jeremiah Denton
Alan Cranston	Frank Murkowski
Jennings Randolph	
Spark Matsunaga	
Dennis DeConcini	
George Mitchell	

The second motion made by Senator Cranston was also to amend section 4 of the Committee Print on S. 921 to extend the eligibility period during which eligible veterans could request readjustment counseling by 3 years instead of the 1-year extension provided for in the Committee Print. Prior to the vote on this amendment, a substitute amendment was agreed to by Senator Simpson and Senator Cranston to amend the Committee Print to extend the eligibility period by 2 years. Subsequently, this amendment was adopted by a unanimous voice vote.

The third motion made by Senator Cranston was to add a section to the Committee bill that would have amended chapter 17 of title 38 to provide eligibility for hospital care and limited medical services for veterans suffering health problems attributed to exposure to agent orange, radiation from nuclear tests, or any other toxic substances or environmental hazards. Subsequently, this amendment was modified to limit its impact to providing such eligibility for veterans exposed to agent orange and radiation. This amendment failed to carry by a vote, 6–6, as follows:

Yeas—6	Nays—6
Strom Thurmond	Alan Simpson
Alan Cranston	Robert Stafford
Jennings Randolph	Bob Kasten
Spark Matsunaga	Jeremiah Denton
Dennis DeConcini	Frank Murkowski
George Mitchell	Arlen Specter

The fourth motion made by Senator Cranston was to add a section to the Committee bill that would have provided a targeted GI Bill delimiting data extension for certain Vietnam-era veterans. This amendment was rejected by a 7–5 vote, as follows:

Yeas—5	Nays—7
Alan Cranston	Alan Simpson
Jennings Randolph	Strom Thurmond
Spark Matsunaga	Robert Stafford
Dennis DeConcini	Jeremiah Denton
George Mitchell	Bob Kasten
	Frank Murkowski
	Arlen Specter

The fifth motion made by Senator Cranston was to strike section 5 of the Committee Print, a provision which would have authorized the Administrator to make contributions to local authorities in support of construction projects adjacent to national cemeteries designed to facilitate safe ingress or egress. This amendment was agreed to by a unanimous voice vote.

Mr. SIMPSON. Mr. President, this concludes my opening remarks.

Mr. CRANSTON. Mr. President, as the ranking minority member of the Committee on Veterans' Affairs, I am very pleased that the Senate is today considering the proposed "Veterans' Programs Extension and Improvement Act of 1981" as reported by the committee on May 15 in S. 921.

This bill includes many important provisions, derived largely from my bills, S. 458 and S. 636, which would improve VA health-care programs for veterans, in particular Vietnam-era veterans, and which have received much attention both in and out of the committee. I believe that passage of this measure will send a strong, positive signal to Vietnam-era veterans that their concerns have not been lost in the shuffle even though we are still without a Reagan-appointee Administrator of Veterans' Affairs. Additionally, our action on this bill will tell VA employees, especially those who staff the readjustment counseling program in the 92 current vet centers and at the VA Central Office, that we are deeply committed to providing concrete assistance to Vietnam-era veterans who turn to the VA for help.

Nevertheless, as I indicated in my additional views in the committee report on S. 921, I do not believe that, in certain respects, S. 921 as reported goes far enough—based on recent data and other available evidence—to meet the current, very real needs of Vietnam-era veterans.

Mr. President, I think we have an obligation to make use of the very valuable information contained in currently available studies, including a congressionally mandated study on the readjustment experiences of Vietnam-era veterans, and other information of great importance in terms of defining and describing the remaining readjustment difficulties that some Vietnam-era veterans are experiencing, including the testimony received during the committee's April 30 hearing on the legislation from which the committee bill is largely derived. Thus, I shall be proposing and supporting certain amendments designed to help insure that the needs of these veterans are met through constructive programs.

Before discussing this legislation any further, Mr. President, I wish to note that since joining the committee in 1979, as its then-ranking minority member, my very able colleague from Wyoming (Mr. SIMPSON) has done a remarkable job of mastering the often difficult subject matters with which the committee deals. As chairman of the com-

mittee during the last Congress, I was grateful for his contributions and cooperation in connection with the work of the committee. Now, as the ranking minority member, I appreciate the very difficult job he has in store and am very pleased that we are still able to work together productively on behalf of our Nation's veterans. That is what I expect we will be doing today and throughout this Congress.

BACKGROUND

Mr. President, many of the provisions incorporated in the committee bill are derived from two measures that I introduced very early in this Congress. From S. 458, which I introduced on February 6, 1981, the committee bill incorporates provisions to—

First, extend by 2 years the period of eligibility for Vietnam-era veterans to request readjustment counseling.

Second, provide for a tolling of the readjustment counseling eligibility period for veterans who are unable to receive such counseling by virtue of a medical condition, including an alcohol or drug dependence or abuse disability, or incarceration in a Federal, State, or local jail or penal institution.

Third, provide that, for the purposes of determining eligibility for an extension of the GI bill or rehabilitation delimiting period as a result of a disability, an alcohol or drug dependency or abuse disability shall not be considered to be the result of the veteran's willful misconduct.

Fourth, extend the authority for veterans' readjustment appointments, under which disabled and educationally disadvantaged Vietnam-era veterans are hired by Federal agencies on a noncompetitive, probationary basis.

From S. 636, which I introduced on March 5, 1981, the committee bill incorporates provisions to—

First, extend by 12 months the period of availability of funds committed by the VA under its program of assistance to new State medical schools—a measure providing such an extension, H.R. 2156, has already passed both Houses and is awaiting the President's signature.

Second, authorize the expansion of the scope of an epidemiological study regarding veterans exposed to agent orange.

Third, require the promulgation of regulations containing guidelines for resolving claims for veterans' benefits based on exposure to agent orange.

Mr. President, at this point, I would like to comment very briefly on the provisions in S. 921 as reported that are of special importance to Vietnam-era veterans.

READJUSTMENT COUNSELING ELIGIBILITY EXTENSION

Mr. President, section 4 of S. 921 as reported would provide a 2-year extension of the period during which Vietnam-era veterans who were discharged before October 1, 1979, may request readjustment counseling services from the VA. The purpose of this extension is to make it possible for some Vietnam-era veterans who will not have requested readjustment counseling from the VA before September 30, 1981, to use the program. If a veteran once requests readjustment counseling, under existing law—unchanged by the committee bill—the veteran continues to be eligible for that assistance, without time limit, under this program.

In addition, the continued availability of readjustment counseling services through the Vet centers will benefit those veterans who already have received some services but need more time to work out their readjustment problems. As I noted above, this is identical to my original proposal as contained in S. 458.

However, based on the very strong testimony we heard during the committee's April 30 hearing, I became convinced that a 3-year extension is fully warranted and, therefore, proposed during the May 13 markup of S. 921 a 3-year extension—until September 30, 1984—of that application period. Although the committee did not adopt my proposal at that time, I believe there is strong support and ample justification for a 3-year extension, as indicated by the growing list of cosponsors of amendment No. 61 to S. 921 as reported, which will be offered by my very good friend and distinguished colleague from Rhode Island (Mr. CHAFEE) and of which I am an original cosponsor. I shall speak to the need for this amendment when it is before us.

ELIGIBILITY EXTENSIONS FOR CERTAIN VIETNAM-ERA VETERANS

Mr. President, sections 4 and 5 of the committee bill would provide—as I had proposed in S. 458—for the tolling in certain circumstances of a Vietnam veterans eligibility for readjustment counseling, GI bill benefits, and the vocational rehabilitation program for service-connected disabled veterans.

With respect to the readjustment counseling program, the bill would provide that a veteran's eligibility will not run during any time while the veteran is prevented from receiving readjustment counseling by virtue of incarceration or a disabling medical condition, including an alcohol or drug dependency or abuse disability. Because I have long believed that these veterans, many of whom directly relate their incarceration or such a disability to their service in the Armed Forces during the Vietnam era, should not be precluded from using the VA's readjustment counseling services, I am very pleased that the committee bill would provide an extension of eligibility in these circumstances. This would assure the veterans involved that they will still be eligible for readjustment counseling services when they are able to take advantage of those services.

With respect to GI bill benefits, the bill would provide for such a tolling of the period of eligibility, but only to the extent that the veteran was prevented from using these benefits by an alcohol or drug dependency or abuse disability and the veteran has recovered from such a condition. Similarly, the bill would provide for a tolling of the eligibility period for the VA's program of vocational rehabilitation for service-connected disabled veterans when the veteran has been prevented, by a drug or alcohol disability, from participating in a program of vocational rehabilitation. In these respects, the provisions in the committee bill are based on provisions I authored last Congress that were passed by the Senate last year as part of legislation dealing with the GI bill—H.R. 5288, on January 24, 1980—and the VA's vocational rehabilitation program—S. 1188, on September 4, 1980.

Mr. President, although we were not successful last year in our negotiations with the House on these particular provisions regarding GI bill benefits and the VA's vocational rehabilitation program, I hope we can persuade the House this time around that the provisions in the committee bill are needed.

EXTENSION OF THE VETERANS' READJUSTMENT APPOINTMENT AUTHORITY

Mr. President, section 6 of the committee bill would extend for 3 additional years the Federal Government's authority—set forth in section 2014(b) of title 38—to provide excepted appointments in the civil service to certain Vietnam-era veterans who are disabled or who are educationally disadvantaged. The purpose of the veterans' readjustment appointment—VRA—authority is to assist these veterans by making it possible for them to be hired noncompetitively in the civil service and to develop additional skills through a program combining education and training with the opportunity for a regular career appointment.

This program has been very successful in assisting unemployed, undereducated Vietnam-era and disabled veterans in finding work at very little cost to the Federal Government. Since the program's inception in 1970, VRA's have provided employment opportunities for more than 150,000 Vietnam-era and disabled veterans. The success of the program can also be evidenced by the high governmentwide retention rate—almost 75 percent according to Office of Personnel Management data—of veterans who were initially appointed under the VRA authority.

Mr. President, in this regard it should be stressed that not only would the committee bill assure that this source of assistance continues to be available to eligible veterans, but it would serve to supplement the readjustment counseling program in which unemployment is the most prevalent readjustment difficulty reported by staff at Vet Centers.

Although I originally proposed 2-year extension in S. 458, I proposed an additional year to the committee in light of the administration's strong statements of support for the VRA program and as complementary to my view that the readjustment counseling program application period should be extended for 3 years.

Thus, the committee bill would extend the VRA authority until September 30, 1984. Likewise, as I stated earlier, I believe the Senate should support the proposal to provide an additional 3 years after September 30, 1981, of eligibility for Vietnam-era veterans to apply for readjustment counseling. Taken together in this way, these two programs will con-

tinue to offer a valuable means of assisting Vietnam-era veterans.

AGENT ORANGE STUDY AMENDMENTS

Mr. President, I am very pleased that the committee bill incorporates the amendments to the mandated VA study on agent orange that I proposed in S. 636 and which were passed by the Senate twice last fall, in S. 1188 on September 4, and in H.R. 4015 on September 26, before the sine die adjournment of the 96th Congress. I worked hard to develop these changes now proposed in the committee bill, together with the Senator from Pennsylvania (Mr. HEINZ) and was disappointed that the House refused to act on them last year.

The proposed amendments would make several changes in the study mandated in Public Law 96–151 that, in my view, are critical if a study is to be done that is significant, valid, objective, credible, and responsive to the concerns of Vietnam veterans about their health. These changes include expanding the scope of the study to take into account certain other factors in Vietnam that may be affecting the health of Vietnam veterans, requiring the VA to issue regulations—within a framework provided in the committee bill—in connection with the resolution of claims of veterans against the VA based on exposure to agent orange and such other factors as may be involved in any study expansion, and authorizing the VA to contract with a non-VA entity for the conduct of the study.

Mr. President, with respect to the last change I mentioned, while I continue to believe a valid and objective study could be conducted by the VA, I also continue to believe that the perception of a conflict of interest would be of great concern to many Vietnam veterans and other members of the public. Thus, in response to such concerns, which I believe are certain to be raised, I will continue to urge the Administrator of Veterans Affairs to arrange for the conduct and management of this study outside the VA, as the committee bill would expressly authorize.

CONCLUSION

In conclusion, I again would like to express my appreciation to the chairman (Mr. SIMPSON) for his hard work on this measure and to the committee staff members, Bill Brew, Ken Bergquist, Harold Carter, and Jim MacRae. Also, my special thanks to members of the minority staff—Molly Milligan, Babette Polzer, Ed Scott, and Jon Steinberg—for their contributions.

The measure before us is a sound and important one. I urge my colleagues to support it.

Before closing, Mr. President, I note that, on June 2, 1981, the House passed H.R. 3499, the proposed Veterans' Health Care Act of 1981, by a vote of 388 to 0. The House-passed bill is, in many respects, very similar to S. 921 as reported. Because it is important that the issues in the bill be resolved in a timely manner, I shall do my best to urge that we try to work out the differences between the two measures in the very near future.

Mr. President, in order that my colleagues may understand my reasons for offering amendments No. 58 and No. 59 and cosponsoring amendment No. 61, I ask unanimous consent that my minority views in the committee report be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ADDITIONAL VIEWS OF SENATOR ALAN CRANSTON

I am submitting these additional views in connection with the following three amendments that I offered unsuccessfully but with much support during the Committee's consideration of S. 921, as amended, on May 13, 1981—

(1) to provide basic Veterans' Administration health care eligibility to a veteran suffering from a disability as to which the Administrator, upon the recommendation of the Chief Medical Director, determines there is credible medical evidence linking it to exposure to dioxin (the toxic contaminant found in agent orange), an herbicide used by our Armed Forces in Vietnam, as to veterans who served in Vietnam; or to nuclear weapons test radiation or any other toxic substance or environmental hazard if the veteran is found to have experiences in-service exposure to the radiation or pertinent substance or hazard.

(2) to extend by three years, until September 30, 1984, the period of eligibility for a Vietnam-era veteran to request readjustment counseling.

(3) to provide a "targeted delimiting date extension" designed to allow educationally disadvantaged, unskilled, and unemployed Vietnam-era veterans with expired GI Bill eligibility up to two additional years—until September 30, 1983—to use their entitlement for apprenticeship or other on-job training or, if they do not have a high school diploma or equivalency certificate, for high school (or equivalency) or vocational training.

I. HEALTH-CARE ELIGIBILITY OF VETERANS WHO WERE EXPOSED TO AGENT ORANGE AND RADIATION

Amendment No. 42

I offered as an amendment to S. 921 the provisions of Amendment No. 42, which I submitted for printing on May 7. The purpose of this amendment is to address the health-care needs of veterans who are concerned that their exposure during service to dioxin—the highly toxic contaminant found in agent orange, an herbicide used by our Armed Forces in Vietnam—nuclear weapons test radiation, or other toxic substances or environmental hazards has resulted in health problems.

The text of the amendment follows:

SEC. Chapter 17 of title 38, United States Code, is amended—

(1) by amending subsection (a) of section 610—

(A) by striking out "and" after clause (3);

(B) by inserting after clause (3) the following new clause:

"(4) any veteran for a disability which a physician employed by the Veterans' Administration determines (or, in areas where no such physician is available, by a physician carrying out such function under a contract or fee arrangement with the Administrator) is a disability with respect to which the Administrator has found, upon the recommendation of the Chief Medical Director, there to be some credible medical evidence indicating that such disability may be caused by the exposure of humans to—

"(A) dioxin if the Administrator finds that such veteran served on active duty in the Republic of Vietnam during the Vietnam era,

"(B) radiation if the Administration finds that such veteran was exposed to such radiation while participating in a nuclear weapons test while serving on active duty, or

"(C) any other toxic substance or environmental hazard to which the Administrator finds that such veteran was exposed while serving on active duty, unless the Administrator determines (i) that such exposure was not incurred in line of duty or was the result of such veteran's willful misconduct, or (ii) upon the recommendation of the Chief Medical Director, that, despite such credible evidence, on the basis of clear and convincing medical evidence, such disability is not caused by such exposure; and"; and

(C) by redesignating clause (4) as clause (5); and

(2) by amending subsection (i) of section 612—

(A) by inserting after clause (3) the following new clause:

"(4) To any veteran described in section 610(a)(4) of this title."; and

(B) by redesignating clause (4) as clause (5).

This amendment would afford these veterans general eligibility for hospital and nursing home care and limited eligibility for outpatient care at an appropriate level of priority but only for conditions that can be linked by some credible medical evidence to such an exposure, and it would provide such eligibility only with respect to those disabilities which the Administrator, upon the recommendation of the Chief Medical Director, determines may be linked to the exposure of humans to the substance or hazard to which the veteran concerned was exposed.

The amendment would specifically exclude eligibility where the exposure to a specific hazard or substance was the result of the veteran's willful misconduct or was otherwise not incurred in line of duty. Eligibility for health-care services would also be denied if the Administrator, upon the recommendation of the Chief Medical Director, determines that, despite some credible evidence showing a link, other medical evidence clearly shows that exposure to a specific hazard or substance does not cause the disability involved. After some debate with respect to the desirability of including the general category relating to other toxic substances and environmental hazards, I modified my amendment to include only veterans exposed to agent orange or radiation. As so modified, however, the amendment failed on a 6-to-6 vote. Nevertheless, I continue to believe that there is much justification for this approach and will propose such an amendment when the bill comes to the floor.

SUPPORT FOR AMENDMENT

Subsequent to May 7, the Disabled American Veterans and the Vietnam Veterans of America wrote to me expressing their support of Amendment No. 42 to provide this VA health-care eligibility to veterans who were exposed to agent orange, a radiation, and other toxic substances. In addition, I received a copy of a letter from The American Legion to the Chairman with that organization's view on my amendment which stated, in part,

We believe . . . that VA should be further obligated to follow up that examination [of all veterans who claim to be suffering from the residuals of toxic substance exposure] by treating any condition which, based upon reasonable medical evidence, may be caused by such exposure.

COMMITTEE OVERSIGHT ACTIVITIES

The Committee—over the past two years—has received and reviewed a great deal of information regarding the inservice exposure of veterans to agent orange and radiation. And the Committee has assisted with the cases of many individual veterans who, in addition to being unable to prove a connection strong enough to qualify for compensation, have experienced great difficulty in obtaining health-care services from the VA.

In connection with these issues, the Committee, during the 96th Congress, held five days of hearings:

June 20, 1979, Veterans' claims for disabilities from nuclear weapons testing, in Washington, D.C.;

January 25, 1980, Vietnam veterans readjustment, including the issue of exposure to agent orange and the VA study mandated by Public Law 96–151, in Chicago, Illinois;

January 26, 1980, Vietnam veterans readjustment, including the issue of exposure to agent orange and the VA study mandated by Public Law 96–151, in Los Angeles, California;

February 21, 1980, Vietnam veterans' readjustment, including views of various Federal agencies on their agent orange-related activities and the VA study mandated by Public Law 96–151, in Washington, D.C.; and

September 10, 1980, agent orange update, including testimony on the amendment which had passed the Senate on September 4 as section 501 of S. 1188 and is included in section 8 of S. 921, as reported, in Washington, D.C.

The Committee also compiled a comprehensive record of documents with respect to the agent orange-related activities of Federal agencies, the Congress, various concerned groups, and others, and printed that record as appendices to two hearing records. Part I, which covers a period from July 1978 to January 1980 is appended to the Committee's April 10, 1979, hearing on S. 741 and S. 196; Part II, which covers a period from January 1980 to November 1980, is appended to the Committee's September 10, 1980, agent orange update hearing. In addition, throughout the 96th and 97th Congresses, I have inserted in the Congressional Record various reports and letters that have come to my attention with respect to matters related to the issue of veterans' exposure to both agent orange and radiation.

LINK TO SERVICE

With respect to many potentially hazardous substances, we are now just beginning to understand what long-term health effects may result from human exposure. We know more about radiation's effects in this regard than we do with respect to certain other hazards, but there is progress being made in research on dioxin's effects and the effects of other substances also.

Recently, results of certain studies on the health of humans with respect to radiation exposure during the nuclear test "Smoky" and dioxin exposure in connection with railway workers in Sweden have become available and been reviewed by various experts. According to many of these experts, these studies present significant medical information and thus, in my view, should be considered relevant to the availability of VA health care in connection with diseases identified in such studies, for example. I think we have a responsibility to respond appropriately in light of those study findings now available, as we have often pledged to these veterans we would do. And we should provide a way for a continuing responsiveness as further credible scientific data become available.

It seems very likely to me, now that we have available to us various creditable scientific studies that suggest—although not definitively—a link between exposure to certain substances and the subsequent development of specific diseases, that some of the problems these veterans are experiencing today may well in the future be found to be related to inservice exposure. In my view, the veterans concerned should be assured access to the VA's health-care system for health problems with such a credible linkage to service and for which hospitalization is or may be indicated. My amendment would provide that access.

Also, because of the more than speculative probability that certain of their health problems may ultimately be found to be service related, it seems fully warranted, in my view, that these veterans should have a higher priority, with respect to such problems, for using the VA's available outpatient resources than do veterans with no service-connected disabilities whose health problems have no such link to service. My amendment would provide for that priority.

This proposal also would provide the further, possibly significant, advantage of giving VA physicians more experience in treating more efficiently and effectively the specific diseases and disabilities involved. In some cases, this could contribute to advances in scientific knowledge about the nature and causes of such conditions.

As I have proposed it, this amendment would, in practice, involve no additional costs. What is involved here is not a proposal to add new services, facilities, or other resources. Rather the proposal is to adjust the manner in which available VA health-care resources are utilized. Thus, if this amendment were enacted and the Administrator made the requisite finding with respect to linkage regarding certain disabilities, the veterans involved would receive care ahead of other veterans who have no service-connected disabilities and who, as a result, in some cases would experience a delay in receiving care or be referred to other sources of care. The result of the amendment would be to provide for an appropriate level of care for these "exposed" veterans ahead of those whose medical problems have no link whatsoever to their military service. This would be the same eligibility and priority that the Committee recommended in section 6 of S. 468, as reported, for non-service-connected ex-POW's.

EFFECT OF AMENDMENT

The practical effect of the amendment would be to ratify in part what the VA has indicated in testimony before this Committee is its current policy, albeit one of questionable legal validity, with respect to health care for Vietnam veterans who claim their disabilities result from agent orange exposure. We would thereby assure consistent application of this policy and equitable application of it to veterans in very similar circumstances—those exposed to radiation while participating in nuclear weapons tests. It would thus relieve the veterans involved of the alternative requirements of obtaining a finding of service connection or signing an oath of inability to defray the costs of care, which, as a result of the enactment of section 401 of Public Law 96–330 last year, is now more difficult for some non-service-connected disabled veterans to do. I do not believe these veterans should have to take a "pauper's oath" to become eligible for health care for conditions that may be linked to their service.

I want to emphasize that the amendment would not provide a presumption of service connection be adopted in connection with eligibility for health care or any other VA benefits. Rather, it proposes that we provide "exposed" veterans—including those who served our country in Vietnam and in the atmospheric nuclear weapons tests—with appropriate access to health care from the government that exposed them to those hazards.

I believe this proposal represents a fair middle ground pending the outcome of the various scientific inquiries that the Committee is following so carefully, and I think it's time to undertake action in response to the information that now is available to us.

OTHER TOXIC SUESTANCES AND ENVIRONMENTAL HAZARDS

The Committee also received information during the 95th and 96th Congresses that, in connection with various defense-related experiments involving human subjects, some veterans were exposed to several other hazardous substances, such as LSD and other drugs.

During the markup, certain concerns were raised with respect to the provision of my amendment that would provide health-care eligibility to veterans exposed while serving on active duty to such toxic substances or environmental hazards—other than dioxin in Vietnam or nuclear weapons test radiation—with respect to which the Administrator finds, upon the recommendation of the Chief Medical Director, there to be some credible medical evidence that the disability for which the veteran requests care may be caused by human exposure to the substance to which the veteran was exposed.

Although I believe this general category would serve an important purpose, I can appreciate the reservations of other members of the Committee regarding it, particularly with respect to the generality of the inclusion of other environmental hazards not specifically identified in the legislation. However, I would like to set out the reasons I included this category of exposure in the same context as exposure to dioxin and radiation.

First, if the VA's mandated study does not result in specific findings with respect to dioxin, but rather it or other studies now ongoing provide some credible medical information that service in Vietnam—that is, service in that environment in general—may itself have had adverse effects on the health of veterans who served there, we should assure appropriate access to the VA health-care system for Vietnam veterans. Admittedly, this could be dealt with by expanding category (A) relating to service in Vietnam.

Second, the general category would assure an appropriate access to the VA health-care system for veterans who were exposed in line of duty to other hazards—such as LSD in testing or research programs—as to which the state of medical knowledge is in much the same inconclusive state as it is with respect to dioxin and radiation.

For example, there is substantial controversy—very similar to that respecting agent orange and radiation—about the long-term health effects of exposure to sulpha, asbestos, and other hazards. The problem regarding many of these substances from exposure to which veterans allege they are suffering ill effects is that there is some medical evidence that appears to support a linkage but no medical followup has been conducted or is planned.

For example, in a March 18, 1981, memorandum to members of Congress (printed in the appendix to these views) with respect to a followup study on veterans who, from 1955 until 1967, were exposed to LSD as volunteers in the Army's chemical research program, the Secretary of the Army indicated that, while some of the volunteers followed seem to have legitimate health complaints that might reasonably be considered to have arisen from LSD exposure, "further followup studies are probably inadvisable from a scientific viewpoint." Thus, it seems clear to me that, with respect to some of those possibly legitimate complaints, there will never be enough information to allow a finding of service connection because the necessary research will not be conducted. Perhaps it is not reasonable scientifically to push for further study (in a May 4, 1981, letter to the Director of the Office of Technology Assessment, I have sought advice on the scientific aspects of that question), but because the individuals involved clearly are confronted with a "catch 22" situation, I believe those volunteers with such possibly legitimate complaints should be given the opportunity to obtain appropriate VA health care.

Another example, and one which has only recently emerged as an issue, is the health situation of Navy veterans who were given sulpha medication—a substance that is very

effective in the treatment of certain infections although with occasional serious side effects—during World War II and who now believe that certain health problems they are experiencing may be the result of their exposure to that drug. It is not yet clear how many veterans may be involved or even what conditions they think may be related, but if more information develops to provide a credible link, I think the veterans involved should have some access to health care for the medical conditions that are indicated. Some of them may not be able to get into the VA system unless such a general provision is enacted.

Finally, I would reemphasize that, in the case of any particular substance, under the amendment new VA health-care eligibility would be provided only if the Chief Medical Director has made a recommendation with respect to conditions indicated by credible medical evidence to be linked to exposure during service and the Administrator has agreed and made the requisite determination.

II. READJUSTMENT COUNSELING PROGRAM

Application-period extension

I also proposed a 3-year extension—until September 30, 1984—of the application period for Vietnam-era veterans to request readjustment counseling from the VA without excluding any Vietnam-era veterans. I am disappointed that my motion to provide a 3-year extension of the application period, which was cosponsored by Senators Randolph, Matsunaga, DeConcini, and Mitchell, was not successful. I am pleased, however, that my amendment to retain the present eligibility for all Vietnam-era veterans (rather than restrict it to those whose service during the Vietnam era made them eligible to receive the Vietnam Service Medal) was agreed to and that the Committee agreed to my modified motion for a 2-year extension, as I had originally proposed in section 2 of S. 458, introduced on February 6, 1981.

On April 2, 1981, Senator Chafee introduced S. 872 with broad bipartisan support (cosponsored by Senators Dole, Danforth, Heinz, Melcher, Hatfield, Pell, Sarbanes, Exon, Moynihan, Hart, Boschwitz, Hollings, Dodd, Goldwater and Sasser). Based on the testimony we received at the April 30 hearing, I became convinced that a 3-year extension is fully warranted, and I congratulate Senator Chafee and the cosponsors of S. 872 for their foresight. As Dr. Ewalt, the VA's Director of Mental Health and Behavioral Sciences, pointed out during the hearing, if the program is to have a fair shot at being effective and being able to attract and retain qualified personnel, the VA needs to be able to offer assurances to individuals who staff the program that it will be around for awhile. The testimony clearly indicated that the uncertain future of the program has led to great instability in the current operation of the Vet Centers, including the premature loss of individuals already trained to provide counseling services. Dr. Ewalt and the entire panel of mental health and social science professionals—in addition to the VFW, the DAV, and the Vietnam Veterans of America—recommended that from the standpoint of providing the program the stability it needs to operate efficiently and to provide effective counseling assistance to those who request it, a 3-year extension would be optimal.

In addition, the CPR report, "Legacies of Vietnam: Comparative Adjustment of Veterans and Their Peers," a study prepared by the Center of Policy Research, Inc., (CPR) for the Veterans' Administration pursuant to section 304(b) of Public Law 95-202 and submitted to Congress on March 20, 1981, substantiates that the continuing problems of Vietnam-era veterans do not easily reduce to a single problem or problem cluster, and, for a variety of reasons, the overwhelming majority of veterans interviewed for the study was not inclined to use either VA programs or other traditional non-VA mental health services. The conclusion is inescapable that the problems of Vietnam-era veterans are more complex and widespread than many previously believed and, thus, more time than previously expected will be necessary to provide assistance to those individuals who need it.

In addition, although the authority for the VA to provide readjustment counseling became effective more than one and a half years ago, the 91 Vet Centers currently in operation opened several at a time over a period of many months. Because of the staggered schedule of openings, very few of the Vet Centers will have been in operation for periods approaching 2 years by September 30, 1981—the end of the eligibility period for veterans released from active duty before October 1, 1979—and many of the centers will have been in operation for less than a year by that date. Moreover, it takes a substantial period of time for a new Vet Center to establish a reputation in its community and overcome the initial skepticism of its target clientele. Several months of the first year's operation must necessarily be devoted to making contacts and developing effective working relationship with other agencies and organizations that provide services in the communities in which each Vet Center is located. Thus, most of the centers will fall far short of realizing their maximum potential by September 30, 1981, and it is vital that additional time, in the form of extended eligibility for veterans who would seek a center's services, be provided.

Also, beginning early in January 1981 the program was directed to refrain from offering career appointments to prospective employees—a situation in which it has been difficult (if not impossible) to hire qualified applicants. In this regard, the program director, Dr. Donald Crawford, stated: "It is next to impossible to employ anyone of excellent credentials not being able to say to them 'you have a future with the VA'." In addition, the new Administration's March 10 budget proposal not to fund the program in fiscal year 1982 has had a paralytic effect on the program. At the April 30 hearing, several witnesses, including Dr. Crawford, indicated that regenerating the program after the application period is extended legislatively would take several months.

For these reasons, at present the Vet Centers have been functioning for an average of less than 1 year as an effective way of providing readjustment counseling.

I would also note that Dr. Ewalt reminded the Committee at the hearing that he had initially recommended to the Committee a 5-year eligibility period.

If it should turn out that fewer veterans are using the Vet Centers 2 years down the road, the Congress would certainly have the option of reducing the scope of the program commensurately through the appropriations process. However, I agree with Senator Chafee and the co-sponsors of his bill that there is more than ample justification and need for us to provide Vietnam-era veterans the assurance of an effective program that a 3-year eligibility extension would provide.

Eligibility for readjustment counseling

During the markup, a question was raised about whether Congress really intended to make all Vietnam-era veterans eligible for readjustment counseling when it added section 612A to title 38 in 1979 in Public Law 96-22. I would like to set the record straight.

In my view, there is no question both that, over the 10-year history of the legislation (which I first introduced in 1971) the Congress stated its intention clearly and repeatedly—as the legislation expressly shows—that the eligible population include all Vietnam-era veterans; and that veterans of the Vietnam era have been identified by our society with the United States operations in Vietnam whether or not they served there. To quote from Senate Report No. 96-100 (pages 27-28) on the bill, S. 7, enacted as Public Law.

According to testimony from psychiatrists and other physicians, psychologists, social workers, and counselors at hearings held in February 1976, June 1977, and January 1979, veterans of the Vietnam era have suffered significantly as the result of society's indifference and, in some cases, overt hostility to the sacrifices they made during their periods of military service. Those who served in Vietnam have also experienced anguish due to the unusual conditions of service in Vietnam. . . .

Moreover, at our Committee's meeting, 2 years ago (March 9, 1979) on S. 7, we rejected by an 8-to-2 vote a proposal—just as the Committee rejected a similar proposal on my motion (8-to-4) 2 days ago—to limit readjustment counseling eligibility to Vietnam-era veterans who served in Southeast Asia.

On the basis of the total legislative history of the program, I think it is fair to conclude (indeed, I think no other reasonable conclusion is possible) that the Congress explicitly intended the program to focus primarily on those who served in Southeast Asia, who were expected to have the most readjustment difficulties, while keeping readjustment services available for the smaller proportion of Vietnam-era veterans who did not serve there, but who also experience difficulties.

This is exactly the way the program has worked. The facts are that veterans who served in Vietnam constitute about one-third of the total population of Vietnam-era veterans and about two-thirds of the Vet Center clients. Thus, a Vietnam-era veteran who served in Vietnam is about four times as likely to request readjustment counseling as one who did not.

III. TARGETED DELIMITING DATE EXTENSION

Finally, I regret deeply that the Committee by a 5-7 vote did not approve my amendment to incorporate in S. 921 the provisions of section 3(2) of S. 458, the proposed "Vietnam-Era Veterans' Readjustment Amendments of 1981", which I introduced on February 6, 1981, and which is cosponsored by Senators Matsunaga and DeConcini, providing for an extension of the so-called "delimiting period" for the use of GI bill benefits. This extension would be targeted only on those most in need of assistance—that is, those Vietnam-era veterans who, even though they would have been out of the service for more than 10 years, do not have high school diplomas and those who could benefit from participation in apprenticeship or other on-job training programs. Our proposal would provide these veterans with up to an additional 2-year period—October 1, 1981, to September 30, 1983—in which to use their GI Bill benefits for apprenticeship or OJT programs or, if they do not have high school diplomas or the equivalent, for pursuit of a secondary education or vocational objective program of education.

Under current law, veterans eligible for GI Bill benefits generally have 10 years after their last discharge or release from active duty to utilize their benefits for pursuit of a variety of programs of education. The Veterans' Affairs Committee has a number of occasions considered a variety of proposals designed to extend this 10-year delimiting period and has generally not been supportive of such extensions. However, that is not the case with the amendment I offered.

This amendment, which I intend to offer again as an amendment to this measure when it comes before the Senate, is essentially the same as that which the Committee approved in the 96th Congress in connection with S. 870 in 1979 and the Senate approved in January of last year, but to which the House would not agree. It is now, as it was then, a

modest effort to provide special assistance to veterans who have had the most difficulty in readjusting to civilian life following their service during the Vietnam era. It is significantly different from other proposals for general, across-the-board delimiting date extensions in that it is a one-time extension tightly targeted on those who are most in need of assistance and available only for certain kinds of education and training. It is designed to provide a limited extension to those very veterans who have never effectively utilized GI Bill benefits to which they earned entitlement.

Target population

According to VA data, educationally disadvantaged Vietnam-era veterans—that is, those who were discharged from active duty without having ever obtained a high-school diploma or equivalency certificate—accounted for nearly 20 percent of the Vietnam-era veteran population, more than 1.7 million individuals. Yet, compared with an overall utilization rate of more than 65 percent for the current GI Bill, only 35 percent of educationally disadvantaged veterans have used any of their GI Bill entitlement and, according to the VA's summary report on the 1979 National Survey of Veterans based on Census Bureau data, about half of them still don't have a high school degree. So, their problems persist and most have passed their 10-year delimiting dates.

Similarly, the needs of unskilled, underemployed, and unemployed Vietnam-era veterans can be seen in the high rates of unemployment that continue to plague this segment of the labor force. In April, the rates of unemployment for Vietnam-era veterans were 10.4 percent higher than they were a year ago. Among those Vietnam-era veterans who are 30 to 35 years of age—and who comprise 44 percent of the total Vietnam-era veteran labor force—the April rate of unemployment was 21.6 percent higher than it was in April of 1980 and 8.8 percent higher than it was for non-veterans in the same age bracket. These veterans, too, have generally passed their delimiting periods.

It cannot be stressed too strongly that our proposal is not for a general extension for all veterans as they reach their delimiting dates. Rather, it is to provide a "one-shot" opportunity for reaching these very deserving veterans—a final effort to try to assist them in making a successful and complete transition to productive civilian lives.

Adjust to readjustment counseling program

In that sense, this proposal must be viewed as a logical adjunct to the readjustment counseling program extension of eligibility provided for in S. 921 as reported by this Committee. The study prepared for the VA by the Center for Policy Research entitled, "Legacies of Vietnam: Comparative Adjustment of Veterans and their Peers", recently documented that Vietnam veterans have not achieved as high a level of education as their peers and hold jobs that are, on the average, at lower levels than those held by nonveterans. It further found that much of the occupational difference between veterans and nonveterans are due to educational differences. Finally, the study concluded that, when background differences are controlled, Vietnam-era veterans—and, to the greatest extent, those who served in Vietnam—still show "some residual disadvantage in educational and occupational attainment" and that "military duty in Vietnam had a negative effect upon post-military achievement."

At the Committee's April 30 hearing, much testimony was received in support of the concept of a targeted extension of the delimiting period. Both The American Legion and the Veterans of Foreign Wars indicated in their testimony that they supported such extensions. The Disabled American Veterans, in response to a question I submitted in writing, has responded that the approach I am proposing would "undoubtedly benefit" veterans utilizing the services at the Vet Centers. Max Cleland, the former VA Administrator, spoke eloquently about the need to couple the kind of support the Vet Centers are offering with the type of approach embodied in this proposal.

With respect to the need for this amendment, I want to underscore other very important testimony the Committee received. First, in response to a question I submitted as to how important it is that readjustment counseling efforts be coupled with efforts to provide employment opportunities and education and training assistance, Dr. Robert Laufer, a co-principal investigator on the CPR, wrote,

"Occupational/educational programs and psychological problems have to some extent become intertwined over time. Therefore, it would be advisable to relate services to both psychological and educational/occupational problems."

In supporting the need for a targeted delimiting period extension as an adjunct to the readjustment counseling, Dr. Laufer stated:

"The lack of timely psychological support for Vietnam veterans after their release from the service we believe contributed to a delayed use of available benefits. Therefore, we think it is reasonable to make special efforts for the educationally disadvantaged and unskilled or unemployed veterans. . . . This would be a valuable adjunct to the VA's readjustment counseling program."

Dr. Arthur Arnold, Chief of Psychiatry at the VA Medical Center in Bay Pines, Florida, stated that it is "essential" that treatment of post-traumatic stress be coupled with employment and education assistance. "Otherwise," he said, "treatment does not necessarily result in any improvement in practical living."

The American Psychiatric Association witness, Dr. Stephan Sonnenberg, responded that the availability of employment, education, and training assistance is a "crucial component of a comprehensive human service effort."

Regarding cost, the Congressional Budget Office estimates that this proposal would have a first-year cost of $63 million and a second-year cost of $67 million. Thus, the total of 5-year cost would be $130 million.

Budget considerations

Although I am fully appreciative of the Chairman's concerns with respect to the budget constraints, on which his opposition to this proposal rested, it is clear now that the constraints which a few months ago we feared we would be facing are not going to be a reality. The budget levels for veterans' programs (Function 700) in the Gramm-Latta version of the First Budget Resolution for Fiscal Year 1982—as supported by the President, passed by the House, and just yesterday approved in conference—are based squarely on the House Veterans' Affairs Committee's legislative assumptions, including expressly the enactment of a targeted delimiting date extension such as the one I am proposing. Thus, there is ample latitude for the Congress, within the limits of the Budget Resolution and the crosswalks to the Veterans' Affairs Committees, to enact this very useful and reasonable provision.

Unlike last year when the House refused to agree to the extension in the context of the Veterans' Rehabilitation and Education Amendments of 1980, the House Veterans' Affairs Committee unanimously ordered reported on May 12 a similar extension provision in connection with H.R. 4233. So now achievement of this opportunity is within our grasp, and I intend to continue to work to insure that it does not slip through our fingers.

It is all well and good to approve special days and special weeks in recognition of the sacrifices that Vietnam-era veterans have made, to construct new memorials, and to celebrate welcome homes that have been too long delayed. But, I believe, it is more important to provide concrete, positive assistance to those veterans who are just now beginning to take steps to readjust fully from their wartime experiences. When the Vietnam-era veteran who, after years of frustrations and personal agonies, seeks assistance at the Vet Center, it is critically important that he be provided the very kind of assistance that could be most valuable to him—and that is what this amendment would authorize.

As I indicated previously, I intend to offer my amendment as an amendment to S. 921 when it comes before the Senate. I hope my colleagues will join with me and support this effort to benefit those veterans of our Nation's longest conflict who continue to be very much in need of this kind of assistance.

APPENDIX

DEPARTMENT OF THE ARMY,
OFFICE OF THE SECRETARY OF THE ARMY,
Washington, D.C., March 18, 1981.

INFORMATION FOR MEMBERS OF CONGRESS

FOLLOW-UP STUDY ON THE LONG-TERM EFFECTS OF LSD ON VOLUNTEERS IN THE ARMY'S CHEMICAL RESEARCH PROGRAM

The Department of the Army released today its follow-up study on the long-term effects of LSD on volunteers in the Army's chemical research program.

The most significant finding of the study indicates that the volunteers who participated in the chemical research program and agreed to be studied, have about the same frequency of common medical illnesses as the general population in the same age range. Also, the incidence of psychiatric illness in the studied population was the same as that in the general population of the U.S.

The study concludes that the majority of subjects evaluated did not appear to sustain any significant damage from their participation in the LSD experiments. In cases where there were abnormalities, LSD could not be conclusively identified as the cause.

LSD was used in a series of experiments by the Army Chemical Corps from 1955 through 1967. Army records indicate 741 individuals voluntarily received LSD during that time. Fifty-five were Air Force personnel who were studied separately. Of the remaining 686, the Army examined 320 individuals, 220 directly and 100 by medical history questionnaires. The remaining Army participants were not studied due to their not being locatable, their death prior to the following study, or their unwillingness to participate in the follow-up.

Further information may be obtained from Mr. John L. Naler, 697-2106.

Furnished by: Office, Chief of Legislative Liaison.

Mr. MURKOWSKI. Mr. President, as a member of the Veterans' Affairs Committee and a cosponsor of S. 921, I am pleased to join with the distinguished chairman, Mr. SIMPSON, in urging my colleagues to approve the "Veterans' Programs Extension and Improvement Act of 1981."

I commend the chairman of our committee, for the leadership he has shown in bringing this measure to the floor. I would also like to compliment my colleague Senator CRANSTON for the key role he has played in the drafting of this legislation.

Mr. President, there has been a growing concern by the Members of Congress

over the needs of this Nation's veterans, in particular those of the Vietnam era. Less than 2 weeks ago the Senate passed the "Former Prisoners of War Benefits Act of 1981," which among other things, expanded the eligibility of former POW's for health care provided by the Veterans' Administration. Now we are considering a bill to extend and improve a variety of programs offered to the veterans of this Nation.

Among the programs to be affected by this legislation are those provided to veterans of the Vietnam era. S. 921 authorizes a 2-year extension of the veterans readjustment counseling program, the VA epidemiological study of Vietnam veterans exposed to dioxin, the chemical contaminant of agent orange, will be expanded to include an evaluation of other factors affecting the health of Vietnam era veterans. The Veterans' Administration will also be allowed to contract private entities for the continuation of this study. Eligibility for readjustment counseling, vocational rehabilitation and GI bill benefits will no longer be effected by alcohol or drug dependence or abuse disability. The eligibility of certain disabled and educationally disadvantaged Vietnam era veterans to receive noncompetitive appointments within the Federal civil service will be extended for 3 more years.

In addition to those programs directly affecting Vietnam era veterans, S. 921 will also grant the Veterans' Administration an extension to provide contract hospital care and medical services in Puerto Rico, the Virgin Islands, and other territories of the United States. This bill will also allow State medical schools—established with VA grant assistance—an additional year in which to spend previously appropriated funds. Adjustments are to be made in the outpatient dental program for veterans who reenter the armed services prior to 1 year after discharge.

Mr. President, the extensions and improvements of these programs are of importance in meeting the needs of not only those veterans of the Vietnam era, but all veterans of this Nation. I am proud to be a cosponsor of this legislation and urge my colleagues' timely approval of this measure.

Thank you, Mr. President.

AMENDMENT NO. 59

(Purpose: To provide certain health-care eligibility and outpatient care priority to veterans for disabilities linked to their exposure to agent orange or other toxic substances in Vietnam, or to nuclear weapons test radiation)

Mr. CRANSTON. Mr. President, I call up amendment No. 59 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from California (Mr. CRANSTON), for himself and other Senators, proposes an amendment numbered 59.

Mr. CRANSTON. I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment proposed by Mr. CRANSTON, for himself, and Mr. RANDOLPH, Mr. MATSUNAGA, Mr. MITCHELL, Mr. SASSER, Mr. CHAFEE, Mr. HUDDLESTON, Mr. SARBANES, Mr. LEAHY, Mr. RIEGLE, Mr. LEVIN, Mr. DIXON, Mr. HART, Mr. BENTSEN, Mr. BAUCUS, Mr. ROBERT C. BYRD, Mr. BIDEN, Mr. PRESSLER, Mr. THURMOND, and Mr. METZENBAUM, is as follows:

On page 2, between lines 19 and 20, insert the following new section:

SEC. 3. Chapter 17 of title 38, United States Code, is amended—

(1) by amending subsection (a) of section 610—

(A) by striking out "and" after clause (3);

(B) by inserting after clause (3) the following new clause:

"(4) any veteran for a disability which a physician employed by the Veterans' Administration determines (or, in areas where no such physician is available, by a physician carrying out such function under a contract or fee arrangement with the Administrator) is a disability with respect to which the Administrator has found, upon the recommendation of the Chief Medical Director, there to be some credible medical evidence, indicating that such disability may be caused by the exposure of humans—

"(A) to—

"(i) dioxin, or

"(ii) any other toxic substance which was used in connection with military purposes and to which the Administrator finds that such veteran was exposed while serving on active duty in the Republic of Vietnam, if the Administrator finds that such veteran served on active duty in the Republic of Vietnam during the Vietnam era, or

"(B) to radiation if the Administrator finds that such veteran was exposed to such radiation while participating in a nuclear weapons test while serving on active duty,

unless the Administrator determines (i) that such exposure was not incurred in line of duty or was the result of such veteran's willful misconduct, or (ii) upon the recommendation of the Chief Medical Director, that, despite such credible evidence, on the basis of clear and convincing medical evidence, such disability is not caused by such exposure; and"; and

(C) by redesignating clause (4) as clause (5); and

(2) by amending subsection (i) of section 612—

(A) by inserting after clause (3) the following new clause:

"(4) To any veteran described in section 610(a)(4) of this title."; and

(B) by redesignating clause (4) to clause (5). Redesignate clauses (3) through (9) as clauses (4) through (10), respectively.

Mr. CRANSTON. Mr. President, I send to the desk a modification and ask unanimous consent that it be in order for me to modify my amendment.

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

The amendment, as modified, is as follows:

On page 2, between lines 19 and 20, insert the following new section:

SEC. 3. Chapter 17 of title 38, United States Code, is amended—

(1) by amending subsection (a) of section 610—

(A) by striking out "and" after clause (3);

(B) by inserting after clause (3) the following new clause:

"(4) any veteran for a disability which a physician employed by the Veterans' Administration determines (or, in areas where no such physician is available, by a physician carrying out such function under a contract or fee arrangement with the Administrator) is a disability with respect to which the Administrator has found, upon the recommendation of the Chief Medical Director, there to be some credible medical evidence, indicating that such disability may be caused by the exposure of humans—

"(A) to—

"(i) dioxin, or

"(ii) any other toxic substance which was used in connection with military purposes and to which the Administrator finds that such veteran was exposed while serving on active duty in the Republic of Vietnam, if the Administrator finds that such veteran served on active duty in the Republic of Vietnam during the Vietnam era, or

"(B) to radiation if the Administrator finds that such veteran was exposed to such radiation while participating in a nuclear weapons test while serving on active duty,

unless the Administrator determines (i) that such exposure was not incurred in line of duty or was the result of such veteran's willful misconduct, or (ii) upon the recommendation of the Chief Medical Director, that, despite such credible evidence, on the basis of clear and convincing medical evidence, such disability is not caused by such exposure; and"; and

(C) by redesignating clause (4) as clause (5); and

(2) by amending subsection (i) of section 612—

(A) by inserting after clause (3) the following new clause:

"(4) To any veteran for a disability described in section 610(a)(4) of this title."; and

(B) by redesignating clause (4) as clause (5).

Redesignate sections 3 through 9 as sections 4 through 10, respectively.

Mr. CRANSTON. Mr. President, this is a technical modification to correct a mistaken reference and to clarify another. It has been discussed with the distinguished chairman, and is acceptable to him. Thus, I have modified my amendment in accordance with that understanding.

Mr. President, on behalf of Senators RANDOLPH, MATSUNAGA, MITCHELL, SASSER, CHAFEE, HUDDLESTON, SARBANES, LEAHY, RIEGLE, LEVIN, DIXON, HART, BENTSEN, BAUCUS, ROBERT C. BYRD, BIDEN, PRESSLER, THURMOND, and METZENBAUM, I urge the adoption of amendment No. 59, which I submitted for printing on May 21.

Mr. President, the purpose of this amendment is to address the health-care needs of veterans who are concerned that their exposure during service to agent orange or certain other toxic substances in Vietnam or to nuclear weapons test radiation has resulted in health problems. I offered a similar proposal—a somewhat modified version of amendment No. 42—during the committee's May 13 markup which failed of adoption on a 6-to-6 tie vote.

Mr. President, this amendment would provide for basic VA health-care eligibility in two situations:

First, for a Vietnam veteran suffering from a disease or disability with respect to which the Administrator of Veteran's Affairs, upon the recommendation of the VA's Chief Medical Director, determines there is credible medical evidence linking it to human exposure to dioxin, the highly toxic contaminant found in the defoliant agent orange that was used extensively in Vietnam, or to any other toxic substance that was used in connection with military purposes in Vietnam

and to which it is determined that the veteran in question was exposed.

Second, for any veteran determined to have been exposed to radiation in a nuclear weapons test for any disability that is, in the same manner, determined to be linked to human exposure to such test radiation.

Under this amendment, certain Vietnam veterans and veterans who were nuclear test participants would be afforded general eligibility for hospital and nursing home care and limited eligibility for outpatient care, at an appropriate level of priority, but only for conditions that can be linked by some credible medical evidence to the types of exposures I have just noted.

Mr. President, many of these veterans currently are experiencing health problems that scientists indicate may be linked—although not definitively—with exposure during service to certain hazards.

In cases in which such a link is supported by credible medical evidence, I strongly believe the veteran involved should have access to the VA health-care system for treatment of such a disability.

Thus, in light of the study findings now available, I think we have a responsibility to respond to the veterans concerned—as on many occasions we have pledged to them that we would do. Even though we do not have, in most instances, the definitive scientific and medical information on which to base a determination on the question of service connection of specific diseases and disabilities, we can, in my view, take the middle ground of making available VA health-care services in the situations I have outlined.

Mr. President, there is no question in my mind that there is more than a speculative possibility that certain of the health problems which have developed in veterans who served in Vietnam or who participated in nuclear weapons tests may ultimately be found to be service related. I think that it is, thus, fully warranted that, in such cases, these veterans be afforded general eligibility for hospital and nursing home care and limited eligibility at an appropriate level of priority for outpatient care. With regard to outpatient-care eligibility, the amendment would provide certain exposed veterans a higher priority for use of the VA's available outpatient resources for treatment of such possibly related health problems—placing them ahead of veterans with no service-connected disabilities whose health problems have no such link to service.

I wish to emphasize, in this respect, that this amendment would not authorize either the provision of disability compensation, comprehensive health-care services on a top priority basis, or any other benefits based under current law on a determination that a particular disability is, in fact, service connected. Those benefits would be appropriate only when the medical evidence more clearly establishes that a particular disability is actually the result of exposure that occurred during the veteran's active-duty service.

Mr. President, I wish to point out that once the Administrator's determinations are made as to particular disabilities the VA would have authority under this proposal to carry out necessary examinations and medical testing to determine whether a particular veteran has a listed disability.

Mr. President, the amendment would require that before treatment could be provided by the VA, a determination would be made by the Administrator as to what diseases or disabilities have been indicated, by credible medical evidence, to possibly be related to a veteran's in-service exposure to certain hazards, such as dioxin or radiation.

In my view, in order to assure that all points of view and as much relevant data as possible are available to the Administrator in making the required determination of eligibility, interested individuals, and organizations and the public generally should be given an opportunity to comment to provide to the Administrator suggestions and supporting information, together with any other comments that they might wish to make, regarding the making of those determinations under the provision. I believe that such a public comment process would be very valuable in assisting the Administrator to make determinations as to what might constitute credible medical evidence and, further, what health problems have been indicated in such evidence.

In this connection, I also note that, under the amendment, the Administrator would have a continuing responsibility to make determinations regarding credible medical evidence as it becomes available. However, in the interest of enabling the Administrator to arrive as swiftly as possible at all positive determinations that can be made on the basis of existing data, the amendment does not require any particular, fixed procedures for soliciting comments and suggestions. Thus, the amendment would afford the Administrator maximum flexibility in this regard. Nevertheless, it is my expectation that, at the least, the Administrator would actively solicit—by notice in the Federal Register and letters to the major veterans' organizations and all groups that have been in contact with the VA with respect to the issue involved in this area—input from all who may have views and useful information.

More specifically, it would be my anticipation that, under this amendment, the Administrator would publish for public comment proposed determinations within 3 months after enactment and would make final determinations—after a 30-day comment period—within 5 months after enactment. I would also anticipate that the state of medical evidence would be under continuing scrutiny by the Chief Medical Director and that the public and congressional committees would be advised at least annually about the state of the evidence and any new determinations which should be made pursuant to the same kind of expeditious comment process.

I believe that this kind of a process is the appropriate way to make sure that any eligibility determinations will be VA policy and are uniformly applied throughout the VA health-care system. This might not be the situation—given the continuing medical controversy in these areas—if such determinations were to be left up to individual physicians. In addition, this approach would provide for the participation of interested parties outside of the VA and thus assure that the determinations proposed by the Administrator would be carefully scrutinized.

Mr. President, I have received letters from the American Legion, the Vietnam Veterans of America, and the National Association of Atomic Veterans in support of the approach in my amendment. I ask unanimous consent that those letters be printed in the RECORD at this point.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

THE AMERICAN LEGION,
Washington, D.C., June 12, 1981.

Hon. ALAN CRANSTON,
U.S. Senate, Russell Senate Office Building, Washington, D.C.

DEAR SENATOR CRANSTON: The American Legion wishes to re-emphasize its support for provisions contained in Amendments No. 58 and No. 59. We understand that you intend to introduce these measures during full Senate consideration of S. 921.

The value of Amendment No. 58, to provide a targeted extension of the GI Bill delimiting date to those Vietnam era veterans who remain educationally disadvantaged, is indisputable when considering the employment difficulties encountered by these people. Although our organization has repeatedly resisted efforts to establish a general extension of the GI Bill delimiting date because of our belief in a consistency of educational assistance benefits for veterans of all wartime periods, we find your targeted extension proposal to be an appropriate response to a special need.

The American Legion views Amendment No. 59 as a reasonable approach to the toxic substance exposure controversy. Your proposal simply provides eligibility for VA medical treatment to those persons who claim to be suffering the residuals of exposure to toxic substances or radiation. It does not presume service connection for any such residuals, nor does it authorize the payment of compensation for those disabilities.

Your amendment's exclusion of presumed service connection and authorized compensation removes those concerns which have created our opposition to other toxic substance/radiation proposals over the past several years. Definitive medical evidence linking exposure to specific disabilities must be established before the payment of compensation is in order. Until the evidence is available to prove or disprove the link, the federal government does have an obligation to provide treatment or to insure health maintenance.

Both of these amendments deserve the support of your colleagues.

Sincerely,

MYLIO KRAJA,
Director, National Legislative Commission.

VIETNAM VETERANS OF AMERICA,
Washington, D.C., June 15, 1981.

Hon. ALAN CRANSTON,
Ranking Minority Member, Senate Veterans Affairs Committee, U.S. Senate, Russell Senate Office Building, Washington, D.C.

DEAR SENATOR CRANSTON: The Vietnam Veterans of America strongly supports your efforts to increase accountability within the Veterans Administration in determining eligibility for health care for Agent Orange related disabilities.

Given the history of the VA's handling of the Agent Orange problem, we have no faith whatsoever that the Agency will be responsive to the current legislative mandate that has already passed the House and which hopefully will gain Senate support tomorrow. Perhaps responsibility should be fixed on the VA Administrator to make the necessary determinations regarding what is or is not an Agent Orange related disability. In that way, next year we may be better able to direct specific actions on the part of the Administrator so that veterans can finally get the treatment they so desperately need.

We are hopeful that our supporters in the Senate will join you in your amendment. We are confident that with the strong leadership Congressman Tom Daschle has provided in the House, passage of your amendment will help realize the first real Congressional action toward solving the Agent Orange issue.

We thank you for your help.

Sincerely,

ROBERT O. MULLER,
Executive Director.

NATIONAL ASSOCIATION
OF ATOMIC VETERANS,
Burlington, Iowa, June 3, 1981.

Hon. ALAN CRANSTON,
U.S. Senate, Russell Office Building, Washington, D.C.

DEAR SENATOR CRANSTON: I have had an opportunity to review your Amendment No. 42 to S. 636, "Health Care Eligibility for Veterans Exposed to Agent Orange, Radiation, and Other Toxic Substances and Environmental Hazards During Service."

The Amendment would be of great value to many of the families who are suffering from huge medical bills. It is definitely a step in the right direction. However, and as surely you are aware, the amendment will not take care of all the problems veterans and their families are encountering nor does it cover all of our concerns.

NAAV's major concern specific to the proposed Amendment is the lack of a deadline within which the Administrator would be required to establish at least an initial list of disabilities which "some credible medical evidence" indicates may be caused by exposure to dioxin, radiation, etc. We are concerned that unless there is a Congressional mandate establishing a reasonable time for the Administrator to make his findings under clause (4) of section (4) to chapter 17, the Administrator could, whether by design or through neglect or oversight, frustrate implementation of your proposed Amendment.

Another concern is the process by which the Administrator and the Chief Medical Director would establish their standards, or list of disabilities, under clause (4). It is essential that the public have input into this process. Unless already provided for in some other section that we are unaware of, we strongly urge that the process for establishing standards include public hearings or, at a minimum, an opportunity for written submissions following publication of proposed standards or lists of recognized disabilities in the Federal Register. There should also be a means by which NAAV or a member of the public could initiate the process to include diseases or disabilities overlooked and not included by the Administrator. I believe that the Federal Endangered Species Act had, at least initially, provisions addressing the above concerns, and recommend it for review should you deem our comments to have merit.

Of a more general nature are the following concerns which we hope can be covered in later legislation, if not along with your present Amendment:

Many of our members feel that they do not get the proper treatment in VA hospitals at this time, and, in many cases, they have difficulty in getting a proper diagnosis. Many times, their physical problems are diagnosed as mental problems.

We attribute this to the fact that there have not been enough studies done on illnesses that are caused by radiation. Because of the treatment many atomic veterans received in VA hospitals, they feel as if they are second-class citizens. They feel that they should have the right to go to any hospital or doctor of their choice for treatment, with the VA then picking up the tab. In the situation where an individual is covered by medical insurance, this would be less expensive for the VA than treatment at a VA hospital.

Also, an important factor to be noted from letters NAAV receives is the prevalence of birth defects in the children and grandchildren of the atomic veterans. In many instances, the atomic veteran informs us that children born prior to their radiation exposure have no health problems, while children born after their exposure have birth defects and other serious illnesses. We feel research should be done not only on the atomic veterans, but also their offspring.

In understanding the broader picture of the plight of the atomic veteran, it should be pointed out that NAAV does not know how many atomic veterans still living are suffering from delayed radiation illness. But we know, however, that as of October 1, 1980, 41,500 persons called a toll free number published by the Defense Nuclear Agency. Of the callers, 10,000 have reported various serious illnesses including thousands of cases of cancer.

With respect to the long-term exposure to radiation that the members of our organization are experiencing, the information from the many atomic veterans who write to NAAV has been collected. The data on the different medical problems which are occurring indicates that the following symptoms and illnesses are showing up:

Death at an Early Age,
Sterility,
Loss of Hearing,
Skin Diseases,
Bone Deterioration,
Muscle Weakness and Deterioration,
Blindness,
Brain Tumors,
Terminal Cancer,
Hair Loss, and
Boils and Blisters.

Shockingly, these men are denied access to Veterans Administration Hospitals. The VA does not even consider the problem of atomic veterans an important topic for research. The NAAV is the only organization promoting research and treatment of the medical problems of atomic veterans. One of the doctors who is researching psychological problems in atomic veterans, Henry R. Vyner, M.D., states the following:

"It appears as though the atomic veterans have developed a group of psychological problems as a result of their participation in this country's atmospheric nuclear tests. It appears as though these problems have developed as a consequence of their exposure to ionizing radiation in the course of their participation in these tests. Evidence for these hypotheses comes from preliminary research done on the psychological responses of the atomic veterans to their test participation. This research consisted of extensive psychological evaluations of twelve atomic veterans, and thus far it indicates that many of the atomic veterans are developing an adverse psychological response to the ionizing radiation to which they were exposed. This response has been tentatively labeled the Atomic Veterans Syndrome.

"The Atomic Veterans Syndrome (AVS) is characterized by three sympomatic processes: (1) a total preoccupation on the part of the veteran with his physical illnesses, (2) a series of identity conflicts precipitated by the changes forced upon the atomic veteran's life by that illness, and (3) the development of a world view that focuses upon their predicament as atomic veterans and comes to dominate their lives.

"At this point in time, the general medical community does not know that the AVS exists. In addition, there is not yet enough scientific information available to convince them that it does exist. Discovery of the AVS, as mentioned earlier, occurred in a small pilot study of twelve self-selected atomic veterans. It is not, of course, possible to scientifically conclude, from a study of twelve self-selected men, that their psychological problems were caused by their participation in nuclear tests. Nor is it possible to prove that this sample of twelve men is representative of the larger population of 250,000 atomic veterans. The scientific community would probably contend, and rightly so, that the studies done to date have not yet proven that anyone outside of this small group of men has developed the AVS. Or it might contend that it has not been proven that the twelve men studied were anything more than a small group of malcontents and malingerers.

"In order to surmount this type of criticism, it will be necessary to determine whether or not the twelve men studied are representative of the larger population of 250,000 atomic veterans. This end can be accomplished by doing a study of the prevalence and etiology of the AVS amongst a randomly selected sample of 500 atomic veterans. If a significant prevalence of the AVS is found amongst this random sample, then it will be established that the AVS is a diagnostic entity. Once it has been established that the AVS is a diagnostic entity, it will then be possible to (1) shape public policy regarding the atomic veteran, (2) shape the response of the medical community to the atomic veteran, and (3) stimulate further research into the medical problems that lie at the heart of the AVS."

I hope this information will help you in some way to understand the whole problem in the atomic veteran issue. We very much appreciate all you have done for us in the past, and would appreciate anything you can do in the future to help us.

Sincerely,

WANDA S. KELLY,
Director.

EXCERPTS OF LETTERS

The following are excerpts of letters received by NAAV from atomic veterans and their families:

Since January, 1979, I've been in the hospital five times with stomach cramps, which were caused by a severe blow to the stomach while on guard duty in Japan. That's a different claim I have had going since April of 1980.

I had two operations which revealed two "broken" muscles and one surface tumor. On January 5, 1981, I again had surgery, and three more surface tumors were found. That's what I'm concerned about. For the past year I have had to take valium for my muscle pain.

I also have about ten red blood spots on different parts of my body and itching sensation on my face and neck, which I've had for several years now. I tried to get help at the VA hospital several times last year and got nowhere. I was told to put a hot water bottle on my stomach and was sent home. (That was when I had been taken there by ambulance, doubled up with stomach cramps.) I was told by at least six doctors that I have to learn to live with it.

I am having lots of trouble getting this service related from the VA. So far, everything has been done through private doctors, and my insurance does not cover all of it.

R. D., Oakridge, NJ 07438.

I spoke with Bob today, and he said he has been waiting for three weeks for the VA to supply transportation for him to the hospital for a check-up. Also, he has been three weeks without medication. He has contacted the VA over and over without response. He also has contacted his legion post and they are assisting him with applications again for a service-connected disability. He will be seeing an independent doctor outside the VA.

Mrs. W. D. Holbrook, MA.

From 1947 to 1972, these symptoms persisted and in many cases increased. My periods of fatigue increased, chest pains developed more frequently, periods of disorientation were prolonged and my stomach problems accelerated. I visited 8 or 10 doctors from 1947 to 1972 and no doctor could give me a diagnosis. I underwent many tests but to no avail. Finally, in 1972, I had a complete collapse and was admitted to the VA hospital. Again, my illness was not diagnosed and so I went into the psychiatric ward. I was hospitalized for approximately 4½ months—getting no treatment for physical problems, just psychiatric problems—that meant heavy doses of valium and aventyl. Despite the heavy doses of medication, my problems persist—chronic, constant fatigue; chest pains; eyes failing; teeth systematically fall out (had the best set of teeth you ever saw); heart palpitations; and gruelling bone aches.

S. S., Warwick, RI.

I reported to the VA Hospital in 1947 and they refused to treat me. I then reported to the VA Hospital in Houston in 1949 and they also refused to treat me. The first treatment I received from the VA was in 1970, for skin cancer, in Little Rock, Ark. I also suffered from blackouts. I now have blackouts so often that I can't be left alone and I can no longer drive an auto.

