SENATE—*Wednesday, September 22, 1982*

(Legislative day of Wednesday, September 8, 1982)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by the President pro tempore (Mr. THURMOND).

PRAYER

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

Loving Father in Heaven, we thank Thee that Thou hast given a remedy for anxiety * * * "Have no anxiety about anything, but in everything by prayer and supplication with thanksgiving let your requests be made known unto God. And the peace of God, which passes all understanding, will keep your hearts and your minds in Christ Jesus." (Philippians 4: 6-7)

Patient Father, no one who does not work here can possibly comprehend the unforgiving pressure under which the Senate operates: pressures from constituents, from lobbyists, from diverse self-interest groups; corrupting, seductive, destructive pressures of power, position, and prestige; the pressure of having to live in two cities with the travel demands. The awesome pressure of decisions involving nation and world and affecting millions. The relentless pressure of responsibility that will not go away and from which there is never an escape; financial pressure, family pressure, peer pressure.

Teach Thy servants, dear Lord, that they have recourse to Thy love and grace and peace. Cause them to turn to Thee in times of frustration, finding in Thee rest and refreshing. In the name of Him Who said, "Come unto Me all ye who labor and are heavy laden, and I will give you rest." Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

THE JOURNAL

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

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

THE PACE OF LEGISLATIVE ACTIVITY

Mr. BAKER. Mr. President, I believe the phrase goes something like—"Yesterday all my troubles seemed so far away, now it looks as though they're here to stay."

Just 1 month ago, I was announcing to my colleagues the possibility of the Senate recessing no later than October 2 and returning in January. At home, my wife and I were making plans for after Thanksgiving. For once, my schedule did not read like a horror story.

But I should have known better than to plan ahead. Things changed for the worse faster than they had gone for the better. First, it became obvious that the Senate's pace of legislative activity was moving at a rate similar to that of the Shirley Highway during rush hour. Then, it became clear to the Speaker of the House and myself, after, I might add, it became clear to the President, that Congress would have to return after the November election to complete the appropriations process.

Now, Mr. President, I know what you are thinking. You are thinking, by gosh how could things get any worse, what more could go wrong? Well, it was not easy, but they did. For now, it appears that not only will we have to be in session for a good portion of the rest of the year, but we will not even be able to escape into the throes of a NFL game. We might as well stay in session on Sundays; we might as well throw out the TV's in the cloakrooms; we might as well give up trying to understand Howard Cosell; and we might as well just give up on the notion of being happy.

But, there may be some hope in sight.

SENATE AGENDA

PROSPECTIVE ELECTION RECESS—OCTOBER 1, 1982

Mr. BAKER. Mr. President, I am pleased to report this morning that in conference with the minority leader yesterday, it appears that our friend, the Speaker of the House of Representatives, may not be quite so adamant concerning the October 8 recess date as I had thought earlier and announced earlier. I am sure every Member of the Senate joins with me in expressing our appreciation to the minority leader, to the assistant minority leader, and the chairman of the Democratic conference (Mr. INOUYE), who I believe discussed this matter with the Speaker. I freely acknowledge they had a lot more success than I did.

In any event, I fully share the thought that October 1 is a good time for us to try to recess for the October period preceding the election. I would like to do that.

THE DEBT LIMIT BILL

Let me outline the items that I feel we must do in order to accomplish that recess time.

First of all, the pending business, the unfinished business, the debt limit, must be disposed of. There is a cloture vote today. A motion has been filed for a cloture vote tomorrow. There are a number of other amendments that I believe Senators may offer to this bill. I have represented on the floor a number of times that Senators be given an opportunity to offer other amendments, including nongermane amendments, to the debt limit bill.

Members should be reminded that I have also indicated that, we must pass this bill and we must do so in a timely way. What that means is that we have to do it this week, in my judgment. That may entail, if we cannot finish the bill otherwise, a motion to recommit the bill with instructions to report back forthwith a clean bill as passed by the House of Representatives so we can transmit that measure to the White House for the President's consideration and signature.

Mr. President, no one should be taken by surprise. I have said a number of times that at some point, if necessary, I would be willing to file a motion to recommit with instructions. I hope such a motion would pass and that the resolution would pass. But I once again state that we have to do the country's work and that is one of the urgent items that must be dealt with if we are to go out of here the 1st of October.

Mr. President, it is possible, and I have not yet discussed this with the Senator from North Carolina or others, that the time between noon today and sometime tomorrow, if cloture is not invoked today, might be a good time to take up those other amendments. It would, of course, require unanimous consent to do so. That is, unanimous consent to temporarily lay aside the pending amendment, which is the Baucus amendment, and permit other Senators to offer amendments. I will consult with, first, the minority leader and other Senators to see if there is a willingness to do that.

Once again, what I am suggesting is the possibility that if cloture is not invoked today against further debate on

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

the Helms amendment, we might create an opportunity, between, say, about 12:30 p.m. today, whenever the cloture vote is over, and sometime tomorrow, perhaps around noon tomorrow, for Members to offer other amendments to the debt limit bill.

Let me hasten to say that I am not encouraging other amendment. Indeed, I hope that Members will forbear to offer other amendments because we need to pass this debt limit bill. That request is not now made, Mr. President, but I wish to put Senators on notice of that possibility.

I have consulted with the minority leader, who has not agreed to that request, but I would like to consult with him further to see if we can expedite such a procedure or a similar procedure.

HUD, MILITARY CONSTRUCTION, TRANSPORTATION, AND AGRICULTURE APPROPRIATIONS

Mr. President, in addition to the debt limit, it is clear that we have to do as much of the appropriations process as possible. We have now from the other body the HUD and military construction appropriations bills.

I have asked the chairman of the Appropriations Committee to give me an estimate of how long these measures should take and to begin shopping for unanimous-consent agreements to limit the time for debate on those measures. I urge Senators to consider that if we are going to get out on October 1 we will have to have very short time limitations on the available appropriations bill. I am hopeful those two might not take very long.

In addition to those appropriations bills, Mr. President, we expect to receive from the House of Representatives the transportation and agriculture appropriations bills before this week is out. If that indeed materializes, then we will begin to shop for unanimous-consent agreements on them as well. I will consult with both the minority leader and the chairman of the Appropriations Committee in that respect.

There are a number of other appropriations bills that have been reported by the Senate Appropriations Committee. We have not yet come to terms on how we would deal with them. That is, bills which have not yet been received from the House. I will consult with the chairman, the ranking member and the minority leader on them as well.

At the moment, it seems to me that we need to be prepared to do the HUD and military construction appropriations bills as well as transportation and agriculture. There may be others, but those four, it seems, are most likely to mature for our consideration before we can go out on October 1.

CONTINUING RESOLUTION

It is apparent, Mr. President, that in addition to those four bills we will have to make arrangements for the operation of the Government from October 1 until after we return, which I now perceive to be November 29. Some Members are urging an earlier return than that. We have not yet fixed a date for return. But in any event, if we pass only four appropriations bills, it is obvious to every Senator that we will have to pass a continuing resolution for the balance of the process for those bills on which we have not completed action.

So the CR, the continuing resolution, must be added to that list of absolute must items.

By passing the continuing resolution, I do not mean just passing the measure in the Senate; I mean going through the entire legislative process and obtaining the signature of approval of the President of the United States or, in the alternative, passing such a measure over his objections.

So, Mr. President, to recap, we need to do the available appropriations bills—that appear to be four at the moment: HUD, military construction, transportation, and agriculture; do a continuing resolution for the balance; and do the debt limit.

I consulted with the distinguished President pro tempore (Mr. THURMOND) by telephone earlier today and I apologize to him for calling him out of an important meeting. Once again, I want to remark, in all sincerity, if I could be assured of the cooperation and the professionalism from every other Senator that the Senator from South Carolina, the President pro tempore, shows on every important issue and every major request that I make to him, it would be a delight to deal with the Senate in trying to establish schedules. The President pro tempore, the distinguished present occupant of the chair, has never failed to be understanding of the urgencies and pressures of scheduling and subordinate, in many cases, his own preference so the greater good of the Senate can be accomplished.

S. 995—CLAYTON ACT AMENDMENTS

In our conversation this morning, I put to him a question that I told him I knew he would not like. That is, in view of the possibility that we might now go out on October 1, would he relieve me of the promise I had made to him privately and on the floor publicly that after we finished the debt limit, we would take up S. 995, the Clayton Act amendments, in exchange for my commitment to take it up as soon as we return in November in the lame duck session. In the most characteristic way, the President pro tem did agree to that. I express now my deep appreciation to him and my apology to those who have a great interest in this measure, as I have a great interest in this measure. The pressure of doing the appropriations bills and the debt limit, to my mind, ranks ahead of the desirability of doing S. 995 until we return. S. 995, I believe, can wait without serious jeopardy. The appropriations bills cannot. I express my deep appreciation, and I think I am sure I speak for every Member of the Senate when I express their deep appreciation to the President pro tem for his unfailing cooperation that he continues to exhibit in this case.

AGENDA SUMMARY

Once again, Mr. President, let me try to summarize all this rambling presentation in one statement: It is my hope we can go out on October 1 instead of October 8, and I believe we have a chance to do that. In order to do so, we must finish the debt limit, the available appropriations bills, and a continuing resolution. There may be other bills we can do before we go out, on a catch-as-catch-can basis, if we can arrange it. Otherwise, they will have to wait until the lame duck session, which appears to be inevitable, when we shall also have to consider S. 995, and other matters which Senators have urged me to take up on the schedule before the end of the session.

Mr. President, I expect that, later today, there may be a unanimous-consent request to take up other amendments while we await a fourth cloture vote, if cloture is not invoked today against the Helms amendment, and the time between noon today approximately and noon tomorrow approximately will be available for other Members to offer amendments to the debt limit bill. Members should be aware that it appears likely that a motion to recommit with instructions to take all amendments of the bill and send a clean bill to the President is in prospect.

Mr. President, I hope my thoughts this morning are profitable so Members may take account of it from their own scheduling standpoint in terms of their own priority effort. I shall reiterate only two points: We are not now establishing October 1 as the date to go out. I am saying that it appears now that the Speaker is agreeable to that and that if we can do the things I have spoken of, it will occur. I hope it will.

THE CRIME PACKAGE

There is one item that has been brought to my attention that I omitted. We have a time agreement on the crime package. I add that to the list of items that should be done before we go out. I also hope that the time agreement on that bill, which runs to more than a full printed page, could be abbreviated, because it will take us hours and hours to dispose of this matter if we do all of the items listed.

All I can do at this point is to say, it is my intention to take up and dispose of the crime package before we go out October 1, if, in fact, we can make that date. I hope we can, I think we can.

I also hope Members will reconsider their request for time on the time

agreement which was entered into on July 1 and which is printed on pages 2 and 3 of today's Calendar of Business.

Now, Mr. President, I hope I have not overwhelmed Members with information. I felt an obligation to report at this point and I am prepared to yield to the minority leader or to yield the floor.

RECOGNITION OF THE MINORITY LEADER

The PRESIDING OFFICER (Mr. ABDNOR). The minority leader is recognized.

Mr. ROBERT C. BYRD. Mr. President, the distinguished majority leader has stated very accurately the situation insofar as it pertains to the efforts on the part of the minority, which includes myself and Mr. CRANSTON, and Mr. INOUYE, and our visit with the Speaker and the majority leader of the House and the majority whip there, the chairman of the Committee on Appropriations, and others in the leadership on the House side. The majority leader has also accurately stated the necessities insofar as the legislation that must be passed. I am not saying I shall support it, but it must be passed. I may or may not support it, but there must be a debt limit extension acted upon. There must be a continuing resolution acted upon, and we need to act on as many appropriations bills as possible before October 1.

I hope that the President will not veto any of those bills, and I shall be discussing this with the majority leader in the hope that, if we go out to come back on November 29, we get some assurances from the White House that there will be no vetoes of those appropriations bills or continuing resolutions, or that we go out on a pro forma basis so that we can call ourselves back if there is a Presidential veto and, if the House should override the veto, there is a necessity for the Senate to act.

The distinguished majority leader and I also discussed yesterday the crime bill. It is our desire on this side of the aisle, as I expressed to the distinguished majority leader, that we proceed with the consideration of the crime bill, on which there is a time limitation. I am glad that he has included that in his remarks this morning as being a part of his schedule insofar as he can personally see to it that that schedule is followed. I share with him the hope that the time on the agreement which, as he has indicated, covers more than a page in the Calendar of Business, can be abbreviated. Perhaps it can be. As most often is the case, the time required is not quite as long as that which is potentially available under a very complex and lengthy time agreement.

I share with him the interest in having some action on S. 995, at least during the lameduck session.

Mr. President, I shall be working with the majority leader in an effort to arrange time agreements, if at all possible, on the appropriations bills and on the other matters that have to be taken up and disposed of before the Senate goes out for the election.

I share with him in closing the warm affections that have been expressed for the distinguished President pro tempore, Mr. THURMOND. I have always found Mr. THURMOND to be a courageous fighter for a cause in which he believes. He is also a gentleman who treats his colleagues with courtesy and understanding, and I personally feel grateful to him for the cooperation that he has extended to me not only during the time that I been minority leader but also during the time that I was majority leader.

PENDING AMENDMENTS

As to the cloture motion, Mr. President, I make a parliamentary inquiry, that being: How many amendments are there at the desk which would be called up in the event cloture is invoked?

The PRESIDING OFFICER. One thousand four hundred fifteen.

Mr. ROBERT C. BYRD. One thousand four hundred fifteen. Has the Chair been able to ascertain how many of the 1,415 amendments at the desk would be automatically ruled out of order on their face by the Chair?

The PRESIDING OFFICER. Seventeen of the amendments would be ruled out of order automatically as nongermane and six would be ruled out of order because they are dilatory.

Mr. ROBERT C. BYRD. Seventeen and six. Twenty-three. Mr. President, I have voted against cloture because I have had the experience of dealing with postcloture filibusters which make the precloture filibuster look like nursery school. One has to keep in mind that the author of an amendment does not necessarily have to call up his amendment; any Senator can call up any other Senator's amendment, so I have voted against cloture for that reason, to avoid a postcloture filibuster, which is the real filibuster, as we saw in 1977 when the Natural Gas Deregulation Act was before the Senate, when we saw one or two Senators tie up the Senate for 13 days and 1 night and we saw the majority leader, ROBERT C. BYRD, having to take very strong actions in conjunction with the support of the then-minority leader, Mr. BAKER, and the Chair, the Vice President, in order to break that filibuster.

So having had that experience and the lashes that were laid on my back at that time still smarting from time to time, I have not voted for cloture in this event. If cloture were invoked, I would vote for the Helms amendment, so I make that statement for the record to be clear. I voted against cloture on the abortion amendment recently for the same reason, to avoid a postcloture filibuster, which could keep us here until after Christmas. I voted to table that amendment; in that case I was against the amendment. In this case I am for the amendment, but in both cases I am voting against cloture because I want to avoid a postcloture filibuster.

Mr. BAKER. Mr. President, will the Senator yield to me?

Mr. ROBERT C. BYRD. But any other Senator, of course, has his own reasons, and I respect them. But those are my reasons, and I want to make them clear in the record.

Yes; I yield.

Mr. BAKER. Mr. President, I am aware of the minority leader's concerns about both the filibuster and the substance. Indeed, he and I have discussed that matter before. I am also aware of the enormous political implications involved in votes of this sort. But I want to say for the record that I admire the minority leader and respect him for having done what was best for the Senate. Even though it might lend itself to a different interpretation, I can vouch for the fact that what he has said here on the floor publicly is what he has said to me privately.

The only other thing I would add to it is, I think the Senate has to address itself to the fundamental question of the postcloture filibuster. We are not going to do that today. I am not going to do it independently, but if I am majority leader in January I will consult with the minority leader on how we might adjust that rule to provide a realistic way for the Senate to resolve postcloture filibusters. If I am minority leader, I hope that the majority leader, Mr. ROBERT C. BYRD, would do the same. But at this time I wish to say publicly that I believe the time has come when we must address that issue because I think now we have made rule XXII a nullity.

Mr. ROBERT C. BYRD. Mr. President, I am glad to hear the majority leader make that statement. He would certainly have my support if he is majority leader, and if, as it is not inconceivable, I may be majority leader again, I would have his support in working together to deal with this postcloture filibuster. It is an abomination to the Senate and to the legislative process.

CLOTURE VOTES

Mr. President, let me tell you this. Senator's votes against cloture are sometimes used against them by their opposition. Opponents either do not understand the Rules of the Senate or they deliberately and maliciously attempt to mislead the people in a State as to the meaning of that or some other procedural vote. If I may just take a moment, I will give an example.

When Jimmy Carter was in his campaign, he promised to pardon Vietnam draft evaders. After he was elected and

prior to his inauguration, I talked with Mr. Carter and urged him not to carry out his campaign promise to pardon Vietnam draft evaders.

The Senate convened in early January, and the late Senator Jim Allen introduced a sense-of-the-Senate resolution which expressed opposition to a Presidential pardon of Vietnam draft evaders.

The sense-of-the-Senate resolution, of course, as all Senators know, has no legal or binding effect on anything or anybody.

A filibuster developed on that sense-of-the-Senate resolution. Mr. Carter was inaugurated on January 20, and on January 21 he carried out his campaign promise to pardon Vietnam draft evaders. On January 24 there was a vote to invoke cloture on that filibuster. I voted against that motion to invoke cloture because I knew that if there were ever a technician in the Senate who knew, who had perfected, and who had originated the postcloture filibuster, it was the late Senator Jim Allen, for whom I had a tremendous amount of respect. So I voted against invoking cloture. The next day I moved to table the resolution, saying at the time that I was 100 percent against the Presidential pardon and had so stated to the President but that the matter was moot because the President had taken his actions, and even if he had not taken his actions there was not a thing under God's great panoply of Heaven that the Senate could do about the constitutional power of pardon that flows only to the President of the United States.

I did not like it when President Ford pardoned Mr. Nixon, but there was not a thing I could do about it. There was not a thing the Senate could do about it. There was not a thing the Senate and the House could do about it. That is a constitutional power that flows only to the President of the United States.

I must make this point to say that one's votes against the invoking of cloture will be intentionally used against him in many instances in an election, and they are being used against me.

However, I am voting against cloture, and I am stating for the record why. It was on that occasion that I was concerned about a postcloture filibuster. We had a natural gas emergency facing this country, which threatened to close down industries and put West Virginians out of work. We had to confirm the nomination of Mr. Marshall, for Secretary of Labor. We had business to do, so I did what I thought I had to do as majority leader. The sense-of-the-Senate resolution was a futile gesture under the circumstances I have described.

We had six procedural votes. We had a motion to table the motion to proceed to take up the resolution and that failed. Then we had another motion to table the motion to proceed, by another Senator, and that failed. We had a motion to table a motion to send the measure to the Judiciary Committee. I supported referral to the Judiciary Committee for the reason that the resolution was futile under the circumstances.

A vote also occurred on the Allen motion to bring up the resolution, and I voted against the motion for the reasons I have stated.

On January 25, I successfully moved to table the Allen resolution so that the Senate could get on with other pressing business.

I will vote against cloture today. I voted against cloture yesterday. Votes for or against cloture and other procedural motions must always be viewed in the light of the accompanying circumstances at a given time.

I find no quarrel with any Senators who vote for cloture or who support or oppose the underlying amendment which is being clotured. But I simply state for the record that we often will have our votes misunderstood, misconstrued, misinterpreted, and, in many instances, deliberately falsified, as my vote on that occasion was, the falsification being, in the campaign back in West Virginia, that I "voted for" the Presidential pardon of Vietnam draft evaders.

The majority leader is wearing a heavy crown. He has responsibilities, and sometimes he has to take actions to get this process moving and keep it moving. I sympathize with him.

I have tried to show the kind of cooperation with him that I feel the minority leader should show. It is not my business always to cooperate. It is not my business always to support him. It is my function at times to oppose him. But, barring those situations, I feel it my duty to work with the majority leader, to cooperate with him. He carries a very heavy load, a very heavy burden.

I have a great deal of respect for the majority leader. He has been most considerate toward Members on this side in every way he can. He also has to consider the Members on his own side, and I am sure at times he will catch the dickens—for want of a better word—from his own side by accommodating the Members on this side.

So I will say for the record that I appreciate the way he has laid out the program, the way he is attempting to close down the Senate by the first, and that was what he and I assured the Senate several days ago we hoped to get done.

So I hope my visit to the Speaker yesterday was helpful and that we will be able to accomplish this. And I hope, indeed, that when we come back next year, the distinguished Senator from Tennessee will be the minority leader and that he will cooperate with me in working on rule XXII. [Laughter.]

Mr. BAKER. Mr. President, I say to my friend the minority leader, who has been unfailingly cooperative and who has been absolutely responsible in seeing that the Senate functions as a responsible constitutional body, that he was going pretty well until he got to that last remark. [Laughter.]

Mr. President, I am keenly aware of the frequent difference between a vote, the meaning of a vote on cloture versus a vote on the merits of the issue. That is so with every Senator, I suspect. It certainly was so with me before I became a part of the leadership, but it is particularly so since I have been privileged to serve first as minority leader and now as majority leader. Both the minority leader and majority leader have an historic, uninterrupted record from the beginning days of the Republic of assuming a special responsibility, and that is the responsibility of seeing that the Senate does not bog down and that it does the work of the country.

So, when one assumes that position as majority leader or minority leader or other positions in the leadership, there is a special danger that votes cast in order to move the Senate along and for the greater benefit of the Senate and of the country will be misconstrued. Procedural votes particularly lend themselves to that.

I am sympathetic to the statements made by the minority leader. I know how he feels. I recall that incident, and as I said earlier I know of the disparity that exists between his position on occasion and the procedural necessities of the leadership.

I offer this gratuitously to reinforce what he has said about that situation and to let him know that I too feel the lash and sting of criticism sometimes when I cast votes that are necessary in order to discharge my responsibility as majority leader.

Mr. NUNN. Mr. President, will the majority leader yield for a question?

Mr. BAKER. I yield.

THE CRIME PACKAGE—S. 2572

Mr. NUNN. I arrived in the Chamber after an announcement was made about the crime package, S. 2572, the so-called Thurmond-Biden crime package, which many of us have been talking about for a long time. Is my understanding correct that the majority leader has said that will be an item we will deal with before we recess?

Mr. BAKER. Yes, the Senator is correct. I also said that we have a page and a half of time agreements on it, and it will be virtually impossible to take all that time and finish it. So I hope that Senators who are favored with special orders on that measure will reconsider.

Mr. NUNN. There was an intention by the Senator from Florida and the Senator from Georgia to bring that up as an amendment to the debt ceiling

bill, since everything else was being brought up as an amendment to that bill. But, as I understand it, the majority leader said that will be brought up as a separate bill.

Mr. BAKER. As a separate, freestanding bill.

Mr. NUNN. The time agreement entered into before the August recess will still be applicable to that bill when it is the pending business?

Mr. BAKER. Yes; it was entered into in July. It is, of course, still applicable. But, as I said earlier, while I have not totaled the amount of time, it is a monumental order, and I hope it will be reduced so that we can deal with it in a much shorter time.

Mr. NUNN. Will the majority leader be opposed to having that brought up as an amendment to the debt ceiling bill?

Mr. BAKER. I guess I would prefer that it not be done, since we are going to schedule it separately. I do not object to it being done. But the Senator from Georgia should know, as I said before, that if we cannot pass this debt limit any other way, I plan, at some point, to make a motion to recommit, with instructions to report back forthwith, which would take all amendments off the bill, including the crime package, if it were adopted.

So it seems to me that the better opportunity might be to do it as a freestanding piece of legislation, instead of as an amendment to the debt limit bill.