My husband spent approximately seven months in the Marshall Islands in 1948, late winter spring as he remembers it. He suffered sudden attacks of uncontrollable shaking, high fever, nausea and vomiting; followed by debilitating sweating. At times he was incoherent. There was no VA hospital around, and he got no medical attention. He developed cancer of the colon in 1961. He had two surgeries with severe complications—heart stoppage and staph infection. He was hospitalized—not at government expense—for 8 weeks.

Mrs. W. M.

The VA refused me braces. They gave me one cane and said to switch when the other leg aches. I ache from my waist down 24 hours a day.

H. J., New Bedford, MA.

We have three children. Our oldest daughter is 30. She had a misplaced gall bladder and very poor vision. Our second daughter had surgery at 5 for congenital kidney and bladder malformation. Both girls have bones missing in their feet. Our twenty-year-old son was born with severe allergies—tests showed allergic reaction to 75 substances. He was raised on soy-milk. We soon discovered he had hypogammaglobulin anemia. He was kept alive with gamma globulin shots—2 weeks apart for years. He still gets them. He cannot tolerate any vaccines or penicillin. His vision is 20/80 and he cannot function without his thick glasses. It is for my children that I worry.

Mrs. W. M.

My son has been sick since he was born. He has had nose surgery (from bleeding all the time) and lumps in his neck. He has extra ribs, rectal bleeding, deafness, bone disease, allergies, bronchial asthma, seizures, severe arthritis of both knees and multiple joint problems. I know that my exposure to radiation is the cause of my son's problems because my wife was married before and had two healthy, beautiful daughters who are now married and have four children.

H. J., New Bedford, MA.

I participated in Operation Sandstone in Eniwetok in 1948. We had one son after returning to the States—James. He was an invalid all his life and he passed away on March 10, 1965, at 15 years of age. All any doctor could ever find wrong with him was spectrum in the blood stream. He just withered away.

L.O.H., Belgrade, MO.

Prior to service, we had one son with no genetic problems and his children show no damage. However, four children born since my service and the radiation exposure all have varying degrees of damage including but not limited to deafness, no speech, aphasia, lack of antibodies, neuro-muscular (one a quadraplegic), anemia, digestive problems, kidney infections, and mental retardation. Moreover, the digestive problems and blood problems are starting to manifest the continuing horror in the two grandchildren of one of the four affected.

T.L., Gorham, ME.

Before I went into the service, I had a strong and healthy son. After my return, we had a daughter, who developed Multiple Sclerosis eleven years ago and is not capable of taking care of herself. She is in the Nassau County Home for the handicapped. We feel that this is a result of my having been exposed to radiation from the bomb in Hiroshima.

P.G., Elmont, L.I., NY.

My oldest son was born in 1965 and had a brain tumor removed when he was three months old. When he was six years old he had a tumor removed from his throat. When he was twelve years old he had another tumor removed from his throat and one from his stomach. He is thirteen now and has one or more tumors that have to be removed from his stomach in the very near future. My second son is twelve and has been anemic since he was born. My third son is ten years old and has been fighting lymph cancer since he was four. I am convinced that my exposure to radiation, both in Nevada and on Eniewetok, is the basis of my sons' and my own ill health. I alternate sleeping and walking the floor at night with stomach pains. When I went to a Veterans Hospital for a cancer check-up, I made the mistake of voicing my convictions. I was not only not given a thorough check-up, but I was laughed out of the hospital. I never went back.

P.C., Ruther Glen, VA.

My husband died from cancer on January 22, 1962. He was involved in atomic testing on Eniwetok in 1950. We have been trying to get his death service-connected ever since. As a result, my children and I came close to starving. The last year he was alive, we had a total income of $400. My children and grandchildren have all had problems that others their ages have not had and most do not ever have. Most of them have tumors, some of which have been removed through surgery, and others are facing surgery later on. I had a great deal of trouble carrying each of my children in pregnancy and almost lost all three. I have had one miscarriage.

B.H.F., Guymon, OK.

Since my radiation exposure in 1957, I have consulted with several doctors, military as well as civilian. Some have been sympathetic and have prescribed medication. Some think that I am crazy. My ailments have continued and among them are lumps and growths on my head, spine and buttocks and one of my legs has shrunk and is shorter than the other. In 1963 I started losing my teeth and my hair turned grey and started to fall off. During some blood tests a doctor mentioned that some unusual substances were in my blood and told me to watch my white cells. He gave me some capsules to take. He took, for a time, blood samples three times a week. My wife has had several miscarriages. One of my sons has developed unexplainable pains in different parts of his body. One of my daughters has blotches and spots all over her body. There are times when my body appears all bruised and purple spots appear that look like "hickies". I do not know if this is due to my exposure or not. God only knows. What worries me the most are my children.

I.T., Sgt. U.S.M.C., Retired.

My wife and I had two sons who were born severely handicapped. They were both non-ambulatory, their condition diagnosed as Cerebral Palsy. Their short, tragic, and bitter-sweet life on this earth is chronologically as follows: John—Born 8-17-54—Died 10-16-75; William Jr.—Born 8-22-55—Died 11-28-64. We have no other children, and since there is absolutely no history of defective births on either side of families, I am thoroughly convinced that my participation in the A-bomb blasts is a definite link to our physical woes.

W.A.D., Old Forge, PA.

My son was born in 1969, and with many birth defects. The sutures in his head were grown together, a severe heart problem, an imperforate anus, he had only one kidney and an obstruction in the urinary tract. He had to have a colostomy at one day old. At three months old he had a "Pots procedure" operation on his heart. He had a ureterostomy at 6 months (which will be permanent). A pull through was done on his rectum at 2 years old. At the age of 5 he had open heart surgery. He cannot attend school and still suffers from these problems. Recently I have been told, the M.C.V. Hospital in Richmond, Virginia, wants to do two more operations on my son.

J.W.Y., Keeling, VA.

Mr. CRANSTON. Mr. President, I would like to stress that the very complex issues involved in connection with the in-service exposure of service personnel to agent orange and to radiation have been considered at great length by the Committee on Veterans' Affairs. Five days of hearings on these matters were held during the 96th Congress during which many scientific and medical experts testified that certain recent studies on human exposure to dioxin and radiation present significant medical information that suggests—although not definitively—a link between exposure to them and the subsequent development of specific diseases. We have also received testimony about other such studies that are ongoing.

Mr. President, in my additional views to the committee's report on S. 921, Senate report No. 97–89, I discussed the activities of the committee and the purpose of my proposal in greater detail. I already have inserted in the RECORD earlier today the text of my minority views.

Mr. President, in conclusion, I point out that the amendment does not propose to increase spending for VA services, facilities, or contract care. Rather, the proposal is to adjust the manner in which available VA health-care resources are utilized. I believe it does so in a manner that appropriately recognizes the significant progress that has been made in tracking down what, if any, long-term adverse health effects in humans may be the result of exposure to certain hazards.

By proposing that we take action in response to the information now available to us, the amendment, in my view, represents a fair middle ground pending the outcome of the various scientific inquiries we are following that might produce more definitive results.

I urge my colleagues to support this

very reasonable approach to providing certain exposed veterans with appropriate access to health-care services from the Government that exposed them to those hazards.

(By request of Mr. CRANSTON, the following statement was ordered to be printed in the RECORD):

● Mr. SASSER. Mr. President, I am pleased to be a cosponsor of amendment No. 59, the amendment now pending before the Senate. Adoption of this amendment will help correct the injustice of exposing servicemen to environmental hazards, and then refusing to provide any subsequent hospital care.

Specifically, the amendment sponsored by my good friend from California (Mr. CRANSTON) will extend basic VA health care eligibility for disabilities and diseases that can be credibly linked to exposure to agent orange and other hazardous materials during the Vietnam era, and to nuclear radiation exposure.

The medical evidence on the long-term health effects of exposure to hazardous materials is growing daily. Indeed, recently completed studies of radiation exposure during nuclear-weapons testing and dioxin exposure in Swedish railway workers have lent significant proof that debilitating diseases and disabilities can be the result of such exposure. The Veterans' Administration is now in the midst of several studies to determine the effects and implications of exposure to the herbicide known as agent orange—studies which will be expanded by the legislation now under consideration, S. 921.

Most importantly, adoption of our amendment would relieve the Vietnam veteran exposed to agent orange, and the serviceman exposed to nuclear radiation, of the burden of signing an oath of inability to pay medical costs for conditions that are most likely linked to their military service. The Federal Government must recognize it has a responsibility to veterans with in-service exposure to hazardous materials and an obligation to provide adequate health care for those suffering from credibly-linked illnesses.

This amendment, Mr. President, grants no presumption of service-connected disability for VA health care eligibility. Instead, it recognizes that appropriate health care opportunities must be available to exposed veterans pending the outcome of the various studies now underway.

Let me share with the Senate some of the more common symptoms of agent orange exposure, as reported by Vietnam-era veterans living in my own State of Tennessee: Nervousness, dizziness, blackouts, rashes covering most of the body, joint pain, loss of memory, skin irritations, insomnia, enlarged internal organs, swelling, stiffening of the joint, chest pain, blurred vision, depression, and impotency. Even more alarming, Mr. President, is the fact that the children of Vietnam veterans exposed to agent orange also suffer the effects of the defoliant—birth defects at higher than "normal" rates, and combinations of the above-named symptoms.

Mr. President, we sent dedicated, capable service men and women to Southeast Asia. We have asked servicemen to participate in atmospheric nuclear tests, we have conducted defense-related experiments on human subjects. These veterans now suffer from a variety of diseases and disabilities. We should provide an adequate level of medical care to these veterans now.

I urge the Senate's approval of amendment No. 59.●

● Mr. BENTSEN. Mr. President, I am pleased to join the distinguished minority whip in cosponsoring an amendment designed to address the health care needs of veterans who were exposed to dioxin, or agent orange, during their service in Vietnam and others who were exposed to the hazards of nuclear radiation as a result of their service in the military.

In giving the American veteran the benefit of the doubt, this amendment accomplishes two important purposes. During the last Congress we enacted legislation calling for a study of the health hazards connected with exposure to agent orange. That study is not yet complete, but while we analyze the data and ponder the conclusions, many veterans are suffering ailments that may well be related to agent orange. Under the terms of this amendment, they would be eligible for medical coverage until the study is completed. I think that is an entirely reasonable and fair proposition. The amendment also states that, in this time of increasing budget restraints, veterans who seek assistance for service-related disabilities will be given priority over those whose problems are not service-related.

Mr. President, America has a sacred bond of trust with its veterans. Over the years we have called for and received great sacrifices from our men and women in uniform. We have asked them to lay their lives on the line for democracy. Now, when there is credible scientific evidence suggesting a link between specific diseases and exposure to agent orange and nuclear radiation, we have a responsibility to provide urgently required medical attention for our veterans who have been exposed to such hazards in the line of duty. At the present time such assistance is being postponed pending conclusion of the study, and I believe that is a tragic mistake.

We currently have about 45,000 veterans entered on the agent orange registry. Last year, when there were only 23,000 registrants, about 4 percent of them had evidence of a cancer called neoplacia.

Now it is true, Mr. President, that we have not yet established the definitive, final, indisputable link between exposure to agent orange health problems, but we are working to settle the issue once and for all. In the meatime there are thousands of veterans suffering the very real and indisputable symptoms of disease—symptoms that will not wait for the conclusion of a study. They need immediate medical care, and we have a national obligation to provide it.

In addition to providing important assurances to veterans whose health may have suffered from exposure to radiation and passage of dioxin, this amendment will guarantee that we will respond quickly to the immediate needs of our Vietnam veterans for medical attention.

Mr. President, every Member of the Senate is concerned with a national defense that is truly second to none. And every Member of the Senate knows that a basic ingredient in our defense is highly motivated, well-supported personnel. By passing this amendment we can honor our commitments to those who have fought and suffered in the defense of liberty. We can help build a stronger and more secure America.

I urge the passage of the Cranston amendment.●

● Mr. HEINZ. Mr. President, I rise in support of the amendment by the Senator from California, which would provide health care eligibility to veterans for disabilities connected to their exposure to agent orange. As I outlined to my fellow Senators in a recent "Dear Colleague" letter, I was planning to offer a similar amendment today, using language from S. 1345, my omnibus bill on veterans health. I am satisfied that the amendment of the Senator from California will address this matter effectively, and I am pleased to join in supporting his effort.

Mr. President, it has already been 14 years since agent orange was identified as a hazard to humans, and considerable scientific evidence exists indicating its harmful effects. Yet of the 5,025 claims which the VA had received as of November 30, 1980, for inservice exposure to herbicides, only 23 claims had been allowed as of the end of last year. It is understandable, therefore, when many Vietnam veterans express frustration and hostility toward the efforts of their Government to respond to their pleas for help.

In light of the length of time which has gone by, I do not find it at all unreasonable to require, as this legislation would do, that, until the scientific community has been able to make a determination as to the possible cause and effect relationshp between the toxic herbicides and the problems of our veterans, the VA should do everything possible to provide the appropriate care to such veterans. The amendment of the Senator from California provides a good step in this direction and I am glad to lend my support for its passage.

Mr. President, I ask that my "Dear Colleague" letter of June 10 be printed in the RECORD.

The letter follows:

U.S. SENATE,
COMMITTEE ON FINANCE,
Washington, D.C., June 10, 1981.

DEAR COLLEAGUE: When the Senate takes up consideration of S. 921, the Veteran's Programs Extension and Improvement Act of 1981, I intend to offer an amendment on medical care for veterans exposed to Agent Orange based on the bill which I introduced on Monday, S. 1345. This language is identical to the language on this issue which appeared as Section 3 of H.R. 3499, the Veterans Health Care Act of 1981, which recently passed the House by a vote of 388-0.

My amendment provides authority for hospital care for Vietnam veterans who served in the Republic of Vietnam if a physician employed by the Veterans' Administration, or a physician carrying out such functions on a contract or fee basis arrangement in areas where a VA physician is not available, determines that such care is necessary for the treatment of a condition that may be as-

sociated with exposure to phenoxy herbicides and chemicals used as defoliants, including the herbicide commonly known as Agent Orange.

I think that this is a necessary and reasonable approach to the problem at this time. It does not in any way prejudge the outcome of the studies currently mandated by law about the effects of Agent Orange which resulted from legislation which I and others sponsored. Rather, it provides an interim period of attention for our veterans until such studies are completed, at which time Congress should and will review the entire matter in more detail.

I solicit your cosponsorship and support of the amendment. If you would like to cosponsor, please contact me or ask your staff to contract Jason Hall at 4-6324.

Sincerely,

JOHN HEINZ,
U.S. Senate.●

Mr. CHAFEE. Mr. President, I am pleased to have the chance to cosponsor amendment No. 59 to the Veterans' Programs Extension and Improvement Act of 1981 (S. 921) which has been introduced by my colleague, Senator CRANSTON.

This amendment seeks to provide eligibility for health-care treatment to veterans who have been exposed to certain toxic herbicides and chemical defoliants, such as agent orange. It also provides general eligibility for hospital and nursing home care for veterans whose disabilities may be linked to service-connected exposure to other toxic substances or to nuclear weapons test radiation.

Between 1962 and 1970, well over 2 million veterans who served in Vietnam came in contact with agent orange and other herbicides that could adversely affect the health of the veterans or their offspring. During the summer of 1969, the first reports of human birth defects attributed to agent orange appeared in Vietnamese newspapers. Based on these allegations, and the results of a study sponsored by the National Cancer Institute which showed that agent orange caused birth defects in laboratory animals, the U.S. Air Force stopped spraying agent orange in April 1970.

Although the Department of Defense maintains that only a limited number of U.S. military personnel can be positively identified as having been exposed to agent orange in South Vietnam, it is theoretically possible that large numbers of both military personnel and civilians were exposed to agent orange through the USAF spraying program. A growing number of U.S. veterans who served in South Vietnam have begun to attribute the cause of various chronic ailments which they are now experiencing—especially nervous disorders, cancers, and birth defects in their offspring—to exposure to agent orange in South Vietnam, and over 5,000 have filed claims with the Veterans' Administration (VA) for compensation. The VA has not yet awarded compensation to veterans for any claims related to agent orange exposure due to the following two reasons: The lack of valid human data to prove a cause-and-effect relationship between exposure to agent orange and specific health effects; and the difficulty of determining which veterans have been exposed to agent orange.

Mr. President, I think it is time that we took a more serious look at the whole agent orange issue, especially as it pertains to health care for Vietnam veterans who claim their disabilities resulted from exposure to this chemical which was widely used during the Vietnam war.

In my judgment, Senator CRANSTON's amendment No. 59 breaks important new ground in legislating a sound approach to this whole issue.

I strongly support this approach, and urge my colleagues to do the same.

Mr. ROBERT C. BYRD. Mr. President, I am proud to rise as a cosponsor of the amendment being offered by the distinguished senior Senator from California (Mr. CRANSTON). The amendment would renew our national commitment to Vietnam veterans. It would send a clear message to the frustrated or disappointed veteran who believes the Nation is not meeting its commitment. It would say that our Nation cares, and that we are willing to fulfill our obligations to those who have served our country.

For veterans who were exposed in the line of military duty to dangerous substances, including agent orange and nuclear radiation, the amendment would provide basic VA health care eligibility for diseases and disabilities that can be linked by credible scientific and medical evidence to such exposure. In the 96th Congress, the Committee on Veterans' Affairs held 5 days of in-depth hearings on these matters. During that time, scientific and medical experts concluded that recent studies on human exposure to dioxin and radiation produced substantial medical evidence that indicates—although not conclusively—a link between exposure and the subsequent development of specific illnesses.

The Cranston amendment does not state that there is a definitive medical link between exposure to agent orange and radiation, and subsequent health problems. It does, however, say that because it is likely that certain health problems will ultimately be found to result from such exposure, and will be judged as service related. it is fully warranted to provide an adequate level of medical care to the affected veterans. The amendment would establish a workable, fair, and immediate solution to the serious and complex health problems facing many veterans. It would be a strong, positive step on behalf of those veterans—and their families—who appear to be suffering from dioxin or radiation exposure.

It seems clear that there are some unique problems facing Vietnam-era veterans, including delayed stress syndrome and other adjustment problems, as well as the effects of exposure to agent orange. As I have said many times in the past, our national involvement with Vietnam will not end until we pay a fair debt of gratitude to those who served there so courageously.

Mr. CRANSTON. Mr. President. I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. CRANSTON. Mr. President, the chairman and I have discussed the amendment, and I believe we can arrive at an acceptable compromise on it. I am prepared to yield back my time. I do yield back my time on the amendment.

Mr. SIMPSON. Mr. President, I yield back my time on the Cranston amendment.

UP AMENDMENT NO. 151

(Purpose: To limit to toxic substances found in herbicides, defoliants, and malaria preventatives the toxic substances to which exposure may provide a Vietnam veteran with eligibility for care for a disability linked to such exposure, and to provide a termination date for the care authorized to be provided)

Mr. SIMPSON. Mr. President, I send to the desk a substitute amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will state it.

The assistant legislative clerk read as follows:

The Senator from Wyoming (Mr. SIMPSON), for himself and Mr. CRANSTON, proposes an unprinted amendment numbered 151.

Mr. SIMPSON. I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 2, between lines 19 and 20, insert the following new section:

SEC. 3. (a) Chapter 17 of title 38, United States Code, is amended—

(1) by amending subsection (a) of section 610—

(A) by striking out "and" after clause (3);

(B) by inserting after clause (3) the following new clause:

"(4) any veteran for a disability which a physician employed by the Veterans' Administration determines (or, in areas where no such physician is available, by a physician carrying out such function under a contract or fee arrangement with the Administrator) is a disability with respect to which the Administrator has found, upon the recommendation of the Chief Medical Director, there to be some credible medical evidence, indicating that such disability may be caused by the exposure of humans—

"(A) to—

"(i) dioxin if such veteran served on active duty in the Republic of Vietnam during the Vietnam era, or

"(ii) any other toxic substance found in an herbicide, a defoliant, or a malaria preventive medication used in connection with military purposes if the Administrator finds that such veteran was exposed to such substance while serving on active duty in the Republic of Vietnam during such era, or

"(B) to radiation if the Administrator finds that such veteran was exposed to such radiation while participating in a nuclear weapons test while serving on active duty.

unless the Administrator determines (i) that such exposure was not incurred in line of duty or was the result of such veterans' willful misconduct, or (ii) upon the recommendation of the Chief Medical Director, that, despite such credible evidence, on the basis of clear and convincing medical evidence, such disability is not caused by such exposure: *Provided*, That (I) no veteran may be provided care under this clause after the last day of the period beginning on the date that the Administrator submits to the appropriate Committees of the Congress the

initial report described in section 307(b)(2) of the Veterans Health Programs Extension and Improvement Act of 1979 (Public Law 96-151; 93 Stat. 1098) and ending one year after such date, and (II) that such report shall include the Administrator's recommendations, and reasons therefor, with respect to whether the authority to provide care under this clause should be extended beyond such period; and"; and

(C) by redesignating clause (4) as clause (5); and

(2) by amending subsection (i) of section 612—

(A) by inserting after clause (3) the following new clause:

"(4) To any veteran for a disability described in section 610(a)(4) of this title."; and

(B) by redesignating clause (4) as clause (5).

Redesignate sections 3 through 9 as sections 4 through 10, respectively.

Mr. SIMPSON. Mr. President, as my colleague from California (Mr. CRANSTON) well knows, I was unable to support an amendment similar to the one now pending when he proposed it in the May 13 markup. Let me say that, serving under ALAN CRANSTON as chairman of the committee during my first 2 years in this place, I learned much. His tutelage was excellent. His patience was extraordinary and if I have mastered any subjects in this area, it has only come from my presentation of myself to him in so many fine conferences and consultations. He has had many opportunities to toughen up the junior Senator from Wyoming.

My principal concern at the time of the markup, Mr. President, was that by establishing a new and what seemed to me to be a relatively wide-open basis for eligibility for medical care, could subject the VA to great pressures to find less than causal relationships between various health problems and exposure to many different elements. We know that causal relationships are the key to liability in the law.

I was also very specifically concerned at that time that providing eligibility for health care for problems that might be associated with exposure to agent orange was most inappropriate in light of the action of Congress in directing the VA to conduct a major study to determine exactly what health problems might be related to agent orange.

Mr. President, I believe that my substitute amendment to the pending amendment addresses these two concerns, and I urge my colleagues and Senator CRANSTON to accept this amendment in a spirit of cooperation.

My substitute amendment would have a dual impact: First, it would restrict coverage to dioxin, other specified substances related to Vietnam service, and radiation as being substances for which health care eligibility would be granted under this provision, thereby eliminating exposure to "other toxic substances"—which I believe is too broad a term—as forming a basis for this eligibility.

Second, the substitute amendment would make this interim authority specifically time-limited by requiring that no eligibility for care would be granted under this provision after the expiration of 1 year following the submission of the first report on the results of the congressionally mandated agent orange study. By that time, Congress should have more concrete information on the effects of exposure to dioxin, the other substances related to Vietnam service and radiation, and with that information, we should be able to develop legislation as may then be needed to insure that appropriate medical care is provided to veterans exposed to these substances.

Mr. President, the first of my proposed changes, that of limiting the amendment's scope to dioxin, other specific chemical elements associated with service in Vietnam, including other herbicides, defoliants, and malaria-preventive medication, and radiation, is a further reflection of the concern I raised at our committee markup when I stated that providing a too nonspecific exposure basis could have the effect of removing Congress from its role as being the appropriate body to evaluate different general assertions of entitlement to veterans' benefits and services, particularly in this sensitive area of defining eligibility for services and benefits that are based on exposure to occupational hazards during service.

I am concerned, Mr. President, that radiation, dioxin, and the other specified factors associated with service in Vietnam may only be the very first of similar claims that may well be forthcoming. I am satisfied that exposure to these elements should form some basis for governmental action such as is being proposed in the pending amendment, but I believe that it is critically important that Congress retain its historical role in this regard; and I feel that my substitute amendment would accomplish this by limiting eligibility for health care to health problems that can clearly be related to exposure to the specified elements.

Mr. President, the second alteration to the amendment of my colleague from California, as made by my substitute amendment, would place a time limitation on the eligibility for health care under this new authority. Under the provision in the substitute amendment, this eligibility would be available until 1 year after the VA submits the first report on the results of the congressionally mandated agent orange study which is due within 2 years after the VA approves the study protocol.

This time limit reinforces the emphasis that this new authority is intended only as an interim measure until the scientific information becomes available on which decisions relating to service-connected disability can be made. Certainly, if there is still insufficient information available at that time, I am certain that there will be widespread support to extend the authority.

Mr. President, the substitute amendment retains the core of the amendment of the Senator from California, while making what I view as being important changes. I urge my colleagues to support the substitute amendment.

Mr. CRANSTON. Mr. President, the substitute proposed by the distinguished chairman, in which I join, makes two changes. First, it adds a sunset provision to this new authority.

The amendment as I submitted it would provide for basic VA health-care eligibility in two situations:

First, for a Vietnam veteran suffering from a disease or disability with respect to which the Administrator of Veterans' Affairs, upon the recommendation of the VA's chief medical director, determines there is credible medical evidence linking it to human exposure to dioxin, the highly toxic contaminant found in the defoliant agent orange that was used extensively in Vietnam, or to any other toxic substance that was used in connection with military purposes in Vietnam and to which it is determined that the veteran in question was exposed.

Second, for any veteran determined to have been exposed to radiation in a nuclear weapons test for any disability that is, in the same manner, determined to be linked to human exposure to such test radiation.

Under the original amendment certain Vietnam veterans and veterans who were nuclear test participants would be afforded general eligibility for hospital and nursing home care and limited eligibility for outpatient care, at an appropriate level of priority, but only for conditions that can be linked by some credible medical evidence to the types of exposures I have just noted.

Mr. President, under the substitute, the new authority would expire 1 year after the date on which the VA submits the initial report on the agent orange study required by section 307(b)(2) of Public Law 96-151. That report is required to be submitted, under paragraph (2)(B) of this section 2 years after the protocol for the study is approved. The contract for the study design was finally entered into by the VA—after an extended legal challenge—on May 1, 1981, and is being carried out by the UCLA School of Public Health. Thus, we will have ample opportunity, based on experience under the new provision and the data developed in the VA and other studies on agent orange and Vietnam service as well as on radiation effects to determine whether the authority should be extended, expanded, or reduced.

Second, the substitute would limit the toxic substances—in addition to dioxin—covered, in terms of exposure in Vietnam, to those substances found in defoliants, herbicides, and malaria-prevention medications. This is a reasonable refocusing of this aspect of the amendment.

I support the substitute, and I am prepared to yield back time when the Senator from Wyoming is ready for the question on the substitute. I know that the Senator from South Dakota (Mr. PRESSLER), a cosponsor of my underlying amendment, wishes to speak on the amendment at this time.

Mr. PRESSLER. Mr. President, I commend the chairman and the ranking minority member for their work on this matter and which to voice my support for the pending amendment.

I am a cosponsor of this amendment and I will shortly offer another agent orange amendment to expand the Veterans' Administration's proposed study

of the after affects of exposure to dangerous chemicals.

Mr. President, I am extremely pleased to have the opportunity to work with the Veterans' Committee on this legislation. I believe adoption of the amendment being offered by this distinguished Senator from California (Mr. CRANSTON) is a very positive action in dealing with the needs of the Vietnam veterans.

In many ways, it not only is a practical step forward but also is symbolic.

The agent orange issue has become symbolic of the plight of the Vietnam veterans. There has been a great feeling in our country that Vietnam veterans have received lower priority; that those who served in that war were from lower educational and income levels; that it was a war which, culturally, we as a Nation are not proud of; that social conversations with veterans about that war end without discussing some of the problems and difficulties of those who experienced the wartime situation.

The issue of agent orange has been with us for some time. There is substantial evidence that the chemicals and defoliants used between 1962 and 1970 in Vietnam and the surrounding countryside have caused health problems to Vietnam veterans so exposed.

This legislation will be a first step, by opening the door to our VA facilities for treatment for those who are suffering ailments attributable to agent orange. Not only will it provide treatment to some of the people, but also, I predict that, as a result of this, we will learn more about what really happened in Vietnam.

We may well learn as a result of this legislation some of the dangers that exist from domestic chemicals and, we are told, even some of the materials used in our civilian life.

So I think that this measure has a much broader application than just to Vietnam veterans.

Let me say that in the last 2 or 3 years the treatment of the Vietnam veterans has improved in our country. I believe this can be documented by our efforts here today, and by recent coverage in movies, literature, and newspapers.

There still does exist a feeling, however, on the part of many of our people who served there that they got a bad deal. The draft at the time very frankly was not fair. Many of those who served there came from lower economic and educational groups. Even today those veterans experience a higher unemployment rate than other segments of the population.

In the Senate only two Members, Senator DENTON and I, actually served in Vietnam. Senator DENTON's service was much more distinguished than probably anyone else who served in Vietnam. He was a prisoner of war for several years.

But irrespective of this, the fact of the matter is that unlike World War II when nearly everyone served in the armed services there was, and is even to this day, so much glory and honor attached to the veterans of that era.

I just recently saw the movie, "The Big Red One," about the 1st Infantry Division in World War II, which glorified the whole macho element of winning the war and of killing as many of the enemy as possible, and the whole aura of that era, the clear cut issue of right versus wrong. The simplicity of the issues for veterans of that war as portrayed in that film starkly compare with the complexity of issues for the Vietnam veteran.

Of course, no one should expect special recognition for having served in any war because it is the duty of one to one's country, but there has been a widespread feeling, and I have heard it from my colleagues who served with me in Vietnam, that they were given comparatively less in terms of veterans' benefits, comparatively less in other areas, but most significantly less in terms of recognition and understanding by their countrymen.

So, Mr. President, I again commend the chairman and the ranking minority member, and I wish to thank their staff, especially the committee chief counsel, Ken Bergquist, and the minority counsel, Jon Steinberg, who have worked on this and other amendments, to the legislation. At the proper time I have an additional agent orange amendment after the pending one. So at this time I yield back my time and I hope to regain the floor shortly to offer an amendment.

Mr. CRANSTON. Mr. President, I am prepared to yield back time if the chairman is.

Mr. SIMPSON. Mr. President, at the conclusion of this voice vote, we will get to the specific amendment of the Senator from South Dakota.

I will yield back the remainder of my time in just a moment, but I think it is important for this debate and so, therefore, I will ask to have printed in the RECORD some very significant legislative steps that have been taken for Vietnam-era veterans in the past 10 years in Congress.

Somewhere this record seems to get lost in the emotion of this issue. It is a difficult issue. We all know it. There is not a thing that could be added to the debate as to the Vietnam-era issues, the guilt, the courage, and the reception at home. All of those things have been covered thoroughly and even perhaps more than thoroughly in the media.

But I just wish to state and ask to have printed in the RECORD, a list of legislative accomplishments on behalf of the Vietnam-era veterans. A great many of the legislative proposals were presented by Senator ALAN CRANSTON, of California, when he was chairman of the Veterans' Affairs Committee.

Mr. President, those of us who worked with Senator CRANSTON and served with him know of his compassion for these veterans. We may be assured that the needs and requirements of Vietnam-era veterans have been served by Congress.

This fact somehow continues to get lost somewhere in the shuffle. None who served in the armed services, including myself, a lifetime member of the VFW, and Senator CRANSTON, who served in the combat zone as a noted war correspondent, enjoyed the war experience. I have failed to meet anyone who really did.

I hope that, in the debate, we can continue to defang the emotion that seems to surround the issue of Vietnam veterans and that we can deal with facts. I know that emotion will always triumph over reason but I believe that reason will always persist.

Mr. President, for that reason, I ask unanimous consent to have printed in the RECORD the list of legislative accomplishments in the past 10 years. Unfortunately this is not current. It is about 1 year old, and I will insert later in the debate the additional legislation that we have entered into the statute books for the Vietnam-era veteran.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

LEGISLATIVE ACCOMPLISHMENTS ON BEHALF OF VIETNAM-ERA VETERANS

Beginning 10 years ago the Veterans' Affairs Committee of the Senate conducted an extensive congressional investigation into the adequacy of VA medical care for veterans wounded in Vietnam to explore the special problems confronting the VA in caring for veterans of the Vietnam conflict. These hearings led to dramatic improvements in VA hospital staffing, facilities, and services. Since 1970, six new VA hospitals have been built; the staff-patient ratio has been increased from 157 FTEE's to 100 patients in 1974, 50 more than 200 FTEE's to each 100 patients; the health-care staff has been increased by 50,000 since 1970; the number of outpatient clinics has been increased from 209 to 219 in the last 5 years; and special pay for physicians and dentists was authorized in 1975 to improve the retention and recruitment of these health-care professionals.

Also in 1970, the Veterans' Affairs Committee of the Senate reported the Veteran's Education and Training Amendments Act of 1970 (Public Law 92-219). This legislation included provisions to:

First. Increase rates of GI bill benefits by 34.6 percent. During the first year after this rate increase took effect, there was a 56-percent increase in GI bill participation.

Second. Establish a program of "special assistance for the educationally disadvantaged" under which veterans without high school diplomas or in need of refresher or remedial courses could—without charge to entitlement—use GI bill benefits for pursuit of appropriate programs of education. Since this program was established, more than 407,000 veterans have received benefits under it.

Third. Establish a program for tutorial assistance under the GI bill. Almost 200,000 veterans have used tutorial assistance—receiving $17.7 million in benefits—through this program.

Fourth. Establish the "predischarge education program" to provide an opportunity for service personnel to pursue high school, remedial, or refresher courses—while on active duty. More than 304,000 Vietnam-era personnel participated in this program.

Fifth. Provide for a greatly expanded "veterans' outreach service program" designed to search out recently discharged veterans, to advise them of benefits, and to assist them in obtaining them. Since enactment of this expanded authority, the VA has communicated with over 6.2 million Vietnam-era veterans shortly after release from service, established 72 "one-stop" USVAC centers to provide complete benefit information and assistance to veterans, conducted job interviewing classes for those needing guidance in order to obtain meaningful employment, and provided veterans in rural areas with service by use of mobile vans.

At the same time, the Veterans' Affairs Committee of the Senate supported an increase or rates of service-connected compensation—which raised the rate of compensation for "total disability" by 12.5 percent

(Public Law 91–376). Since that time, eight additional rate increases have been approved.

In 1970, the Veterans' Affairs Committee of the Senate reported the Veterans' Housing Act of 1970 (Public Law 91–506) which provided for VA loan guaranties for veterans who wish to purchase mobile homes. From the inception of the mobile home loan program, the VA has guaranteed 33,684 loans. It is estimated that over 60 percent of these loans—totaling almost $396 million—were made to Vietnam-era veterans.

In 1971, the Labor and Human Resources Committee of the Senate reported the Emergency Employment Act of 1971 (Public Law 92–54) to require that veterans who served in the Indo-China area be given special consideration in filling public employment program (PEP) jobs. Under this authority, such veterans constituted 13 percent of all participants.

In 1972, the Senate passed the veterans' cost-of-instruction (VCI) program legislation as part of this Education Act Amendments of 1972 (Public Law 92–318). This authority was designed to provide incentives and supporting funds for colleges and universities to recruit veterans and to establish special programs and services necessary to assist GI bill veteran-students in readjusting to an academic environment and to reach out to surrounding communities to get more veterans back to school under the GI bill, with special emphasis on educationally disadvantaged veterans.

Also in 1972, the Senate passed the Veterans' Compensation and Relief Act of 1972 (Public Law 92–328), which included provisions to provide an annual clothing allowance for service-connected disabled veterans whose prosthetic devices or wheelchairs tend to tear or wear out their clothing.

In 1972, the Veterans' Affairs Committee of the Senate reported the Vietnam Era Veterans' Readjustment Assistance Act of 1972 (Public Law 92–540). This legislation included provisions to:

First. Increase GI bill benefits by 25.7 percent and increase assistance rates for VA apprenticeship and OJT programs by 48 percent.

Second. Provide for advance payment of GI bill benefits at the start of a school term.

Third. Establish the VA work-study program for veterans attending school under the GI bill. An average of 50,000 GI bill students have benefited annually from participation in this program receiving about $20 million each year in assistance.

Fourth. Set up the VA education loan program as a means of supplementary assistance. Since its inception, 65,761 loans have been made under this authority, totaling $63.9 million.

Fifth. Revised chapter 451 of title 38 setting forth the basic veterans employment responsibilities of the Department of Labor as administered by the Veterans Employment Service, stressing the needs of recently separated veterans.

Sixth. Add a new chapter 42 to title 38 to require Federal contractors to give emphasis to employment of Vietnam-era and disabled veterans and provide for mandatory listing of job openings with local employment service offices and priority in referrals to disabled and Vietnam-era veterans. This requirement has led to the employment of more than 540,000 disabled and Vietnam-era veterans.

In 1973, the Senate passed Senate Concurrent Resolution 51, to express the gratitude of the Congress to the Vietnam veteran for his efforts to make it possible for our Nation to observe Veterans' Day, 1973, in peace, and to commend the Vietnam veteran for his valor, courage, loyalty, and devotion to duty as an American serviceman.

In 1973, the Comprehensive Employment and Training Act of 1973 (CETA) (Public Law 93–203), was drafted to require CETA prime sponsors to give special consideration to certain unemployed veterans in filling public service employment jobs. Almost 2 million Vietnam-era veterans have been served by CETA programs since 1973.

In 1974, the Veterans' Affairs Committee of the Senate reported legislation, ultimately enacted as Public Law 93–337, to extend the delimiting period under the current GI bill from 8 years to 10 years. It is estimated that this extension has benefited more than 2 million veterans.

In 1974, the Senate passed the Emergency Jobs and Unemployment Assistance Act of 1974 (Public Law 93–567) which among other things provided for the conduct, by the Secretary of Labor, of a special outreach and public information program to promote maximum effort to produce job and job training opportunities for Vietnam-era veterans.

In 1974, the Veterans' Affairs Committee of the Senate reported the Vietnam Era Veterans' Readjustment Assistance Act of 1974 (enacted as Public Law 93–508). This measure included provisions to:

First. Increase rates of GI bill benefits by 25.7 percent. During the first year after this rate increase took effect, there was a 25 percent increase in GI bill participation.

Second. Add an additional 9 months of GI bill entitlement for a total of 45 months of maximum entitlement to be earned by a veteran.

Third. Authorize refresher training under the GI bill.

Fourth. Establish the veteran representative on campus (Vet-Rep) program. Under this program more than 1,327 "Vet-Reps" were assigned to 3,320 colleges across the Nation to assist veterans in obtaining GI bill benefits.

Fifth. Require the Secretary of Labor to establish definitive standards for determining compliance with the employment assistance programs mandated by chapter 41.

Sixth. Strengthen chapter 42 to require Federal contractors to take affirmative action to employ Vietnam-era and disabled veterans.

Seventh. Establish the authority for veterans' readjustment appointments (VRA) under which certain disabled and Vietnam-era veterans could receive noncompetitive appointments, up to a GS–5) in the Federal civil service. Since its inception, more than 125,000 veterans appointments have been made throughout the Federal Government.

Eighth. Extend the protections of veterans' reemployment rights to persons who prior to military service had been employed by State or local governments and otherwise improve the veterans reemployment rights program.

In 1974, the Veterans' Affairs Committee of the Senate reported the Disabled Veterans' and Servicemen's Automobile and Adaptive Equipment Amendments of 1974 (Public Law 93–538) to liberalize eligibility requirements for Vietnam-era service-connected disabled veterans to receive automobile assistance grants, to increase the grant by 17.8 percent, to add the provision of adaptive equipment to this benefit as well as driver training in the use of the adaptive equipment, to require the promulgation of quality and safety standards for adaptive equipment, and specifically to authorize research relating to improvements in such adaptive equipment.

In 1975, the Veterans' Affairs Committee of the Senate reported legislation (Public Law 94–482) to extend for 3 years the authority for the VCI program, require increased emphasis on educationally disadvantaged veterans, and provide for offsetting the impact of the May 31, 1976, GI bill delimiting date in the formula for determining which colleges were eligible for and the size of their grants.

In 1976, the Veterans' Affairs Committee of the Senate reported the Veterans' Education and Employment Assistance Act of 1976 (Public Law 94–502). This legislation provided an 8.0 percent increase in GI bill benefits and contained provisions to: First, repeal the restriction on graduate study during the last 9 months of a veteran's entitlement; second, increase the maximum amount of a VA education loan; and third, establish a Deputy Assistant Secretary of Labor for Veterans' employment issues.

In 1977, the Veterans' Affairs Committee of the Senate reported the GI Bill Improvement Act of 1977 (Public Law 95–202). This measure included provisions to:

First. Increase by 6.6 percent the rates of GI bill benefits.

Second. Extend the delimiting period during which a veteran or eligible spouse may use GI bill benefits when the veteran has a mental or physical disability which prevents initiating or completing a course of study. More than 2,700 veterans have received extensions of their delimiting periods as a result of this provision.

Third. Extend for 2 additional years the period of time a veteran is able to receive direct education loans when enrolled full time at the time the delimiting period expires. More than 1,400 veterans have received $1.5 million in assistance under this authority.

Fourth. Require more extensive VA educational and vocational counseling and outreach services.

Fifth. Provide for a Federal-State matching program of accelerated tuition assistance for veterans enrolled in high-cost institutions of higher learning. To date, Louisiana has enacted legislation to establish a mechanism for participating in this program.

Sixth. Require the VA to conduct a study into the extent to which Vietnam-era veterans use GI bill entitlements, complete programs of education under the GI bill, and achieve job satisfaction and readjustment.

In 1978, the Veterans' Affairs Committee of the Senate reported the Veterans' Housing Benefits Act of 1978 (Public Law 95–476). This legislation included provisions to:

First. Increase from $25,000 to $30,000 the maximum amount of grants for specially adapted housing to assist severely disabled veterans. Because of the proportionately greater number of Vietnam-era veterans who have suffered the severe disability requirement for eligibility for specially adapted housing, this increase is particularly beneficial to veterans of that era.

Second. Extend entitlements to VA home, condominiums, and mobile home loan guaranties and loans to additional Vietnam-era veterans by reducing from 181 days to 90 days the length of service requirement.

In 1978, the Veterans' Affairs Committee of the Senate reported the VA Programs Extension Act of 1978 (Public Law 95–520). This measure included provisions to:

First. Extend for 3 years (until September 30, 1981) the VRA appointments authority and expand the VRA program by removing all limitations based on the date of the veteran's discharge, raising the maximum civil service grade appointment from GS–5 to GS–7, and making any service-connected disabled veterans rated at 10 percent or more eligible for an appointment regardless of years of education completed.

Second. Give service-connected disabled veterans the right to file with the Veterans Employment Service in the Department of Labor a complaint that he or she has been discriminated against because of handicap by a Federal contractor.

In 1978, the Senate passed the Comprehensive Employment and Training Act Amendments of 1978 (Public Law 95–524) which included provisions to:

First. Require that, with respect to public service jobs, prime sponsors give special consideration to disabled and Vietnam-era vet-

erans (with special emphasis on Vietnam theatre veterans).

Second. Require the Secretary to take appropriate steps to provide for increased participation of disabled and Vietnam-era veterans (with special emphasis on threatre veterans) in all CETA job and job training opportunities.

Third. Promote maximum arrangements by CETA prime sponsors for utilization of apprenticeship and other OJT opportunities available under the GI bill.

Fourth. Require the Secretary of Labor to coordinate with the Administrator of Veterans' Affairs in carrying out all of the Department's responsibilities with respect to veterans under CETA.

Fifth. Add veterans' organization representatives as permanent members of local, State, and national planning councils. As of October 1, 1979, 365 prime sponsors had veterans' representatives serving on their planning councils.

Sixth. Include as a special Federal responsibility of the Secretary the conduct of the veterans' outreach and public information program enacted by Public Law 94–567.

In 1978, the Senate passed the Revenue Act of 1978 (Public Law 95–600) which included provisions to authorize the targeted jobs tax credit program designed to promote increased employment of seven "target groups" including low-income Vietnam-era veterans under 35 years of age and disabled veterans participating in vocational rehabilitation programs. The program was implemented in May 1979, and, as of July 31, 1979, 3,152 Vietnam-era veterans have been certified as eligible for the credit and 880 have been employed.

This past year, the Veterans' Affairs Committee of the Senate reported the Veterans' Health Care Amendments of 1979, signed into law as Public Law 96–22 on June 13, 1979. This measure contains a number of important new VA health-care programs. Most directly targeted to Vietnam-era veterans is the readjustment counseling program, under which the VA is finally authorized to provide readjustment counseling for those Vietnam-era veterans who have not made a successful transition from their military service to civilian life. The agency is establishing 85 store-front facilities across the country, staffed by outreach teams that will go into the community to locate and assist Vietnam-era veterans. The emphasis of the program will be on peer counseling in a nonformal setting so as to encourage the participation of those veterans distrustful of normal VA and other governmental efforts. It is estimated that 1,970,000 Vietnam-era veterans will participate in this program in the first 2 years.

Three other improvements in VA's health-care programs enacted in Public Law 96–22 will also benefit Vietnam-era veterans: new authority for the VA to enter into contracts with halfway houses and other community facilities for the treatment of veterans suffering from alcohol and drug abuse dependencies; authority for the VA to provide preventive health-care services for veterans with service-connected disabilities rated at 50 percent or greater and veterans receiving care for service-connected disabilities; and extension of dental care benefits to all veterans with 100-percent service-connected disabilities and to those who were prisoners of war for at least 6 months.

Also this last year the Veterans' Affairs Committee of the Senate reported legislation (H.R. 2282 as passed by the Senate) to provide for an 11.1 percent increase in rates of VA service-connected compensation. The House of Representatives had originally approved an 8.3 percent increase and we have since compromised on a 9.9 percent increase which has only recently been signed into law by the President.

Mr. SIMPSON. Thank you, Mr. President.

At this point, I yield back to the remainder of my time on the Simpson substitute amendment.

The PRESIDING OFFICER (Mr. WALLOP). Is all time yielded back?

Mr. CRANSTON. Mr. President, I yield back my time and thank the chairman for his generous remarks.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the Simpson-Cranston amendment.

The amendment (UP No. 151) was agreed to.

The PRESIDING OFFICER. The Cranston amendment will be laid aside, as amended, until 12 noon tomorrow.

The bill is open to further amendment.

The Senator from South Dakota is recognized.

UP AMENDMENT NO. 152

(Purpose: To authorize expressly further expansion of the scope of an epidemiological study regarding veterans' exposed to Agent Orange)

Mr. PRESSLER. Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from South Dakota (Mr. PRESSLER) proposes in unprinted amendment numbered 152.

Mr. PRESSLER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 5, line 18, and on page 6, lines 1, 8, and 18, insert "(including genetic and psychological)" after "health".

On page 6, line 4, insert "and to include the means of detecting and treating such effects" after "conditions".

On page 6, line 22, insert "and to include the means of detecting and treating such effects" after "paragraph".

Mr. PRESSLER. Mr. President, I rise to call up this unprinted amendment to S. 921, which would expand the study of health hazards that may be affecting Vietnam veterans. This amendment is similar to my printed amendment, No. 66.

I am especially concerned about the effects of agent orange. This chemical, which was used as a defoliant between 1962 and 1970 in Vietnam and surrounding countryside, has been thought to cause health problems for Vietnam veterans exposed to it. I have been in touch with a number of veterans who feel that they have been exposed to the chemical, which caused them great problems. The earlier amendment adopted will be a step in the right direction. This amendment will provide the proper information upon which to base future benefits and coverage in addition to the herbicide agent orange, Vietnam veterans were exposed to other potential health detriments such as the herbicide agent blue which contains arsenic, chemicals, and other dangerous biological agents.

Although VA studies are currently underway regarding agent orange, little research is being conducted into the effects of these other dangerous elements.

Both the Veterans' Administration and the White House interagency work group to study the possible long term health effects of phenoxy herbicides and contaminants (IAG) have recommended that the current agent orange epidemiological study be broadened to include other possible health problems that may be related to Vietnam service.

I am pleased that the committee reported version of S. 921 broadens this study. My amendment, however, goes further by specifically requiring study of the physiological and psychological effects of delayed stress evolving from Vietnam service and readjustment therefrom.

Posttraumatic stress disorders may account for some of the symptoms attributed to agent orange. This is a major problem affecting Vietnam veterans which requires additional research.

The amendment which I am proposing also requires the administration, concurrently with the epidemiological study, to conduct research, to determine the potential toxicological, mutagenic, and physiological effect of possible health hazards affecting Vietnam veterans.

My amendment will provide for research into the processes of how health hazards affect humans and their reproductive processes.

The amendment would also require the VA to study the psychological effects of exposure by veterans to these chemicals. The cost of this amendment would be absorbed within the VA's medical research budget and within the research budgets of other appropriate Federal agencies such as EPA and Health and Human Services.

Let me say, Mr. President, I think this study will have a much broader impact in the future in terms of the use of chemicals domestically and internationally.

I am happy to say that we have talked with the staffs, in our work in the past week, of both the minority and the majority, of the Veterans' Committee and if Senator SIMPSON will give me a signal I would rather not call for a rollcall vote on this if we can do it by voice vote. But I will take his suggestion as I want to take as little time as possible.

Mr. SIMPSON. Mr. President, I want to thank the Senator from South Dakota for his cooperation on this very difficult issue.

By his amendment, the agent orange study will be amended by including "genetic and psychological," in the definition of Vietnam veterans' health that will be studied and also the Senator is including language "and to include the means of detecting and treating such effects" after the word "condition" in the study so that the VA will have to provide information on this issue as well.

I know that the Senator has been a very strong advocate for Vietnam-era veterans—he served during that conflict—and I welcome his advice and assistance on issues related to these veterans. I appreciate his presentation of this amendment, which is certainly ac-

ceptable to me as the floor manager of the legislation.

Mr. CRANSTON. Mr. President, I am pleased to support the amendment of the distinguished Senator from South Dakota (Mr. PRESSLER) in lieu of his originally proposed amendment on this subject, printed amendment No. 66. The amendment now being offered makes two changes, which we helped develop with the Senator from South Dakota, to the agent orange study provision in the committee bill. Both are useful, clarifying changes; they would, first, make clear that the long-term adverse health effects in humans included within the scope of the study—both as originally mandated and as it may be expanded—would encompass psychological and genetic effects and, second, clarify that the Administrator would have the authority to include within the scope of the expanded study—to the extent the Administrator may consider it advisable to do so in the context of an epidemiological study—a study, or literature review and analysis, or both, of the means of detecting and treating any long-term adverse health effects that are found to be involved.

I do want to clarify one point with the Senator. He talked about his original amendment and the current revised amendment in terms of mandating a study expansion, and I just want to make certain it is clearly understood that through the amendment now before us we would authorize, but not require, certain expansions of the scope of the study.

Mr. PRESSLER. That is correct.

Mr. CRANSTON. I thank the Senator.

Mr. PRESSLER. Mr. President, if I may add a couple of remarks, first of all, Senator HEINZ wishes to be made a cosponsor of my amendment.

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

Mr. PRESSLER. Senator BIDEN also.

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

Mr. CRANSTON. Mr. President, will the Senator add me as a cosponsor?

Mr. PRESSLER. Yes.

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

Mr. SIMPSON. Mr. President, chivalry is not dead around here, so I ask unanimous consent to be added as a cosponsor.

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

Mr. CHAFEE. Mr. President, I ask unanimous consent that I may be added as a cosponsor.

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

Mr. PRESSLER. Let me conclude, before asking unanimous consent that the amendment be adopted, by saying how good it has been to work with the majority and minority, the Senator from California and the Senator from Wyoming on this legislation. I thank them very much.

I think what the Senator from Wyoming has said is very true. There has been much legislation for the benefit of veterans but there is much left to be done.

Let me say I think that it is important to have in our country an atmosphere in which Vietnam veterans may be proud of having served. Frequently in conversations about having served in Vietnam, one will be asked "Oh, you served in Vietnam? Did you kill anyone? How do you feel about that?" It becomes kind of a guilt syndrome, and I hope our country is getting over that. I suppose most important is the attitude with which we view that particular war and especially its veterans. Certainly the efforts of my two colleagues exemplify the best in efforts to bring about better understanding of this era and the men who served our country.

Mr. President, I ask that the amendment be adopted.

The PRESIDING OFFICER. Is all time yielded back?

Mr. SIMPSON. Yes, Mr. President.

Mr. CRANSTON. Yes.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from South Dakota.

The amendment (Up No. 152) was agreed to.

Mr. CHAFEE. Mr. President, I must say we have discussed the effect of agent orange on our veterans. I often think of what effect agent orange must have had on the Vietnamese women and children and people of that beleaguered country. I think it is a tragic thing for our country that we ever got to using agent orange.

AMENDMENT NO. 61

(Purpose: To extend for three years the period in which Vietnam era veterans may request readjustment counseling and related mental health services)

Mr. CHAFEE. Mr. President, I call up a printed amendment No. 61.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Rhode Island (Mr. CHAFEE) for himself, Mr. CRANSTON, Mr. DANFORTH, Mr. DOLE, Mr. HEINZ, Mr. ANDREWS, Mr. BIDEN, Mr. BOSCHWITZ, Mr. CHILES, Mr. DECONCINI, Mr. DODD, Mr. DURENBERGER, Mr. EXON, Mr. GOLDWATER, Mr. HART, Mr. HATFIELD, Mr. HUDDLESTON, Mr. KENNEDY, Mr. LEAHY, Mr. MATSUNAGA, Mr. MELCHER, Mr. MITCHELL, Mr. MOYNIHAN, Mr. PELL, Mr. PRYOR, Mr. RANDOLPH, Mr. RIEGLE, Mr. SARBANES, Mr. SASSER, Mr. SCHMITT, Mr. TSONGAS, and Mr. WILLIAMS) proposes a printed amendment numbered 61:

On page 3, strike out lines 6 through line 8 and insert in lieu thereof the following:

(1) by striking out "or two years after the effective date of this section" and inserting in lieu thereof "or by September 30, 1984"; and

Mr. CHAFEE. Mr. President, I ask unanimous consent that the Senators from North Dakota (Mr. BURDICK), Kentucky (Mr. FORD), Arkansas (Mr. PRYOR), California (Mr. HAYAKAWA), South Dakota (Mr. ABDNOR), Nevada (Mr. CANNON), Missouri (Mr. EAGLETON), Michigan (Mr. LEVIN), Oklahoma (Mr. BOREN), Illinois (Mr. DIXON), Arkansas (Mr. BUMPERS), Maine (Mr. COHEN), Delaware (Mr. ROTH), Texas (Mr. BENTSEN), Montana (Mr. BAUCUS), West Virginia (Mr. BYRD), Utah (Mr. HATCH), and South Carolina (Mr. THURMOND) be added as cosponsors to amendment No. 61 to S. 921, a bill to amend title 38, United States Code, to extend authority to provide contract hospital care and medical services in Puerto Rico and the Virgin Islands, and for other purposes.

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

Mr. CHAFEE. Mr. President, I rise today to speak in support of amendment No. 61 to the Veterans' Programs Extension and Improvement Act of 1981 (S. 921). Amendment No. 61 is the same as S. 872, which I introduced on April 2, 1981.

The purpose of this amendment is simple. It provides a 3-year extension—through September 30, 1984—of eligibility for the Vietnam-era veterans readjustment counseling program, also known as Operation Outreach.

This worthy program provides readjustment counseling to Vietnam era veterans suffering from various readjustment problems including post-traumatic stress syndrome, and operates 91 vet centers across the Nation.

In support of my amendment, I am pleased to be joined by Senator CRANSTON, ranking minority member of the Senate Veterans' Affairs Committee, and by over 45 distinguished colleagues from both sides of the aisle. Our proposal is identical to the provision which passed in the House on June 2 by a vote of 388 to 0.

The House vote, Mr. President, was 388 to 0. Not a single voice of opposition was raised to the 3-year extension or to any other provision of the House bill.

Available data strongly supports a 3-year extension of eligibility for readjustment counseling. A major recent independent study, testimony from mental health professionals within and without the Veterans' Administration, and statements from veterans' organizations at the April 30 hearing of the Senate Veterans' Affairs Committee, all suggest that a 3-year extension would be optimal.

Mr. President, in March of this year the Veterans' Administration transmitted a major 900-page study to the Congress. Titled "Legacies of Vietnam: Comparative Adjustment of Veterans and Their Peers," this congressionally mandated study was prepared by an independent research organization which had complete autonomy in all phases of its work. The study findings substantiate beyond question that the continuing readjustment problems of Vietnam-era veterans are more complex, more long lasting, and more widespread than has been previously believed.

Among other things, this study concluded, and I quote:

For the American men who reached the age of eligibility for military service during the Vietnam era, the events of the war and the issues surrounding that conflict remain undigested in a social and psychological sense. Years after war-related issues have ceased to be everyday preoccupations, they continue to evoke confusion, pain, resentment and mistrust among veterans and non-veterans alike.

A decade after the peak years of the war, those who actually served in Vietnam are plagued by significantly more problems than their peers . . . exposure to combat bears a direct and significant relation to current alcohol and drug use, arrests, medical prob-

lems and stress-related symptoms. (Page XLIV.)

. . . the majority of Vietnam veterans . . . interviewed have not made substantial headway in working through their war experiences. Many are impeded by tendencies to avoid emotional conflict, or to blame others, or to pity and punish themselves for the past. The data suggest that unresolved war experiences among these men should be a matter of concern for a public health point of view. (Page XLVI.)

The evidence from this study indicates that as many as 50 percent of Vietnam veterans are still plagued by unresolved war experiences. While the most opportune time to assist these men in readjusting to civilian life is past, the evidence also suggests that current efforts to work through war-related after-effects may still have a significant impact on the quality of veterans' lives. Follow-up studies of veterans of World War II have shown that psychological difficulties among former soldiers can erupt several decades or longer after the initial trauma. It would therefore be appropriate to establish a long-term commitment to address the problems that have become part of the painful legacy of Vietnam. (Page 825.)

Outreach programs should continue to function in the foreseeable future. (Page 826.)

Mr. President, how can we talk of closing down a program which this comprehensive 900-page study concludes should continue into the "foreseeable future?"

Is a 2-year extension, or even a 3-year extension for that matter, what you would call a long-term commitment to address the painful legacy of Vietnam? I think not.

Mr. President, I believe there are a number of other compelling reasons why a 3-year extension should be provided to this program:

Although the VA's authority to provide readjustment counseling became effective on October 1, 1979, many of the vet centers have been in operation for less than 1 year, and have not yet been able to provide their unique service to troubled Vietnam-era veterans due to initial start-up problems, a Government-wide personnel freeze, lack of adequate resources, and insufficient time to establish credibility with clients and working relationships with other community organizations.

Dr. Arthur Arnold, the chief of psychiatry at the Bay Pines VA Medical Center in Tampa, Fla., Dr. Steven M. Sonnenberg, chairman of the Committee on Federal Government Health Services of the American Psychiatric Association, and John R. Smith, of the Department of Psychology at Duke University, all have stated that a 3-year extension of the application period would provide a more effective time frame with respect to the availability of the readjustment counseling program for Vietnam-era veterans.

The Veterans of Foreign Wars, the Disabled American Veterans, and the Vietnam Veterans of America recommended, during the April 30 hearing of the Senate Veterans' Affairs Committee, that a 3-year extension, such as our amendment provides, would be optimal from the standpoint of giving the program the stability it needs to operate efficiently and effectively.

Mr. President, I ask unanimous consent that letters to me from these veterans' organizations be inserted into the RECORD following my remarks.

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

[See exhibit 1.]

Mr. CHAFEE. Dr. Jack Ewalt, the VA's Director of Mental Health and Behavioral Sciences, testified recently that nothing had changed his view, expressed during the committee's January 25, 1979, hearing on the original enabling legislation, that a 5-year eligibility period was needed.

Extending the application period 1 year longer than the Veterans' Affairs Committee has recommended is estimated by the Congressional Budget Office to cost only $26.9 million in fiscal year 1984, a very modest sum in comparison to the benefits that this program provides.

In my judgment, the readjustment counseling program has been well received by both Vietnam-era veterans and the communities in which vet centers are located. The program is a visible and meaningful symbol of our determination to provide assistance to those Vietnam-era veterans who still need help. At a time when the military is plagued with manpower problems, and the All-Volunteer Force is facing increasing challenges in recruiting adequate numbers of qualified personnel, we must meet our obligations to the veterans of the last war.

I urge my colleagues to support this amendment when it comes to a vote.

EXHIBIT 1

VETERANS OF FOREIGN WARS,
Washington, D.C., June 12, 1981.

Hon. JOHN H. CHAFEE,
Chairman, Subcommittee on Consumer Affairs, Committee on Banking, Housing, and Urban Affairs, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: It is my understanding you will introduce an amendment to S. 921 with a large number of bipartisan cosponsors to extend for three years, rather than two years, the readjustment counseling program for Vietnam veterans.

As you know, Mr. Chairman, the life span initially envisioned for Operation Outreach was two years, with the third year to be devoted to phasing out the program. The bulk of the first year's operation, out of necessity, was devoted to recruiting and training staff, and to locating and preparing storefront sites.

It was in 1980 that the program began encountering obstacles to its continued expansion and operation. The federal hiring freeze and a freeze on the acquisition of furniture were imposed. In addition, restrictions were also placed on the acquisition of equipment. Further, after having been authorized additional funding of some $6 million, and to recruit and train an additional 176 personnel, effective December 23, 1980, efforts to accomplish such were eliminated by a second federal hiring freeze imposed by the current Administration. A second equipment and furniture acquisition freeze was also imposed at the same time. As a result, some centers have been open for little more than 60 days.

Inasmuch as your amendment is in concert with an identical provision of H.R. 3499 passed by the House of Representatives on June 2, 1981, the Veterans of Foreign Wars of the United States fully supports your amendment.

With best wishes and kind regards, I am
Sincerely,

DONALD H. SCHWAB,
Director, National Legislative Service.

VIETNAM VETERANS OF AMERICA,
Washington, D.C., June 15, 1981.

Sen. JOHN H. CHAFEE,
Room 5229, Dirksen Building,
Washington, D.C.

DEAR SENATOR CHAFEE: The Vietnam Veterans of America strongly supports your Amendment No. 61 to S. 921.

The recently released study conducted by the Center for Policy Research, which the Veterans' Administration sponsored, clearly documents the need to continue the readjustment counseling program for at least three more years. It has been our experience that the Vet Centers have provided a unique and much needed service for Vietnam Veterans. We have found them to be very helpful as referral points for many Vietnam veterans and family members who need the professional assistance that counselors can provide. Even the head of the Veterans' Administration's Behavioral Science Program, Doctor Jack Ewalt testified that the centers should be continued for another three years.

Passage of this important amendment by the Senate will send a much needed message to the veteran community. We very much appreciate your help.

Sincerely,

ROBERT O. MULLER,
Executive Director.

Mr. CRANSTON. Mr. President, as an original cosponsor, I am very pleased to rise in support of the amendment being offered by the distinguished Senator and my good friend from Rhode Island (Mr. CHAFEE) to provide a 3-year extension of the eligibility period for Vietnam-era veterans to request readjustment counseling services from the VA.

Although earlier this year I proposed a 2-year extension of this application period in S. 458, which I introduced on February 5, subsequent developments, including testimony to our committee on April 30, convinced me that a 3-year extension is fully warranted. Thus, I proposed, with the cosponsorship of Senators RANDOLPH, MATSUNAGA, DECONCINI, and MITCHELL, at the committee's May 13 markup of this bill, a 3-year extension of the readjustment counseling application period as was proposed in S. 872, the bipartisan measure introduced on April 2 by Senator CHAFEE. Regrettably, my proposal was not adopted by the committee despite what I believe to be very strong and convincing evidence in support of a 3-year extension.

Mr. President, on June 8 I joined with my good friend, the Senator from Rhode Island (Mr. CHAFEE), in sending to other Senators a "Dear Colleague" letter expressing our intention to offer this amendment—now amendment No. 61. In our letter we outlined the justification for our proposal and indicated the broad, bipartisan support it already had received in the Senate.

Mr. President, in my view the strongest reasons in support of this amendment are the findings of the study of the readjustment experiences of Vietnam-era veterans that Congress, back in 1977 in Public Law 95-202, directed be undertaken. The report on this study became available to us only 10 weeks ago—months after I had introduced S. 458. That study, prepared by the Center for Policy Research, Inc., for the VA and entitled "Legacies of Vietnam: Comparative Adjustment of Veterans and Their Peers," indicates that the readjustment problems of Vietnam-era veter-

ans are more widespread, complex, and long lasting than believed therefor. Thus, much more time than previously seemed needed will be necessary to deal effectively with persistent readjustment problems.

The study findings substantiate that the continuing problems of Vietnam-era veterans do not easily reduce to a single problem or problem cluster. For a variety of reasons, the overwhelming majority of veterans interviewed for the study was not inclined to use either VA or other traditional non-VA mental health services. Also, more and more data show that certain specific psychological difficulties experienced by some Vietnam-era veterans—which are recognized as resulting from a delayed reaction to the stress of the Vietnam conflict—become symptomatic for the first time 10 or more years after a combat tour. Thus, the special storefront vet centers will, I believe, continue to be needed for the full 3-year period.

Mr. President, another important point that was raised in this context by witnesses at the committee's April 30 hearing—including Dr. Ewalt, the VA's top psychiatrist and Director of Mental Health and Behavioral Sciences, and the entire panel of mental health and social service professions in addition to several of the veterans' organizations—is that, if the readjustment counseling program is to have a fair shot at being effective and being able to attract and retain qualified personnel, the VA needs to be able to offer to current and potential employees assurances that the program will be around for a significant period of time.

Mr. President, recent events regarding this program—including many that have nearly paralyzed its progress and meaningful development—demonstrate that stability is critical to the program's ability to provide effective readjustment counseling services on a continuing basis to the veterans we are trying to help.

First, in January the recruitment effort for the expansion of this program that the Congress mandated last December in Public Law 96-526, an appropriations measure, was hamstrung by a central office order that limited the number of career appointments the program's Director could offer to qualified personnel.

Also in January, the President imposed an executive branch personnel hiring freeze in which he included the readjustment counseling program.

Next, in February the Reagan administration announced that it was recommending that funding for the program be terminated on October 1, 1981.

Then, in March the administration took action to defer fiscal year 1981 appropriations for VA health care personnel, including personnel for the mandated expansion. That action amounted to an illegal impoundment in my view, in the view of the Comptroller General, as stated in his April 13, 1981, report to the Congress, and—as of June 2 with the adoption of Senate Resolution 120, disapproving that deferral—in the view of the Senate.

Mr. President, for the information of my colleagues, I would note that I discussed this deferral action in a statement appearing in the April 27, 1981, RECORD, daily edition, pages 7451 through 7455 and also inserted copies of pertinent documents in the RECORD at that point. My statement in connection with Senate Resolution 120 appeared in the June 2, 1981, RECORD, daily edition, pages 11123 through 11124.

Finally, Mr. President, during our April 30 hearing, the committee learned that approximately $11.2 million of the fiscal year 1981 appropriation for the readjustment counseling program had been diverted to other purposes and was not being used—in any way—to provide readjustment counseling services. After this funding diversion was brought to the attention of the Appropriations Committee, it was objected to by seven members of the Appropriation Committee, led by the chairman of the Subcommittee on HUD-Independent Agencies (Mr. GARN), the ranking minority member of that subcommittee (Mr. HUDDLESTON), and my good friend and colleague from Arizona (Mr. DECONCINI) who is a member of both the Veterans' Affairs and Appropriations Committees. I ask unanimous consent that that letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON APPROPRIATIONS,
Washington, D.C., May 20, 1981.

Mr. RUFUS WILSON,
Acting Administrator, Veterans' Administration, Washington, D.C.

DEAR RUFUS: During our Committee's consideration of the Veterans' Administration's request for FY 81 supplemental appropriations, a question was raised with respect to the availability of approximately $11.2 million, of a total medical care account appropriation of $29.6 million, that had been provided in Public Law 96-526 for the Vietnam-era veteran readjustment counseling program (carried out pursuant to section 612A of title 38, United States Code).

On page 173 of House Report 97-29, accompanying H.R. 3512, the Supplemental Appropriations and Rescission Bill, 1981, the House Appropriations Committee indicated that $23.6 million currently is "available" for the program and the House Committee recommended in its report that the proposed VA medical care account deferral (D81-95, pursuant to which the Administration proposed to reduce FY 1981 expenditures for medical care account personnel by $29.4 million), including the $6 million add-on for the readjustment counseling program, be disapproved. On May 13, the House passed H.R. 3512 as reported—with no amendments relating to the VA medical care account.

However, the April 30, 1981 testimony of VA witnesses before the Senate Veterans' Affairs Committee—of which Senator DeConcini is also a member—indicated that $11.2 million had been diverted to other purposes in the medical care account and is not being utilized to provide readjustment counseling services to Vietnam-era veterans (see page 158, S. Report 97-67, accompanying H.R. 3512) and that the program—which now consists of approximately 91 storefront counseling centers—currently is significantly underfunded.

In our Committee's report on the supplemental appropriations bill, our Committee expressed concern regarding the status of these funds and noted that they were diverted from their intended use without the requisite notification to this Committee of a reprogramming within the medical care account. On both procedural and substantive grounds, therefore, we object to the diversion of funds from the readjustment counseling program which Congress intended to be the major focus of the VA's programs designed to address the current needs of veterans who served during the very long and controversial Vietnam conflict.

We strongly believe that the VA's readjustment counseling program should be appropriately equipped to provide the more intensive and extensive program for Vietnam-era veterans that was intended by Congress when Public Law 96-526 was enacted in December 1980, including the $6 million add-on for this purpose. Thus, in order to assure needed readjustment counseling services for Vietnam-era veterans, we urge that the $11.2 million that was reprogrammed, without notification, be restored. We also urge that these restored funds, to the maximum extent feasible during the remaining months of the current fiscal year, be put to use immediately in an effort to enhance and expand the readjustment counseling program. These restored funds should be used to, among other things, augment staffing for the existing centers and for regional program administration, establish additional storefront centers (including proposed satellite teams), provide staffing for those additional centers, provide appropriate resources for supplies and equipment, and improve training programs for professional and non-professional staff.

We consider the readjustment counseling program to be a very high priority in the agency's mission, and we hope that you will proceed without delay to make available the funding Congress has provided for this purpose.

Sincerely,

WALTER D. HUDDLESTON,
Ranking Democratic Member, HUD and Independent Agencies Subcommittee, Committee on Appropriations;

JAKE GARN,
Chairman, HUD and Independent Agencies Subcommittee, Committee on Appropriations;

LAWTON CHILES,
WILLIAM PROXMIRE,
DENNIS DECONCINI,
PATRICK LEAHY,
JIM SASSER,

Mr. CRANSTON. Mr. President, as the Senator from Rhode Island has noted, the House passed a 3-year extension on June 2. I think that the record in this body also fully supports that 3-year extension.

This program was long overdue when it was authorized. The fits and starts experienced in getting the vet centers opened and operational in additional to the recent instability in the program that resulted from doubts about its future have combined to result in the program—successful and well received as it has been—falling short of achieving its full potential. It is time we put the Senate solidly behind giving the readjustment counseling program a clear opportunity at reaching that potential. A 3-year extension of the application period would do just that.

I strongly urge my colleagues to support this amendment, and I congratulate the Senator from Rhode Island for his outstanding leadership on this amendment, and thank his staff member, Rob Simmons, for his very capable assistance and cooperation with me and my staff on this matter.

Mr. CHAFEE. Mr. President, I thank the distinguished Senator from California, my good friend, Senator CRANSTON, very much for that very kind support for this measure. He has long been a leader in veterans affairs. To have him as the principal cosponsor of this amendment gives it a big thrust forward and I wish to thank him very much.

Mr. SIMPSON. Mr. President, I certainly concur in that.

I want to offer to the Senator from Rhode Island, if I may, perfecting language to the amendment that he might consider. Senator CHAFEE, as in everything that he undertakes on this floor, brings his sincerity to the cause and that is why he is very formidable here.

As I mentioned previously, the Committee on Veterans' Affairs unanimously voted, as part of its consideration of S. 921, for a 2-year extension of the eligibility period for readjustment counseling through the storefront centers. As I say, that was a unanimous vote. I did support that period of extension since I became convinced by the testimony at the committee's April 30 hearing and from other information reviewed by me that many of those vet centers established by the VA—and there are currently 92 across the country available to provide this critically important counseling—have not had a sufficient life span to be able to reach out properly to all of the Vietnam era veterans who might most benefit from those services. The committee hearings had a great influence on changing my position, particularly when I found out that 52,000 veterans have visited the centers.

My only fear and concern at the time was that we might be entering into a situation where we would find that the continuing support system provided by the vet centers would prevent the veteran from moving into the regular VA health care system or from working himself back into society. I was also concerned that a person might remain in the support system which might become a type of umbilical cord unable to be severed. This could leave a crippling dependency on those centers. Those things were fairly well answered in my mind at the hearing.

I think the vet centers have been most effective because they have a peer group dealing with people who have a deep-seated suspicion, in many cases, of regular VA health care personnel.

I became aware, too, of the number of external difficulties that have hindered that program and prevented it from reaching full effectiveness. Of those external problems, certainly the concern about the program's future during the past 6 months may have been the most damaging one as we dealt with the issue, both because the program may have been unable to attract and retain capable staff as efficiently as it might have done if the program's future was clear, and also because many eligible veterans may well have been reluctant to get involved with the centers if the centers were destined to close out in the near future.

So, Mr. President, in supporting this extension of the period within which the eligible veterans can request counseling, I was then unwilling to support the 3-year extension since the original eligibility period provided for the normal authorizing legislation itself was only of 2 years' duration and I could perceive of no reason that the original period should be exceeded.

But following the committee's markup, I continued to examine and review this issue and the perfecting language that I now propose reflects that effort.

Under the terms of my additional perfecting language, the eligibility period would be extended 3 years until September 30, 1984, as proposed in Senator CHAFEE'S amendment, but a provision would also be added to section 612A, which is the section of title 38 that authorizes the VA to provide the readjustment counseling.

The additional language would require the VA Administrator, during the third year of the extension, to take all steps necessary to convert the program from the operation that now provides for the readjustment counseling assistance through the storefront entities into one which provides those services through the VA regular health care channels and facilities.

In that manner, the third year of the extension would be truly available as "the transition year," which is the period that a number of witnesses at the committee hearing on April 30 indicated that they believed that the program must have if it is to attain its full potential.

Also, in taking the statutory step of indicating that this is the purpose of the third year, it should insure that a concentrated effort will be made by the VA to create the setting for the long-term ability needed to continue to meet the requirements of the Vietnam veterans when the veterans centers are no longer available.

I believe that this additional language of the 3-year extension of the eligibility period is fully appropriate, and I would ask my colleague from Rhode Island respectfully to accept the modification of that language of his amendment.

Mr. CRANSTON. Mr. President, I can understand the concern that the Senator from Wyoming (Mr. SIMPSON) has expressed, and I join in proposing the perfecting amendment to provide expressly for the appropriate phasing in during fiscal year 1984 of readjustment counseling services in the VA's own regular mental hygiene clinics and other facilities. I support fully his proposal that we act to assure that the VA will continue to meet the readjustment needs of Vietnam-era veterans in those clinics and facilities after September 30, 1984.

Mr. President, I would note in this connection that in providing an extension of eligibility until September 30, 1984, we would be providing only that no new applications may be accepted after that date. We would not—I repeat not—be acting to repeal the VA's existing, unlimited authority to provide readjustment counseling services after the application cutoff date for those who had already requested counseling, and I would expect that some veterans in the program would have continuing needs for help. As the chairman's perfecting amendment would make clear, under the Chafee amendment, readjustment counseling services would continue to be provided, as necessary, to Vietnam-era veterans pursuant to section 612A of title 38 after September 30, 1984. Thus, I think planning for a phase-in is a thoughtful and prudent move, and I congratulate the Senator from Wyoming (Mr. SIMPSON) on his farsighted amendment.

Mr. President, sufficiently in advance of the transition period we are proposing the VA should also determine the extent to which increased funding and staffing for its mental hygience clinics will be necessary for fiscal year 1984 to enable them effectively to provide readjustment counseling services in order that an appropriate augmentation, if needed, may be provided. If possible, this matter should be dealt with fully in the context of the President's proposed fiscal year 1984 budget, but in no event later than in the April 1, 1984, report required by the pending amendment. Another very important aspect of such a phase-in period would be that the VA make every effort to phase into its medical centers and other facilities, as appropriate, qualified staff from the vet centers. We would certainly expect that the April 1 report would specify the VA's plans for this phase-in of vet center staff.

These two results of the pending proposal are consistent with my expectation that the vet center function generally—although not necessarily in all places, such as large urban areas with large caseloads and crowded VA outpatient facilities—will be folded into traditional VA facilities in most localities so that readjustment counseling services can continue to be provided for Vietnam-era veterans who applied for those services before the application cutoff date and still need those services.

I hope that the Senate from Rhode Island will accept the amendment.

Mr. CHAFEE. Mr. President, I would refer to this as a modification as opposed to an amendment. It is my understanding that the Senator from Wyoming is proposing this as a modification. Am I correct?

Mr. SIMPSON. That would be correct, Mr. President, rather than perfecting language. It would be a modification.

The PRESIDING OFFICER. The Senator has a right to modify his amendment. Please send the modification to the desk.

Mr. CHAFEE. Mr. President, I send the modification to the desk.

The PRESIDING OFFICER. The amendment is so modified.

The amendment (No. 61) as modified, reads as follows:

On page 3, strike out lines 6 through line 8 and insert in lieu thereof the following:

(1) by striking out "or two years after the effective date of this section" and inserting in lieu thereof "or by September 30, 1984"; and

On page 3, line 5, insert "(a)" after "SEC. 4".

On page 3, after line 25, insert the following new subsection:

(b) Section 612A is further amended by adding at the end the following new subsection"

"(g) During the twelve-month period end-

ing September 30, 1984, the Administrator shall take appropriate steps to ensure (1) the orderly transition, by October 1, 1984, of that part of the program established under this section for the provision of readjustment counseling services by Veterans' Administration personnel from a program providing services through centers located primarily in facilities situated apart from the health-care facilities operated by the Veterans' Administration for the provision of health-care services under other provisions of this chapter to a program providing such services primarily through such health-care facilities, and (2) the continued availability after such date of readjustment counseling and related mental health services under this section to veterans eligible for the provision of counseling and services requested before such date. Not later than April 1, 1984, the Administrator shall submit to the Committees on Veterans' Affairs of the Congress a report on the plans made and actions taken to carry out this subsection.".

Mr. CHAFEE. I thank the distinguished chairman of the Veterans' Affairs Committee, Senator SIMPSON, and his counterpart, Senator CRANSTON, for their very fine contribution to this matter.

● Mr. BOSCHWITZ. Mr. President, I rise in support of the amendment offered by my distinguished colleague from Rhode Island, Senator CHAFEE, to extend for 3 years the Vietnam-era readjustment counseling program.

The Vietnam veterans readjustment counseling program, otherwise known as operation outreach, was initiated by Public Law 96–22 in June 1979 on a 2-year trial basis. This legislation called for the Veterans' Administration to provide readjustment counseling and other mental health services to any veteran who served on active duty during the Vietnam era, which was designated as August 1964–May 1975.

This program was designed to help ease the readjustment of Vietnam veterans, especially combat veterans, to civilian life. We are only now coming to realize how unique the Vietnam veteran's readjustment problems really are.

The Vietnam war, particularly in its later stages, was so unpopular that when veterans of this conflict returned home they often did not receive the positive reinforcement from their fellow countrymen which World War II and Korean war veterans enjoyed. The feeling that their sacrifices have not been appreciated has left many Vietnam veterans deeply disillusioned.

Further, Mr. President, their war experiences have caused over 500,000 Vietnam veterans to be afflicted with posttraumatic stress syndrome, in which nightmares, depression, and anxiety attacks manifest themselves as many as 10 years after the veteran's combat service.

Operation Outreach, which has been implemented through so-called storefront counseling centers, has provided Vietnam veterans with an informal setting in which to work out their problems with the help of metal health professionals who are themselves veterans.

Mr. President, in my State, this program is working. Minnesota sent 55,000 men and women to Vietnam, with an average age of 19.2. During the 15 months in which the Minneapolis Counseling Center has been in existence, the staff has counseled well over 2,000 Vietnam veterans and their families. The Center's encounter groups have helped hundreds of veterans come to grips with their wartime experiences. Through a number of workshops, the Center's staff has alerted the Minneapolis-St. Paul community to the often complex problems which the Vietnam veteran faces.

Mr. President, unless we act now the eligibility of Vietnam veterans to participate in this worthwhile program will expire on September 30. Many of the 91 counseling centers around the country have not even been in operation for the 2-year trial period established by Public Law 96–22. Let us give this noble program another 3 years. Let us give it a chance to reap even greater dividends than it already has.

Mr. President, I would also like to take this opportunity to praise one particular provision of S. 921.

The bill provides that an alcohol or drug dependence will not be considered the result of willful misconduct for the purpose of determining eligibility for an extension of the delimiting period for GI bill benefits.

Mr. President, I became interested in this issue 2 years ago, when a constituent of mine, Mr. Dennis Curran, was denied an extension of his eligibility period for GI bill benefits. For several years of this period, Mr. Curran was unable to make use of his benefits because he suffered from an alcoholic dependency. However, he was denied an extension because his alcoholism was termed willful misconduct.

During the 97th Congress the Senate was able to eliminate this unjust willful misconduct clause. Unfortunately, our House colleagues did not agree with us, and the issue died. For the sake of Dennis Curran and other veterans who may be in his predicament, I hope we will be more successful this year. I would urge my fellow Senators who will serve on the conference committee for S. 921 to protect this important provision, which the House of Representatives has not seen fit to include in their version of S. 921.●

Mr. CHAFEE. Mr. President, I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. SIMPSON. Mr. President, I wish to be indicated as a cosponsor of Senator CHAFEE's amendment, as modified.

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

Mr. CHAFEE. Mr. President, might I just take this occasion to thank Senator SIMPSON for his cooperation in this matter. It is greatly appreciated.

Mr. SIMPSON. Mr. President, I can assure the Senator of a mutual feeling in that regard, and I also thank Senator CHAFEE's capable staff member, Mr. Simmons, for his fine assistance. I thank Senator CHAFEE for a most cooperative venture on something that I know is very seriously felt by him.

Mr. PRESSLER addressed the Chair.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. PRESSLER. Mr. President, I rise in support and as a cosponsor of this amendment. I commend the distinguished Senator from Rhode Island (Mr. CHAFEE) for his efforts.

Mr. President, the outreach program established under the law in 1979 is just now becoming functional. It has been favorably received by Vietnam veterans around the country and has been particularly successful in my home State of South Dakota. The 91 store front centers throughout the country serve as informal and accessible clearinghouses for information and counseling of veterans.

In its short existence, it has already served over 30,000 veterans and their families. The $20 some million earmarked for it this year represents a very small portion of the VA's budget of over $20 billion.

This small amount has been extremely beneficial for those many veterans who do not have clinically diagnosed psychiatric disorders but who nevertheless benefit from counseling. These individuals would be precluded by other portions of the law from receiving treatment in VA facilities.

These individuals are not mentally ill, but rather may have experienced a very traumatic situation in Vietnam and are still finding difficulty in returning to society. The outreach program provides the ounce of prevention to deter development of more serious problems.

If we are concerned with reducing VA expenditures and hospital patient loads, this program is extremely cost-effective. It currently costs the VA over $100 a day for every hospitalized psychological disorder. Outreach can see and assist 10 veterans for the cost of every 1 hospitalized.

Let me also say, Mr. President, that Vietnam veterans have been hesitant about entering traditional VA centers for psychiatric treatment. They have been hesitant about admitting the fact that their war experience bothers them. They have been hesitant about coming forward for treatment in these areas.

These storefront outreach programs make it more comfortable and easier for them to do so.

Mr. President, many people have noted that the Vietnam veterans have functioned after the war in a different fashion. Lower numbers have joined the American Legion, the VFW, and other traditional organizations.

Rates of unemployment are extremely high among Vietnam veterans, probably as a result of the draft selection that brought into the Vietnam War, those who actually served in the theater, persons from a much lower educational and income background. As a result, these same people have not responded to some of the traditional type veterans' treatment in veterans' hospitals.

This group is very hesitant to declare themselves in need of seeing a psychiatrist. I might say, in many instances there have been examples of where the VA has not been as responsive to the Vietnam veterans' particular problems. We hope that this is changing.

Certainly, this outreach program is a part of a good veterans' program. It has been successful, and I am happy to join in cosponsoring and strongly supporting this amendment.

Mr. ROBERT C. BYRD. Mr. President, I am proud to cosponsor this amendment. Unfortunately, many Vietnam veterans believed that they had been betrayed earlier this year when the administration recommended budget cuts in programs specifically designed to help those who served in Vietnam. The administration's recommendation not to continue the readjustment counseling program sparked some of the loudest cries of outrage from Vietnam veterans across the Nation.

Those cries of injustice were somewhat relieved, when the Senate Budget Committee restored the approximately $25 million that had been deleted from the President's budget request, for the unequivocal purpose of insuring that the readjustment counseling program continue beyond September, 1981.

As a candidate for the Presidency, Mr. Reagan lamented that "we have been shabby in our treatment of those who returned" from Vietnam. And, in part, we have been. It is regrettable that it took Congress 10 years to enact a readjustment program for Vietnam veterans. But, now we have a program that appears to be a success, having been in operation for less than a year in many regions of the country—at a relatively modest cost. Obviously, many of us want to see it continue.

The American Psychiatric Association has recognized a unique disorder troubling a disproportionate number of Vietnam veterans—delayed stress syndrome, which is a complex term meaning emotionally suffering from combat long after returning from the war. Unfortunately, the problems associated with delayed stress syndrome are not disappearing. In fact, in recent years, they have been growing.

A congressionally mandated independent study of Vietnam veterans' problems by the Center for Policy Research, Inc., strongly supports an eligibility extension for readjustment counseling. Mental health professionals from both within the VA and outside have testified before the Senate Veterans' Affairs Committee, that Vietnam veterans are still suffering from the residual effects of the war and are in need of counseling services.

I urge all Senators to vote for the readjustment counseling amendment.

(By request of Mr. CHAFEE, the following statement was ordered to be prined in the RECORD:)

● Mr. SASSER. Mr. President, I want to outline my strong support for amendment No. 61, sponsored by the distinguished Senator from Rhode Island, Mr. CHAFEE, and of which I am an original cosponsor. This important amendment will extend for 3 years—until September 30, 1984—eligibility for the Vietnam-era veterans readjustment counseling program.

Earlier this year, the Senate Budget Committee restored $25 million to the readjustment counseling program at a time when most programs were being drastically cut. The Budget Committee vote is but one indication of the widespread support this outreach program has in Congress.

In 1979, we authorized the Veterans Administration to begin providing readjustment counseling services to veterans of the Vietnam-era. Although 91 storefront outreach centers are now in operation, many of them have been open less than a year. The program itself is just hitting its stride, encouraging veterans in need of assistance to utilize the facilities.

According to a study released in March 1981, veterans of the Vietnam conflict are subject to the pressures of the war longer, and more often, than previously thought. Delayed stress syndrome, for example, may only become apparent 10 or more years after combat duty. Thus, more time is needed to insure that those veterans most deserving and most desirous of counseling receive it.

Various veterans organizations, as well as experts in behavioral sciences consider a 3-year extension of eligibility for the program essential in providing the best possible service to veterans of the Vietnam-era. I agree, Mr. President. The faith of the veteran in his Government has already been strained by action on the budget—we must not break faith with our veterans by eliminating one of the most popular, most helpful programs of the Veterans Administration.

In the past year and a half, Mr. President, we have approved legislation for a Vietnam veterans memorial here in Washington, we have approved legislation designating "national Vietnam veterans recognition day", and we have generally taken the first steps toward fulfilling our obligation to the 9 million men and women who served during the Vietnam era.

But, it is estimated that one out of every two Vietnam veterans experience some traumatic stress disorder. One out of four is clinically depressed. Half are unemployed. And 40 percent were divorced within 6 months of returning home.

The typical Vietnam veteran still faces a great deal of pressure, Mr. President. Operation outreach, as the readjustment counseling program is commonly known, is the means many veterans of the Southeast Asian conflict have to return a degree of stability to their lives. I urge the Senate's approval of this 3-year extension of eligibility for readjustment counseling, thereby enabling the Congress to take another step in meeting our responsibilities to the Nation's veterans.●

Mr. DANFORTH. Mr. President, I am a cosponsor of the amendment to S. 921 to extend the period of Vietnam veterans' eligibility for readjustment counseling. The bill reported out of committee provides for an additional 2 years eligibility for Vietnam-era veterans. I strongly believe, however, that a 3-year extension, as originally proposed in a bill introduced by Senators CHAFEE, DOLE, HEINZ, and myself, is needed to maintain the effectivenesss of this program and to provide the quality of care that our veterans deserve.

Recent studies, newspaper reports, and testimony from hearings have established that some Vietnam-era veterans have suffered upon their return to normal society. It is estimated that thousands of Vietnam combat veterans suffer from what psychologists call the post traumatic stress syndrome. The syndrome manifests itself in the form of problems with employment, family, and coping with daily life. One statistic is especially startling: Vietnam veterans have a suicide rate of 33 percent higher than their peers.

Mr. President, it has been common to think only of the physical costs of a war. But as we have learned, the psychological costs can also be great. We mend our physical wounds in a hospital, but our psychological wounds require similar care. That is the function of the Outreach program. Psychological counseling is not new: The VA operated extensive programs for the veterans of World War II. Because of the character of the Vietnam conflict, though, the need for such counseling is greater than ever before.

Instead of being met with fanfare and honor, our Vietnam veterans too often have been ignored. Whereas veterans of previous conflicts finished the war with their fellows, the Vietnam veteran came back by himself. At the end of his tour of duty, he returned to his community in only 72 hours, without any forewarning of the problems of readjustment. The effects of these experiences are being manifested now.

In 1979, the Congress, in a noteworthy act, established a program to deal with these problems. The result of that act was the Outreach program, which has been a success during its limited existence. More than 50,000 veterans and their families have been helped through the storefront counseling centers that were established. VA figures show that 82 percent of this group feel they were counseled successfully. These people are now putting their lives back together and continuing as constructive members of our society.

The outreach program has had significant secondary benefits as well. The centers have helped to identify hidden disabilities, they have prevented suicides, and most importantly, they have substantially increased our knowledge about a previously unknown disorder. The program is not extravagant; on the contrary, it is one of the least expensive offered for veterans.

Today we continue to be faced with a serious problem concerning our care and attitude toward our Vietnam veterans. The Veterans' Administration's traditional means of providing for their needs have not worked well enough. The veterans criticize the VA for ignoring their problems. The VA has indicated that the clients counseled through the storefront centers will be helped by other veterans programs. Yet, a recent study that the VA itself commissioned on the problems of Vietnam veterans concluded that the outreach approach "is the best method to * * * bring these men back into the mainstream of society." I think all the Members of this body appreciate the need to continue this counseling. The issue

now is for how long. I would like to suggest that a 3-year extension would best meet our needs.

Psychological studies show that symptoms of post traumatic stress may appear as long as 10 years after the time of combat. A 3-year extension to October 1984, would nearly cover those 10 years. Another factor to bear in mind is the fact that the last 2 years of the outreach program have been marked by starting delays and instability from a variety of sources. Fully a quarter of the centers have been open less than a year, and 40 percent of the program's funding for fiscal year 1981 was impounded by the OMB. Uncertainties like these have severely impaired the outreach program, limiting its ability to employ skilled professionals and discouraging veterans from seeking help. Even the VA's director of mental health and behavioral science has recommended a 3-year extension to provide the stability necessary for an effective and efficient program.

A 2-year extension will not solve problems like these. If this bill is passed in its present form, the outreach program will face the same difficulties that it did during its initial startup; putting the centers back into full operation alone will take several months. The outreach program has the potential to better its record substantially. To do that, however, requires the stability that a limited 2-year extension cannot provide. The House has already recognized the need for 3 more years of the outreach program in H.R. 3499, which passed 388 to 0 on June 2. I ask the Senate now to support this amendment and do the same. The proposed extension is not based on any belief that 2 years is the right amount of time to best help the veterans; it is a compromise solely for budgetary reasons. But the cost involved is low. We know how well the outreach program works, and we know that medical and procedural evidence supports a 3-year extension. On this issue, budgetary concerns pale beside the need to care properly for our veterans.

Mr. CRANSTON. Mr. President, has the amendment, as modified, been disposed of?

The PRESIDING OFFICER. Under the previous order, the vote on this amendment will be deferred until 12 noon tomorrow.

AMENDMENT NO. 58

(Purpose: To extend for two years for certain educationally disadvantaged and unskilled, unemployed, or unemployed Vietnam-era veterans the period of time in which GI bill benefits may be used for the pursuit of certain training)

Mr. CRANSTON. Mr. President, I call up amendment No. 58 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from California (Mr. CRANSTON), for himself, Mr. RANDOLPH, Mr. MATSUNAGA, Mr. DECONCINI, Mr. MITCHELL, Mr. LEVIN, Mr. SARBANES, Mr. CANNON, Mr. WILLIAMS, Mr. BENTSEN, Mr. LEAHY, Mr. SASSER, Mr. HART, Mr. BAUCUS, and Mr. DIXON proposes an amendment numbered 58.

Mr. CRANSTON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 4, between lines 16 and 17, insert the following new section:

SEC. 6. Section 1662(a) is amended by adding at the end the following new paragraphs:

"(3) Notwithstanding the expiration of the applicable delimiting period under paragraph (1) of this subsection, any eligible veteran who served on active duty at any time during the Vietnam era may, effective October 1, 1981, be provided educational assistance under this chapter until September 30, 1983, for the purpose of permitting such veterans to pursue—

"(A) a program of apprenticeship or other on-job training; or

"(B) an approved vocational objective or secondary education course if such veteran does not have a secondary school diploma (or an equivalency certificate).

"(4) A program of education consisting exclusively of flight training may not be approved in the case of any veteran pursuing a program of education under paragraph (3) of this subsection.".

Redesignate sections 6, 7, 8, and 9 as sections 7, 8, 9, and 10, respectively.

Mr. CRANSTON. Mr. President, this amendment, in which I am joined by Senators RANDOLPH, MATSUNAGA, DECONCINI, MITCHELL, LEVIN, SARBANES, CANNON, WILLIAMS, BENTSEN, LEAHY, SASSER, HART, BAUCUS, and DIXON, would incorporate in S. 921 as reported the provisions of section 3(2) of S. 458, the proposed "Vietnam-Era Veterans' Readjustment Amendments of 1981," which I introduced on February 6, 1981. The amendment would provide a limited extension of the so-called delimiting period for the use of GI bill benefits. This extension would be targeted only on those most in need of assistance—that is, those Vietnam-era veterans who, even though they woud have been out of the service for more than 10 years, do not have high school diplomas and those who could benefit from participation in apprenticeship or other on-job training programs. Our proposal would provide these veterans with up to an additional period of 2 years—between October 1, 1981, and September 30, 1983—in which to use their GI bill benefits for apprenticeship or OJT programs or, if they do not have high school diplomas or the equivalent, for pursuit of a secondary education or vocational objective program of education.

The amendment is identical to one I offered unsuccessfully during the Veterans' Affairs Committee consideration of S. 921 on May 13. It is also essentially the same proposal that the committee approved in the 96th Congress in connection with S. 870 in 1979 and that the Senate approved in January of last year, but to which the House would not agree.

TARGETED APPROACH

Under current law, veterans eligible for GI bill benefits generally have 10 years after their last discharge or release from active duty to utilize their benefits for pursuit of a variety of programs of education.

The Veterans' Affairs Committee has, on a number of occasions, considered and generally rejected a variety of proposals designed to extend generally this 10-year delimiting period.

However, Mr. President, that is not what this amendment proposes.

We propose a modest effort to provide special assistance to veterans who have had the most difficulty in readjusting to civilian life following their service during the Vietnam era. It is significantly different from other proposals for general, across-the-board delimiting date extensions in that it is a one-time extension tightly targeted on those who are most in need of assistance and available only for certain kinds of education and training. It is designed to provide a limited extension to those very veterans who have never effectively utilized GI bill benefits to which they earned entitlement.

TARGET POPULATION

According to VA data, there are 1.7 million educationally disadvantaged Vietnam-era veterans—that is, those who were discharged from active duty without having ever obtained a high school diploma or equivalency certificate. However, compared with an overall utilization rate of more than 65 percent for the current GI bill, only 35 percent—or 599,000—of these educationally disadvantaged veterans have used any of their GI bill entitlement and, according to the VA's summary report on the 1979 national survey of veterans based on Census Bureau data, about half of them still do not have a high school diploma. These data show a great need for a further effort to assist these educationally disadvantaged veterans in completing that basic educational program that a high school diploma represents in our society and economy.

Similarly, Mr. President, the needs of unskilled, unemployed Vietnam-era veterans can be seen in the high rates of unemployment that continue to plague this segment of the labor force. In May, the rate of unemployment for Vietnam-era veterans was almost 4 percent higher than it was a year ago. Among those Vietnam-era veterans who are 30 to 35 years of age—and who comprise 40 percent of the total Vietnam-era veteran labor force—the May rate of unemployment was 11.8 percent higher than it was in May of 1980 and 18.8 percent higher than it was for nonveterans in the same age bracket. These veterans, too, have generally passed their delimiting periods.

It cannot be stressed too strongly that our proposal is not for a general extension for all veterans as they reach their delimiting dates. Rather, it is to provide a one-shot opportunity for reaching certain very deserving veterans—a final effort to help those who are still having problems in making a successful and complete transition to productive civilian lives.

ADJUNCT TO READJUSTMENT COUNSELING PROGRAM

Mr. President, my colleagues should view this proposal as an important adjunct to the readjustment counseling—

vet center—program, the period of application for which would be extended by 2 years in S. 921 as reported by the committee and by an additional third year as a result of the Senate's approval of amendment No. 61 which the distinguished Senator from Rhode Island (Mr. CHAFEE) and I have proposed and which the Senate has just agreed to.

I think it is very significant that the study prepared for the VA by the Center for policy research entitled, "Legacies of Vietnam: Comparative Adjustment of Veterans and Their Peers," recently documented that Vietnam veterans have not achieved as high a level of education as their peers and hold jobs that are, on the average, at lower levels than those held by nonveterans. It further found that much of the occupational variation between Vietnam-era veterans and nonveterans is due to educational differences. Finally, the study concluded that, when background differences are controlled, Vietnam-era veterans—and, to the greatest extent, those who served in Vietnam—still show "some residual disadvantage in educational and occupational attainment" and that "military duty in Vietnam had a negative effect upon postmilitary achievement."

Mr. President, at the committee's April 30 hearing, much testimony was received in support of the concept of a targeted extension of the delimiting period.

Both the American Legion and the Veterans of Foreign Wars indicated in their testimony that they supported such extensions. The Disabled American Veterans responded to a question I submitted in writing that the approach I am proposing would "undoubtedly benefit" veterans utilizing the services at the vet centers. Max Cleland, the former VA Administrator, spoke eloquently about the need to couple the kind of support the vet centers are offering with the type of approach embodied in this proposal.

The letter from the American Legion that I previously submitted for the record in connection with my amendment No. 59, expresses the Legion's most recent statement of support for the pending amendment.

With respect to the need for this amendment, I want to underscore other very important testimony the committee received. First, Dr. Robert Laufer, a coprincipal investigator on the CPR study stated.

> Occupational/Educational programs and psychological problems have to some extent become interwined over time. Therefore, it would be advisable to relate services to both psychological and educational/occupational problems.

In supporting the need for a targeted delimiting period extension as an adjunct to the readjustment counseling program, Dr. Laufer said:

> The lack of timely psychological support for Vietnam veterans after their release from the service we believe contributed to a delayed use of available benefits. Therefore, we think it is reasonable to make special efforts for the educationally disadvantaged and unskilled or unemployed veterans. . . . This would be a valuable adjunct to the VA's readjustment counseling program.

Dr. Arthur Arnold, chief of psychiatry at the VA Medical Center in Bay Pines, Fla., stated:

> It is "essential" that treatment of posttraumatic stress be coupled with employment and education assistance. Otherwise treatment does not necessarily result in any improvement in practical living.

The American Psychiatric Association witness, Dr. Stephen Sonnenberg, responded that:

> The availability of employment, education, and training assistance is a "crucial component of a comprehensive human

COST AND BUDGET CONSIDERATIONS

Regarding cost, the Congressional Budget Office estimates that this proposal would have a first-year cost of $63 million and a second year cost of $67 million. The total 5-year cost would be $130 million.

Mr. President, although I am fully appreciative of the chairman's prior concerns regarding budget constraints on which his opposition to this proposal in committee rested, it is clear now that we are not faced by the constraints which, a few months ago, we believed we would encounter. The budget levels for veterans' programs—function 700—in House Concurrent Resolution 115, the first budget resolution for fiscal year 1982, are based squarely on the House Veterans' Affairs Committee's legislative assumptions, including expressly the enactment of a targeted delimiting date extension such as the one I am proposing costing $63 million in fiscal year 1982, and there is ample latitude for the Congress, within the limits of the budget resolution and the crosswalks for entitlement programs to the Veterans' Affairs Committees, to enact this very useful and reasonable provision.

CHANGE IN HOUSE VETERANS' AFFAIRS COMMITTEE POSITION

Unlike last year, when the House refused to agree to the Senate-passed targeted delimiting date extension in the context of the Veterans' Rehabilitation and Education Amendments of 1980, the House Veterans' Affairs Committee unanimously ordered reported on May 12 a similar extension provision in connection with H.R. 4233, and the full House approved the extension on June 2. So achievement of this opportunity is now within our grasp, and I intend to continue to work to insure that it does not slip through our fingers.

CONCLUSION

Mr. President, it is all well and good to approve special days and special weeks in recognition of the sacrifices that Vietnam-era veterans have made, to construct new memorials, and to celebrate welcome homes that have been too long delayed. But, I believe, it is more important to provide concrete, positive assistance to those veterans who are just now beginning to take steps to readjust fully from their wartime experiences. When an educationally disadvantaged or unemployed Vietnam veteran, after years of frustrations and personal agonies, seeks assistance at a vet center, it is critically important that he be provided the very kind of assistance that could be most valuable to him in improving his ability to succeed in the job market—and that is what this amendment would authorize. Recent studies show that employment remains the largest single readjustment problem for Vietnam veteran.

Mr. President, I urge my colleagues to join with me and support this effort to benefit those veterans of our Nation's longest conflict who continue to be very much in need of this kind of employment-related assistance.

Mr. SIMPSON. Mr. President, I do have a very short response. Before I make those brief remarks, I want to indicate once again my agreement with the Senator from South Dakota on the important role played by the storefront counseling centers in meeting the needs of Vietnam-era veterans. I think that role is very obvious. I also concur with my colleague from California that the budgetary needs of the VA mental health clinics in standard VA facilities must be adequately considered in the 1984 and thereafter.

I am pleased to accept this amendment presented by my good colleague from California which, as he has so well described, would provide a GI bill education delimiting date extension beyond the 10-year limit in current law, an extension which would be expressly targeted toward two groups of Vietnam-era veterans—those without a high school diploma and those who could possibly still benefit from participation in apprenticeship or other on-job training programs.

Mr. President, although I did support a very similar provision in the 96th Congress as a part of S. 870. I opposed this amendment when it was again proposed at the full committee's May 13 meeting on the pending legislation. My opposition at that time was not directed to the substance of this targeted extension—indeed, I continue to feel, just as I did in the last Congress, that this is an effective way to reach and provide assistance to those Vietnam-era veterans who are in need of employment or minimal educational assistance. No, my concern in May was that sufficient funds to cover the cost of this provision—CBO had estimated at fiscal year 1982 cost of $63 million—would not be available in the VA's budget as being within the limit the committee had projected in that budget as being part of the effort to meet the President's goal of curbing Federal spending. Since that time, however, the Congress had adopted the first concurrent budget resolution for fiscal year 1982, House Concurrent Resolution 115, and the budget level for veterans programs in that resolution does appear to assume sufficient funding for this extension.

Thus, Mr. President, I do accept this amendment and I thank my good friend from California for his patient and most persistent effort in obtaining this important eligibility extension.

The PRESIDING OFFICER. Who yields time?

● Mr. BENTSEN. Mr. President, I commend Senator CRANSTON for this amendment and for the opportunity to join him as a cosponsor. What we are proposing, very simply, is to provide Vietnam veterans who do not have a high school diploma with an additional 2 years in which to apply for GI benefits. Without this amendment, many thousands of educationally disadvantaged Vietnam veterans will soon lose their eligibility for benefits.

Mr. President, approximately 1.7 million Vietnam-era veterans or one-fifth of those discharged from active duty do not have a high school diploma. Only about 35 percent of these veterans have utilized their GI benefits. In the meantime, the rate of unemployment among Vietnam veterans continues to increase; in April 1981 it was 10.4 percent higher than last year, and is expected to increase further.

This amendment is targeted at those Vietnam veterans most in need of assistance. We are talking about young people who have been out of the military now for a decade and still lack a high school diploma or the skills necessary to obtain a decent job.

Mr. President, it is never too late to start. I do not think this country can afford, economically or morally, to write off these young people who have fought in defense of our freedoms. By providing a one-time extension to those veterans who have never utilized their GI benefits, we are offering them an extension of the opportunity to become more productive citizens. And we are helping ourselves by upgrading our labor force.

In urging approval of this amendment, Mr. President, I can only state that we have an obligation to those who have served our Nation in its time of need. We did not place any limits on the danger to which they were exposed, and I believe we can extend the limits on their ability to take advantage of benefits they have earned.●

(By request of Mr. CRANSTON, the following statement was ordered to be printed in the RECORD:)

● Mr. SASSER. Mr. President, I rise today in support of Senator CRANSTON'S amendment to S. 921, the Veterans' Programs Extension and Improvements Act of 1981. I am a cosponsor of this vital amendment which would provide for a limited extension of the so-called delimiting period for the use of GI bill benefits.

According to the Veterans' administration, educationally disadvantaged Vietnam-era veterans, or those without high school diplomas, account for nearly 20 percent of the Vietnam conflict veterans population. That is nearly 1.7 million Americans, Mr. President, who significantly underuse their GI bill benefits.

High unemployment rates continue to plague the Vietnam veterans. Half of these veterans are unemployed, and most have already passed their 10-year postservice delimiting period.

The amendment now before the Senate would extend, to September 30, 1983, the period of eligibility for GI bill benefits for apprenticeship training or a high school diploma or vocational objective. It is not an across-the-board extension. It is a well-thought, targeted extension to grant GI bill benefits to those veterans most in need.

I have stated time after time, Mr. President, that we cannot turn our backs on the Vietnam-era veteran. The amendment now under consideration provides concrete, positive assistance to those who are just now beginning to take steps to readjust fully from their wartime experience.

In testimony before the Senate Veterans' Affairs Committee, Dr. Arthur Arnold, chief of psychiatry at the Bay Pines, Fla., VA Medical Center, considered employment and education assistance "essential" in the treatment of posttraumatic stress syndrome. The lack of such assistance, he noted, would prevent "any improvement in practical living." In similar testimony, Dr. Stephen Sonnenberg of the American Psychiatric Association stated that education, employment, and training assistance was "a crucial component of a comprehensive human service effort."

Thus, Mr. President, there is a clear need for an extension of GI bill eligibility for certain Vietnam-era veterans. Legislation already passed by the House of Representatives contains a similar provision, evidence that the House believes in the need to extend the delimiting period.

In closing, passage of this amendment will help educationally disadvantaged Vietnam veterans make the contribution to society of which they are capable. I expect the Senate's positive vote on amendment No. 58.●

Mr. CRANSTON. Mr. President, I am prepared to yield back my time.

Mr. SIMPSON. I yield back the remainder of my time on that amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 58) was agreed to.

Mr. CRANSTON. I move to reconsider the vote by which the amendment was agreed to.

Mr. SIMPSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Who yields time?

UP AMENDMENT NO. 153

(Purpose: To make a technical correction)

Mr. SIMPSON. Mr. President, I send to the desk an unprinted amendment on behalf of myself and my colleague from California (Mr. CRANSTON) and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Wyoming (Mr. SIMPSON), for himself and Mr. CRANSTON, proposes an unprinted amendment numbered 153.

Mr. SIMPSON. I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 4, between lines 16 and 17, insert the following new subsection:

(c) Section 1712(b)(2) is amended by adding at the end the following new sentence: "For the purposes of this paragraph ony, an alcohol or drug dependence or abuse disability from which the eligible person has recovered shall not be considered to be the result of willful misconduct.".

Mr. SIMPSON. Mr. President, this is a technical amendment presented by myself and the Senator from California which will add a provision to section 5 of the bill in order to complete that section. Section 5 would provide a new basis for extending periods of eligibility for VA vocational and rehabilitation and GI bill programs when the individual eligible for either program is prevented from participation because of a drug or alcohol abuse disability.

This technical amendment now under consideration was inadvertently omitted from the committee bill at the markup. It would make corresponding and appropriate changes to chapter 35 of title 38, the chapter under which veterans' survivors are eligible for educational assistance from the VA.

Mr. President, I know of no objection to this amendment, and I urge the Senate to adopt it.

The PRESIDING OFFICER. Who yields time?

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

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

Mr. CRANSTON. Mr. President, I appreciate the Senator offering the technical amendment, which is a help.

Mr. SIMPSON. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 153) was agreed to.

The PRESIDING OFFICER. Who yields time?

Mr. SIMPSON. Mr. President, my agenda discloses that we have completed our activities on this measure until tomorrow. Unless other Senators are present who wish to offer amendments or to speak on the bill itself, and I see none, I state that the business we can complete today under the previous order is completed.

I note, however, that Senator PROXMIRE has an amendment that he will offer tomorrow, under the unanimous-consent agreement; that soon after the consideration of the Proxmire amendment, it would be in order to proceed to the previously ordered rollcall votes on the Cranston and Chafee amendments.

In the interest of expediting business tomorrow, I ask at this time for the yeas and nays on H.R. 3499, immediately following the rollcall votes on the amendments.

The PRESIDING OFFICER. Is there objection to it being in order to order the yeas and nays on the House bill at this time?

Mr. STEVENS. Mr. President, reserving the right to object, this is subject to the previous order that no rollcall votes will take place prior to 12 noon tomorrow?

The PRESIDING OFFICER. The Senator is correct.

Is there objection? The Chair hears none and it is so ordered.

Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. SIMPSON. I thank the Chair.

Mr. President, I believe we have completed what we can do today. I believe it has been a productive session for veterans' legislation.

Mr. STEVENS. Mr. President, what is the parliamentary situation for any amendments other than the amendment to be offered by Senator PROXMIRE?

The PRESIDING OFFICER. Any other amendment would have to be offered and debated today.

Mr. STEVENS. And if there are no further amendments offered today, the amendment of Senator PROXMIRE would be the only amendment tomorrow before going to third reading?

The PRESIDING OFFICER. The Senator is correct.

Mr. STEVENS. So that no consent is necessary for an order that there be no further amendments offered on tomorrow?

The PRESIDING OFFICER. The Senator is correct.

Mr. STEVENS. Mr. President, is there any further business on this bill today?

The PRESIDING OFFICER. There is nothing ordered at this point.

Mr. STEVENS. I inquire of the managers of the bill if they know of any other amendments to be offered today.

Mr. CRANSTON. I do not.

Mr. SIMPSON. I have nothing further

ROUTINE MORNING BUSINESS AND ORDER OF PROCEDURE

Mr. STEVENS. Mr. President, there being no further matter to come before the Senate on this bill, I ask unanimous consent now that there be a period for the transaction of routine morning business during which Senators may speak therein and that when the Senator from West Virginia is recognized, the distinguished minority leader may speak as long as he desires and following his statement the Senate stand in recess until 11 a.m. tomorrow morning.

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

ORDER HOLDING HOUSE JOINT RESOLUTION 288 AT THE DESK

Mr. STEVENS. Mr. President, I ask unanimous consent that when House Joint Resolution 288, a joint resolution to correct Public Law 97–12 due to an error in the enactment of H.R. 3512, is received by the Senate today it be held at the desk pending further disposition and that it be considered later today, notwithstanding my previous request, if the matter is cleared for action before recess today.

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

CORRECTING PUBLIC LAW 97–12 DUE TO AN ERROR IN THE ENROLLMENT OF H.R. 3512

Mr. STEVENS. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on House Joint Resolution 288, and I ask unanimous consent for its immediate consideration.

The PRESIDING OFFICER. The joint resolution will be stated by title.

The assistant legislative clerk read as follows:

A joint resolution (H.J. Res. 288) correcting Public Law 97–12 due to an error in the enrollment of H.R. 3512.

The PRESIDING OFFICER. Without objection, the joint resolution will be considered as having been read twice by its title.

Is there objection to the present consideration of the joint resolution?

There being no objection, the joint resolution (H.J. Res. 288) was considered, ordered to a third reading, read the third time, and passed.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. ROBERT C. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

REMOVAL OF INJUNCTION OF SECRECY—INTER-AMERICAN CONVENTION ON INTERNATIONAL COMMERCIAL ARBITRATION (TREATY DOCUMENT NO. 97–12)

Mr. STEVENS. Mr. President, as in executive session, I ask unanimous consent that the injunction of secrecy be removed from the Inter-American Convention on International Commercial Arbitration (Treaty Document No. 97–12), transmitted to the Senate today by the President of the United States; and ask that the treaty be considered as having been read the first time; that it be referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed; and that the President's message be printed in the RECORD.

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

The message of the President is as follows:

To the Senate of the United States:

I transmit herewith the Inter-American Convention on Commercial Arbitration, adopted by the First Specialized Conference on Private International Law of the Organization of American States at Panama City on January 30, 1975, for the purpose of receiving the advice and consent of the Senate to ratification. This Convention was signed on behalf of the United States on June 9, 1978.

The provisions of the Inter-American Convention are explained in the report of the Secretary of State which accompanies this letter. In broad terms, the Inter-American Convention is designed to facilitate the settlement of international commercial disputes by arbitration rather than by court proceeding where the parties so desire, by providing that courts will enforce in appropriate cases both the agreement to arbitrate and any resulting arbitral award.

This Convention is similar in purpose and effect to the New York Convention on the Recognition and Enforcement of Arbitral Awards, adopted at the United Nations on June 10, 1958, which the United States ratified in 1970. The Inter-American Convention has, however, been ratified by a greater number of Member States of the Organization of American States than the New York Convention. We are thus hopeful that ratification of the Inter-American Convention by the United States and by OAS Member States will make possible greater recognition and enforcement of arbitral agreements and arbitral awards among the countries of the Western Hemisphere.

New legislation will be required as part of Title 9 (Arbitration) of the United States Code in order to implement the provisions of the Convention within the United States. The United States' instrument of ratification will be executed only after the necessary legislation has been enacted.

There is substantial support for ratification among members of the legal and business community concerned with international trade and investment. You will find enclosed as an attachment to the report of the Secretary of State letters recommending ratification of this Convention by the United States which have been received from the American Arbitration Association, the American Bar Association, the United States Chamber of Commerce, the Association of American Chambers of Commerce in Latin America, the American Foreign Law Association, and a number of state and local bar associations. We are aware of no opposition to ratification.

I recommend that the Senate give its advice and consent to ratification of this Convention, subject to the three reservations which are described in the accompanying report of the Secretary of State.

RONALD REAGAN.

THE WHITE HOUSE, *June 15, 1981.*

SENATOR PELL HONORED

Mr. HARRY F. BYRD, JR. Mr. President, Princeton University during its 234th commencement on Tuesday of last week conferred on our colleague, the senior Senator from Rhode Island, Senator PELL, the honorary degree of doctor of laws.

This is a most deserved and fitting tribute to Senator PELL and it is of particular interest to the Senate because the honorary degree was bestowed specifically in recognition of Senator PELL's legislative contributions to our Nation.

Because it summarizes so well Senator PELL's service to the Nation here in the Senate, I want to share with my colleagues the citation accompanying the honorary degree presented by Princeton President William G. Bowen.

It reads:

For twenty years in the United States Senate, he has been converting into thoughtful legislation his vision of a stronger America and a more harmonious world. Through his care for the environment and his insistence on peaceful exploration of the oceans, he has been an effective advocate of our natural resources; through his leadership in the National Endowments for the Arts and Humanities, he has been an able champion of our human resources of mind and spirit; and through his support of programs of aid to students in higher education, including one that now appropriately carries his name, he has been a strong witness to the importance of quality education for leaders of the next generation. Guided always by a commitment to excellence, he has served his state and the Nation with dignity, generosity and honor.

I know that this recognition by Princeton University is particularly cherished by Senator PELL because he is an alumnus of Princeton, having earned his bachelor of arts degree there in 1940.

I congratulate Senator PELL on this very appropriate recognition of his work in the Senate.

APPOINTMENT OF D. FRENCH SLAUGHTER, JR.

Mr. HARRY F. BYRD, JR. Mr. President, the Secretary of the Army, John O. Marsh, Jr., has selected as his civilian aide for the State of Virginia the Honorable D. French Slaughter, Jr., of Culpeper.

Mr. Marsh, himself a distinguished Virginian and former Representative of its Seventh Congressional District in the House of Representatives, said that as civilian aide, Mr. Slaughter will interpret and relate Army policies to the citizens of Virginia and keep the Secretary advised as to Virginians' views on matters of interest to the Army.

Mr. Slaughter is an excellent choice for this position. I had the privilege of serving with him for a number of years in the General Assembly of Virginia, where he was an outstanding member of the house of delegates.

An attorney in Culpeper, Mr. Slaughter is a graduate of Virginia Military Institute and received his B.A. and LL.B. degrees from the University of Virginia. He served in the U.S. Army Infantry during World War II and was given the Distinguished Service Award for Culpeper County in 1960.

I congratulate Mr. Slaughter on his appointment, and Secretary Marsh on a wise choice.

ISRAEL'S STRIKE AGAINST IRAQ'S NUCLEAR PROGRAM

Mr. KENNEDY. Mr. President, I consider the State Department criticism of Israel's action against the Iraqi nuclear facility to be unwarranted and unwise.

The United States should not second-guess Israel's decision in this extremely difficult situation—a dilemma that potentially involved a fundamental threat to the very survival of our closest ally in the Middle East. This is an issue of utmost concern for the national security of Israel, and an issue for the Israelis to determine for themselves.

There surely was reason for grave concern. Less than a year ago, when Iran sought to destroy the same facility in the war with Iraq, the official press organ of the ruling party of Iraq replied that:

The Iranian people should not fear the Iraqi nuclear reactor, which is not intended to be used against Iran, but against the Zionist enemy.

Instead of assailing Israel, we should criticize the failure to forestall European suppliers from providing sensitive nuclear technology to Iraq.

We should insist that the effort to halt nuclear proliferation must become a major priority for our Nation and the world.

I call upon the Reagan administration to resume the delivery of F–16 aircraft which are essential to the defense of Israel, and I call upon the administration to strongly oppose any effort at the United Nations or elsewhere to condemn, to isolate or to exclude Israel.

We must never forget that the security of Israel is essential to the security of the United States.

ENVIRONMENTAL STUDY CONFERENCE, 97TH CONGRESS

Mr. CHAFEE. Mr. President, it is with great pleasure that I take this opportunity to announce the new Senate officers and executive committee for the Environmental Study Conference for the 97th Congress.

The distinguished Senator from Vermont (Mr. LEAHY) was elected Senate chairman by unanimous vote of the executive committee on May 13. The distinguished Senator from Washington (Mr. GORTON) was elected Senate vice chairman by unanimous vote.

They are committed to the conference's goal of informed debate on environmental, energy, and natural resources legislation. They bring leadership and enthusiasm to the conference, and they will serve us well.

Also serving on the conference's executive committee are the Senator from Montana (Mr. BAUCUS), the Senator from Arizona (Mr. DECONCINI), the Senator from Colorado (Mr. HART), the Senator from Pennsylvania (Mr. HEINZ), the Senator from Maryland (Mr. MATHIAS), and the Senator from Wyoming (Mr. WALLOP). I also will remain on the committee.

As I step down as Senate ESC chairman in the 96th Congress, I would like to thank my colleagues for their support and confidence. The conference plays a critical role in Congress, and I am proud to have helped lead the group the last 2 years.

SEVENTY-FIFTH ANNIVERSARY OF FEDERAL MEAT INSPECTION ACT

Mr. HELMS. Mr. President, this past Wednesday, June 10, marked the 75th anniversary of the Federal Meat Inspection Act, and a special commemorative ceremony was conducted at the U.S. Department of Agriculture.

Today's consumer takes meat inspection for granted. We automatically assume that our meat and poultry products are clean and wholesome. In 1906, however, the concept of inspecting every animal for disease was a new and revolutionary idea.

Then, as now, the catchwords of meat inspection were safe, wholesome, and accurately labeled. Seventy-five years ago each inspector made a personal judgment that a product was accurately labeled and free from contamination or disease. While USDA's professional inspectors still are responsible for making this determination, today they do so on the basis of objective data, uniform standards, and solid training and experience.

And they are working with an industry of professionals. Industry-Government cooperation should be the standard in meat inspection today. In fact, industry expertise has helped to strengthen meat inspection.

Mr. President, this is particularly true of the quality control approach to processing inspection. After World War II the food industry developed quality control programs to reduce costly production mistakes and to assure finished products of consistent quality. Through these systems the company assures uniform quality by checking products at different stages in processing, then making adjustments if necessary. For example, the condition of ingredients is checked before they are added. Cooking times and temperatures are doubled-checked to make sure they are safe and consistent with the company's formula for the product. Finished products are weighed to make sure they are uniform.

USDA has applied this industry concept to processing inspection. In 1980 a regulation went into effect allowing plants to participate in this new total voluntary quality control program. Twenty-seven processing plants have now been approved for quality control inspection. The USDA inspector uses the objective data supplied by the company's approved quality control system to supplement onsite inspection. This program is entirely voluntary. It provides the same level of consumer protection as traditional processing inspection, but more efficiency and more cost effectively

Quality control inspection is but one example of the sort of reform which Government can make to assure consumers of safety while minimizing unnecessary burdens on industry. I commend the Department of Agriculture on the 75th anniversary of the Federal Meat Inspection Act, and encourage them to continue involving industry in reforming inspection.

VICE ADM. JOSEPH J. McCLELLAND, U.S. COAST GUARD

Mr. JACKSON. Mr. President, the State of Washington and the city of Seattle recently lost one of their most respected and best loved citizens with the passing of Vice Adm. Joe McClelland, U.S. Coast Guard. He had just retired from active duty after a lifetime of dedicated service to his country and his fel-

lowman. Tragically, he did not have long to enjoy the leisure and calm he so richly deserved. He would have been 65 next month.

The legacy Joe McClelland left behind is one to which many Americans aspire. He made his own way, created his own opportunities, rose to the top of his chosen profession and earned the devoted respect of all who knew him. Born in 1916 in Seattle, he graduated from high school before his 16th birthday. But the times were difficult in 1932; his pioneer parents were unable to provide for further education, and he was forced to drop out of the University of Washington. He soon learned that entrance to the Coast Guard Academy at New London, Conn., was gained by competitive examination and based solely on individual merit. He studied for that exam, and a year later ranked No. 1 nationally.

Of course, he went to the Academy, but not only did he study, he swept the place by storm. He stood first in his class for the entire 4-year curriculum, was named cadet battalion commander in his senior year, was a 4-year letterman in three major sports and was slated to become the first Coast Guard Rhodes scholar. But in 1940, with war impending he went to sea instead of Oxford. During his career he commanded five Coast Guard cutters and a Navy destroyer escort. He has operated in the Arctic and the Antarctic. He has served at Coast Guard Headquarters here in Washington, D.C., and was prominently mentioned as a candidate for the highest post in the Coast Guard, its Commandant. Instead, however, he returned to the place where his career began, the Coast Guard Academy, as its superintendent.

Admiral McClelland was the first active duty officer selected for the Academy Athletic Hall of Fame, and upon his retirement, the J. J. McClelland Award for Excellence was established to perpetuate the love, affection, and influence he lavished upon the Corps of Cadets. He received the Distinguished Eagle Award from the Boy Scouts of America, the highest honor the Boy Scouts can bestow, and fittingly, it was while on an expedition of Sea Scouts, which he headed, that he first learned of the Coast Guard Academy and its program.

There are some people who take more than they give to our country. There are others who strive their utmost to use every opportunity which comes their way for the maximum good of themselves and their fellows, bringing into play every talent they possess, developing new unsuspected ones on the way, and by all measures leaving the world a far better place because they have lived. Such a man was Joe McClelland, whose lot was to become a vice admiral in our national service for safety at sea and whose spirit was that of America's finest.

Joe McClelland would have succeeded at whatever profession he chose. He might have achieved distinction in political life; he might have become a scientist, or an engineer, utilizing the mental gifts with which he was so abundantly endowed; he might have been an admired clergyman, for he was always unswerving in following what he believed to be true, right, and proper. But it does not matter what different courses he might have taken, or in what direction and detail his life might have developed. What matters is that he was here, and by his life he set an example for his fellowmen.

The United States, and the State of Washington, and all of us in this land, are poorer with the passing of Joe McClelland but we are richer that he was here among us.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

PRESIDENTIAL APPROVAL

A message from the President of the United States reported that on June 12, 1981, he had approved and signed the following joint resolution:

S.J. Res. 50. Joint resolution designating July 17, 1981, as "National P.O.W.-M.I.A. Recognition Day."

MESSAGES FROM THE HOUSE

At 12:05 p.m., a message from the House of Representatives, delivered by Mr. Gregory, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate :

H.R. 3023. An act to authorize appropriations to the Department of Energy for fiscal year 1982 for conservation, exploration, development, production, sale, and use of the naval petroleum reserves and naval oil shale reserves;

H.R. 3413. An act to authorize appropriations for the Department of Energy for national security programs for fiscal year 1982, and for other purposes; and

H.R. 3462. An act to authorize appropriations to carry out the activities of the Department of Justice for fiscal year 1982, and for other purposes.

At 2:30 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House has passed the following joint resolution, in which it requests the concurrence of the Senate:

H.J. Res. 288. Joint resolution to correct Public Law 97-12 due to an error in the enrollment of H.R. 3512.

HOUSE BILLS REFERRED

The following bills were read the first and second times by unanimous consent, and referred as indicated:

H.R. 3023. An act to authorize appropriations to the Department of Energy for fiscal year 1982 for conservation, exploration, development, production, sale, and use of the naval petroleum reserves and naval oil shale reserves; to the Committee on Armed Services.

H.R. 3413. An act to authorize appropriations for the Department of Energy for national security programs for fiscal year 1982, and for other purposes; and to the Committee on Armed Services.

HOUSE BILL PLACED ON CALENDAR

The following bill was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 3462. An act to authorize appropriations to carry out the activities of the Department of Justice for fiscal year 1982, and for other purposes.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. DOLE, from the Committee on Finance, with amendments:

S. Res. 87. A resolution expressing the sense of the Senate that the Congress not enact legislation to tax social security benefits, and for other purposes (Rept. No. 97-135).

By Mr. DOMENICI, from the Committee on the Budget, without amendment:

S. Res. 145. A resolution waiving sections 303(a)(4) and section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 884.

By Mr. ROTH, from the Committee on Governmental Affairs, with an amendment in the nature of a substitute:

S. 807. A bill to reform the laws relating to the provision of federal assistance in order to simplify and coordinate the management of Federal assistance programs and requirements, provide assistance recipients with greater flexibility, and minimize the administrative burden and adverse economic impact of such programs and requirements (with additional views) (Rept. No. 97-136).

By Mr. ROTH, from the Committee on Governmental Affairs, without amendment:

S. 266. A bill to establish a Federal Interagency Medical Resources Committee to insure the most efficient use of Federal direct health care resources (Rept. No. 97-137); pursuant to the order of June 4, 1981, referred to the Committee on Veterans' Affairs for not to exceed 45 days.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. PACKWOOD, from the Committee on Commerce, Science, and Transportation:

Reese H. Taylor, Jr., of Nevada, to be a member of the Interstate Commerce Commission for the term of 7 years from January 1, 1977.

(The above nomination, reported from the Committee on Commerce, Science, and Transportation, with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. ROTH, from the Committee on Governmental Affairs:

Donald E. Sowle, of Virginia, to be Administrator for Federal Procurement Policy.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. DOLE (for himself, Mr. DANFORTH, Mr. JEPSEN, and Mrs. KASSEBAUM):

S. 1365. A bill to amend the Bankruptcy Act regarding farm produce storage facilities, and for other purposes; to the Committee on the Judiciary.

By Mr. WEICKER:

S. 1366. A bill to provide for fair commercial credit reporting; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. TOWER:

S. 1367. A bill to amend Title 10, United States Code, to make certain information available to the Armed Forces for military recruiting and related national security purposes; to the Committee on Armed Services.

By Mr. HUMPHREY (for himself, Mr. HELMS, and Mr. RUDMAN):

S. 1368. A bill to amend the Internal Revenue Code of 1954 to provide that services performed for camps by certain students who generally are not eligible to receive unemployment compensation will not be subject to the Federal unemployment tax; to the Committee on Finance.

By Mr. HUDDLESTON:

S. 1369. A bill to amend the Internal Revenue Code of 1954 to eliminate the withholding of certain gambling winnings; to the Committee on Finance.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DOLE (for himself, Mr. DANFORTH, Mr. JEPSEN, and Mrs. KASSEBAUM):

S. 1365. A bill to amend the Bankruptcy Act regarding farm produce storage facilities, and for other purposes; to the Committee on the Judiciary.

GRAIN ELEVATOR BANKRUPTCY LEGISLATION

● Mr. DOLE. Mr. President, today the Senator from Kansas introduces on his behalf and that of Senators DANFORTH, JEPSEN, and KASSEBAUM, who cosponsored S. 839, a revised bill providing for amendments to the Bankruptcy Reform Act of 1978, as well as amendments to title VII, chapter 10 of the United States Code, which deals with agricultural warehouse licensing and operations.

The bill the Senator from Kansas introduces today constitutes a substantial revision of the provision of S. 839 a bill introduced by himself and Senator DANFORTH on March 31, 1981. S. 839 is a measure designed to amend certain sections of the Bankruptcy Code and Warehouse Act for the purpose of alleviating hardships created for farm producers when a commodity warehouse in which their crops are stored files a petition in bankruptcy.

After the introduction of S. 839 on March 31, 1981, the Senator from Kansas scheduled hearings before the Committee on the Judiciary, Subcommittee on the Courts, for the purpose of taking testimony on the provisions of S. 839. Those hearings were held on April 6, 1981 and May 18, 1981. They were very instructive and gave us a clear picture of the problems posed by elevator insolvencies. The witnesses, which included representatives of farm groups, State regulatory agencies, the U.S. Department of Agriculture, banking groups, and the feed and grain dealers association, offered a number of constructive criticisms of S. 839 and suggestions for improving the subcommittee's effort in this area. Their suggestions have been incorporated into this bill, which will be used for markup purposes in the Subcommittee on the Courts.

I. PROBLEM AREAS OF S. 839

Mr. President, the Senator from Kansas would like to take this opportunity to summarize the concerns raised about S. 839, and detail the manner in which these concerns are dealt with in the substitute bill.

First, it was felt by the witnesses that the original bill, which established a two-tier distribution system for the abandonment of grain assets, unfairly discriminated between producers holding warehouse receipts as evidence of ownership and other nonproducer parties who hold warehouse receipts as collateral or on assignment. This concern arose from vagueness in the language of S. 839 concerning those parties who would be entitled to share in the first tier of distribution, which is designed to protect those who have stored grain in a bankrupt elevator, without transferring title.