Mr. NUNN. My frustration at this stage—and I am sure the majority leader has his frustrations—is that we have spent approximately 2 weeks on items that are very important to a large number of people. Yet, I think everyone knows, without any doubt, that none of these items has a chance of becoming law this year, no matter what we do in the Senate. The crime package legislation has the almost unanimous approval of the Senate Democratic Caucus, since back in the spring. I believe it has almost unanimous approval of the Republican Caucus, and it has been endorsed by the President of the United States. All the polls in the country show this to be one of the major issues of concern to the American people.

The Senator from South Carolina (Mr. THURMOND) has taken a real lead in this regard, and the Senator from Delaware has taken a real lead in this regard. We have a unanimous-consent request. Yet, we are going to be dealing with it so late that any opportunity for the House to pass it is considerably diminished.

That creates frustration with the legislative process in the scheduling, because we are not dealing with the crime problem when we have a reasonable opportunity to pass the bill. We are now in a debate on problems whose importance I acknowledge, but I think everyone will acknowledge that there is no possibility of their becoming law this year, no matter what the Senate does.

Mr. BAKER. Mr. President, I understand that, I say to the distinguished Senator from Georgia, and I am sympathetic to it. As he acknowledged, he understands my problems to a degree as well and for 1½ years I promised at some point during this session we were going to have a debate on the social issues, that is, on abortion and prayer, and perhaps others, and through a series of developments over a period of months in both years, 1981 and 1982, the principals involved chose this time for their debate and chose this vehicle, that is the debt limit, to carry it.

I am redeeming a pledge I made in a most solemn form to Senators in exchange for them relenting in their efforts to add abortion and prayer and other amendments to every other thing that came along, and I think it worked well. I think it materially expedited the work of the Senate.

I feel a heavy obligation to redeem the commitment I made to do that. We have done it. At this point we are coming down the homestretch. If cloture is invoked today, we will pursue it until it is finished. If it is not, at some point this week we have to pass the debt limit. Therefore, I will take measures to see that it is completed one way or the other to the extent that is possible.

I am perfectly happy to represent to the Senator from Georgia who has done an extraordinary job in keeping the Senate sensitive and aware of this issue, as I have previously made that representation to the Senator from South Carolina, that we will take up the crime package as a freestanding bill before we go out for the October break.

Mr. NUNN. I am grateful to the majority leader for his statement on that, and I also understand completely his position. But I do believe the American people in looking at the overall legislative process must ask the question at some point when we have a crime package that there is tremendous agreement on from the White House, the Democratic side, the Republican side. Why is it we cannot get it passed in time to become law? I think that is a legitimate question that the American people will pose to all of us in the Senate and in the House of Representatives.

I thank the majority leader for yielding.

Mr. THURMOND. Mr. President, will the majority leader yield?

Mr. BAKER. I am afraid I am out of time.

Mr. President, I ask unanimous consent that the time we are now utilizing as in leader time not be charged against the special orders previously entered.

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

Mr. BAKER. Now I yield to the Senator from South Carolina.

Mr. THURMOND. Mr. President, I wish to thank the able majority leader and the able minority leader both for their kind remarks about my work in the Senate.

I realize the tremendous responsibility that is upon these two leaders and especially the majority leader in scheduling things, and when he said that he wanted to adjourn by October 1, I realized it would be impossible to properly consider S. 995, and I was very pleased to cooperate with him.

I am always glad to help him whenever I can because he does have an outstanding, tremendous responsibility to run this body.

I wish to say that I do appreciate his willingness to take up this crime package before we adjourn, and it is my opinion we can finish that in a day and a half or maybe a day. Some of the amendments will be accepted and others the staff has gotten together and I think we can shorten the time, if there is any way we can get that up as quickly as possible so it can be considered by the House of Representatives. I was told by the ranking member of the Judiciary Committee, the Senator from Delaware (Mr. BIDEN) that if we got it to the House of Representatives in a reasonable time they would act on it this year. He had talked to some of the people over there, and we had taken out the really controversial issues, such as insanity, the death penalty, the exclusion rule, habeas corpus, matters of that kind. But this crime package is important.

I am just wondering if the two leaders, either one of them, have any further suggestions on anything we could do to help to get this out as quickly as possible and to the House of Representatives.

Mr. BAKER. Mr. President, my suggestion would be that we try to abbreviate the time for debate on this issue and urge Senators not to offer amendments. I think that will expedite the passage of the bill and maybe improve the prospect for its consideration in the House of Representatives.

I will talk to Congressman MICHEL, the minority leader, and I will urge him to consider it before October 1, or in any event during the lameduck session.

We still have time to pass this bill. Clearly, we have time since we are coming back after the election anyway.

So I will pledge to the President pro tempore that I will do everything in my power to urge the leadership of the House of Representatives to take this matter up either before the 1st of October or when we return after the election.

Mr. ROBERT C. BYRD. Mr. President, the distinguished Senator from South Carolina also addressed part of his question to me I believe. I wish to respond.

I do so by saying that I will do what I can in conjunction with Mr. CHILES' efforts, Mr. NUNN's efforts, and others on this side to abbreviate the agreement as much as we can, if we can, and in addition, I will call on the Speaker and others in the leadership, the majority on that side, and see if they cannot assist us in getting this legislation acted upon in the House of Representatives promptly as well as its passage in the Senate.

I will work with the majority leader in that respect.

Mr. BAKER. I thank the Senator.

Mr. THURMOND. I wish to thank the able minority leader for that position.

Mr. President, with regard to S. 995, I do wish to say that this bill involves hundreds of millions of dollars. It is a very important bill, and I appreciate the statement by the majority leader that it would be taken up and we would have time to consider it carefully because that is the bill that really should pass also. If it does not pass this year, I am going to press again next year. I hope we can get it passed this year.

I wish to thank the majority leader.

Mr. BAKER. I thank the President pro tempore.

ORDER OF PROCEDURE

Mr. NUNN. Mr. President, is there a special order in the name of the Senator from Georgia?

The PRESIDING OFFICER. The Senator is correct.

RECOGNITION OF SENATOR NUNN

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

Mr. NUNN. Mr. President, I thank the Chair.

THE CRIME CONTROL ACT OF 1982 TITLE IV—HABEAS CORPUS REFORM

Mr. NUNN. Mr. President, as I rise today to address my colleagues about the critical need for habeas corpus reform, I note that the season of fall is about to appear in its many-colored splendor. Beginning last spring and continuing throughout the summer, Senator CHILES and I have daily recounted the horrors of the present habeas corpus system. That system continues to inundate our courts with needless and time consuming petitions, making a mockery of what was once considered the "great writ of liberty" at common law.

Now in the waning days of this session of Congress, I remind you again of the need for reform in the habeas corpus petition. It is imperative that we act promptly on the crime fighting bills now on the Senate Calendar.

I am delighted the majority leader is going to call up S. 2572. I also hope this session or early next session or in the special session we are going to have after the elections, we will have a chance to deal with ending the rampant misuse of the habeus corpus petition by career criminals.

The abuses that Senator CHILES and I have discussed for the last 4 months are exemplified in the case of Joseph C. Frady, whose guilt was recently reconfirmed by the U.S. Supreme Court. On March 13, 1963, Frady and an accomplice brutally murdered Thomas Bennett in the front room of his Washington, D.C. home. As the Supreme Court noted, the evidence from his 1963 trial showed that the victim's head had been caved in by several blows from a blunt instrument. It was developed during the trial that Frady had battered the victim to death. In performing his bloody deed, Frady used both a broken piece of a table top and the metal heel plates of his leather boots.

Hearing the victim's screams for help during the struggle, which lasted for at least 10 minutes, a neighbor called the police. Covered with blood, Frady and his codefendant were captured as they left the scene of the killing. Subsequent investigation revealed that Frady had driven past the victim's house twice earlier on the day of the murder. When arrested, Frady was heard to exclaim "they've got us."

At trial, the defense was a complete denial of responsibility, suggesting through his attorney that another man had done the killing. Consistent with this theory. Frady did not raise any justification, excuse or mitigation. Moreover, Frady did not object to any of the lengthy and detailed instructions of law given by the trial judge. A jury convicted Frady and his accomplice of first-degree murder and robbery, and sentenced them to death by electrocution.

On direct appeal, the Court of Appeals for the District of Columbia Circuit upheld Frady's first-degree murder conviction by a vote of 8 to 1. They did, however, set aside his death sentence. Frady was then resentenced to a life term. Almost immediately, Frady began a long series of collateral attacks on his sentence. He filed four motions to vacate or reduce his sentence in 1965, and one each in 1974, 1975, 1976, and 1978.

Finally in 1979, 16 years after his bloody deed, Frady filed another habeas action complaining he was convicted by a jury erroneously instructed on the meaning of "malice." At his trial, however, Frady did not object to the instructions, nor did he raise the issue on direct appeal or in any of his prior eight petitions. The district court properly denied his attempt to pervert justice. Yet, the court of appeals reversed and overturned the 1963 conviction even though, as Justice O'Conner of the Supreme Court noted, the evidence that Frady and his accomplice beat his victim to death was "overwhelming."

Fortunately, the Supreme Court on April 5, 1982, reversed the erroneous court of appeals decision and reconfirmed Frady's guilt. I ask you, Mr. President, has justice been done? Can we say that justice is served when calculating criminals can tie up the court system with needless and repetitive attempts to subvert their guilty verdicts by the endless filing of habeas corpus petitions?

Indeed, the evidence in this case was overwhelming. As Justice O'Conner noted in her majority opinion:

> • • • the evidence of malice was strong enough that the 10 judges closest to the case—the trial judge and the nine judges who 17 years ago decided Frady's appeal en banc—were at the time unanimous in finding the record at least sufficient to sustain a conviction for second-degree murder—a killing with malice.

Nevertheless, Mr. President, Frady filed nine motions to overturn his 1963 verdict. These nine separate attempts had to be reviewed by an overworked judiciary. These nine separate attempts had to be reviewed and answered by the limited resources of the Government prosecutors.

Mr. President, all of this had happened because of the problems existing in the present habeas corpus law. All of this will happen again until we reform the current status of habeas corpus. I am certain we will hear from Mr. Frady and the people of his ilk again. To paraphrase the old adage, if they do not succeed the first or even the ninth time with their habeas, they will just file, file, file again.

Mr. President, the time has come for this Congress to decide that criminal cases cannot and should not be allowed to go on forever. I again call for the prompt consideration and adoption of the habeas corpus provisions which Senator CHILES and I have offered in S. 2543, the Crime Control Act of 1982.

Mr. President, I yield to the Senator from South Carolina.

Mr. HOLLINGS. Mr. President, I thank my distinguished colleague from Georgia, and I shall be very brief.

REBUILDING THE ROAD TO OPPORTUNITY

Mr. HOLLINGS. Mr. President, everyone knows that our country faces serious economic problems. But what we need to understand is just how fun-

damental these problems are. Even if we somehow managed to achieve a balanced budget and bring interest rates down to more viable levels, the country's future would still be far from guaranteed. Right to the point, we are not competing at the level necessary to sustain; nor are we producing enough real wealth to see America through. A nation built to greatness on smokestack industries like steel and automobiles today sees most of its workers producing services rather than basic goods. A nation built to greatness on sound and shrewd trading practices today see its competitive edge gone. And, saddest of all, a nation built to greatness on the combined work of labor, business, and Government sits stymied because of lack of leadership and coordination.

Some of us have been discussing these problems at length and making specific suggestions for meeting the many challenges confronting America. Over the weekend, a signal contribution was made to the national discussion of these issues by the special task force on long-term economic policy. Thanks to the leadership of Hon. GILLIS W. LONG, chairman of the House Democratic Caucus, and Hon. TIMOTHY E. WIRTH, chairman of the Long-Term Economic Task Force, and Hon. RICHARD GEPHARDT we now have the benefit of a most perceptive analysis of America's problems and some specific suggestions for meeting them and overcoming.

"Rebuilding the Road to Opportunity" focuses the Nation's attention on some of the most basic of these problems. And it posits solutions of the kind meriting the attention of us all. While the colleagues may have some different emphases to make, and perhaps might even include some areas not included in the study, I think we should express our thanks to the authors of this work for helping us focus on the real problems facing us. Here we have spent weeks addressing some of the so-called social issues, and while I would be the last to deny their importance, I think nevertheless that we do the country a disservice in not turning our attention to these fundamental problems which have just about stopped the economy dead in its tracks and threaten our very survival. Unless we get this country of ours building real wealth again—unless we become competitive in the international arena—and unless we get Government leading the effort for coordination and cooperation, instead of indulging in cheap rhetoric about getting rid of Government—then we are not going to be able to rescue our people from some of the most serious challenges which have ever confronted us.

So we are grateful to everyone who had a hand in preparing this fine study. And, in order to open up the widest possible audience for it, I ask unanimous consent that the text of the report be printed in the RECORD at the conclusion of my remarks.

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

[See exhibit 1.]

Mr. HOLLINGS. In closing, let me just add a quotation from the great Adlai Stevenson of Illinois. Asked once whether he was conservative or liberal, Governor Stevenson replied that was not the issue. The question, he said, is "Am I headed in the right direction?"

Mr. President, this report helps head us in the right direction, and that is not only a welcome—but a necessary—change.

Every Member may not agree with every facet. I regret, for example, that the report did not fully address how to get us onto a glide path toward Government in the black or how to satisfy our deficit problem. With that in mind I would hesitate to adopt some of the recommendations relative to, let us say, a gasoline tax, until the revenue hemorrhages can be arrested. But on balance the report, I think, is outstanding. It heads us in the right direction.

EXHIBIT 1

REBUILDING THE ROAD TO OPPORTUNITY: TURNING POINT FOR AMERICA'S ECONOMY

DEMOCRATIC CAUCUS,
U.S. HOUSE OF REPRESENTATIVES,
September 20, 1982.

Hon. THOMAS P. O'NEILL, Jr.,
Speaker of the House,
Washington, D.C.

DEAR MR. SPEAKER: We are pleased to forward to you the report of our Special Task Force on Long-Term Economics as approved by the Democratic Caucus Committee on Party Effectiveness.

Incorporated in the paper entitled, "Rebuilding the Road to Opportunity: Turning Point for America's Economy," are long-term Democratic alternatives for the nation's economic policy. The policies of the present Administration have caused hardship, self-doubt and fear among our citizens, and have precipitated a serious national economic crisis which must be stemmed.

We feel the recommendations set forth in our paper offer constructive, imaginative and workable alternatives and will serve as a foundation for legislative initiatives which will lead to sustained economic growth and opportunity for all Americans.

When the Task Force was chartered, it was specifically instructed to look beyond the problems of today. We, therefore, concentrated on charting a path which would lead this nation, over time, out of its economic slump and into a period of steady, non-inflationary growth—not with slogans and oversimplified quick fix remedies, but with a long-term vision which will insure that this nation's economy will never again falter so badly.

In developing the paper, the two of us and Representative Richard Gephardt of Missouri met with leaders of business, industry and labor. We consulted with economic experts and solicited recommendations from governors, legislators and mayors from across the nation. The breadth of the mission, the complexity of the issues, and the diversity of comments from those to whom we turned for advice necessitated more than a dozen drafts before the Party Effectiveness Committee began reviewing the paper. During the entire process, responses were positive and enthusiastic, indicating a shared concern to answer the question we are so often asked: what do the Democrats propose?

The Committee on Party Effectiveness, made up of more than 30 House Members representing a cross section of the institution, met many times over a period of months in fashioning the final product, and we thank them for their patience, dedication and contributions.

Implementing the recommendations will take time. But we believe that a comprehensive effort must be undertaken. We cannot afford to simply look at one segment of our economy; rather, we must recognize the interdependence and diversity of our geography, regional economies, history and increasingly international economy and begin to assemble an alternative program.

In a party as broadly based as ours, arriving at policy agreements is, of course, extremely difficult. However, after lengthy discussions, agreements were reached, and the document is much more than a conventional "platform." It is a recognition of the changing nature of our economy and the need to forge a strong partnership among all sectors of the economy. It is an acknowledgement that the economic success of our nation in the future depends on the investments we make today. And it is a commitment to promote those investments for the national good.

If we, as a country, can agree on future goals, then the public policy decisions we face today can be made in a more rational manner. The difficult decisions on defense spending, entitlements and revenues should be made within a broader, long-term context, and not be dictated by the political atmospheres of day-to-day crisis.

Fundamentally, investments in our future are wise, necessary and cannot be neglected if we are to fully regain our economic strength. Some are expensive, and all must be considered within the constraints of the federal budget. We feel they are the key to sustained, long-term economic recovery and deserve the highest priority.

We look forward to comment, discussion and input from citizens across the country.

Sincerely yours,

GILLIS W. LONG,
Chairman, House Democratic Caucus.
TIMOTHY E. WIRTH,
Chairman, Long-Term Economic Task Force.

1. REBUILDING THE ROAD TO OPPORTUNITY

Turning point for America's future

Ask Americans about their hopes for the future, and they will tell you largely what their parents said a generation ago.

A solid education, a fair chance to make good, a secure job, a decent home, a growing ability to provide comfort for one's family, an untroubled retirement: these hopes, born with post-World War II prosperity, have moved Americans to work and dream boldly.

Today, for too many Americans, these hopes are fading beyond reach:

For the nearly 11 million Americans who cannot find jobs.

For the countless families who cannot afford to buy homes or cars because interest rates are too high.

For the thousands of small businessmen and small farmers who face an imminent threat of bankruptcy.

For the untold numbers of students who can no longer afford the colleges of their choice.

For the working people who are told by their government they are better off going on welfare.

Reaganomic must—and will—be repealed. No nation can survive an economic policy that had produced such damaging results.

The long term

But after that damage is undone the job of renewing Americans' hopes for their future must begin.

This paper is a Democratic analysis of the underlying problems of our economy—and a plan to address them.

The Democratic Party believes that the American dream of work, fairness, betterment, and security can be renewed and expanded. We believe all Americans can continue to expect new economic opportunities and a rising standard of living. With planned recessions removed from the list of policy options, with a program that invests in the future, we can give our children—as our parents gave us—a life richer and more just than our own.

II. GROWTH AND FAIRNESS

Cornerstones of the Democratic vision

Renewing the American dream will require a steadily expanding economy that provides all Americans with the chance to improve their economic lot.

Those two elements—growth and fairness—are the cornerstones of the Democratic party's vision of an economically secure American future.

Achievement of growth and fairness lies at the very heart of our party. Our party has sparked economic progress that has brought unprecedented prosperity and opportunity to the American people. We have seized the future, kept alive the pioneer spirit—the willingness to invest and to take risks—in America.

In order to restore that economic progress, to put us back on the course toward even greater prosperity and opportunity in the 1980s, our party must once again promote bold approaches to gain control of our economic future. The Republicans have proven once again they are not up to the task. Once more they have chosen to pursue the discredited policies of "trickle down" economics. So, it is up to our party to rekindle the entrepreneurial spirit in American, to encourage the investment and the risk taking—in private industry and in the public sector—that is essential if we are to maintain leadership in the world economy.

The policies we will outline in this paper are vital to that task. They will spur sustained growth needed to create new jobs and raise our living standard. And they will be fair, providing all Americans with the opportunity to share in the prosperity they bring.

III. A GENERATION OF FUNDAMENTAL CHANGE

In three key ways, economic conditions today are different than just a generation ago; no strategy for future growth can succeed unless it takes into account these fundamental shifts.

Change No. 1: The internationalization of our economy

A generation ago, our country faced little economic competition. We were largely self-sufficient—the undisputed economic leader of the world. American money was spent on American goods manufactured from American resources using American energy. And strong American markets absorbed these American goods.

But that has changed during the last decade. Today we must operate in an international economy in which we are no longer the single dominant power. All around the globe are new, technologically advanced, aggressive centers of economic power and resources.

In the last decade, West Germany led the world in exports of manufactured goods; Japan's share of exports of manufactured goods to the less developed countries increased in the 1970s while the U.S. share decreased.

And today, we send $80 billion a year to foreign governments for oil; our economic strength is dependent on a vulnerable oil lifeline which begins virtually on the borders of the Soviet Union and threads its way through the most volatile region on the globe.

America today is still the strongest, most productive economic power in the world. But our preeminent position is no longer assured. And with further internationalization of the economy, we will continually confront new challenges to our economic leadership.

Change No. 2: The shifting nature of our economy

A century ago the industrial revolution transformed America from an agricultural to a manufacturing economy. Today, a technological revolution is again changing the nature of the American economy.

From hand-held calculators to telephone answering machines, from electronic bank tellers to man-made bacteria that can eat oil spills, from econometric modeling to national real estate data banks, from satellite-transmitted newspapers to laser-read videodiscs, our lives are being transformed by new technologies.

A generation ago, a relatively short list of traditional industries—steel, autos, textiles, machinery, mining, construction, and agriculture—alone accounted for more than half our nation's exports, a quarter of its output and a quarter of its jobs.

In the last generation, however, nine out of every ten jobs created have been in the service and information sectors. More than two-thirds of the rise in real GNP over that period was contributed by these new economic forces.

The worldwide demand for knowledge, and the advanced high technology which conveys it, has created burgeoning new markets in industries such as computers, communications, electronic components, aerospace, pharmaceuticals, materials science, energy, bioengineering, photosynthesis, fiber optics, international finance, and data management.

The success of these new industries—and the services to support them (production facilities, advertising agencies, consulting firms, accountants, construction workers, lab technicians, and clerical help)—has already created impressive new growth and job opportunities across the nation from the San Francisco Bay area through Denver and Dallas and the Research Triangle to Boston's Route 128. In the computer field alone, the number of jobs is expected to double in the next decade; similar opportunities will abound throughout the information sector.

Change No. 3: The rapidity of change

As significant as the change itself is the rapidity with which it is occurring in today's world economy.

Less than two decades ago we enjoyed the most advanced machinery and the greatest manufacturing potential of any nation on earth. Today, by world standards, our industrial facilities are, in large part, obsolete, and cannot compete with the state-of-the-art factories of our competitors.

Today state-of-the-art manufacturing processes are constantly changing and may become technologically obsolete before they become physically obsolete. New technologies are replaced regularly by newer technologies.

Even a generation ago, change, though considerable, came at a manageable pace. Today, change in our world economy comes at such a rapid-fire pace that it is no easy task to keep abreast of it.

IV. THE CHALLENGES WE FACE

If we adapt to rapidly changing economic circumstances, if we meet the challenges they pose, we can achieve the real economic growth necessary to secure America's economic future, to employ our people, and to improve our standard of living. There are four complex challenges that we must confront in the 1980s.

Challenge No. 1: Increasing investment in our economy

Increased investment in our economy is essential for sustained economic growth in the decades ahead.

We need increased investment both to retool our basic industries and to expand growing industries in the high technology and information sectors.

We must increase investment throughout our economy: create an economic environment for investment in plant and equipment; developing new technologies, educating and training our workforce, and rebuilding the public infrastructure.

Economic environment for investment

During the 1970s, the share of GNP we invested in plant and equipment put us last among all major industrial nations, and our productivity growth in manufacturing was less than half that of Japan or West Germany.

In the 1980s, we must reverse that trend. We must re-ignite the spirit of American enterprise—the willingness to take risks to invest for future payoffs.

To create a favorable climate for investment we need, in the 1980s, to control federal spending, to revise our tax laws and amend the regulations governing financial institutions.

Investing in the development of new technologies

In the 1980s, the ability of our economy to grow, create jobs, and compete will depend, in large part, on our continuing to discover and develop new technologies. Investing in new technologies is essential both to make our basic industries competitive and to expand opportunities in growth industries.

Discovering and fostering new technologies will require a considerable national investment, in basic and applied research and in developing brainpower—the scientists, engineers, and technicians—needed to generate technological innovation.