Second, officials of State regulatory agencies noted that distribution in kind of grain, an option reserved to the court in S. 839, is unworkable due to the administrative problems created and the probability of shortages of grain in bankruptcy situations.

Third, it was noted that a problem of major importance, the conflict between bankruptcy courts and State agencies with responsibility for liquidating insolvent elevators, was not addressed.

Fourth, comments were made indicating that the time limits set in the original bill were perhaps too short to allow adequate performance of the duties by the court required under the bill.

Fifth, questions were raised by officials of the Department of Agriculture as to the payment of trustee expenses and fees, the original bill providing that no expenses except storage charges and out-elevator charges could be deducted from the produce turned over to the bankruptcy court. The Department of Agriculture feels that this would significantly discourage trustee participation in these cases since the grain or crop assets are the principal, unencumbered asset available for the satisfaction of those expenses in an elevator bankruptcy.

Finally, representatives of the banking groups who testified expressed concern that the statutory lien provision, which protects farmers who have sold grain to an elevator but have not received payment, would create too much uncertainty in the financial status of elevators seeking financing and thus inhibit the credit available to operators.

A number of other matters were raised in testimony of a technical nature, but the items which the Senator from Kansas has mentioned were the principal criticisms of the witnesses and other interested parties.

II. PROVISIONS OF NEW BILL

The substitute bill the Senator from Kansas introduces today addresses these concerns in the following ways: First, the language in the bill has been clarified to make it clear that all holders of warehouse receipts or scale tickets would share in the first level of distribution on a pro rata basis. This insures that all warehouse receipts are treated equally, whether held by a producer, a bank, or a third party to whom the receipts had been assigned as gift, collateral, or in satisfaction of a debt or judgment.

Second, the trustee will be required, under the bill the Senator from Kansas introduces today, to liquidate all grain assets of an insolvent elevator and place the proceeds on deposit in an interest-bearing account. Then, distribution of the proceeds will take place on a pro rata basis, after deduction of storage charges and out-elevator charges.

Third, the Senator from Kansas has sought to deal with the conflict between bankruptcy courts and State regulatory agencies by incorporating a provision in the new bill which would require the bankruptcy court to appoint the director of any such State agency which has responsibility for supervising the liquidation of insolvent elevators as interim trustee to perform this function in the bankruptcy proceedings. There is a similar provision for federally licensed elevators, requiring the appointment of the administrater of the Department of Agriculture's agricultural marketing service. In either case, the agency would perform these services free of charge to the estate.

Fourth, the time limits in the original bill have been expanded by approximately one-half, such as the total elapsed time between filing of the petition and distribution of grain assets in all but the most complex cases will be 110 days, rather than 80 days as in the original bill. This period, slightly less than 4 months, is a reasonable period in which to require distribution, particularly when compared to delays in some of the bankruptcy cases the Subcommittee on Courts heard testimony about, lasting upward of 2 years and more.

Fifth, there is a provision in the new bill which would allow the payment of trustee expenses and fees of the liquidation of crop assets only out of: First, storage and out-elevator charges collected by the trustee; second, accrued interest on proceeds; and third, the proceeds to be distributed. These payment provisions are subject to the requirements of S. 326 of title 11, which would prohibit the deduction of more than 1 percent of the proceeds in any case where the value of the commodities exceeds $50,000, which is usually the situation. Thus, the degree to which the share owing to the owners of stored grain will be diminished for trustee expenses is minimized; and, in a large proportion of cases, there will be no such fees as a Federal or State agency will be performing these functions without cost to the estate.

Finally, the statutory lien has been limited to a maximum period of 60 days. The real purpose of the lien, as the Senator from Kansas sees it, is to protect

the farmer who receives an insufficient funds check due to intervening onsolvency. For farmers who are utilizing deferred payment contracts, there is adequate protection available to them through the Internal Revenue Code, section 453(f)(3), which provides that a producer may report crop sales income as installment income if his method of accounting does not require book entry in the year of sale—similar to income averaging—even though he may obtain a third party guarantee of the obligation. Thus, a farmer can obtain a third party security on the obligation owed by the warehouseman without incurring income liability. If bankruptcy occurs, the guarantor of the obligation to the farmer takes in bankruptcy in his—the farmer's—place as a secured creditor of the warehouseman after satisfying the obligation owed to the farmer.

There are many more changes in the new bill over S. 839 which clarify ambiguities in the original bill and distribute costs and benefits more equitably. But these are the major differences; and with these changes, it is the Senator from Kansas' anticipation that the revised bill will be acceptable, on balance, to all interested parties.

Mr. President, the Senator from Kansas would ask unanimous consent that the text of the bill he introduces today be printed in the RECORD following his remarks, together with a sectional analysis prepared by my staff.

There being no objection, the bill and analysis were ordered to be printed in the RECORD, as follows:

S. 1365

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 101 of title 11, United States Code, is amended—

(1) by adding after paragraph (18), the following:

"(19) 'farm produce' means the product of a person engaged in a farming operation, including crops, poultry, livestock, or dairy products in an unmanufactured state;

"(20) 'farm produce storage facility' means any business enterprise operated by any person for the purpose of (A) providing facilities for the temporary storage of farm produce; or (B) purchasing farm produce from persons engaged in farming operations in bulk quantities;";

(2) by renumbering paragraphs (19) through (40) as paragraphs (21) through (42), respectively; and

(3) by adding after paragraph (42) as renumbered by this section, the following new paragraph:

"(43) 'storage facility receipt' means any document of the type routinely issued by a debtor operating a farm produce storage facility for the purpose of establishing a record of ownership of a quantity of farm produce which is stored with such facility by any person upon a contract of bailment. Such term shall include a warehouse receipt or a scale ticket, provided identification of the owner of the produce represented thereby is clearly noted upon the face of such document.".

SEC. 2. Section 109 of title 11, United States Code, is amended in subsection (e) by inserting after "commodity broker," the following: "or a person engaged in the business of operating a farm produce storage facility (with respect to the debts of that business),".

SEC. 3. Section 502(i) of title 11, United States Code, is amended by striking out "507(a)(6)" and inserting in lieu thereof "507(a)(7)".

SEC. 4. Section 503(b)(1)(B) of title 11, United States Code, is amended by striking out "507(a)(6)" and inserting in lieu thereof "507(a)(7)".

SEC. 5. Section 507(a) is amended—

(1) by adding after paragraph (4) the following:

"(5) Fifth, allowed unsecured claims of farmers or other persons engaged in farming operations arising from the sale or conversion of farm produce to or by a debtor engaged in the business of operating a farm produce storage facility.";

(2) by striking out "(5) Fifth" and inserting in lieu thereof "(6) Sixth"; and

(3) by striking out "(6) Sixth" and inserting in lieu thereof "(7) Seventh".

SEC. 6. Title 11, United States Code, is amended by adding after section 554 the following:

"§ 555. Expedited abandonment of farm produce

"(a) Notwithstanding any other provision of this title, in a case filed under such title by a person engaged in the business of operating a farm produce storage facility, the court shall follow the procedures herein stated, unless otherwise indicated.

"(1) Within ten days after the filing of the petition, the court shall direct the trustee who has been appointed to supervise liquidation and management of the estate to conduct an examination of the debtor, and of the debtor's books, records, and accounts to determine the identity of persons—

"(A) who either have or may claim to have an ownership interest in farm produce delivered over to the trustee by the debtor by virtue of having—

"(i) retained title to farm product stored with the debtor upon a contract of bailment;

"(ii) purchased produce from the debtor which was then, in turn, bailed to the debtor for storage purposes;

"(iii) taken assignment of, or title by judgment to, the debtor's ownership interests in produce owned by the debtor; or

"(iv) taken assignment of the ownership interest of any such parties; and

"(B) who claim status as secured creditors of the debtor arising out of a security interest in any farm produce which is delivered over to the trustee by the debtor, which farm produce is property of the debtor's estate.

"(2) Within thirty days after the filing of the petition, the trustee shall conduct an examination of the debtor and his records and, if necessary, shall conduct an audit of the physical assets of the farm produce storage facility operated by the debtor for the purpose of determining the quantity, quality, and type of farm produce, if any, which has been delivered over to the trustee by the debtor. The trustee shall then sell such farm produce for its then current fair market value, and place the proceeds of such sale on deposit in an interest bearing account of a type which will obtain the maximum return on such proceeds as may be practical.

"(3)(A) Within sixty days after the filing of the petition, the court shall, after notice to interested parties (including those persons identified by the trustee as having or claiming a direct ownership interest in farm produce delivered to the trustee, or a secured interest therein) conduct a hearing, at which all requests for abandonment of the proceeds of farm produce held by the trustee brought pursuant to the provisions of section 554 of this title shall be heard and determined. No request for abandonment of farm produce proceeds shall be considered which is not filed by a claimant with the court at least five days before the commencement of the hearing: *Provided,* That the court may grant leave for the filing of a request after such time period upon a finding by the court of excusable neglect justifying delay. No such request may be considered by the court after the distribution of farm produce proceeds by the trustee which is provided for herein commences, except in cases where notice or actual knowledge of the pendency of the proceedings was not provided to a claimant due to fraud, negligence of the trustee, or other cause beyond the control of the claimant. The court shall order abandonment of the proceeds of farm produce held by the trustee, in the manner specified below, with respect to each claim of an affected creditor or other party in interest who establishes, to the court's satisfaction, that—

"(i) a quantity of farm produce sold by the trustee was not part of the debtor's estate because title to such produce was vested in the claimant; or

"(ii) a quantity of farm produce sold by the trustee which was determined to be part of the debtor's estate is (at the time of the hearing) of inconsequential value to the estate in consideration of a valid security interest existing therein in favor of the claimant.

"(B) Any claimant's production to the court of a valid storage facility receipt held by that claimant as evidence of ownership of a quantity of farm produce sold by the trustee shall be sufficient to establish a right to possession in such claimant of a share of the proceeds equal in value to the quantity, quality, and type of farm produce specified in such document. In any case where a claimant has placed the original of such document on deposit with any party as collateral for a loan, without assigning ownership interests in the farm produce over to such party, an affidavit from such party verifying ownership of such receipt by the claimant shall be sufficient to establish a prima facie claim of right to possession of proceeds in such claimant.

"(4) Within ninety days after the filing of the petition, the court shall direct the trustee to effect abandonment of the farm produce proceeds found to be subject thereto in accordance with subsection (a)(3) of this section, in the following manner:

"(A) With respect to claimants who have established to the court's satisfaction that the trustee holds farm produce which does not properly constitute property of the debtor's estate, and as to which ownership lies in the claimant, the trustee shall apportion to each claimant out of the whole sum of farm produce proceeds held by the trustee that claimant's pro rata share (in comparison to the shares of like claimants) of the proceeds held by the trustee which are equivalent in value to the quantity, quality, and type of commodities which were originally delivered by such claimant, or the claimant's predecessor in title, to the debtor upon the contract of bailment. The value of such produce shall be calculated by reference to the price obtained for it at the time of sale. Distribution shall take place with respect to each of such claimants only after the deduction from such claimant's share of the proceeds of any commercially reasonable storage charge then due the debtor's estate from the particular claimant, plus any commercially reasonable charge for the expense of removing the particular claimant's farm produce from the storage facility.

"(B) With respect to claimants who have established to the court's satisfaction that the estate's interest in quantities of farm produce which (i) are part of the debtor's estate, and (ii) are subject to a security interest existing in favor of such claimants, is of inconsequential value to the estate by virtue of such security interest, the trustee shall next distribute from the remaining proceeds of the liquidation of farm produce

required by subsection (a)(2) of this section, a share of such proceeds to each of such claimants according to the value of their secured interests in the farm produce sold, as the same may be entitled to under law. Distribution shall take place with respect to each of such claimants only after the deduction from such claimant's share of any commercially reasonable charge for the expense of removing the farm produce represented by the proceeds distributed to that claimant.

"(C) Distribution of farm produce proceeds which are ordered abandoned by the court, shall commence within twenty days of the entry of the orders of abandonment.

"(D) Expenses of the court or trustee incurred pursuant to the liquidation and abandonment of farm produce and proceeds thereof shall be paid, in conformity to the provisions of section 326 of this title, in the following manner:

"(i) first, out of the funds retained by the trustee for storage charges and produce delivery charges, to the extent feasible;

"(ii) second, out of accrued interest on farm produce proceeds, to the extent feasible; and

"(iii) third, out of the whole quantity of farm produce proceeds held by the trustee prior to distribution of such proceeds.

No other expenses of the court or trustees shall be deducted from farm produce proceeds.

"(E) (i) If, after satisfaction of the claims of those persons entitled to abandonment of the proceeds of farm produce held by the trustee, there be any remaining proceeds of farm produce held by the trustee, such unclaimed proceeds shall be retained by the court in an interest bearing account, for the benefit of any persons who may present an untimely claim of right to abandonment in accordance with subsection (a)(3)(A) of this section, for a period of one year from the date of the entry of the orders of abandonment. At the expiration of such period, such funds shall be distributed in accordance with section 726 of this title.

"(ii) The trustee may conduct such examination of the debtor or other persons as may be necessary for the purpose of determining the identity of any persons to whom have been assigned the rights of ownership to farm produce which is not part of the debtor's estate as reflected by the books and records of such debtor and for which no claim has been made; and shall provide notice of the pendency of the action to any person who is identified.

"(b) This section shall be applied by the court solely for the purpose of effectuating abandonment of farm produce which is not property of the estate, or is of inconsequential value to the estate, and shall not be construed to limit the right of any party to seek abandonment of any other property delivered over to the trustee in accordance with section 554 of this title.

"(c) Distribution of farm produce ordered abandoned by the court pursuant to this section shall not be delayed due to the pendency of any appeal from the orders of abandonment, except that a stay of orders entered pursuant to this section may be entered by the bankruptcy court under the following circumstances:

"(1) the party filing the request for stay, except for the United States, shall post a bond or other security in an amount equal to the amount of farm produce proceeds, distribution of which is affected by the requested stay; and

"(2) the parties entitled to distribution of farm produce proceeds under the terms of the abandonment orders affected by the stay shall, if successful in defending the appeal, be awarded their pro rata share of the proceeds of the liquidation; plus a sum equal to the difference in value between the awarded share and the highest intermediate value (between the date of the entry of the order of stay and the date of final distribution) of the produce sold which was owned by, or secured to, such parties; plus interest on the amount of the original award at the prevailing rate allowed by law upon judgments with interest to accrue from the date of the entry of the order to stay. The interest payment, and differential payment, provided for herein shall both be satisfied out of the bond posted by the party requesting the stay, to the extent feasible. In the case of an appeal by the United States, it shall be satisfied out of accrued interest on the proceeds on deposit, to the extent feasible. The party or parties requesting such stay and prosecuting such appeal shall, if successful on appeal, be entitled to interest at the prevailing rate allowed by law upon judgments upon any sum which the court may ultimately award, such interest to be calculated from the date of the entry of the original order of abandonment appealed from.

"(d) Any order of stay entered by the bankruptcy court pursuant to subsection (c) of this section shall be immediately appealable as of right by any aggrieved party, to the district court for the division and district wherein the bankruptcy court exercises its jurisdiction; or, to a panel of bankruptcy judges as provided by section 405(c)(1) of title 28, United States Code, if the same has been ordered by the circuit council pursuant to such section. Notice of appeal shall be filed with the bankruptcy court within five days after the entry of an order staying distribution, in the absence of which no appeal shall be allowed, except upon a showing of excusable neglect to the district court or to the bankruptcy panels. The order of stay shall be vacated within twenty days after perfection of the appeal unless the party filing the request for stay demonstrates to the court's satisfaction that it is likely to prevail upon the merits of the appeal.

"(e) In any action brought pursuant to chapter 11 of this title, the provisions of this section shall govern the abandonment of farm produce held by the trustee or debtor in possession of a farm produce storage facility business for which reorganization is sought, which farm produce is not property of the debtor's estate but is held by the debtor upon a contract of bailment only. The abandonment of any quantity of such produce shall take place only upon the request of the owner thereof, and shall be done regardless of its effect upon any existing or proposed plan of reorganization.

"(f) The time limits set forth in this section may be extended by the court for good cause shown: however, the distribution of farm produce ordered abandoned by the court shall not be deferred beyond one hundred and forty days after the date of the filing of the petition, unless the court finds that—

"(1) the interests of justice so require in light of the complexity of the case; and

"(2) the interests of those claimants entitled to distribution upon their claims will not be materially injured by such additional delay.

"(g) In actions filed under this title in any State wherein an agency exists which operates under the supervision of that State's government, and which is charged with the responsibility for presiding over the liquidation of an insolvent farm produce storage facility licensed under the laws of such State, the bankruptcy court shall appoint the director of such State agency to act as interim trustee under the provisions of section 701 or section 1104 of this title, and such party shall perform the duties required of the trustee under this section until the earlier of the completion of the distribution of the proceeds of farm produce required by this section, or the election and appointment of a permanent trustee under other provisions of this title: *Provided*, That such interim trustee shall not be relieved of its responsibilities before the orders of abandonment required to be entered under this section are made. Said interim trustee shall perform all duties required of the trustee under this section, as well as under other provisions of this title. Such interim trustee shall not recover any compensation out of the assets of the estate for the services performed under this section.

"(h) In actions filed under this title by a debtor in the business of operating a farm produce storage facility licensed under the United States Warehouse Act, the bankruptcy court shall appoint the Administrator of the Agricultural Marketing Service of the United States Department of Agriculture to act as interim trustee under the provisions of section 701 or section 1104 of this title, and such party shall perform the duties required of the trustee under this section until the earlier of the completion of the distribution of the proceeds of farm produce required by this section, or the election and appointment of a permanent trustee under other provisions of this title: *Provided*, That such interim trustee shall not be relieved of its responsibilities before the orders of abandonment required to be entered under this title are made. Said interim trustee shall perform all duties required of the trustee under this section, as well as under other provisions of this title. Such interim trustee shall not recover any compensation out of the assets of the estate for the services performed under this section.".

SEC. 7. (a) Chapter 10 of title 7, section 255, of the United States Code, is amended by inserting a comma after the word "storage", and by inserting the following language between the words "storage" and "in" thereof: "marketing, handling, shipping, or other disposition"; such that the section, as amended shall read as follows:

"Any person who deposits agricultural products for storage, marketing, handling, shipping, or other disposition in a warehouse licensed under this chapter shall be deemed to have deposited the same subject to the terms of this chapter and the rules and regulations prescribed thereunder."

"(b) Chapter 10 of title 7, United States Code, is amended by adding after section 262 thereof the following:

"262(a). Statutory lien, pending payment for agricultural products sold to a warehouseman.

"Any farmer (as defined in Title 11, U.S.C. § 101) who, having delivered agricultural products to a warehouseman licensed under this chapter upon a contract for sale, or having sold to such warehouseman products previously delivered upon a contract for storage, and who has not received the consideration agreed upon for the sale of said products from the warehouseman, shall have a lien against like products in the licensed facility in excess of that required to satisfy receipted or other storage obligations; against like products in transit for which payment has not been made to the warehouseman; and against unencumbered products held in other locations for the account of the warehouseman, or the proceeds from any of the foregoing, to the extent of the consideration agreed upon for the purchase of the product sold. Such lien shall attach at the time of the formation of the contract for sale and shall continue until the obligations of the warehouseman to the seller of the products are satisfied, or the expiration of sixty days, whichever is earlier.

SEC. 8. Section 1123(a)(1) of title 11, United States Code, is amended by striking out "or 507(a)(6)" and inserting in lieu thereof "507(a)(5) or 507(a)(7)".

SEC. 9. Section 1129(a)(9)(B) of title 11, United States Code, is amended by striking out "or 507(a)(5)" and inserting in lieu thereof "507(a)(5), or 507(a)(6)".

SEC. 10. Section 1129(a)(9)(C) of title 11, United States Code, is amended by striking out "507(a)(6)" and inserting in lieu thereof "507(a)(7)".

SECTIONAL ANALYSIS

Section 1: Adds definitions of "Farm produce", "Farm produce storage facility", and "Storage facility receipt" to S. 101 of title 11, United States Code. Renumbers remaining provisions of that section in accordance with these additions.

"Farm produce" is defined as product of a person engaged in a farming operation, including crops, poultry, livestock, and dairy products in unmanufactured states.

"Farm produce storage facility" is defined as any business enterprise operated for the purpose of providing facilities for temporary storage of farm produce, or purchasing farm produce from persons engaged in farming operations in bulk quantities.

"Storage facility receipt" is defined as any document of the type routinely issued by a debtor operating a produce storage facility for the purpose of establishing a record of ownership of a quantity of farm produce which is stored upon a contract of bailment. Includes warehouse receipts, scale tickets, and similar documents.

Section 2: Amends 11 U.S.C. S. 109 to preclude a person engaged in the business of operating a produce storage facility from seeking to schedule the debts of that business in a Chapter 13 wage-earner proceeding.

Section 3, 4: Technical amendments.

Section 5: Amends 11 U.S.C. S. 507(a) to provide priority status to farmers who suffer loss from the sale or conversion of farm produce to or by a debtor operating a produce storage facility in any distribution to unsecured creditors, after trustee and Court expenses, wages of employees and pension plan obligations. This further protects farmers who, even after distribution of the proceeds obtained from the sale of grain assets provided for in the bill, suffer a loss. Renumbers other sections of that title to conform to the substantive change.

Section 6: Amends the bankruptcy code (Title 11) by adding, after section 554 thereof, a new section 555, titled "Expedited abandonment of farm produce." The new section 555 establishes the following procedures to be utilized in a bankruptcy case involving a farm produce storage facility:

a. Within ten days after filing of the petition, the trustee shall conduct an examination of the debtor and the debtor's books and records to determine persons who have or may claim to have an ownership interest in farm produce delivered to the Court by the debtor by virtue of having delivered the produce to the debtor upon a contract of bailment, or having taken assignment of the debtor's ownership interest in produce owned by the debtor; as well as persons who claim a security interest in produce owned by the debtor (S. 555(a)(1)).

b. Within thirty days of the filing of the petition, the trustee is to conduct an examination of the debtor to determine the quantity, quality, and type of farm produce delivered over to the trustee by the debtor. The trustee is then required to liquidate the produce on hand and deposit the proceeds in an interest bearing account. (555(a)(2)).

c. Within sixty days after the filing, the Court is directed to conduct a hearing at which all requests for abandonment of proceeds shall be considered, with claims to be filed no later than five days before the commencement of the hearing. Provisions are included for the filing of late claims of right to abandonment in cases where actual notice has not been provided to a claimant. The Court is then required to order abandonment of the proceeds of farm produce held by the trustee which are established to be (1) not property of the debtor's estate, or (2) property of the debtor's estate which is encumbered by liens of such value as to render the produce of inconsequential value to the bankruptcy estate. Any claimant's production to the court of a valid storage facility receipt held by that claimant as evidence of ownership of a quantity of farm produce sold by the trustee shall be sufficient under the bill to establish a right to possession in that claimant of a share of the proceeds equal in value to the produce identified in the receipt. (555(a)(3)).

d. Within ninety days after the filing, the Court shall direct the trustee to effect abandonment of the proceeds found to be subject thereto in two steps:

First, to claimants who demonstrate an ownership interest in produce proceeds, on a pro rata basis after deduction of storage charges, out-elevator charges, and any trustee expenses and fees;

Second, to claimants who show a security interest in the proceeds of such an extent as to render the proceeds of inconsequential value to the estate, after deduction of delivery charges and trustee expenses and fees, and as their interests appear under law.

Abandonment of proceeds shall go forward within twenty days of the issuance of the orders. (555(a)(4)(A–C)).

e. Expenses of the Court of Trustee incurred pursuant to the liquidation and abandonment of farm produce and proceeds thereof shall be paid in the following manner, in conformity with the provisions of 11 U.S.C. S. 326:

First, out of the funds retained by the trustee for storage charges and produce delivery charges, to the extent feasible;

Second, out of accrued interest on farm produce proceeds, to the extent feasible; and

Third, out of the whole quantity of farm produce proceeds held by the trustee prior to distribution of such proceeds.

f. After such distribution, if there be any proceeds unaccounted for, unclaimed proceeds are to be retained by the court for a period of one year for the benefit of any parties who may present an untimely claim of right to abandonment. After one year, such proceeds are to be distributed in the same manner as other assets of the bankruptcy estate (i.e., trustee expenses, etc.). (555(a)(4)(E)).

g. Distribution of produce proceeds ordered abandoned by the court shall not be delayed due to the pendency of any appeal, except that a stay of the orders of abandonment may be entered by the bankruptcy court if:

The party filing the request for stay posts a bond equal to the amount of farm produce proceeds distribution of which is affected by the stay; and

Provided, that the parties entitled to distribution of farm produce proceeds under the terms of the abandonment orders affected by the stay shall, if successful in defending the appeal, be awarded their pro rata share of the proceeds of the liquidation PLUS a sum equal to the difference in value (between the date of entry of the order of stay and the date of final distribution) of the produce sold; and PLUS interest on the amount of the original share at the prevailing rate allowed by law upon judgments; and

Provided, that any order of stay is immediately appealable to the district court or bankruptcy appeals court for the district; and further provided, that a showing is made to such court of likelihood of prevailing on the merits of the appeal, in the absence of which the stay shall be vacated. (555(c) and (d)).

h. In actions filed under Chapter 11 of Title 11 (business reorganization), abandonment of produce not owned by the debtor shall proceed (upon request of the owner thereof) regardless of the effect upon any proposed plan of reorganization (555(e)).

i. The time limits set forth in the bill may be expanded if the Court finds that:

The interests of justice so require in light of the complexity of the case; and

The interests of those claimants entitled to distribution of proceeds will not be materially harmed. (555(f)).

j. In any action filed in any state wherein an agency exists which operates under the supervision of that State's government, and which is charged with the responsibility for presiding over the liquidation of an insolvent farm produce storage facility licensed under that State's laws, the bankruptcy court is required to appoint the director of such agency to act as interim trustee for the purpose of performing the duties required of the trustee under this section, without charge for such services. (S. 555(g)). There is a similar provision providing for the appointment of the director of the U.S.D.A. Agricultural Marketing Service in cases involving federally licensed elevators. (S. 555(h)).

Section 7 amends the U.S. Warehouse Act (Title 7) to define the jurisdiction of the Secretary of Agriculture under that act, and creates a statutory lien in favor of farm producers who sell produce to a facility but have not received payment therefor. The lien extends for a maximum period of sixty days from the date of sale.

Sections 8, 9, 10: Technical amendments.●

By Mr. WEICKER:

S. 1366. A bill to provide for fair commercial credit reporting; to the Committee on Banking, Housing, and Urban Affairs.

FAIR COMMERCIAL REPORTING PRACTICES ACT OF 1981

● Mr. WEICKER. Mr. President, I am today introducing the Fair Commercial Reporting Practices Act of 1981. This bill is identical to legislation I introduced during the last Congress, and is the outgrowth of 2 days of hearings before the Senate Small Business Committee. These hearings closely examined existing commercial credit reporting practices, the rights of small businesses subject to such reports, and the remedies available to businesses injured by erroneous or incomplete reports. Based on the abuses found to exist and the lack of remedies available to businesses, I believe this legislation is long overdue. It is designed to give businesses that are the subject of commercial credit reports the same basic rights that are enjoyed by consumers who are the subjects of consumer credit reports.

In 1977, the Privacy Study Commission after devoting 2 years to examining individual privacy rights and recordkeeping practices in many environments, concluded that the impact of commercial credit decisions on businesses is particularly acute when the business seeking credit is a "partnership, sole proprietorship, or closely held corporation." The Commission recommended that since commercial reporting practices have a significant impact on these businesses and their owners, further investigation and study in this area should be conducted. This is exactly what the hearings before the Small Business Committee did; in addition, these hearings examined the Privacy Commission's recommendation to enact legislation to insure the accuracy of information gathered and disseminated by commercial reporting agencies.

Mr. President, it is recognized that commercial reporting agencies perform an important function in our economy

by assembling and evaluating commercial credit and other information on businesses and representatives of businesses. For businesses of all sizes to survive and prosper, they must have access to credit. The decision to extend business credit frequently hinges on the reports prepared by commercial reporting agencies. Unfortunately, despite the importance of these reports, there are currently no safeguards to insure their accuracy.

Testimony before the small business committee demonstrated clearly that these reports, and the agencies that prepare them, are not infallible; that all too often the information contained in them is incomplete, outdated, or downright inaccurate. Certainly, there is no question that an erroneous report can be harmful to an individual; to a small business, where access to credit means the difference between survival and going under, it can be devastating.

Unlike an individual, the small business owner has no statutory protection against erroneous credit reports. The Fair Credit Reporting Act, which provides statutory protections and a judicial remedy for the consumer who has been victimized by an inaccurate credit report, does not apply to businesses.

A business that is harmed by a false credit report must resort to a common law defamation action to recover damages for injury it has suffered. However, all but two States have afforded the commercial reporting agencies a "qualified privilege," thereby making it necessary for a plaintiff to prove malice in order to recover damages. Since this privilege imposes a higher standard for recovery. Small businesses may in fact have no real judicial recourse even if seriously harmed by an inaccurate credit report.

Abuses depicted in the testimony before the Small Business Committee demonstrate that legislation is necessary to insure that commercial reporting agencies exercise their responsibilities with fairness, accuracy, and a respect for the business' right to privacy.

The Fair Commercial Reporting Practices Act would provide the rights and protections business has been lacking through the following provisions:

First. When a business is denied credit because of information in a commercial credit report, the user of the report must notify the subject of the report in writing that credit has been denied based on the report, provide the name, address, and telephone number of the commercial reporting agency supplying the report and notify the business of its right to obtain a copy of and correct the report.

Second. Upon request and proper identification, the commercial reporting agency must:

Clearly and accurately disclose to the business all information in its files on the business at the time of the request;

Permit the business to examine and copy any such information;

Clearly and accurately disclose to the business the sources of the information; and

Disclose to the business the names of all recipients of the commercial report which the agency has furnished for any purpose within the 6-month period preceding the request.

Third. When the completeness or accuracy of any item of information in a business' life is questioned, the commercial reporting agency must reinvestigate the accuracy of the information within a reasonable time and if the reinvestigation does not resolve the dispute, the business is entitled to file a brief statement of disagreement.

Fourth. If inaccurate information has been deleted, or, when a brief statement of disagreement has been filed, the business may require that a corrected copy of the report be furnished to any person who received a copy of the erroneous report within the preceding 6 months.

Fifth. Each commercial reporting agency must maintain reasonable procedures to insure the maximum possible accuracy of the information it reports, and further, no commercial reporting agency shall:

Obtain information by implying that failure to do so will result in adverse consequences;

Furnish negative information or recommend that credit not be extended because of a business' failure or refusal to cooperate with the reporting agency; or

Lower a business' credit rating unless a business is notified in writing within 30 days of such action, accompanied by a statement of reasons for such action.

It is important to note that this legislation is a free standing act and not an amendment to the Fair Credit Reporting Act. The FTC will have no role to play in administering the law. No new bureaucracy will be necessary to insure that the interest of small businesses are properly protected.

In the event these legal safeguards are violated, this legislation would allow businesses to present their grievances and enforce their legitimate rights in any appropriate U.S. district court without regard to the amount in controversy.

Mr. President, the legislation I am introducing today will protect the interests not only of small businesses, but of all businesses. It is anticipated that the Consumer Affairs Subcommittee of the Senate Banking, Housing, and Urban Affairs Committee to which this bill will be referred, will hold hearings on this bill. I hope those who are aware of abuses in this area will relay this information to my staff in preparation for those hearings.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD at this point. In addition, I ask unanimous consent that chapter XV of the 30th annual report of the Committee on Small Business, describing the testimony received by the committee on this issue at its hearings last year, be included in the RECORD.

There being no objection, the bill and chapter were ordered to be printed in the RECORD, as follows:

S. 1366

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Fair Commercial Reporting Practices Act of 1981".

FINDINGS AND PURPOSES

SEC. 2. (a) The Congress finds that—

(1) the free and competitive marketplace is dependent upon fair and accurate commercial reporting;

(2) inaccurate commercial reports directly impair the efficiency of the free marketplace and unfair commercial reporting practices undermine the confidence of businesses in the continued effective functioning of the free enterprise system;

(3) an elaborate mechanism has been developed for investigating and evaluating the credit worthiness, credit standing, credit capacity, character, and general reputation of businesses and the representatives of those businesses;

(4) commercial reporting agencies have assumed a vital role in assembling and evaluating commercial credit and other information on businesses and representatives of those businesses; and

(5) there is a need to ensure that commercial reporting agencies exercise their responsibilities with fairness, accuracy and a respect for the business' right to privacy.

(b) The purposes of this Act are to—

(1) ensure that commercial reporting agencies minimize the extent to which recorded information about a business is a source of error or unfairness in any decision made on the basis of such recorded information;

(2) create and define obligations with respect to the uses that will be made of recorded information about a business or its representatives; and

(3) require that commercial reporting agencies adopt reasonable procedures for meeting the needs of commerce for commercial credit, commercial insurance, and other purposes by gathering information in a manner that is fair and equitable to the business with regard to the confidentiality, accuracy, and proper utilization of such information in accordance with the requirements of this Act.

DEFINITIONS AND EXCLUSIONS

SEC. 3. (a) For the purpose of this Act, the term—

(1) "person" means any individual, company, corporation, trust, association, firm, partnership, cooperative, organization, or other entity;

(2) "commercial reporting agency" means any person which for compensation or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of assembling or evaluating financial information or other information on businesses for the purpose of furnishing commercial reports to third parties and which uses any means or facility of interstate commerce for the purpose of preparing or furnishing commercial reports; and

(3) "commercial report" means any written, oral, or other communication of any information by a commercial reporting agency bearing on a business' creditworthiness, credit, standing, credit capacity, general reputation, debts, or insurability, including information gathered on individuals who are owners, officers, or employees of the business, which is used or expected to be used in whole or in part for the purpose of serving as a factor in establishing the business' eligibility for—

(A) credit;

(B) insurance or otherwise in connection with an insurance transaction involving the business, including the underwriting of insurance on either the business or on an individual if the business is the beneficiary of the policy; or

(C) other purposes in connection with a commercial transaction involving the business.

Such term does not include—

(1) any report containing information solely as to transactions or experiences between the business or its owners, officers, or employees and the person making the report;

(ii) the transfer of information to a guarantor, insurer, or joint creditor participating in the same transaction if the transmitting party advises the business of the name and address of the guarantor, insurer, or joint creditor;

(iii) any compilation of consumer complaints or information collected or used for the primary purpose of responding to inquiries by consumers concerning the general reputation of a business; or

(iv) stock reports or other financial reports on a business made available by stock brokers or financial analysts.

(b) Nothing in this Act applies to any consumer reporting agency, consumer report, or user of information which is governed by the Fair Credit Reporting Act.

PERMISSIBLE PURPOSES OF REPORTS

SEC. 4. (a) A commercial reporting agency may furnish a commercial report under the following circumstances and no other:

(1) In response to the order of a court having jurisdiction to issue such an order.

(2) In accordance with the written instructions of the person to whom it relates.

(3) To a person which it has reason to believe—

(A) intends to use the information in connection with a commercial credit transaction involving the person on whom the information is to be furnished and involving the extension of commercial credit to, or review or collection of an account of, the person;

(B) intends to use the information in connection with the underwriting of commercial insurance involving the person;

(C) intends to use the information in connection with a determination of the person's eligibility for a license or other benefit granted by a governmental instrumentality required by law to consider a business' financial responsibility or status;

(D) otherwise has a legitimate business need for the information in connection with a business transaction involving the person; or

(E) as expressly authorized pursuant to any other State or Federal law.

(b) Notwithstanding the provisions of subsection (a), a commercial reporting agency may furnish identifying information respecting any business, limited to the business' name and address or former addresses, to a governmental agency.

DISCLOSURE REQUIRED

SEC. 5. (a) Whenever credit or insurance or other benefit is denied or the charge for such credit, insurance, or other benefit is increased either wholly or partly because of information about a person contained in a commercial report from a commercial reporting agency, the user of the commercial report shall notify the person in writing that the credit, insurance, or other benefit has been denied based in whole or in part on a commercial report, provide the name, street address, and telephone number of the commercial reporting agency supplying the report, and notify the person of its right to request and receive a copy of the report and to correct any errors in the report by contacting the commercial reporting agency.

(b) Every commercial reporting agency, upon request and proper identification of any person, shall—

(1) inform the person whether the agency has any information in its files pertaining to the person; and

(2) if the agency has any information in its files pertaining to the person, it shall—

(A) clearly and accurately disclose to the person all information in its files on the person at the time of the request;

(B) permit the person to examine and copy all such information;

(C) clearly and accurately disclose to the person the sources of all information; and

(D) clearly and accurately disclose to the person the names of all recipients of any commercial report on the person which the agency has furnished for any purpose within the six-month period preceding the request.

(c) The requirements of subsection (b) respecting the disclosure of sources of information and the recipients of reports do not apply to information received or reports furnished prior to the effective date of this Act except to the extent that the matter involved is contained in the files of the commercial reporting agency on that date.

COMPLIANCE PROCEDURES

SEC. 6. (a) The disclosures required under section 5(b) shall be made to a person—

(1) in person if the person appears in person and furnishes proper identification; or

(2) by telephone if the person has made a prior written request, with proper identification, for telephone disclosure and the toll charge, if any, for the telephone call is prepaid by or charged directly to the person; or

(3) by mailing a copy of all information to the person within a reasonable time after receipt of a written request from the person for disclosure of the information.

(b) Each commercial reporting agency shall provide trained personnel to explain to any person any information furnished pursuant to section 5(b).

DISPUTES

SEC. 7. (a) If the completeness, accuracy, or timeliness of any item of information contained in a person's file is disputed by the person, and such dispute is directly conveyed to the commercial reporting agency by the person, the commercial reporting agency shall within a reasonable period of time, but not longer than thirty days, reinvestigate and record the current status of that information unless it has reasonable grounds to believe that the dispute by the person is frivolous or irrelevant. If after such reinvestigation such information is found to be inaccurate or can no longer be verified, the commercial reporting agency shall promptly correct or delete such information as appropriate. The presence of contradictory information in the person's file does not in and of itself constitute reasonable grounds for believing the dispute is frivolous or irrelevant.

(b) If the reinvestigation does not resolve the dispute, the person may file a brief statement setting forth the nature of the dispute. The commercial reporting agency may limit such statements to not more than one hundred words.

(c) Whenever a statement of a dispute is filed, unless there is reasonable grounds to believe that it is frivolous or irrelevant, the commercial reporting agency shall, in any subsequent commercial report containing the information in question, clearly note that the information is disputed by the person and provide either the person's statement or a clear and accurate codification or summary thereof.

(d) Following any deletion of information which is found to be inaccurate or whose accuracy can no longer be verified or any notation as to disputed information, the commercial reporting agency shall, at the request of the person, furnish notification that the item has been deleted or the statement, codification, or summary pursuant to subsection (b) or (c) to any person who has within six months prior thereto received a report which contained the deleted or disputed information. The commercial reporting agency shall clearly and conspicuously disclose to the person his rights to make such a request. Such disclosure shall be made at or prior to the time the information is deleted or the person's statement regarding the disputed information is received.

CHARGES FOR CERTAIN DISCLOSURES

SEC. 8. A commercial reporting agency shall make all disclosures pursuant to section 5(b) and furnish all commercial reports pursuant to section 7(d) without charge to the person if, within thirty days after receipt of a notification sent pursuant to section 5(a), the person makes a request under section 5(b) or 7(d). Otherwise, the commercial reporting agency may impose a reasonable charge on the person for making disclosure to such person pursuant to section 5(b), the charge for which shall be indicated to the person prior to making disclosure; and for furnishing notifications, statements, summaries, or codifications to the person designated pursuant to section 7(d), the charge for which shall be indicated to the person prior to furnishing such information and shall not exceed the charge that the commercial reporting agency would impose on each designated recipient for a report, except that no charge may be made for notifying such persons of the deletion of information which is found to be inaccurate or which can no longer be verified. A commercial reporting agency may charge a reasonable copying fee for furnishing copies of information pursuant to section 5(b).

PROCEDURES TO ENSURE ACCURACY

SEC. 9. Each commercial reporting agency shall maintain reasonable procedures to assure the maximum possible accuracy of the information it reports.

PROHIBITED PRACTICES

SEC. 10. A commercial reporting agency may not—

(1) furnish any commercial report containing any adverse item of information which antedates the report by more than ten years, except in the case of any commercial report to be used in connection with a credit transaction, or underwriting of life insurance, involving a principal amount of $500,000 or more;

(2) obtain information or seek to obtain information from any source by means of any threat, direct or implied, that the failure to furnish information may result in any adverse consequences for the person from whom the information is sought;

(3) furnish negative information or recommend that credit not be extended or make any other adverse recommendation to a third party in whole or in part on the basis of a business' failure or refusal to cooperate with the inquiry of the commercial reporting agency;

(4) furnish a commercial report which indicates that a business has been denied credit, if the sole reason for such denial is lack of sufficient information to grant credit, unless the report states that the denial was for that reason; or

(5) take any action to lower the credit rating of a business on which information is maintained or furnished to third parties, unless that business is notified of such action in writing within thirty days of such action, such notification to be accompanied by a statement of the reasons for such action.

CIVIL LIABILITY FOR WILLFUL NONCOMPLIANCE

SEC. 11. Any commercial reporting agency or user of information which willfully fails to comply with any requirement imposed by this Act with respect to any person is liable to that person in an amount equal to the sum of—

(1) any actual damages sustained by the person as a result of the failure;

(2) such amount of punitive damages as the courts may allow; and

(3) in the case of any successful action to enforce any liability under this section, the costs of the action together with reasonable attorney's fees as determined by the court.

CIVIL LIABILITY FOR NEGLIGENT NONCOMPLIANCE

SEC. 12. Any commercial reporting agency or user of information which is negligent in failing to comply with any requirement im-

posed by this Act with respect to any person is liable to that person in an amount equal to the sum of—

(1) any actual damages sustained by the person as a result of the failure; and

(2) in the case of any successful action to enforce any liability under this section, the costs of the action together with reasonable attorney's fees as determined by the court.

JURISDICTION OF COURTS; LIMITATION OF ACTIONS

SEC. 13. An action to enforce any liability created under this Act may be brought in any appropriate United States district court without regard to the amount in controversy, or in any court of competent jurisdiction, within two years from the date on which the liability arises, except that where a defendant has materially and willfully misrepresented any information required under this Act to be disclosed to any person and the information so misrepresented is material to the establishment of the defendant's liability to that person under this Act, the action may be brought at any time within two years after discovery was made or should have been made by the exercise of due diligence by the person of the misrepresentation.

OBTAINING INFORMATION UNDER FALSE PRETENSES

SEC. 14. Any person who knowingly and willfully obtains information on a person from a commercial reporting agency under false pretenses shall be fined not more than $5,000 or imprisoned not more than one year, or both.

UNAUTHORIZED DISCLOSURES BY OFFICERS OR EMPLOYEES

SEC. 15. Any officer or employee of a commercial reporting agency who knowingly and willfully provides information concerning a person from the agency's files to a person not authorized to receive that information shall be fined not more than $5,000 or imprisoned not more than one year, or both.

RELATION TO STATE LAWS

SEC. 16. This Act does not annul, alter, affect, or exempt any person subject to the provisions of this Act from complying with the laws of any State with respect to the collection, distribution, or use of any information, except to the extent that those laws are inconsistent with any provision of this Act, and then only to the extent of the inconsistency.

EFFECTIVE DATE

SEC. 17. This Act shall take effect upon the expiration of one hundred and eighty days following the date of its enactment.

CHAPTER XV. REPORTING OF COMMERCIAL CREDIT AND ITS EFFECTS ON SMALL BUSINESS

A. INTRODUCTION

Commercial credit reporting practices perform an important function in our economy. For businesses of all sizes to survive and prosper, they must have access to credit. The decision to extend business credit frequently hinges on reports made by commercial credit reporting services. However, despite the importance of these reports, there are presently no statutory safeguards to insure their accuracy.

In 1977, after devoting 2 years to examining individual privacy rights and recordkeeping practices in many environments, the Privacy Protection Study Commission concluded that, "the impact of commercial credit decisions on individuals is particularly acute when the business seeking credit is a partnership, sole proprietorship, or closely held corporation." Since commercial credit reporting practices have a significant impact on business entities with which individuals are associated, the Commission recommended that further investigation and study in this area should be conducted. Accordingly, the Senate Small Business Committee held 2 days of public hearings on October 31, and November 1, 1979 to review the impact of commercial credit reporting practices on small business.

The hearings were held after a year-long investigation by the minority staff conducted at the direction of Senator Lowell Weicker, Jr., the ranking minority member of the committee. Senator Weicker cochaired the hearings with Senator Carl Levin of Michigan.

The hearings closely examined existing commercial credit reporting practices, the rights of small businesses which are the subject of such reports, and the remedies available to businesses injured by erroneous or incomplete reports. In addition, consideration was given to the Privacy Commission's recommendation that procedures be adopted to assure the accuracy of information collected and reported by commercial credit reporting services.

B. PROTECTIONS PROVIDED UNDER CURRENT LAW

Unlike an individual, the small business person has no statutory protection against erroneous credit reports. The Fair Credit Reporting Act, which provides statutory protections and a judicial remedy for a consumer who has been injured by an inaccurate credit report, is not applicable to commercial credit reports on small businesses.

The Fair Credit Reporting Act is designed to create a statutory system under which consumers may learn of adverse reports, examine the information contained in the reports, and be afforded the opportunity to correct or supplement false or misleading entries. The Fair Credit Reporting Act also establishes a statutory cause of action for consumers against reporting agencies for negligent noncompliance with the act. Under this act, which is enforced by the Federal Trade Commission, the consumer has the following basic rights:

(a) whenever credit is denied because of a negative report, the potential credit grantor must so advise the consumer and identify the agency making the report;

(b) anyone causing an investigative report to be made must notify the subject of that report within 3 days of the request;

(c) upon receiving notice of an adverse credit decision, the consumer may obtain from the reporting agency disclosure of the nature and substance of the information in his file, the sources (except for those used solely in preparing an investigative report) and the identities of recipients of these reports;

(d) if the consumer disputes items on the credit report, he may request a reinvestigation. If the item proves inaccurate or can no longer be verified, it must be deleted. If reinvestigation does not resolve the dispute, the consumer may file a brief statement of the dispute, which must be included in future reports; and

(e) the consumer may require that notice of the deletion, or the statement of dispute, be sent to those who received reports containing the disputed item.

The Fair Credit Reporting Act applies only to consumer reports and has been held not applicable to credit reports on businesses, even if that report contains personal information about the business owners.

Under the Equal Credit Opportunity Act (ECOA), businesses are able to obtain a statement of reasons for credit denied by a member bank of the Federal Reserve System. The ECOA, however, does not regulate either the accuracy of private credit reports or credit transactions solely between businesses.

Thus, a business entity harmed by a false credit report must resort to a common law defamation action to recover damages for injury which it may have suffered. Although under common law, and in Georgia and Idaho only, a disseminator of defamatory material is held strictly liable for distributing information he knew or should have known was false, all other States have carved out public policy exceptions to the common law rule, and afford the commercial credit reporting agency a qualified privilege. This qualified privilege imposes a higher standard of recovery, thereby requiring a business plaintiff to prove malice in order to recover damages, and thus, small businesses may, in fact, have no real judicial recourse even if seriously harmed by an inaccurate credit report.

C. COMMERCIAL CREDIT REPORTING PRACTICES

When a business seeks credit from banks, Government agencies or other businesses, its creditworthiness is evaluated by the prospective credit grantor. For assistance in making this determination, the credit grantor frequently calls upon commercial credit reporting services to collect and evaluate information.

There are two general categories of commercial credit reporting services. The first type is the investigative service which collects information about the credit applicant from past and current creditors as well as from a variety of other sources. The investigation is carried out by field representatives who compile a detailed report about the business, including information about the owners and managers of the business, as well as an analysis of its financial condition and performance. The business is then given a credit rating. Investigative services rely on the management of the business under investigation for their principal source of information. Based on these interviews, the reporting service is led to other suppliers, public records and other creditors. Frequently the business under investigation names other sources of information and authorizes the collection of information from them.

The second type of commercial credit reporting service simply collects information about an applicant from credit grantors with which the applicant has, or once had, a credit relationship. In essence, these firms act as clearinghouses for commercial credit information, compiling information obtained from credit grantors and reporting the information to prospective grantors. These services provide no evaluative information about firms to credit grantors nor do they provide information about the business related background of a company's management.

Commercial credit reporting services, both investigative and clearinghouse services, generally disseminate the information they compile about a credit applicant to their subscribers in the form of a written report. Some of the services also provide information over the telephone. For example, Dun & Bradstreet has a reporting service subsidiary that provides over-the-telephone recommendations as to whether credit should be extended to a subscriber in the apparel industry.

D. PRIVACY COMMISSION STUDY AND RECOMMENDATIONS

The mandate of the 1976 Privacy Protection Study Commission was to examine the impact of credit-reporting practices on individuals. However, because, "the boundary between recordkeeping that affects individuals and that which affects legal entities is not always entirely clear" and since a "decision about whether to grant or deny credit to a sole proprietor inevitably has great import for the individual who owns the firm," the Commission also undertook to study commercial credit-reporting practices to determine what their impact on individuals is and to assess whether legal protections against unfairness to individuals in the commercial credit relationship are necessary.

The Commission's hearings on commercial credit-reporting practices focused on a legal dispute begun in 1962 involving Michael Goldgar and the Dun & Bradstreet Corp. As the New York Supreme Court Appellate Division noted in a 1973 opinion:

"The record presents the picture of a feud carried on by defendant against one Goldgar who has incurred defendnat's ill will. Concededly, defendant was "out to get" Goldgar and the corporate conglomerate he was attempting to build. Unfortunately, for Goldgar * * * dissemination of derogatory information about him and his enterprises brought them crashing down into bankruptcy. Had this come about as a result of straightforward and honest credit reporting that would have been the end of the matter. Unfortunately, for defendant, the record discloses that its coup was accomplished by intrigue, deliberate assault on a business, planted rumor, and reckless disregard of consequence * * *."

The Commission concluded that this case demonstrated the need for procedures to assure that information collected and reported by commercial credit-reporting services is accurate.

The failure of a business to cooperate with the commercial credit-reporting service preparing the report, however, may have an adverse effect on the credit recommendations given by investigative services. As the Privacy Commission observed in its final report, "a reported failure to cooperate, or Dun and Bradstreet's inability to produce a report because of a lack of cooperation, can arouse suspicions about a company's creditworthiness, and have a chilling effect on its ability to obtain credit."

The Commission went on to recommend:

(a) further examination of the need for requirements appropriate for commercial credit granting and credit recordkeeping practices;

(b) amendment of the Fair Credit Reporting Act to provide that a commercial credit grantor must disclose to the subject of an adverse credit decision the name of the commercial credit reporting service that provided the information;

(c) amendment of the Fair Credit Reporting Act to provide that a commercial credit reporting service must:

(i) disclose any recorded information pertaining to an individual connected with a business report;

(ii) permit the copying of any recorded information, except the identity of sources; and

(iii) apprise the individual of the nature and substance of any recorded information by telephone.

(d) amendment of the Fair Credit Reporting Act to provide that an individual has a right to correct or amend information pertaining to him that is maintained by a commercial credit reporting service, or is provided an opportunity to file a concise statement of disagreement;

(e) amendment of the Fair Credit Reporting Act to provide that commercial credit reporting services must have reasonable procedures to assure the accuracy of information in reports produced by them; and

(f) examination of the time limits for reporting certain types of information and the need to protect the identity of sources.

The Senate Small Business Committee hearings were particularly significant in that they marked the very first congressional examination of the impact of commercial credit reporting practices on businesses since the Privacy Commission's study and recommendations.

E. SUMMARY OF HEARINGS

The Senate Small Business Committee held 2 days of public hearings on October 31, and November 1, 1979, during which a total of 13 witnesses testified. Witnesses included David F. Linowes, the former Chairman of the Privacy Protection Study Commission Congressman Barry M. Goldwater, Jr., a member of the Privacy Commission, Commissioner Patricia P. Bailey of the Federal Trade Commission, representatives of two trade associations, five small businesspersons who testified that they were injured by improper and erroneous commercial credit reporting practices, and representatives of three commercial credit-reporting services (the Dun & Bradstreet Corp., TRW, and the National Association of Credit Management).

A summary of the testimony of the witnesses and the evidence presented to the committee during the course of the hearings is presented below:

1. Prof. David F. Linowes, former chairman, Privacy Protection Study Commission, Boeschenstein professor of political economy and public policy, University of Illinois, Urbana, Ill.

Prof. David F. Linowes served as Chairman of the Privacy Protection Study Commission and testified concerning the Privacy Commission's findings and recommendations. Although the Commission was only directed to examine the impact of credit reporting practices on individuals, it undertook a cursory study of commercial credit reporting practices because "the boundary between recordkeeping that affects individuals and that which affects legal entities is not always clear." The Commission concluded that further examination of commercial credit reporting practices was warranted.

In addition, the Commission made recommendations for enactment of legislation to assure the accuracy of information collected and reported by commercial credit reporting agencies. Linowes noted that: "although commercial reporting services are not generally subject to laws governing fairness in recordkeeping, some services go beyond the requirements of the law and conform in some respects to the provisions of the Fair Credit Reporting Act. I might add Dun & Bradstreet is an outstanding example of that. I do understand they have the policy that will give individual protection to business organizations. This is encouraging. However, where such voluntary compliance is in effect, it may be suspended whenever the need or desire arises. This only serves to point up the need to consider legislation on the Federal level to provide uniform compliance with fair information practices for all."

Professor Linowes emphasized during his testimony the need for extensive examination of privacy rights because of the complex credit explosion in our society, coupled with major advances in computer and telecommunications technology. Linowes stated that:

"(F)or small business, in particular, the information is quite personal. As set forth by the Privacy Commission throughout our report covering personal privacy, potential for misuse and abuse of personal information does exist. This is true whether the report originates with a consumer reporting agency, or a commercial reporting service. Yet, the commercial reporting service is not subject to the Fair Credit Reporting Act.

Linowes noted that in the past, information and data accumulated had always been promptly destroyed after its use because it was too costly to store. Today that is not the case. Now, according to Linowes, it is cheaper to keep "2,000 to 60,000 bits of information stored on a pinhead size piece of silicon" than to destroy it because destruction requires that data already stored on a computer to run through the computer a second time. Linowes further related that because of the rapid development of advanced technology "this information is being disseminated across the Nation at the speed of light."

Linowes believed that if more businessmen were better informed about the collection, maintenance, and disclosure of information, they might very well seek to exercise stricter controls over its use. With respect to the unlimited amounts and types of data on business operations accumulated by scores of organizations and fed into data banks around the country, Linowes stated:

"Much of it is being shared with others, often without the knowledge of the principals concerned. With split-second retrieval, anything that is ever recorded about an executive or business entity becomes immediately available; and with computer-to-computer linkage anything put into the data bank of one organization can be tied together with another organization's data bank. It is this linkage which has the potential for creating major problems for vulnerable small business interests."

Based on a recent study conducted under his direction, Professor Linowes also expressed grave concern over the seemingly indiscriminate disclosure of credit information by banks concerning their customers. Linowes noted that since only 25 percent obtain customer authorization prior to disclosing some information and 80 percent never tell their customers that disclosures have been made, what these "secret practices" add up to is that "the small business organization apparently needs the same information privacy protections, as the Privacy Commission recommended for the individual."

2. Patricia F. Bailey, Commissioner, Federal Trade Commission, Washington, D.C.

Commissioner Bailey testified on behalf of the FTC about the complaints her agency received concerning credit reporting practices.

Commissioner Bailey believed that basic, fair informational reporting practices which are guaranteed to consumers under the Fair Credit Reporting Act should also apply to commercial credit reports. Because the remedy under the Fair Credit Reporting Act is one of the weakest remedies afforded under Federal law, it is the FTC's position that such a remedy could be extended to cover commercial credit reports without hampering the recognized necessary flow of information. Although the FTC favors creation of a private cause of action, Commissioner Bailey testified that the FTC would not favor or encourage a wide-scale regulatory scheme. At the conclusion of her testimony, Commissioner Bailey submitted proposed legislation which would have the effect of giving businesses injured by erroneous commercial credit reports the same rights as those guaranteed to consumers under the Fair Credit Reporting Act.

3. Panel I: (A) Gale D. Metzger, president, Statistical Research, Inc. (SRI), Westfiled, N.J.; (B) Mark D. Berson, vice president, Raphael's, Mobile, Ala.; (c) Martin H. Zanger, president, Bookland, Inc., Holyoke, Mass.

(a) Gale Metzger, the president of SRI, testified that SRI is a 10-year-old research company formed to design and conduct professional research and analysis for major national corporations and government. SRI has been a profitable business since it was formed and has experienced a steady growth in billings each year; it has never experienced any particular financial difficulties. Metzger indicated that his company pays all local suppliers within 7 to 10 days, and all national suppliers within 2 weeks.

SRI's only "credit problem" arose in 1979 when it attempted to open a new account with a supplier; SRI was informed by the supplier that credit would not be extended because SRI had a "bad credit rating." SRI was informed that this information was based on a credit report prepared by Dun & Bradstreet which listed them as "slow pay."

The Dun & Bradstreet report further stated that Metzger declined to comment on the "reason for slowness." Metzger testified that this was false. That he last spoke to a Dun & Bradstreet representative in 1972 and that SRI paid all of its bills promptly. Metzger stated that his policy was not to provide Dun & Bradstreet or anyone else with financial information which he considered to be, and wanted to keep confidential.

Metzger testified that immediately upon learning of these errors in the Dun & Bradstreet report, he attempted to resolve and correct these reporting errors through a number of telephone calls and letters to Dun & Bradstreet. He never received a satisfactory response concerning how these errors were made or from whom this erroneous information was collected. As to Dun & Bradstreet's attitude toward attempting to resolve these errors, Metzger reported that the "arrogance and platitudes" contained in Dun & Bradstreet's responses "are laughable." Metzger stated:

"Information is dynamic; yet they were never able to respond to our problem with anything but a static, standard, preprogramed series of responses. Certainly, as a firm which trades in the vital free flow of credit information, they ought to be mightily concerned about accuracy, truth and responsibility."

Metzger further complained that Dun & Bradstreet refused to give him the basic right "to confront his accuser," the source of this erroneous information. Metzger reported that the damage to his business was not fatal, but this was "simply because we are bigger and more esteemed by our clients than any Dun & Bradstreet report." Metzger suggested that "to allow (D&B) to continue this irresponsible pattern of behavior would do great damage."

He summed up this experience with Dun & Bradstreet by stating:

"So much of our experience evidences that this is their way of doing business, rather than a simple mistake—as they chose to label it.

"For us, as a small business, there is no such thing as a simple mistake which can affect our existence.

"For us, whose business is to provide and disseminate accurate information, there is no rational explanation for their practice of publishing unchecked information.

"For us, as a sophisticated data firm in 1979, there is no explanation for a company such as this operating without sufficient systems checks that automatically flag inconsistent data fed into that system.

"For us, concerned about clear and actionable information, there is no sense in their policy of telling the business world whatever they learn, true or not.

"When they were told that the report was in error, it took them 2 weeks to respond in any way whatsoever. When they were notified that there were other errors in the report, they did not bother to correct them. The report as I most recently saw it still includes significant errors. Dun & Bradstreet showed little regard for what they were doing in the first place and couldn't have cared less about correcting any error when it was pointed out. 'Business as usual' meant 'We'll get back to you when we're good and ready'.

"There is one other interesting parenthetic note to our experience with Dun & Bradstreet. During the first phone contact with [D&B] on February 9, I asked that the circulation of the false report be halted. One day short of a month later, our erroneous report still was in circulation not only to others, but sent directly to me. This is another illustration of a lack of control throughout the entire system, of a style of doing business, of a lack of concern about accuracy or responsibility."

Dun & Bradstreet responded to this and other complaints raised by several witnesses during its presentation to the committee, and submitted a more complete response for the record. More specifically, Dun & Bradstreet responded that when Metzger complained, they stopped distribution of the report immediately and sent a copy of the report to him. Dun & Bradstreet conceded that it did not answer Metzger promptly because it had difficulty in contacting the proper persons at the suppliers to resolve the dispute. When, after 17 days, Dun & Bradstreet was unable to verify information in the Dun & Bradstreet report it accepted Metzger's statement that the two reports of slow pay were inaccurate and issued a correction notice which Dun & Bradstreet said was sent to all subscribers who had received the earlier report.

Further, Dun & Bradstreet stated that the report Metzger received 1 month later, with an accompanying letter requesting that he review the report, was "part of a test program designed to explore another way of improving the quality of our reports," and was not in circulation to anyone else at that time.

(b) Mark D. Berson, vice president of Raphael's, a leading women's clothes retail store in Alabama, testified that the store had been doing business since 1946, and was purchased by the Bersons in 1978. The Berson family has been in the retail clothing business for 32 years, and has established an outstanding credit and payment record.

When Berson first refused to answer inquiries from a commercial credit reporting service in New York, Credit Exchange, Inc., he was told by a senior vice president that merchandise might be difficult for Raphael's to obtain if it did not cooperate and voluntarily supply Credit Exchange with financial information. Berson still refused, and despite Credit Exchange having no credit information on Raphael's whatsoever, potential new suppliers indicated that they had declined Raphael's credit based on a reliance on Credit Exchange's "recommendation" not to extend credit.

Berson also related to the committee Raphael's credit experience with Dun & Bradstreet. Berson reported that although Raphael's provided Dun & Bradstreet with a copy of the business' financial statements and other information requested, a Dun & Bradstreet subsidiary, Credit Clearinghouse, prepared and issued a report in accurately listing Raphael's high credit range as $2,500—despite the fact that it was in the range of $20,000—and recommending against credit being extended.

Berson testified that upon learning of the existence of the inaccurate Dun & Bradstreet report on Raphael's he requested and received a copy of the Dun & Bradstreet report. Berson noted that the Dun & Bradstreet report sent to him was printed on April 26, 1979, and contained a summary of Raphael's 1977 financial statement. However, when Berson requested from one of his suppliers a copy of the Dun & Bradstreet report sent to that supplier, the supplier provided Berson with a Dun & Bradstreet report dated 3 days earlier but containing both 1977 and 1978 financial information. How could reports printed 3 days apart be so different in content; and how could a later report contain substantially less information. Berson asked? In addition, the same supplier also enclosed a Dun & Bradstreet prepared cover sheet to the report which included with Dun & Bradstreet's specific recommendation to the supplier that it not enter into a business credit transaction with Ralphael's. In Dun & Bradstreet's response to Berson's request for a copy of the Dun & Bradstreet report on Ralphael's, Dun & Bradstreet did not forward Berson a copy of this cover sheet nor did it indicate to Berson in any other way that Dun & Bradstreet was advising inquirers not to enter into credit transactions with his company.

Berson, like other witnesses who testified, agreed that it is necessary in the business world to have credit reporting agencies that can be relied upon, but stated further:

However, I am adamant in my belief these agencies should be managed by responsible people. These agencies also should be regulated in the manner in which they report financial information to their clients.

"There are literally thousands of small retailers across America who are victims of undue pressure and brow-beating from irresponsible credit reporting agencies. Something needs to be done about this situation."

Dun & Bradstreet noted that Berson was sent only a copy of the regular business information report while his supplier was provided a separate report prepared by Dun & Bradstreet's industry subsidiary.

Dun & Bradstreet related that part of its confusion with respect to information sent to Berson directly and information made available to Berson's supplier was attributable to the fact that Dun & Bradstreet did not realize that Berson was requesting copies of all reports in their entirety that Dun & Bradstreet was circulating about the business and its creditworthiness. Subsequently, Dun & Bradstreet indicated it would change its procedures to attempt to provide to businesses all reports requested.

(c) Martin Zanger, president of Bookland, testified that he is engaged in the sale of books, periodicals, and greeting cards in stores in small shopping centers in Holyoke and Northampton, Mass. Bookland has a sales volume of $650,000 per year, and Zanger stated he has always paid all of his bills on time. He further reported to the committee that:

"We have had a problem with Dun & Bradstreet since 1976. At that time, their report on our company came to my attention and I noted several errors. They said our sales were $80,000 when, in fact, they were eight hundred thousand. They stated that I had said sales were down. I never made such a statement as, in fact, sales were up that year."

When Zanger attempted to resolve the errors contained in the Dun & Bradstreet report, he found that Dun & Bradstreet had used as trade credit references two companies that he had never heard of nor had ever done business with, and one company that was a direct competitor of Bookland. To confirm his suspicion that Dun & Bradstreet had obtained its false credit information from a competitor, Zanger placed a telephone call to the competitor, identified himself as the credit manager of a nationally known publisher seeking a credit reference on Bookland, and got the following response: "I wouldn't touch it unless it was C.O.D. Their credit is no good."

Dun & Bradstreet subsequently acknowledged to Zanger that the information it had published was false, and that it had been obtained from one of Bookland's competitors. Dun & Bradstreet issued a new report on Bookland which deleted the specific false information. However, according to Zanger, even after he had pointed out other misstatements in the report to Dun & Bradstreet employees on five separate occasions, the new report, which was "reasonably correct," still contained other false information.

Zanger concluded his testimony to the committee by noting:

"Now, what are the implications of all of this. The fact that we had an undeserved bad report had little effect on our long term suppliers to the best of our knowledge but mitigated strongly against our obtaining credit from new suppliers. The book business is made up of many thousands of publishers

and hardly a week goes by that we do not have at least one or more new suppliers. Generally our orders are small and what happened is that our small orders simply went unfilled. In some instances shipments were delayed while further credit checks were made.

"Dun & Bradstreet's policy of not checking or verifying any trade clearances permits the system to be abused. In our case, our competitor deliberately put through a blatantly false report in a successful attempt to interfere with our ability to purchase goods for resale. When we called their attention to the fact that the report was a lie, nothing was done for a very long time.