Investing in our people

Economic growth requires investment not just in bricks and machinery, but in our workforce as well. The failure to invest in people, our human capital, would be an obstacle to economic growth as formidable as a failure to invest in new plant and equipment or a failure to seek out and develop new technologies.

In the 1980s, assuring the workforce necessary for an expanding economy will require developing, in our colleges, the brainpower which is a pre-condition for innovation; providing new workers with a quality education and the technical skills for a sophisticated economy; providing the hard to employ with the basic skills and work habits to enter the job market; and enriching the quality of the workplace.

Investing in public infrastructure

A growing economy needs the highways and bridges and railroads and waterways and tunnels to move raw materials and goods, the ports to receive and ship them, the subways and water and sewer lines to serve our citizens.

Today, America's infrastructure is ailing. More than two out of five bridges need replacing. More than half the nation's roads are in disrepair. The need for water and sewer treatment facilities has exceeded localities' ability to finance them.

The United States has the potential to become the world's unchallenged leader in coal exports. In achieving this potential, we could create hundreds of thousands of jobs and get billions of American dollars back from overseas. Today, however, the rolling stock and railbeds to move coal are in shambles, and we lack even a single major port which can handle a 100,000-ton ship.

Rebuilding our infrastructure is essential to sustained economic growth.

Challenge No. 2: Managing the transition

In the past decade, the American economy has changed dramatically. In the next decade, it will change even more rapidly.

The application of new technologies will provide a means for our basic manufacturing industries to become competitive again in world markets. At the same time, restructured basic industries will provide markets for the new technologies, such as "smart" robots. As a result, the technological revolution will bring about substantial restructuring within basic manufacturing industries as well as enormous opportunities for expansion into new industries.

This transition in our economy will cause far-reaching changes in the workforce. Inevitably, there will be fewer workers in manufacturing industries, such as autos and steel, even as they are restructured. Simultaneously, there will be increasing demands for workers in expanding industries, with a particular need for specialists in fields such as engineering and computer technology.

The challenge, then, is to manage that workforce transition in such a fashion that workers who have gained experience in older industries can be placed in new, challenging jobs in prospering, competitive industries with a minimum of dislocation and disruption to family and community life.

Meeting that challenge will require a heavy emphasis on education, training and retraining for new jobs in restructured manufacturing industries or in new, high technology sectors. Meeting that challenge will also require incentives for new industries to locate where old factories are closing, such as along Rte. 128 in Massachusetts and in other areas around the country.

America has undergone such transitions before. They have led to a better life for our people and to more Americans being able to share our country's enormous wealth. Less than a century ago most Americans still worked on farms. Today, American agriculture is a highly productive, high technology industry, but fewer than one in 20 working Americans is a farmer. The farmers of the 19th century became the factory and office workers, the providers of services, the professionals, and the business people of the 1980s.

By investing in our people, we can assure that the assembly line workers of the 20th century will move on to better and more challenging jobs in a different, more prosperous economy—just as farm workers did a century before. Meeting that challenge will mean that more and more of our people can share in the Democratic vision of an economically secure America.

Challenge No. 3: Decreasing our dependence on foreign energy

No single factor had more impact on the American economy during the past decade than our dependence on imported energy.

OPEC's petrodollars and domination of world energy supplies have contributed as much to the rising cost of living and layoffs as have deficits and interest rates.

Since the first OPEC shock in 1973, the high cost of energy has drained billions of dollars away from desperately needed economic modernization.

With our economic security and national security at stake, we simply cannot allow that situation to continue. While the world oil glut and economic recession in many parts of the world have temporarily reduced OPEC's power and brought down energy prices, we cannot allow such a temporary respite to lessen our national resolve to decrease and ultimately to eliminate our dependence on imported energy.

Challenge No. 4: Developing a game plan to meet the foreign competition

For the rest of this century, we will confront rapidly changing economic circumstances and new economic challenges.

To meet current challenges in the most efficient way and to cope with new economic challenges, we need a national economic strategy that sets out our national economic goals clearly and allows us to adjust to changed economic circumstances. That is particularly important in an international economy.

Already, we have witnessed the devastating impact of international competitive challenges to our production industries such as steel, automobiles, shipbuilding, and consumer electronics. We can expect similar efforts in the high technology sectors from such nations as Japan and France.

These competitive challenges are not haphazard occurrences. They are calculated, planned, national efforts by our competitors to identify and capture specific markets from American industries. In virtually every case, our competitors have undertaken a national effort to formulate an economic strategy and marshal public and private resources to carry out its goals.

If we are to remain competitive in the international economy, we must respond in kind. We must develop, within the framework of our free enterprise system, an economic strategy of our own to identify opportunities for growth and to formulate the means of realizing those opportunities. We will need to monitor the vitality and changing nature of our domestic economy and the economic strategies of our major competitors.

In short, we have passed the point where we can compete internationally without proper economic intelligence or a general consensus as to where our economic opportunities lies and what will be necessary to take advantage of those opportunities.

V. THE MEASURE OF REPUBLICAN POLICY

To judge the Republican policy, we must assess how it has met the tests of growth and fairness.

The facts speak for themselves.

Recession, not growth

The Republican program promised growth but it has brought recession, with more people out of work than at any time since the Great Depression. Since it was enacted, more than two and one-half million workers have lost their jobs, bringing the number of unemployed to nearly 11 million.

The growth of this nation's GNP has been sluggish or in decline for most of the past year and gives little indication of the economic turnaround which the Administration predicted. Indeed, many industries—agriculture, steel, autos, housing—are in the midst of a depression. More than 17,000 businesses failed last year—a rate nearly as high as during the Great Depression.

A bonanza for the rich

The Republican program promised fairness, but it has brought a bonanza for the rich, and increased the burden on middle income Americans.

As a consequence of the Reagan tax policy, the wealthiest American households gained the lion's share of the benefits. High interest rates have excluded all but the well-established from home ownership. The programs designed to help workers who have been laid-off in the recession have been cut back or eliminated.

The reason the Republican policy has failed is that it neither comprehends nor addresses the most important economic problems our country faces.

Investment declines

The Republican program contains no formula for increased broad-based investment that will produce economic growth. Indeed, the Reagan program has resulted in a decline in investment in new plant and equipment. It advocates substantial decreases in the public investment necessary to develop new technologies, to educate and train a productive workforce, and to rebuild our industrial infrastructure.

It contains no strategy for managing a smooth transition of workers from old industries to new and no program for reducing our dependence on foreign energy; indeed, only a deep recession has cut energy demand.

And while our competitors have carefully crafted strategies for increasing their share of world markets, the Republicans have offered no strategy for reestablishing our competitive advantage against foreign competition, nor have they acted to stop unfair trade practices of our competitors.

VI. THE DEMOCRATIC WAY

Meeting the challenges of the 1980's

Despite the rapid erosion of our economic structure brought about by Reaganomics, we Democrats, believe that through a concerted and positive national effort, we can lead America to our goal of economic security with sustained economic growth. All Americans can again believe that they can share in renewed prosperity, can find a job and the opportunity for advancement, and can expect stable prices and lower interest rates.

In short, by meeting the challenges we have laid out, the American dream can be reborn in this decade. But before we can reach our goals, certain preconditions are necessary.

Precondition No. 1:

A PARTNERSHIP FOR GROWTH

Achieving economic growth will require a partnership among labor, small business, big corporations, universities, and government. Just as they have learned fom us, we should learn from other Western democracies which have proved that there are economic gains for everyone when everyone pulls together.

This need for partnership will require a lessening of the adversarial relationship between business and labor. Cooperation has always benefitted our country, from the building of the railroads to the success of the space program and is always more productive than confrontation.

Later in this paper we recommend the establishment of an Economic Cooperation Council to assist in bringing together the disparate institutions necessary to compete in a rapidly changing international economy.

On a more specific scale, recent cooperative experiments in workplace co-management and co-ownership have demonstrated that productivity improves when workers are given an opportunity to participate more directly in decisions affecting their work. In many of these cases, the earnings, job satisfaction and job security of workers have increased, as have the profit and competitive position of their firms. Accordingly, government should strive to encourage greater employee participation in management and ownership, particularly where management and labor are receptive to this goal.

Precondition No. 2:

AN IMPORTANT ROLE FOR GOVERNMENT

Government must play one of the leadership roles in this partnership.

Free-market capitalism is the basis of our economy, and remains the first and best hope for long-term growth and jobs.

But just as it has done throughout our history—in building the canals, in creating the land grant colleges, and in encouraging research in agriculture and in space—government must be a vital partner.

These two pre-conditions—a partnership for growth and a creative role for government—must be the starting point for meeting the economic challenges of today.

1. A BROAD-BASED INVESTMENT PROGRAM

A broad-based investment program is essential to meeting the first major economic challenge of the 1980s.

Investment is the key to future economic growth and to expanding economic opportunity throughout our society. For business, investment leads to greater competitiveness, more expansion, and higher profits. For workers, it leads to more, better and safer jobs.

Investment is also essential to help those who cannot work, particularly the disabled, the sick, and the elderly. As Democrats, we understand that a society cannot remain healthy and self-respecting while ignoring those who, through no fault of their own, need help. But we also understand that our ability to provide the resources necessary to help the helpless depends, in the long run, on a steadily growing economy. Without investment—both private and public—we cannot count on steady growth in our economic future.

The goals of our investment program are twofold—to retool our basic manufacturing industries and expand our high technology, growth industries in order to meet rapidly developing foreign competition. To achieve those goals, we call for:

Creating an economic environment conducive to investment.

A national research and development effort directed at discovering, developing and promoting new technologies.

A national effort to educate and train a productive workforce for a complex and rapidly changing economy.

A national commitment to rebuild the public infrastructure needed to move people, goods and services in a prospering economy.

Revitalizing basic industries

Nowhere is such a broad-based investment program more essential than in our national mission to restructure and revitalize our basic manufacturing industries.

During the decade of the 1970s, the American steel and auto industries came under severe pressure. Spirited foreign competition, lagging investment, inability to adust to changing markets caused by increasing oil prices, increased regulation, rising production costs, and slowed productivity growth all added to the economic problems of these major American industries. The problems of these industries have rippled throughout the entire economy.

We cannot turn our back on our basic industries. They are essential to our national security. They provide great econimic opportunity for millions of Americans and form the economic backbone of thousands of communities. They are important markets for a wide range of munufactured items and have been the proving grounds for a number of high technology products.

We must make our basic industries competitive again. That will require broad-based investment.

Expanding growth industries

A broad-based national investment program is equally important to expanding our high technology industries, growth industries critical to our economic security in the future.

Expanding manufacturing industries provided new jobs for Americn workers earlier in this century; expanding high technology industries willl provide new jobs for American workers in the years ahead.

The United States excels in high technology areas. But our competitors all over the globe have not allowed that leadership to go unchallenged. To assure that these new industries do not fall victim to the same forces that under-cut our basic industries in the past decade will require the broad-based investment program that we propose.

An environment for investment

Government must create an economic environment where constructive private investment is encouraged.

Controlling inflation is essential to creating an economic environment to encourage investment. Inflation has been our most persistent economic problem of the past 15 years. It has crippled economic expansion, undercut investment plans, and robbed consumers of purchasing power. There are no simple, overnight cures for inflation in an economy as complex as ours. The best long-term answer to inflation is a productive, steadily growing economy—exactly what the policies outlined in this paper are intended to bring about.

Even a highly productive economy cannot absorb unanticipated shocks such as oil or food shortages without some short-term increases in inflation. But the more productive our economy is, the smaller is the likelihood that outside shocks will result in permanent increases in prices.

Providing an economic atmosphere to encourage investment will require a successful balance of fiscal and monetary policy. The Republican program which combines loose fiscal policy and high deficits with tight monetary policy has caused high interest rates and discouraged investment in our economy. In short, the Republican policy is consuming the seed corn of our economic future.

We reject any economic program that projects annual federal budget deficits of $100 billion or more well into the foreseeable future. Such deficits will keep interest rates high, choke off investment and, over time, prove inflationary.

We believe that with the proper fiscal policy, the Federal Reserve Board can pursue a monetary policy that conserves those seeds, that spurs investment necessary to reduce inflation and bring about steady economic growth in the future.

Fiscal policy should be developed in accordance with the following principles:

Decisions must be made on our spending priorities. While it may have once appeared that the federal government could have been all things to all people, that time has passed. We must be willing to say no to particular interests in order to bring overall spending under control.

Achieving a balanced budget is very important to our economic future. We do not believe that the federal government should continue to spend an ever-increasing percentage of the nation's wealth. We need to limit spending and to set tax rates in order to generate a balanced budget during periods of sustained economic growth. To achieve the goal of a balanced budget, while limiting taxes, we must strengthen our Congressional budget process and we must constantly review existing government spending and tax programs, with an eye toward "sunsetting" those which are wasteful or have outlived their usefulness.

In making budget choices, we must give a high priority to programs which makes an investment in our economic future, such as research and development, education and training, and rebuilding our industrial infrastructure. In order to understand better how much of the federal budget is devoted to investment in the future, we should divide total federal spending into investment and operating expenditures. Our purpose in recommending such an investment budget is not to relieve pressure to reduce overall spending, but rather to allow Congress to determine how much spending it wants to devote to long-term investments which spur economic growth.

The seed for all capital formation—the determinant of industry's ability to build new plants and to buy equipment—is savings. The more people save, the more money becomes available for businesses to start or expand, or buy computers, or replace obsolete machinery.

We need to revamp our tax laws to encourage that saving and to do it in a way that apportions fairly the tax burden among our people. To that end, we propose the following actions:

An overhaul of our income tax laws to make them fairer and simpler, and to encourage savings rather than consumption. One approach, for example, could include lowering the rates for all taxpayers and eliminating many of the current special tax preferences—the write-offs, exemptions and deductions that favor the rich and encour-

age the use of unproductive tax shelters. Another approach is the so-called progressive consumption tax that would reward those who save. One approach that is not acceptable is to tax all taxpayers, no matter what their income, at the same rate. Such a tax would place too heavy a tax burden on middle and lower income taxpayers and too light a tax burden on the wealthy. Our taxable base must be broadened and the burden on middle income taxpayers must be lessened and spread fairly and progessively among all taxpayers.

We must revise our business tax laws to assure that profitable corporations cannot escape paying their fair share of taxes, to encourage productive investment, and to renew the entrepreneurial spirit in our economy. Recent revisions have taken a step toward simplifying business taxes and moved to offset the impact of inflation on business investment. More can and should be done. We should consider changing the business depreciation provisions in the current tax laws to allow businesses to recoup the cost of their investments in the year they are made. It is particularly important that revised tax laws take into account the special needs of small entrepreneurs who have produced so much innovation in our economy.

It is not enough simply to focus on raising captial, we must also examine how it is dispensed. Our financial institutions—the dispensers and investors of capital—operate under laws and regulations written in the shadow of the Great Depression. Changes in financial markets have outpaced the regulatory structure governing them.

We recommend that Congress create a Commission on Capital Formation, whose members will represent all appropriate interests and which will report to the appropriate committees of the Congress. Its agenda: to ask where the internationalization of capital markets, the development of new financial instruments, the creation of "nearly" financial institutions, and the new computer and communications technologies are taking us. Its task: to determine where we want to go, and to chart our course for getting there.

Investment in new technologies

New and applied technologies do not just happen. They are the product of basic research and development activities by business, enterprising people at our great universities, and in government. And they are the products of fertile minds, nurtured in our colleges and universities.

Unfortunately, the recent record of research and development leaves much to be desired. Between 1967 and 1978 the share of GNP we invested in research and development fell by 20 percent.

To reverse that trend and spawn the research and development necessary to keep our competitive edge in new technologies, we propose to:

Establish the national goal of a three percent annual commitment of GNP to research and development, with special emphasis on the federal government's need to invest in long-term basic research;

Restore the mission-directed R & D effort that was so successful in our space research and consider giving NASA a new high technology mission—such as renewable energy technology or bioengineering—which holds the promise of broad economic return;

Provide incentives to entrepreneurs who engage in high yield but risky research and development projects;

Help our great universities and federally-supported research and development centers improve and modernize their laboratories and instrumentation; and

Restore to the President's Science Advisor the stature and influence on White House policies he enjoyed before the Reagan Administration.

In addition, the government must help disseminate the benefits of new technologies just as it has helped spread the benefits of agricultural research in the course of the last century. For one example, a robot leasing program might be undertaken. With such a program, American industries could benefit from the newest and most productive technologies without having to incur the cost of purchase and run the risk of their becoming obsolete.

Investment in our people

In the future, a well-educated, well-trained workforce will be essential to sustained economic growth. The clearest feature of the emerging world economy is that the future will be won with brainpower.

The research we must undertake to produce new technologies requires talent—yet we are not graduating sufficient numbers of scientists, engineers, and technicians.

To reverse that trend and generate the brainpower needed to keep our economy competitive, we must:

Reaffirm our national commitment that no qualified student be barred from attending college for lack of ability to pay. We must develop the proper mix of loans, grants, and work-study programs to meet that national goal. As in the case of the GI Bill a generation ago, we must find a way to reward those who serve our country—in or out of the military—with the opportunity for advanced education;

Increase the supply of junior faculty in computer science and electrical, mechanical, and chemical engineering through a new public-private effort to make faculty salaries in these and other shortage areas competitive; and

Extend into higher education the new emphasis on broad computer literacy and language/area studies.

To improve the quality of elementary and secondary education and to endow workers entering the workforce with skills necessary to contribute productively in a rapidly changing economy, we must:

Provide every school with access to a computer within five years and make every student "technically literate" in computer-era basic skills by the end of this decade. To achieve this, we should resurrect the education division of the National Science Foundation, which so successfully developed science and math curricula in the post-Sputnik period and which has been crippled by Reagan budget cuts;

Make quality and excellence the only acceptable standards in our schools and target federal programs which support elementary and secondary education at mastery of language, mathematics, and science;

Establish incentive programs to attract to our school systems talented teachers in areas of special need such as science, mathematics, foreign languages and area studies and increase public appreciation for the profession of teaching through national awards and incentives for talented teachers, perhaps drawing on the successes of the current Teacher Center and Teacher of the Year efforts; and

Increase our investment in programs which help local schools to identify and encourage gifted and talented students from all economic backgrounds.

Investing in public infrastructure

Adequate public facilities are a necessary pre-condition for private sector investment and economic growth.

And the sad truth is that the economies of as many as three-fourths of our communities may not be able to grow simply because of the condition of their infrastructure.

There is overwhelming evidence that the nation's public capital facilities are wearing out considerably faster than they are being replaced; that our roads, bridges, ports, water and sewer systems in urban, suburban and rural areas show alarming deterioration.

The past decade and a half has been a period of massive underinvestment in public facilities. Since 1965, the percentage of the U.S. gross national product devoted to investment in public works has dropped from 3.6 percent to 1.7 percent, a 54 percent decline. The results are most visible in the older cities of the Northeast and Midwest, and the old Southern river towns such as New Orleans, but there is ample evidence of neglect throughout the nation.

The nation's 40,500-mile Interstate Highway System, with a quarter of it worn out, is deteriorating at a rate requiring reconstruction of 2,000 miles per year and the system has yet to reach completion.

Secondary roads off the interstates are often in much worse shape. In eastern Kentucky, where pockmarked roads are steadily pounded by overloaded coal trucks, drivers complain that their tires blow out before they wear out. Truckers traveling from Baton Rouge to Shreveport, Louisiana, drive 130 miles out of their way rather than take chances on the main road between these cities.

More than 100,000 bridges are officially listed as dangerous, and in need of replacement. Forty-five percent of the nation's bridges—248,500—are either obsolete or structurally deficient. In Ohio, 605 bridges have been blocked off, but 4,000 others are still in use despite severe deterioration. More than half of Louisiana's 14,800 bridges do not meet Federal and State standards.

Our ports need maintenance and deepening; our dams need replacement and repair; and our rivers are silting up and need constant attention. A limited number of ports should be dredged to 55 feet to accommodate the world's new-found interest in American coal.

Water systems in older cities throughout the Northeast and Midwest experience significantly higher levels of leakage then cities in other regions. Ten of 28 cities recently surveyed in this part of the nation were found to lose more than 10 percent of their treated water because of deteriorated pipes. And two cities with the biggest problems—Boston and New York—were not included in the survey.

Sewer systems are in equally serious states of disrepair.

Major cities have had to drastically curtail maintenance efforts on their full range of public capital, due to constrained budgets and competition for scarce funds.

The task of rebuilding America's public infrastructure is probably the most expensive challenge that the United States faces in the decade of the 1980s.

The glaring truth is that the need will greatly strain the nation's ability to pay. Yet we must begin, now, to accept the chal-

lenge, or face even greater bills in the future.

The nation clearly needs, and sorely lacks, an Infrastructure Investment Program to:

Inventory needs in every region and at all levels of government—Federal, State and local—now and in the future;

Set priorities to channel scarce resources into growth investments, and to assure that goals match resource realities;

Determine which level of government, or combination of governments or private initiatives are best suited to address the problems.

The current dominance of the Federal government in this area cannot be corrected by an abrupt abdication of responsibility. The Democratic Party is committed to fulfilling its obligations to the nation's citizens and State and local governments. However, states, local governments, and the private sector as well, must be partners in the rebuilding of America.

Restoring our nation's public capital and sustained economic growth must go hand in hand. Without adequate public infrastructure, we cannot have sustained economic growth. And the very economic growth that infrastructure investment will allow will, in itself, generate new resources to pay part of the cost of the rebuilding effort and provide needed jobs for America's workers.

Our infrastructure needs are great. Any number of infrastructure problems must be addressed. For example: our lack of capacity to export coal today costs us billions in potential exports; the market demand exceeds our supply. Instead of closing down major sections of our rail network, we should be upgrading and improving the lines serving domestic markets or terminating at export facilities. We should also be expediting coal port development—speeding up projects for dredging, entering into government-industry partnership where necessary to get the job done.

Additionally, as events of the past few summers have demonstrated, we are hovering at the brink of a water supply crisis in all regions of the country. Some of our major groundwater aquifers are depleting rapidly, and others are threatened with contamination. According to a recent study, almost two-thirds of our rural citizens drink water that could be unsafe. Potable water is our most precious and threatened natural resource. We must act now to begin implementing the long-range solutions to this problem.

Water development—in the broadest sense of the term—must be a national priority. We understand that cost-effective water development projects—for local flood protection, water supply, navigation or hydroelectric power—have national impacts, and are not just regional or local in scope. And we are ready to meet the water challenge of the 1980s and 1990s—the development of additional supplies of fresh, potable water—at the Federal, State and local levels.

Clearly, no single entity or level of government can finance such enormous undertakings as these and our other infrastructure needs. But the total cost must not deter us from undertaking the restoration of the nation's multibillion dollar public investment. The question of how best to finance these programs will have to be resolved in the future. For the moment, we propose this first step: an Infrastructure Investment Program to meet a necessary precondition for sustained economic growth.

2. STRENGTHENING AGRICULTURE

A rational economic policy must provide an environment in which family farmers have a reasonable chance of making a profit and of maintaining the strength of American agriculture. If the present severe cost-price squeeze on the farmer and in agriculture-related business is to be overcome and long-term prosperity and stability on the farm made possible, our policies must contain at least the following elements:

We must recognize that prices received by farmers must cover cost of production and allow a reasonable return on equity.

Our policies must encourage farmers to become better marketers, and to use rational and measured supply management techniques under the best principles of the free enterprise system, to enable them to survive economically.

The conservation of our soil and water resources must be a priority.

The commitment of government to agricultural research, one of the keys to our tremendous agricultural productivity and efficiency, must be strengthened.

Agriculture is an indispensable foundation for a strong America. One out of every five civilian workers is employed in some phase of our food and agricultural industry. American agriculture provides 20 percent of our total exports, accounts for 50 percent of the world's food and feed grain trade, and is so efficient that a single American farmer can feed 77 of the nation's people. A healthy, independent farm economy is therefore in the interest not only of farmers, but of all Americans.

3. MANAGING THE TRANSITION

As our economy undergoes transition, there will be fewer jobs in industries such as auto and steel. This will leave experienced workers in those industries stranded, while firms will be bidding aggressively for specialists in fields such as engineering and computer technology where there are manpower shortages.

Demographic factors will aggravate these imbalances. During the 1980s, the labor force generally will be growing more slowly than during the 1970s. As they reach maturity, the smaller generations which followed the post-war baby boom will contribute fewer new entrants to the job market.

However, the numbers of working age people in some categories will not be declining. There is likely to be an increase in unskilled workers who have typically been concentrated in the areas of the country experiencing the least job growth.

Well-designed policies to promote investment in people—their education, training, and even their health—must accompany the push to modernize and stimulate investment in plant and equipment. We cannot simply depend on general economic improvement to accomplish this upgrading of our human capital: we need a combination of measures that develop workers' skills and promote the movement of labor from constricting to growing industries. And we must call on the private sector—business and labor—to work with government in this effort.

To ease the transition of workers from old industries to new, we propose these policies:

Financial incentives to private employers and labor unions should be provided to help pay the costs of training or retraining, and to match training to actual skill requirements and employment needs. One approach worth careful exploration is a tax credit system for workers who lose their jobs because of technological advances or foreign competition in the industries in which they were employed. Such a tax credit would compensate a firm hiring such workers by paying a portion of their salary in their new jobs for a specified period—presumably long enough to cover retraining and to allow the workers to become productive employees in their new jobs.

Business-labor cooperative efforts, with government assistance, if necessary, should be expanded to relocate workers in new jobs. One such effort is being pioneered by the United Auto Workers and Rockwell International. The government must be a catalyst to get projects of this type off the ground.

Adjustment assistance—not just income maintenance—should be provided to workers to acquire new skills or to take other steps to improve their job prospects. Such a requirement could be added to unemployment insurance and other income support programs without undercutting their safety net features. Alternatively, a portion of employer payroll taxes might be channeled to a special account which would enable experienced workers to acquire education or training during major interruptions in their employment.

Clearly, improving the quality of basic education is a critical step toward improving job opportunities for unskilled workers. In addition, however, we propose three specific steps:

Information about existing training programs and experiments should be collected and disseminated to local communities, so that the most effective approaches can be duplicated elsewhere. Measures of success should include not only job placements but long-term gains in earnings, stability of employment, and reduced dependence on welfare.

Joint business, labor, and government efforts should be undertaken to train hard to employ youths. We should, for example, explore the value of encouraging coalitions of companies in a geographical area to operate training programs in the public schools. Teaching personnel could be supplied by the participating companies, and training equipment should be state-of-the-art.

Financial incentives should be used to expand opportunities for the hard-to-employ in private industry. The current Targeted Jobs Tax Credit program might be revised to facilitate the participation of greater numbers of employers, particularly small businesses. But whatever the precise structure of the incentive, the aim should be to open entry-level jobs to workers who would not ordinarily get them, without disrupting employers' normal procedures for hiring and training.

4. REDUCING OUR VULNERABILITY TO FOREIGN ENERGY SUPPLIERS

The energy crisis has not gone away, and we cannot relent in our effort to reduce our vulnerability caused by our excessive dependence on foreign energy.

Republican policy—best called the "last drop" philosophy—pretends that higher prices have solved everything, that government has no role, that the market will deal fairly with all Americans. This philosophy advocates no government involvement until the "last drop" of oil is taken from the ground, and promotes the belief that a free market operates even when no choices are available. This policy is a danger to our economy, a threat to our national security, and an economic disaster for our citizens.

Contrary to the Republican approach, the federal government must have a coherent, vigorous energy policy—a policy that builds on the strong advantages we enjoy today:

Coal—an abundant energy source awaiting the commitment to mine it in an environmentally sound way, the infrastructure to haul it, and the technology to burn it cleanly. We must make the commitment to all three.

Conservation—a proven success, from fuel-efficient cars and appliances, to insulated homes and offices, to factories where new technology has cut way back on consumption. We must not retreat from our efforts to conserve.

Alternative and renewable energy sources barely tapped—the solar, photovoltaic, geothermal, low-head hydro, tar sands, Devonian shale, biomass and other natural resources we possess so abundantly—must be opened to the new technologies which will permit these resources to be tapped in order to help us solve our long-term energy problem.

A resilient marketplace—a proven partner to government's efforts to exploit our advantages.

At the same time, national energy policy must confront our two undeniable liabilities:

Dependence on imported oil which will remain a reality until our transition to domestic and renewable energy has been accomplished.

Regional imbalances have created a disparity between states which underlines the need for an equitable and genuinely national energy policy.

An energy policy that builds on our energy advantages and compensates for our energy liabilities will also alleviate the impact that actions taken by other nations have on our domestic inflation rate. So long as we are dependent on foreign oil as a major source of energy, our economy will remain vulnerable to inflationary surges resulting from price hikes or supply cutoffs by energy producing nations.

These advantages and liabilities must be paramount considerations in our energy policy choices. We must continue to encourage conservation, to revitalize our coal industry, to promote solar and other renewable energy sources and redress regional and social inequities.

The United States should become a new energy exporter by the year 1990 by:

Creating a greatly expanding coal exporting industry;

Modernizing the nation's entire transportation system and infrastucture, from mines to railroads to sea lanes;

Inventing coal technology processes and pollution-control equipment to increase our productivity, protect our environment, and open new markets for international trade;

Building on our present international lead in solar technologies and conventional and unconventional drilling techniques;

Objectives, such as creating a vastly expanded coal exporting industry or retooling our automobile industry to produce more fuel-efficient cars, will be costly. It is possible, however, to raise revenues for these efforts and to promote our national conservation goals through a variety of energy revenue measures, such as oil import fee or gasoline pump tax, which should include provisions to equalize the special regional burdens they would cause.

5. AN ECONOMIC COOPERATION COUNCIL TO MAP LONG-TERM STRATEGY

The prescriptions we have just offered are, in our view, essential to meeting today's major economic challenges. But that alone will not be enough to insure our economic security. It will take time to solve the problems facing our nation. In the meantime, new challenges will have appeared. The one thing which is certain in today's international economy is change—change of a rapid order.

So as we work on putting those prescriptions into effect to rebuild our economy, we need the capacity to look ahead, to focus attention on emerging as well as present problems. We need the capability to develop a long-term economic strategy for attaining sustained economic growth—a strategy that anticipates economic trends and identifies potential problems and opportunities.

We propose an Economic Cooperation Council. The Economic Cooperation Council we propose is not the monolithic national planning agency found in many of our competitor's nations. Rather, it is a tool to help us bring together the disparate resources necessary to compete in an international economy. Our Economic Cooperation Council will have to address two very critical, but different tasks.

First, we need a national vantage point from which to measure the present and assess the future. We need a center of American expertise that will monitor carefully the changing nature of America's domestic economy and its capability to respond to international competition. We need an institution which will serve as an early warning system to detect flaws or weaknesses in our domestic enterprises before those weaknesses become debilitating or even fatal. And we need an institution which can evaluate global economic trends, identify markets and assess the strengths of our competitors in the international arena. We need the capability to forecast where we should be in three or six or ten years.

Second, America needs a national arena for clarifying complex economic choices and building broad support for public initiatives. The combined experience of the Great Depression and World War II helped build a broad political consensus that laid the basis for economic reconstruction abroad and economic prosperity at home.

The Economic Cooperation Council would combine the ability to assess future economic trends with a membership that would help build a partnership around solutions to major economic problems. That membership must be representative, distinguished, respected and influential. It must have top quality staff with the specialized talents that combine analytic skills with an understanding of the American political process.

Gathering the facts

The cutting edge of international competition is sharpened on the whetstone of intelligence. Our competitors understand this. The Council will give priority to gathering pertinent data, using existing sources of information within the government wherever possible. Where data does not exist, the Council will have to establish the machinery to develop them. A central part of the Council's task will be presenting the President, the Congress, and the country with a clear idea of where the United States economy is headed and where we stand in relationship to our competitors.

Linking domestic and international policy

A striking economic change in the 1970s was the internationalization of the United States economy. Today, two acres in five are planted for export and one industrial job in eight now depends on international trade. Accordingly, it is no longer wise, or in many cases possible, to divide U.S. policy arbitrarily into domestic and international categories. The Council will have to concentrate on the international consequences of U.S. policy and detail the implications of policies adopted in Europe, Japan, and the developing world, on our own economy.

Despite the growth in American exports, the United States remains an unaggressive exporter. The result of this is that thousands of small and medium sized businesses cannot penetrate the export market or simply don't try. For the most part, America does not make policy with international trade in mind. Neither overall economic policy nor individual trade regulations reflect the importance of making America competitive in international markets.

In forging a trade policy for the 1980's, the Economic Cooperation Council will have to look at a multitude of factors. A new trade policy should maintain and expand our existing markets and build on our unexploited strengths in high technology and small business. We must also realize that market demand in many areas of the world reflects needs for basic health, agriculture and education assistance, which are also fields of U.S. expertise.

Our trade negotiating strategy will have to be targeted on areas of potential gain for the United States, and policies will have to be developed to offset a variety of foreign export subsidies. We would expect that our foreign policy would spell out in the clearest of language our adherence to the spirit and the letter of our trade agreements. At the same time it must be made clear we will not tolerate any violations of these agreements from abroad. The respect which was associated with Yankee Traders in the last century should again be reflected in our foreign policy.

Anticipating problems

The Economic Cooperation Council will be in a position to direct national attention to emerging national problems. The shifting balance in international oil production had been developing for many years. Had we taken appropriate action in 1970, the whole course of economic history may well have been different. By acting in a timely fashion we could have avoided much of the economic distress that crippled the automobile and steel industries. The Economic Cooperation Council would serve as an early warning device to avert such disasters.

To be effective, the Economic Cooperation Council must have the confidence of a broad range of private sector groups and also reflect the geographic diversity of the country. It must be bi-partisan, enjoying the full confidence of the Congress. Above all it must have the unstinting support of the one person in the country who speaks on behalf of the entire nation: the President.

We do not need another commission whose statements and reports last no longer than a fleeting headline. The purpose of the Economic Cooperation Council is to establish our national economic goals, to map out a strategy, and to marshal our resources for meeting them.

* * * * *

As times have changed, so has our economy. The United States has built the most productive society the world has ever known through hard work and creativity. Despite our present economic problems, we have good reason to face the future with confidence, for the American genius for invention and innovation is stronger now than ever. But to meet economic challenges of the future, we must invest today.

Some are hesitant to acknowledge that changing times require new solutions. And

some will always be wary of those who propose change. To those among us who question new ideas, we say that we carry the same compass which guided our forefathers. And we journey toward the same goal—human dignity and opportunity for all Americans.

However, when new obstacles appear, we are not afraid to strike out onto new paths to reach our common goal.

Mr. NUNN. Mr. President, I yield back the remainder of my time and 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. BUMPERS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

RECOGNITION OF SENATOR BUMPERS

The PRESIDING OFFICER. Under the previous order, the Senator from Arkansas is recognized for not to exceed 15 minutes.

NATIONAL PEACE DAY

Mr. BUMPERS. Mr. President, I will not take 15 minutes.

Today I am introducing a joint resolution that is cosponsored by the following Senators: Senators TSONGAS, BRADLEY, GORTON, DECONCINI, SPECTER, GLENN, PRESSLER, SASSER, HATFIELD, INOUYE, STAFFORD, NUNN, CHAFEE, RIEGLE, WEICKER, PRYOR, DANFORTH, CRANSTON, MOYNIHAN, DODD, HUDDLESTON, HART, DIXON, EXON, BURDICK, BAUCUS, FORD, HOLLINGS, and JACKSON.

Mr. President, this is a simple joint resolution that calls on the President to proclaim October 10, 1982, as a National Day of Peace.

I simply want to say that none of us has that part of the human personality of fully appreciating the things we enjoy until we lose them.

When the air-conditioner goes out we have a much keener appreciation of the value of electrical power, or when the dishwasher does not work we realize what a labor-saving device it is, and we reflect back on how our mothers and our grandmothers used to handle that.

We never really appreciate our good health. Many people, for example, will continue to abuse their health to demonstrate their indifference and insensitivity to good health until they lose it. I have heard I do not know how many people say they never realized how easy it would be to give up smoking until they got cancer.

And so it is with peace, Mr. President. Nobody ever really appreciates the incalculable benefits and values that we all derive from being at peace.

There is a world at war. Iraq and Iran; war all over Central America, especially El Salvador. The Middle East is literally aflame with unbelievable grief and trauma being experienced by the people of Lebanon. We have just finished the Falklands war, in which almost a thousand people gave their lives with a much larger number being injured and wounded.

And here in the United States we have enjoyed peace and our men and women have not been engaged in war since the end of the Vietnam conflict. But we constantly wonder, with all the hot spots of the world, will it spread and if it does spread will it bring the superpowers into confrontation with each other?

So, Mr. President, we have all waved the flag as we have sent our men off to war. I believe it is appropriate also to wave the flag on a day of peace and to set 1 day aside every year for the people of the United States to engage in such ceremonies and activities as they may choose simply as a reflective time to appreciate the value and the benefits to ourselves and future generations to remain at peace. Everybody is constantly conscious, and I believe now as never before, that with all the nuclear weapons that abound in the world, particularly in the hands of the United States and the Soviet Union, increasing numbers of people feel that the survival of man is threatened almost by the minute.

So I believe it is only appropriate that on Sunday, October 10—there is not anything sacred about that particular day, but it is a good fall day in most sections of the country—that the President proclaim that as a day for Government entities, organizations, interest groups, and all people to engage in ceremonies and activities and festivities and commemorate the tremendous benefits we enjoy by being at peace. And, while my resolution does not call for it, it would be appropriate for the President to also call on all nations and all people of the world to also do likewise.

Mr. President, I ask unanimous consent that the text of the joint resolution be printed in the RECORD.

There being no objection, the text was ordered to be printed in the RECORD, as follows:

S.J. RES. 251

Whereas, wars are raging in several parts of the world inflicting incalculable loss of human lives, and property, with unbearable human suffering and grief; and

Whereas, the presence of huge nuclear arsenals in the world present an ever present threat to the survival of mankind; and

Whereas, though war in a very troubled and divisive world is an ever present possibility and threat, the United States has been at peace since the end of the Vietnam conflict; and

Whereas, the benefits of peace and the value of life should be ever present in the thoughts of all people; and

Whereas, a day should be set aside for the American people to reflect on the values of peace and the horrors of war; and

Whereas, the President should proclaim a day of peace and call on the people of the country to commemorate it with such ceremonies and activities as are appropriate and in keeping with an expression of gratitude for living in a great, free nation at peace; Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 10, 1982, be designated as "National Peace Day" and that the President of the United States is authorized and requested to issue a proclamation calling upon Federal, State, and local government agencies, interest groups, organizations, and the people of the United States, to observe that day by engaging in appropriate activities and programs, thereby showing their commitment to peace.

TEMPORARY INCREASE IN THE PUBLIC DEBT

The PRESIDING OFFICER. The Senate will resume consideration of the unfinished business, which the clerk will report.

The legislative clerk read as follows:

A House joint resolution (H.J. Res. 520), to provide for a temporary increase in the public debt limit.

The Senate resumed consideration of the joint resolution.

BAUCUS AMENDMENT NO. 2040 TO WEICKER AMENDMENT NO. 2039

The PRESIDING OFFICER. Under the previous order, the Senator from Connecticut is recognized.

Mr. WEICKER. Mr. President, in somewhat less than an hour, the Senate will once again vote on the matter of cloture relative to the amendment before us by the distinguished Senator from North Carolina. And I would hope that, as in two times past, the Senate would reject cloture on this issue.

Now, the history of debate on the floor has been such that my very able and good friend from Montana, Senator BAUCUS, has led the fight in terms of the argument, constitutional argument, of three separate but equal branches of government or, to put it in its popular term, court stripping. I have tried to emphasize that aspect of the argument that relates to the first amendment of the Constitution of the United States, more specifically that which states the Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof.

Now, I think it is important to review not just the history of this particular piece of legislation but all other attempts to bring about some very basic changes in our constitutional structure.

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

Mr. WEICKER. Mr. President, I yield to the distinguished Senator from Arkansas for the purpose of debate without losing my right to the floor and without this being consid-

ered as the end of a speech for the purposes of the two-speech rule. I ask unanimous consent that I might do that and that I might be recognized at the conclusion of the Senator's remarks.

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

Mr. BUMPERS. Mr. President, I just want to make two or three comments which the Senator from Connecticut has made time and time again here but which still has not really been picked up by the national press and the electronic media and, therefore, the people of the country are still confused about why this debate is going on on this issue.

I wish to say, first of all, I do not know of anything that I have resented as much as the constant reference to the liberals who are opposed to this amendment. I cannot help but think about Sam Ervin, the distinguished constitutional scholar who was so recently a Member of this body and one of the most conservative Members of it. I promise you if Senator Ervin were in the body today he would be leading the fight against this.

The American Bar Association president, I do not know him personally but I know the American Bar Association certainly is no citadel of flaming liberalism, has called this approach to dealing with this issue the most serious threat to the Constitution since the beginning of the Republic.

Now you pit the emotionalism of a very significant majority of people in this country who want prayer in the school against an issue that is very difficult for laymen to understand, and that is this amendment effectively repeals the first amendment to the Constitution of the United States and would do so by a simple majority vote in the Congress.

When the Founding Fathers set up the methods for repealing or amending any part of the Constitution, they made it very difficult. The procedures are tedious, laborious, and they are long. But Thomas Jefferson and James Madison and the other brilliant men of that age knew exactly what they were doing, because they knew there would be these incessant attempts by people who had no keen appreciation for the fact that freedom can only be maintained under a sacred organic law which, in our country, is the U.S. Constitution.

This amendment says that the Supreme Court and none of the lower courts of the Federal judiciary may not consider, even entertain, an objection to any voluntary prayer in school that is mandated by any State or local subdivision, including school boards.

I do not care whether you are Protestant, Catholic, Jewish, whatever. But let us assume the school board hands a schoolteacher a prayer and says, "You and all of your students will repeat this prayer every morning at the beginning of class."

She looks the prayer over and she says, "That violates everything I believe in, everything I have been taught in my church since I was a little girl, and I refuse to do that."

They say, "You are fired."

There is a serious question as to whether or not she could even sue under the Civil Rights Act, if this amendment became law.

The proponents say, "Well, the State courts can handle this. Let us eliminate the Supreme Court, the circuit courts of appeal, and the district courts. Let the State courts handle it."

What does that lead us to? Chaos. Freedom of religion means one thing in Arkansas and something else in Connecticut, one thing in California, and something else in Florida. And if you can do it on freedom of religion you can do it on the invasion of privacy. You can eliminate the search and seizure laws by a simple majority of the Congress. You can eliminate freedom of the press. As a matter of fact, you can take the Constitution and make it a dartboard for all the effectiveness it will have if you start down this road.

So, Mr. President, I have not engaged in the filibuster, but I have admired those who have. I have certainly voted against cloture and will do so again today because I agree with the American Bar Association president. It is the most serious threat to constitutional government.

Maybe this is not the gravest crisis that has ever come before the Senate, but it is one of the gravest and the least understood. So I will continue to vote against cloture, and I will do everything I can to defeat this amendment and any other amendment that tries to repeal the Constitution of the United States by a simple majority vote, almost by whim and caprice.

I thank the Senator from Connecticut for yielding.

Mr. WEICKER. I thank my distinguished friend from Arkansas. I only wish that he would join in the extensive remarks which are being made out here. Indeed, his remarks this morning were very eloquent.

Mr. President, we have gone through this exercise not just once, but this now marks the third time we have tried to approach amending the Constitution by a simple legislative majority. It had no place on this floor when the subject matter was discrimination against the black schoolchildren and the remedies applied thereto by the courts in this country. It has no place on this floor when the subject matter is abortion, and more particularly the law of the land as set down by the Supreme Court in Roe against Wade.

Now we encounter it in terms of abridging the first amendment rights, specifically freedom of religion.

I first want to say this: The substance of what was attempted is, in this Senator's opinion, wrong. I have no qualms in debating any of these matters if indeed a constitutional amendment is to be proposed. I do not want to give the impression as the one who started the first fight on the busing issue, on the court-stripping aspects of the proposals. But I do not want to give the impression that I ducked behind court stripping as a way of being unwilling to challenge the substance of what is being proposed.

There are in every one of these cases before the Senate two constitutional arguments: Court stripping, doing an end around the Supreme Court of the United States, and then the actual substance of what is being proposed. In none of the two previous debates have I felt that the issue is so clearly set forth and determined by what is already in the Constitution and that if indeed we make this change then we take the first step toward a state religion and a state prayer. That is not the religious freedom that this Nation presently enjoys.

I will continue to leave the court-stripping arguments to my friends because they are valid and I join them 100 percent. Indeed, it was the essence of my arguments for many, many months. But I think it is terribly important that this Nation appreciate the full import both of what is in the first amendment to the Constitution of the United States now and what is being proposed in terms of changing that amendment.

This is not just some little harmful exercise which people are going to perform in the early hours of a school day. The principle being espoused applies to all of us. It in effect says the Government of the United States may dictate to its citizens a form of religious worship.

We do not make laws in this country for a portion of the populous. There is no such thing as a Constitution with an interpretation for those who are below age and those who are in their majority. The matter of religious freedom applies to all 250 million people in the country.

If the Senate of the United States can legislate what it is that a youngster is going to say in terms of prayer, then it may do so also with any of those who are beyond school age.

Right now in the United States there is total religious freedom. Right this minute, total religious freedom. No matter what your belief, you may practice it to the fullest extent. Indeed, I as one Senator urge everybody to do so. There is nothing outside of your faith by law, in terms of those

laws passed here on the Senate floor or by those laws that reside in the Constitution of the United States, that in any way restrict the practice of the faith of any American. Nothing.

What is being proposed is the first small step toward contracting that total freedom that we now enjoy.

But the ultimate argument also has to be made, as one who speaks for the Constitution.

That is that, assuming that a prayer may be devised that encompasses all beliefs in the Nation today—all beliefs in the Nation today—assuming that that can be accomplished, which I think everyone would agree is a practical impossibility, but assuming that, it has not made provision for the faith that is yet to be. So it becomes flawed, because the Constitution, unlike the laws which we write daily on the floor of the Senate, has to last from generation through generation.

It does not change with the Congress. It does not change with the new occupant of the White House. It does not change with the elections. It does not change with who might be in the majority, Republican or Democrat, in the House or the Senate. It lasts for all generations.

So, how is it possible to write a prayer today which does not foreclose that faith which has yet to be proclaimed in the future? You cannot do it. The Constitution is there so that, whatever happens in religion in this country, it will be heard. It will be heard. If nowhere else in the world, it will be heard in the United States of America.

The men who argue on this side of the issue are not atheists. We do not ascribe to some alien philosophy or political ideology. We are as committed to religion and religious freedom as those who try to impose this mandated piece of faith on some Americans.

Religious freedom, not a state religion. The minute the school board, the Senate, the President, the House of Representatives, the Governor—this is all civil authority—the minute it steps onto the field, no matter for how small a period of time, even if it is one word or two words, we have started the merger between religion and government. That is what has distinguished the United States of America, that that merger has never come to pass. Because of it, religions have thrived here where they had no place to grow anywhere else in the world.