"It would certainly seem that we ought to have such legislation as would preclude credit agencies from using unverified data and would preclude business firms from furnishing false data to credit agencies."

Dun & Bradstreet acknowledged that Zanger's account is substantially correct and his criticisms justifiable. With respect to the situation in which one of Bookland's competitors was able to provide false credit information on the business, Dun & Bradstreet admitted the factual situation, and said that it has instituted a new control system to guard against improper trade references.

4. Panel II: (a) Sheldon Feldman, Esq., National Retail Merchants Association (NRMA), Washington, D.C.; (b) Jo Goff, President, Jo's Place, Ltd.

(a) NRMA is the Nation's largest trade association in the general merchandise retail industry. Its members operate 35,000 stores, employ over 2.5 million people, and have current annual sales in excess of $95 billion. More than 80 percent of its members are small businesses with annual sales under $1 million.

NRMA polled its small, independent members to determine the experiences these retailers encountered in their relationships with commercial credit reporting agencies. Although the questionnaire admittedly did not employ generally accepted statistical techniques and, accordingly, the results cannot be interpreted as precise, they did provide an indication of the experiences of this nationwide group of more than 2,000 companies. The results indicate:

"(i) nearly 14 percent of those questioned responded, which, according to NRMA, is double their normal response rate and indicates a high degree of interest and concern regarding current commercial credit reporting practices;

"(ii) 43 percent found the practices of the commercial credit reporting firms to be 'fair,' while 23 percent found the practices to be 'intrusive and unfair;'

"(iii) nearly half the respondents found problems with the accuracy of the report, with the most prevelant complaint pertaining to the inclusion of obsolete data. 15 percent believed the reports were accurate; and,

"(iv) nearly 82 percent advocated reform of commercial credit reporting practices."

During his testimony Feldman summarized the results of the NRMA survey for the committee as follows:

"The most important conclusion that we draw from the survey is the extent to which respondents believe that regulation of the practices of commercial credit reporting firms is essential. While the respondents do not dispute the right of the reporting firm to investigate and report upon them, they do believe that certain standards procedures should be followed by these firms in the conduct of their business. Primary among the suggested reforms is the right of the business or individual being investigated to have access to the credit report and to have the right to correct any misinformation or misrepresentations. Moreover, the respondents are virtually unanimous in advocating that strict confidentiality of information be maintained, that the propriety of questions be assured, and that guidelines for the use of commercial reporting firms be established.

"This dramatic support for regulation of commercial credit investigatory practices is particularly striking because, as a rule, small business executives oppose increased Federal control of or intervention in their business or private lives."

Feldman offered another comment from an NRMA member-retailer which he indicated typified the frustration felt by small business retailers who are confronted with inaccurate, misleading and out-of-date reports:

"I am basically opposed to (the) use of government action for private problems. However, since many credit reporting firms use and distribute erroneous information without opportunity for refutation, I guess the only cure is law."

Feldman recommended that, since fairness and equity demand that businesses be treated in the same manner and afforded basically the same protections as those provided for consumer credit, the protections afforded to consumers under the Fair Credit Reporting Act should be extended to businesses. He concluded that:

"If the reporting companies do, in fact, afford these rights, they will not be burdened by compliance with a law that reinforces their current policies. If they do not afford these rights, and we are persuaded that they do not, they should be required to start now."

(b) Jo's Place Ltd., a NRMA member, is a ladies store located in Knoxville, Iowa, with approximately $250,000 in annual gross sales.

Mrs. Goff, as a small business person, was acutely aware of her business' dependence upon good credit and the actions of credit reporting agencies for its very existence. She stated:

"Without it we cannot survive—and the commercial credit reporting agencies control that credit! In effect, the commercial credit reporting agencies control the existence of small retail businesses! We would all assume, as I did when I entered the business world, that anyone blessed with this kind of power would be above reproach when wielding it. I assumed, as most do, that credit reporting agencies were in business to protect and assist everyone involved—to simplify business transactions, and expedite delivery of orders placed with manufacturers. Unfortunately, the real world differs from the American dream in that most instances you are dealing with an unfeeling, inanimate computer in an office somewhere which may or may not be using current or correct information concerning your account * * * I can say very comfortably that in the past, some of the people with whom I have had to deal who were representing credit reporting agencies did not even understand the financial statements and accompanying figures which they were demanding."

Mrs. Goff reported that Jo's Place was denied credit due to an inaccurate D&B report. When she informed D&B of the inaccuracy and demanded a correction, D&B refused, simply stating that "time would heal all." In attempting to resolve the inaccuracies in the D&B report, she found the D&B personnel to be "rude, abrupt and overbearing," and concluded:

"I guess most of us could tolerate the inefficiency of reporting companies more if it weren't coupled with arrogance. The credit reporting agencies control your future and they know it and so do you. So you try your best to cope with their errors, insults, veiled threats, and overbearing employees in order to stay in business. The factors need the manufacturer to sell goods—or else there is no need for them to exist. The only people who continue to do business either way are the credit reporting firms. If a business is denied credit based on its rating with the reporting company, the retailer loses, the manufacturer loses and the factor loses. But does the failure to compete a transaction affect the reporting agency in any way? Not at all."

Mrs. Goff concluded, therefore, that the only way that small business could be assured fair, complete and accurate credit reporting by commercial credit reporting agencies was through Government intervention and appropriate legislation.

D&B indicated that, based on its review of the information it had in its files, the company's payments on the whole were good and D&B should have been in a position to answer her questions. If a request for information was refused, and a reporter declined to show the business a copy of the report, that was an error on the reporter's part, and against clear company policy.

5. Hon. Barry Goldwater, Jr., U.S. House of Representatives, Washington, D.C.

Congressman Goldwater was a member of the Privacy Protection Study Commission and has been active in the House of Representatives on privacy matters. He is the sponsor of H.R. 2465, a comprehensive privacy bill, which contains a provision concerning commercial credit and privacy. Mr. Goldwater's testimony focused on the need for regulation of commercial credit reporting practices and the legislative proposal he is sponsoring.

Mr. Goldwater's bill adopts virtually all of the recommendations of the Privacy Protection Study Commission and, in substance, proposes that business entities be afforded the same remedies that consumers have been granted under the Fair Credit Reporting Act.

6. Panel III: (a) Peter Zimmerman, New York State Council of Retail Merchants, Inc., Albany, N.Y., (b) Charles Green, president, Jack Green Men's Shop, Rochester, N.Y.; (c) Albert Wohl, Wohl's Department Store, Cobleskill, N.Y.

(a) Peter Zimmerman is the Director of Governmental Affairs for the New York State Council of Retail Merchants, a statewide trade association representing 5,000 retail outlets throughout the State of New York. For many years the council has received numerous complaints about commercial credit reporting services. One of the more serious complaints received is that D&B, through its Credit Clearinghouse subsidiary, recommends that subscribers not enter into a transaction with a business for which D&B does not have a financial statement, thereby seriously impairing the ability of the business to obtain credit. The council has also received numerous complaints concerning the overall inaccuracies of credit reports; the use of outdated and obsolete information; delays and unresponsiveness in resolving complaints; and businesses' inability to learn sources of information.

As has been noted earlier, several witnesses indicated that they felt under pressure to volunteer information to commercial credit reporting agencies; others thought they were being penalized for their failure to provide financial and other background information to commercial credit reporting agencies. During the hearing, considerable attention was directed to Dun & Bradstreet's use of a blank rating for certain businesses. Under D&B's current use, the blank rating is given not only to businesses on which D&B has been unable to obtain sufficient information, but also businesses that are in bankruptcy or receivership, businesses that have incurred serious losses and where there is a strong chance that creditors may lose, businesses in critical financial condition, businesses where failure appears imminent, and businesses where there is a serious question of moral risk.

The committee was concerned that lumping lack of information into a list of significant negative factors may have the effect of urging businesses to provide information so as to disprove the existence of any of the possible adverse implications. The committee recommended that D&B explore the feasibility of establishing rating notations separating lack of information from adverse information.

During the hearing, D&B indicated that it was unaware that its subscribers had interpreted the blank rating in the same manner as the committee, but agreed to carefully study the committee's suggestions. In a follow-up letter, D&B rejected any notion that its blank rating exerted pressure on businesses to provide information, and reaffirmed its earlier position that the business community generally regards the blank symbol as meaning insufficient information.

However, D&B also recognized that its current explanation of the blank rating could contribute to misunderstanding, and agreed to revise their literature on this point. Nevertheless, after internal deliberations, D&B decided against establishing differing symbols for the two classifications for fear of creating what it believed would be a readily identifiable don't sell notation, and decided to continue to allow lack of information and adverse information to be reflected by the same blank rating symbol.

(b) Charles Green, the president of Jack Green Men's Shop, testified that he has been in the menswear retail business for 20 years and heads up a well-established business that was started by his father. He owns and operates three menswear stores in Rochester, N.Y. He testified that although his company has never been slow in paying its bills, D&B has continually indicated slow payments in its reports on Jack Green Men's shop.

Green indicated that D&B's Credit Clearinghouse subsidiary recommended over the telephone to a manufacturer that credit not be extended to his company despite his company's prompt payments during 23 years of operation. According to Green, the only reason that Credit Clearinghouse recommends against extending credit is because Green refuses to cooperate with D&B and voluntarily provide information. Examination at the hearing of a copy of the Credit Clearinghouse referral slip that Credit Clearinghouse subsequently sends to telephone inquirers to confirm its oral recommendation, confirmed that among the specific reasons cited for recommending against a credit transaction with that company are: "statement not submitted" and "statement refused."

Another of Green's major complaints was that when a dispute as to the accuracy in a credit report did arise, he was unable to learn D&B's sources for the erroneous information. As he put it, "certainly businesses, whose life and continuance depends upon credit, are entitled, as are consumers, to know their accusers."

Mr. Green recommended to the committee that it enact legislation to prevent these abuses and among other things, to require credit reporting agencies to list their sources of information and to advise businesses immediately upon any update of credit reports prepared and issued.

Although critical of the way D&B conducts its credit reporting service, Mr. Green emphasized that:

"Despite the imperial attitude displayed to retailers by Dun & Bradstreet, we are not attempting to create the impression that they are 'an evil to be done away with'. On the contrary, we need reporting agencies, for without them, dispersal of credit information would be very cumbersome and thereby restrict commerce as we know it, in today's credit atmosphere. Yes, we do need reporting agencies, but we need some changes in their methods, so as to make their reports, subject to policing, as to their accuracy."

Dun & Bradstreet stated that it was unable to determine if the data in its July, 1977 report was correct. Therefore, it issued a new report which reflected no slowness in payments.

Dun & Bradstreet further commented that, as a matter of policy, when Credit Clearinghouse is unable to suggest a credit guideline because of the unavailability of financial information, the subscriber is so informed.

As noted previously, this means that because of the unavailability of financial information, D&B recommended against a credit transaction with Green's company.

(c) The third scheduled witness on the panel, Albert Wohl, president of Wohl's Department Store, Cobleskill, N.Y., was unable to personally testify but submitted a statement to the committee relating his experience with D&B.

Wohl's Department Store was refused credit from a manufacturer in the spring of 1979 after ordering goods. The manufacturer said that it would not extend him credit because of an unfavorable D&B report indicating his company was a slow payer. When Wohl learned that D&B had erroneously reported a slow payment and requested a copy of his report, D&B provided him a copy of a report that was 13 months old containing outdated information. Wohl has had great difficulty getting an updated and corrected report.

Wohl's written testimony related that if he had been given the opportunity to review his credit reports and update and correct deficiencies, the problems outlined in his testimony could have been avoided. Simply put, he stated that his interest was only in being assured that the credit reports prepared by D&B and other commercial credit agencies are accurate, and portray a realistic picture of his credit worthiness as a retailer and a small businessman.

With respect to Wohl's slow pay report, D&B was unable to find any such notation in its reports, and has not obtained a satisfactory response from suppliers as to the source of this information.

7. Richard D. Simmons, vice chairman of the board, the Dun & Bradstreet Corp., New York, N.Y.

(a) Background information

The principal business of Dun & Bradstreet, Inc., is a commercial credit reporting service. Dun & Bradstreet reported that it does not collect or disseminate consumer credit information in the United States. Other subsidiaries of the parent company, the Dun & Bradstreet Corp., are involved in a variety of data and information activities.

According to D&B, 95 percent of the commercial establishments on which it reports can be classified as small business and 92 percent of the users of its reports are small businesses.

Dun & Bradstreet advised that it has a field staff of 1,600 reporters/information collectors working out of field offices throughout the United States and that 80,000 companies subscribe to its service. D&B reports business information on over 4 million companies and, in 1978, processed over 14 million separate requests for this information. In addition, its credit reporting services are available in other countries.

The D&B business information report is an analysis of those aspects of a commercial enterprise that are relevant in making business credit decisions. It contains information about the manner in which a business pays its bills, its banking relationships, its operations, its financial statements, and its owners, partner, or officers.

According to Dun & Bradstreet, references to the principals of a business are limited to facts which are relevant in evaluating the present and probable future condition of the business, consisting solely of the executive's current position, previous business experience, educational background, year of birth, marital status, and bankruptcies or criminal convictions, if any. Dun & Bradstreet reports that it does not collect information on a businessman's personal habits, lifestyle, or the manner in which he pays his personal bills.

Dun & Bradstreet's Credit Clearinghouse is a division designed to provide credit information for manufacturers in the apparel industry. Inquiries can be made by mail or phone. When Dun & Bradstreet recommends over the telephone against entering into a credit transaction with a retailer, it confirms its recommendation by mail. Among the reasons cited on the Dun & Bradstreet confirmation slip as a basis to recommend against granting credit are two items which show a retailer's lack of cooperation: Item 20—"Statement refused" and item 21—"Statement not submitted."

(b) Testimony of Richard Simmons

Richard D. Simmons, vice chairman of the board of the Dun & Bradstreet Corp., testified on behalf of Dun & Bradstreet. He reported to the committee that Dun & Bradstreet has voluntarily established the following practices to protect the rights of businesses on which it reports:

"(i) We believe that a business is the best source of information about itself and therefore we seek this information from the business whenever possible. At that time we inform the business that we intend to prepare a report on it and that the report may be used for a variety of business decisions.

"(ii) Any time a business wishes, we give it a copy of our report on it.

"(iii) We discuss our report with the business upon request and correct any errors called to our attention. We include a concise statement of the business' position if we are unable to resolve any differences of opinion concerning the facts in the report.

"(iv) We restrict the information concerning the principals of any business on which we report to that which will be used in the evaluation of the business. We do not conduct investigations of individuals with respect to their personal habits and lifestyle."

Dun & Bradstreet receives complaints in approximately three hundredths of 1 percent of the reports prepared.

According to Simmons, Federal regulation over the commercial credit reporting industry is not necessary and would be costly, cumbersome, and unnecessary. Furthermore, Dun & Bradstreet does not believe it is possible for Congress or the executive branch of Government to impose a "simple" privacy standard on commercial credit reporting without opening the door to a never-ending flow of rules by the supervising Government authority.

Dun & Bradstreet reported that the Privacy Commission also recognized major differences between the consumer and commercial credit reporting fields. While Dun & Bradstreet noted that the Commission did call for regulation intended to insure what Dun & Bradstreet asserted was already being accomplished on a voluntary basis, the Commission specifically concluded that:

"(A)lthough the Commission believes that the procedures established by Dun & Bradstreet to permit owners or managers of a firm to see commercial reports, to dispute their accuracy, and to request their correction are entirely laudable, it finds that such procedures are not entirely sufficient to protect individuals from unfairness in the use of commercial reports."

Although testimony from witnesses at the hearing, and documents received in evidence, indicated otherwise, Dun & Bradstreet denied that it makes a specific recommenda-

tion that a credit transaction not be entered into.

The committee also received written testimony from Dr. Andrew F. Brimmer, president of Brimmer & Co., a provider of economic and financial consulting services. In his statement on the "Economic Impact of Regulatory Delay in Commercial Credit Reporting," prepared and submitted on behalf of Dun & Bradstreet, Dr. Brimmer noted that the inevitable result of any Federal Government intervention to regulate commercial credit reporting now handled by the private sector would be a serious delay in the availability and increase in the real cost of commercial credit information. "In such a case as this, it would be the reduction or elimination of information on small businesses, and small businesses would suffer most," he concluded.

8. James H. Holly, vice president and director of business development, TRW, Inc., Orange, Calif.

Testimony by Mr. Holly revealed that TRW's National Credit Information Service (NACIS), operated on behalf of the National Association of Credit Management, does not investigate firms but merely compiles information obtained from commercial credit grantors and reports the information to other credit grantors. NACIS also collects and reports information about a firm's relationship with banks. NACIS provides no evaluative information about firms to credit grantors nor does NACIS provide information about the business-related background of the company's management. TRW's fully computerized approach to information delivery is gaining industry acceptance.

TRW supplies trade-payment information that is no more than 90 days old. Thereafter, this information is automatically removed from the computer system.

Mr. Holly testified also that since TRW provides only current factual trade data and provides no evaluative information, it receives few complaints concerning its commercial credit reporting services. When there is a complaint, it is checked out with the supplier and unless the supplier reverifies its trade information, the information is automatically removed from the computer. In the event of error the company that declined credit is automatically sent a copy of the corrected credit report. TRW's complaint procedure is designed to resolve all complaints within 30 days.

9. William J. Parsons, vice president, National Association of Credit Management (NACM) New York, N.Y.

According to Mr. Parsons, NACM is a confederation of 58 autonomous trade groups that collects trade-payment information for their 44,000 members. Its operations are similar to TRW which is also a member of NACM. The major difference, however, is that NACM trade-payment information is collected and processed manually and is not computerized. NACM does not rate the credit position of the firm on which it reports, nor does it make any recommendations whatsoever regarding whether credit should be extended.

F. CONCLUSION

The testimony presented at the committee hearings, the first congressional follow-up to the Privacy Commission study, highlighted the profound effect commercial credit reports have on small businesses. It is apparent that commercial credit reporting agencies play an essential role for both the grantor of credit and for the business applying for credit. While inaccurate reporting exists, the commercial credit reporting agencies testified that there are adequate safeguards in the present system to protect small business. Acting on suggestions made at the hearings, Dun & Bradstreet subsequently indicated that a number of changes will be forthcoming in their procedures.

All the private sector witnesses that were heard, except for the commerical reporting agencies, believed that the existing statutory safeguards were inadequate to guarantee fair and accurate commercial credit reporting on small business. The committee has undertaken additional data gathering in this important area. In addition, Senator Weicker, the ranking minority member of the committee, stated that he would introduce legislation to provide Federal standards to protect against inaccurate business credit reports, and to provide a statutory remedy for injured businesses.●

By Mr. TOWER:

S. 1367. A bill to amend title 10, United States Code, to make certain information available to the Armed Forces for military recruiting and related national security purposes; to the Committee on Armed Service.

MILITARY RECRUITING INFORMATION ACT OF 1981

● Mr. TOWER. Mr. President, I wish to introduce legislation today that will assist our military recruiters in their efforts to recruit into the military those service eligible youth who are best qualified to serve in our Nation's Armed Forces.

A decade ago our Nation chose to maintain a force of volunteers to defend our country. Since that time our military recruiters have been placed at a disadvantage in their efforts to inform our high school youth about a military career and the benefits associated with military service. The inability to attract a sufficient number of high school graduates has forced our services to accept large numbers of recruits from the lower mental categories and those who have not completed high school. Statistics clearly indicate that non-high-school graduate recruits attrite at twice the rate of high school graduates. Additionally, there is an informal leadership cadre missing from the ranks as well as the lack of a cross section of American youth, the fabric that binds a strong military force.

This bill will authorize the Secretary of Defense to collect high school directory information for confidential use by military recruiters. Our recruiters consider these directories to be their single best source of potential enlistees. In the past, confusion over the interpretation of such laws as the Federal Educational Rights and Privacy Act (FERPA) has hampered recruiters in their efforts to acquire directory information.

While FERPA proscribes only the public dissemination of directory information—without parental approval—it does not prohibit the confidential distribution of that information. This bill will make clear that use of directory information by recruiters will be confidential and that such cooperation between educational officials and recruiters is strongly encouraged by the Federal Government. I urge my colleagues to support this important measure.●

By Mr. HUMPHREY (for himself, Mr. HELMS, and Mr. RUDMAN):

S. 1368. A bill to amend the Internal Revenue Code of 1954 to provide that services performed for camps by certain students who generally are not eligible to receive unemployment compensation will not be subject to the Federal unemployment tax; to the Committee on Finance.

LEGISLATION RELATING TO UNEMPLOYMENT TAX FOR CERTAIN STUDENTS

● Mr. HUMPHREY. Mr. President, today I am introducing a bill to amend the Internal Revenue Code of 1954 to provide for the removal of the requirement presently imposed on children's summer camps to pay Federal unemployment compensation tax on students who by law are not entitled to receive benefits. This legislation is the same as the measure I introduced in the 96th Congress, S. 1394.

Small business is increasingly being burdened with Federal regulations. During school vacation periods, employment opportunities are scarce. The summer camp industry collectively provides over a half million jobs during summer vacations, plus a wide variety of skill training programs. This tax reform legislation seeks to stimulate small business while increasing job opportunities in the private sector during these traditional school vacation times.

This bill will not deprive any individual of any current benefit nor change the status of an individual now compensable. It will, however, relieve the summer camp business of an unfair regulatory burden, a burden on the employer which provides no benefit to the employee.

Presently, under the Federal Unemployment Tax Act (FUTA), a basic tax of 3.4 percent is paid by the employer for all values received by the employee, including in-kind compensation such as room and board. There are few exceptions under the act as to whom is considered an employer; title 26, United States Code, section 3306 broadly defines employer as one who pays wages of $1,500 or more during any calendar quarter, or who on each of 20 days during the calendar year, each day being in a different calendar week, employed at least one person for some portion of the day. Thus, nearly all employers, including camp employers, are required to pay this tax.

Simply stated, the inequity is that there are employers paying taxes on individual workers who are exempted from FUTA benefits. Generally, employee benefits under FUTA apply to all employees earning more than $6,000 annually, but there are certain exceptions. To become compensable, the worker must be employed for a specific number of weeks annually. The law is thus designed to prevent vacation period employees from receiving unemployment compensation benefits; yet contrary to this logic, the employer still pays unemployment compensation tax on such employees.

Unemployment compensation laws are intended to protect bona fide workers in the labor force. To assure that Federal qualifying restrictions limit FUTA benefits to such workers, certain employees are exempted from compensation benefits. From the perspective of the camping industry, most of their staff is in this way exempted from unemployment compensation benefits. Those workers excluded from such benefits include all college and university full-time students,

those persons who are declared dependents of others, and semester/term holiday persons. Vacation time is considered normal and not a work loss to be compensated.

Our children's summer camps are still paying in full the FUTA tax on their noncompensable employees. The FUTA revisions effective January 1978, do not provide relief.

The summer camp industry is in a unique position compared to many other small businesses. Almost all of the men and women they employ are noncompensable by statute or judicial decision. The student—or dependent—voluntarily places himself outside the labor force and elects to seek an education. This student accepts work during a vacation period with the understanding that employment is temporary and will terminate at an agreed-upon date. The employee is neither fired nor laid off, but at the end of the season returns to resume his or her schooling.

A number of States exempt this type of temporary employment from State unemployment compensation with regard to benefits. Several States have taken the next logical step, which my bill attempts to take federally, and have also rescinded the requirement that the employer pay a State unemployment tax on persons not considered bona fide workers in the labor force protected under the law. However, even where the employer is excluded from paying a State unemployment tax, the employer must still pay the Federal unemployment tax of 3.4 percent on that same noncompensable person.

I believe that my bill will rectify this inequity under the Federal Unemployment Compensation Act, which I perceive to be a legislative oversight. Employers shall be exempt from FUTA contributions for those specifically defined student employees who are deemed outside the labor force the law was intended to protect. By removing this unnecessary regulatory burden from our children's summer camps, these camps will have more operating funds with which to provide more job opportunities. In addition, the camps' purchasing power in the local communities will be increased.

I ask for my collegues' bipartisan support for this tax reform in order to conform to FUTA congressional intent and to provide equity and basic fairness in taxation, and in addition, to reduce the regulatory burden on small businesses. I am very pleased to have the support of my fellow distinguished Senator from New Hampshire, Mr. RUDMAN, and the distinguished Senator from North Carolina, Mr. HELMS.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1368

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subsection (c) of section 3306 of the Internal Revenue Code of 1954 (defining employment) is amended by striking out "or" at the end of paragraph (17), by striking out the period at the end of paragraph (18) and inserting in lieu thereof "; or", and by adding at the end thereof the following new paragraph:

"(19) service performed by a full-time student (as defined in subsection (q)) in the employ of an organized camp—

"(A) if such camp—

"(i) did not operate for more than 7 months in the calendar year and did not operate for more than 7 months in the preceding calendar year, or

"(ii) had average gross receipts for any 6 months in the preceding calendar year which were not more than 33⅓ percent of its average gross receipts for the other 6 months in the preceding calendar year; and

"(B) if such full-time student performed services in the employ of such camp during fewer than 13 calendar weeks in the calendar year.".

(b) Section 3306 of such Code is amended by adding at the end thereof the following new subsection:

"(q) FULL-TIME STUDENT.—For purposes of subsection (c)(19), an individual shall be treated as a full-time student for any period—

"(1) during which the individual is enrolled as a full-time student at an educational institution, or

"(2) which is between academic years or terms if—

"(A) the individual was enrolled as a full-time student at an educational institution for the first of such academic years or terms, and

"(B) there is a reasonable assurance that the individual will be so enrolled for the second of such academic years or terms.".

(c) The amendments made by this Act shall apply to remuneration paid after December 31, 1980.●

ADDITIONAL COSPONSORS

S. 270

At the request of Mr. SCHMITT, the Senator from Georgia (Mr. MATTINGLY) was added as a cosponsor of S. 270, a bill to amend the Communications Act of 1934 in order to encourage and develop marketplace competition in the provision of certain radio services and to provide certain deregulation of such radio services, and for other purposes.

S. 351

At the request of Mr. WALLOP, the Senator from Texas (Mr. TOWER) was added as a cosponsor of S. 351, a bill to amend the Federal Mine Safety and Health Amendments Act of 1977 to provide that the provisions of such act shall not apply to the surface mining of stone, clay, and sand work.

S. 708

At the request of Mr. CHAFEE, the Senator from New Mexico (Mr. SCHMITT), and the Senator from New York (Mr. D'AMATO) were added as cosponsors of S. 708, a bill to amend and clarify the Foreign Corrupt Practices Act of 1977.

S. 921

At the request of Mr. SIMPSON, the Senator from Pennsylvania (Mr. HEINZ) was added as a cosponsor of S. 921, a bill to amend title 38, United States Code, to extend authority to provide contract hospital care and medical services in Puerto Rico and the Virgin Islands, and for other purposes.

S. 966

At the request of Mr. SASSER, the Senator from Wyoming (Mr. SIMPSON) was added as a cosponsor of S. 966, a bill to amend chapter 13 of title 18 of the United States Code.

S. 1018

At the request of Mr. CHAFEE, the Senator from Maine (Mr. MITCHELL), the Senator from Pennsylvania (Mr. SPECTER), the Senator from Vermont (Mr. STAFFORD), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Wyoming (Mr. SIMPSON), the Senator from Connecticut (Mr. DODD), the Senator from Rhode Island (Mr. PELL), the Senator from Delaware (Mr. ROTH), and the Senator from Maine (Mr. COHEN) were added as cosponsors of S. 1018, A bill to protect and conserve fish and wildlife resources, and for other purposes.

S. 1120

At the request of Mr. KASTEN, the Senator from Montana (Mr. BAUCUS) was added as a cosponsor of S. 1120, a bill to reduce the amount of funds available to an agency unless the agency has reduced waste, fraud, and abuse to the maximum extent feasible or demonstrates that no waste, fraud, or abuse exists in the administration of programs, and for other purposes.

S. 1131

At the request of Mr. DANFORTH, the Senator from South Carolina (Mr. HOLLINGS) was added as a cosponsor of S. 1131, a bill to require the Federal Government to pay interest on overdue payments and to take early payment discounts only when payment is timely made, and for other purposes.

S. 1218

At the request of Mr. WALLOP, the Senator from Florida (Mrs. HAWKINS), the Senator from Alabama (Mr. HEFLIN), the Senator from New Mexico (Mr. SCHMITT), and the Senator from Wyoming (Mr. SIMPSON) were added as cosponsors of S. 1218, a bill to amend the Internal Revenue Code of 1954 to allow employees a deduction for savings contributions to employer retirement plans.

S. 1235

At the request of Mr. D'AMATO, the Senator from Virginia (Mr. WARNER) was added as a cosponsor of S. 1235, a bill to exempt certain matters relating to the Central Intelligence Agency from the disclosure requirements of title 5, United States Code.

S. 1245

At the request of Mr. HATCH, the Senator from Wyoming (Mr. SIMPSON), and the Senator from Wyoming (Mr. WALLOP) were withdrawn as cosponsors of S. 1245, a bill to provide for the cession and conveyance to the States of federally owned unreserved, unappropriated lands, and to establish policy, methods, procedures, schedules, and criteria for such transfers.

S. 1348

At the request of Mr. SASSER, the Senator from Montana (Mr. MELCHER), and the Senator from Rhode Island (Mr. CHAFEE) were added as cosponsors of S. 1348, a bill to amend the Internal Rev-

enue Code of 1954 to clarify certain requirements which apply to mortgage subsidy bonds.

SENATE JOINT RESOLUTION 62

At the request of Mr. DOLE, the Senator from New Jersey (Mr. BRADLEY) was added as a cosponsor of Senate Joint Resolution 62, a joint resolution to authorize and request the President to designate the week of September 20 through 26, 1981, as "National Cystic Week."

SENATE POINT RESOLUTION 64

At the request of Mr. SIMPSON, the Senator from Nevada (Mr. LAXALT) was added as a cosponsor of Senate Joint Resolution 64, a joint resolution designating August 13, 1981, as "National Blinded Veterans Recognition Day."

AMENDMENT NO. 58

At the request of Mr. CRANSTON, the Senator from Montana (Mr. BAUCUS), the Senator from Michigan (Mr. LEVIN), the Senator from Maryland (Mr. SARBANES), the Senator from Illinois (Mr. DIXON), and the Senator from Texas (Mr. BENTSEN) were added as cosponsors of amendment No. 58 proposed to S. 921, a bill to amend title 38, United States Code, to extend authority to provide contract hospital care and medical services in Puerto Rico and the Virgin Islands, and for other purposes.

AMENDMENT NO. 59

At the request of Mr. CRANSTON, the Senator from Texas (Mr. BENTSEN), the Senator from Montana (Mr. BAUCUS), the Senator from West Virginia (Mr. ROBERT C. BYRD), the Senator from Delaware (Mr. BIDEN), the Senator from South Dakota (Mr. PRESSLER), the Senator from Michigan (Mr. LEVIN), the Senator from Illinois (Mr. DIXON), and the Senator from Colorado (Mr. HART) were added as cosponsors of amendment No. 59 proposed to S. 921, a bill to amend title 38, United States Code, to extend authority to provide contract hospital care and medical services in Puerto Rico and the Virgin Islands, and for other purposes.

At the request of Mr. SIMPSON, the Senator from South Carolina (Mr. THURMOND) was added as a cosponsor of amendment No. 59 proposed to S. 921, supra.

AMENDMENT NO. 61

At the request of Mr. CHAFEE, the Senator from Kentucky (Mr. FORD), the Senator from California (Mr. HAYAKAWA), the Senator from South Dakota (Mr. ABDNOR), the Senator from Nevada (Mr. CANNON), the Senator from Missouri (Mr. EAGLETON), the Senator from Michigan (Mr. LEVIN), the Senator from Oklahoma (Mr. BOREN), the Senator from Illinois (Mr. DIXON), the Senator from Arkansas (Mr. BUMPERS), the Senator from Maine (Mr. COHEN), the Senator from Delaware (Mr. ROTH), the Senator from Texas (Mr. BENTSEN), the Senator from Montana (Mr. BAUCUS), the Senator from West Virginia (Mr. ROBERT C. BYRD), the Senator from Utah (Mr. HATCH), and the Senator from North Dakota (Mr. BURDICK) were added as cosponsors of amendment No. 61 proposed to S. 921, a bill to amend title 38, United States Code, to extend authority to provide contract hospital care and medical services in Puerto Rico and the Virgin Islands, and for other purposes.

At the request of Mr. SIMPSON, the Senator from South Carolina (Mr. THURMOND), and his name were added as cosponsors of amendment No. 61 proposed to S. 921, supra.

NOTICE OF HEARINGS

COMMITTEE ON SMALL BUSINESS

Mr. WEICKER. Mr. President, I would like to announce for the information of the Senate and the public, that the Senate Small Business Committee will hold a full committee hearing on the deterioration of the U.S. defense industrial base.

The hearing will be on Tuesday, July 14, 1981, at 9:30 a.m., in room 424 of the Russell Senate Office Building. For additional information contact Jim O'Connell of the committee staff at 224–5175.

SUBCOMMITTEE ON ADVOCACY AND THE FUTURE OF SMALL BUSINESS

Mr. WEICKER. Mr. President, I would like to announce for the information of the Senate and the public, that the Subcommittee on Advocacy and the Future of Small Business of the Senate Small Business Committee will hold a hearing on Government Competition with Small Business. The hearing will be on Wednesday, June 24, 1981, at 10 a.m. in room 424 of the Russell Senate Office Building. Senator HAYAKAWA will chair the hearing.

For additional information contact Kim Elliott of the committee staff at 224–5175.

SUBCOMMITTEE ON INNOVATION AND TECHNOLOGY

Mr. WEICKER. Mr. President, I would like to announce for the information of the Senate and the public, that the Subcommitttee on Innovation and Technology of the Senate Small Business Committee will hold a field hearing on Tuesday, June 30, 1981, in Boston, Mass. The hearing will convene at 9:30 a.m., in room 2003, JFK Building, Government Center, Boston, Mass. Senator RUDMAN will chair.

The purpose of the hearing will be to continue the subcommittee's review of S. 881, the Small Business Innovation Research Act of 1981.

For additional information contact Anne Sullivan of the committee staff at 224–5175, or Andy Peterson of Senator RUDMAN's staff at 224–5371.

Mr. President, I would like to announce for the information of the Senate and the public, that the Subcommittee on Innovation and Technology of the Senate Small Business Committee will hold 2 days of hearing, Tuesday, July 7 and Wednesday July 8, to continue its review of S. 881, the Small Business Innovation Research Act of 1981.

The hearing will convene at 9:30 a.m. on both days in room 424 of the Russell Senate Office Building. Senator RUDMAN will chair.

For additional information contact Anne Sullivan of the committee staff at 224–5175, or Andy Peterson of Senator RUDMAN's staff at 224–5371.

ADDITIONAL STATEMENTS

COMMENCEMENT ADDRESS BY DR. MICHAEL I. SOVERN, PRESIDENT OF COLUMBIA UNIVERSITY

● Mr. PELL. Mr. President, on May 13, 1981, President Michael I. Sovern, of Columbia University, gave that distinguished institution's commencement address at the close of its 227th academic year. Dr. Sovern's address is an important one, for it accurately portrays the dire consequences of many of the proposed reductions this Congress is supporting in its effort to balance the budget.

I have opposed the budget resolutions presented to us this Congress, because I believe strongly that they contain the wrong choices as to how economic recovery can be achieved. And I agree wholeheartedly with Dr. Sovern's analysis that the proposed cutbacks in Federal student assistance programs and basic research programs are a "gross error." The minds and talents of our people are this Nation's most precious resource. In my opinion, many of the budget cutting decisions we are making lose sight of this fact. As I have said time and time again, cuts in educational programs, especially student assistance programs are penny wise and pound foolish. Cutting these programs is the wrong way to achieve national economic security.

Mr. President, Dr. Sovern's address is an important one. It raises issues which are vital to this Nation. I ask that it be printed in the RECORD, and I commend it to the attention of my colleagues.

COMMENCEMENT ADDRESS AT COLUMBIA UNIVERSITY BY PRESIDENT MICHAEL I. SOVERN

Congratulations. You made it.

I know you will understand how much I envy you as I end my first year as President. In a few moments you will become alumni; I shall become a sophomore.

You are an extraordinarily diverse group and this day has different meanings for you. Many of you are marking the end of your careers as undergraduates but not your time as students: professional or graduate school awaits. Others are making the great change from dependence to independence. Your formal education is over. (Sometimes I wish you didn't feel quite so elated about that.) As your parents breathe a sigh of relief, you are going off the family payroll and embarking, at last, on gainful employment.

But we and, I hope, you will not be content if you are merely prodigious breadwinners. We expect you to be uncommonly skillful at your callings, but we ask for more. We want you to be caring doctors; fair-minded journalists; architects and planners of vision and discipline; inspiring ministers and teachers; business leaders who understand that the good bottom line, though indispensable, is insufficient by itself. We seek commitment and creativity—from our artists and scholars, yes—but also from our therapists. And, I have not forgotten you, social workers, our diplomats, nurses and therapists. And, I have not forgotten you, we want lawyers with a passion for justice.

Whether these next years are spent as an advanced student or as a beginning profes-

sional, they are still years of preparation. They will seem painfully long as you live them, cruelly swift as you look back on them, but one day you will be ready, and an amazingly large proportion of you will ascend to important positions of leadership. On average, you will get there around the year 2001.

Parents, I want you to take good care of yourselves so that you will be around to savor the moment. It will be almost as good as today.

It would be foolish to claim that we have trained you for that day, particularly since no one has a very clear idea what the world will look like in the next millenium. Still, I hope we have prepared you so that you can continue to prepare yourselves. We are seekers at Columbia, students and teachers alike. Wanting to know, needing to know is our passion, our mission. Omniscience is not open to us, but greater understanding is. So, too, is an appreciation of the joy of the quest. That, I hope, you will take with you. If we have helped you to kindle the fire of exploration, do not bank it now. Keep on stretching and growing.

Much of what you will face is captured in a quotation from Harper's: "It is a gloomy moment in the history of our country . . . never has the future seemed so incalculable as at this time. The domestic economic situation is in chaos. . . . Prices are so high as to be utterly impossible. The political cauldron seethes and bubbles with uncertainty. Russia hangs as usual, like a cloud, dark and silent upon the horizon. It is a solemn moment. Of our troubles no man can see the end."

As you undoubtedly guessed, that was from Harper's Weekly, October 1857.

The message is clear. The world has looked gloomy before. To some, it has always looked gloomy. Life is difficult business under the best of circumstances. And the best of circumstances exist only in the past or in the future, the stuff of nostalgia or hope. We must make do with something less than the best of circumstances. Today that means perhaps above all else, uncertainty. What makes the world into which you are graduating different is that no one with any sense can claim to know what lies ahead for you. That degree of uncertainty is rare, perhaps unique, in history.

Until the American Revolution, people knew in broad outline what the future held for them—more of the same. There were harbingers of a radically different world—Gutenberg and Galileo, Luther and Lavoisier—but, measured by our standards, the pace of change was glacial.

With the American, French, and Industrial Revolutions, the pace picked up; but even so, the handful of New Yorkers who graduated from young Columbia College at the beginning of the nineteenth century had a foreseeable future. Fifty years later, slavery would still be flourishing, the trip from New York to Washington would still be a journey of several days, and the survivors could do no more than hope that the next influenza epidemic would spare them again.

In our own century, change moved into high gear, yet a Commencement speaker in the first decade of the 1900's would have foreseen relatively little of it. He would have talked confidently of the Brave New World ahead—full of spiritual well being and material progress, fueled by inexhaustible minerals and man's limitless ability to cope.

We know better. If ignorance is the beginning of wisdom, we are beginning to be wise. If the strong know their weaknesses, we are beginning to be strong. We are learning about our limitations—nature is not subject to infinite manipulation by man; we cannot influence other people as much as we thought we could; we cannot even shape ourselves as much as we would like.

Understanding these limitations is part of the essence of leadership. As leaders you must carry your share of the burden of leading from illusion to reality without losing your way in disillusion and abandoning the journey in cynicism.

These are testing days. Our national government makes cynicism seductive as it maintains subsidies for tobacco growers while proposing budget rescissions for cancer researchers; laments our poor productivity and eliminates the National Science Foundation's program for training scientists and engineers; continues cost-of-living increases to its retired federal employees but denies them to students on financial aid. But we err if we assume that these are the works of malevolence. Ironically, an Administration that would subscribe to the proposition that solutions are the chief cause of problems, is offering solutions at a rate that may well exceed even the early days of the New Deal. Inevitably, they are making mistakes.

I applaud the President's determination to roll back inflation. It is an insidious plague and we have been among those seriously hurt by it. The President has shown rare political courage in proposing to bring under control such extravagant, unproductive programs as dairy price supports and trade adjustment assistance. I applaud too the urgings to put aside narrowly partisan differences, to forego special interests. I believe deeply in the virtue of subordinating selfish claims to the common good. But I do not believe in suspending judgment as to where the common good lies.

We expect an administration to make its own, earnest search for the common good, using the best information available, filterering that information through its own predispositions and making whatever political compromises it must to come as close as it can to its goals. All of us have a role in that process—both as sources of information and as elements in the political balance. If we keep silent when we see gross error, we fail in our responsibilities.

And I do see gross error in the way the Reagan Administration is proposing to deal with basic research and student aid.

It would be hyperbole to say that we are embarking on our own Cultural Revolution. I do not foresee in America the wasteland of China's laboratories and classrooms. But I can well imagine a news story datelined Washington, D.C., January 21, 1989, which reads: "In her State of the Union Message, the President called for a multibillion dollar crash program of federal and private investment in America's university research base. She asserted that radical action is critical to meet the problems posed by the greatest shortage of scientists and scholars in our history. Without it, she said, we have no hope of returning to our rightful place as tenth most productive nation in the world."

That is not hyperbole. America's per capita gross national product has slipped to tenth in the world. Tenth.

America's private universities have led the way in scientific innovation—the lion's share of the ground-breaking research has been done in our laboratories and the majority of America's leading scientists have trained with us, hardly a startling congruence. Recognizing the critical importance of keeping American science in the forefront, the previous Administration recommended the expenditure of seventy-five million dollars for advanced scientific instrumentation—the tools of state-of-the-art research and training. This entire item has been stricken from the budget. Private universities cannot assume these costs. The result will be an inexorable reduction in the effectiveness of both research and training, a further erosion of America's ability to compete.

You know of the Administration's widely shared concern for productivity, its proposals for accelerated depreciation of plant and equipment, its hopes for increased rates of savings and investment. But buildings and machinery are not the fundamental answer to America's productivity problem. We must be concerned more with people than we are with things.

As our colleague, Professor Eli Ginzberg, has pointed out, "(H)uman capital, defined as the 'skill, dexterity, and knowledge' of the population, has become the critical input that determines the rate of growth of the economy. . . ."

But what is the Administration doing? Just look at the federal budgets, if you have a spare month or two. Since 1965, the federal government has provided nearly $20 billion in loan guarantees and interest subsidies for college and university students. It has disbursed billions more in direct financial aid to those most in need. I know of no wiser, fairer, more fruitful investment in America's people and America's future. We here have a high responsibility to that future: we must not stand by in silence and timidity while it is bargained away.

Surely, at this critical time, our nation should not be so short-sighted as to embark on the false economy of cutting financial aid to students.

Yet that is precisely what the national Administration is proposing. It wants to cut Pell grants, the program that some of you have known as BEOGs. Pell grants provide a maximum of $1,800 a year in support of students demonstrating serious need. As you know all too painfully, no student eligible even for a maximum Pell Grant of $1,800 can attend an Ivy League college without holding down a part-time job, taking out a loan and receiving additional scholarship help from the college itself. That program should not be cut; it should be increased.

It should be increased because fair play calls for allowing those able enough to go to the best colleges to attend them. It should be increased because we have a vital economic stake in not wasting valuable human resources.

The budget-cutters would also shrink the Guaranteed Student Loan Program. These loans are made by private capital, not the government, and the repayment obligation is that of the student. The Guaranteed Student Loan Program makes it possible for private lenders to help students willing to bear major costs to finance their own education. Improvements in the program are needed; some who don't need the loans have taken advantage of the favorable rate to turn an arbitrageur's profit at public expense, and some have defaulted on their repayment obligation. Those failings can be corrected, and they will be. But let us be careful not to damage a critically important and extraordinarily fruitful program in the process.

To give you a rough idea of the importance of Pell grants and the Guaranteed Student Loan Program to American higher education, last year Columbia alone disbursed 22 million dollars in financial aid; our students borrowed 37 million more, 30 million of it under the Guaranteed Student Loan Program.

There are still other examples of unwise cuts in research support and aid to students, but they all add up to the same sum: we are risking waste of our most precious national resource, stunting of individuals and serious damage to independent colleges and universities—all for savings that amount to a fraction of one per cent of the federal budget.

One of the afflictions of our society is a widespread unwillingness to choose. Where, then, can federal expenditures be reduced to make up for the cuts I oppose? Former Secretary of Commerce Peter Peterson has calculated that if the highly inflationary indexation of many federal programs were cut to 85 per cent of the Consumer Price Index, instead of the current 100 per cent, the savings would amount to three billion dollars

in fiscal year 1982 alone. That is substantially more than all of the damaging cuts I have been talking about.

Adlai Stevenson once observed: "The human animal is peculiar—it seems unable to read the handwriting on the wall until its back is against it." I believe the handwriting is on the wall, that the budget-cutters are being profligate with our most precious national resource, and I hope America won't wait until our backs are against the wall to do something about it.

If one needed proof of the value of student aid, today would be proof enough. You are the best evidence of the magnificent results of student aid. You are America's future. As the door of opportunity was opened to me here, as it was opened to so many of you, let us work together to ensure that it will be opened to those who follow.

Those who do come in that door will discover that at Columbia we are embarked on a wonderful renaissance. Three weeks from today we shall formally dedicate the East Campus Residence Hall; the renovated Hartley and Livingston Halls will reopen on schedule in the fall; and we shall open the new Humanities Center later this year. A new biology library and new undergraduate laboratories are now ready in the Sherman Fairchild Life Sciences Center and plans are already in the works for a new chemistry building. In addition to our bustling new care in Ferris Booth Hall, we shall have a thoroughly refurbished John Jay Dining Hall in September.

More important than these tangible improvements has been our commitment to intellectual renewal. The Marcus Commission Report has pointed the way to heightened excellence in the Arts and Sciences. While other American colleges are reconsidering their abandonment of demanding curricular requirements—a task we have been spared since we never lost faith in ours—we are free to think about how to make the superb even better, and we are doing that, emphasizing new writing programs and working on a solution to the problem of scientific illiteracy. Though our professional schools have never been stronger, I see in them not complacency, but a healthy restlessness, a spirit of self-examination that augurs well for the future.

A new spirit animates relations between the University and our neighbors. We have begun to work together to our mutual benefit.

And I note with special pleasure that alumni giving to the University has more than doubled this year. Let that be a lesson to you.

For while we need all the help we can get from government, our very existence depends on the generosity of our alumni who believe, rightly, of course, that they got more than they paid for; the wisdom of friends and business leaders who understand the importance of investing in human capital; and, above all, the faith of our students and their families who pay the bills.

The special quality of the Columbia student has been demonstrated, generation after generation, by the distinction of our alumni. As you join their ranks today, the Latin phrase you have seen on the sundial assumes new meaning: Horam Expecta Veniet. await the hour; it will come.

Your hour has come. I wish you joy in your work, love in your life, happiness in your heart. Good luck and Godspeed. Columbia is very proud of you.

JACOBO TIMERMAN—SPOKESMAN FOR HUMAN RIGHTS

● Mr. PELL. Mr. President, last night I was privileged and moved to hear an address by Jacobo Timerman at the annual general meeting of Amnesty International U.S.A.

What a peculiar phenomenon of our political life. Today Mr. Timerman is being attacked in a vigorous and almost vicious manner by various apostles of the New Right. It is as if he deserves criticism for having had the misfortune to being repeatedly tortured, more cruelly because he is a Jew, and has the poor taste to write about it. He is, more to the point, being attacked because he believes the Carter human rights policy was a success. Mr. Timerman believes that public protests have a beneficial affect upon the imprisonment of political prisoners. I must say I completely agree with him. Some weeks ago I was in Brazil and Argentina and met many unfortunate individuals who said to me "thank God for Carter's human rights policy."

I would like to think that this policy should and will continue to become known not just as Carter's human rights policy, but as the American human rights policy.

I ask that the full text of Mr. Timerman's speech be printed in the RECORD.

The speech follows:

ADDRESS BY JACOBO TIMMERMAN, FORMER PRISONER OF CONSCIENCE IN ARGENTINA

I am grateful to Amnesty International of the U.S.A. for inviting me to speak to this meeting. I speak for myself, as another person in the struggle for human rights, and appreciate this opportunity to present my own views.

Every person who gets out of prison feels an immediate impulse and an urgent need to reconstruct his life. It is not very probable that he can achieve it, because prison has destroyed many of his inner mechanisms. His second impulse, therefore, is to try to construct a new life. For this he needs privacy and the emotional support of his family.

But the prisoner who has been released as a result of the efforts of thousands of people feels other obligations as well. I obtained my liberty as a result of the struggle of organizations and individuals who generously give their time to a world campaign for human rights.

I would like to spend my time in Israel, dedicated to the beautiful adventure of reconstructing a Jewish state, a democratic and peaceful Israel, participating in the enormous endeavor of correcting history and ending the most terrible aggression against human rights recorded by history, the endless barbarism of anti-Semitism. But I have continued to travel around the world and to add my voice to the cry for human rights.

I have taken part in almost all the international meetings of journalists and publishers which have been held in the 20 months since I was released from prison—to tell the world of the first case in memory of a genocide of journalists—the kidnapping by the Argentine armed forces of 100 journalists and their subsequent total disappearance. I have participated in conferences devoted to the problem of the disappearances, especially the International Colloquium held in the French Senate at the beginning of this year under the auspices of the International Federation of Catholic Lawyers. In all those ceremonies in which I have been honored by the Jewish institutions of the United States for my struggle for the security of the Jewish community of Argentina—the American Jewish Committee, the United Jewish Appeal, Haddasah, the United Synagogue of America, the Anti-Defamation League of B'nai B'rith—I have presented the case of human rights violations in Argentina. And I have participated in the international campaign for the freedom of the Soviet dissident Ida Nudel, in close cooperation with the sister of that great woman, Mrs. Elena Friedman.

In my house in Tel Aviv, we organized the press conference that Mrs. Friedman gave in Madrid, shortly before the beginning of the Helsinki deliberations at the end of last year, and I maintained the firm position that we must confront the pressure of U.S. State Department officials who insisted on the cancellation of the press conference. Those bureaucrats felt that it might provoke the Soviet Union into deciding not to permit the inauguration of the Madrid gathering. We were abandoned by all those who should have participated in that press conference, but there were two persons, in addition to Mrs. Friedman, who insisted that it was necessary to confront the Soviet Union with the denunciation of the case of Ida Nudel.

One of my most precious awards is the letter sent to me by Ida Nudel's sister, saying: "I am filled with gratitude for the important and timely advice you gave us in a difficult period of decision when we were in Madrid."

My presence here is in response to the same motives. I am not a perfect orator. My English is faulty. I am not an expert on human rights. I am a former political prisoner persecuted for his ideas, a former Jewish prisoner tortured for his origins, a survivor of the clandesine prisons of Argentina. I do not come to present theories. I come to give personal testimony. And I do so before this assembly because I am grateful to Amnesty International, and because this Assembly represents the men and women who maintain the integrity of the humanitarian, moral and political principles that gave birth to the United States of America—principles which, in the midst of tremendous upheavals, have guided the course of the history of this nation and this people.

During this long journey of meetings, conferences and ceremonies, I have observed that no one any longer dares to deny the need for governments and private institutions to defend the human rights of individuals and societies. No one, openly, denies that violations of human rights exist under different political regimes, and that it should be condemned, halted, neutralized. Perhaps one of the greatest successes of the marvelous institution that is Amnesty International is its ability to demonstrate that there is no organization today—labor union or professional association, scientific or sports group, cultural or artistic council—that does not have a department or committee dedicated to the protection of human rights. And it is also a great triumph to show that those who used to be openly opposed to the struggle for human rights, now choose to employ mechanisms of deception but not of opposition. While the people affirm the necessity of fighting for human rights, they create diplomatic and political theories, like the thesis of "quiet diplomacy," or the theory of different strategies that should be employed in individual cases, or the difference between authoritarian and totalitarian governments. What they are trying to do is to replace the idea of human rights with a mere tactical or strategic exercise, that is, to sterilize the basic idea, and create a kind of travesty which dictators on the right and the left quickly interpret as an unlimited license to trample on human rights.

Curiously enough, the thesis of authoritarian governments which are friendly and should be protected, and totalitarian governments that should be openly accused because there is no hope of winning their friendship, does not originate in the recent semantic adventures of American conservatives. It was the Soviet Union that

perfected the idea in the case of Argentina. The Soviet Union has been the only important world power never to formulate one single protest against the violation of human rights in Argentina. It has been the Soviet Union that has blocked in the United Nations every attempt by democratic countries to investigate violations in Argentina, to condemn these violations. Every time the Argentine drama was to have been considered by the United Nations Commission on Human Rights, the Soviet Union, with the help of the automatic majority that controls the institutions of the U.N., put forth such a variety of fantasies that even an American delegate was moved to say: "Abuse of human rights is abominable, but we want the same standards applied everywhere." Another delegate, Richard Shifter, said that if the U.N. Commission on Human Rights is worthy of its name, it should be guided by "one standard in assessing violations of human rights and fundamental freedoms." Unfortunately the Reagan administration wishes to modify this policy and apply a double standard.

I have also been able to demonstrate that the conservative ideologues who apply the Soviet semantics, also, in the case of Argentina, apply the mathematical machinations of the directors of the Argentine communist party. The Argentine communists maintain that the support of the so-called moderate military in Argentina has permitted an improvement in the situation of human rights, and they devote themselves to making a count of how many disappearances there are today and how many there were before. That is like feeling sufficiently satisfied with the changes introduced in Russia after the death of Stalin, especially the vindication of many of those murdered by the regime, and at that point considering the matter closed.

The theorists of quiet diplomacy make their reckonings in the following way. Since the Reagan administration has occupied the White House, there has not been one single disappearance in Argentina, giving the impression that this was achieved through silent negotiations with the Argentine military. But if the Argentine military are able to stop the wave of disappearances, that means that they are the kidnappers. How is it possible, then, to maintain absolute silence over the fate of 15 to 20,000 persons whom they kidnapped? Isn't there any moral or religious problem in this to worry the proponents of silent negotiations?

Quiet diplomacy then compares the absence of disappearances in 1981 with the 28 disappearances in 1980, and takes pride in the great success of the present American administration.

But, in my opinion, if we accept this mathematical formula, we can also say that the Carter administration reduced the disappearances from 15,000 to 28, which from the arithmetical point of view is an even greater triumph.

What the new theorists of human rights evidently intend is to pervert the whole concept, emptying it of its moral content. The current president of Argentina, General Roberto Viola, who is so content with quiet diplomacy, was Chief of Staff and Commander in Chief of the Army when thousands of persons disappeared. Since he assumed power, last March, he has not taken a single step to respond to the requests of the families of the disappeared persons, nor a single step to resolve the problem of those imprisoned without charge and without trial, nor to change the situation of those who were illegally condemned by military courts that were created by laws put into force by the same officers, in contravention of the Argentine constitution.

All the former political prisoners with whom I have spoken, whether they be Russians in Israel, Chileans in France, Uruguayans in Spain—insist that the only formula that exists for an effective struggle for human rights is a permanent public denunciation of violations formulated by governments, or private institutions, or the press.

From my own experience, I believe that the most effective action is always that of private institutions supported by the press. And I remember that on a visit I made to the Museum of the Ghetto Fighters, north of the city of Haifa, there is the original telegram sent by the Swedish diplomat Raul Wallenberg from Budapest, when he was struggling to save the Jews that Eichmann was sending to the gas chambers of Auschwitz. The telegram, dated the 29th of July, 1944, directed to London and Washington via Stockholm, reads: "Foreign press publicity eased the situation here. We need more." I think that all the newspapers in the world, all the written and spoken press, should distribute that telegram of Raul Wallenberg to all journalists, so that they may always keep it in mind.

My experience has also shown me that if there is a government that is disposed to have a human rights policy defined as such, this policy will put that country in a prominent position, a position which becomes transformed into a permanent defense of its own interests. In this sense, those of us who were imprisoned, those who are in prison still, will never forget President Carter and his contribution to the battle for human rights. Those who attack his policy as too weak, do so because they cannot find other arguments and must revert to hypocrisy. Those who attack his policy as ineffective, do so because they are seeking a strategy to destroy the policy of human rights and they do not dare to say so openly. Those who say that this policy did not defend the interests of the United States, are trapped by the same obsessions of those who consider that the United States was too generous with the Marshall Plan and that it did not suit American interests.

Once again I shall return to this point. No one dares to dispute the validity of the struggle for human rights. But totalitarians of right and left, pragmatic conservatives, all are seeking a way to change the strategies as a way of neutralizing this struggle.

It is not the only formula that they have copied from the Soviets. I remember the campaigns unleashed by the Soviet Union against the intellectuals who became disillusioned with Russia. The French writer Andre Gide, the Hungarian Arthur Koestler, the Rumanian Panait Istrati, to recall only a few. On returning from the Soviet Union, and after the publication of their books, they were accused of being police agents, mercenaries, arms traffickers, decadent bourgeois.

The same policy is followed today by the theorists of quiet diplomacy with the prisoners who are released from jail and declare themselves in favor of an open struggle against the violation of human rights—a struggle that should include all nations, condemn all regimes, those of the left and those of the right, those who call themselves friends and those presumed to be enemies. There should be no double standard, because this double standard is part of the strategy of fascists and communists alike. On this point, Amnesty International has surely been the organization that has maintained an independent position with the most courage and which has withstood most of the attacks. Luckily, it is a strong and solid institution. Much more difficult is the situation of individuals who must readapt their lives after being badly battered, in part destroyed, in prison. They feel obliged to denounce what they have seen, but feel themselves attacked by theorists who utilize lies and defamation with the same virulence and immorality as the communist parties of the Third International used them against the intellectuals who were disenchanted by the Soviet Union between the two wars.

But the fact is that we are here. And we are all over the world. Under different designations, in the framework of different institutions or religions or political identities, there are millions of us who are dedicated to this struggle for human rights. Because we are convinced that the defense of these rights is the basis of humanity, the basic principle for which life may be preserved.

They cannot murder all of us. They will not be able to torture everyone. They cannot frighten everyone. They cannot deceive everyone, not with false strategic promises, not with false mathematical calculations, not with semantic adventures. The struggle to which we are committed has had, and still has, moments of beauty, sacrifice and glory, that no campaign of attrition, no psychological action, can destroy. Think of the great human epic of the Mad Mothers of the Plaza de Mayo, meeting every Thursday in front of the Casa de Gobierno in Buenos Aires, asking about their children. Imagine them in that plaza, surrounded by "gorilas" in uniform and in civilian clothes, hand in hand, insulted, pawed, pushed, beaten, kidnapped—and none of the valiant generals who ordered the murder of their children dares to confront them. The Argentine president does not dare to receive them. No officer has the courage to assume the responsibility for what he did. Perhaps these soldiers have studied history better than we did. Many conservative theorists do not wish to compare them to the Nazis, and none of those who signed the death warrants of 15,000 persons, thinking of Nuremberg, dares to take responsibility for what he did.

I could give many examples of sacrifice and struggle. Lawyers, threatened with death, have not abandoned their clients. Reporters on the only free newspaper in Argentina, the Buenos Aires Herald, bearing up under harassment, threats, humiliations, accept the challenge of being the only free voice in the nation—young staff members born in England, showing more Argentine patriotism than the army officers.

Thousands of stories. I should like to recount two of them. The efforts of Rabbi Marshall Meyer to enter the jails, the humiliation inflicted on him by the guards, his attempts to discover the whereabouts of the disappeared persons. The emotion I felt when he visited me for the first time, and how he helped the Catholic prisoners—whom the priest in the prison did not even want to visit on Sundays. At that time, Rabbi Meyer represented for all of us—Catholics, Jews, believers and atheists—something stronger than religion. He represented the total idea of humanity.

And let me read you a paragraph from an article by Professor Fritz Stern of Columbia University that appeared in Foreign Affairs.

Professor Stern writes in the July 1978 edition, after returning from a visit to Argentina: "The Argentine dictatorship faces pockets of opposition from within. The Church, it would appear, is far from indifferent to the violations of human rights. It serves as an occasional shield for those outside as well: prominent lay Catholics told me—and individual Jews confirmed it—that the Jewish community of some 400,000 people, which feels a collective sense of beleaguerment, turns first of all to the hierarchy when a specific threat to Jewish rights appears."

These two examples clearly show the depth of solidarity, as they also show that solidarity can confront and resolve problems of every kind created by the violation of human rights. It has an effectiveness which penetrates all nations, which confronts all governments, which worries all regimes.

When we make a count of all the violations that occur in the world today, especially the

terrible creations of the inventors of new crimes—the disappearances in Argentina, the boat people and the re-education camps of Southeast Asia—it seems that the task of Amnesty is impossible, interminable. Perhaps it is interminable. But it is possible, and for twenty years, Amnesty has been able to prove it.

We have been called together by the men and women of Amnesty International of the United States. This country has witnessed important battles for civil liberties and human rights—fought under many different names and under many different political and religious symbols. The most admired heroes, the names repeated throughout the world, are the names of Americans born in this land. Just a few weeks ago, in this country, in this city, one more battle for human rights was won, and a group of semantic adventures was prevented from deceiving the people of the United States about the true meaning of human rights. This one event demonstrates the force of this idea in America, the depth to which it has penetrated the conscience of the American people. And it does not much matter what attitude the government adopts, because the strength and the vitality of the struggle will be represented by the American people and by its Congress, and by its humanitarian organizations.

Many times we have conquered fear. We have conquered confusion. We shall also conquer brutality.

I salute the men and women of Amnesty International. ●

S. 1131, THE DELINQUENT PAYMENTS ACT OF 1981

● Mr. DANFORTH. Mr. President, on May 6, 1981, I, along with 22 of my colleagues, introduced S. 1131, the Delinquent Payments Act of 1981. I am pleased to report that, as of today, more than one-third of the members of the Senate have announced their support for this long overdue legislation.

On May 13, 1981, the Subcommittee on Federal Expenditures, Research and Rules, which I have the privilege to chair, held hearings on the problems Federal contractors have encountered in securing prompt payment for their goods and services. The subcommittee heard nothing to indicate that the Government's payment practices have improved since 1978 when, according to a study conducted by the General Accounting Office, nearly 40 percent of the invoices submitted to the Federal Government were paid late.

What the subcommittee did hear, however, was example after example of suppliers' being forced to secure loans—at devastatingly high rates of interest—in order to meet their operating expenses, simply because the Government was delinquent in paying its bills. The American Consulting Engineers Council had completed, just prior to the hearing, a survey of its membership on the slow pay problem. The council discovered that, partly because of slow Government bill paying, its member firms across the country had borrowed an average of $225,000 over each of the last 2 years and paid approximately $23,000 in interest annually at a rate of 10 percent. This year, the firms are likely to borrow $260,000 and pay $42,500 in interest at a rate exceeding 16 percent.

A representative of the American meat industry testified that at the end of 1980 his company alone had military accounts totally nearly $1.3 million, and nearly one-third of the amount—$395,000—had remained unpaid for over 30 days. In an industry where raw materials must be paid for in cash almost immediately upon receipt, where invoices are expected to be paid within 7 days, and where sellers rely on a low rate of profit, a 30-day overdue account can virtually wipe out the entire profit on a given sale.

The Chamber of Commerce of the United States reported that, in effect, the Federal Government is borrowing up to $11 billion per year from businesses by not paying its bills on time. The Slow Pay Coalition, a group of business associations which have vigorously pursued potential remedies for the late payment problem, presented numerous examples of inexcusable delays in Government bill-paying.

The subcommittee was also told that suppliers frequently stop doing business with the Government altogether because of the Government's negligence in paying its bills promptly. This disturbs me deeply, since it means not only that contractors suffer from delinquent payments but also that the taxpayers suffer because of the shrinking number of bidders for Federal work. Fewer bidders means higher prices, and higher prices can amount to a great deal of money where total Government purchases exceed $100 billion each year.

I am encouraged and gratified by the strong show of support my colleagues, from all areas of the country and both sides of the aisle, have shown for S. 1131. We intend to move forward with this legislation and put a stop to unfair Government bill-paying practices.●

MARION—SOMEPLACE YOU CAN BELIEVE IN

● Mr. METZENBAUM. Mr. President, Carrie Niece, an eighth grade Baker Middle School student from Marion, Ohio, has the distinction of being the winner of the "Marion—Someplace You Can Believe In" essay contest sponsored by Scantland Communications. Ms. Niece was chosen over all Marion County students in grades 7 through 12 who were invited to enter the contest and describe why they believe in Marion.

Mr. President, it always is heartening to find a young person with the obvious writing talent of Ms. Niece, as well as the deep sense of civic pride she feels toward her community.

Marion is indeed a very special place, and Ms. Niece has captured the spirit of this fine community in her essay.

I ask that the full text of this essay be printed in the RECORD.

The essay follows:

CONTEST WINNER

Marion: Someplace you can believe in.

As a young person living in Marion, Ohio, I have the advantage of recognizing the accomplishments of Marion's past and looking forward to its achievements in the years to come. In restoring Old Village Marion, for example, the past is not being forgotten, but is being preserved for the future. By contrast, with new housing developments and public buildings. Marionites are able to appreciate the beauty of modern architecture.

The people of Marion are able to enjoy established parks that were planned by our ancestors and take advantage of the many recreation programs offered to people of all ages. Such groups are the Marion Recreation Department and the local YMCA.