People came to the United States of America specifically so they could worship—worship. It is hard to believe in this day and age. Everybody says people came to the United States because they wanted to make an easy buck, because they wanted to enjoy a better life. No; people came to the United States—and they still do—because they wanted to be able to worship.

When we define religion—and this certainly includes myself—I am inclined to define it as being either Protestant or Catholic or Jewish. That only scratches the surface. There are thousands of religions, thousands—almost all of which are here in the United States of America.

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

Mr. WEICKER. I shall yield in a few minutes to my good friend from Vermont. I promised 15 minutes to the distinguished Senator from North Carolina (Mr. EAST).

I say that, just in my lifetime, as an example of what grows in the United States, as I said before, Protestantism was de facto, probably, the official religion of this country. Catholics and Jews were very much put upon. Not so today.

Look at the growth of the Catholic Church in America. Look at the growth of Judaism in America. That should continue to be for some faith that may only have 100 followers. Instead, we are going to take, this generation is going to impose some form of prayer according to the tenets and beliefs of this generation.

As I read the Constitution, very simply, there was more wisdom 200 years back than there is in this generation. If a job were going to be done, I probably would prefer that they did it. If they did not do it, I want to make damned sure we are not going to go ahead and do it.

Mr. President, I yield the floor to the distinguished Senator from Vermont for the purpose of debate without losing my right to the floor and without this being considered as the end of a speech for the purpose of the two-speech rule.

I also ask unanimous consent, in addition to that, that I be recognized at the conclusion of the remarks of the Senator from Vermont. I would appreciate it, since I have indicated to my good friend from North Carolina that, at 11:30, he might speak for 15 minutes, if the Senator would yield me back the floor in about 5 minutes.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senator from Vermont.

Mr. LEAHY. I thank my good friend from Connecticut. I applaud him for the work he has done on the floor on this issue.

Mr. President, I have spoken once on this before; in fact, a couple of times. I was not going to speak again on it, but I was troubled, riding into work this morning, when I started thinking about two things.

One was my own State of Vermont, a small State, a cautious State, a conservative State in the best sense of the word. Certainly, it is the most Republican State in the Union but, fortunately for me, with at least a latent streak of bipartisanship.

The other thing I thought about was when I was a law student here, at Georgetown. I used to spend the little free time one has as a law student in the galleries of the U.S. Senate. I would come here thinking what an honor it would be to serve in the Senate, because this was the body that was the conscience of a nation. This was the place with 100 people representing all the United States, who could stand up and say, whoa, to momentary passions, whoa to a passing fad.

This is the place where people would not be swayed, day by day, by pollsters, direct-mail appeals, or whatever, because this, by history, was where the conscience of our Nation spoke, and this is where people would stand up and speak to the long-term interests of the United States.

In Vermont, if you were to take a poll today, the vast majority of the people, if you simply asked the question, "Do you think school children should be allowed to pray?" would say, "Yes, of course." But if you asked Vermonters, "Shall we strip the courts, the third independent branch of Government, of its ability to protect your rights," there would be a resounding call from the Green Mountains of Vermont: No, no, no.

Mr. President, that is precisely what we have here today. Every single person in this country knows that at some time in their life, it is conceivable that their rights may be violated by somebody in Government, whether it be a sheriff or a mayor, a legislator or a Governor—whomever. Every time, they know that if that happens, they have one recourse left: They can go to the courts and ask to have their constitutional rights protected.

Are we going to say here today that we are going to start closing that door, inch by inch, foot by foot, yard by yard, against any one of us wanting to go back to our constituents and say, "We closed the door on your rights?"

This is in the matter of religion, Mr. President. My children have prayed in school because they went to parochial schools. I paid the tuition for them to go there. They went to the schools where they said the same prayers that we say at home. The Leahy family is a deeply religious family.

We pray at home and we pray at Mass on Sunday. But they said the prayers in the schools that we sent them to because we paid the tuition for that private parochial school. They are now down here with me in a public school system. I do not want the governing body of that public school system to tell my children what prayers they are going to say, no matter how they may differ from the prayers that we say at home. I do not

want the Government telling my children what their religious practices will be. I feel responsible as a parent to tell my children, to teach my children, and to bring my children up into the religion that my parents passed on to me and their parents on to them. That is where it should be, within the home, not the Government telling them.

I realize there are people on both sides of this issue who feel it very strongly, but I am also concerned when I hear people say, "Well, what is going to be the political fallout on this? What political group will gain advantage depending upon what these votes are?"

That is almost as though we Members of the Senate should act as though we own a seat in the Senate and we should be always looking over our shoulder making our decision based solely on whether it gets us reelected or not. That is why in the past few years the Senate has drifted further and further away from its role as the conscience of the Nation.

It is time for us to come back to being that and look at what is in the best interests of our Constitution, of our Nation, of the rights of our people and stop thinking simply of our own elections or reelections. This more than any other is that time.

I conclude only with this thought: Let us not start on that slippery slope of closing the doors to the one last place where the constitutional rights of our people can be protected without any fear or favor.

I yield back to my good friend from Connecticut, again applauding him for the work he has done in helping lead this fight.

Mr. WEICKER. I thank the distinguished Senator from Vermont for his very eloquent and articulate exposition of the issue before us.

Mr. President, I ask unanimous consent that I may yield the floor to the distinguished Senator from North Carolina (Mr. EAST) for the purposes of debate without losing my right to the floor, without this being considered as the end of the speech for the purposes of the two-speech rule; that I be re-recognized at the conclusion of the Senator's remarks.

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

The Senator from North Carolina.

Mr. WEICKER. I ask my distinguished friend from North Carolina, in that there are a few other Senators who care to speak, if I could yield for 15 minutes.

Mr. EAST. May I ask a point of clarification from the Senator. As I understand it, as a part of that unanimous-consent agreement, I would be allowed subsequent time to possibly speak on this measure; that is, the two-speech rule would not be held against me?

Mr. WEICKER. I have no difficulty with that.

Mr. EAST. I ask unanimous consent, Mr. President, that the two-speech rule not be held against me and, if the opportunity be appropriate, that I could later speak on this subject.

The PRESIDING OFFICER. Is there objection?

The Chair hears none and it is so ordered.

Mr. EAST. I wish to thank the distinguished Senator from Connecticut for his very generous cooperation in allowing me in the last part of this debate this morning to be given 15 minutes to make some remarks.

First, Mr. President, I do this hoping that I will be fully understood; one, I suppose, always is reluctant to praise publicly his own colleague lest it sound a bit self-serving, but I would like to thank the distinguished senior Senator from North Carolina, Senator JESSE HELMS, for getting out on the point on this issue and standing firm. I think he is right. I think he is right on the moral question. I think he is correct on the constitutional question. There is no question but what the majority of the people in this country support him on it. Every poll shows that. Interestingly, every vote that we have taken on the filbuster matter so far shows that a majority of the Senators agree with him.

What the filibusterers fear, with all due respect to them, is that this issue might get to a vote of the Senate and ultimately the House of Representatives and the measure would pass.

What we have witnessed over the last several days is an admitted obstruction of majority sentiment in the country and in the Senate, in a country founded and predicated upon the idea of representative government, democratic government. I think it violates a fundamental tenet of democratic political theory.

Mr. President, I should like to comment on two aspects of this problem. First, I should like to comment briefly upon the first amendment, and then I should like to comment briefly upon the jurisdictional question which goes at the heart of the Helms proposal.

The first amendment as envisioned by the framers of our Constitution was to do fundamentally two things: First, to prevent the establishment of a national religion. That was the purpose of the establishment clause. I do not know of anybody in this Chamber or probably well nigh in the country that would question but what that was a sound premise. We would not make any church the national religion. Congress shall make no law, it said. It left the issue of religion, state church, to the States, and you had great variety in the States back in that period. It was to leave the States as the deciders of this issue, a fundamental premise of federalism, a sound one. And that is all the Helms proposal would do, allow State and local government to decide if voluntary prayer is allowed in the schools of this country.

Does that offend your sensibilities? Do you think that would offend the sensibilities of the vast majority of the American people? No.

There is too much elitism in Washington today. The theory is you cannot trust the American people or the local school board to make any intelligent decision. Either we do it through the bureaucracy in Washington or we do it through the Federal courts, but heaven forbid that we should trust the American people at the local level to make any intelligent decision.

Too bad that that is the current theory. It looks very patronizingly at the good judgment and the commonsense of the American people. I would trust their judgment on this. If they wanted to have prayer, let them have it. If they did not, then do not have it. But I would not want to dictate to the cities in Connecticut or to the cities in Arkansas what they might do, or the State or local government. Let them decide. That is what James Madison, the father of the Constitution, had in mind. What Senator HELMS is talking about is as reasonable as anything can be. Turn it back to the State and local level and let the Supreme Court leave it alone.

That is what the framers had in mind in the first amendment. The main thing they were opposed to was the establishment of a national religion, and that is exactly what is occurring now, because every time any vestige of traditional religious belief is manifested in the public schools of this country it is struck down.

What is the national religion today? Secular humanism. And that violates everything they were talking about—no national religion. Now there is a national religion. You can do everything in the public schools today except show some genuine religious activity. You cannot read the Bible; you cannot pray because there is a chilling effect cast over it because of Supreme Court decisions, but apparently you can do everything else under God's sun from violence, drugs, and so forth. It is only when people begin to introduce a little religious value that all of a sudden the hue and cry goes up that, "Oh, my goodness, they are subverting the schools."

The American people in their commonsense know nonsense when they see it, and that is what this is. Strip it down to the bare bones and Senator HELMS is saying let State and local government decide. No wonder the filibusterers do not want this to get out to a majority vote on the Senate floor or the country at large.

On the jurisdictional question, there is no question but what we have the power to do that. The only matter is

would it be prudent to exercise it. I understand that, and I wish we could get on to a debate about it.

Article III clearly gives us the power to withdraw the appellate jurisdiction of the Supreme Court, to set its parameters. It gives us the power to create and to totally abolish the lower Federal courts. It states it. It is clear. It is explicit. The question is, Is it prudent to exercise it in a particular case? That is fair game and I am willing to debate it.

They talk about stripping the courts. They all voted for the Voting Rights Act. It stripped away the jurisdiction of the lower Federal courts in the South to hear voting rights cases.

The Senate is already on record as indicating taking away jurisdiction of Federal courts with regard to busing. There is a long history where Congress, under its power under article III, adjusted the jurisdiction of the Federal courts. There is nothing new or novel about it. We have that power. Again, the question is, in a particular context, Is it prudent to exercise it?

Mr. President, I should like to get down to what I think is a fundamental question in this country: Who ought to be making, as a matter of federalism and separation of power, the fundamental policy questions?

As the framers envisioned it under federalism and separation of powers, in this particular matter it would be of State and local concern. That is exactly what Senator HELMS is asking that we return to, and I support it, and I ask my colleagues to support him.

Senator HELMS is really raising the broader question which every American senses in his political bones, that somehow or other we no longer make policy decisions in this country. We do not do it on abortion. We do not do it on busing. We do not do it on prayer. We do not do it on a whole host of things. Do you know who does it? The elite in the Supreme Court, the Federal judiciary, with lifetime appointments, no accountability, moving ever and ever into the policymaking role.

It concerned the framers. That is why they gave us checks and balances—dealing with the jurisdiction of the courts, appointment to the courts, creation of the courts, the amending process. They gave us a whole range of processes.

They said to the legislative body, the principal policymaker, "Here are some tools you can use to maintain your prerogatives and powers as the principal policymakers."

The curious thing is that as the courts continue to encroach upon our power, the hue and cry goes up in the Senate, by this minority group, "Let them do it. There is nothing we can do about it."

I ask you the wholly platonic question: Who guards the guardians? The guardians are who in this case? Apparently, the Supreme Court. They know better than State and local government in these matters. But what if they overstep their bounds? What options do we have? None, we are told. I hate to use the word, but ultimately, I guess, we just pray, pray that they do it right—but do not pray in school for it, because that violates the Constitution, according to the elitists.

I think the American people know nonsense when they see it. That is one great and comforting thing in this country. If you let it get back to the American people and let them deliberate about it and use their commonsense, they would come up with a better answer than this.

That is the whole underlying theoretical premise of the U.S. Constitution—representative government. That is our great contribution to the political institutions of the world, in our time. That is why we are the envy of the world, because we have representative government. We are willing to trust the deliberative process to set fundamental policy course and direction in this country. We do not want elitists doing it—self-appointed, self-annointed, lifetime appointees. They have their role, but this does not happen to be one of them.

Mr. President, I know that my time is running out. I have said my piece, and I should like to conclude on this note, to remind my colleagues as they come up to vote in a few minutes on the matter of cloture: My distinguished colleague from North Carolina has been taking a lot of public abuse of late because of his willingness to stand firm. Certain provincial newspapers contend that he has lost his clout as he gets a majority vote in the Senate. But, more important, out in the land the people are with him. Those are the people who are with him, and in this artificial atmosphere of the Nation's Capital, sometimes it is hard to perceive that.

Senator HELMS is correct on the moral question. He is correct on the constitutional question. He has the support of the majority of the U.S. Senate on this issue, if it could ever get to a vote. I know down deep in my political bones that he has the support of the American people throughout the land.

It is a simple, elementary question: Do you trust State and local government to decide whether there ought to be voluntary prayer in the classrooms of this country? I opt for the latter, and happily and proudly so, and I salute my distinguished colleague from North Carolina for showing the leadership on this very important matter.

I thank the Senator from Connecticut.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. WEICKER. Mr. President, I should like to make one comment to my distinguished friend from North Carolina. I agree that he articulates the other side of the issue from this Senator very well, but he makes a statement about leaving this matter to State and local governments.

Just so that I not be accused of finger pointing on the Senate floor, I will use my own State of Connecticut as an example. When it was left to local and State governments, even after the Constitution had been written, we had a fusion of church and state.

For example, in Connecticut, Congregationalism was the official religion of the State of Connecticut, and it was disestablished in 1818. Indeed, it was Thomas Jefferson who wrote to a congregation of Baptists in Danbury, Conn., in 1802, and he said at that time:

LETTER BY THOMAS JEFFERSON TO A COMMITTEE OF THE DANBURY BAPTIST ASSOCIATION, JANUARY 1, 1802

The affectionate sentiments of esteem and approbation which you are so good as to express towards me, on behalf of the Danbury Baptist Association, give me the highest satisfaction. My duties dictate a faithful and zealous pursuit of the interests of my constituents, and in proportion as they are persuaded of my fidelity to those duties, the discharge of them becomes more and more pleasing.

Believing with you that religion is a matter which lies solely between man and his God, that he owes account to none other for his faith or his worship, that the legislative powers of government reach actions only, and not opinions, I contemplate with sovereign reverence that act of the whole American people which declared that their legislature should "make no law respecting an establishment of religion, or prohibiting the free exercise thereof," thus building a wall of separation between church and state. Adhering to this expression of the supreme will of the nation on behalf of the rights of conscience, I shall see with sincere satisfaction the process of those sentiments which tend to restore to man all his natural rights, convinced he has no natural right in opposition to his social duties.

I reciprocate your kind prayers for the protection and blessing of the common Father and Creator of man, and tender you for yourselves and your religious association, assurances of my high respect and esteem.

THOMAS JEFFERSON.

I do not think that it was contemplated by the Founding Fathers, that every State and locale should do its own thing; but, rather, that religious freedom was something which belonged to the whole Nation. It was a whole nation that opened its arms to the people of this world, as the only nation in the history of civilization to say there is no State religion. That means no national religion, no State religion, no municipal religion, no official religion period, no merging of the civil authority with the religious authority. That was what was intended.

so that religion in this Nation would always be a personal and not an official act.

Mr. EAST. Mr. President, will the Senator yield for a point I should like to make?

Mr. WEICKER. Without losing my right to the floor.

Mr. EAST. My answer to that is that at the time of the founding of this country and the first amendment, the purpose of the first amendment was to forbid the establishment of a national religion. But I remind the Senator that at the time of the founding of this country, we had a great variety or relationships between church and state, depending upon the particular colony.

In Massachusetts, for example, there was a very close fusion of church and state. In Rhode Island there was none at all. You had no officially established church.

In North Carolina and Virginia, for example, you had an official church that was Anglican, but other churches were allowed or formed.

So they had great diversity which reflects the great strength of the Federal system, and that is what Madison was defending.

The Senator from Connecticut was saying that he did not think the Connecticut solution was good, and ultimately the good people of Connecticut decided it was not, and so it is gone, and that is true in North Carolina.

But it evolved over time through decisions at the State and local level. That is what the framers intended by the first amendment, and all Senator HELMS is trying to do is shore that up again.

Mr. WEICKER. Mr. President, I ask unanimous consent that the Senator from North Carolina and I not be considered as violating the two-speech rule and that I do not lose my right to the floor, so we may debate this for 1 minute here.

The Senator then is saying that an official religion proclaimed by one of the States of the Union is all right; is that correct?

Mr. EAST. I think it would be very imprudent for them to do it, and I would not support it. Fortunately not 1 of the 50 States has done it.

So the distinguished Senator from Connecticut conjures up a chamber of horrors that simply does not exist.

Mr. WEICKER. But we both agree it did exist and the Senator is arguing for State and local government being able to establish their religion.

Mr. EAST. I am saying that is what was intended by the first amendment by the framers of the U.S. Constitution. If they had not meant that they would never have gotten it ratified because the State of Virginia, for example, would no more let this new Constitution dictate to them the relationship between church and state. All they were saying is we do not want any national church but we in Virginia will decide that relationship and North Carolina, Massachusetts, and Connecticut will also.

That is the fundamental point that has been completely lost in all of this discussion.

Mr. WEICKER. Is that the position of the Senator from North Carolina?

Mr. EAST. Pardon?

Mr. WEICKER. If the Senator will yield, is that the position of the Senator from North Carolina?

Mr. EAST. What position?

Mr. WEICKER. Is the position that the Senator just enunciated his interpretation of the position of the Founding Fathers and the Constitution?

Mr. EAST. Many of the individual statesmen have been opposed to a close relationship of church and state. Madison would be one. But Madison was willing to let the good people of Connecticut decide that, or Pennsylvania, or North Carolina. What he did not want is a national Congress dictating.

Now we have the irony of the Supreme Court dictating the national religion of secularism. They have turned Madison on his head.

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

Mr. WEICKER. I just wish to once again ask my good friend from North Carolina whether or not he believes this is a matter best left to the States and local governments.

Mr. EAST. Yes; that is what the framers intended and it has evolved over a period of time, and I am willing to do it today. I am willing to trust the people at the State and local level to decide if they want voluntary prayer in their schools. I am willing to trust their good judgment.

I might reserve the right to personally disagree with them, but I am willing to trust their good judgment. I have confidence in American grassroots democracy. I am very Jeffersonian, I guess, and I do not think I need to publicly apologize for it. But I am willing to defend the premise.

Mr. WEICKER. As I used the term "State religion," I mean by that any official fusion between the civil authority and religious authority. If a State chooses to do so by the Senator's words they should be permitted to do so.

Mr. EAST. The framers would be making the point at the State level. But the point is to have established an official church is one thing. I think there is universal opposition to that in America.

But to stamp out every vestige of traditional belief in the public institutions of America can virtually end in a national religion of secular humanism, and that goes contrary to everything the first amendment stood for.

Mr. WEICKER. I will conclude with these remarks. I am here arguing the first amendment.

I wish to make something clear. I think that is a slightly different case from the one the Senator cites in his last remark.

I am standing here for that first amendment which says not only that Congress shall make no law respecting the establishment of a religion—and this gets to the point the Senator must make—or prohibiting the free exercise thereof.

So let us make no mistake about what we are defending here. I am defending the first amendment freedoms in terms of religion. "Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof."

But what is really very illuminating to this Senator is the remarks of the distinguished Senator from North Carolina which would permit the interpretation, and I will use the kindest words, insofar as State and local governments are concerned that in the strictest legal sense it is the position of the Senator from North Carolina that yes, indeed, they could establish a particular faith as being the official faith of that governmental entity.

I am sorry that I intruded on the good Senator from Massachusetts.

I yield the floor to the distingushed Senator from Massachusetts for the purpose of debate without losing my right to the floor and without this being considered as the end of the speech for the purposes of the two-speech rule, and I ask unanimous consent that I regain the floor 1 minute before the time for the cloture vote to take place.

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

The Senator from Massachusetts is recognized.

Mr. TSONGAS. Mr. President, as an increasingly disinterested observer of the last colloquy, I must say that the likelihood that the Senator from Connecticut is going to convince the Senator from North Carolina is equal to the likelihood that the Senator from North Carolina is going to convince the Senator from Connecticut.

I also point out, before I begin, that indeed if Thomas Jefferson had the sentiment and political position as ascribed to him by the Senator from Connecticut and if he were in the Senate today the Senator from North Carolina, Senator HELMS, would be raising money to defeat him.

So the Founding Fathers had a certain advantage of being alive when they were alive and not around today.

Can one imagine Thomas Jefferson, John Adams, and the great Founding Fathers engaged in the conversations we have had on this floor for the last 3

weeks? They would have gone back to their farms.

Mr. President, the issue before this body today, is not school prayer. This is not a school prayer debate. Rather, the real issue, the only isue, is whether, as a matter of policy and constitutional law, this "most deliberate body"—the U.S. Senate—is going to adopt a device whereby each time a decision of the Supreme Court and lower Federal courts offends a majority of both Houses of Congress the jurisdiction of the Federal courts to hear that issue will be stripped away by the Congress. I do not believe that is a system the framers intended nor one that we should strive to institute.

Supreme Court decisions interpreting the Constitution establish binding precedents which are subject to change by the people through the process of constitutional amendment. The framers provided in article V a means of changing the Constitution and deliberately made it difficult to achieve. Article V provides:

> The Congress, whenever two-thirds of both Houses shall deem it necessary, shall propose Amendments to this Constitution, or, on the Application of Legislatures of two-thirds of the several States, shall call a Convention for proposing Amendments, which in either Case, shall be valid to all Intents and Purposes, as Part of this Constitution, when ratified by the Legislatures of three-fourths of the several States or by Conventions in three-fourths therefore, as the one or the other Mode of Ratification may be proposed by the Congress * * *

It is central to our system of government that ordinary legislation can be changed through ordinary legislation, and the Constitution only through amendment.

Throughout our history there have been legislative attacks upon the power of the Supreme Court to protect constitutional rights. The Jeffersonian Democrats proposed to use impeachment as a vehicle for removing justices whose constitutional views were distasteful to the dominant party in Congress. In the 1920's, the proponents of State sovereignty sought to take away the power of the Supreme Court to review decisions by State courts on constitutional questions.

In 1937, President Franklin Roosevelt proposed legislation to pack the Supreme Court with new justices who agreed with his constitutional philosophy. The Court packing plan was defeated. The McCarthyites of the 1950's unsuccessfully sought to persuade Congress to limit Supreme Court jurisdiction over unconstitutional Federal and State programs aimed at alleged subversives. In 1964, some Senators and Congressmen attempted to eliminate Federal court jurisdiction over reapportionment.

In the past, despite the discontent with particular Supreme Court decisions, the Congress has wisely rejected these attempts to overturn constitutional decisions of the Supreme Court through legislative fiat.

If Congress had adopted these proposals, it would have radically altered our constitutional system of government. Thus, whenever a momentary majority in Congress disagreed with a Supreme Court decision, it could change that decision by simple statute. The Supreme Court would be the final arbiter of the Constitution, as the Founding Fathers contemplated, if and only if their decisions satisfied a momentary majority in Congress. If they did not, Congress would strip them of their authority to decide these issues.