The people of Marion always respond to a call for help, whether it be a neighbor in trouble, charity contribution, or a fundraising drive. WDIF, for example, has recently raised $32,000 for the cancer fund.

The civic government of Marion is often controversial but never boring because the people of Marion get involved in public issues. It is only when people become involved that progress can be made. Marion is always in a state of change, but its greatest asset would have to be the citizens who respect the traditions while planning for the future.

It's people that make a city what it is. I believe in the people of Marion; in their generosity; their kindness; and in their hopes for Marion's future.

I want to be a part of Marion's future, but if someday I must live in another community, I will always be proud to say that Marion, Ohio is my home town.

CARRIE NIECE,
Grade 8, Baker Middle School.

Mr. Lawrence.●

LITHUANIA—STRUGGLE FOR FREEDOM

● Mr. WEICKER. Mr. President, today we commemorate the forcible occupation and incorporation of Lithuania into the Soviet Union, which took place 41 years ago today. I stand with many of my colleagues and Lithuanians all over the Nation and the world in marking this significant event.

Mr. President, even a cursory review of the history of this noble people reveals that from the time of the Middle Ages, Lithuania has been synonymous with the struggle for freedom. The present generation of Lithuanians, which suffers under Soviet tyranny, carries on this historic effort to establish justice and independence in that land.

We, this present generation of Americans, who take our liberties for granted, have much to learn from the Lithuanian people. Their experience shows us that we must continue to be willing to pay the price necessary to maintain our freedoms and democratic values. We are indebted to those Lithuanians who have come to the United States with such a rich heritage of sacrifice and commitment to fundamental principles.

Mr. President, the message to the leadership of the Soviet Union which emanates from this Chamber today and from the hearts of countless Lithuanians around the world is very clear: the Lithuanian people will not yield. They, and freedom's advocates around the world stand united in the struggle to restore the independence of this land. History and the enduring strength of the Lithuanian people tell us that this endeavor will not be in vain.●

COAL TRANSPORTATION STUDY

● Mr. CHILES. Mr. President, it is evident that for the immediate future, at least, a major source of energy for this country will be coal. It remains an abundant resource in this Nation as other energy sources dwindle in supply. For States such as Florida which are now dependent upon foreign sources of oil

for a major portion of their electric generation, coal can become a very important energy option.

For coal to be a significant energy source for Florida and other States far removed from this Nation's coal fields, reliable and cost-effective transport of coal will be of critical importance. It is vital that we have a transportation system that can handle the large volume of coal needed to fuel new coal-burning facilities. It is equally important that transportation costs be kept to a minimum so that the consumer will realize the savings that will result from the use of coal rather than high-priced foreign oil.

Continental Resources Co. of Winter Park, Fla., has recently commissioned a study of coal transportation. I believe the results of this study should prove of considerable interest to the Congress as it considers coal slurry pipeline legislation.

Mr. President, I ask that an executive summary of the study be printed in the RECORD.

The summary follows:

EXECUTIVE SUMMARY

In view of the large projected increase in U.S. coal use by the year 2000, Coalstream Pipeline Company (CPC), a subsidiary of Continental Resources Company (CRC), is considering the construction of a coal slurry pipeline from the Huntington, West Virginia and Shawneetown, Illinois areas to serve 16 selected generating plants in Georgia and Florida. Total estimated coal use is 54 million tons per year. In order to construct the pipeline, Federal eminent domain legislation is required.

The major competitors for this traffic are the rail carriers currently serving the generating plant sites. Historically, these carriers have been closely regulated by the Interstate Commerce Commission (ICC). However, on October 14, 1980, the Staggers Rail Act of 1980 was signed into law, substantially deregulating the ratemaking process for railroads and, for the first time, allowing negotiation of long-term contracts with rail carriers for transportation services. To understand and assess the implications of this legislation on the potential rail rates for coal deliveries to the affected utility generating plants, CPC commissioned Kearney Management Consultants to prepare an analysis of potential rail rates. Independently, Fluor Ocean Service, Inc. was commissioned to estimate potential pipeline rates.

Kearney's rail rate analysis consisted of the calculation of the ICC-prescribed adjusted Rail Form A variable costs for each of the 16 potential movements. These variable costs were used as a basis for estimating the maximum allowable rates which avoid ICC jurisdiction in the ratemaking process under the provisions of the Staggers Act. Rates beyond this maximum are subject to protest by the shippers and receivers and review by the ICC. These estimated rates were then projected for 1988 (the first year of operation of the proposed pipeline) through 2007.

Fluor's pipeline rate analysis consisted of developing estimated maximum allowable coal slurry pipeline rates based on ICC-valuation ratemaking methodology for oil pipelines, since a regulatory methodology for coal slurry pipelines has not been established. These rates were also projected from 1988 through 2007.

The two resulting maximum rate curves are shown in Figure A.

[Figure A not printed in Record.]

The comparison indicates that after 1988 the maximum allowable pipeline rate is less than the maximum allowable rail rate under the Staggers Act. The primary reason is that a large portion of the railroad cost structure is subject to normal price inflation (which can be passed through under Staggers Act provisions), while a large porportion of the pipeline cost structure is fixed capital investment not subject to general inflation.

The exact impact of the proposed pipeline on the rate eventually paid by the affected utilities depends upon many economic and competitive factors. However, an indication of the spectrum of possible impacts can be gained from consideration of the data in Figure A.

1. Status Quo. If there were no threat of pipeline construction, the railroads would be free to set rates in a relatively noncompetitive environment. Under the provisions of the Staggers Act, it is likely that these rates would approximate the maximum rates shown in Figure A for rail transportation. The total cost of rail transportation for 54 million tons of coal annually would be approximately $28 billion in 1981 dollars ($115 billion in inflated dollars) over the 20-year period shown in Figure A.

2. Construction of Coal Slurry Pipeline. If eminent domain legislation is enacted and the coal pipeline is constructed, then pipeline rates for movements would approximate those in the pipeline rate curve shown in Figure A. The cost of pipeline transportation for 54 million tons of coal per year over the 20-year period would be aproximately $16 billion in 1981 dollars ($61 billion in inflated dollars).

If eminent domain legislation were enacted, the threat of slurry pipeline competition alone would likely result in coal transportation savings from competition between the railroads and the proposed pipeline. Under the provisions of the Staggers Act, utilities could negotiate long-term contracts for rail transportation to establish rate levels and control future rate escalation. Similar contracts would be negotiated between the utilities and the operators and the proposed pipeline. In such a competitive environment, railroads would likely price selected movement at rates substantially below the maximum allowed by the Staggers Act as shown in Figure A. The pipeline could also be expected to lower its rates from the maximum allowable to compete with the railroads. Therefore, this competition between rail and pipeline to establish long-term contractual arrangements for coal transportation to the 16 generating plants could result in net rates below those shown in the rail and pipeline curves in Figure A.

Therefore, the possible savings in coal transportation costs for the 16 selected generating plants would range from nothing—if there were no eminent domain legislation—to as much as $12 billion in 1981 dollars ($54 billion in inflated dollars) if the coal pipeline were constructed and transported the 54 million tons of coal annually over the 20-year period. By introducing competition for their coal traffic, some portion of this potential savings would likely be realized by the affected utilities simply from approval of eminent domain legislation.●

JOURNALISTIC MISCONCEPTIONS

● Mr. McCLURE. Mr. President, I am constantly amazed at the misinformation that is presented to the American public as fact. I have spent a good many hours talking to reporters, only to discover that either some were not listening, did not understand, or purposely distorted the facts. It is truly refreshing to see that this politicization of the press does not affect all reporters. Gene Brown, a correspondent for the Spokesman Review, debunks a number of journalistic misconceptions and I would like to share his thoughts with my colleagues.

The article follows:

GUN-CONTROL ADVOCATES TAKE CHEAP SHOTS

(By Gene Brown)

SANDPOINT, WASH.—Six years ago this November I quietly pulled the plug on my little black and white television set, dumped it into the trunk of my car and headed for a rifle range, where I made the tube the object of some casual target practice.

I have not owned a television since and, with the exception of old Laurel and Hardy, Humphrey Bogart and John Garfield movies, I do not miss it.

Like millions of other Americans I was fed up with the violence, bloodshed, mundane programming and canned laughter, and decided to rid myself of this video thorn in the side.

But, above all, it was the constant barrage of antigun propaganda that finally triggered my target practice.

Two programs on same were the cappers.

One was "The Gun," a fictional work made to appear real and totally distorted the facts on gun laws in this country. The other was "The Guns of Autumn" which made hunters look like shaggy-faced, pot-gutted slobs who tuned up for the season by drinking large amounts of liquor and beating their wives and kids before they headed out to the edge of town to slaughter does, fawns and baby bears with machine guns.

I am aware of a few "road hunters" who are too lazy to get off the county roads and back into the brush. But as a group, none of the hunters I associate with fit the mold of the TV stereotype redneck gunslinger.

Nor do most of the gunowners I know fall into this category.

The recent assassination attempt on President Reagan has once again put some steam into the rollers of the gun control crowd.

It didn't take the network people long to start babbling about the lack of gun control, the horrors of Saturday Night Specials, easy availability of murderous devices in America and a vast assortment of other media cliches that many of us are tired of hearing.

We discuss these things over fences and at laundromats and restaurants around North Idaho, and the majority of those I have talked with cannot believe the idiotic statements they hear and read.

Generally, the public is not aware of the stringency of existing gun controls and laws.

For instance, mail-order guns for the public are long gone.

Unless you hold a Federal Firearms License, which requires a good deal of checking on you and your background by U.S. Treasury agents, you are not going to get a gun (with the exception of pre-1898 antiques) through the mail. The public has not been able to order a handgun or a rifle through the mail since June 19, 1968, when Congress passed the Gun Control Act of 1968.

Also since 1968, you have had to register for all handgun ammunition and any rifle ammunition, such as .22 or .44 caliber, that will fit into a handgun.

Another myth touted by the gun-control gang is the so-called Saturday Night Special.

Too many people think that any handgun fits into this category, and, if Sen. Ted Kennedy had his way, all these handguns would be melted down.

According to the National Rifle Association, Kennedy has introduced bill after bill to implement a meltdown law where owners of handguns—expensive or otherwise—would be reimbursed $50 after their handgun was confiscated by the government.

A recent letter to the editor of The Spokesman-Review implied that it is nothing for a

would-be assassin to go into his local pawnshop and "for a few dollars" pick up a gun.

Wrong again. In order to sell any kind of gun, pawnshops must have Federal Firearms Licenses requiring them to register any firearm that comes in or out of their shop.

It is highly unlikely that any member of the hock shop set is going to risk his entire business by selling guns under the table or out the backdoor.

And the "few dollars" part is a real fable. A decent Colt, Smith and Wesson or Ruger .38 caliber handgun starts at about $200, and a Model 29 S&W retails for around $425.

To legally carry one of these handguns in some parts of the country, mainly east of the Mississippi, requires reams of paperwork and detailed police checks.

New York City, with its stringent Sullivan Law—Sullivan, who was instrumental in getting this passed, died in a mental hospital—Detroit, Chicago, Washington, D.C., and Philadelphia have the toughest gun laws in the country.

Apparently, their stance on guns hasn't done much to alleviate their crime problem.

If you haven't done so already, I suggest you read a regular feature in the NRA's monthly magazine, the American Rifleman, called The Armed Citizen.

These articles are a selection of news clippings from around the country showing where mere presence of a firearm, without a shot being fired, prevents crime in many instances.

The NRA says that shooting usually can be justified only where crime constitutes an immediate, imminent threat to life or limb, or in some instances property.

If the anti-gun forces have their way, this option for millions of law abiding Americans could become a thing of the past.●

JACOBO TIMERMAN AND ARGENTINA

● Mr. KENNEDY. Mr. President, many of us have read about the tragic and brutal experiences undergone by Jacobo Timerman as a political prisoner of the current regime in Argentina. Mr. Timerman, formerly the founder, editor and publisher of La Opinion, one of Argentina's most renowned newspapers, is neither terrorist nor Communist. His imprisonment, torture and expulsion from his homeland demonstrates how unfounded are the assertions of the Argentine military that their only excesses were in response to terrorist attacks, and their only prisoners those with a terrorist connection.

For more than 2 years, while the world watched, this distinguished journalist and author was held in jail, after the courts had ruled that there were no legitimate charges against him and after they had ordered his release. But in Argentina, for the past several years, the rule of law has been more often broken than respected by those sworn to defend it.

Until these conditions change, until men and women like Jacobo Timerman are able to engage in their chosen professions and live their lives without the fear of a midnight kidnaping by security forces, the United States should not be engaged in supporting the military junta in that country.

I urge my colleagues to read the testimony of Jacobo Timerman which appeared in the April 20, 1981, edition of the New Yorker. It is more than a description of the suffering endured by political prisoners in Argentina. It reveals much of the anti-semitism which is part of the pattern of repression in that country and the nature of the government which could carry out this gross injustice.

I ask that the full text of both the article by Jacobo Timerman and a further article by Robert Cox, the courageous editor of the Buenos Aires Herald, appearing in the June 9 edition of the New York Times, be printed at this point in the RECORD.

The material follows:

[From the New York Times, June 9, 1981]

TIMERMAN SHOWS THAT "AUTHORITARIAN GENERALS" ARE KEEPERS, CAPTIVES OF A "TOTALITARIAN BEAST"

(By Robert Cox)

CAMBRIDGE, MASS.—Jacobo Timerman, expelled from Argentina and stripped of his citizenship and most of his property by the military regime, is demonstrating that writing well is the best revenge.

In a searing document, his book "Prisoner Without a Name, Cell Without a Number," he has revealed the secret world of terror in Argentina. The book is so powerful that he has achieved something I thought impossible: He has made the people of the United States care about Argentina.

Etching in blood, sweat, and tears the torture he underwent in mind, body, and soul, through a year's imprisonment and subsequent house arrest for a total period in captivity of 30 months, he has grabbed public opinion by the scruff of its neck and taken it to where the totalitarian beast lives.

Mr. Timerman has torn off the flimsy veil of respectability with which the upholders of the new orthodoxy in United States foreign policy hoped to dress up the Argentine regime. The smiling authoritarian generals have been revealed in his book, and in a series of dramatic news-media encounters, as the keepers and the captives of the totalitarian beast that lurks in the darkness of the security forces where Nazism lived on after World War II.

It is a new kind of totalitarianism. It does not strut. It skulks. There are no swastikas on armbands for public view. No mass rallies or ranting speeches. The dreaded symbols—the portraits of Hitler—are kept for the torture chambers and cell blocks, where only the prisoners, victims of the new fascism, can see them.

Mr. Timerman has revealed the nature of the regime. Can a regime that has sent at least 6,000, probably 10,000, and maybe more people through secret death camps be described as *authoritarian?* When the torturer turns up the voltage because he has a Jew on the bedsprings, or a guard gives another Jew a methodical kick every time he passes his bound form, are these acts merely characteristics of "a moderatly repressive regime?"

Clearly, Mr. Timerman must be discredited. Otherwise, the pretty little theory that, for foreign policy purposes, the world can be divided up into clear categories, goes by the board. The new orthdoxy under which tyrannies that appear to be anti-Communist can be euphemistically described as authoritarian is dangerous for the United States and the world because it demands witting or unwitting self-deception.

To consider the Argentine Government authoritarian denies reality. If labels must be applied, Argentina could best be described as feudalistic and anarchic; it is divided by the rivalries of the separate fiefdoms represented by the armed forces, with their various free-wheeling intelligence services and the beleaguered, powerless Presidency. The tragedy stems from the fact that central authority, and the responsibility that goes with it, has never been established by the moderates in the military who have held nominal power since the March 1976 coup.

Self-delusion in Argentina is understandable. In a country cowed by justified fear, it is safer to hope for the best and to pray that the moderates will eventually win out and establish the moderately repressive regime that the new United States foreign policy orthodoxy would like to persuade us already exists.

It is unmasked reality, not misleading jargon, that United States foreign policy must address—this is the message that public opinion has extracted from Mr. Timerman's testimony. The reservations expressed about Mr. Timerman by defenders of the doctrine that would make the distinction between totalitarian and authoritarian regimes crucial to the Administration's human rights policy are irrelevant to the central issue of Mr. Timerman's revealed truth. But if some lobbyist seems to be working up a campaign of character assassination by feeding understandable doubts, I would like to try to clear up some of these peripheral questions.

Like most people with more than a passing acquaintance with Argentina, I too was astonished that in his book Jacobo Timerman made no mention of David Gravier, who was his friend and financial backer at La Opinión, the daily newspaper that Mr. Timerman published. Mr. Gravier, who is reported to have died in a plane crash in Mexico in 1976, has been accused of acting as a financial agent for the left-wing terrorists called the Montoneros, and most of his close relatives are still in jail in Argentina. The military has never revealed what has been proved against Mr. Gravier and the charge against him remains in the realms of supposition, no more reliable nor damaging than the rumor that the current President, Lieut. Gen. Robert Viola, was given a gold watch by Mr. Gravier. If the military would make public the results of its investigations into Mr. Gravier's activities, the sewer of slander and libel that has sullied many prominent Argentines would be cleared up and the country would be healthier. The truth is that the allegation that Mr. Gravier handled the terrorists' blood money led the Nazi-minded hardliners in the military to the conviction that there was a Jewish-Marxist-liberal (in the Argentine sense, a liberal is a civilized conservative) conspiracy linking all their enemies. Mr. Timerman was kidnapped when this collective psychosis was at its height, and scores of completely innocent and some very eminent people disappeared for a short time. Mr. Timerman, although all charges against him were dropped, remained in prison, where he was probably unaware of the intensity of the smear campaign launched against him because of his perfectly legitimate relationship with Mr. Gravier.

Another charge against Mr. Timerman is that he exaggerates. His critics call his torturers thugs, as though they were unrepresentative. Yet, he says he saw Gen. Carlos Suarez Mason, then the commander of the most powerful military garrison, watching a torture session. I can vouch for the lunatic fervor with which Mr. Timerman's tormentors pursued their anti-Semitic quest for proof of the Jewish-conspiracy theory because I was close to his family throughout his ordeal and what they told me then coincides completely with the account in the book.

Mr. Timerman's political views, which have always been "parlor pink," seem to be as annoying to the right as Aleksandr I. Solzenhitsyn's majestic moralizing is to the left. But Mr. Timerman emerges as a committed democrat and as a profound humanist. He is a man who has always, as far as I know,

had an equal loathing for all forms if totalitarianism. I have never heard him call any left-wing totalitarian regime authoritarian. for example.

The totalitarian nature of the military regime will prevent his book and his message, which is that the respect for human rights transcends ideology, from reaching the Argentine people. The worst form of censorship—self-suppression—has been imposed by state terrorism for five years. So the Argentine people will remain ignorant of the fact that the true rulers are the men who run the clandestine jails and operate torture machines. Even the decent but weak military leaders at the top seem to live in fear of the creatures of the Argentine netherworld.

A few days ago, I received a letter from a couple whose son was kidnapped by security forces in August 1979. About a dozen young people disappeared then, but this was a case with a difference. The young people were allowed to telephone from their secret jails from time to time and to write letters to their families. Two young mothers among the kidnapped were allowed one day to visit their children. These communications continued until March 1980, and then stopped abruptly. Before I left Argentina, at the end of 1979, I tried to use quiet diplomacy on behalf of the missing young people. I spoke to the interior minister, the army's secretary general, even the President, Lieut. Gen. Jorge Rafael Videla. I left lists of their names and the circumstances of their abductions with top Government officials. I published nothing because the families believed that the Government and military leaders would transfer their children from the secret death camps to the law courts, military or civil, if they were allowed to do so without publicity. One couple concluded that their son has been murdered. Now they have asked me to publicize the case. I will not name them because I fear that they might be driven from Argentina or murdered by the real totalitarian rulers.

Can Washington afford to support a regime that—three years after the defeat of left-wing terrorism, in a country that has not suffered a major left-wing terrorist attack since late 1979—has the built-in instability of secret killers loose in its security organizations?

If an authoritarian Government is established, the pros and cons of the "K Doctrine" (for Jeane J. Kirkpatrick, its originator) can be debated. Mr. Timerman's ideology of concern for human rights and opposition to both leftist and rightist totalitarianism is, after all, based on a compelling experience of evil whose very horror lies in the fact that no authority in Argentina will even acknowledge its existence.

[From the New Yorker, Apr. 20, 1981]

REFLECTIONS: NO NAME, NO NUMBER

The cell is narrow. When I stand at its center, facing the steel door, I can't extend my arms. But it is long, and when I lie down I can stretch out my entire body. A stroke of luck, for in the cell I previously occupied—for how long?—I was forced to huddle up when seated and keep my knees bent while lying down.

The cell is quite high. When I jump, I'm unable to touch the ceiling. The walls have recently been painted white. Undoubtedly, they once had names on them, messages, words of encouragement, dates. They are now bereft of any vestige of testimony.

The floor of the cell is permanently wet. Somewhere, there's a leak. The mattress is also wet. I have a blanket, and to prevent that from getting wet I keep it on my shoulders constantly. If I lie down with the blanket on top of me, I get soaked from the mattress. I discover it's best to roll up the mattress, so that one part of it doesn't touch the ground. In time, the top part dries. This means, though, that I can't lie down but must sleep seated. My life goes on during this period—for how long?—whether I'm standing or seated.

The cell's steel door has an opening that allows part of a face—a minimal part—to be visible. The guard has orders to keep the opening shut. Light enters from the outside through a small crack, which acts also as an air vent. This is the only ventilation and light. A faint glow, night and day, eliminating time. Producing a semi-penumbra within an atmosphere of contaminated air—semi-air.

I miss my former cell—where was that?—because it had a hole in the floor that served as a toilet. In my present one, I must call the guard to take me to the bathroom. It's a complicated procedure, and he is not always in the mood. First, to reach my cell he opens a door—the entrance to the block where my cell is situated—and closes it from the inside. At my cell, he announces that he's about to unlock the door, so that I will turn my back to it. Then he blindfolds me and guides me to the bathroom. To bring me back, he has to reverse the whole procedure. It amuses the guards sometimes to tell me that I'm alongside the latrine when I am not. Or to direct me with shoves from behind—so that I stick one foot into the latrine. Eventually, they tire of this game and don't respond to my call. I do it on myself.

I do it on myself. And then I must get special permission to have my clothes washed and must wait in the cell, naked, until they are dry and are brought back to me. Sometimes days pass, because—they claim—it's raining. My isolation is so overwhelming that I prefer to believe what I'm told.

The discipline of the guards is not very good. Often, one will bring food to me without blindfolding me. Then I can see his face. He smiles. Sentry duty wearies them, for they must also serve as torturers and interrogators. They're the only people at work in these clandestine prisons. On the other hand, they're entitled to part of the booty in every arrest. One of the guards has my watch. During an interrogation, another guard offered me a cigarette and lit it with my wife's lighter. Tonight, a guard, not following rules, leaves the peephole ajar. I wait awhile to see what will happen, but it remains open. Standing on tiptoe, I peer out. The light outside is strong. Momentarily blinded, I step back, but then hungrily return. I try to fill myself with the visible space. There's a narrow corridor, and across from my cell I can see at least two other doors. Indeed, I have a full view of two doors. What a sensation of freedom! An entire universe has been added! I have been deprived of a sense of distance and proportion for so long that I feel suddenly unleashed. In order to look out, I must lean my face against the icy steel door. As the minutes pass, the cold becomes unbearable. The cold makes my head ache. But I've been a long time—how long?—without a celebration of space. I press my ear against the door, yet hear no sound. I resume looking.

He is doing the same. I suddenly realize that the peephole in the door facing mine is also open and that there's an eye behind it. I'm startled: They've laid a trap for me. Looking through the peephole is forbidden, and they've seen me doing it.

I step back and wait. I wait longer. And then return to the peephole.

He is doing the same.

And now I must talk about you, about that long night we spent together, during which you were my brother, my father, my son, my friend. You were merely an eye, yet you, too, remember that night, don't you? According to my calculations, it must have been April or May of 1977. Later, I was told that you'd died, that you had a weak heart and couldn't survive a session with "the machine"—"a chat with Susan," as they called it. How can you have died, considering that that night we conquered death?

You must remember. I need you to remember, for otherwise I'm obliged to remember for us both, and the beauty we experienced requires your testimony as well. You blinked. I clearly recall your blinking. And that flutter of movement proved conclusively that I was not the last human survivor amid this universe of torturing custodians

You were—you are?—a person of high human qualities, endowed, certainly, with a profound knowledge of life, for you invented all sorts of games that night, creating movement in your confined world. You'd suddenly move away, then return. At first, I was frightened. But then I realized you were recreating the great human adventure of hide-and-seek, and I played the game with you. Sometimes, we'd return to the peephole at the same time, and our sense of triumph was so powerful we felt immortal. We were immortal.

You were—you are?—extremely intelligent. I was desperate. And frightened. I remained glued to the peephole. I put my cheek to the opening, whereupon the inside of my cell sprang into view and my spirits immediately dropped. The gap between life and solitude was so evident; knowing that you were nearby, I couldn't bear grazing at any part of my cell. You forgave me for this, retaining your vitality and mobility. I realized that you were consoling me, and I started to cry. In silence, of course. You needn't worry. I knew that I couldn't risk uttering a sound. You saw me crying, though, didn't you? You did see that. It did me good, crying in front of you. You know how dismal it is to be in a cell and to say to yourself, It's time to cry a bit. Whereupon you cry, hoarsely, wretchedly, heedlessly. With you, I was able to cry serenely, peacefully, as if allowed to cry. As if everything might be poured into that sobbing, converting it into a prayer rather than tears. You can't imagine how I detested that fitful sobbing of mine inside the cell. That night, you taught me how we could be comrades-in-tears.

I don't know why, but I'm sure that you were—that you are?—a young man of medium height. Let's say thirty-five years old, with a great sense of humor. A few days later, a guard came to my cell to soften me up. He gave me a cigarette: it was his turn to play the good guy. He advised me to spill everything, told me that he'd had plenty of experience and that a person my age winds up dying in Susan's arms, because his heart can't withstand the electric shock. And he informed me that you'd been "cooled out." Here's how he put it: "Look, Jacobo, the only obligation you have is to survive. Politics change. You'll be getting out—you Jews help one another. You'll make a fortune again.

You have children. In the cell facing yours, there was a crazy guy. We cooled him out. Look, Jacobo . . ."

I didn't believe him. If I was able to withstand it, certainly you were. Did you have a weak heart? Impossible. You were strong-hearted, generous, brave. Such hearts are not destroyed by Susan. Do you remember how the lights once went off? It's possible, of course, that a large amount of current was being consumed by Susan. Undoubtedly, several new prisoners had arrived, and the first thing that was automatically done to them was to put them through the machine, even before they were asked who they were. The prisoner's first sensation on admittance had to be a succession of electric shocks, in order to lower his defenses. I found out later that this technique was changed after some prisoners were cooled out before they could even be interrogated. Not even the doctor on duty could save them. Yet both of us sur-

vived. Do you remember when I got a cramp in my leg while they were torturing me and suddenly my outcries ceased? They thought I had "gone," and were alarmed. They had orders to get me to confess, because they wanted to build a big case around me. I wasn't any use to them dead. It's curious how one can experience pain and joy simultaneously. Although I was blindfolded, I sensed their fear, and rejoiced. Then I began moaning again on account of Susan. Afterward, I tried to convey the episode to you, for it was as if a battle had been won against them.

My friend, my brother, how much I learned that night from you! Suddenly, you put your nose in front of the peephole and rubbed it. It was a caress, wasn't it? Yes, a caress. At that moment, you were suggesting tenderness, caressing your nose, gazing at me. You repeated it several times. A caress, then your eye. Another caress, and your eye. You may have thought that I didn't understand. But we understood each other from the start. I understood clearly that you were telling me tenderness would reappear.

My father was Nathan Timerman. Nathan ben Jacob (Nathan, son of Jacob). And I am Jacob ben Nathan. Jacob, named after my father's father. The Timermans, by way of those strange, biforked paths of Judaism, escaped the Spanish occupation of the Netherlands, and the Inquisition, and wound up in a small town in Vinnitsa Oblast, in the Ukraine, called Bar. Family accounts, rather imprecise and often colored by vanity, claim that the Timermans were prominent in the Jewish community and fought for Jewish rights.

It was most likely an enlightened, combative community, inasmuch as by 1556 the Jews of Bar had reached an agreement with the townsmen which allowed them to own buildings and granted them the same rights and obligations as the other residents, including the right to travel to other towns in the district for family or business reasons. When the Cossack chief Chmielnicki passed through Bar, in 1648, he, of course, massacred all the Jews he could capture. The community recovered, however, and assumed that something as brutal as the existence of Cossack murderers could only be God's final test before the coming of the Messiah. So staunch was its conviction that in 1717 the Jews of Bar constructed their Great Synagogue, receiving special permission beforehand. As a child, I attended that synagogue with my father, his six brothers, and all my cousins, and I bear within me still a vague longing for those tall, bearded, unsmiling men.

In 1941, when the Nazis entered Bar, they set that synagogue on fire, burning many Jews to death. All the remaining Jews of Bar, with others from the environs—and including the Timermans, who had survived the sufferings that, according to their rabbis, had been imposed by God to herald the Messiah's arrival—were killed by the Nazis in October of 1942: some twelve thousand within a month. My father, happily, had left Bar for Argentina in 1928.

In 1977, in Argentina, the same ideological conviction that impelled Chmielnicki and the Nazis reverberated in the questions posed by my interrogators inside the Army's clandestine prisons. But I have survived, to give testimony. And I'm doing so, at age fifty-seven, in the land of Israel, where I'm beginning this account a few days after the birth of the first Israeli Timerman—my grandson—whose name is Nahum ben Nathan ben Jacob. That is, Nahum ("He who brings solace"), son of Nathan, who is the son of Jacob, who is the son of that other Nathan, in Bar, who was the son of Jacob, whose grave he left when he departed for Argentina.

At dawn one morning in April, 1977, some twenty armed men in civilian clothes invade our apartment in midtown Buenos Aires. They say they are obeying orders from the Tenth Infantry Brigade of the First Army Corps. They uproot our telephone lines, take possession of our automobile keys, handcuff me from behind. They cover my head with a blanket, ride down with me to the basement, remove the blanket, and ask me to point out my automobile. They blindfold me, throw me to the floor in the back of the car, cover me with the blanket, stick their feet on top of me, and jam what feels like the butt of a gun against me. No one speaks.

We arrive somewhere. A pair of large doors open up. They squeak. Dogs bark quite close by. I am taken out of the car and flung onto the ground. A long interval elapses. I can hear only footsteps. Suddenly, some bursts of laughter. Someone approaches and puts what seems to be the barrel of a revolver against my head. From up close—perhaps leaning over me—he says, "I'm going to count to ten. Say goodbye, Jacobo dear. It's all up with you." I say nothing. Again he speaks: "Don't you want to say your prayers?" I say nothing. He starts to count. His voice is well modulated—what you might call an educated voice. He counts slowly, enunciating clearly. It is a pleasant voice. I remain silent, saying to myself, "Is it inevitable for me to die like this? Yes, it is inevitable. Is it what I desire? Yes, it is what I desire. Wife, children, I love you. Adiós, adiós, adiós . . ."

". . . ten. Ha-ha-ha!"

I hear laughter I, too, begin laughing. Loudly. Great guffaws.

The blindfold is removed from my eyes. I'm in a large, dimly lit study: there's a desk, chairs. Colonel Ramón Camps, Chief of Police of the Province of Buenos Aires, is observing me. He orders my arms, handcuffed behind my back, to be freed. This takes awhile, because the keys have been misplaced. Or it may have taken only a few minutes. He orders a glass of water to be brought to me.

"Timerman," he says, "your life depends on how you answer my questions."

"Without preliminary trial, Colonel?"

"Your life depends on your answers."

"Who ordered my arrest?"

"You're a prisoner of the First Army Corps in action."

Between 1966 and 1973, there were three military governments in Argentina, each presided over by a general. The entire institutional scheme was organized under the pompous heading of the Argentine Revolution. It began with great optimism, but after 1969 it found itself on a dead-end street, owing to widespread resistance to the economic, social, and political situation. Juan Perón had been in exile since 1955, but Perónism remained strong at home, and Perón's followers began to ally themselves with all the other political parties in demanding that elections be called. At the same time, his left-leaning followers began organizing Special Formations, consisting of urban guerrillas, who were known as Montoneros. Perón, still in exile, in Madrid, called them Special Formations because he didn't want to lend official support to Perónist guerrillas and find himself accused of subversion.

The Montoneros assassinated those who were trying to suppress them; those who they believed were trying to suppress them; those whom they regarded as doing nothing to oppose those who suppressed them; those who spoke up against violence of both the Right and the Left; second-rank politicians who were friends of first-rank politicians who refused to make deals with the Montoneros; politicians who they imagined might at some point interfere with their future plans because these politicians were liberals and would attract leftist youth; and leftist journalists who were opposed to violence and hence planted confusion in the minds of Montonero guerrilla fighters. The Montoneros engaged in kidnapping as well, considering it logical that men who were able to afford ransom should return their ill-gotten gains to society.

Meanwhile, Peron's right wing had developed its own subversive activity, through the Triple A (Argentine Anti-Communist Alliance), headed by José López Rega, who for several years had been Perón's private secretary in Madrid. The Triple A was largely made up of policemen and retired noncommissioned officers—usually those who had had disciplinary problems, committed some crime, or been punished for other offenses while they were in the ranks. The Triple A engaged in killing Montoneros, or those they assumed to be Montoneros. They murdered liberal politicians, because their demands for legal trials of arrested Montoneros were regarded as a form of complicity with the Left. They murdered defense lawyers of arrested Montoneros, regarding them as a branch of the guerrilla forces. And they murdered writers and leftist journalists, even though the latter might be anti-guerrilla. The Triple A obtained its funds for salaries and the purchase of its weapons and automobiles, and for its clandestine prisons, from the sale of booty acquired in raids and from the ransom paid for kidnapped individuals—these often being financially powerful members of the Jewish community.

Coexisting with these two forces were rural and urban Trotskyite guerrillas; right-wing Perónist death squads; armed terrorist groups of the large labor unions, used for handling union matters; paramilitary Army groups, dedicated to avenging the murder of their men; parapolice groups of both the Left and the Right, vying for supremacy within the organizations of federal and provincial police forces; and terrorist groups of Catholic rightists organized by cabals who opposed Pope John XXIII's ideological thesis of rapprochement between the Church and the poor.

These, of course, were only the principal groups. Hundreds of other organizations involved in the eroticism of violence existed—small units that found ideological justification for armed struggle in a poem by Neruda or an essay by Marcuse. Lefebvre might be as useful as Heidegger; a few lines by Mao Zedong might trigger the assassination of a businessman in a Buenos Aires suburb; and a hazy interpretation of Mircea Eliade might be a perfect justification for kidnapping an industrialist, whose ransom would make possible a further perusal of Indian philosophy and mysticism, to corroborate the importance of national liberation.

In the early seventies, the military dictatorship entered a crisis, brought on by its inability to devise a suitable political formula for dealing with the climate of violence which enveloped the whole nation. In 1972, the armed forces allowed Perón, who was seventy-seven, to return to Argentina, and in March of 1973 elections were called. All the political parties, newspapers, and institutions supported this solution. Perón wasn't permitted to run for the Presidency—the Army had vetoed him—but his designated candidate, Héctor Cámpora, triumphed by a wide margin. Cámpora, however, was basically supported—and dominated—by the leftist, Montonero faction of Perónism. A couple of months later, the situation again became untenable, and Perón denounced Cámpora. Another Perónist, Raúl A. Lastiri, was named Provisional President, to succeed Cámpora, and he called for new elections in September. This time, no one could veto Perón. Besides, the nation longed for Perón, because it assumed that he had sufficient authority to resolve the situation and end the violence. Perón's margin of victory was even greater than that obtained by Cámpora. Despite being burdened in the election slate by the dead weight of his wife, Isabel, who was his Vice-Presidential candidate, he won by more than sixty per cent of the vote. He was now the third Perónist President in 1973. He

could not quell the violence, however, and it was hard to tell whether he actually wished to do so. Less than a year later, after a heart attack, he was dead, and the situation started to deteriorate further on every level, especially in terms of the economy and of violence. Isabel Perón succeeded him and managed to remain until March, 1976, when the Military Junta took power. Her twenty-one-month survival in office was not the result of her political acumen. According to some observers, the military required that amount of time to lay their plans. In reality, the plans were already laid. The military needed something that proved to be of much greater importance. They needed to have the situation deteriorate sufficiently so that the populace—press, political parties, Church, civil institutions—would regard military repression as inevitable. They needed allies who could be converted into accomplices. They needed the presence of enough fear—about one's personal security, the economic crisis, the unknown—and passivity to enable them to develop what they regarded as the only solution to leftist terrorism: extermination.

At La Opinion, the newspaper I published and edited in Buenos Aires, we held a meeting one day to analyze the situation, and decided that hope still existed—we merely had to begin the battle and explain everything. That day, we wound up toasting each other for having committed ourselves—a true privilege for any civilized man—to combatting Fascism. I recall saying somthing to the following effect: "Our generation witnessed the struggle against Fascism during the Second World War only through the street demonstrations that took place in Buenos Aires. We ran no risk. Nor did we run any of the risks faced by those who confronted Stalinism and now languish in the Gulags. We're lucky at least to be here, with a newspaper at hand, at a time when the country is being besieged by Fascism of the Left and of the Right."

Beautiful words. Now I understand (perhaps I understood it then, too) that we were trying to create a microclimate in order to avoid the recourse suggested by so many friends, especially to me: leave the country. Up to the last day—the day of my kidnapping, which was subsequently converted into an arrest—we persisted in this battle; I refused to leave the country. In reply to an Israeli friend who begged me to leave, I sent a brief note, which he showed me on my arrival in Tel Aviv in 1979. It wound up by saying, "I am one who belongs to Masada." How I would have liked to remember that remark during torture sessions.

Is it all any easier to understand now? What of that wide range of terrorist groups who have killed one another, killed not only enemies of other political stripes but adversaries within their own party—Peronists assassinating Peronists, the military assassinating the military, union members assassinating union members? What of those vast parapolice or paramilitary terrorist organizations that required arms, munitions, training camps, transport, "ideological" training, identity documents, clandestine prisons, dwellings, and maintenance, and whose funds all emanated from the same sources—kidnapping and blackmail, booty and plundering? This mechanism of terror and violence still remains unclear. And it must be portrayed in all its dimensions, for it has reached such magnitude that it cannot be understood simply in political, cultural, or electoral terms.

Nor does the old struggle of democracy against extremism of the Right and the Left aptly define the Argentine situation. It may be simpler and more terrible than anything hitherto known by our generation in Latin America. It is a struggle between civilization and barbarism within a country of twenty-seven million inhabitants. And this barbarism—whether it be private or governmental, civil or military—must obviously be eradicated before it is possible to enter civilization.

It is essential, I suppose, to attempt some explanation of what Argentina is. Yet I find it almost impossible to do so in normal terms, applying current political principles. The problem is not merely that I find it difficult to explain Argentina to outsiders in comprehensible terms but that I myself am perhaps unable to understand it. Or it may be that I've lived through a period of such political and social disintegration that it is hard for me to conceive that some coherent explanation could emerge from such disparate and anarchistic opposing elements. In this context, a statement by the Argentine writer Jorge Luis Borges is useful, I think. Some thirty years ago, Borges remarked that the Argentine is not a citizen but an individual—that he lacks any idea of the nation he resides in, and views it as a territory that, owing to its wealth, can be exploited rapidly. To my mind, this is a noteworthy comment on the Argentine problem. Nothing simple: Argentina as an entity does not yet exist; it must be created. But if I envision how each of the diverse Argentinas existing at present within that territory—each regarding itself as the authentic one—would interpret Borges' definition, the result may provide a more descriptive and precise response, something akin to a French pointillistic canvas.

Rightists would accept Borges' remark as an absolute truth, claiming that the flood of immigrants into Argentina destroyed the roots implanted by the Spanish monarchy—those Hispanic roots of the noble Bourbons and of Franco. Immigrants came merely to get rich. It is they who prevented consolidation of a notion of citizenry.

Liberals would accept Borges' remark as an absolute truth, claiming that it was the inability of the Argentine ruling class to understand the immigrant phenomenon—with all its contributions to creativity, culture, the republican and democratic spirit, all its impulse toward civic activity, the struggle for human rights and man's equality—and, more specifically, the battle of the ruling aristocratic groups against unlimited immigrant access to every level of Argentine life, particularly political life, that have prevented national consolidation, and hence the creation of an Argentine citizenry.

Leftists would accept Borges' remark as an absolute truth, claiming that only within a socialist nation can a man genuinely feel that he's a citizen, and therefore no bourgeois nation can expect its inhabitants to share any possible common interests.

Fascists would accept Borges' remark as an absolute truth, claiming that citizens exist only when a central power organizes them as such, and that it is precisely that central power, which need give explanations to no one, that is lacking in Argentina.

During my journalistic career, particularly as publisher and editor of La Opinión, I received countless threats. One morning, two letters arrived in the mail: one was from a rightist terrorist organization (protected and utilized by paramilitary groups) and condemned me to death, because of the organization's belief that my militancy on behalf of the right to trial for anyone arrested and my battle for human rights were hindrances in overthrowing Communism; the other letter was from the Trotskyite terrorist group known as the People's Revolutionary Army, or ERP, and indicated that if I continued to accuse leftist revolutionaries of being Fascists and to refer to them as the lunatic Left I would be tried and most likely sentenced to death. In the past, I had never answered such threats, but the incident struck me as so brutal and comical, so tragic and banal, that I wrote a few lines on page 1 of La Opinión in reply. I didn't say much: merely that we would continue to maintain our standards (a statement reiterated by so many newspapers and journalists all over the world that it has become tedious), and that I felt genuinely curious to know who would wind up with my corpse—the terrorists of the Right or those of the Left. After all, it was a question of only one corpse, and the joke was irrelevant. One more dead journalist in a country where a hundred journalists had died or "disappeared" within the space of a few years was of no great significance. But the incident is useful in delving further into the Argentine drama: Can the Argentine community alone, without outside intervention, prevent either of the two Fascisms from winding up with Argentina's corpse?

In this climate, which dragged on for years, I conducted two interviews that illustrate Argentina's impotence in finding adequate political responses to that most elemental of needs, survival. One was with a Perónist senator, highly influential in his party; he was a lawyer, a moderate (he had been a student leader in his youth), a man cultivated and serene. In the United States, he would have been found in the liberal wing of the Democratic Party. Our conversation revolved around violence—the year was 1975—and I explained to him, with ample statistics and out of nearly thirty years of experience in political journalism, that the country was heading inevitably toward occupation by military power.

I maintained that the only recourse left for preserving the existing political institutions was to make use of legal channels to put an end to all brands of violence, and that the Army was the only group in a position to do this. I proposed that he, along with the Peronist majority in the Senate and the House of Deputies, should pass extraordinary legislation empowering the Army to initiate measures against terrorist activity of all sorts, but that the new powers should be limited by congressional statute within the constitutional framework and should remain under constant civil jurisdiction. His reply went as follows: "Once we allow the military to step through the door, they'll take possession of the entire house. This would be tantamount to a coup, leaving us on the oustide. Furthermore, right-wing Perónists who support rightist terrorist groups that assassinate leftist Perónists will not vote for the laws, and leftist Perónists who support leftist terrorists who assassinate rightist Perónists will not vote for the laws. Moreover, the Army will suppress only one sector of violence, and not the other. It will pit one against the other, thus assuring its own survival." His conclusion? "Let's leave things the way they are. Something will happen. God is Argentine."

The second interview was with a high-ranking official on the Army General Staff. His reply was essentially the same. When I asked what the Army's reasons were for not using all its resources to combat violence—why it was concerned solely with retaliation for its own casualties—his reply was simple: "Do you expect us to go out and fight so that they [the Perónists] can continue to govern?"

When I founded La Opinión, I had been a political journalist for newspapers, magazines, radios, and television for twenty-four years. The first issue of the newspaper appeared on May 4, 1971. I was arrested in April of 1977. During that interval in Argentina, six Presidents governed—so to speak. Sanctions against La Opinión took place under all six regimes, in the form of economic measures, bomb assaults at my home and office, the murder—or, in any case, the "disappearance"—of one of my journalists, and, finally, my arrest and the Army's confiscation of the newspaper. The most subtle form of sanction was economic, for Argentina is a

country whose economy is heavily government-controlled, and advertising from government agencies constitutes a decisive portion of the revenue that a newspaper requires to insure its financial solvency.

Successive administrations suspended government advertising in La Opinión whenever an article provoked their anger. One government invented a Machiavellian stratagem. It induced the association of newspaper distributors, which it controlled, to request a much larger number of copies of La Opinión than the market could absorb. If we refused to supply the copies, the distributors were released from their distribution agreement with us; if we complied, delivering this inordinate quantity of unneeded papers resulted in excessive production costs. Whenever such economic sanctions took place, La Opinión turned to its readers, increasing its price until it became the most expensive newspaper in the country, but it remained, unlike the others, independent of public or private advertising.

La Opinión, curiously, was a moderate newspaper. It was often compared with Le Monde, but it was really just a typically liberal newspaper. Every day, it committed what in Argentina was construed as a mortal sin: it used precise language to describe actual situations, so that its articles were comprehensible and direct. Might one claim that La Opinión was attacked for semantic reasons? Not so, though semantics is the means employed in Argentina to avoid seeing or presenting problems in their total dimensions. Newspapers there write virtually in code, resorting to euphemisms and circumlocutions, and so do politicians and intellectuals, among other leaders. One might imagine Argentina to be a rich heir dissipating his inherited fortune—in this instance, the wealth derived from the generations that ruled between 1860 and 1930—but trying as hard as possible to conceal the fact that the fortune is dwindling and that nobody is making any effort to restore it. In this sense, La Opinión was genuinely provocative. On more than one occasion, it published news stories that had appeared in other papers but had been completely incomprehensible to those outside an informed inner circle, and explained these articles so that the average reader could understand them. One of these explanations—of a news item that had appeared five days earlier in a provincial paper, with no measures having been taken against that paper—led to a ten-day suspension of La Opinión by President Isabel Perón. Similarly, President Jorge Rafael Videla suspended La Opinión for three days for having published an explanation of an article that had appeared in a recent issue of a Jesuit magazine, although that particular issue had not ever been confiscated.

The semantics of the three governing factions that still rule Argentina—the Perónists, the trade unions, and the armed forces—represents one of the oddest processes in political practice. In essence, the process is not unprecedented, considering the accumulated experience of Fascism and Communism with propaganda, slogans, and the fabrication of a reality contradicting actual events every step of the way. Fascism and Communism, however, are political phenomena of great magnitude and encompass nations of vast geopolitical and international interests. Their semantic processes tend to create not only a special reality within their own territories but also an agile and flexible instrument for penetrating other countries. But why should such a phenomenon occur in a country that is relatively small and practically devoid of demographic or economic growth—a country whose twenty-seven million inhabitants could live peacefully off its existing wealth and enjoy even greater ease than the Swiss?

During a meeting of the International Monetary Fund, a Brazilian economist, who I'm sure prefers to remain anonymous, defined the different economic groupings in the world as (1) the developed countries; (2) the undeveloped countries; (3) Japan, which has become an industrial power with a permanent demographic boom; and (4) Argentina. He included Argentina in a special category, he said, because the Japanese work and save for years in order to be able to live someday like the Argentines, who neither work nor save.

Juan Domingo Perón used to say, "Violence from above engenders violence from below." It is a statement that could be found in any Harvard, M.I.T., or Hudson Institute study of the aggressive feelings of populations with meagre resources—a liberal statement, a sociological equation, which in an organized country might lead merely to a polemic on the ways in which such aggressiveness can be eliminated through housing, education, and public-health programs. In Argentina, however, Perónist youth understood at once what Perón was saying: he approved of violence and terrorism, and would lend his support to any murder, kidnapping, or assault that helped him to achieve his goal—the conquest or reconquest of power.

Another of Perón's statements reflecting his infinite semantic creativity was "Reality is the only truth." This might be construed as an incitement to give careful and meticulous scrutiny to data culled from reality, in order to discover peaceful, moderate paths toward a political solution of problems. In practice, however, it formed the basis for Perónist intolerance of any solution outside the ken of its own totalitarian rigidity, and provided the justification for utterly irrational acts in the economic, cultural, and political spheres; in fact, the only admissible reality was Perónism, since the Perónists were in the majority, and the only truth was the Perónist way of life.

The form of combat devised by the other political parties was also a semantic process: to negotiate without contradicting, to await the inevitable crisis and the consequent deterioration of officialdom rather than exert forceful opposition. The anti-Perónist newspapers employed euphemisms to present their criticism—euphemisms that were comprehensible to the parties involved in the game but not to the readers. In refusing to use such euphemisms, La Opinion flirted with suicide every day.

The 1976 revolt against the Isabel Perón Presidency found its principal supporter in La Opinion, which insisted on the need to fill the vacuum in which the country dwelt. The leaders of the Military Junta that took power were prepared, according to long conversations between them and editors of La Opinion, for a revolution that would terminate the violence of both Left and Right, would take measures against corruption, would curb terrorism only through legal channels, and would overcome the danger of hyper-inflation, which at one point was approaching an annual rate of nine hundred per cent. The whole nation longed for peace. In 1975, during Isabel Perón's last year in power, La Opinion voiced these principles in every issue; and in March of 1976, when the Army seized the government and installed General Videla in the Presidency, the entire country, including the Perónists, breathed a sigh of relief.

But once again the semantic process ran parallel to a reality that contradicted it every day. General Videla's government strove to perform peaceful acts; it spoke of peace and understanding, maintaining that the revolution was not aimed against anyone in particular or against any special faction.

But in the meanwhile military leaders hastily organized a warlord in the zone each one becoming a warlord in the zone under his control, whereupon the previous chaotic, anarchistic, irrational terrorism of the Left and of the Fascist death squads gave way to systematized terrorism. Each officer in charge of a military region had his own prisoners, his own prisons, and his own form of justice, and the central government was unable to secure the freedom of a prisoner even when it was importuned by international pressure. Between 1976 and 1978, prisoners whose freedom was sought by the central government, the Catholic Church, or some international organization immediately "disappeared." Whenever the government was forced to admit some repressive excess, the wording of its self-criticism tended to suggest merely that a certain ward of prisoners had had to spend one night without food. Whenever a military officer referred to those who had "gone away forever," it sounded rather like a melancholy reference to people who had emigrated to distant lands to rebuild their lives.

The semantic process could acquire sudden clownish overtones. On one occasion, when Thomas Reston, a spokesman in Washington for the American State Department, expressed his goverment's concern over attacks on the headquarters of certain organizations that were defending human rights in Argentina, the reply given by one of the ministers indicated that the Argentine government was likewise concerned and, at the same time, wishes to protest the existence of the Ku Klux Klan in the United States. Newspaper, radio, and television commentators took up the cry. How was one to explain that the Ku Klux Klan did not form part of the United States government and occupied no seat in President Carter's Cabinet?

The reason that La Opinión succeeded in surviving between March, 1976, and April, 1977—the first year of the Military Junta—was that Army moderates had decided that this journal, critical but not antagonistic, opposed to terrorism but supportive of human rights, ought to survive. The continued existence of La Opinión brought the Military Junta credit abroad; the paper backed the philosophy of future national reconstruction, it upheld the thesis of national unity, and it was committed to curbing extremist excesses. Even in those early days, the moderates were a minority in the armed forces, and only their political acumen enabled them to retain a foothold in the ongoing process. Yet the political parties, virtually every civil institution, the Catholic Church, and Western governments maintaining satisfactory relations with Argentina all calculated that the best strategy was patience: to wait for time to pass and the extremists to weaken, and in the meanwhile to impose no excessive demands on the moderates.

On paper, this approach was not implausible. Elections seemed inevitable. But in my position as editor-in-chief of La Opinión I had to confront the distinction between extremists and moderates every day, for every day relatives of those who had disappeared would show up at my office on the assumption that La Opinión could assist in finding them. Over and over, I had to explain that an article in La Opinión could mean a death sentence; nonetheless, their loneliness and the dearth of news made them believe that printing an article about a disappearance would do some good. At least, it would fortify them in their solitude. On balance, I'm able to weigh the results. I know that I saved the lives of some, and I believe that others killed merely because La Opinión demanded to know their whereabouts. But in the long run, it seems to me, the battle had to be fought, so that at least there would be a battle, however small. Some people hold that the only possible response to totalitarian repression, whether Fascist or Communist, is to go underground or into exile. Both solutions were contrary to my philosophy. I thought it necessary at the time to go one

step further; to attack the leaders of extremist military groups directly.

How, then was one to judge the moderates? They were, are, and will always be opposed to excesses. Yet they opposed none of these. Was this due to lack of strength? They said they were simply allowing the unavoidable to occur. Elsewhere, that attitude had given Hitler a free hand in Germany and had empowered the Communists in Cuba to take over the youthful, romantic revolution of the Sierra Maestra against Fulgencio Batista's dictatorship.

In my opinion, the moderates had to be supported by public pressure rather than by patience. The Western governments did not take this view, nor did the Church, the Argentine political parties, or other Argentine newspaper, and one might say that my present freedom is a result of the patience exercised by the moderates. Still, my own belief is that the concessions the moderates made toward the extremists on my behalf have been harmful to Argentina on an international scale. I would have preferred to see the moderates wage a more militant battle against the extremists. They had—and, in fact, still have—greater strength than they imagine.

They would have been joined in that battle by an Army minority and also by a popular majority, political parties, and civil institutions. I believe that the moderates would have won the battle, and Argentina would have been saved some years of tragedy. On the other hand, it's hard to talk about tactics when countless innocent people have lost their lives.

I was kidnapped by the extremist sector of the Army. From the outset, President Videla and his chief military supporter, General Roberto Viola, tried to convert my disappearance into an arrest, in order to save my life. They did not succeed. Paradoxically, my life was spared because this extremist sector was also the heart of Nazi operations in Argentina. From the very first interrogation, its members figured they had found what they'd been seeking for so long: one of the elders of Zion, the axis of the Jewish anti-Argentine conspiracy.

"Are you Jewish?"

"Yes."

"Are you a Zionist?"

"Yes."

"Is La Opinión Zionist?"

"La Opinión supports Zionism, since Zionism is the liberation movement of the Jewish people. It considers Zionism to be a movement of high positive values, the study of which can shed light on many problems related to building national Argentine unity."

"Then it is a Zionist newspaper?"

"If you wish to put it in those terms, yes."

"Do you travel to Israel often?"

"Yes."

"Do you know the Israeli Ambassador?"

"Yes."

All this was a sort of revelation to the interrogators. Why kill this goose laying these golden eggs? Better to exploit the goose in the crusade against the international Jewish conspiracy.

That's what saved my life. From that moment on, my arrest was officially recognized. I did not "disappear." My life was saved because the Nazis were overly Nazi—because they believed, as they informed me, that "World War III" had begun and that they enjoyed total impunity. One of the interrogators, known as Captain Beto, told me, "Only God gives and takes life. But God is busy elsewhere, and we're the ones who must undertake this task in Argentina."

In my home, as far back as my memory takes me, the news of the day was the main topic of conversation—news in all its forms and stages. As a child, I listened to grownups talking about the pogroms of the Russian Civil War. At home, newspapers bringing the first news about Hitler were devoured, and later on, with others of my generation, I followed the long path leading from the Spanish Civil War to the present day; newspapers, novels, films, poetry; war diaries, political works, the memoirs of those who had escaped the prison camps of Franco, Pétain, Mussolini, Hitler, Stalin; books about repression in Cuba, Nicaragua, Paraguay, Vietnam, China, all parts of Africa—countless battles, countless tortures, countless blows, countless killers. One might logically assume that I knew it all—knew what a political prisoner was, how he suffered in jail, the things a tortured man felt. But I knew nothing.

I'm seated on a chair in a yard. Hands tied behind my back. Eyes blindfolded. It's cold and drizzling, and I'm soaked. I keep moving my head and legs in an effort to get warm. I've peed, the pee has turned icy, and the skin on my legs where the urine ran down hurts. I hear some steps, and a voice asks me if I'm cold. I'm untied from the chair and led into a warm room. I was brought to this clandestine prison today from federal-police headquarters in Buenos Aires. I later learn that a prisoner who saw me leave asked for permission to inform my family that he'd seen me, arms tied behind my back, go peacefully, without offering resistance. He was told that it wasn't advisable to get involved, inasmuch as I'd been removed without a written order or record of transfer, and that meant that I was going to be executed.

It is hot. They seat me on a chair and take the blindfold off. It's handed to me. We're in a spacious kitchen. Before me are some smiling men, big and fat, dressed in civilian clothing. Weapons are everywhere. The men are drinking coffee, and one of them offers me some in a tin cup. He keeps smiling, tells me to sip it slowly, asks if I want a blanket, invites me to come close to the stove, to eat something. Everything about him transmits generosity, a desire to protect me. He asks if I'd like to lie down awhile on the bed. I say no. He tells me there are some female prisoners on the grounds, and asks if I'd care to go to bed with one of them. I say no.

This gets him angry, because he wants to help me and by not allowing him to I have upset his plan, his aim. In some way, he needs to demonstrate to me and to himself his ability to grant things, to alter my world, my situation—to demonstrate to me that I need things that are inaccessible to me and that only he can provide. (I've seen this dynamic recur countless times. One feels tempted to combat this tendency on the part of the torturers, to confront it, because it offers a rare chance to feel alive; yet such battles lead to nought. It's best to acknowledge and accept the torturers' omnipotence in such unimportant matters.) From weariness, perhaps, or resignation, or that sensation which so often assails the tortured—a presentiment of imminent death—I do not answer one of his questions. He insults me but doesn't strike me. He puts the blindfold back on my eyes, takes my hand, and leads me out of the kitchen. He seats me on the chair and ties my hands behind me.

It continues to drizzle.

The man sighs and goes off, casting toward me, I suppose, a final glance of incomprehension.

In the long months of confinement, I often thought about how to convey the pain that a tortured person undergoes. And always I concluded that it was impossible. It is a pain without points of reference, without revelatory symbols or clues to serve as indicators. A man is shunted so quickly from one world to another that he's unable to tap a residue of energy that will permit him to confront this unbridled violence. That is the first phase of torture: to take a man by surprise, without allowing him any reflex defense, even psychological. A man's hands are shackled behind him, his eyes blindfolded. No one says a word.

Blows are showered upon him. He's placed on the ground and someone counts on the ground and someone counts to ten, but he's not killed. He is then led to what may be a canvas bed or a table, stripped, doused with water, and tied to the ends of the bed or table with his hands and legs outstretched. And the application of electric shocks begin. The amount of electricity transmitted by the electrodes—or whatever they're called—is regulated, so that it merely hurts, or burns, or destroys. It's impossible to shout—you howl. At the onset of that long human howl, someone with soft hands checks the state of your heart, someone sticks his hand into your mouth and pulls out your tongue in order to prevent you from choking. Someone places a piece of rubber in your mouth to prevent you from biting your tongue or destroying your lips. A brief pause. And then it starts all over again. With insults this time. A brief pause. And then questions. A brief pause. And then words of hope. A brief pause. And then insults.

What does a man feel? The only thing that comes to mind: They're ripping apart my flesh. They didn't rip apart my flesh. They didn't even leave marks. But I felt as if they were tearing my flesh. And what else? Nothing that I can think of. No other sensation? Not at that moment. But did they beat you? Yes, but it didn't hurt.

When electric shocks are applied, all that a man feels is that they're ripping apart his flesh. And he howls. Afterward, he doesn't feel the blows. Nor does he feel them the next day, when there's no electricity but only blows. A man spends days confined in a cell without windows, without light, either seated or lying down. He also spends days tied to the foot of a ladder in such a way that he can't stand up; he can only kneel, sit, or stretch out. A man spends a month not being allowed to wash himself, being transported on the floor of an automobile to various places for interrogation, being fed badly, smelling bad. A man is left enclosed in a small cell for forty-eight hours, his eyes blindfolded, his hands tied behind him, hearing no voice, seeing no sign of life, having to perform his bodily functions upon himself.

And there is not much more. Objectively, nothing more. Or perhaps there is much more and I'm trying to forget it. Every day since my release, I've been waiting for some vital shock to take place, some deep, extended nightmare to explode suddenly in the middle of the night, allowing me to relive it all—something that will take me back to the original scene, purify me, and then restore me to this place where I am now writing. But nothing has happened, and I find this calm terrifying. A journalist asked me how freedom feels. I still do not feel it. I'm repressing the sensation of freedom, because I fear that otherwise I may find myself relinquishing the profound marks imprinted on me.

Although I cannot convey the magnitude of that pain, I can perhaps offer some advice to those who will suffer torture in the future. Human beings will continue to be tortured, in different countries, under different regimes. Looking back on my attitude during torture sessions and during the periods of solitary confinement, I realize that instinctively I developed an attitude of absolute passivity. Some people fought against being carried to the torture tables; others begged not to be tortured; others insulted their torturers. I represented sheer passivity. Because my eyes were blindfolded, I was led by the hand. And I went. The silence was part of the terror. Yet I did not utter a word. I was told to undress. And I did so, passively. I was

told, when I sat on a bed, to lie down. And, passively, I did so. That passivity, I believe, preserved a great deal of energy and left me with all my strength to withstand the torture. I felt I was becoming a vegetable, casting aside all logical emotions and sensations—fears, hatred, desire for vengeance. To feel any emotion or sensation meant wasting energy.

In my opinion, this is sound advice. Once it has been determined that a human being is to be tortured, nothing can prevent that torture from taking place. And it's best to allow yourself to be led meekly toward pain and through pain, rather than to struggle resolutely, as if you were a normal human being. The vegetable attitude can save a life.

More than once during those days of solitary confinement, I was brusquely awakened by someone shouting, "Think. Don't sleep, think." But I refused to think. I behaved as if my mind were occupied with infinite diverse tasks. Concrete, specific tasks, chores. To think meant becoming conscious of what was happening to me, imagining what might be happening to my wife and children; to think meant trying to imagine a way to relieve this situation, to wedge an opening in my relationship with the jailers. In that solitary universe of the tortured, any attempt to relate to reality was an immense, painful effort leading to nothing.

When I was not blindfolded, I'd spend a few minutes—I believe it was minutes—moving a hand or a leg and observing the movement fixedly, in order to experience some sense of mobility. Once, a fly entered the cell, and it was a real holiday watching it flit around—for hours, until it disappeared through the small crack by which the jailers communicated with me. Then, after these "important" episodes in my life were over, my mental labor began. I decided to write a book about my wife's eyes. It would be titled "Rische's Eyes in the Cell Without a Number." Curiously, I wasn't thinking about my wife as such, for that would have been acutely painful; I was simply organizing myself, like a poet at his desk before undertaking some inspired professional endeavor. I held a long discussion with myself about what style to employ. Modelling it after Pablo Neruda would result in an inadequate romanticism, perhaps; whereupon I recalled Federico Garcia Lorca's style in "Poet in New York," and came up with a few lines. But then I began wondering if perhaps Stefan George's symbolism might not be more appropriate, for in a certain way it was linked with Franz Kafka's world. But if my quest for a style were to end here, that meant that my mental writing had to begin. And the important thing was for that quest to last as long as possible.

I recalled the work of Chaim Nachman Bialik—particularly one of his poems about a pogrom—but his work struck me as being too peculiar to Eastern European experience; as for Vladimir Mayakovsky, he seemed overly Russian in his love poems to Lila Brik and too verbose in his poetry about the Russian Revolution. I likewise dismissed Paul Éluard; Claudel was unadaptable, and Aragon didn't especially impress me. There remained, of course, the poets of my youth: Walt Whitman, Carl Sandburg, and the Spaniards Miguel Hernández and Luis Cernuda. Finally, I settled on Stephen Spender, and began to write, in my mind.

One might think that the selection of a style would bring back memories of the times when I first read these writers. Memory is the chief enemy of the solitary tortured man—nothing is more dangerous. But I managed to develop certain passivity-inducing devices for withstanding torture and certain anti-memory devices for those hours in the solitary cell. I refused to remember anything that connected with actual experience—I was a professional stoic dedicated to his task. The book I was working on absorbed me for days, but now I can't remember a single line. For a time, I recalled passages; now they are deeply buried. And the thought that they may resurface is as frightening as the notion of reliving those solitary hours. Someday, I suppose, I'll be forced to reëncounter myself by way of all that. Perhaps I'm experiencing the same problem—Argentina—an unwillingness to be aware of one's own drama.

Another activity was to organize a bookstore. I thought about how one day I'd be free, figuring that several long years might elapse before that moment—maybe ten or fifteen. Thinking in terms of a prolonged span of time is extremely useful when there is no fixed sentence, for it annihilates hope, and hope is synonymous with anxiety and anguish. I imagined my eventual arrival in Israel and the need to engage in some work. I decided that a bookstore would be the most suitable way for two voracious readers like me and my wife to earn a living. I speculated on all the details: the size of the main room, the name of the store, the typography of the sign on the window, the sorts of books we'd sell, whether it would be a good idea to install a literary salon on an upper floor, or perhaps an experimental-film society.

A detailed task of this sort could easily keep me occupied for days. Following the same method, I organized a newspaper in Madrid and another in New York, planned my life on a kibbutz, and wrote a film for Ingmar Bergman to direct on the solitude of a tortured man. In my solitary-confinement cell and during interrogations and long torture sessions, and after sessions, when only time remained—all of time, time on all sides and in every cranny of the cell, time suspended on the walls, time on the ground, in my hands—I tried through every available means to maintain some professional activity, disconnected from the events going on around me, or the events that I imagined to be going on around me. Deliberately, I evaded conjecture about my own destiny, that of my family, of the nation. I devoted myself simply to being consciously a solitary man entrusted with a specific task.