The Helms amendment would strip the jurisdiction of the Supreme Court and lower Federal courts in school prayer cases. What is next? Tomorrow why not preclude the Supreme Court from deciding freedom of speech cases, or maybe freedom of the press, or the right of the people to peaceful assembly? Why not forbid the Supreme Court from hearing any claim asserted under the Bill of Rights or under any other provision of the Constitution? As you can see under this scheme, Congress could have unlimited authority to turn the Supreme Court and the Constitution upside down and inside out. It would represent an unparalled and unprincipled attack upon our Federal judicial system. There would be no boundaries or limits to Congress powers. This is not what the framers had in mind when they constituted our tripartite system of government.

Alexander Hamilton, in the Federalist Papers, declared that the Constitution is not only fundamental law, it is the will of the people, and the courts are its guardians. He said that the Constitution is the highest manmade law; any legislative act contrary to it must be held void by the courts, since "the interpretation of the laws is the proper and peculiar province of the courts." Hamilton denies that this makes the courts superior to the legislature. In fact it "only supposes that the power of the people is superior to both; and that where the will of the legislature, declared in its statutes, stands in opposition to that of the people, declared in the Constitution, the judges ought to be governed by the latter rather than the former."

We must not allow the passions of today to sweep under the rug the constitutional safeguards embodied in our Constitution. As the Supreme Court stated nearly 40 years ago in West Virginia State Board of Education against Barnette:

> The very purpose of the Bill of Rights was to withdraw certain subjects from the vicissitudes of political controversy, to place them beyond the reach of majorities and officials and to establish them as legal principles to be applied by the courts. One's right to life, liberty, and property, to free press, freedom of worship and assembly, and other fundamental rights may not be submitted to vote: they depend on the outcome of no elections.

The function of judicial review is allocated to an independent judiciary in order to prevent the accumulation of power in one department of the Government. As Hamilton wrote in the Federalist Papers, it could not be expected "that men who had infringed the Constitution in the character of legislators would be disposed to repair the breach in the character of judges." Thus, a constitutional system that imposes limitations on the authority of the legislative branch also requires an independent branch to determine whether legislation comports with the constitutional limitations; otherwise, the legislature would have the power both to enact and to judge the law, and there would be no check on its proper exercise of its powers.

This is exactly what the Helms amendment does. It allows the Senate to enact and judge its own laws—in this case, school prayer—without ever having to answer to Federal judicial review. This is exactly the opposite of what the Founding Fathers intended.

Further, without the ability of the Supreme Court to review the decisions of State and lower Federal courts there would be varying interpretations of the same Constitution, with no opportunity for resolution.

If Members of this legislative body and the people of the United States want prayer in public schools, the avenue for change is a constitutional amendment, not a change by statute.

Imagine, if you will, a wrecking ball slowly chipping away at a building. This is exactly what we would be doing to the foundations of the Federal judiciary by passing this ill-conceived legislative proposal. I remind my colleagues that those freedoms you cherish today could be canceled tomorrow if we allow constitutional decisions of the Supreme Court to be changed by simple statute rather than by constitutional amendment.

Mr. President, I would like to read into the RECORD letters and statements I have received from both religious and secular organizations opposing the school prayer amendment.

B'NAI B'RITH WOMEN,
Washington, D.C., September 1982.

Hon. PAUL E. TSONGAS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR TSONGAS: As president of an organization of 120,000 women from all parts of the country, I am writing to express our opposition to the voluntary school prayer amendment to the debt ceiling bill.

Our members hold strong views on the subject of school prayer, views that for the most part were forged during their school years when such prayers were routinely said. They realize full well the pressures to conform to saying prayers that are not really reflective of their religious beliefs and they know from first hand experience the toll exacted from being perceived as "differ-

ent." We firmly believe that the place for prayer is not in the public schools. We have churches, synagogues, mosques and homes for prayer; we resist the notion that prayer belongs in public schools. As American women who belong to one of the largest non-Christian denominations in the country, we urge you to work toward defeat of the prayer amendment.

Sincerely,

DOROTHY BINSTOCK,
International President.

UNITED CHURCH OF CHRIST,
OFFICE FOR CHURCH IN SOCIETY,
Washington, D.C., August 16, 1982.

Hon. PAUL E. TSONGAS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR: The Office for Church in Society of the United Church of Christ is opposed to the passage of school prayer legislation that will come up during senate consideration of temporary debt limit increase.

We are opposed to legislation permitting prayer as part of regular classroom procedure in public schools because such activity would blur the distinction between church and state functions and, it would overturn by statute the Supreme Court rulings on prayer. Further, the various proposed school prayer bills remove constitutional protections afforded to our citizens through the lower federal courts and Supreme Court.

We urge that you not attempt to pass legislation promoting prayer as part of regular classroom activity in public schools because such activity would violate the rights of those whose religious beliefs or non-beliefs are in the minority, and would promote state control over a function that rightfully belongs to religious groups and the family.

Sincerely,

CONSTANCE STREET,
Policy Advocate.

WASHINGTON, D.C.,
September 20, 1982.

To: Senator TSONGAS.
From: National Council of the Churches of Christ.
Subject: Opposition to Helms' prayer bill.

The National Council of Churches opposes the Helms amendment to the debt ceiling bill that would deny federal courts jurisdiction to hear cases involving school prayer.

The N.C.C. has testified that prayers in public school would force children of minority religions to choose between acceding to prayers of the majority that are in conflict with their own religious upbringing, and branding themselves as nonconformists by asking to be excused from such prayers.

Authorizing states and localities to institute school prayers would be unwise because it would tend toward fifty or more different meanings of the Religion Clauses of the First Amendment from one state to another.

Such authorization is unnecessary because children can pray in school now, anytime, anywhere. What they cannot do is to preempt a public institution for oral, collective prayers at the expense of children of minority or no religion.

Bar associations and legal scholars have denounced Senator Helms' efforts to make an "end run" around the proper process for amending the Constitution and for trying to "whittle away" the co-equal powers of the federal judiciary. Please do what you can to oppose such efforts.

Sincerely,

DEAN M. KELLEY,
Director,
Religious and Civil Liberty.

RESOLUTION ON PRAYER IN PUBLIC SCHOOLS

Whereas in a Policy Statement entitled "The Churches and the Public Schools," adopted June 7, 1963, the Governing Board of the National Council of the Churches of Christ in the U.S.A. said: "Neither the church nor the state should use the public school to compel acceptance of any creed or conformity to any specific religious practice . . .";

Whereas the same Policy Statement also stated: "The Supreme Court of the United States in the Regents' Prayer Case has rules that 'In this country it is no part of the business of government to compose official prayers for any group of the American people to recite as part of a religious program carried on by the government.' We recognize the wisdom as well as the authority of this ruling . . .";

Whereas the same Policy Statement continued: "We express the conviction that the First Amendment to our Constitution in its present wording has provided the framework within which responsible citizens and our courts have been able to afford maximum protection for the religious liberty of all our citizens . . .";

Whereas the President of the United States has recently announced his intention to propose to Congress a constitutional amendment which could lead to the reinstatement of group prayer in public schools;

Whereas the recitation of prescribed nondenominational prayer demeans true religion by denying the traditions of faith groups while imposing on some children religious practices which are offensive to them; and

Whereas there is a danger that the rights of members of minority religions would not be adequately protected: Therefore, be it

Resolved, That the Governing Board of the National Council of the Churches of Christ in the U.S.A.:

Reaffirms its belief, as set forth in the Policy Statement on "The Churches and the Public Schools" that "Christian nurture and the development and practice of Christian worship are unescapable obligations of the congregation and the family"; and

Reaffirms its support of the Supreme Court language describing the First Amendment as providing no role for government in prescribing or providing for prayer in public schools.

Policy Base: The Church and the Public Schools, adopted by the General Board, June 7, 1963.

UNITARIAN UNIVERSALIST ASSOCIATION,
Washington, D.C., September 21, 1982.

Hon. PAUL E. TSONGAS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR TSONGAS: On behalf of the Unitarian Universalist Association of Churches, I am writing to ask that you oppose the Helms School Prayer Amendment to the debt ceiling legislation now pending in the Senate, H.J. Res. 520.

Our denomination considers participation in religious expression, or the choice not to engage in religious expression, a very private and personal matter. We do not believe that the public schools have any proper role to play in this area. At the 21st Annual General Assembly of our Association in June of this year, a Resolution was passed entitled, "Public Education, Religious Liberty and the Separation of Church and State." In pertinent sections, the Resolution voices support to:

"Uphold religious neutrality in public education, oppose all government mandated or sponsored prayers, devotional observances, and religious indoctrination in public schools; . . ."

"Uphold the principle of judicial review, and oppose all efforts to deny the federal courts jurisdiction over school prayer. . ."

"Uphold the principle enunciated by the United States Supreme Court that all levels of government must remain respectfully neutral with regard to all religions;"

We appreciate your consideration of our views on this matter.

Sincerely,

ROBERT Z. ALPERN,
Director.

AMERICAN BAPTIST CHURCHES, USA,
Washington, D.C., September 21, 1982.

DEAR SENATOR: American Baptists have a long-held historical belief in the right of individuals to freely practice their religion and to be free from state-imposed conformity of practice. We see that freedom challenged in Senator Helms' school prayer amendment to the debt limit bill. We urge you to defeat this amendment.

As Baptists, we believe that prayer is a vital part of the encounter between God and Man. But we believe that it is a personal encounter that is only trivialized when made part of a ritualistic group recitation.

Further, we believe that prayer is a subject to be taught in our homes and in our churches. We reject the view that a state, or any of its employees, by virtue of their status alone, are qualified to compose or lead a prayer acceptable to all faiths.

Finally, the separation of church and state mandated by the First Amendment prohibits the prescription of a religious practice by law. The rights protected by the Free Exercise clause are threatened when school children are expected to participate in a group prayer. The pressure to conform cannot be removed by a label of "voluntary" hung on a group prayer law.

We urge you to support religious liberty and oppose the Helms' school prayer amendment.

Sincerely,

BARRY SAWTELLE,
American Baptist Churches, USA, Office of Governmental Relations.

AMERICAN BAPTIST RESOLUTION IN SUPPORT OF HISTORIC BAPTIST PRINCIPLES AGAINST STATE MANDATED PRAYER

Baptists, both historically and presently, believe that religious faith must involve a vital encounter between persons and God, and no religious form should be substituted for this encounter. Thus, Baptists have long opposed any compulsion to conformity or coercion of conscience in religious belief or practice. While Baptists gather together in fellowship with other believers to pray and worship, we also affirm prayer to be a constant part of our individual lives which does not need a prescribed form, or official sanction to be real and vital.

Therefore the General Board of the American Baptist Churches, U.S.A.:

Reaffirms our historic Baptist belief that religion should not be mandated and that prayers and religious practices should not

be established or prescribed by law or by public policy or officials;

Supports the Supreme Court decision on prayer in the public schools and recognizes that it does not prohibit the free exercise of religion while sustaining the liberty of a free conscience;

Opposes any attempt through legislation or other means to circumvent the decision of the Supreme Court on mandated prayer in the public schools.

POLICY BASE

American Baptist Policy Statement on Human Rights, Adopted December, 1976.

"As American Baptists we declare the following rights to be basic human rights, and we will support programs and measures to assure these rights:

1. "The right of every person to choose a religion freely, to maintain religious belief or unbelief without coercion; the right for communities of faith to meet together to engage in public worship, to witness publicly to others, to speak prophetically from religious conviction to government and society, to live out religious beliefs, and to be free from governmental intrusion, coercion and control in the free exercise of conscience and religion;"

American Baptist Convention Resolution on Separation of Church and State, Adopted 1964:

"And we reaffirm our historic Baptist belief that religion should not be a matter of compulsion and that prayer and religious practices should not be prescribed by law or by a teacher or public school official."

Adopted by the General Board of the American Baptist Churches—June, 1980; 117 for, 2 against, 1 abstention.

BAPTIST JOINT COMMITTEE ON PUBLIC AFFAIRS: PRAYER IN PUBLIC SCHOOLS

Whereas the proper place of religion in public schools continues to be the subject of confusion among U.S. citizens, including our own Baptist people;

Whereas Congress continues to be pressured to act favorably on a proposed constitutional amendment calling for prayer in public schools;

Whereas Congress is likewise under severe pressure to pass bills seeking to remove challenges to state laws or local regulations returning prayer to public schools from the jurisdiction of federal courts;

Whereas the Baptist Joint Committee on Public Affairs has consistently supported the U.S. Supreme Court's historic 1962 and 1963 decisions striking down state-mandated prayer and Bible reading in public schools: Therefore be it

Resolved that the Baptist Joint Committee reaffirm its support of the Supreme Court's decisions; be it further

Resolved that the Baptist Joint Committee reassert its opposition to any and all proposed constitutional amendments which, under the guise of fostering "voluntary" prayer in public schools, would in fact undermine those decisions; be it further

Resolved that the Baptist Joint Committee oppose unalterably any and all legislative efforts to remove from federal court jurisdiction laws dealing with prayer in public schools; be it further

Resolved that we recommit the Baptist Joint Committee to exercise a leadership role in the effort to defeat constitutional amendments and jurisdictional bills dealing with prayer in public schools in Congress while at the same time asking Baptist leaders across the country to join us in seeking the defeat of such measures by communicating their opposition to members of the U.S. Senate and House of Representatives; be it further

Resolved that we call upon our denominational leaders to undertake a renewed effort to provide information to our Baptist people about the constitutionally appropriate place of religion in public schools and to educate our people about the dangers of any form of coerced religious exercises in said schools; and be it further

Resolved that we seek the widest possible distribution of the newly reprinted pamphlet, "Religion in the Public School Classroom" as one means of attaining the above-stated objective.

LUTHERAN COUNCIL IN THE USA,
Washington, D.C.

STATEMENT ON PRAYER IN THE PUBLIC SCHOOLS, SEPTEMBER 21, 1982

On behalf of the Lutheran Church in America, the American Lutheran Church and the Association of Evangelical Lutheran Churches, I would like to express our strong opposition to the Helms amendment, which would restrict the jurisdiction of the federal courts to hear cases involving "voluntary prayer" in public schools. These churches have consistently supported the position articulated by the Supreme Court in 1962 and 1963 prohibiting state-mandated prayer and Bible readings in public school classrooms. The churches' positions on school prayer has been determined in their national conventions at which congregational representatives gather, and subsequent implementation of this policy position has taken place according to the churches' constitutions and by laws.

The rationale for the churches' position is clearly articulated in the following excerpts of two church body statements:

"Reading of Scripture and addressing deity in prayer are forms of religious expression which devout persons cherish. To compel these religious exercises as an essential part of the public school program, however, is to infringe on the distinctive beliefs of religious persons as well as on the rights of the irreligious. We believe that freedom of religion is best preserved when Scripture reading and prayer are centered in home and church, their effects in the changed lives of devout persons radiating into the schools and into every area of community life."—Adopted in 1964 by the American Lutheran Church gathered in convention. This position was most recently reaffirmed by the Church Council of the American Lutheran Church in 1981.

"Parents, churches and school authorities would be better advised to direct their efforts to programs for study of religion and the Bible in the public schools and to the formulation of types of programs which coordinate the secular educational programs of the public schools with programs of a strictly religious nature conducted by the churches themselves, rather than to seek constitutional sanctions for devotional exercises in public schools that have at most a minimal religious value, which invite the intrusion of sectarian influences into the public school system, risk the violation of the rights of religious freedom and are a potential source of conflict in the community.—Adopted in 1964 by the Lutheran Church in America in convention; this position on school prayer was reaffirmed at the 1980 convention of the LCA.

Originally, these church bodies opposed proposed constitutional amendments on the school prayer issue. However, in recent years, these church bodies, which together count approximately six million members, have expressed their opposition to legislation which would strip the federal courts of jurisdiction in areas relating to "voluntary" prayer in public schools. In 1980, the Lutheran Council, acting on behalf of the ALC, LCA and AELC testified in the House opposing such a jurisdiction-limiting proposal. Such legislation could, in effect, set aside a nation-wide standard for religious freedom guaranteed by the Constitution and interpreted by the Supreme Court. We strongly maintain that the standard for determining which laws provide for truly "voluntary prayer" in public schools and which actually violate the First Amendment should be uniform throughout the United States. The proposal to limit court jurisdiction would result in individual states making final determinations on the school prayer issue—a situation which could lead to a "patchwork quilt" of interpretations as to what the First Amendment of the Constitution means in practice. Thus, we maintain that hearing cases involving voluntary prayers in public schools is not just a state or a local issue, but is properly within the jurisdiction of the Supreme Court.

The precedent this legislation could set makes it transcend the public policy implications of permitting prayer in public schools; it touches upon the proper relationship between Congress and the Supreme Court and also between the states and the federal government. Some have described the Helms proposal as a "backdoor" way of amending the Constitution, one which would bypass accepted procedures in an attempt to sanction certain practices likely to be ruled unconstitutional if reviewed by the Supreme Court.

We would maintain that the Helms amendment is an inappropriate and perhaps unconstitutional method for Congress to use to address the question of prayer in public schools. If implemented, this legislation could create new problems of interpretation and could lead to unsuspected results in areas vitally touching on religious liberty. Besides opening the door to divisiveness in the community, it could prove to be the forerunner of other attempts to circumvent the decisions of the Supreme Court on key issues. It would be possible for Congress to follow the precedent set by this bill and remove from the jurisdiction of the Court other practices which could more fundamentally threaten religious liberty and infringe upon constitutional rights.

In an election year, it may seem politically desirable to approve what may be popularly perceived as a "vote for morality and prayer." However, we perceive the Helms amendment to be unnecessary from a religious point of view and unwise from a public policy perspective; we urge the Senate to reject this proposal.

CHARLES V. BERGSTROM,
Executive Director, Office for Governmental Affairs, Lutheran Council in the U.S.A.

AMERICAN BAR ASSOCIATION,
Washington, D.C., August 18, 1982.

DEAR SENATOR: As the newly installed president of the American Bar Association, I write at this critical time to repeat, and reinforce strongly, the position of the ABA expressed by my predecessor, David Brink, opposing the many pending proposals to limit the ability of federal courts to act in abortion, school prayer and busing cases. I urge the Senate to reject any and all such

proposals offered as amendments to the debt limitation bill, H.J. Res. 520, currently under consideration.

These proposals have been perceived by many as involving only positions for or against prayer, abortion or busing. But the truth is that they are unabashedly court-stripping bills, and that is the reason that thoughtful Senators on both sides of the underlying controversial social issues should recognize these proposed amendments for what they really are and join in defeating them.

The present proposed amendments are offensive to our American governmental framework and processes on two grounds. First, the means by which these proposals attempt to change constitutional law derogate the Constitution, the separation of powers and the restraint that traditionally and uniformly has been observed among the three branches of government. Second, the amendment procedure being used circumvents the normal legislative process by coupling two unrelated measures of great importance that deserve separate consideration, by forcing uncritical consideration of both as a unit and by avoiding customary and appropriate advance study.

As you well know, the ABA takes no position on the issues of school prayer, abortion or busing, but is concerned that the pendency of another highly emotionally-charged debate over prayer or abortion will obscure the fundamental flaw in all these proposals. We emphasize again that the issue is not prayer, abortion or busing; the real issue is the integrity of our tripartite system of government. The ABA has long opposed any legislative attempt to alter constitutional law through means other than constitutional amendment. We believe that the enactment of any of these measures would constitute an unprecedented attack on the Constitution and the independence of the federal judiciary and establish unwise policy. Such proposals, if enacted, could be used in the future as precedents for effecting constitutional changes that would impair other rights of all Americans, including proponents of the present amendments. All such proposals should be vigorously resisted.

We also reiterate that the serious constitutional questions involved in these court limitation proposals deserve full consideration in committee. Avoiding the healthy public debate currently underway in the Judiciary Committee and injecting the unrelated court jurisdiction issue into the debate over the debt ceiling would do a grave disservice to both issues.

We strongly urge that the Senate permit the normal legislative process to continue uninterrupted and to oppose any court-stripping proposals. Consequently, we endorse adoption of the pending Weicker and Baucus amendments.

Sincerely,

MORRIS HARRELL.

AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS,
Washington, D.C., September 17, 1982.

LEGISLATIVE ALERT!

DEAR SENATOR: The Helms amendment (No. 2031), now pending to H.J. Res. 520, the public debt ceiling legislation, threatens to destroy the integrity of our system of checks and balances. The Helms amendment attempts to deny the federal judiciary its appointed role in interpreting the Constitution. It seeks to do indirectly what its sponsor and supporters cannot do directly: to overrule Supreme Court Constitutional decisions by a simple majority vote of Congress.

Thus the Helms amendment is a blatant attempt to avoid the amendment process specified in the Constitution for changing settled constitutional rules; that is, approval by a two-thirds vote in each House of Congress and ratification by three-fourths of the States. The unprecedented assertion of a Congressional power unilaterally to restrict constitutional guarantees through a statute poses profound risks to our most fundamental liberties.

Given the dangerous implications of the Helms amendment, the AFL-CIO urges your opposition.

Sincerely,

RAY DENISON,
Director,
Department of Legislation.

COMMON CAUSE,
Washington, D.C., September 17, 1982.

DEAR SENATOR: On Monday, September 20, the Senate will continue its consideration of Senator Helms' school prayer amendment to the debt ceiling bill. We urge your strong opposition to this amendment and to all attempts to limit the debate.

By removing lower and Supreme Court jurisdiction over cases of prayer in public schools, the Helms amendment attempts to alter and circumvent the Constitution and the fundamental precepts contained in the Bill of Rights.

Senator Helms' school prayer proposal would subvert and compromise the principle that there are fundamental human rights beyond the reach of any government—not just beyond any elected executive, but beyond any government, including majorities in a representative Congress or legislature. It compromises the principle because it presupposes a power in simple congressional majorities to nullify or partially frustrate constitutional rights recognized by the judiciary.

If Congress can deny those seeking to be free from "an establishment of religion" the usual right of access of the lower federal courts or to the Supreme Court on appeal from the highest State court, then majorities in the Senate and House can deny that access in cases seeking protection for all other constitutional rights, for example, freedom of the press.

In a May 6, 1982 letter to Senator Strom Thurmond, Chairman of the Senate Judiciary Committee, concerning this bill, Attorney General William French Smith stated that Congress may not "intrude upon the core functions of the Supreme Court." He further stated that on these First Amendment constitutional issues, Congress does not have "unlimited power over Supreme Court jurisdiction." The Conference of Chief Justices of the state Supreme Courts also passed a resolution opposing legislation to restrict the jurisdiction of the federal courts.

Common Cause has joined with numerous other national groups in publicly protesting these efforts. We ask your active support in rejecting the Helms school prayer amendment and all other legislation which threatens the independence and integrity of the courts.

Sincerely,

ARCHIBALD COX,
Chairman.

NATIONAL LEGAL AID AND DEFENDER ASSOCIATION,
Washington, D.C., September 21, 1982.

Hon. PAUL E. TSONGAS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR TSONGAS: I am writing on behalf of the National Legal Aid and Defender Association (NLADA) to urge your continued strong opposition to the court-stripping school prayer amendment now pending to the debt-ceiling legislation, H.J. Res. 520. NLADA strongly opposes all legislation which would deprive the federal courts of jurisdiction over constitutional questions. While we take no position on the substantive question of school prayer, we believe that the pending amendment is both unconstitutional and extremely unwise as a matter of policy.

This amendment blatantly attempts to remove all federal court jurisdiction over the constitutional question of school prayer. This strategem represents a legislative attempt to statutorily amend the Constitution. It stands as an unconstitutional encroachment on the federal judiciary's power to make final determinations on the meaning of the Constitution. If enacted, it would enable a simple majority in Congress to change constitutional law whenever it wished to overturn an unpopular court decision. Thus, the most basic guarantees of the Constitution would become subject to the vicissitudes of prevailing political sentiment.