At times, something—some lingering physical pain following an interrogation, hunger, the need for a human voice for contact, for a memory—would cause the mechanism of withdrawal to fail, and I would have to devote several hours to reconstructing it. I always did manage to withdraw again, and thus was able to avoid lapsing into that other mechanism of tortured solitary prisoners—establishing a bond with one's jailers or torturers. Each party seems to feel some need of the other. For the torturer, it is a sense of omnipotence, without which he'd find it hard, perhaps, to exercise his profession (the torturer needs to be needed by the tortured), whereas the man who is being tortured finds in his torturer a human voice, the possibility of a dialogue, some partial recognition of his human condition—he asks for pity, asks to go to the bathroom, asks for another plate of soup, for the result of a football game. I was able to avoid all that.

Later, when I was moved from that clandestine jail into a cell in a legal prison, it became possible for me to have family visits, and my new guards would have allowed packages of food to be brought to me in exchange for a gift. I didn't take advantage of this system, and my wife was told by a policeman that I was punishing myself, playing the martyr. I don't know why I opted for such proud asceticism. Today, I am unable to judge how sensible an idea it was, but then it helped to give me an idea of my own reserves, and I rejoiced. The other recourse would have provided consolation but not joy.

Still later, when my situation had improved further, there were other prisoners, we were allowed to talk, each cell was provided with a latrine (a hole in the floor). We could bathe every day. We began cooking our own food, played long card games, read newspapers, and were allowed to receive certain books, clean clothing, blankets and sheets, a radio. We had all been tortured, to a greater or lesser degree. Talking to one another, we discovered that a torture session to soften a man up for interrogation always followed immediately upon his arrest, though in some cases many days elapsed between torture session and interrogation. Some prisoners were never interrogated at all. I think that the tortures were performed in old buildings in small villages near Buenos Aires—generally in some rebuilt kitchen or in a large cell where an electric cable could be installed. Torture centers existed in military barracks, of course, but always in their basements or in abandoned kitchens. The torturers nevertheless tried to create a more sophisticated image of the torture sites, as if thereby endowing their activity with a more elevated status. Their military leaders encouraged fantasies of important sites, exclusive methods, original techniques, novel equipment. The conversion of dirty, dark, gloomy places into a universe of spontaneous innovation and institutional "beauty" was one of the most arousing pleasures for torturers. It was as if they felt themselves to be masters of the force required to alter reality. And it placed them again in the world of omnipotence. The omnipotence they felt assured them of impunity—gave them a sense of immunity to pain, guilt, emotional imbalance.

Inevitably, since my release, the first question I've been asked by anyone has concerned the torture I underwent. Yet for the man who has been tortured and has survived this is perhaps the least important topic. In conversations with other prisoners, I discovered the following curious fact: our preoccupations revolved entirely around how long we'd be in jail, and our family's situation and economic needs. If by chance the topic of torture came up, it was only in a random remark that didn't seem of consummate interest to anyone: "I had five days on the machine." "They put me on the machine with my clothes on." "The machine hurt my head." Sometimes, on hearing the howls that rose from the basement, a prisoner might say, as if in passing, "They're giving someone the machine." Torture forms part of a prisoner's ordinary routine—something that has already been undergone and is now the turn of others, some of whom will survive, others not.

It occupies a very limited place in the life of the tortured person, and when he is newly freed and is able to speak openly he's astonished at the importance that mankind attaches to the subject.

In the entrance hall of La Opinion stands a weeping woman asking to see me. I don't have the strength for this meeting, because I'm as despairing as she is. My secretary persuades the woman to give her reason for coming to see me. Her two children have disappeared—a girl and a boy, eighteen and fifteen years old. They were taken from the house while she was out. The neighbors said they saw two cars with armed men. She was told at her district police station that the police had no knowledge of the incident, that it was not an official act. She tells my secretary she's convinced that the editor-in-chief of a newspaper is sufficiently powerful to find her children.

It's a lie. She isn't convinced; she knows that I can do nothing. Everyone knows that I can do nothing. But people have no place else to go; they come to La Opinion because, they claim, it's the only daily newspaper that shows any concern over those who have disappeared.

I anticipate this woman's story and therefore don't receive her. I receive some, not

others. It depends on the degree of despair that I'm feeling the day they arrive. And they arrive in large numbers. How can I tell this woman that if I published the story about her children it would most likely amount to a death sentence? How can I tell her that the government will never tolerate the assumption that a newspaper article can save a life? To permit this would mean losing the power of repression, the utilization of fear and silence.

Yet when my secretary tells me the story how can I live with it? Well, one can live with it. The Germans did, the Italians did, the Russians do, the Paraguayans do, the Chileans do, the Czechs do, the Uruguayans do.

Later, however, a strategy for helping that mother occurs to me. I realize that nothing can be printed in the newspaper and that I cannot phone the garrison where the mother believes that her children are being held, for then they would certainly be killed.

What I can do is to send a reporter to the headquarters of one of the three branches of the armed forces—not, obviously, the branch where the mother thinks they are held. Competition among the three armed forces is an old Argentine tradition, as are suspicion and intrigue. All that the reporter need do is to mention that an officer from the branch actually holding the children had been heard to say that both children were being held at the headquarters the reporter is now visiting. His hosts, worried about their image, will order their own intelligence service to inquire into the whereabouts of the children. The stratagem works and the children are located; though the boy will never reappear, the girl is saved.

In Buenos Aires, there's a place that we onetime habitués converted into an almost private club—the basement bar and restaurant of the Plaza Hotel. The wood panelling, the tables and chairs, the china—all had a pleasantly Art Nouveau look. The tourists didn't bother us; they passed unnoticed. We were a sizable group—almost a crowd—of executives, businessmen, journalists, politicians, and high public officials. We had our favorite dishes and enjoyed the snobbism whereby the maitre d's waiters, and sommeliers knew our tastes and we knew them by name. We were all aware that whenever a table was reserved in advance the secret police would wire it with a microphone, and this struck us as funny.

For years, I had held conversations in that place with future Argentine Presidents and former Argentine Presidents, with ministers and ex-ministers. I had been practicing political journalism since 1946, and had come to the restaurant the first time as the guest of a politician. Now, as the head of a newspaper, I was the one who did the inviting. Greetings were exchanged from table to table. I often saw high government officials greeting first civilians and then military officers who were conspiring to overthrow that particular government. Sometimes people having lunch at one table wound up having coffee and liqueur with members of another table. Diplomats came to ask questions, politicians to get information, journalists to gather news, the military to make contacts, corporate managers to do public relations with the present or future power. That near-frivolous climate lasted for years. But with the growth of rightist and leftist violence the climate began to change. Our group began to suffer some temporary casualties through kidnappings and some permanent casualties through assassinations.

We also missed those who had decided to live abroad. "Abroad" generally meant merely taking up residence in the beautiful beach resort of Punta del Este, on the Uruguayan coast, barely forty minutes away by plane, and we'd see these emigrants on weekends or in the summer. But during those years from 1972 through 1976 our group did begin experiencing certain uncustomary worries and fears.

In 1976, a few weeks after the fall of Isabel Peron and the rise to power of the Military Junta, I met an officer of the Argentine Navy at one of these lunches. Like many of the military of that period, he had an almost visceral hatred of the Peronist urban guerrillas. The mere motion that the guerrillas wanted to beat the military on the field of battle was more than the military could tolerate. And though this was not the first time that the Argentine armed forces had taken power by overthrowing a popularly elected government—after all, they had also done it in 1930, 1943, 1955, 1962, and 1966—there had never before been such systematized hatred of the opposition. This man, who was in his early forties, had undoubtedly begun his career at the age of thirteen in the Naval Academy, and he could verify that never had such hatred existed among his peers, or such pleasure in the hatred.

All my efforts to steer the conversation toward an analysis of long- and short-term political measures that would benefit the country clashed with his conviction of the need to exterminate everyone opposed to his views. Barely forty-eight hours earlier, it had been discovered accidentally that all the food destined for a certain group of officers had been poisoned. If the meal, which was cancelled at the last minute, had taken place, twelve high-ranking officers would certainly have died.

"What would you do, Timerman, if the culprits were arrested?"

"It was obviously the guerrillas," I answered. "I'd submit them to military law and aim for a public trial, inviting journalists and foreign jurists to attend."

"For what purpose?"

"During the trial, the motives and methods of leftist subversion would inevitably emerge. The whole muddle of improvised ideas that represents the guerrillas' pattern of thinking—the divergence between their alleged aims and their methods—would be exposed, stripped of the romanticism bestowed on it by its clandestine nature and presumed martyrdom. Argentina, from an internal point of view, would benefit from such a political and judicial process. The political defeat of subversion is as important as its military defeat. Using legal methods to curb violence would eliminate one of the major elements exploited by subversion—the illegal nature of repression."

"But, Timerman, don't you understand that applying legal methods is equivalent to the death sentence?"

"I know. It's hard, but it's acceptable."

"So you'd be willing to accept the death sentence for those people?"

"Yes, I'd accept it. I do accept it."

"Fine. Well, you can be happy—they've already been executed."

"Without trial, defense, or anyone's knowledge?"

"If we had followed the method you advise, we would have had to delay their execution after they'd been sentenced to death."

"Why?"

"Because the Pope would have intervened."

"Surely, it's preferable to reject a petition from the Pope rather than to mar the entire political process with a flagrant, bloody illegality that jeopardizes it in the future. All that you'll be accomplishing, once this phase is over, is a resurgence of vengeance and violence. The seeds of future violence are being planted."

"You're a Jew and don't understand that we can't deny a petition from the Holy Father."

"But the Pope would agree to a life sentence."

"And we'd be allowing a twenty-year-old terrorist to remain alive and maybe receive amnesty in ten or fifteen years when a Congress in this country might pass amnesty laws. But if we exterminate them all there will be fear for several generations."

"What do you mean by all?"

"All—about twenty thousand people. And their relatives, too—they must be eradicated. And also those who remember their names."

"And what makes you think that the Pope will not protest such repression? Many governments, political leaders, trade-union leaders, and scientists throughout the world are already protesting."

"Not a trace or a witness will remain."

"That's what Hitler attempted in his Night and Fog policy. Germany paid for each and every one of the victims. And is still paying, with a nation that has remained divided."

"Hitler lost the war. We will win."

I left the meeting with the naval officer at the Plaza Hotel filled with dreams of glory and combat. Convinced that I held many cards in my hand, I accepted the challenge. I sent a journalist to London to spend a week at the Institute for the Study of Conflict. I was told that the people there had done several investigations of democratic methods of combatting leftist terrorism. We collected material and published it in a special supplement to La Opinion. The British Embassy informed me that a number of Argentina's military leaders had requested further information and wanted to consult the sources used by La Opinión. They sent for some books. All the books concurred, in varying degrees, that irrational, illegal repression on the part of a government compromises any future political victory and the formation of a democratic society. Illegal repression leaves the door open for a return of left-wing terrorism. Such repression cannot be indefinitely maintained. When it is over, terrorism returns, armed with the baggage of martyrdom.

I met with an ex-President of Argentina. I proposed that he and other living ex-Presidents jointly sign a document opposing violence in any form, of either the Right or the Left, and in favor of legal methods of curbing terrorism. Such a proposal might work, he thought, if, in advance, editorials supporting it appeared in all the newspapers. I told him that La Opinion was prepared to print such an editorial, and we expected that certain small newspapers would join us, but that it was unlikely any other major paper would. Still, I would try to persuade them. Both of us failed. A member of his family died in the attempt. An ex-secretary disappeared forever.

I instructed political reporters and military columnists on La Opinión to broaden their contacts with leaders on both sides in order to locate any democratic leader who cared to comment or write an article, any military official who foresaw the national peril in the illegality that was encroaching on the judicial process. Hardly anyone cared to talk to us. We were quite alone. Some reporters resigned.

Entire families disappeared. The bodies were covered with cement and thrown to the bottom of the river. The Plata River, the Paraná River. Sometimes the cement was badly applied, and corpses would wash up along the Argentine and Uruguayan coasts.

A mother recognized her fifteen-year-old son, an Argentine, who appeared on the Uruguayan coast. But that was an accident—the corpses usually vanished forever. The corpses were thrown into old cemeteries, under existing graves, never to be found. The corpses were heaved into the middle of the sea from helicopters. The corpses were dismembered and burned.

When there was mercy, small children were turned over to grandparents. Or presented to childless families. Or sold to childless families. Or taken to Chile, Paraguay, Brazil, and given to childless families.

The people who participated in these procedures were generally transferred after a time to other regions or duties. The places where massacres took place were altered. Old buildings were demolished, their sites converted into public gardens or sold to builders who would quickly put up new apartment houses on them.

Yet even amid victory the Argentine military discovered that everything was known. And that is the chief advantage they've handed the guerrillas and terrorism: an acknowledgment that their own terrorist irrationality exceeds that of their opponents.

No, there was no successful Night and Fog policy, nor will there be. What there was, from the start, was the great silence, which appears in every civilized country that passively accepts the inevitability of violence and fear—that silence which can transform any nation into an accomplice, that silence which existed in Germany under Hitler and in the Soviet Union under Stalin. Such silence begins in the channels of communication. Although certain political leaders, institutions, and priests attempt to denounce what is happening, they are unable to establish contact with the population. Then silence finds another ally: solitude. The person who wants to fight senses his solitude and is frightened. Whereupon the silence reverts to patriotism. Fear finds its great moral revelation in patriotism, with its indubitable capacity for justification, its climate of glory and sacrifice. Only abroad, where there is no Night and Fog, can the truth be revealed. That, however, is "the Anti-Argentine Campaign." It's best, therefore, to be a patriot and not remain in solitude; to stay out of politics and stay alive.

An old one-story house in the village of Martinez, a suburb of Buenos Aires. Formerly a police station. In the basement is a corridor lined with several cells. Here prisoners are enclosed. The walls are perpetually damp. One of the cells hasn't been opened up for a year. They say a guerrilla is inside. The prisoners have no names, the cells have no numbers in this clandestine prison. It is known as Coti Martinez.

A guard asks me for work for one of his sons, who doesn't want to study—a boy of fourteen who's causing him problems and whom he'd like to have learn a good trade. I recommend a trade school, and, despite the fact of my disappearance, the guard isn't worried about visiting the director of this school and using my name to apply for an opening for his son. He doesn't feel he's doing anything incorrect, and he goes on to explain to me that it's all simply a matter of preventing thieves—at first he says Jews but then corrects himself—from carrying off Argentina's money. He has his morals:

When he's sent by his boss to find a terrorist, he will kill the man and others with him—wife, parents, children—only if resistance is offered; if the terrorist doesn't resist, he's brought to the boss. Only if the boss issues the order does the guard place the revolver at the prisoner's neck and kill him. He doesn't kill for pleasure—only out of necessity or in obedience to an order. There are others, he says, who do it for pleasure or in the sporting spirit, competing with the others in the number of *enfriados*, or captives who wind up as "cold bodies." He's a nice man, who looks after his diet, brings his utensils from home because he thinks that the ones in the kitchen are contaminated, hopes to be able to retire soon, while he's still young—since his job is dangerous, the years of service are calculated as double. When his bosses are not around, he lets me use their bathroom.

I've been thrown to the ground in the cell. It's hot. My eyes are blindfolded. Two days have gone by without torture. The doctor comes to see me and removes the blindfold. I ask him if he isn't worried about my seeing his face. He acts surprised. "I'm your friend. The one who takes care of you when they apply the machine. Have you had something to eat?"

"I have trouble eating. I'm drinking water. They gave me an apple."

"You're doing the right thing. Eat lightly. After all, Gandhi survived on much less. If you need something, call me."

"My gums hurt. They applied the machine to my mouth."

He examines my gums and advises me not to worry—I'm in perfect health. He tells me he's proud of the way I withstood it all. Some people die on their torturers, without a decision having been made to kill them; this is regarded as a professional failure. He indicates that I was once a friend of his father's, also a police doctor. His features do seem familiar. I mention his father's name: this is indeed the son. He assures me that I'm not going to be killed. I tell him that I haven't been tortured for two days, and he's pleased.

I'm transferred to police headquarters in the city of La Plata, and as we enter the city my blindfold is removed. I recognize the city, where I was a university student many years ago. A typical student city, with wide, treelined streets. I often came to police headquarters for various transactions. Now I'm led through the Fire Department entrance into the basement. I keep walking, my hands tied behind me. There's a corridor, and propped against one wall is a painter's high ladder. The blindfold is again placed over my eyes, and one of my hands is tied to the bottom step of the ladder. I can either sit or lie down.

I remain this way for a couple of days, given only water. Every once in a while, I'm allowed to go to the bathroom. I'm spoken to amiably—without shouts, insults, jeers, or sarcasm. People here recognize me, recall my television appearances. I'm told that the newspapers are writing about me, and I'm assured that I'll be all right.

My blindfold is removed—that is all. Different guards take turns. They alternate every six hours. I begin to recognize them. There's one who gives me a kick whenever he passes, without saying a word. I question another guard about why he does this. He asks me to be understanding: The lad's a fine boy, but he can't stand Jews.

The interrogation takes place in the chief inspector's private dining room, on the top floor. Two people will question me; they're having lunch, and I'm invited to share their meal. They assure me that all they want to do is hold a political conversation.

They have certain points in their favor, however: I've been subjected to days of torture and have signed many papers that they claim are statements I made. They flourish the papers in front of me but don't allow me to read them. They ask me a question. If they like one of my answers, they have me write it out, sign it, and imprint it with the thumb of my right hand. What arouses the most enthusiasm is my theories on the need to combat both rightist and leftist terrorism. They anticipate using these ideas as the basis of their accusation proceedings against me, because, they say, "to identify legal forces with subversion is to be a subversive." I talk briefly about Fascism of the Right and of the Left. They get furious but don't strike me. It's a political conversation. How can I offend Fascism by speaking of it in the same breath as the Left?

During this political conversation, which lasts for perhaps fifteen or twenty hours, all the elements of my luncheon dialogue with the naval officer at the Plaza Hotel are repeated, to some extent. But now the exposition of my ideas is more a confession than an expression of a political proposal. My advocacy of legality is distorted by the interrogators into a tactic designed to weaken the effectiveness of the security forces. The reproduction of articles from other publications is converted into a satanic provocation intended to force the government to close down numerous publications, thereby stirring up confrontations with different groups. Accepting the death penalty as the outcome of a trial is tantamount to presenting the armed forces as murderers.

I reiterate my ideas and convictions. And the interrogators are genuinely satisfied, for I have provided them with the proof that the security forces sought regarding the subversive nature of my journalistic activity. They ask if I'd like to have a bath, and suggest that I take advantage of an opportunity I may not have again for some time. I hesitate slightly, because of my great fatigue. I don't realize, they say, how bad I smell. Indeed, I haven't washed for almost a month. I accept the bath, with a guard posted at the door. In the mirror, I see how thin I am. I must have lost forty or fifty pounds, but there are no signs of torture evident on my body. The scents of soap and water. . . . I discover them perhaps for the first time. I am overwhelmed by a forgotten sensation, and am frightened, for until now I'd avoided memories as much as possible.

The examiner returns. He tells me that I've failed to understand his questions. I make one more effort to explain the ideology of La Opinion, the battle against leftist and rightist extremism, but to no avail. He turns off the water faucet. I'm still covered with soap.

January 26, 1980. The English weekly The Economist devotes a special section to Argentina—its political, social, and economic aspects. The journalist Robert Harvey writes:

The use of official terrorism to counter ordinary terrorism made Argentina a more dangerous place than Chile after its coup because the rules of the game, for the government's critics, were so ill-defined. A journalist, for example, might be given a wink by a minister to go ahead and publish an article criticising an aspect of government policy. But he would not know whether a security service belonging to the army, or to the air force, or to the navy, or to the local military governor, or to the provincial governor, or independent of any of these, would or would not take umbrage. And even a top minister might be unable to help him if he was whisked off by a group of unknown men one night.

They blindfold me—I'm "boarded up," as they say in police jargon. Someone grabs me by the shoulders and sets me in the direction I'm to go in. I hear voices and have the impression of being in a large room. I assume that I'm going to be made to undress for a torture session. But they sit me down, clothed, and tie my arms behind me. The application of electric shocks begins, penetrating my clothing to the skin. It's extremely painful, but not as bad as when I'm stretched out naked and doused with water. The sensation of the shocks on my head makes me jump in my seat and moan.

No questions are asked. There is merely a barrage of insults, which increase in intensity as the minutes pass. Suddenly, a hysterical voice begins shouting a single word: "Jew! Jew! Jew!" Others join in and form a chorus while clapping their hands, the way we did as children when the Tom Mix film came on the screen at the movies. We'd clap our hands and shout, "Picture! Picture! Picture!"

Now they're really amused, and burst into laughter. Someone tries a variation while still clapping hands: "Clipped ———! Clipped ———!" Whereupon they begin alternating while clapping their hands: "Jew! Clipped ———! Jew! Clipped ———!" It seems they're no longer angry, merely having a good time.

I keep bouncing in the chair and moaning as the electric shocks penetrate my clothes. During one of these tremors, I fall to the

ground, dragging the chair. They get angry, like children whose game has been interrupted, and again start insulting me. The hysterical voice rises above the others: "Jew! Jew!"

I ask my mother why they hate us so. I'm ten years old. The year is 1933, five years after our arrival from Russia. My mother says we're newcomers in Argentina—"greenhorns"—but I don't feel like a newcomer. She talks to me in Yiddish, and I teach her Spanish. She learns, but goes on talking to me in Yiddish and calls me Yankele. She shames me everywhere. But the Spanish translation of Jacob also makes people smile: Jacobo is very Jewish. We are living in one of the poor sections of Buenos Aires, in one room—my parents, my brother, and I. There are two beds, a table, and a closet. It's a large building, and my mother is worried because we're the only Jews. My mother believes that it's dangerous not to have Jewish friends. She keeps arguing about it with my father, but renting a room in the Jewish section—"the city," as my father calls it—is too expensive.

There's much excitement in the building, for this is the weekend when Carnaval festivities begin. I ask my mother if I can go in costume. We have no money to buy a costume, and I know it, but she's a good dressmaker. All the clothes my brother and I wear—pants, shirts, underwear—are sewn by my mother. The only things bought for us are socks; shoes are generally a gift from some wealthy cousins. But I'm not to have a costume for Carnaval, nor will I be allowed to play and celebrate in the street. Carnaval, according to my mother, is an anti-Semitic holiday. People disguise themselves in order to show that the Jews have no country, that they've been dispersed throughout the nations and dress in the clothing of other nationalities.

"Mother, why do they hate us?"

"Because they don't understand."

Yes, my mother in good faith believed that if the anti-Semites understood us, they'd stop hating us. But understand what? Our traditions? Our religion, our culture, our personality? She never told me.

I was held in three clandestine sites in Argentina, and two legal prisons. I was able to exchange ideas with political prisoners prior to, during, and after my arrest. In Argentina, the military examiners or police felt toward left-wing terrorists the way you might feel toward an enemy. These political prisoners were not spared when it came to torture or murder, but the psychological relationship was simple—confrontation with one's enemy. With Jews, however, there was a desire to eradicate wholesale. Interogating enemies was a job, but interrogating Jews was a pleasure or a curse.

Torturing a Jewish prisoner always yielded a moment of entertainment to the Argentine security forces, a certain pleasurable, leisurely moment. In moments of hatred, when the enemy must be hated in order for him to be broken, hatred of the Jew was visceral, explosive, a supernatural bolt. Such hatred was a deeper expression than the mere aversion aroused by an enemy, for it expressed, in addition, the need for a hated object and the simultaneous fear of that object—the almost magical inevitability of hatred. One could hate a political prisoner for belonging to the opposite camp, but one could also try to convince him, turn him around, make him understand his error, get him to switch sides, to work for you. But how can a Jew be changed? That is hatred: eternal, interminable, perfect, inevitable. Always inevitable.

No, there can be no doubt that my mother was the one who was mistaken. It is not the anti-Semites who must be made to understand. It is we Jews.

We're at the military prison in Magdalena, about fifty miles from Buenos Aires. Since we prisoners are held incommunicado, only one of us is permitted to enter the shower at a time. But sometimes the guard gets fed up with the excessive control: opening a cell, leading the prisoner to the shower, waiting till he's washed, leading him back again to his cell, shutting the cell, opening another cell . . . When this occurs, the guard passes along the corridor, opens all the cells, and tells us to remain standing naked at our doors ready to go for a shower one at a time. On one such occasion, a guard passes in front of an elderly Jew and makes a joke about his circumcised penis—his "clipped prick." The Jew smiles, too, and blushes—as if apologizing. Or, at least, that's how it strikes the guard, who dismisses the smile with a gesture. The old man looks at me and again blushes, and I have the sense that he's trying to explain things to me. Two successive glances, almost simultaneous. The guard imagines he's being asked forgiveness. I imagine that I'm being implored to understand. The guard forgives him. I understand him.

Is Argentina an anti-Semitic country? No; no country is. But there are anti-Semitic factions operating in Argentina—as, indeed, there are in all countries. Are these factions violent? More violent that some, less violent than others. And the military? Each time a military government comes into power in Argentina, typical anti-Semitic acts (bombs placed in synagogues and Jewish institutions) disappear, for at the outset a military government imposes a certain order. But the Jew as citizen senses that his situation is altering: military governments do not name Jews to public posts; state radio and television prefer not to hire Jews; and so on—although a certain number of Jews are always given appointments, in order to prevent accusations of anti-Semitism.

But this is past history. The military government that took power in Argentina in March 1976, arrived with an all-encompassing arsenal of Nazi ideology. Anyone who was a Nazi, let alone anyone who was merely anti-Semitic, no longer needed to conceal or disguise his feelings; he could act in accordance with them. Judging from my experiences in Argentina of recent years, I'd say that today the armed forces and the trade unions can become involved in intense anti-Semitic activity if socioeconomic conditions allow. Political parties and the press will in all likelihood demonstrate indifference. Argentine Jews may then try to adjust to conditions without a struggle, passively accepting their reduced rights and the increasingly severe restrictions on ghetto territory. The Catholic Church will most probably be the only institution to denounce racism publicly. And, of course, there will always be a few suicidal individuals who will join the Church in this battle. Many times, I've been asked whether a Holocaust is conceivable in Argentina. Well, that depends on what is meant by a Holocaust—though no one would have been able to answer such a question affirmatively in 1937 in Germany. If we cared to formulate a historical equation, we could say that the conditions do exist: a profound political crisis; an economic crisis that has lasted for several years; impotence on the part of political parties to come up with a minimally coherent response, an inability of the Jewish community to face straightforwardly its own reality; a totalitarian cast of mind among the majority of the population, with a tendency toward messianic beliefs. The reason the outbreak of anti-Semitism has not assumed more pronounced characteristics is that the balance of power within the armed forces has been under permanent debate in recent years, with the moderates weighing the potential international repercussions of a stronger outbreak and concluding that these would be hard to withstand. But perhaps the Holocaust is in a way already occurring—perhaps the seeds have already been planted. Again, it depends on one's view of a Holocaust. There are no gas chambers in Argentina, and this leaves many people with a clear conscience. No one can predict what will happen in the future to the four hundred thousand Argentine Jews. But everyone knows that something terrible has already happened.

The Argentine government steadfastly insisted that I was not arrested for being a Jew, or for being a journalist. Yet never did it indicate why I was arrested; never did it give any reason for my arrest. If, therefore, I were to venture an explanation besides the fact that La Opinión's existence had become intolerable to extremists, which is simply a political interpretation, the only concrete element at my disposal—the only objective, palpable element—would be what they were seeking in the interminable interrogations they put me through. Any totalitarian interrogator—whether Nazi or Communist—has a definite conception of the world he inhabits and of reality. And any fact that fails to conform to his conception he must distort in order to fit it into the scheme. For that reason, perhaps, those who hold a fluid, pluralistic view of reality may find quite implausible certain convictions that to totalitarians seem natural and convincing. There's a ring of absurdity to them when you read about them, but they have a much more terrible aspect when you hear them in the context of an interrogation unravelling under the auspices of expert torturers. It sounds absurd to say that my torturers wanted to question me about the details of a meeting they believed that Menachem Begin had held in 1976 in Buenos Aires with the Montonero guerrillas. To anyone at all familiar with Begin, such a meeting sounds altogether unreal. But it seems quite reasonable to someone who believes in the existence of an international Jewish conspiracy that is prepared to utilize any method to seize world power.

Similarly for many years Argentine Nazi ideologues have claimed the existence of a Jewish scheme for seizing Patagonia, the southern zone of the country, and creating the Republic of Andinia. Books and pamphlets have appeared on this subject, and it's extremely difficult to convince a Nazi that the plan is, if not absurd, at least unfeasible. Naturally, my questioners wanted to know more details than were then available to them on this matter.

"We'd like to know some further details on the Andinia Plan. How many troops would the State of Israel be prepared to send?"

"Do you actually believe in this plan—that it exists at all? How can you imagine four hundred thousand Argentine Jews being able to seize nearly one million square kilometers in the southern part of the country? What would they do with it? How would they populate it? How could they defeat twenty-seven million Argentines, the armed forces?"

"Listen, Timberman, that's exactly what I'm asking you. Answer me this: You're a Zionist, yet you didn't go to Israel. Why?"

"Because of a long chain of circumstances all personal and familial."

"Come on, Timberman, you're an intelligent person. Find a better answer. Let me give an explanation, so that we can get to the bottom of things. Israel has a very small territory and can't accommodate all the Jews in the world. Besides, the country is isolated in the midst of an Arab world. It needs money and political support from all over the world. That's why Israel has created three power centers abroad. One is the United States, where Jewish power is evident. This means money and political control of capitalist countries. The second is the Kremlin, where Israel also has important influence——"

"I believe the exact opposite is true."

"Don't interrupt me. The opposition to

Israel is totally fake. The Kremlin is still dominated by the sectors that staged the Bolshevik Revolution, in which Jews played the principal role. And the third center of power is Argentina—especially the south, which, if it were well developed by Jewish immigrants from various Latin-American countries, could become an economic emporium, a food and oil basket, the road to Antarctica."

The interrogations began unexpectedly, and always dealt with subjects of this sort; each session lasted from twelve to fourteen hours. The questions were impossible to answer. In my fatigue and exhaustion, I tried not to engage in ideological discussions, so as to avoid the trauma of direct questions and impossible replies.

Why should the publisher of a newspaper who had devoted his entire career to political journalism in Argentina confess openly to being a Zionist?

Why, when rumors of my possible arrest began to circulate, hadn't I left the country? Obviously, I'd remained behind for some mission.

Why as a political journalist had I hobnobbed so often with the military?

Which branch of the Jewish conspiracy did I belong to—the Israeli, the Russian, or the North American? A true dilemma, since I was born in Russia, had traveled to Israel, and was extremely friendly with the United States Embassy.

At any cost, they found it necessary for me to declare myself a Marxist. This demanded many hours of questioning and harsh treatment, without my being able to make them understand the obvious contradiction between being a Zionist and being a Marxist, according to their understanding of Marxism. Finally, they accepted my declaration that I was a Zionist, but one who employed Marxism as a dialectical tool to explain the contradictions of society. I believe that in the upper echelons of the Army they eventually acknowledged that Marxism and Zionism were mutually exclusive, yet still couldn't understand what Zionism was. Nevertheless, at the time of my arrest, in 1977, the subject of Zionism obsessed them. Sometimes, outside the framework of formal questioning, they'd converse with me through the bars of my cell on Zionism and Israel, trying to accumulate information, taking notes. I advised them to go to any of the Jewish organizations in Buenos Aires, which could give them more information than I was able to provide from memory in my present physical state. This, they said, might be too compromising. I thought they were joking, but in their opinion the matter was inordinately serious.

On one occasion during my imprisonment, I was unexpectedly brought before the Minister of the Interior. Earlier that day, Patricia Derian, the American Assistant Secretary of State for Human Rights and an adviser to President Carter, had met with President Videla and had raised, with some vehemence, the issue of my predicament. The Minister of the Interior, who was concerned, wanted to see for himself what condition I was in. We'd known each other for years. Our conversation was long but in no way transcendent. Only one point was noteworthy. I told him I'd been informed that I would be brought before a War Council, but had not been told on what grounds or charges. I wanted to know whether this information was correct. He said that it was, but not to worry, since I was not a subversive and would not be convicted by the War Council.

Why, then, was I being imprisoned?

"You admitted to being a Zionist, and this point was revealed at a meeting of all the generals."

"But being a Zionist is not forbidden."

"No, it isn't forbidden, but, on the other hand, it isn't a clear-cut issue. Besides, you admitted to it. And the generals are aware of this."

The Jewish question dominated every interrogation, during my entire imprisonment. And although the government, its officials, and military personnel time and again put forth the most dissimilar explanations of my arrest, while never formulating a concrete accusation, the enormous undercurrent of irrational hatred behind these explanations, having no correlation with the words employed, could not deceive a Jew. It smelled of anti-Semitism. And the magnitude of their hatred increased along with the impossibility they faced of expressing that hatred publicly and explicitly.

I had ample time to speculate on the Jewish reality against its contemporary background. It was evident that Argentine Jewry, like world Jewry, seemed incapable of responding to this level of aggression. When I saw that Argentine Jewish leaders refused to focus on the issue in its true dimensions, and I began to recognize the extent of Jewish passivity, I was amazed—stunned, almost unable to encompass it, trying to unearth some elusive clue. Then, gradually, I became poisoned by hatred and vindictive desires. I would forget my torturers, I told myself, but never the Jewish leaders who acquiesced calmly in the torturing of Jews. Later, during a conversation with the Israeli leader Yigal Allon, I told him that I had not been humiliated by the torture but that I had been humiliated—profoundly—by the silent complicity of Jewish leaders. My incarceration and torture were a personal tragedy but nothing more, for, in view of the sort of journalism I practiced, the possibility of my arrest and assassination accorded with the rules of the game. Whereas the panic of Argentine Jewish leaders constituted a nightmare within the tragedy. And it was that nightmare that agonized me and kept me awake.

Of course, there's still the typical statement I heard so often: Even if I had not been a Jew, I would have been a candidate for assassination, because of the nature of the work I was involved in. That may be. After all, Hitler also sent journalists, dissidents, Communists, and others to concentration camps. But the Jews were sent as Jews.

It is best, I believe, not to elaborate on this but to return to simpler truths, I was never able to prove to my interrogators that Zbigniew Brzezinski was not a Jew and not the head of a Latin-American Jewish conspiracy, or that Sol Linowitz, the former United States Ambassador to the Organization of American States, was not second-in-command to Brzezinski and I not his Argentine representative. Some things cannot be proved. And one of them, it strikes me, is the right of Jews to exist. Simply speaking, the only thing one can do is fight for one's own right to exist. Under certain circumstances, anti-Semitic groups seize power in a country—or exercise a portion of that power in a country—or exercise a portion of that power. It may be for a long or a brief while. In Argentina, all the conditions exist for it to be a rather prolonged period. That is indubitable. Another that's indubitable is that the Argentine Jewish community is not about to defend itself. And, finally one further indubitable fact; The international community is able to intervene, through innumerable mechanisms, in order to disseminate this information, particularly in Argentina. Only public knowledge can alter, to some extent, the course of these events, this downward slope in the march of history.

To strengthen the Jewish spirit, people often resort to observation on the tragic fate that has accompanied the Jews' existence. I've learned, however, that the only thing that strengthens the Jewish spirit is understanding combined with a sense of identity. Being is more important than remembering. I believe that the reminder of Jewish tragedies, punctiliously invoked by the Jewish community against its adversaries, has been futile in overcoming the paralysis and panic that envelop it. These who have succeeded in doing so in recent difficult years were impelled and are impelled, by a clear notion of their Jewish identity. Only Zionism is capable of providing this identity with a movement, a dynamic, and a policy. On different occasions since my release, and even at times during interrogation, I was asked how I would have been treated if the Trotskyite or Peronist terorists had seized power. I have no doubts. I would have geen placed against a wall and shot following a summary trial. The charge: counterrevolutionary Zionism.

The peephole of my cell opens, and the face of the corporal on guard appears. He smiles, and tosses something into the cell. "Congratulations, Jacobo."

This is the first time anyone has spoken to me in this place. The guard's remark is startling. My initial reaction whenever a new event occurs is, What will happen to me now? Sure, I'm in a legal prison, at central headquarters of the federal police, in Buenos Aires. The cell measures nearly two metres in width and three in length. Furthermore, it has a privy in it, so that I needn't ask permission to go to the toilet, and it has a tap with drinking water. I can also wash up, but have no soap or towel. There's a cement bed without a mattress, though I was promised one. I have a blanket but gusts of cold air penetrate from the space above the wall, and I must walk for hours in an attempt to keep warm. If I calculate carefully the longest diagonal, extending from the hole in the ground to the other end of the cell, I'm able to take seven steps. I've already covered a thousand laps. It's better, much better, than in a clandestine prison. But no one talks to me. I don't know what's going to happen; the peephole is always shut. Everything is utterly still, except for the sounds and voices that penetrate from outside. Before dawn, while it's still dark, I can hear the bugle, the commands, the sound of a formation under my window, then the sounds of court-yards being washed. Often, I hear prisoners weeping. One of the punishments meted out to someone who doesn't do a good scrubbing job is to force him to undress, to lean over and put his index finger on the ground, and to rotate round and round without lifting his finger from the ground. This is called "looking for oil." You feel as if your kidneys were bursting. But it's even more entertaining to place a prisoner near the wall and have five hefty policemen form a little train by lining up in single file, holding the hips of the person in front. They come down the passage making the sound of a locomotive and, picking up speed, hurl themselves like a deadweight on the prisoner, plastering him against the wall. This is called "the choo-choo shock." When they're busy, though, they simply order the prisoner to run naked along the passageway, which is fifty metres from one end to the other, reciting aloud sayings dictated to him. He has to repeat these without stopping until they invent others: "My mother's a whore. . . The whore who gave birth to me. . . . I masturbate. . . . I must respect the ccrporal on guard. . . . The police love me. . . ."

The prisoner who is incommunicado is envious of all this. He longs to see a face. This need engenders a series of skills. From his isolation, he begins to comprehend the architecture of the outside world, an invisible architecture that he pieces together like a puzzle. He is a blind man, a dexterous blind man, who comes to the end of his task without a happy conclusion to provide him any relief, and he remains blind, never able to see the vital part. There are long silences that

must be linked with whispers. (A soft voice asks "Who's there?" and, softly, I reply "Timerman," and the voice lets out a burst of laughter. Then another voice slowly asks "Who's there?" and this time I don't answer; but another time I say "Timerman" and the voice murmurs "Be strong.") Then, too, he must find a place in the puzzle for the shouts, insults, and hard beatings meted out to prisoners, the jokes aimed at homosexuals; all must be incorporated if he is to have an idea of what's going on. The police need to shout—shouting helps them. They have orders from their superiors to shout all the time, in order to intimidate and confuse prisoners. Therefore, whenever they talk they shout, and this adds to the puzzle, to the effort of constructing the outside world, the only world apart from the cell.

And that is why I am startled now. The sound that just dropped into my cell has destroyed the puzzle and doesn't fit into the despair of the cell, or into my effort to compensate for that despair by my slow, laborious, ardent reconstruction of the exterior architecture, the blind man's stubborn obsession with his puzzle.

I pick up a letter and two candies. The letter, a few brief lines, is from my wife. Dated May 20, 1977. We've been married today for twenty-seven years. I leave everything on the bed and go back to my task as blind architect: She has undoubtedly been in touch with one of our Army friends, or one of the retired officers who worked on my newspaper, perhaps someone who spent vacations at our beach house. And yet this doesn't fit into the heightened sensibility of a blind man whose sightless eyes are gazing at an unknown world. No military man nowadays would dare to speak to my wife. More likely, one of the guards went to visit her and offered, for a sum of money, to bring something to me. At this point, the blind architect starts reconstructing the scene: my house, the entrance, the doorbell, my wife's face—But no, the image of my wife's face is unbearable in this place.

How I cursed my wife that day! How many times I told myself I wouldn't read her letter, I wouldn't eat the candies. After so many efforts to forget, to refrain from loving and desiring, to refrain from thinking, the entire painstaking edifice constructed by the blind architect collapses over his head. Already, I'd begun to belong to the world around me, the one I actually belonged to, the imprisoned world, where my heart and blood were installed: this world that I've already accepted, that is real, that corresponds to the inscriptions on the wall, the odor of the latrine (matching the odor emitted by my skin and clothes), and those drab colors, the sounds of metal and violence, the harsh, shrill, hysterical voices. And now this world, so heavily armored, so solid, without cracks, and so irreplaceable, has been penetrated by a letter and two candies. Rische, why have you done this to me?

She tells me that if she could she'd give me Heaven, with all its stars and clouds, all the air in the world, all her love, all her tenderness. She says that she'd kiss me a thousand times if she could. But that is what she fails to understand: she cannot. In a rage, I throw the letter into the latrine, and, with equal rage, stick the two candies into my mouth. But already I'm lost, for the flavor is overpowering, as is my wife's face—her scent, almost—and my realization that I have been married today for twenty-seven years.

How can a blind architect fit into his unknown edifice—that structure he can neither see nor touch—the face of his wife, the taste of two candies, his wedding anniversary? Anywhere I place them, the structure collapses. Then, once again, I sit down on the cement bed, and when the guard opens the peephole to ask me my name, once again I rouse myself from the submerging debris, grasping for some firm plank that will enable me to reconstruct my reality. I don't reply, and the guard kicks the steel door with his heavy boots. "Name, son of a whore!"

The blind architect goes to work trying to fit the meaning of this insult into his world. He no longer needs to remember. At this juncture, I feel that I've passed the first serious test, worse than torture, and that I'll survive. For it is here that you must survive, not in the outside world. And the chief enemy is not the electric shocks but penetration from the outside world, with all its memories.

The Military Junta officially imposed strict censorship on films and theatrical and literary works. It altered university curricula, eliminating majors in sociology and psychology. It forbade the use of Freudian techniques in the psychiatric services of state hospitals. It made Catholic education obligatory for pupils in the secondary schools. All this could suggest merely a reactionary or conservative conception of reality. But the Argentine military government went further: it strove to eliminate physically all those who in any way participated in the world it wanted to alter—a program that wreaked particular havoc among psychiatrists, sociologists, journalists, and university students, many of whom simply disappeared after interrogation. The presence of an unacceptable world determined the military government's tactics. Although such tactics were easy to perceive in Nazism and less apparent but still discernible in Communism, in the case of Argentina two elements impeded their visibility. First, Argentina did not put its thesis into practice on an international scale; it remained a domestic affair, in a country whose destiny was not of world interest. Second, Argentina is a land of euphemisms, and the government decided never to acknowledge its use of violence or the reasons for using it.

The official argument of the armed forces when they took over the government in 1976 was not complex; subversion and public corruption were the enemies. Enemies, therefore, were easy to identify. And at the outset no one doubted that the methods used to put down these enemies would be those fixed by the Constitution, which gave quite adequate scope to legal repression. Yet the military officials in charge required more. Only Communism or Fascism could provide a solid program for embarking upon an absolute violation of human values. Logically, they chose Fascism. Other choices existed in the contemporary world, but they failed to conform to Argentine cultural, political, economic, and social standards. Violence based on a religious leadership, as with Ayatollah Khomeini, or situations combining superstition and tribal struggle, as in Uganda or the Central African Republic, were inapplicable in a country like Argentina.

As publisher of La Opinión, I often attempted to correct the irrationality that had been converted into ideology. I had only one permanent, unswerving companion in this arduous battle: the English-language newspaper the Buenos Aires Herald. Occasionally some provincial papers joined us in our attempt to keep the Argentine military process inside constitutional or juridical norms, and so did certain Catholic publications, such as the magazine Criterio. Sometimes we succeeded in saving a life, although we never actually modified the course of events. In 1976, I learned that the military had resigned themselves to the existence of the Herald but had decided to initiate steps leading to the suppression of La Opinión. In April, 1977, at the time of my arrest, La Opinión was shut down on the orders of the military. ('n December, 1979, the publisher of the Herald, Robert Cox, was forced, through a campaign of threats, to leave Argentina; his newspaper, however, was not successfully silenced.)

At La Opinión, we often endeavored to take an objective approach to the ideology of the armed forces, but that always proved impossible. It was clear that they hated Karl Marx, Che Guevara, Sigmund Freud, Theodor Herzl. But it was hard to understand that they hated Zionism more than Communism, and considered it a more significant enemy—that they regarded Israel as a more dangerous foe than the Soviet Union. If someone discussed the subject privately with a military officer, he would obtain an explanation of sorts: Communism was more visible than Zionism, therefore easier to identify, and therefore less dangerous. Even if one were to grant the truth of this statement, it would still be hard to understand the outpouring of violence that was used to eliminate both these enemies—a violence that far exceeded the prevailing guidelines of repression in any moderately civilized government. What, for example, was the thinking that led to the kidnapping of the published or Padres (Parents), a magazine devoted to modern parent-child relationships, and to his being condemned to death? (La Opinión's campaign to save this journalist resulted in the sparing of his life, but only on condition that he promise to suspend publication and leave the country.)

Even the most irrational being finds it necessary to formulate a certain coherence around his irrationality, in order to be able to maintain its continuity. The Argentine military, tapping their vast reservoir of hatred and fantasy, synthesized their action into one basic concept: World War III had begun, the enemy was left-wing terrorism, and Argentina was the initial battleground chosen by the enemy. Every week, in the clandestine prisons where I was held, courses were given in World War III. These sessions went under the rubric of "the Academy." They were generally given by an Army intelligence officer, and attendance was obligatory for the entire staff of torturers, interrogators, and kidnappers.

The thought of suicide occurred to me often. But I discovered then that it was a temptation rather than a subject for premeditated decision. The idea of suicide would appear like a delicious fruit. Suicide was the only thing that could share the endless stretch of time, of time and more time, of interrogation and time, of cold and time, of hunger and time, of tears and time. How to fill those orifices of time if not with the preserved fruit of suicide? How to modify the rigid, endless structure of time if not with the unforeseen originality of suicide? But with my hands bound behind me and my eyes blindfolded there was no possibility of suicide.

Aside from suicide, there was one other temptation—madness. These were the only two temptations I experienced during my thirty months of imprisonment and beatings. They were strong temptations, because their repressed violence enabled them to overpower time. And time is not an easy enemy to overpower.

To reflect on suicide does not mean that you're going to commit suicide, or even decide that suicide ought to be committed. It means introducing into your daily life something that is on a par with the violence around you. Contemplating suicide is like living on an equal footing with your jailers. This self-imposed state of equality functions as a compensatory mechanism. It's with you, created and structured in that place, that prison, and afterward it will be missed. More than a decision or a hope, the thought of suicide is an occupation—its dimension so profound, so biological and awesome, that it's a palpable presence, impossible to confuse with any other sensation. It introduces the possibility of achieving a level of destruction akin to the destruction unremit-

tingly being inflicted upon you. And it fills the Time of the prisoner's time, and the Space of the prisoner's cell. He can measure the wall-to-wall distance inside his cell and wonder whether his head will break if he hurls himself against that wall with all his might; or he can imgaine the feasibility of puncturing a vein with his nails. All this inherent violence transmits a sensation of physical capacity and inevitability to the prisoner who has undergone torture. It contains an element of romantic audacity, the sense of a completed story.

There's pride in the idea of potential suicide. But at some point you must decide to abandon the idea, for it can become too obvious a subterfuge. In fact, it has already become a subterfuge, for you realize that you're not going to commit suicide, and once again comes the feeling of defeat. You're humiliated, and the humiliation is justified. Your world is utterly reduced, and the facts that you've told the torturers nothing and that you've survived don't occur to you. These facts mean nothing in this world of cockroaches, vomit dried on your clothes, bits of half-raw meat strewn on the ground.

When the possibility of suicide no longer exists, there remains the temptation of madness. But it's impossible to deal with madness as one does with suicide. You must await madness, and think that perhaps it will come. You must try to yield to it, and possibly it will engulf you. To await it and yield to it—that is the grim part. For if it fails to arrive, your impotence is conclusive, your humiliation greater than a kick in the behind from some voiceless, faceless stranger, who leads you blindfolded from your cell, stands you flat against the wall, gives you a kick, and then returns you to your cell—all in total silence.

September, 1977. For a month, I've occupied a cell in the military prison at Magdalena. The military routine is strict. I'm in an isolation cell, but on Saturdays and Sundays I may receive visits from members of my immediate family. I'm allowed to take a hot bath three times a week, and meals are served four times a day. I'm being detained in a military jail because I shall be appearing before a Special War Council. The government has modified the Code of Military Justice before the trial is to begin; in other words, it has changed the rules of the game. Until now, an accused person could designate as his defense lawyer a military officer of any rank, either in active service or retired. A retired officer, whose career is over, has greater freedom of action; he isn't anticipating promotions. This clause has now been amended, with the stipulation that the officer must be of lower rank than the president of the military tribunal. The president of the War Council that is to examine me is Colonel Clodoveo Battesti; hence my defense lawyer must hold a rank below that of colonel. Finally, I must select him from a list submitted to me by the War Council. I know no one on the list and am therefore choosing at random.

I had intended to designate as defense lawyer a personal friend, once President of the country, who I'm sure would have been unintimidated by threats. Now I must settle on a young officer whom I don't know but who is on active service and is certainly aspiring to fresh promotions. In any event, at an interview in the prison he informs me that this mission is an act of service on his part. It's clear that if he'd had a choice he would not have accepted, but he prepares conscientiously for the task of defending me. With respect to the torture I underwent, he consoles me: these are errors committed in the course of an extremely difficult investigation. Yet I have the impression that, intellectually, he's attracted by the issue, and that he will fight to defend me up to the limits of prudence dictated by "an act of service."

Those who knock on my door four times a day to deliver food are four young prisoners. Their jail sentences range from three to five years. Mornings, at dawn, they clean the ward, wash the meal utensils, and sing beautiful religious songs. They are Jehovah's Witnesses, who refuse for conscientious reasons to serve in the armed forces. Although the Argentine Constitution guarantees freedom of worship, the armed forces do not accept the principle of conscientious objection. Even as children, therefore, Jehovah's Witnesses are aware that on reaching the age of eighteen they will have to serve an extended period in prison. They accept the punishment as part of their religious faith. They are gentle and peaceful, and perform all the jobs and services in the prison. They're aware that I'm incommunicado, but they always find some way to exchange a few words. During the day, I wait for those four opportunities to talk to someone. And at night I recall the words they uttered, say them aloud, repeat them.

The headquarters of the Supreme Council of the Argentine armed forces, where Special War Council No. 2 is going to examine me, is in an old, run-down palace in the heart of Buenos Aires. There the military amuse themselves with all the attributes of protocol and the greatest possible imitation of legality. The seven members of the tribunal—three representatives from the Army, two from the Navy, and two from the Air Force—are simply to decide, after weighing the entire case, whether sufficient charges exist to justify a trial. For some time, they have had in their possession a copy of statements that I was forced to sign without having been able to read them first. Until the very moment of my appearance before the military court, I remain uninformed of the grounds for my arrest, or even of the accusations against me, if any exist.

The protocol, of course, is strict. I mount the steep stairway escorted by guards who hold my arms gently but firmly. At the top, I'm received by a uniformed Army officer accompanied by two officers of lower rank. The officer takes me to the courtroom where Special War Council No. 2 will be in session. It is an immense hall, about ten metres wide and twenty-five metres long—dark, without windows, ancient, its walls covered with huge paintings that depict the great battles of Argentine independence, the conquest of the southern desert, and the war against the Indians. There is dark boiserie, red curtains, high ceilings. I'm ordered to take a seat on a small, round, backless red bench—the famous bench of the accused. I'm at one end of the huge room. At the other end, on a high dais, stands the crescent-shaped table of the military tribunal.

To my left is an Army officer, the prosecuting attorney; to my right, my defense attorney. He will intercede only if the tribunal decides that a trial is to take place. Alongside me is a small table with microphones. Behind, two young naval officers serve as stenographers.

At a command, we all rise to our feet, and the members of the tribunal enter through a side door. They walk slowly—erect, firm of step. Uniformed, wearing caps, they climb the dais and remain standing in front of their chairs until the president of the tribunal orders them to be seated. We all sit down. They keep their caps on. The scene is imposing, the air sparking with tension. We remain serious and silent.

The secretary of the tribunal, an Army officer, reads the data on me. I'm asked whether it's correct. I answer affirmatively. Of the seven members of the tribunal, only the president may speak; the other members pass him the questions they wish to ask, written on slips of paper. Approximately every forty minutes, the president interrupts the session and orders a five-minute break. The session, in total, lasts about fourteen hours over a period of two days. At each interruption, the entire ceremony is repeated: we rise to our feet, the members of the tribunal retire; we rise to our feet, the members of the tribunal enter.

The president asks, "Are you a Jew?"

"Yes, Mr. President."

Always, through history and the present, I've been among the accused. Is this role that is assigned to me—this role of sinner, criminal, or simply culpable party—something that pride has obliged me to assume in order to convert it into a virtue? If you add up all the victims and victimizers, they form a very small percentage of the world population. And the rest of humanity, the great majority—what are they engaged in? On that day in September, 1977, how many of us in the whole world were seated upon an accused man's bench? How many were being judged for what they did? How many were judged for having been born? The war against Nazism had ended thirty-two years and four months before. And yet, these same thirty-two years and four months later, in the city of Buenos Aires, I continued to be a citizen under total suspicion, proved to have been born on the wrong, absurd side of humanity.

"Are you a Jew?"

"Yes, Mr. President."

"Are you a Zionist?"

"Yes, Mr. President."

"When did your Zionist activities begin?"

"At the age of eight, Mr. President. My mother enrolled me in a sports club called Macabi."

"Did your mother take you or did you go by yourself?"

"My mother took me, Mr. President."

"Therefore, one could say that it wasn't a voluntary act on your part."

"I was taken by my mother, Mr. President."

"In what way did your Zionist activities continue?"

"While attending high school, I was invited to participate in a student Zionist group called Avuca. I was fourteen years old."

"Which means we could say that at age fourteen you voluntarily began your Zionist activities in Argentina?'

"Yes, Mr. President."

"What did you do?"

"We met on Saturdays, Mr. President, in the basement of the Argentine Zionist Federation. We had a library, a Ping-Pong table, and several chess sets. We were all Jewish high-school students."

"Were you being indoctrinated?"

"Every Saturday, a member of the University Zionist Atheneum, which operated on the top floors, presented a talk on Zionism or Jewish history."

In that year of 1937, when I was fourteen years old, I went to school mornings, and afternoons I worked as a messenger for a jewelry store. We lived in the heart of the Jewish quarter. My father had died two years before. My mother worked as a street vender; my brother studied and helped her. On Saturday morning, we had to attend classes, but in the afternoon the jewelry store was closed. After lunch, my chores were to wash the dishes and pots, iron my shirts, and scrub the stairway of the building. In exchange for running this small apartment building in the Jewish quarter, a building in which each family occupied a single room, we were given a free room. For this, we had to scrub the bathrooms, corridors, and stairways, and collect the rents. At the Avuca meetings, Ping-Pong and chess were novelties, and Zionism and Jewish history true discoveries. But meeting Jewish adolescents who didn't work, were well-to-do, dressed in suits, and had money—that was mind-boggling. These young people of sixteen and seventeen were the ones responsible for the

abrupt end of my childhood; they thrust me head-long into the world I would never thereafter abandon. Emilio Salgari and Alexandre Dumas had to be set aside in favor of Jack London, Upton Sinclair, John Dos Passos, Henri Barbusse, and Erich Maria Remarque.

When I was fifteen, two good-looking young men whom we'd never seen before at Avuca—handsome young men in white shirts with military pockets and wearing blue kerchiefs at their necks—arrived and informed us that in addition to being Socialist Zionists they were Jewish Boy Scouts, and that we ought to learn about Scouting, so that we would be prepared when we returned to the land we'd left so many centuries ago. We ought to return to Israel, which was ours, and which was under Socialism, for the nation we wanted to build had to be the synthesis of the dreams of prophets past and present; namely, humanist Socialism. There in Argentina stood those two young men from Hashomer Hatzair, and there at Avuca on that memorable night when I heard them speak I became destined for that world I would never abandon and never try to abandon—a world that took the form of Zionism at times, at times the struggle for human rights, at times the fight for freedom of expression, and at times solidarity with dissidents against all totalitarianisms. And it was that world which Colonel Clodoveo Battesti, president of the Argentine military tribunal and head of Special War Council No. 2, sought to understand. He wanted me to confess—to convert my whole consuming mission of love and destiny, identity and future, into a confession.

"Did you at any point abandon Zionism?"

"No, Mr. President."

"Yet, according to this police report, in 1944 you were arrested for belonging to an organization affiliated with the Communist Party."

"I was arrested in 1944, Mr. President, while attending a film festival of the Argentine League for Human Rights. I was in jail for only twenty-four hours, because it was proved that I hadn't participated in that organization, which the police considered Communist."

"During that period, you belonged to the Youth League for Freedom, which was also registered as an affiliate organization of the Communist Party."

"That's true, I did belong to that organization. The members were young supporters of an Allied victory during the Second World War. They disseminated news on the fighting being waged by Great Britain, China, the United States, Russia, and France, without discrimination shown toward any of these countries. They also took up collections for the purchase of medicines that were sent to the Allied nations. What other organization, Mr. President, could I possibly have belonged to?"

"I didn't belong to that organization."

"Mr. President, can you imagine a young Jew in 1944 fighting for a Nazi victory?"

"That organization was dissolved by the police for being considered Communist."

"That designation was the police's. I belonged to it as an anti-Fascist, a Jew, and a Zionist. Mr. President, in view of the evident interest regarding my relationship with Zionism I think I ought to explain to the court the meaning of Zionism."

"We're well aware of the nature of Zionism. Confine yourself to answering the questions."

In 1939, we had no radio, but early one morning the sirens of the three big newspapers in Buenos Aires went off, and my mother hurried out into the street and came back with the news that France and England had declared war on Hitler. She was radiant. "In a month, he'll be defeated. Our brothers will be avenged." In 1940 and 1941, veterans of the Spanish Civil War, travelling in small groups, began arriving in Argentina, from the Far East, the north, and Africa. I couldn't tear myself away from the bars where they congregated, held their conversations, lived their bohemian lives—their unique, romatic postwar lives. For the first time, I heard about the betrayal of democracies from men who had sought to combat Fascism. I heard about the Russian intrigues, the massacre of Trotskyites and anarchists. I and my friends were eighteen, nineteen, and twenty years old at the time, clustered around these men who had had firsthand contact with Fascism and explained battle strategy to us, men absorbed in their war, that genuine war; and we acquired words and techniques in order to understand—to attempt to understand—the successive Allied defeats, convinced that Fascism would be defeated.

Those youthful convictions! We'd chosen that moment to prepare a group of young Jews for work on the land—collective work—for who could doubt that the war would be won, that a Socialist-Zionist state would be established, and that all of us would be going to kibbutzim? In 1943 and 1944, I, too, learned how to plow the earth, to milk cows, to plant seeds. Yet though my blood and imagination were engaged in the struggle against Fascism, there was little I could do other than sign manifestos, obtain signature for manifestos, collect money, buy medicines, and roll bandages.

Rolling bandages! Being able to fight would have simplified everything. At the Free French Committee, I was told that only Frenchmen or sons of Frenchmen were being accepted for service, because there was an excess of volunteers and limited possibilities of transferring them all to Europe or North Africa. At the British Embassy, I was welcomed as a volunteer, because of my willingness to go to Asia, but when my application was filed, revealing my Russian origin, I learned that an existing agreement with the Soviet Union prohibited contingents with "White Russians." At the United States Embassy, I was told that no volunteers were being accepted. That day, at noon, on leaving the United States Embassy, which was only two hundred metres from the Government House, I witnessed the peaceful takeover of the Government House by the Argentine Army and Colonel Juan Domingo Perón. It was June 4, 1943.

From that day on, the years of my youth were further complicated, for all my time, energy, reading, studies, and knowledge flowed in countless directions. And these directions, which in my mind were totally connected and integrated, seemed contradictory in the eyes of others, and were so hard to explain: We were fighting against Perón's dictatorship and his friendship with Fascism. We were siding with the Allies but were opposed to England in Palestine. We were pro-Russia in Stalingrad but anti-Russia with respect to the Russians' behavior in Spain and their anti-Zionism. We were trying to establish a parallel between Marx and Freud, between Picasso and Socialist Realism. We demanded a second front.

And now that vast sea of doubts and imagination, youth and dreams, that miraculous coexistence of world suffering and Jewish suffering, that anti-Fascist solidarity, that anti-totalitarian dream of my youth, was being suddenly reduced to a police report flourished by Army Colonel Clodoveo Battesti, president of Special War Council No. 2.

"Did you have any contact with the terrorists?"

"No, Mr. President."

"But you knew terrorists, didn't you?"

"Mr. President, some of the people classified as terrorists by the armed forces were members of the Argentine Congress. I had conversations with them in their role as legislators, as I might with any other legislator. I also had conversations with the military commandants of the three branches of the armed services. This was normal for a newspaper publisher."

"Timerman, answer the questions. You remind me of a pickpocket claiming innocence because the number of handbags that he didn't steal was greater than those he did. Did you have any contact with the terrorists? Yes or no."

"No, Mr. President."

"Yet the declarations of leading terrorists often appeared in your newspaper. How did these declarations fall into your hands?"

"Mr. President, I never printed declarations of clandestine individuals. How could I classify as terrorist a person who called a press conference, who hadn't been arrested by the police or the armed forces, whose statements were broadcast on state television? All the newspapers printed such statements, yet their publishers are not in front of this War Council."

"You're here to answer questions, not give opinions."

Why should a professionally competent, informed, and educated journalist have assumed that it was possible in the struggle against left-wing and right-wing terrorism to maintain an independent position, opposed to both extremes and favorable to democracy? In Argentina, everyone not directly involved in the struggle was engaged in survival—the political parties especially, and certainly newspapers. How could someone who wasn't attempting to survive fail to arouse suspicion? On more than one occasion, the Minister of the Interior had assured me that there would be no conflicts between me and the military government if I ceased recording appeals for habeas corpus which relatives of the disappeared presented to the courts for information about sons, husbands, and wives. With the exception of the Buenos Aires *Herald*, every other newspaper had by now ceased doing this. Doing it was seldom fruitful. Still, the faces of relatives who appeared at *La Opinión*, plus the absurd conviction that it was possible to recover a human being, plus the need to believe that a newspaper constitutes a powerful institution, precluded any other position. Otherwise, one would simply have had to tell these people to forget about it, to accept death—tell them that no one could do a thing, and that they should pray. The only alternative was to print what had to be printed. Or else close down the newspaper.

More than once, my staff and I considered temporary suspension of publication. Or perhaps my family and I would leave the country, while the staff gradually converted La Opinión into a more or less acceptable vehicle. I toyed with these easy, sensible, accessible, soothing notions. To sit down with the Minister of the Interior for coffee with a sense of immunity to danger; to forget about the daily desperation and that sense of impotence; to go abroad—it would all have been so easy, and was so tempting.

How could a military tribunal comprehend these doubts and fears? How could a military tribunal, a military government conceive of someone's feeling an obligation, the force of an idea, the inevitability of a conviction? How could the Argentine military government of 1976–77 accept the fact that a Jew would sacrifice his economic welfare, his tranquity, for an idea, unless that idea represented some illegitimate agreement, something as unnatural and illegitimate as his own birth, the unnatural circumstance of being a Jew? How was one to encompass all this in the replies given to Colonel Clodoveo Battisti, president of Special War Council No. 2?

The members of the War Council, in the

course of that fourteen-hour session, traced my entire life—or my presumed life as it emerged in the police reports accumulated under my name during my thirty-year span as a political journalist. They had already categorized me as a criminal by birth, but they had unearthed no crime that would plausibly lend itself to publication under banner headlines in Argentine newspapers, and their legal counsel advised them not to press charges that weren't clearly specified in the anti-subversive laws or in the Code of Military Justice.

Special War Council No. 2 therefore ruled that there was no valid charge against the aforementioned Jacobo Timerman, that he remained outside their jurisdiction, and that there were no grounds for holding him under arrest. This ruling was made in late September, 1977, and was communicated to me on October 13, 1977. The interrogations, declarations, and explanations were over. But the government kept me under arrest for two years afterward.

Before my kidnapping, military friends used to offer me what they regarded as sound advice: Leave the country for a couple of years, until the most violent phase of the repressive process has passed. Turn over the management of the newspaper to your colleagues until the violence is quelled. Or don't publish certain articles. Or stop publishing the names of people who disappear every day. In short, find some sort of compromise with reality.

Adapting to this "realism," this pragmatic spirit, is the most important means of survival in a totalitarian country. One can say to oneself, My acts aren't going to change history and will lead only to my death, but if I survive I'll be useful in the reconstruction of the country. If I publish the names of the disappeared, as their family members requests, I won't prevent them from being killed but will succeed in having myself killed, whereas if I don't publish the names I'll be able to survive in order to continue the fight. Nothing I do or print can modify events, whereas if I survive I'll be able, with my newspaper, to help the moderate groups when they assume power.

This conditioning to reality is constantly practiced by the large majority of the population. Nearly everybody will consistently seek a compromise with reality in order to be able to survive and be useful at a more propitious moment. So anyone who departs from such almost biological pragmatism becomes suspect, not only to those in power but also to the population in general.

On many occasions, the military expressed their admiration for my open confrontations with the leftist terrorists, whom I accused in my newspaper and named, using no euphemisms. But they subsequently found it hard to fathom why, with the same voeiferousness, I accused those who used terrorist methods to liquidate left-wing guerrillas. There was no way of getting them to understand that I firmly believed in the need to curb all terrorism, but that this could be, and had to be, accomplished within the framework of Argentine law.