Most tellingly even the states, to whom final jurisdiction would be given, oppose this measure. The Conference of State Chief Justices condemned the courtstripping approach in a January 30, 1982 resolution as "a hazardous experiment with the vulnerable fabric of the nation's judicial systems." The Conference warned that, absent Supreme Court authority over constitutional questions, ". . . there will inevitably be divergence in state court decisions, and thus the United States Constitution could mean something different in each of the fifty states.

In an adversarial system of law there will always be parties dissatisfied with court decisions. But for those wishing to change the federal courts' constitutional interpretations, the Constitution already provides a remedy. It is the constitutional amendment process. While we express no opinion whatsoever on a possible school prayer constitutional amendment, we urge proponents of school prayer to pursue that route and to withdraw their misconceived challenge to the federal court system.

Thank you for your consideration of our views.

Sincerely,

ELLEN JOSEPHSON.

EQUAL JUSTICE FOUNDATION,
Washington, D.C., September 20, 1982.

Senator PAUL TSONGAS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR TSONGAS: On behalf of the Equal Justice Foundation, I write to express opposition to the school prayer court-stripping amendment offered by Senator Helms.

The Equal Justice Foundation is a national organization of lawyers who commit one percent of their salaries to promote equal access to justice. The Foundation has no position on the substantive issue addressed by the proposed amendment. It is, however, opposed to any attempts to limit or deny access to the federal courts and Supreme

Court to hear any case arising out of a state school prayer law.

Congressional attempts to alter federal court procedure to attain substantive goals violate constitutional separation of powers principle and undermine the independence of the federal judiciary.

Attorney General William French Smith, four former attorneys general, former Supreme Court Justice Arthur Goldberg, and numerous constitutional law experts have expressed strong concerns over tampering with federal court jurisdiction through legislation. We share their concerns and urge you to oppose the proposed amendment.

Sincerely,

SUSAN KELLOCK,
Executive Director.

NATIONAL EDUCATION ASSOCIATION
LEGISLATIVE STATEMENT

SCHOOL PRAYER

NEA position

The National Education Association supports the 1962 Supreme Court decision in *Engel* v. *Vitale* on prayer in the public schools. In that decision and others since then, the Supreme Court ruled that the schools may not sponsor prayer, even that which attempts to be denominationally neutral in order to preserve the principle of separation of church and state. The Association believes the classroom is an inappropriate forum for religious instruction or the promotion of prayer which is better left to parents or the nation's churches, synagogues, mosques, and temples.

Discussion

The First Amendment to the Constitution states, "Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof . . ." The Supreme Court and lower federal courts on numerous occasions since 1962 have ruled that required Bible reading or recitation of the Lord's Prayer or posting of the Ten Commandments in the public schools are unconstitutional. Despite rhetoric and myths, these decisions *do not mean* that a student is prohibited from saying a personal prayer in a public school building during schools hours or that a student is prevented from reading the Bible while on school grounds. School-sponsored religious exercises have been held to violate the Constitution as have requirements that students participate in religous activities.

In an effort to circumvent federal court jurisdiction over the issue of school prayer, proponents are advocating enactment of legislation to remove the issue from the jurisdiction of the Supreme Court and lower federal courts. The intent of such legislation is to undermine the Supreme Court rulings which prohibit school-sponsored prayer. Enactment of such legislation would run counter to American tradition and religious liberties.

Since no provision under current law regarding school prayer prohibits students from freely exercising their right, and since religious freedom and true voluntary prayer have never been outlawed in the public schools, legislation now pending in Congress is not only unconstitutional, but unnecessary.

Under current law the following activities are permissible.

Schools may use the Bible or other religious books as source books in religion classes.

Schools may offer a course in the Bible as literature and history.

Schools may offer instruction in comparative religion.

School facilities may be rented during off-hours to religious groups if there is a general policy of renting to non-school organizations.

Students may study the history of religion and its role in the story of civilization.

Students may be allowed to leave school premises to receive religious instruction.

References to faith in God in connection with patriotic or ceremonial occasions are permissible.

The Administration has proposed a Constitutional Amendment which states, "Nothing in this Constitution shall be construed to prohibit individual or group prayer in public schools or other public institutions. No person shall be required by the United States or by any state to participate in prayer." Such an amendment would permit group prayer and we ask, "Whose prayer?"

Conclusion

The National Education Association believes the public schools should remain neutral in the area of religious activities. The principle of neutrality simply means the public schools are neither religious nor nonreligious. Neutrality as used by the Supreme Court is a bit broader, meaning showing neither favoritism nor hostility toward religion. The Association is, therefore, opposed to attempts to thwart the Supreme Court rulings whether those attempts emanate from the Legislative Branch or the Executive Branch of government.

Mr. KENNEDY. Mr. President, I oppose the Helms amendment as an unconstitutional and unwarranted attack on the Supreme Court of the United States. The fundamental question we are facing in the Senate has nothing to do with the issue of school prayer. The sole question is whether the proper way for Congress to address the issue of school prayer is to enact legislation stripping the Supreme Court of jurisdiction to hear and decide cases on this issue. That is the wrong way to deal with the issue of school prayer, and I hope that the Senate will have the wisdom to reject this extremist attempt to deny the Supreme Court an important part of its constitutional jurisdiction.

In 1961, in his first formal address as Attorney General of the United States, Robert Kennedy emphasized America's historic debt to law as the source of freedom:

"Law is the link [to] freedom," he said. "We know that it is law which creates order out of chaos. And we know that law is the glue which holds civilization together."

The amendment now before us is an attempt to break that bond. It is an attack on our basic freedoms. It is an insult to the Supreme Court and an affront to the Constitution. What is at stake is the preservation of the rule of law, the foundation on which all our other liberties rest.

Despite suggestions to the contrary, there is no sound precedent for this scheme to abolish Supreme Court review of sensitive constitutional questions.

In the frequently cited case of ex parte McCardle in 1868, the Supreme Court acquiesced in congressional action removing one avenue of review in habeas corpus cases. But this legislation merely repealed a specific 1867 statute authorizing certain habeas corpus claims of unconstitutional imprisonment arising out of the Civil War to be appealed to the Supreme Court. As the Court made clear in its subsequent decision in ex parte Yerger in 1869, Congress had left intact the broad authority of the Supreme Court under the Judiciary Act of 1789 to review lower decisions on habeas corpus.

In a number of other circumstances, Congress has specified the particular methods by which judicial review can be sought. But Congress has never withdrawn the jurisdiction of the Supreme Court to decide constitutional issues.

The power of Congress to regulate the jurisdiction of the Supreme Court is thus extremely limited. It can be exercised only in a manner consistent with the other basic guarantees of the Constitution. For example, the Bill of Rights prohibits Congress from passing laws which violate freedom of the press and other fundamental civil liberties.

Surely, Congress could not pass a law permitting the Supreme Court to hear appeals brought only by white persons, or by Protestants, or by men. Such legislation would clearly violate the guarantees of equal protection or freedom of religion. Even Senator HELMS, I suspect, would agree that such laws would be unconstitutional and could not stand. How then can Congress constitutionally enact legislation preventing the American people from enforcing their religious freedoms under the first amendment in the highest court of the land?

As Oliver Wendell Holmes once wrote, the Supreme Court is a quiet place, but it is the quiet at the center of the storm.

Throughout our history, there have been repeated efforts by Congress to overturn unpopular decisions of the Supreme Court by removing its jurisdiction in certain types of cases or by other means of undermining the Court's integrity and independence. Each of these schemes has failed—in large measure because Congress and the American people saw the true danger in such schemes and rejected them—as we must do today.

As Members of the U.S. Senate, each of us took the following oath of office:

I do solemnly swear that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the

office on which I am about to enter, so help me God.

Today, we are called upon to live up to that oath and to defend the Constitution.

In "A Man for all Seasons," Sir Thomas More was urged by a well-meaning friend to bend the law to serve another end. Refusing, he asked:

What would you do? Cut a great road through the law to get after the Devil?

And his friend replied:

I'd cut down every law to do that.

And Sir Thomas More answered:

When the last law was down, and the Devil turned round on you—where would you hide, the laws all being flat? This country's planted thick with laws from coast to coast, and if you cut them down do you really think you could stand upright in the winds that would blow then?"

The same principle is at stake today. If we strike at the Supreme Court, we strike at the heart of the Constitution and the rule of law in America. That is why the Helms' court-stripping amendment must be defeated.

Mr. KASTEN. Mr. President, today I wish to take a few minutes to reflect on how far the Senate has come over the past 3 weeks in dealing with the school prayer issue.

Up to now, we have had 3 weeks of debate and two cloture votes. It is time to move forward on this issue.

America wants Congress to restore the right of individuals to participate in voluntary, nondenominational prayer in schools and other public facilities.

The Helms amendment currently being debated merely seeks to restore self-rule to the States with respect to school prayer—an autonomy reserved to the States from the very founding of our Nation.

In the two decades since the Supreme Court ruled that prayer in public schools is not constitutional, the Court has been denying students the opportunity of beginning each classroom day with a prayer. It is ironic to note that we here, in both the House and the Senate, start each day's work by asking God's blessing on our efforts. The past 3 weeks of debate have centered on the question of whether or not Congress will grant to school children the very same privilege we enjoy daily.

Since the beginning of the 97th Congress, we have made great strides in our effort to restore decisionmaking powers to the State and local level. This amendment would simply return the jurisdiction of school prayer decisions to the State courts where religious freedoms were protected for nearly two centuries. In keeping with our goal to restore local autonomy, let us not stop short of upholding this fundamental right of voluntary prayer in our public schools.

Mr. President, I stress that this is upholding the right to voluntary, not mandatory, prayer. This amendment does not require the States or local governmental agencies to author or require students to participate in prayers. I believe that this wording sufficiently addresses the concerns that have been raised in past congressional debate on the school prayer issue. Now, just as my colleagues who have made great efforts to protect the liberties of those who choose not to pray, we must protect the rights of those who choose to participate in prayer, and uphold the religious freedoms afforded under the Constitution.

Mr. President, in April 1979 this body twice passed legislation similar to that which we are considering today. Let us once again act according to the will of the American people by passing the Helms amendment and at last, resolving this issue.

The PRESIDING OFFICER. The hour of 12 noon——

Mr. WEICKER. Mr. President, I just ask for recognition from the Chair, reserving the right——

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. WEICKER. I now yield the floor, but I ask unanimous consent that upon conclusion of the cloture vote that I be recognized.

Mr. BAKER. Mr. President, I wonder if the Senator will withhold that request? I have no problem with his seeking recognition.

Mr. WEICKER. I withhold.

Mr. BAKER. I thank the Senator.

CLOTURE MOTION

The PRESIDING OFFICER. The hour of 12 noon having arrived, the clerk, under the previous order, will report the motion to invoke cloture.

The bill clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on amendment number 2031, as modified, to the committee substitute to House Joint Resolution 520, a joint resolution to provide for a temporary increase in the public debt limit.

Jesse Helms, John P. East, Roger W. Jepsen, Jeremiah Denton, Paul Laxalt, Paula Hawkins, Orrin G. Hatch, Bob Kasten, Harry F. Byrd, Jr., Steve Symms, S. I. Hayakawa, Don Nickles, Strom Thurmond, Charles E. Grassley, Jake Garn, Malcolm Wallop, and Howard Baker.

The PRESIDING OFFICER. By unanimous consent, the quorum call has been waived.

VOTE

The question is, Is it the sense of the Senate that debate on the Helms amendment No. 2031, as modified, shall be brought to a close? The yeas and nays are mandatory under the rule, and the clerk will call the roll.

The assistant legislative clerk called the roll.

The yeas and nays resulted—yeas 54, nays 46, as follows:

[Rollcall Vote No. 347 Leg.]

YEAS—54

Abdnor	Grassley	Pell
Armstrong	Hatch	Pressler
Baker	Hawkins	Proxmire
Bentsen	Heflin	Quayle
Boren	Helms	Randolph
Byrd, Harry F., Jr.	Huddleston	Roth
Cannon	Humphrey	Sasser
Chiles	Jepsen	Schmitt
Cochran	Johnston	Simpson
D'Amato	Kassebaum	Stennis
DeConcini	Kasten	Stevens
Denton	Laxalt	Symms
Dole	Long	Thurmond
Domenici	Lugar	Tower
East	Mattingly	Wallop
Exon	McClure	Warner
Ford	Murkowski	Zorinsky
Garn	Nickles	
	Nunn	

NAYS—46

Andrews	Eagleton	Melcher
Baucus	Glenn	Metzenbaum
Biden	Goldwater	Mitchell
Boschwitz	Gorton	Moynihan
Bradley	Hart	Packwood
Brady	Hatfield	Percy
Bumpers	Hayakawa	Pryor
Burdick	Heinz	Riegle
Byrd, Robert C.	Hollings	Rudman
Chafee	Inouye	Sarbanes
Cohen	Jackson	Specter
Cranston	Kennedy	Stafford
Danforth	Leahy	Tsongas
Dixon	Levin	Weicker
Dodd	Mathias	
Durenberger	Matsunaga	

The PRESIDING OFFICER (Mr. DURENBERGER). On this vote, the yeas are 54 and the nays are 46. Three-fifths of the Senators duly chosen and sworn having not voted in the affirmative, the motion is rejected.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, this was a final rejection of the radical right in this Chamber. May we now go forward with the business of the Nation, the Constitution intact and our purposes clear? Thank you, Mr. President.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. BAKER. Mr. President, if I could have the attention of the Senate, I will try to make arrangements for the remainder of this day.

The PRESIDING OFFICER. The majority leader has been recognized. Senators desiring to conduct business may do so in the cloakrooms.

The majority leader.

Mr. BAKER. Mr. President, the Senate is not in order.

The PRESIDING OFFICER. The majority leader is correct. The Senate is not in order. Will Senators desiring to conduct business retire to the cloakrooms to conduct their business so the majority leader may be heard? Can the Chair be heard?

Mr. BUMPERS. Mr. President, the Senate is still not in order. The majority leader is trying to tell us how we are going to proceed. Everybody wants to know. Let us have order.

The PRESIDING OFFICER. The majority leader.

Mr. BAKER. I thank the Chair and I thank the Senator from Arkansas. If I may have the attention of the Senate I want to restate the situation and make a proposal.

Mr. President, a cloture motion has been filed which will produce a vote tomorrow. I will consult with the minority leader and other principals involved in the debate to try to set a time. I am thinking of another 12 o'clock vote tomorrow. But I have a proposal to make in the meantime.

As I indicated earlier, I have represented on the floor of the Senate from time to time that not only would the debt limit serve as a vehicle for Members to offer amendments on abortion and prayer but other amendments as well. A number of Senators have indicated they wish to offer other amendments to this measure. We are coming down the home stretch. We have to finish this bill in some way, and I think we have to do it this week.

I would like to make the proposal, Mr. President, that we temporarily lay aside the pending question, which is the Baucus second-degree amendment, and that until we have the next cloture vote on the Helms amendment that other Senators may come to the floor and offer their amendments as they may wish on other subjects.

In order to facilitate that, Mr. President, I now ask unanimous consent that the pending question, the Baucus second-degree amendment, be temporarily laid aside. I ask unanimous consent that at 12 noon tomorrow, without the requirement for a mandatory quorum under the provisions of rule XXII, that the Senate proceed to vote on the cloture motion against further debate on the Helms amendment.

Mr. President, I also ask unanimous consent that during that period, from the time this order is granted, if it is granted, until the cloture vote tomorrow on the Helms amendment, that no amendment dealing with abortion or prayer will be in order.

Mr. LONG. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. BAKER. Mr. President, I wonder if my friend from Louisiana can give me some indication whether or not all of my request, which I had hoped was persuasively presented, is objectionable to him or if only some is objectionable.

Mr. LONG. Mr. President, only some of the request is objectionable. Not all of it. Some of it would be very pleasing.

Mr. BAKER. It is with great fear and trepedation that I put the next question: Will the Senator from Louisiana share with me that part he finds objectionable?

Mr. LONG. The Senator from Louisiana has no objection whatsoever to someone offering an amendment that this Senator agrees with. [Laughter.] But he would be inclined to object to someone offering an amendment displacing an amendment that the Senator has voted for, such as on the prayer amendment. He objects to displacing this noble effort on the subject of school prayer with an amendment which the Senator from Louisiana disagrees with.

Mr. BAKER. Mr. President, as the Senator knows, I, too, voted for cloture. But the minority leader and I had a colloquy this morning discussing that at some point the Senate reaches that crossroad where it has to move ahead. I am determined, to the extent it is possible for me to do so, to redeem the commitment I have made that Senators will have a chance to offer other amendments. After we dispose of this issue there is still time, but, frankly, if we wait until we have disposed of the prayer amendment before other Senators have a chance to offer amendments on other subjects, we are going to run this Senate over the weekend, next week, and do great damage to the prospects of getting out of here on October 1.

Mr. JOHNSTON. Will the Senator yield?

Mr. LONG. Will the Senator yield?

Mr. BAKER. I yield first to the senior Senator from Louisiana.

Mr. LONG. The Senator from Idaho (Mr. SYMMS) just made a proposal in the Finance Committee, a very good suggestion. He has a revenue measure and an amendment he would like to offer. He is looking for a horse on which to put the rider. The Senator from Louisiana would be delighted to give consent that the Senator's amendment could be offered on the bill.

It all depends on what the amendment is. I would like to know what it is that I am going to agree to. If the Senator from Texas is placing before us an amendment that he supports, or if there was one he did not support——

Mr. BAKER. I wonder how the Senator would feel if I would tell him, as I have before, that when everyone has had their day in court it is my intention to move to recommit the bill with instructions to report back forthwith. Would that change the view of the Senator from Louisiana?

Mr. LONG. I would like to think about it.

Mr. BAKER. Mr. President, I really hope the Senator from Louisiana will think about it and that we can arrange it on this basis because we do need to commit the time of the Senate to the consideration of other amendments.

Mr. JOHNSTON. Will the Senator yield?

Mr. BAKER. I yield.

Mr. JOHNSTON. Is the Senator saying that at some point he is going to move to recommit the debt limit bill to come back with a clean bill?

Mr. BAKER. Yes; that is my present intention.

Mr. JOHNSTON. What are we doing all these amendments for if it is going to come back clean anyway?

Mr. BAKER. Mr. President, there are some questions I can answer and some questions I should not answer. [Laughter.]

Mr. JOHNSTON. If the Senator will further yield, does he mean to say we are going to stay here late into the night, maybe over the weekend, just to deal with a lot of amendments that are never going to see the light of day anyway?

Mr. BAKER. It depends on whether I get my way or not. [Laughter.]

As the Senator from Louisiana says, I have a great affection for those things that go my way.

A motion to recommit with instructions might not pass or indeed the bill might not pass clean. So I have two big hurdles to get over. But for weeks now I have indicated, so that nobody thought I was taking them by surprise, that at some point if we do not get this bill resolved we are going to have to pass a simple debt limit extension and it would be my intention to do that. I am reiterating now that it is my intention to do that if we do not deal with the question on its merits.

Mr. JOHNSTON. If the Senator will permit one further comment, as somebody who has voted for Senator HELMS on his prayer and abortion, and all of that, is it not really time that we do that now and save us all a lot of trouble and get on with the business of the Nation? Why not do it right now, this minute?

Mr. BAKER. I was engaged in a conversation with another Senator. I missed the first few priceless words.

Mr. JOHNSTON. I am saying as someone who has supported this prayer amendment and all of that, is it not really time to face up to the fact that it is not going anywhere? It has been a brave fight.

But it has been a losing battle and the battle is over with. Can we not now bring this matter to a close?

Mr. MATHIAS. Right on.

Mr. FORD. Mr. President, will the distinguished majority leader yield?

Mr. BAKER. I yield to the Senator from Kentucky.

Mr. FORD. Mr. President, I support the distinguished Senator from Louisiana. There are several amendments I could not tolerate. I would have to object. If the Senator wants to move on unanimous consent, I hope there may be some amendments that come up that we could debate. But there are several amendments I would have to object to. I now put the Senate on warning and I hope I can be here

when the unanimous-consent request is proposed.

Mr. BAKER. Mr. President, you can see where this leaves the majority leader. I regret it exceedingly. I do not criticize any Senator or even disagree with their point of view. I understand that there is here a device to prevent amendments from being added. There is jeopardy in temporarily laying this aside. That is an acceptable and honorable tradition. Where it leaves me is that it is becoming increasingly difficult, maybe even impossible, to fulfill the commitments I made that other Senators could offer amendments.

I recall discussing this with the junior Senator from Louisiana on the coal slurry amendment, I believe it was. I remember discussing with the distinguished senior Senator from Louisiana and the junior Senator from Indiana a sugar amendment. The list could go on and on. I told them we were going to make this a vehicle on which they could add these things.

If there is objection to this request, I may say it may not be possible to do that.

Now, Mr. President, I withdraw my request.

Several Senators addressed the Chair.

Mr. BAKER. Mr. President, let me first yield to the distinguished Senator from Montana (Mr. BAUCUS), then the Senator from Louisiana and then the Senator from Arizona.

Mr. President, the Senator from Arizona was seeking recognition first. Would the Senator from Montana allow me to yield to him?

Mr. BAUCUS. Yes, Mr. President.

Mr. BAKER. I yield to the Senator from Arizona.

Mr. GOLDWATER. Mr. President, I wonder if it is parliamentarily possible to suggest that we table the Helms amendment at this point?

Mr. BAKER. In answer to the Senator's question, it is possible to do that, as indeed, it was done.

Mr. GOLDWATER. I move to lay the Helms amendment on the table.

Mr. MATHIAS. I ask for the yeas and nays.

The PRESIDING OFFICER. The Senator from Tennessee has the floor. Does he yield for that purpose?

Mr. BAKER. I yield.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay the amendment on the table. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 47, nays 53, as follows:

[Rollcall Vote No. 348 Leg.]

YEAS—47

Baucus	Glenn	Melcher
Biden	Goldwater	Metzenbaum
Boschwitz	Gorton	Mitchell
Bradley	Hart	Moynihan
Brady	Hatfield	Packwood
Bumpers	Hayakawa	Pell
Burdick	Heinz	Percy
Chafee	Hollings	Pryor
Chiles	Inouye	Riegle
Cohen	Jackson	Rudman
Cranston	Kassebaum	Sarbanes
Danforth	Kennedy	Specter
Dixon	Leahy	Stafford
Dodd	Levin	Tsongas
Durenberger	Mathias	Weicker
Eagleton	Matsunaga	

NAYS—53

Abdnor	Ford	Nickles
Andrews	Garn	Nunn
Armstrong	Grassley	Pressler
Baker	Hatch	Proxmire
Bentsen	Hawkins	Quayle
Boren	Heflin	Randolph
Byrd, Harry F., Jr.	Helms	Roth
	Huddleston	Sasser
Byrd, Robert C.	Humphrey	Schmitt
Cannon	Jepsen	Simpson
Cochran	Johnston	Stennis
D'Amato	Kasten	Stevens
DeConcini	Laxalt	Symms
Denton	Long	Thurmond
Dole	Lugar	Tower
Domenici	Mattingly	Wallop
East	McClure	Warner
Exon	Murkowski	Zorinsky

So the motion to lay the amendment (No. 2031, as modified) on the table was rejected.

Mr. WEICKER addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. BAKER. Mr. President, will the Senator yield to me without losing his right to the floor?

Mr. WEICKER. I yield to the distinguished majority leader for the purpose of debate, without losing my right to the floor, without this being considered as the end of a speech for the purpose of the two-speech rule, and that I be rerecognized at the conclusion of the Senator's remarks.

Mr. RANDOLPH. Mr. President, I suggest order. I cannot see the majority leader. I enjoy both seeing him and hearing him.

The PRESIDING OFFICER. The Senate will be in order.

The Chair recognizes the majority leader.