The totalitarian mind obsessively needs the world to be clear-cut and orderly. Any subtlety, contradiction, or complexity upsets and confuses this notion and becomes intolerable. Some of the military felt that they could understand me as a religious individual or as a religious Zionist. But when I informed them, either in person or in print, that I didn't observe Jewish religious rites but was a Jew from a political point of view, and also a political Zionist, they felt a kind of terror before the unknown. Judaism as a political category proved impossible for the military to understand. They couldn't comprehend or couldn't accept that an Argentine patriot could simultaneously be a patriotic Jew, a Zionist of the Left, a defender of Salvador Allende, of the Soviet dissidents, and of political prisoners in Cuban jails. Their world was simpler. And in order to survive in that world one needed to choose between two extremes. For many—the great majority—choosing silence was simple. For me, impossible. And this is what made the Jewish leaders of Buenos Aires also regard me as an irritating element. In the pages of my newspaper, all the country's anti-Semitic acts were protested and denounced. A well-known leader of the Jewish community explained to me that not all of them should be protested, for that would create a confrontation with highly powerful sectors of the Army. There was a better tactic: to protest some and maintain silence about others, in an attempt to negotiate and survive.

Psychologists were persecuted; democratic priests were persecuted; journalists, university professors, Jews, defense lawyers of political prisoners—all were persecuted or humiliated. The majority opted for silence, abiding by the new values that constrained their professions, denigrated their creative spirit. The overriding majority accepted this golden ghetto and survival, the voluptuous sensation of security, the wonderful biological sensation of knowing beyond a doubt that you're alive. But if all are guilty of compromising with reality—or, rather, if all are innocent, since it is nearly understandable that life in any situation or circumstance is preferable to death—why should I have this obsession only about the complicity of the Jewish leaders in Argentina?

The point of reference for the Jewish leaders of Buenos Aires, as for Jewish leaders in many parts of the world, is the horror of the Holocaust. For me, the point of reference is equally the responsibility of Jews in the face of any anti-Semitic act. I was never able to understand, for instance, how the horrors of the Holocaust could diminish the significance of the violation of Jewish girls in clandestine Argentine prisons. I had never imagined that there would be Jewish leaders who would utilize the horrors of the Holocaust to maintain that the most advantageous response to certain anti-Semitic aggressions of a much less brutal nature was silence.

In my opinion, the most important lesson of the Holocaust lies not in the horrors committed by Nazism—expounding those over and over fails to move any anti-Semite to pity—but in the Jewish silence and the Jewish incapacity for defending itself. The Holocaust will be understood not so much through the number of its victims as through the magnitude of the silence in which it existed. And what obsesses me most is the repetition of that silence, rather than the possibility of another Holocaust.

The balcony of my house in a suburb of Tel Aviv faces the Mediterranean. It is large, almost the size of a room, and my wife has filled it with flowers, plants, and Max Ernst posters. Facing my balcony, the scarlet sun is sinking over a sea that is too blue for my eyes, which are accustomed to the southern Atlantic. It hasn't rained in Tel Aviv in nine months, and the ceremony of the sun blazing over the sea is repeated daily. This is a peculiarly odd moment in my life. Pity emerges as stronger than my memory and more tender than my ideology. I think of those Jewish leaders in Buenos Aires who are trying to find a point of equilibrium between their terror—their paralysis—and the anticipated pardon from the moderate military. I recall a time when they felt proud that a powerful Timerman was propounding in his newspaper such strong Judaism and Zionism, discoursing on an equal footing with the military, the Catholic Church, politicians, union leaders. They felt protected. Timerman's downfall aroused the feelings deeply hidden in the subconscious of every Jew: the fear of leaving the medieval ghetto limits at night and being unable, within those dark, narrow streets, to have recourse to the protection of the feudal lord.

How can one fail to feel pity for them? One could not ask for a greater victory for Argentine anti-Semitism: a Jewry at a loss about what to do, unaware of what lies in store, unaware of its strength or the strength of the enemy.

It is possible to feel pity and it is possible to feel rage. Both feelings are the result of love. And how can one fail to love this tortured, sacrificed people, who are abandoned each time that history becomes very complicated and dangerous for them?

In the clandestine jail of Puesto Vasco, a woman is being tortured. My cell is very close to the kitchen where the torture is being applied. I can hear her clearly, crying out, shouting that she isn't a Jew, that her name is German. There's nothing simpler for an Argentine policeman than to confuse names that are odd-sounding to him. But here in Tel Aviv, facing the Jewish Mediterranean, I think about that scene—that if she had been a Jew she wouldn't have had even that last line of defense. What loneliness! And, I also think, if she was lying, and was actually Jewish, what a terrible renunciation!

In the clandestine prison of Coti Martínez, a man of about seventy is being beaten by a policeman. The man's hands are tied behind his back, and he is blindfolded. The policeman pulls off a cross the man is wearing around his neck, and accuses him of being a Jew, of wanting to hide his identity. After his beating, the old man is put into my cell, and he tells me that he was converted to Catholicism nearly fifty years ago and that the cross was a gift from Pope Paul VI. He considers himself a Catholic and is enraged that the police do not believe him. He vows to avenge himself on the gray-haired policeman with the small, pudgy hands who beat him—and who passes our cell every day smiling.

And here, facing the Jewish Mediterranean, I think about that old man, eternally Jewish in my eyes, who was beaten as a Jew, and that Catholic woman who was beaten as a Jew—about those two Catholics beaten as Jews because they were hated as Jews—and I suppose that I no longer have a right to demand anything of any Jew. What people—what individual—can withstand such hatred? How can one demand that anyone exercise such a superhuman effort in order that his right to life may be respected—that he have the strength to live if he barely has the strength to allow himself to be led to death? In the solitude of prison, it was so sad to be beaten for being Jewish. There was such despair when they tortured you for being Jewish. It seemed so humiliating to have been born.

This account I am writing—it's painful. Most of the time, I feel paralyzed. I cannot prevent the memories of the tortures from spreading themselves over my daily life, over the hours that make up a daily life—like a jigsaw puzzle that a neat and careful child spreads piece by piece over the floor of his room. The scenes of beatings, electric shocks, solitary confinement, cold baths in winter combine themselves into the final image, and the result is always the same: the shout with which my interrogators used to insult me when they were really furious—"Jew!"

In the decade of the seventies, in a remote country, the southernmost of all countries, in a nation just a hundred and sixty years old, in that far country torn by a war between Right and Left, I saw repeated the words and ideas that were expressed in Germany in the nineteen-thirties and forties.

Either the Right or the Left could have arrested me or kidnapped me or murdered me in that country, so young and far away, because both had sufficient motive. I was the kind of journalist they didn't have to force into history—I entered willingly. No

one had to impose my enemies on me—I selected them myself. I didn't avoid them—I pointed them out, marked them, attacked them.

Why, then, in that arrogant journalist, that aggressive accuser of Right and Left, did they single out his Jewishness as his most dangerous element, for which he must be eliminated? I know the Argentine political situation, and I know that the Army officers did not need to use a Jew, even for strategic reasons, as a scapegoat. So the gratuitousness of the act frightens me—that is, the existence of a hatred so pure, so unreal, without cause and without object, without end, eternal. Above all, it frightens me that it has all been repeated. Admittedly, it has not been repeated with the same magnitude. But if the Jew can be considered the enemy only thirty-five years after the German experience, and can be tortured and killed for being that enemy, then he has kept his place in history; his historic condition persists. I believe that in Argentina all this could have been prevented—if not by the Jews themselves, then by the Christians, for most of those killed were not Jews.

When they broke into the house, they didn't find the one they were looking for—the father. They placed hoods over the others and took them away—the mother, both sons, the daughter-in-law, and the servant. A few days later, the servant was released. They began torturing the mother, the sons, and the daughter-in-law, whereupon the father appeared before a judge to testify that it was he whom the police were after and that he was surrendering himself into the hands of justice. The judge turned him over to the police, and the police released his wife. The father, the sons, and the daughter-in-law were incarcerated at Coti Martínez, the clandestine prison. For a while, all four were tortured. Then only the father. Before each of the father's torture sessions, his sons were ordered to prepare food for him and take care of him, so that he'd be fortified for the torture. One of the father's hands were fastened to the bed with an iron ring. He ate with his free hand, assisted by his sons and his daughter-in-law. The three would then say goodbye to him, trying to bolster his spirits for the torture session.

If we were to leave the scene at this juncture, we might ask ourselves. Which universe, country, and period does it belong to? How does this scene conceivably differ from the events that took place during the period of Mussolini, Hitler, Franco, Stalin? It differs in certain procedural details, perhaps, but not in the conception of the event. For the event was conceived in accordance with a basic totalitarian principle: a political deed can be achieved through the destruction of an individual; violence committed upon one person can signify the solution of a political problem, the strengthening of an ideology, a system.

If this scene were described in Russian, would anyone doubt that it had occurred in some remote region of the Soviet Union? And if it were described in German, would it differ in any way from the episodes that occurred repeatedly during the process of consolidating the Hitler regime?

The scene actually took place in Argentina and involved a prominent family. The father had been minister of economics to a provincial Perónist governor and had fought alongside Army moderates against leftist Perónist guerrillas and in support of Isabel Perón's overthrow. The provincial governor he served under might become in the future a leader who was favorable to a moderate military that wanted to win the Perónist vote. The most probable candidate, General Roberto Viola, who was then chief of the Army General Staff, was guaranteeing the provincial governor's security against kidnapping. The hard-line military sought to destroy Viola and his potential future aspirations, and thereby the governor as well, whose political background had been in the trade-union world. Since kidnapping the governor was impossible, the alternative was to put him on trial, accuse him of some crime. Hence a charge had to be found, and certainly nothing could serve this purpose better than questioning his minister of economics in order to prove illegal profiteering.

I was imprisoned with the minister and his family at Coti Martínez, and afterward with the minister and one of his sons at Puesto Vasco. Many times, I heard the father, after prolonged torture, crying out that he would sign whatever was demanded, pleading to be killed. But the fact remained that he couldn't provide any incriminating evidence against the provincial governor, for there was none. After several months, he was released.

Of all the dramatic situations I witnessed in clandestine prisons, nothing can compare with those family groups who were tortured—often the family members together, sometimes separately but in view of one member or another, or in different cells while one was aware of another's being tortured. The entire affective world, constructed over the years with the utmost difficulty, collapses with a kick in the father's genitals, a smack on the mother's face, an obscene insult to the sister, or the sexual violation of a daughter. Suddenly, an entire culture based on familial love, devotion, and the capacity for mutual sacrifice collapses. Nothing is possible in such a universe, and that is precisely what the torturers know.

The father's glances: of desperation at first, then of apology, and then of encouragement. The family members seeking some way to help one another—sending an apple, a glass of water. Those fathers, thrown on the ground, bleeding, endeavoring to help their children find the strength to resist the tortures still in store for them. The impotence—that impotence which arises not from one's failure to do something in defense of one's children but from one's inability to make a tender gesture. From my cell, I'd hear the whispered voices of children trying to learn what was happening to their parents, and I'd witness the efforts of a daughter to win over a guard, to arouse a feeling of tenderness in him, to incite the hope of some lively future relationship between them, in order to learn what was happening to her mother, to have an orange sent to her, to get permission for her to go to the bathroom.

Those family groups, crushed and destroyed together, without the hope that comes from thinking about family members on the outside, as I was able to do with regard to my wife and children. Those fathers, devoid of heroism, desperate to provide the answers that the torturers were after, but often uninformed about the matter, ignorant of the intrigue that was unfolding with them at its center. It was the true end of the civilization I'd been reared in, because it marked the disappearance of what was once the family; consolation was impossible, tenderness untenable, protection violated in every form. The old protective, tender family had given way to a group whose members were unable to express anything toward one another that possessed any force, validity, or semblance of utility. It all wound up in a fresh moan from a beloved person being tortured, and once again only madness provided some escape from the collapse of a life that had begun with love, was based on tenderness, and ought to have been enveloped in solidarity.

When I had been under arrest for thirty months, the Buenos Aires newspapers began publishing rumors that the Supreme Court would order the government to arrange for my release, since there was no indictment against me. (Although the military tribunal declared, in September 1977, that there were no charges against me and that I was free, I had been kept in prison for several months by order of the Military Junta; then I had been put under house arrest.) My wife was in Washington, working with a group of congressmen who were putting intense pressure on the Argentine government. The Vatican was also investigating the matter. Finally, in September 1979, the Supreme Court declared that it found no grounds for my continued arrest, and ordered the government to release me. The government kept the court's decision a secret; neither my wife nor my attorney was informed of it. The generals, meeting in a special session, decided that, despite the court order, I would not be released. The Supreme Court threatened to resign. The generals were prepared to arrest the members of the court. The President of Argentina, General Videla, under international pressure, declared that if the court resigned he, too, would present his resignation. At that point, unknown to me, the Army came up with a Solomon-like solution to the impasse: it issued an order annulling my Argentine citizenship, expelling me from the country, and confiscating my goods—all without officially heeding the Supreme Court's ruling. Need one add that Argentine newspapers, jurists, political friends of the government, and Jewish community leaders subsequently congratulated the military government for obeying the court ruling and faithfully respecting the majesty of justice?

It's Tuesday morning, September 25th. The Buenos Aires newspapers report that there's agitation at Army headquarters, and that high-ranking officers are discussing what position to take toward the Supreme Court's decision. Meetings of the Military Junta are being reported. It is said that there will be a final meeting, and that the generals will put my case to a vote.

It is Tuesday midday, and a high police official arrives. I've never seen him before. He's accompanied by the police chief of the district in which my house is situated. He says he's going to move me elsewhere, where I'm to sign some papers. I'm to take a bag with some clothing. I refuse, and insist that I be told where I'm going or that my lawyer or rabbi be called. He says that if I don't go peaceably I'll be taken by force. I argue, the telephone rings, he answers and tells the caller that he's leaving now. He hangs up and insists that he's in a hurry. I'm alone in the apartment and upset because there is no witness to my transfer.

We descend in an elevator filled with policemen and go down to the basement of the building, where a private car without any police markings is waiting for us. I'm told to take the back seat. There's a great display of plainclothesmen. In the car, I'm seated alongside a young, elegantly dressed woman. I ask her if she, too, is a prisoner; she tells me she's a policewoman. We drive quickly, escorted by several private cars filled with civilians. They try to avoid being recognized.

At the federal security offices, I'm informed that I have been stripped of my citizenship and expelled from the country and will be transported at once to the airport. I argue that this decision is illegal, since only a judge can take such a measure, and that in order for it to be valid sixty days must elapse, during which I have the right to appeal. "Appeal from Israel," I'm told by the assistant to the Minister of the Interior. So I learn that I'm to go to Israel. I'm handed a passport, which is valid for only two days. Then the Israeli charge d'affaires comes into the room and attaches a visa to my passport. He insists on accompanying me. A brief argument with the police ensues, during which he states that he won't let me go alone—that he wishes to accompany me to the plane. We all leave the offices together. They keep arguing. Israeli security men are

waiting on the ground floor, where two automobiles are parked. The atmosphere is extremely tense. A police official indicates that we'll be going to a heliport, because a helicopter will be taking me to the airport, which is thirty kilometres from the city, and that the Israeli official can follow us in his own car.

Once in the heliport, the Israeli security men again insist on accompanying me to the plane. Then a high-ranking official says that no one can join the group on my helicopter but that a second helicopter will be escorting us in the event of an attack by far-right elements of the military, and the chargé d'affaires can go in that one. On the helicopter trip, one policeman tells me they had been unable to inform me at my house of my expulsion from the country because various security services had installed wiretapping devices that could have revealed that I was leaving the country alive.

We reach the airport, where an Aerolineas Argentinas plane destined for Rome is waiting. We get into the plane, along with the airport commander, a patrol of Air Force soldiers, and the Israeli diplomat. The officials escorting me leave. The Israeli diplomat goes last, making sure that I am still on the plane when the door is closed. The plane takes off.

I've been in Israel for two days, and am spending Yom Kippur in the Ein Shemer kibbutz, where one of my sons lives. I listen to the radio and hear my name and Argentina mentioned. I don't understand Hebrew. Someone translates for me: General Luciano Menéndez, the commander of the Third Army Corps, has begun a rebellion to overthrow the government because of my release. Since my reflexes are still attuned to Argentina, this gives me a scare. It seems real, plausible, inevitable. I have a feeling that I can't escape. And yet General Menéndez, who acted like a god, who by a mere gesture could rule on the life or death of countless people in the concentration camp known as La Perla, is unable to reach me. He can still plunge Argentina into civil war, he can still dispatch numerous Argentines to torture chambers, throw them to the bottoms of lakes, but he can no longer touch me.

And it is with this sensation—of being distant from the Nazi paranoia that suddenly overcame the most advanced nation of Latin America, as it once overcame the most advanced nation of Europe—that I reach the end of my story. I know there ought to be a conclusion, but I have no conclusion. I have lost none of my anxieties, none of my ideology, none of my love or my hate.

I know that the Argentine nation will not cease to weep for its dead, because throughout its often brutal history it has remained loyal to its tragedies. I know that it will succeed in overcoming the paranoids of every extreme, the cowards of every sector. And it will learn how to be happy.

Have any of you ever looked into the eyes of another person, on the floor of a cell, who knows that he's about to die, though no one has told him so? He knows that he's about to die, but he clings to his biological desire to live, as a single hope, since no one has told him that he's to be executed. I have many such gazes imprinted upon me. Each time I write or utter words of hope, words of confidence in the definitive triumph of man, I'm fearful—fearful of losing sight of one of those gazes. At night, I recount them, recall them, re-see them, cleanse them, illumine them. Those gazes, which I encountered in the clandestine prisons of Argentina, and which I've retained one by one, were the culminating point, the purest moment of my tragedy. They are here with me today. And although I might wish to do so, I would not know how to share them with you.●

NATURAL GAS DEREGULATIONS: PRICE INCREASES OUTPACE PRODUCTION GAINS

● Mr. SASSER. Mr. President, the intent of the Natural Gas Policy Act of 1978 was to stimulate natural gas production and exploration by permitting higher prices for certain categories of natural gas. Unfortunately, according to a study which I recently requested of the General Accounting Office, the current outstanding consequence of the 1978 act has been increased prices to consumers.

Natural gas prices, according to the nationwide survey done by the GAO, increased an average of 33 percent from 1978 to the first quarter of 1980, while the consumer price index increased by 21 percent. Mr. President, we are all painfully aware of the effect of these price increases on middle- and low-income Americans. Higher natural gas prices have also been reflected in nearly every consumer good produced in our Nation.

It is particularly alarming, Mr. President, that this may only be the tip of the iceberg. For if natural gas were totally decontrolled, the price increases might be staggering. According to some recent studies I have seen, total natural gas decontrol would cost residential consumers in Tennessee approximately $1.3 billion between now and 1985, with residential gas bills averaging $965 per year over that same period.

My longstanding concern about natural gas price increases prompted me to request that the General Accounting Office study the effect of the Natural Gas Policy Act of 1978 on natural gas production and reserves. Mr. President, I am quite distressed with what the GAO has found.

The GAO reports that production of natural gas increased by only 1.6 percent in 1979, hardly the boom in production which advocates of the act predicted. Even more discouraging is GAO's finding that additions to proven reserves have actually declined since enactment of the Natural Gas Policy Act of 1978.

Mr. President, I hope that my colleagues carefully consider the findings of this GAO report. Energy deregulation is sold to the American people on the basis that higher prices are needed to encourage more energy exploration and production. It is the duty of Congress to study the results of deregulation so that American consumers are not saddled with higher energy prices and no commensurate increase in energy supplies.

Mr. President, I ask that the summary of the GAO natural gas study be printed in the RECORD along with my original letter to the Comptroller General requesting the GAO study.

The material follows:

COMPTROLLER GENERAL OF THE UNITED STATES,
Washington, D.C.

To the President of the Senate and the Speaker of the House of Representatives:

This report provides information on the changes in natural gas supplies and prices since enactment of the Natural Gas Policy Act of 1978. It was prepared at the request of Senator James Sasser, then Chairman, Subcommittee on Intergovernmental Relations, Senate Committee on Governmental Affairs. However, because of the wide interest in the subject, he agreed that the report should be addressed to the entire Congress.

Copies of this report are being sent to the Secretary of Energy and the Acting Chairman, Federal Energy Regulatory Commission.

JOHN D. HELLER,
Acting Comptroller General of the United States.

CHANGES IN NATURAL GAS PRICES AND SUPPLIES SINCE PASSAGE OF THE NATURAL GAS POLICY ACT OF 1978

DIGEST

Through the Natural Gas Policy Act of 1978, the Congress intended to stimulate production and exploration for reserves by permitting producers higher prices for gas from areas where production was previously not economic and for gas produced from new wells. The act eliminated the price disparity between the natural gas sold in interstate and intrastate commerce by subjecting both to Federal regulations.

It also provided for monthly price increases and for gradual deregulation of natural gas prices. Existing legislation provides for most natural gas prices to be deregulated by 1985. (See p. 1).

This report evaluates the impact of the act on natural gas prices, particularly at the end user level, and new natural gas reserves and production.

To measure fully the act's impact would have entailed comparing conditions as they are to an estimate of conditions as they would have been absent the act. The lack of sufficient data on many factors that should be measured, and the assumptions which would have to be made about regulatory actions absent the act, made this approach impractical. (See pp. 2 to 4.)

Consequently, GAO limited the review to obtaining industry attitudes, data on prices charged, and data on supplies and industry activities. GAO obtained the information from 54 producers which in 1979 produced about 48 percent of country-wide production, 22 pipelines which in 1979 handled about 76 percent of country-wide production, and 67 distributors which in 1979 handled about 37 percent of country-wide production. (See p. 3.).

CHANGES IN PRICES

Natural gas prices have increased substantially since enactment of the Natural Gas Policy Act of 1978. The natural gas distributors GAO surveyed reported that consumer prices during the first quarter of 1980 were 72 cents per 1,000 cubic feet (or about 33 percent) higher than average 1978 prices. If consumer price increases had followed the general inflationary trend, as measured by the Department of Labor's Consumer Price Index, the natural gas increases would have averaged about 46 cents per 1,000 cubic feet. (See p. 5.)

About 40 cents of the increase resulted from higher prices the act permits producers to charge for the natural gas and 32 cents was from increases in pipeline and distributor costs and profits which the act did not directly affect. Producer prices increased about 45 percent, or about 24 percent more than general prices as measured by the Consumer Price Index. The post-1978 increases added about $2.3 billion to gross revenues of the surveyed producers. Pipeline and distributor costs and profits increased only 3 percent more than the Index. The increases added about $4.6 billion to the gross revenues of the surveyed distributors. (See pp. 5 to 9.)

Price increases occurred in every section of the lower 48 states. The information GAO obtained from the producer and pipeline

companies showed that the producers charged the maximum prices allowed for the vast majority of gas produced. Pipeline and distributor companies for the most part charged the price increases to their customers through purchased gas adjustments. (See pp. 6 to 11.)

GAO was unable to determine what portion of the price increases was directly attributable to the act. Although prices rose faster after 1978, they were consistently above the inflationary trend shown by the Consumer Price Index during the 3 years 1976–1978. During that period, the price of gas sold intrastate was increasing, and the Federal Energy Regulatory Commission allowed increases in gas sold interstate. Thus, an estimate of prices absent the act would have to be based largely on speculation regarding the Commission's actions if the act had not been passed. (See pp. 7 to 11.)

Consumers should expect natural gas prices to continue to climb over the next several years. Data obtained from the producers shows that during 1979 gas subject to the incentive provisions of the act accounted for only 18.5 percent of production. This ratio will increase as output from old wells declines and is replaced by higher priced output from new wells. Most of the surveyed pipeline and distributor companies expect the increases to continue. (See p. 12.)

CHANGES IN SUPPLIES

Producers GAO surveyed reported production figures for the period 1975 through 1979 increased about 1.6 percent in 1979, reversing a historical decline in annual production. Through 1979, however, production continued to outpace additions to proven reserves, and, therefore, reserves continued the post-1975 decline, but at a somewhat slower pace.

Current supplies of natural gas were generally adequate and most of the surveyed pipeline and distributor companies were trying to increase deliveries. The producers, pipelines, and distributors were generally optimistic that the act's incentives would increase supplies through 1990.

All of the surveyed distributors were accepting new customers, as were about one-half of the pipelines. However, four of the 22 pipelines were attempting to reduce deliveries. Seventy-five percent of the producers, all of the pipelines, and 84 percent of the distributors believe that the act improved availability of natural gas. (See p. 15.)

Although it is too soon for the act to have much effect on proven reserves, about 4 percent of the producers in the survey expected their reserves to decrease between 1980 and 1990 time frame, while the vast majority expected them to increase or hold their own. (See pp. 16 to 17.)

About 80 percent of the producers stated that, because of the act, they had increased leasing, geophysical activities, and drilling of exploratory and developmental wells. According to country-wide data published by the Petroleum Information Corporation and the American Gas Association, seismic activity was up in 1979, and it accelerated during the first quarter of 1980. Land leasing increased by 6.2 percent and seismic crews increased from about 352 in 1978 to 471 during the first quarter of 1980. These data relate to both natural gas and oil, and the rising prices of both undoubtedly contributed to the increased activity. (See pp. 18 to 19.)

Much of the intensified seismic activity and drilling must be attributed to the increased prices of domestic oil. Sixty percent of surveyed producers stated that their emphasis on oil has actually impeded their natural gas exploration and development activities since passage of the act. These companies continued to drill substantially more developmental oil wells than gas wells, thus increasing production from already-discovered oil reserves. In 1980, they also drilled more exploratory oil wells than exploratory gas wells for the first time in 6 years. Although oil drilling activity has significantly increased, associated natural gas (found with the crude oil) remains at about 20 percent of total natural gas production. (See p. 14.)

AGENCY COMMENTS

GAO requested both the Federal Energy Regulatory Commission and the Department of Energy to comment on a draft of this report. The Commission, by letter dated May 1, 1981, provided written comments (See appendix II), and on May 5, 1981, the Department of Energy provided oral comments.

The Commission supported GAO's findings based on the source data submitted by producers, pipelines, and distributors. However, the Commission believed that more than two years are needed to measure the true effect of the act on exploration, development, and revenues. It suggested that GAO update its survey to include more current information.

GAO recognizes that the information available to date does not allow for full measurement of the effect of the Natural Gas Policy Act of 1978, but it does provide a reasonably current assessment of the extent of changes in natural gas prices, availability of supplies, and reserves following its enactment.

GAO considered the Department of Energy's oral comments which were technical and clarifying in nature and made changes deemed appropriate in preparing this report.

APPENDIX VI

COMMITTEE ON GOVERNMENTAL AFFAIRS, SUBCOMMITTEE ON INTERGOVERNMENTAL RELATIONS,
Washington, D.C., July 25, 1979.

Mr. ELMER B. STAATS,
Comptroller General of the United States, U.S. General Accounting Office, Washington, D.C.

DEAR ELMER: On November 9, 1978, the Natural Gas Policy Act (NGPA) was signed into law. Title I of the NGPA prescribes wellhead ceiling prices for natural gas which are considerably higher than interstate natural gas prices were prior to the NGPA. The intent behind increasing these prices was to provide an incentive to natural gas producers to increase discoveries and production, thereby increasing our supply of natural gas.

Hearings held earlier this year before the Subcommittee on Intergovernmental Relations, which I chair, indicated that the NGPA has caused consumer prices to rise by as much as 20 percent without any marked increase in natural gas production. We would like for you to ascertain, on a sample basis, the impact of the NGPA on natural gas prices, particularly at the end-user level, and new natural gas reserves and production.

We would like these impacts to be shown as of one year after the enactment of the NGPA.

We understand from discussions with your Energy and Minerals Division staff that they plan to initiate an assignment reviewing the implementation of the NGPA's natural gas pricing provisions beginning in November, 1979. In order to avoid duplication of effort, you could incorporate the work we are requesting into your planned assignment. We understand that the target issuance date for a report to Congress on these matters is the fourth quarter of fiscal year 1980.

If you have any questions, please call Andy Wolfson of the Subcommittee staff on 224–4718.

With best wishes, I am
Sincerely,

JIM SASSER,
Chairman, Subcommittee on Intergovernmental Relatives.●

THE EFFECTS OF DECONTROL AND FREE COMPETITION

● Mr. GARN. Mr. President, back when we were debating the relative merits of decontrol of oil prices and the windfall profits tax, there were a lot of people arguing that higher prices were only going to make the oil companies rich, and not have any real effect on consumption. Others of us took the position that higher prices would do more to discourage consumption than all the directives from Washington could possibly do, and that this consumption effect was worth some increase in profits to oil companies, especially when those companies could use the profits to explore for and produce more oil, and to develop alternatives to high-priced Mideast oil.

Well we have had decontrol now, Mr. President, and there are a lot of economists and politicians with egg on their faces. I am not saying that oil companies have not made money, because they have, though not as much as many said they would. The real embarrassment for the economists has been the demand elasticity of oil. As the price has gone up, the demand has gone down drastically.

The decrease has been substantial in the United States, but it has been even greater in other countries. The reason for the difference is that the primary use of oil in the United States is for motor fuel. Over half the oil consumption in this country is devoted to transportation. Worldwide, only about a third of oil is used for transportation. The balance is used as a boiler fuel or for space heating. In both cases, it is relatively simple to substitute such cheaper fuels as coal, natural gas, or nuclear material, and that has been done to a great extent worldwide.

In Virginia, where I live, the effect of rising oil prices can be clearly seen at the gas pump. When gasoline prices were first decontrolled by the Reagan administration, we saw per gallon costs rise above $1.60, as the marketplace sought to find out the true price of gas. That did not last long at all. Under the pressure of adequate stocks and keen competition, prices have fallen steadily over the last couple of months, to the point where it is now possible to find regular gas for as little as $1.288.

The Springfield Times took the trouble to do a little survey a short time ago, and published in the issue of 21 May a table of current gasoline costs compared with prices of 7 weeks earlier. This table clearly shows the effects of decontrol and free competition, and I ask that the table be printed in the RECORD, and that the article accompanying the table also be printed.

The material follows:

[From the Springfield (Va.) Times, May 21, 1981]

FUELING AROUND

As high school proms and the Memorial Day weekend herald the beginning of the summer driving season, the good news is that area gas retailers are lowering prices as demand for their product is drying up. This week the Times Gas Gauge survey of local prices shows the first price drop in months. Gas retailers could not promise that prices would continue to drop, but for now the product is lower in price and plentiful in supply.

Station	Self service			Full service		
	Regular	Unleaded	Premium unleaded	Regular	Unleaded	Premium unleaded
Price average:						
This week	1.34.4	1.40.2	1.51.8	1.47.7	1.52.1	1.57.1
7 weeks ago	1.38.6	1.44.9	1.53.7	1.47.7	1.52.8	1.56.8
Cardinal Plaza Shell, 8334 Old Keene Mill Rd.:						
This week	1.30.9	1.36.9	1.54.9	1.47.9	1.51.9	1.56.9
7 weeks ago	1.36.9	1.41.9	1.52.9	1.45.9	1.49.9	1.54.9
Springfield Amoco, 6703 Backlick Rd.:						
This week	1.34.9	1.39.9	1.53.9	1.47.9	1.53.9	1.57.9
7 weeks ago	1.41.8	1.48.8	1.55.8	1.47.8	1.53.8	1.57.8
Rolling Road Mobil, 6381 Rolling Rd.:						
This week	1.31.9	1.37.9	1.54.9	1.47.9	1.51.9	1.56.9
7 weeks ago	1.38.9	1.43.9	1.54.9	1.47.8	1.51.9	1.56.2
Don's Texaco Service,[1] 8315 Old Keene Mill Rd.:						
This week	1.31.9	1.37.9	-------	1.48.9	1.52.9	-------
7 weeks ago	1.38.9	1.44.9	-------	1.48.9	1.52.9	-------
Don's Texaco Service, Inc.,[2] 5533 Backlick Rd.:						
This week	1.30.9	1.36.9	-------	1.47.9	1.51.9	-------
7 weeks ago	1.32.9	1.38.9	-------	1.47.9	1.59.9	-------
Exxon Car Care Center, 8400 Old Keene Mill Rd.:						
This week	1.31.9	1.37.9	1.53.0	1.46.8	1.50.9	1.55.0
7 weeks ago	1.39.4	1.43.9	1.54.7	1.48.6	1.52.7	1.56.7
Springfield Exxon Service Center, 6707 Bland St.:						
This week	1.31.9	1.37.9	1.49.9	1.45.9	1.50.9	1.54.9
7 weeks ago	1.34.9	1.41.9	1.52.9	1.44.9	1.49.9	1.55.9
Springfield Gulf Service,[3] 6841 Franconia Rd.:						
This week	1.33.9	1.49.9	1.53.9	1.48.9	1.53.9	1.57.9
7 weeks ago	1.33.0	1.49.9	1.53.7	1.48.9	1.53.9	1.57.9
Hooes Road Mobil, 8318 Hooes Rd.:						
This week	1.32.9	1.38.9	1.47.9	1.49.9	1.53.9	1.58.9
7 weeks ago	1.38.8	1.42.8	1.52.9	1.45.2	1.49.2	1.54.0
Pioneer Mobil Service Center, 6708 Franconia Rd.:						
This week	1.33.9	1.38.9	1.49.9	-------	-------	-------
7 weeks ago	1.35.9	1.43.9	1.51.9	-------	-------	-------
Ravensworth Phillips 66, Braddock and Port Royal Rds.:						
This week	1.34 0	1.39.0	1.49.0	1.48.0	1.53.0	1.59.0
7 weeks ago	1.46.0	1.50.0	1.56.0	1.54.0	1.58.0	1.62.0
Springfield Texaco Servicenter,[4] 6250 Brandon Ave.:						
This week	1.39.9	1.44.9	-------	1.43.9	1.48.9	-------
7 weeks ago	1.41.9	1.44.9	-------	1.43.9	1.48.9	-------
Friendship Amoco, 9550 Old Keene Mill Rd.:						
This week	1.43.8	1.49.8	1.54.8	1.46.8	1.50.8	1.55.8
7 weeks ago	1.39.8	1.47.8	1.51.8	1.42.8	1.50.8	1.54.8
Kings Park Exxon, 5239 Rolling Rd.:						
This week	1.41.9	1.41.9	1.49.9	1.48.9	1.52.9	1.56.9
7 weeks ago	1.44.1	1.48.1	1.52.1	1.48.4	1.52.4	1.56.5
Saratoga 66 Service, 8040 Rolling Rd.:						
This week	1.33.9	1.38.9	1.47.9	1.46.9	1.50.9	1.57.9
7 weeks ago	1.42.9	1.49.9	1 54.9	1.50.9	1.54.9	1.57.9
Burke Center Exxon, 5701 Burke Center Pkwy.:						
This week	1.36.9	1.39.9	1.53.9	1.48.9	1.52.9	1.56.9
7 weeks ago	1.38.9	1.44.9	1.54.9	1.48.9	1.52.9	1.56.9
Franconia Texaco,[5] 6117 Franconia Rd.:						
This week	1.28.9	1.35.9	-------	-------	-------	-------
7 weeks ago	1.31.9	1.37.9	-------	-------	-------	-------

[1] Sells gasohol at 1.44.9 self service, 1.54.9 full service. The self service gas in priced 8 cents lower than 7 weeks ago.
[2] Sells gasohol at 1.42.9 self service, 1.51.9 full service. The full service gas is priced 8 cents lower than 7 weeks ago.
[3] Sells full service diesel at 1.33.9, about 15 cents lower than 7 weeks ago.
[4] Sells self service gasohol at 1.50.9, down 2 cents from 7 weeks ago. Diesel is 1.36.9 self service and 1.38.9 full service. Both are down 4 cents from 7 weeks ago.
[5] Sells gasohol at 1.44.9. The price has not changed from 7 weeks ago.

Gas Dealers Lower Prices To Pump up Business

(By Teresa Brumback)

For the first time since gas price decontrols went into effect in February, the price of gas has been on the downswing and now averages $1.34.4 for regular self service, down four cents from seven weeks ago.

But local gas dealers said the plan to boost sales by lowering prices has backfired, and many are wondering how they are going to stay afloat in an increasingly tight market.

The demand for gas has gone down at the pumps as people buy smaller cars and drive less, according to local station officials and Richard Cooper, executive director of the Northern Virginia Service Station Dealers Association, a non-profit lobbying organization.

"If a dealer in Northern Virginia is making a penny a gallon, he's doing good," said Cooper.

Local dealers complain they must charge consumers about three cents a gallon because of a two percent state sales tax to offset Metro's current operating deficit. That tax could go up to six cents a gallon by July of 1982 if alternate Metro funding is not found, according to Sen. Richard Saslaw (D-35th).

"They should charge the people that use Metro," complained Jerry Krug, manager of Franconia Texaco, which recently collected 400 names of customers for a petition against the tax.

"Our customers will never use Metro. I am resentful of the fact that I have to become a tax collector again," said Krug. "Put the tax on farecards instead of the gasoline pumps."

But the gas stations are "the only place where you can come up with a stable and reliable source (of revenue) other than the property tax," responded Saslaw.

Almost immediately after decontrols went into effect in February, the average price of self-service gas skyrocketed an average of six cents a gallon, or $1.37.2. Six weeks later, the increase had apparently slowed because of competition among dealers, and the price was $1.38.6.

The dealers have been further encouraged to lower their prices by oil companies' plans for rebates to those who sell a certain percentage of what they did last year. But these rebates are negligible in the wake of sharply declining profits, they said.

"We're not making as much anymore. We're selling self-service at no profit," said Jimmy White, manager of Don's Texaco on Old Keene Mill Road.

"Business has gone up a little since April," at Cardinal Plaza Shell, according to manager Kent Taylor. But he said "the amount we're making is actually less. In time we hope to pump more" as people start driving more in the summer, he said.

"You will see a lot of companies going under in the next year," predicted one dealer who asked not to be identified. He said dealers who try to "buck the system by raising their prices" may not fare as well as their competitors. In a future oil crisis, those stations would be the first ones on allocations or completely shut down by the oil companies, he said.

The gas dealers' representative Cooper said it is too early to tell if the prices will continue to decrease the rest of this year. Much will depend on the demand for gas, he says.●

COMMEMORATION OF THE OCCUPATION AND SUBJUGATION OF THE BALTIC NATIONS BY THE SOVIET UNION

● Mr. LEVIN. Mr. President, every year in June, members of the Estonian, Latvian, and Lithuanian communities gather together as one people to commemorate the occupation and subjugation of the Baltic Nations by the Soviet Union.

And every year, I am afraid, the situation of the people of these nations remains the same.

We all know that the annexation took place in June of 1940. And we also know that in June of 1941 deportations of hundreds of thousands of Estonian, Latvian, and Lithuanian men, women, and children began, a practice which was continued after World War II.

Therefore, what I say here today is not new. These brave and freedom-loving people have not known true independence for over 40 years. They must struggle to keep alive their dreams of freedom—freedom which we take for granted in this country—adherence to personal religious beliefs—the preservation of cultural and historical traditions which are centuries old—the right to travel freely and to any land—the right to emigrate to another country.

Nothing specific has happened over the years to give the people of the world real hope that these countries will break out of the strong grip that the Soviets hold over them. However, we know that at least this country has never recognized the incorporation of Estonia, Latvia, and Lithuania into the Soviet Union.

Those Baltic natives who have settled in America know that they have found a good home. They know that this is a country that is premised on the fact that those who seek freedom can find freedom here—that those who want to practice their own religion can do so here—that we welcome diversity of thought and custom here—and that we recognize the honor difference here.

Mr. President, I hope that we in this Senate of the United States will never forget that we must continue to cham-

pion the cause of human rights for all people, everywhere. That is our heritage—and that, I believe, is our duty.●

SPECIAL COMMITTEE ON AGING TO HOLD HEARINGS ON SOCIAL SECURITY

● Mr. HEINZ. Mr. President, I recently announced a series of hearings to be held by the Special Committee on Aging on the subject of social security. The first hearings, focusing on the short-term financial status of the social security trust funds, will be held on June 16. The second, dealing with the issue of early retirement and its impact on the system, will be held on June 18. A third hearing will be held on June 24 to examine the automatic cost-of-living adjustments to social security benefits.

The purpose of these hearings is to put the current debate about the social security system into the proper perspective, and to carefully examine the complex issues involved in both the immediate future and over the longer range.

Social security has been our most successful and popular Federal program. For more than 40 years, without fail, benefit checks have been sent out on time. Today, more than 35 million Americans receive benefits through this unparalleled program.

The changes recently proposed by the administration have alarmed many people who view them as the Government's way of changing the rules on retirement benefits in the middle of the game.

I am particularly concerned about the serious and adverse impact the current debate about social security is having on older Americans.

Older persons who are retired and those who are about to retire are losing confidence in the system because of extreme remarks being made about the financial integrity of the system and proposals for drastic changes that have created a climate of suspicion and fear. Many believe Congress intends to adopt draconian measures that would change the basic character of the social security system. I believe such changes are unfair and unnecessary.

There are two separate and distinct problems with social security finances: a short-term problem and a long-term problem.

The short-term financial problem we are confronted with involves a temporary shortage of cash in the trust funds—a shortage that has resulted because of our sluggish economy, and continuing high unemployment and inflation.

This is not a new problem. It is one Congress attempted to resolve in 1977 by increasing payroll tax rates and the taxable earnings base. Based on economic forecasts at the time, these revenue increases were to place the social security trust funds on a sound financial footing until sometime in the next century. By 1987, it was expected that trust fund reserves would be up to 60 percent of estimated benefit payments for the year.

Unfortunately, these forecasts have proved to be overly optimistic. Since then, inflation and unemployment have been higher, and real wage growth has been slower than anticipated. As a result the payouts from the trust funds have increased by nearly 50 percent, and the proportion of reserves to payouts has dropped from 52 percent in 1977 to an estimated 29 percent in 1980.

According to some projections, the combined trust funds can be expected to drop below the level required to meet cash flow requirements sometime in the mid-1980's. It is expected that scheduled payroll tax increases and improving demographic balances will begin to improve the condition of the trust funds after 1985; however, we must address the need to guarantee sufficient reserves to meet the system's obligations until that time.

There is today considerable confusion about the magnitude of the cash shortage over the next 5 years.

Estimates of the near term savings or revenues needed to assure solvency of the social security system range from less than $50 billion to more than $100 billion. The hearings tomorrow on the short-term financial status of the trust funds will explore the range of estimates and the assumptions behind them. If we reach agreement that the shortfall is in the neighborhood of $50 billion then this would require relatively modest changes in the current program. The Senate Finance Committee has already agreed on changes totaling nearly half of this amount. The difference of $25 billion, although it sounds like an enormous sum, represents only 2 percent of the estimated $1.2 trillion in payments that social security is projected to make between 1982 and 1986.

The long-range problem with social security is expected to develop sometime in the next century because of increasing number of older workers receiving benefits from the system. Today there are over three productive workers for every person retired on social security; but in 40 years, that ratio is expected to worsen so that only two persons will be employed for each social security beneficiary.

We have the time to seek creative solutions which may, at least in part, reverse the trends contributing to the expected deficit. Current estimates of the magnitude of the long-term problem indicate that the social security system could remain solvent for the next 75 years if taxes were increased by 1.5 percent of payroll. Although I am not proposing such an increase, I think it is important to keep this option open since surveys have consistently shown that the majority of Americans would prefer social security tax increases to reductions in benefits.

There are, however, a variety of options for the long run.

One major issue that must be explored is the increasing trend toward early retirement. Studies have shown that half of the retired people say they would prefer to continue working in some manner, yet over two-thirds retire before the age of 65. Early retirement is an important option for many workers, but it is likely that many older workers who would like to remain on the job are denied that opportunity for encouraging employment. Numerous options should be considered for encouraging employment, including the elimination of the limit on earnings, increasing social security benefits for those who work past age 65, enforcing the Age Discrimination in Employment Act, and encouraging employers to change their attitudes and priorities to accommodate people who want to work longer, but not necessarily in the traditional 40-hour week.

The committee intends to examine carefully retirement trends and the incentives and disincentives in public policy which are relevant to those trends. If older people want to work and are given that opportunity, the trend toward early retirement may be altered, reducing the demand on the social security system.

To the extent Congress makes changes in the social security system to respond to the long-term problem, they should be phased-in gradually over a long time period, not less than 10 years, to enable retirees and pension plans time to adjust.

Most importantly, I believe it is time to stop overreacting and to start dealing realistically with the problems in the social security system so that we can restore the confidence of the American people, and particularly our older citizens, in this proven and essential program.

The hearings we have scheduled are designed to do that. This Nation has a commitment to older persons who have contributed greatly to our productivity and who continue to enrich our society through their valuable contributions and service to others. I intend to insure the fulfillment of that commitment.●

ORDER FOR THE RESUMPTION OF S. 921, VETERANS' HEALTH CARE, ON TOMORROW

Mr. STEVENS. Mr. President, I ask unanimous consent that after routine morning business is completed on tomorrow, the Senate resume consideration of the pending business, S. 921, veterans' health care, and Senator PROXMIRE's amendment be called up at that time.

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

ORDER FOR THE SENATE TO PROCEED TO ROLLCALL VOTES AFTER DISPOSITION OF PROXMIRE AMENDMENT ON TOMORROW

Mr. STEVENS. Mr. President, I ask unanimous consent that following the disposition of Senator PROXMIRE'S amendment on tomorrow, the Senate

proceed to the rollcall votes already ordered on the pending amendments.

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

Mr. STEVENS. Mr. President, I serve notice on the Senate that it is intended to attempt to make rollcall votes on this bill, following the initial vote tomorrow, 10 minutes in length, but I do not ask that consideration yet.

ORDER TO CONSIDER H.R. 3499 TOMORROW AND SUBSTITUTE TEXT OF S. 921

Mr. STEVENS. Mr. President, following the action of the Senate on the amendments that will be voted upon tomorrow on the Senate bill, I ask unanimous consent that the Senate turn to the consideration of the House bill, which is H.R. 3499; that all material in the House bill, with the exception of the enacting clause, be deleted and that the text of S. 921, as amended, be substituted for the House bill; that there be no further amendments in order; that there be no appeals or points of order allowed at that time; and that the Senate proceed to vote on the substitution of the Senate language for the language appearing in the House bill which was transmitted to the Senate.

Mr. ROBERT C. BYRD. Mr. President, I reserve the right to object.

Mr. STEVENS. Mr. President, I amend that by deleting the request that there be no amendments or points of order in order at that time and substitute for that a request that the unanimous-consent agreement contain the condition that there be no debate on the motion to substitute the Senate language for the language of the House bill or no debate on any other matter brought before the Senate at that time and no amendment other than technical amendments will be in order.

Mr. President, I add to that request that the unanimous-consent agreement contain the restriction that there be no time for debate on any motion to reconsider the action adopting the Senate language in lieu of the House language, and so I ask unanimous consent.

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

ORDER FOR THE RECOGNITION OF SENATORS JEPSEN AND LAXALT ON WEDNESDAY, JUNE 17, 1981

Mr. STEVENS. Mr. President, I ask unanimous consent that after the recognition of the two leaders on Wednesday, June 17, Senators JEPSEN and LAXALT be recognized for 15 minutes for special orders.

ORDER FOR THE RECORD TO REMAIN OPEN TODAY UNTIL 5 P.M. AND AUTHORIZATION FOR SECRETARY TO RECEIVE MESSAGES

Mr. STEVENS. Mr. President, I ask unanimous consent that the RECORD remain open today until 5 p.m. to receive bills, resolutions, statements, and committee reports, and that the Secretary of the Senate be authorized to receive messages from the President of the United States.

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

ORDER FOR RECESS UNTIL 11 A.M. TOMORROW

Mr. STEVENS. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until 11 a.m. tomorrow.

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

ORDER FOR A PERIOD FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW

Mr. STEVENS. Mr. President, I ask unanimous consent that after the two leaders are recognized on tomorrow there be a period for the transaction of routine morning business to extend not beyond 11:30 a.m.

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

(The remarks of Mr. ROBERT C. BYRD at this point are printed earlier in today's RECORD, by unanimous consent.)

RECESS UNTIL 11 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 11 a.m. tomorrow morning.

At 4:34 p.m., the Senate recessed until Tuesday, June 16, 1981, at 11 a.m.

NOMINATIONS

Executive nominations received by the Senate June 15, 1981:

INTER-AMERICAN DEVELOPMENT BANK

Jose Manuel Casanova, of Florida, to be Executive Director of the Inter-American Development Bank for a term of 3 years vice Ralph Anthony Dungan, resigned.

INTERNATIONAL COMMUNICATION AGENCY

Gilbert A. Robinson, of New York, to be Deputy Director of the International Communication Agency, vice Charles W. Bray III, resigned.

DEPARTMENT OF DEFENSE

Francis J. West, of Rhode Island, to be an Assistant Secretary of Defense, vice David E. McGiffert, resigned.

DEPARTMENT OF AGRICULTURE

Harold V. Hunter, of Oklahoma, to be Administrator of the Rural Electrification Administration for a term of 10 years, vice Robert W. Feragen, resigned.

DEPARTMENT OF EDUCATION

Donald J. Senese, of Virginia, to be Assistant Secretary for Educational Research and Improvement, Department of Education, vice F. James Rutherford, resigned.

ACTION AGENCY

Thomas L. Lias, of Iowa, to be Assistant Director of the ACTION Agency, vice Irene Tinker, resigned.

GOVERNMENT PRINTING OFFICE

Danford L. Sawyer, of Florida, to be Public Printer, vice John J. Boyle, resigned.

TENNESSEE VALLEY AUTHORITY

Charles H. Dean, Jr., of Tennessee, to be a Member of the Board of Directors of the Tennessee Valley Authority for the term expiring May 18, 1990, vice Robert N. Clement, term expired.

IN THE AIR FORCE

Lt. Gen. Ronald T. Adams, Jr., U.S. Air Force (age 56), for appointment to the grade of lieutenant general on the retired list pursuant to the provisions of title 10, United States Code, section 8962.

Lt. Gen. Benjamin N. Bellis, U.S. Air Force (age 57), for appointment to the grade of lieutenant general on the retired list pursuant to the provisions of title 10, United States Code, section 8962.

Lt. Gen. Edgar S. Harris, Jr., U.S. Air Force (age 56), for appointment to the grade of lieutenant general on the retired list pursuant to the provisions of title 10, United States Code, section 8962.

Lt. Gen. Eugene F. Tighe, Jr., U.S. Air Force (age 60), for appointment to the grade of lieutenant general on the retired list pursuant to the provisions of title 10, United States Code, section 8962.

IN THE COAST GUARD

The following temporary officers of the U.S. Coast Guard for promotion to chief warrant officer, W-4:

Augusta L. Duncan	Leonidas M. Patton
John R. Arnold	John W. Spreter
David M. Donaldson	David N. Russell
William F. Collier	

The following permanent chief warrant officers, W-3 of the U.S. Coast Guard to be permanent chief warrant officer, W-4:

Horace C. Webb	Gerald F. Perry
Louis J. Jensen	Ronald D. Ricker
Richard T. Lyon	William F. Madigan
Thomas J. Bobrowski	Harold R. Packer
Richard T. Shannon	William E. Davis
Leon R. Cisek	Jack N. Bond
John R. Manyon	

The following temporary officers of the U.S. Coast Guard to be permanent chief warrant officer, W-3:

Phillip M. Peterson	Thomas L. Stewart
John D. Christensen	Robert W. Clark
William S. Cheever	Neil D. Ruenzel
Floyd A. Williams II	

The following permanent chief warrant officers, W-2 of the U.S. Coast Guard to be permanent chief warrant officer, W-3:

Alice T. Jefferson	William F. Britt III
Rodney E. McHenry	Rustico E. Aranas, Jr.
William L. Heffiin	Richard U. Mansur
Wayne P. Phillips	Theodore F. Ramsey
Joseph F. Burgess, Jr.	Randolph P. Fitchen
John O. Webb.	John W. Brennan
Herman P. Huffman	Dale W. Gruber
Robert C. Collins	Marcelino R. Castor
Bobby D. Rose	George W. Gilpin
Michael G. Hancock	Francis X. McCarthy
Robert C. Klowas	Samuel B. Bromley, Jr.
Howard L. Case	Leon M. Mason, Jr.
Robert L. Gatlin	Andrew P. Vargo
Robert J. Klein	Carrol D. Spires
Kenneth R. Felmey	Harry M. Dey
George W. Gruber, Jr.	Kenneth R. Henson
Robert L. Simpson	Edmund Lee
Robert R. Poole	Robert G. Sigler

Ruben S. Manlangit
Jimmie R. Hall
John R. Burckley
Patrick J. McCabe
Ronald D. Mcewan
James R. McDermott
William L. Raynor
Brian L. Griffin
James M. Flournoy

The following temporary officers of the U.S. Coast Guard to be permanent chief warrant officer, W–2:

Walter J. Graves
Russell F. Glendenning
Michael T. Burnett
Gary J. Fox
Michael A. Jett

The following warrant officers, W–1 of the U.S. Coast Guard to be permanent chief warrant officers, W–2:

Mark W. Allen
Elvin E. Woodward
Terence W. Patzwald
Lawrence A. Dykes
Frank D. Donaldson
Robert T. Stranathan
Paul V. Clemons
Daniel D. Larson
Roy E. Summers
Gerald G. Warren
Harvy L. Coy
Larry J. Allen
Jack W. Gotwalt
Walton L. Biggness
Klaus J. Steinhurst
Isaac W. Osteen
James R. Byrd, Jr.
David W. Severs
Lynn B. Dehaan
Robert S. Young
Raymond L. Shaffer
Samuel E. Elder
Lawrence I. Culley
Ronald E. Cox
Charles C. Greiner
Richard R. Rabbitt
Wanda P. Hurst
Ronald E. Allen
Ernest D. Bonnette
Edward H. Wassell, Jr.
Richard G. Kohler
Carl A. Schwaab
Larry P. Seligman
David E. Power, Jr.
Marvin C. Lange
Ronald C. Wolf
Howard L. Giblin
Paul C. Lewis
Gary R. Collins
Wesley L. Townsend, Jr.
Stephen A. Miller
Robert D. Groves
Robert D. Haines
Alfred H. Mattner, Jr.
Ramond M. Hubbard
John W. Dilley
Jerome J. Haskins
Charles R. Steele, Jr.
Alan C. Zack
Kenneth Ashby
Robert R. Larson II
Bobbie G. Mann
Simpson W. Holston, Jr.
Joel Walton
Edmund S. Burke
Andrew F. Scharf, Jr.
Joseph S. Puntino
John F. Gomoke
Donald T. Staton, Jr.
Oscar W. Hamon, Jr.
Larry G. Thompson
Kevin D. Alway
Richard E. Brown
Andrew W. Ipock
Johnny M. Andrews
John L. Reid
Neale P. Purseglove
Garry M. Ortner
Walter E. Glassco
Delmer L. Terry
Terry L. Tague
James D. Knox
Richard H. Felter
Larry R. Meade
James P. Lewicki
William L. Moore
James A. Storey
Ronald E. Wood
Phillip T. Jenkins, Jr.
Bruce L. Nattress
Edward E. Bradley
Hollis F. McMullen
Will L. Marlett
William A. Barnes
Clyde H. Lowe
Paul J. Paton
Vanus J. Priestley
Jack Moody
Thomas J. Winters
William G. Dorsey
Eugene M. Melfy
Daniel A. Shearer
Roger S. Lewis, Jr.
George H. Briggs
William L. Bush
Randolph J. Eley
Barry B. Roberts
Peter R. Null
Robert B. Shettlesworth
Danny R. Buck
Thomas W. Flynn
Louis J. Krucenski
Victor L. Bissonnette, Jr.
Thomas L. Clark
Paul J. MacDonald
Robert W. McCauley
James W. Sebastian
Herbert W. Davis, Jr.
Dolton E. Gurkin
Alan C. Beal
Kenneth D. Thoeni
Frank M. Zimmerman
Thomas W. Murray
Brian F. Zane
Bruce A. Carnell
Thomas S. Ellis
Tommy D. Cook
James M. Curtis
Jerry R. Wilson
Calvin D. Work
Thomas A. Fine
Raymond C. Willis
Thomas E. Atwood
Robert L. Lewis
Paul R. Higginbotham
Bruce L. Ward
Philip J. Organ III
Curtis L. Rabel
Dean O. Hensel
Cristopher J. Butcher
David T. Ormes
Larr L. Peel
Bryan R. Parker
Glenn R. Ginader
John R. Lindley, Jr.
Larry B. Gemoets
Jack G. Albert, Jr.
Daniel L. Carter
Donald L. Smith
Robert D. Hall
Martin W. Farris
Patrick C. Kane
Blain D. Jensen
Richard L. Johnson
John J. Miller
Francis A. Oneill
Fred C. Ripley
Kenneth K. Turner
Thomas D. Marquette
Curtis M. Marten
Allen E. Walker
Richard A. McCullough
Jerry L. Warren
John E. Martin, Jr.
Thomas W. Smith
Ralph T. Brittingham
David C. Martin
Merwyn L. Cook
Rodney O. Thrasher
Dennis K. Goble
Kenneth M. Casey
Jack A. Vannatta III
Charles A. Rasmussen
Leonard E. Wiggins
Ronald M. Utzig
David J. Kozik
Gregory M. Holman
Albert M. Snelling
Edward G. Mann
Charles C. Oneal
Michael D. Krohn
Larry J. Phetterplace
Anthony M. Worsham
Glen Nelon
James H. Sipes
Kenneth E. Woycke
Robert Villegas
William T. Leduc II
Burt J. Thomas
Dennis F. Bush
William A. Tesch
Gary E. Desilets
Charles D. Johnson
Stuart I. Gross
William S. Allen
Glen R. Zeamer
Elton G. Miller
William R. Laird
Robert L. Tanner
Gerald D. Sweet
Robert D. Jones
Edgardo B. Cosio
David M. Poissant
Daniel M. Wells
Remigio M. Abacan
James R. Normand
Gonzalo A. Fabricante
Homer B. Murray, Jr.
Marino N. Ortega
Dennis E. McCord
Ronald A. Badeaux
Robert H. Carmichael
Reynaldo P. Martin
Elbert L. Ricks
John S. Eve
Richard F. Ramsay, Jr.
Bruce J. Brady
Arthur W. Ringler
Roger L. Schartzer
Michael J. Denton
James W. Heringer

The following-named Reserve officers of the Coast Guard to be permanent commissioned officers in the grade of lieutenant (junior grade):

Samuel K. Shriver
Michael H. Graner
Thomas J. Viglienzone

IN THE ARMY

The following-named officers for promotion in the Army of the United States, under provisions of title 10, United States Code, sections 3442 and 3447:

DENTAL CORPS

To be colonel

Babigan, Alan E., [redacted].
Boglarski, Stephen [redacted].
Boynton, Robert E. [redacted].
Burg, Hans Adolf [redacted].
Cunningham, David E. [redacted].
Davila, Manuel A., [redacted].
Eichel, Thomas F. [redacted].
Jagels, Arlen E. [redacted].
Keoleian, Diran A. [redacted].
LaRue, John R. [redacted].
Mitchell, Wayne H., [redacted].
Schow, Sterling R. [redacted].
Serwatka, Walter J. [redacted].
Simes, Thomas A., [redacted].
Strope, Michael B. [redacted].

MEDICAL CORPS

To be colonel

Aronson, Charles E. [redacted].
Bergman, Kenneth R. [redacted].
Brahman, Sherry L. [redacted].
Bruhn, Frederic W. [redacted].
Buscemi, Jon H. [redacted].
Butler, Donald [redacted].
Camp, Norman M. [redacted].
Carns, Edwin H. [redacted].
Carpenter, John L. [redacted].
Connolly, James C., III [redacted].
Crosse, James E. [redacted].
Dahl, Raymond E., [redacted].
Dalton, Bruce A., Jr. [redacted].
Davies, Ross S., [redacted].
Difiore, Ralph J. [redacted].
Doberstyn, Edward B. [redacted].
Duffield, John R. [redacted].
Esposito, Maria E. [redacted].
Faggett, Walter L., II [redacted].
Fort, Samuel L. [redacted].
Frattaroli, Nicholas F. [redacted].
Gaydos, Joel C., [redacted].
Geschke, Dietrich W. [redacted].
Hall, Roger V., [redacted].
Hamlin, Elvin R. [redacted].
Hamlin, Nonila V. [redacted].
Harden, Lewis B. [redacted].
Head, David R., [redacted].
Head, Harold D. [redacted].
Homann, Joseph F. [redacted].
Imonen, Robb E. [redacted].
James, James J. [redacted].
Jurney, Thomas H. [redacted].
Ketchum, Robert V. [redacted].
Lampe, Richard M. [redacted].
Lee, Roger B., [redacted].
Lipton, Charles S. [redacted].
Lisanti, Michael J. [redacted].
Lundy, Ray O., [redacted].
Mitchell, Charles H. [redacted].
Moore, Hylan C., [redacted].
Morgan, Andrew M., [redacted].
Nardi, James A. [redacted].
Newell, Robert T., III [redacted].
Onufer, Charles N. [redacted].
Peake, James B. [redacted].
Pearlman, Eliot J. [redacted].
Podgore, John K. [redacted].
Pollard, William W. [redacted].
Privitera, Charles R. [redacted].
Raleigh, Edward N., [redacted].
Riffle, John E., [redacted].
Salasche, Stuart J. [redacted].
Salazar, Andres M., [redacted].
Shearer, Robert D. [redacted].
Shegog, James H. [redacted].
Shim, Poong S. [redacted].
Singleton, Peter T., Jr. [redacted].
Smith, Thomas L., [redacted].
Squitieri, Alfonse P. [redacted].
Summers, Richard J. [redacted].
Surti, Nergesh R. [redacted].
Thomas, Harry M., Jr. [redacted].
Todd, Robert C. [redacted].
Tyner, Carl F. [redacted].
Walker, John D. [redacted].
Watson, Richard A. [redacted].
Wear, Douglas J. [redacted].
Weidenfeld, Irwin [redacted].
Wells, David W., [redacted].
White, Stephen W. [redacted].
Wilson, Robert M. [redacted].
Woodall, John B. [redacted].
Yim, Donald W., [redacted].

JUDGE ADVOCATE GENERAL'S CORPS

To be colonel

Jacob, Gustave F. [redacted].

CHAPLAINS CORPS

To be lieutenant colonel

Hattle, George R. [redacted].

The following-named officers for promotion in the Regular Army of the United States, under provisions of title 10, United States Code, sections 3284, 3299 and 3305:

ARMY PROMOTION LIST

To be major

Bowes, Steven C., [redacted].
Brockelsby, John W., [redacted].
Busch, Conrad H., Jr. [redacted].
Calhoun, Ernest L. [redacted].
Carnes, Edward L., [redacted].
Flynn, Robert J. [redacted].
Garrett, Sol M. III [redacted].
Gonzales, Benigno F., Jr. [redacted].
Graves, Richard M. [redacted].
Hannon, Michael J. [redacted].
Heath, George E., [redacted].
Hopkins, John G. [redacted].
Jackson, William L. [redacted].
Jandreau, James L. [redacted].
King, David H., [redacted].
Montero, Mario F., Jr. [redacted].

To be captain

England, Thomas F. [redacted].

CONFIRMATIONS

Executive nominations confirmed by the Senate June 15, 1981:

DEPARTMENT OF ENERGY

Herman E. Roser, of New Mexico, to be an Assistant Secretary of Energy (Defense Programs), vice Duane C. Sewell, resigned.

DEPARTMENT OF DEFENSE

Russell D. Hale, of Virginia, to be an Assistant Secretary of the Air Force, vice Charles William Snodgrass, resigned.

Edward J. Philbin, of California, to be Deputy Assistant Secretary of Defense for Reserve Affairs, vice Harold W. Chase, resigned.

George A. Sawyer, of New Jersey, to be an Assistant Secretary of the Navy, vice George A. Peapples, resigned.

PANAMA CANAL COMMISSION

William R. Gianelli, an Assistant Secretary of the Army, to be a member of the Board of the Panama Canal Commission, vice Michael Blumenfeld.

IN THE AIR FORCE

The following-named officer under the provisions of title 10, United States Code, section 8066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 8066, in grade as follows:

To be lieutenant general

Maj. Gen. James E. Dalton [redacted] FR, U.S. Air Force.

IN THE NAVY

Adm. Alfred J. Whittle, Jr., U.S. Navy (age 57) for appointment to the grade of admiral on the retired list, pursuant to the provisions of title 10, United States Code, section 5233.

IN THE ARMY

The following-named officer under the provisions of title 10, United States Code, section 3066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 3066, in grade as follows:

To be lieutenant general

Maj. Gen. Oren Edwin DeHaven, [redacted] U.S. Army.

The following-named officer under the provisions of title 10, United States Code, section 3066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 3066, in grade as follows:

To be lieutenant general

Maj. Gen. John Winn McEnery, [redacted] U.S. Army.

IN THE NAVY

The following-named officer, having been designated for command and other duties of great importance and responsibility in the grade of vice admiral within the contemplation of title 10, United States Code, section 5231, for appointment while so serving as follows:

To be vice admiral

Rear Adm. James A. Lyons, Jr., U.S. Navy.

IN THE MARINE CORPS

The following-named officer under the provisions of title 10, United States Code, section 5202, to be assigned to a position of importance and responsibility designated by the President, in grade as follows:

To be general

Lt. Gen. Paul X. Kelley [redacted], U.S. Marine Corps.

IN THE ARMY

The following-named officer to be placed on the retired list in the grade indicated under the provisions of title 10, United States Code, section 3962:

To be lieutenant general

Lt. Gen. Arthur James Gregg [redacted] (age 53), Army of the United States (major general, U.S. Army).

The following-named officer to be assigned to a position of importance and responsibility designated by the President under the provisions of title 10, United States Code, section 3066(a) in the grade as follows:

Maj. Gen. Richard Horner Thompson, [redacted] U.S. Army.

IN THE ARMY

Army nominations beginning Lowell L. Ballard, Jr., to be colonel, and ending Susie M. Sherrod, to be lieutenant colonel, which nominations were received by the Senate May 27, 1981, and which appeared in the CONGRESSIONAL RECORD of June 1, 1981.

IN THE NAVY

Navy nominations beginning James D. Abshear, to be chief warrant officer, and ending Adrian C. Youngblood, to be chief warrant officer, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of June 1, 1981.