Mr. BAKER. I thank the Senator from Connecticut for giving me this opportunity.

Mr. President, it is clear that we have a problem. The amendment was not tabled. We did not get cloture. There is another cloture vote set for tomorrow.

I regret that we were not able to temporarily lay aside this amendment and proceed, but I understand, and I will abide by that judgment, I have no alternative.

I remind Senators that we will be on this now for the remainder of the day and tomorrow, until 12 o'clock, if we can get that agreement.

CLOTURE VOTE AT 12 NOON TOMORROW

At this time, I ask unanimous consent that the vote on cloture tomorrow be at 12 noon, without the live quorum required by the rule.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. BAKER. I thank all Senators.

Mr. President, if cloture is invoked tomorrow, we will continue to debate the amendment as the rule requires. If cloture is not invoked tomorrow, we will take another look at what we do next.

I remind Senators that we have to finish this bill, and I urge that we consider doing that this week.

Mr. President, will the Senator give me consent to yield to the Senator from North Carolina briefly, under the same terms and conditions?

Mr. ROBERT C. BYRD. Mr. President, after the Senator yields to the Senator from North Carolina, will he yield to me?

Mr. BAKER. May I yield to the minority leader first?

Mr. HELMS. Yes.

Mr. BAKER. I yield to the minority leader.

Mr. ROBERT C. BYRD. Mr. President, there are at least two amendments I should like to call up to this debt limit bill. One is the job training bill. The other is the unemployment compensation amendment.

I would be willing, after cloture tomorrow, to forgo calling up those amendments on this measure, if we could have an understanding—they are both on the calendar—that they would be called up; and I would work hard to get an agreement on my side, say, for an hour on each of those measures. Just call them up and have an hour of debate and vote.

I would hope I could work out other agreements similarly. Maybe we could or could not. Maybe we could not do that on those two. Following cloture tomorrow, if we could get some understanding such as that, I would be glad to support the majority leader's motion to recommit the bill and clear it of all amendments and get it back and have a vote on the passage of the debt limit bill, and dispose of it.

Mr. BAKER. I thank the Senator.

Mr. ROBERT C. BYRD. I offer that as food for thought for the majority leader, if he wishes.

Mr. BAKER. As the old saying goes, I thank the Senator—I think. [Laughter.]

I think the Senator knows that I cannot agree to that. There certainly would be an objection to it on our side.

Mr. President, I still hope that the minority leader and I could cooperate on getting this bill resolved; because, notwithstanding that possibly every Senator has something to offer, almost every Member of the Senate has something they do not want.

It may be that what we have done, unintentionally, is created a legislative

gridlock so that nothing can happen; and if that is so, that is just so. But at some point we will have to dispose of legislation on the debt limit, and we will have to address the questions as we proceed.

Mr. President, I understand that the Senator from North Carolina does not now seek recognition, so, under the order previously entered, I yield the floor; and I believe the Senator from Connecticut will be recognized again.

Mr. BUMPERS. Mr. President, will the Senator yield to me 1 minute under the same conditions?

Mr. WEICKER. Mr. President, I ask unanimous consent that I may yield the floor to the distinguished Senator from Arkansas for a query——

Mr. BUMPERS. For an inquiry of the majority leader.

Mr. WEICKER. Without losing my right to the floor, without this being considered as the end of a second speech for the purpose of the two-speech rule, and that I be rerecognized at the conclusion of the Senator's remarks.

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

The Senator from Arkansas is recognized.

Mr. BUMPERS. Mr. President, I really intended to direct this question to the Senator from North Carolina, but I will direct it to the majority leader.

I want you to know that I sympathize with your plight. I think I understand the reason why you cannot answer some questions being asked you.

My question to the Senator from North Carolina is simply this: He has all the Senators on record with three cloture votes and a motion to table. I understand that his presses are running, his letters are going out, and he is going to mention the names of all those in the Senate who he thinks are against prayer in the schools. We are not, by the way. But how many more times do we have to vote on this?

My question is simply this: What political advantage can there possibly be to getting everybody on record 10 times instead of 9 times? The die is cast on this, I believe. We have a lot of work to do. We have people on both sides of the aisle who want to get back to their States and campaign.

We have a very serious bill here, in the form of a debt ceiling bill. We have a continuing resolution that, in my opinion, will take us a minimum of a week, going late at night, to pass. So why would the Senator from North Carolina not let the majority leader do what he knows he will have to do, and that is to recommit this bill right now, bring it back, and let us pass it and let us get on with the things we have to do?

I really am pleading with the Senator from North Carolina.

Mr. HELMS. If the Senator will forbear, I will answer his question. He is not asking a question; he is making a speech.

Mr. BUMPERS. The question is there, Senator. Answer it.

Mr. HELMS. I think the majority leader will tell you that I have cooperated with him every step of the way. He is not dealing with just one Senator.

I understand that the Senator is against prayer in schools. That is your and Senator MOYNIHAN'S right. But when a majority of Senators vote in favor of school prayer, Senator MOYNIHAN nevertheless gets up and shouts, "The radical right has been defeated." Well, the Senator from North Carolina did not get up and shout, "The radical left has been defeated."

The Senator can play politics if he wishes with this issue, but the fact remains that the American people want prayer restored to their schools.

Mr. ROBERT C. BYRD. Mr. President, if the Senator will yield, I hope Senators——

Mr. BUMPERS. That is all right; leave him alone. I am still on my feet. I will be happy to engage in this debate.

Mr. HELMS. Mr. Minority Leader, I have sat silent in the face of all sorts of abuse directed to the people who are trying to restore prayer in the schools. Certainly, you are on record. But would you, as the minority leader, back up on something to which you are dedicated?

Mr. ROBERT C. BYRD. Mr. President, I do not know why the Senator is pointing his finger at me. [Laughter.]

I was simply going to suggest that Senators on both sides be careful with their statements.

Mr. HELMS. I am glad that point has finally been made, because throughout this debate——

Mr. ROBERT C. BYRD. If the Senator wants to point his finger at me, I will be glad to debate him, if he wishes to engage in some debate. But I have no intention of pointing my finger at him or any other individual in the Senate.

Mr. HELMS. I was in the same position some years ago when Senator Mansfield pointed his finger at me during a tense moment. I took no offense.

What is the Senator's question?

Mr. BUMPERS. The Senator's question is this: We have voted three times on cloture on this amendment. We have now voted on a tabling motion. All of us who opposed to this unconstitutional court-stripping measure are on record. Now, without disparaging the Senator from South Carolina, he has a right to do what he wants to do, but it is my subjective feeling——

Mr. HELMS. Now the Senator moved me across the line.

Mr. BUMPERS. I am sorry—North Carolina.

My point is this: We are on record. It is my belief that this is all political and has been since the first cloture vote. But whether it is or not, I am not attempting to substitute my judgment for yours. Surely, the Senator has everybody on record enough. Why will he not let the majority leader ask for unanimous consent right now or just say that he acquiesces in the majority leader's moving to recommit this bill?

Mr. HELMS. The majority leader does not take his instructions from me, and I will say that if the majority leader wishes to proceed, that is a judgment uniquely his to make.

Mr. BUMPERS. If he moves to recommit this bill right now and it comes out without amendment, are you saying that the Senator from North Carolina has no objection?

Mr. HELMS. I have no objection to any decision that the majority leader wishes to make. I may not like it, or agree with it, but he after all is the majority leader. The Senator from Arkansas is not the majority leader, nor is the Senator from North Carolina.

I have not attempted at any step of the way to dictate to the majority leader. That would be presumptuous.

Mr. BUMPERS. Was not a deal cut that all these social issues would be put on this bill?

Mr. HELMS. What is the Senator talking about when he says "a deal cut"?

Mr. BUMPERS. Did not the majority leader suggest at the very beginning of this session that these issues should be put on the back burner until the eocnomy and other matters the Senate had to consider were in fact considered? Was that not a concession the majority leader made to the Senator from North Carolina?

Mr. HELMS. The majority leader, to my knowledge, never said "put them on the back burner." Those are the Senator's words.

Mr. BUMPERS. I am just characterizing that.

Mr. HELMS. That was the Senator's characterization.

Mr. BUMPERS. I am not saying the majority leader used the precise words.

Mr. WEICKER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. WEICKER. My inquiry is whether or not the Senator from Connecticut has the floor. I yielded for the purpose of a query of the Senator from Arkansas. I was wondering whether or not I still have the floor.

The PRESIDING OFFICER. The Senator from Connecticut is correct. He does have the floor.

Mr. WEICKER. Mr. President, I do not mean to cut off the Senators. I am

only trying possibly to get into the time. I might be helpful in the situation. I do not wish to cut off my good friend from Arkansas or my good friend from North Carolina.

So I will be glad to yield to both if they care to go ahead. I thought it was at an end. That is all. If he wishes to go ahead I will yield further.

Mr. BUMPERS. It is at an end. I do not care to pursue it any further.

Mr. HELMS. That may be the best judgment the Senator will make all day.

Mr. WEICKER. Mr. President, I ask unanimous consent that I may yield the floor to the distinguished Senator from Rhode Island (Mr. CHAFEE) for the purpose of debate without losing my right to the floor and without this being considered as the end of a speech for the purpose of the two-speech rule, that I might be rerecognized at the conclusion of the Senator's remarks, and that I be allowed to leave the Chamber while I have so yielded.

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

Mr. CHAFEE. Mr. President, I thank the distinguished senior Senator from Connecticut for the excellent job he has done in explaining this legislation and the effect that it has.

Mr. President, I wish to continue discussing and quoting from the very apt and able testimony given by Prof. Lawrence H. Tribe, of the Harvard Law School, before the House Judiciary Committee in June 1981.

In that testimony, which was directed against court-stripping efforts of several pieces of legislation that were before the House subcommittee, Professor Tribe had discussed Marbury against Madison, of course, the landmark 1903 decision of the U.S. Supreme Court, where he quoted frequently the statements wherein the Court said:

• • • and certainly cannot be forced to "close their eyes on the constitution, and see only [Congress'] law."

He then went on to state:

That Congress may control the timing and the context for federal judicial review of its own statutes does not imply that Congress may place its favorite laws behind a shield wholly impenetrable by federal judicial review. For Congress to do so would impermissibly condemn those federal judges before whom such enactments become relevant in pending cases to serve as instruments of constitutional disregard and defiance. Authorized to decide a case, an Article III court must decide it constitutionally—or not at all.

This came up in United States against Nixon in 1974:

Beyond this internal requirement of adjudication according to a court's best effort to address all questions necessary to decision, to do so in accord with law, and to regard the Constitution as the "supreme law of the land"—beyond this, both the Supreme Court and all inferior courts created pursuant to Article III are charged to resolve only *actual cases or controversies*, and are concomitantly barred from merely offering "opinions in the nature of [legal] advice."

In other words, you cannot go to a Federal court and seek advice as you can in some State courts.

This came up particularly in *Muskrat* v. *United States*, 219 U.S. 346, 362 (1911). *See also* Correspondence of the Justices, Letter from Chief Justice John Jay and the Associate Justices to President George Washington, August 8, 1793.

What is a proper controversy? It is stated:

To "constitute a proper 'controversy,'" an "asserti [on] [of] a right [must be] susceptible of judicial enforcement." *Maryland* v. *Louisiana*, 49 U.S.L. Week 4562, 4565 (U.S. Supreme Court, May 26, 1981).

It follows that Congress may not so truncate—so cut off the jurisdiction of an article III court.

Mr. President, mind you, an article III court we are referring to those courts in the Constitution set up by article III including the Supreme Court and such lower courts as Congress shall establish.

It follows that Congress may not so truncate the jurisdiction of an Artile III court as to empower it to "decide" a legal controversy while denying it any means to effectuate its decision—or even, as in the ordinary declaratory judgment, at least to alter the concrete situation of the parties or the range of options open to them.

Obviously, it is ridiculous to say that the court can decide a legal controversy but has no means to effectuate its decision.

Congress' broad authority to regulate the panoply of available remedies, in others words, stops short of the power to reduce an Article III court to a disarmed, disembodied oracle of the law lacking all capacity to give concrete meaning to its decision that one party won and the other lost.

You can do this. This much at least is implicit even in article III's bar to adjudication at the behest of the party lacking any concrete standing in the outcome of the proceeding.

This much, at least, is implicit even in Article III's bar to adjudication at the behest of a party lacking any concrete stake in the outcome of the proceeding. For a party advancing a legal argument in a court that has been rendered impotent in any meaningful degree to remedy the wrong complained of lacks, by definition, any stake beyond a citizen's purely theoretical curiosity about how the case turns out.

What Professor Tribe is saying here is that the courts are not set up for people to come before them and say how would this come out? There is a theoretical curiosity about how this case might be decided. That is not what the courts are for. The courts are for to render a decision in which one party wins and another party loses and then to execute that judgment in some fashion to remedy the wrong that is complained of and after that the courts are impotent and are useless.

Professor Tribe then goes on and discusses two pieces of legislation that stripped the courts of their power that were being considered by the House Judiciary Committee.

In those pieces of legislation, both of which would unconditionally deprive the inferior article III courts, that is the district and the circuit courts, of authority to issue—they would not have the authority to issue any restraining order or temporary or permanent injunctions or in the case of one of the pieces of legislation any authority to issue any declaratory judgment as well in any case arising out of a law restricting abortions. To do that was inconsistent with article III.

Now, in that particular instance he was not discussing the prayer amendment, but they are all the same. The thrust is absolutely the same. There is no difference. One dealt with abortion, and the one before us today deals with prayer.

For an Article III tribunal thus defanged, but nonetheless seized of jurisdiction to "decide" a pregnant woman's anticipatory challenge to the validity of an abortion ban under which she is threatened with a criminal fine if she exercises her rights as defined by *Roe* v. *Wade*, 410 U.S. 113 (1973), is reduced to whistling in the wind: if it rules the ban invalid and the threat unconstitutional, as it should, it might as well send the woman its regrets. For the tribunal is forbidden to come to her aid in an anticipatory way—while there is still time—even without any showing that the state courts would, or even might, provide timely relief in proceedings of their own. On the contrary, the expectation quite clearly is that the states will not do so—even though the pending statutes, H.R. 73 and H.R. 900, would at least leave open the possibility of the Supreme Court's appellate review of such state court refusals. The point, it should be emphasized, is not that H.R. 900 and H.R. 73 guarantee that the pregnant woman's rights will be rejected in every court to which she goes for preventive relief; the point is that these restrictions would leave Article III tribunals with no way to compel the timely vindication even of the rights such tribunals find to be unconstitutionally jeopardized; and they in no way link this power vacuum to grounds for suppossing that state courts will vindicate the rights on their own or will be forced to do so by the Supreme Court before it is too late. A federal court placed in such a predicament has been emptied of the essential attributes of judicial power contemplated by Article III: "[For] Congress . . . to confer the jurisdiction and at the same time nullify entirely the effects of its exercise are not matters heretofore thought, when squarely faced, within its authority."[7]

Then Professor Tribe goes on to discuss the effect of those proposed laws that were being considered by the House Judiciary Committee. He says:

Similarly, H.R. 869, H.R. 1079, and H.R. 1180 would purport to strip all Article III

[7] *Schneiderman* v. *United States*, 320 U.S. 118, 168-69 (1943) (Rutledge, J., concurring). Cf. *Sterling* v. *Constantin*, 287 U.S. 378, 403 (1932) (Hughes, C.J.)

courts of jurisdiction to "require the attendance at a particular school of any student because of race, color, creed, or sex," and H.R. 761 would extend this ban to an ouster of jurisdiction "to make any decision, or issue any order, which would have the effect of requiring any individual to attend any particular school"—evidently for any reason.

Now, obviously, the proposed legislation that was being considered dealt with school busing and the integration of the schools.

This latter provision, insofar as it tells federal courts what "decision[s]" they may and may not make regardless of their view of the applicable law and facts, plainly contravenes *United States* v. *Klein, supra.* And all four provisons, insofar as they purport to rule out various pupil-assignment remedies regardless of whether any other decree could give effect to the court's constitutional determination,[8] appear to violate the requirement that decisions made by Article III tribunals not be doomed to futility from the start.

Mr. President, what he is talking about here is not what specifically is sought in the law, the proposed law, dealing with attendance in schools, with school busing or abortion or whatever it might be—in this case it is prayer—but what he is talking about is the ability to reduce the article III courts of this country to a nullity, that they are doomed to futility from the start. There is no point in their wasting any time on a case because they cannot do anything about it. Thus we are engaged in this theoretical business of deciding cases with no results.

The same may be said with respect to H.R. 114, which attempts to strip all inferior federal courts of jurisdiction, directly or indirectly, to "modify" the effect of any state court order so long as that order is or was reviewable by the state's highest judicial body. If a federal court concludes that such an order was entered in violation of the Constitution; that opportunities to challenge and modify it within the state's judicial system were and remain constitutionally inadequate; and that the individual whose rights the order violated, now a party properly before the federal court, will continue to be unconstitutionally prejudiced by the order unless it is promptly modified by that federal court, then following the mandate of H.R. 114 would render the court powerless to give its conclusion any effect whatever.

The view has at times been expressed that Congress is beyond not only to equip whatever federal courts it creates with subject matter and remedial jurisdiction sufficient to satisfy the implicit demands of Article III but also to create such lower federal courts in the first instance (how many? where?) and to vest them with all the jurisdiction that Article III allows, *see Martin* v. *Hunter's Lessee,* 14 U.S. at 330-31, at least to the degree that the effective protection of constitutional rights under modern conditions so requires.[9] The consistent rejection of this position—a position perhaps rendered more plausible by the Civil War Amendments than it was when Justice Story announced it in *Hunter's Lessee*—might be thought to preclude its adoption now. But such rejection of the Story view should not be permitted to obscure the underlying principle—one never rejected by any court—that no Article III tribunal that Congress elects to create, whether under constitutional compulsion or otherwise, may be crippled from birth with a defect of design fatal to the tribunal's capacity to fulfill a function indispensable to the "judicial power of the United States."

I must say Professor Tribe is not a master of clarity. However, his points are well taken. Basically what he is saying, as I have said before, is that we did not set up these article III courts to cripple them from birth with a defective design fatal to the court's capacity to fulfill a function indispensable to the judicial power of the United States.

Mr. MOYNIHAN. Mr. President, will the Senator yield for a question?

Mr. CHAFEE. Yes; I would for a question.

Mr. MOYNIHAN. This seems to me to be with respect to the central historical and constitutional question that we deal with, to wit, did the exceptions clause extend to the vital functions of these tribunals which Justice Marshall said that "The province of the court is to declare what the law is?"

Do I take it to be the judgment of the distinguished Senator from Rhode Island that courts in order to be courts had to have that function, and no group of American lawyers, who were in the main at Philadelphia, would have conceived of the court in any other role?

Mr. CHAFEE. I think the Senator is absolutely right in his question. I mean this is ridiculous. What were the courts for? Why are we setting them up? Why are we paying them? Why do we have a system of review when a court is merely to declare the law, announce it, and that is it? It cannot do anything about it; no injunctive powers, no powers of review, nothing. It is an absurdity, and that, of course, as the distinguished senior Senator from New York has mentioned, is way beyond—it was never in—the dreams of those distinguished citizens present in Philadelphia in 1788 and 1789.

Of course, we have quoted extensively here from the Federalist Papers of Alexander Hamilton and he makes that very, very clear.

I noticed, and the distinguished Senator was here earlier, perhaps, when somebody charged someone as being against school prayer. Wonderful. What a charge. Send the person away in shame, he is against prayer.

Well, that is not the subject in this matter at all. And the Senator from New York has mentioned that many times. The subject has nothing to do with prayer. It has to do with the powers of the courts.

If we were to have a discussion on prayer, if we want to bring forward a constitutional amendment that would permit prayer in schools under the Constitution, then that would be a discussion on school prayer. Are you for it or against it? Compulsory prayer or some substitute or some alternative. That is where you get to discussing the gist of prayer or nonprayer, but not under that measure that is before us today and that has been bedeviling us for these past 2 weeks.

So the Senator is absolutely right in his suggestion that it deals with the capacity of a court to fulfill a function indispensable to the judicial power of the United States.

Mr. MOYNIHAN. Will the Senator allow me to address him just this point? In other words, the issue, as he sees it, is it cannot be confined to prayer because if the principle applies to any aspect of the Constitution it must apply to all of them. So the freedom of the press may be at issue and habeus corpus may be at issue and the right to bear arms may be at issue.

Mr. CHAFEE. The Senator has struck a telling blow there.

Mr. MOYNIHAN. The right to bear arms.

Mr. CHAFEE. The right to bear arms. Imagine this Congress, this body saying that the courts will have no authority to enforce the constitutional provision that says a citizen's right to bear arms shall not be abridged. I wonder how that would go over with some of the proponents of this legislation if we extended it. Maybe we ought to have a substitute and substitute the right to bear arms for prayer. Maybe the sides would be reversed.

Mr. MOYNIHAN. May I just intervene to say that the Senator from Rhode Island will stand by his principles whatever the policy is.

Mr. CHAFEE. I was going to say that there is no question that that was said facetiously. And I know I speak for the Senator from New York and the Senator from Connecticut that regardless of what it is, it is wrong to proceed in this way and that is why we are carrying this on. That is why we are going into extended debate. That is why we have been through three cloture votes and presumably there is one set up, as I understand it, for 12 o'clock tomorrow.

I wish to thank the Senator from New York for his contributions.

Mr. MOYNIHAN. I thank the Senator.

Mr. CHAFEE. Mr. President, continuing quoting Mr. Tribe's testimony:

[8] Cf. *North Carolina* v. *Swann,* 402 U.S. 43 (1971) (invalidating state statute that rules out busing remedy even where needed to correct *de jure* segregation).

[9] *See* Eisenberg, "Congressional Authority to Restrict Lower Federal Court Jurisdiction," 83 Yale L.J. 493 (1973).

EXTERNAL LIMITS

That Congress' jurisdiction-defining powers—in common with all other powers entrusted by the Constitution to the National Legislature—are limited externally as well as internally may at times be forgotten, or obscured by sweeping dicta about plenary authority, but is undeniable all the same.

"[T]he Constitution is filled with provisions that grant Congress or the States specific power to legislate in certain areas; these granted powers are *always* subject to the limitation that they may not be exercised in a way that violates other specific provisions of the Constitution."[10]

Thus, whatever its "power to give, withhold, and restrict the jurisdiction of [federal] courts . . ., [Congress] must not so exercise that power as to deprive any person of life, liberty or property without due process of law or to take private property without just compensation," *Battaglia* v. *General Motors Corp.*, 169 F.2d 254, 257 (2d Cir. 1948), cert. den., 335 U.S. 887 (1948) (footnote omitted), or to contravene any other provision in the Bill of Rights, or in the Bill of Attainder Clause or the Ex Post Facto Clause of Article I, Section 9, or in any other independent limitation or constraint imposed by the Constitution or its amendments upon affirmatively authorized federal legislation. Were the law otherwise, Congress could freely deny access to federal courts to all but white Anglo-Saxon Protestants, or to all who voted in the latest election for a losing candidate.[11] If such consequences are to be prevented, it must be the case that Acts of Congress are accorded no special immunity from independent constitutional limits on national legislation simply because such Acts are cast in jurisdiction-defining terms; the power to define and control the jurisdiction of federal courts is no talisman, somehow dissolving otherwise fatal constitutional limit on what Congress has chosen to do.

As with the internal limit upon the power of Congress to control jurisdiction, these external limits may derive from the interstices and implications of the text, structure, and history of the Constitution as well as from its explicit terms. Ex parte Garland shows as much,[12] and nothing in the logic of the situation counsels a more restrictive canon of constitutional interpretation here than in the identification of internal limits.

Among the external constraints the Constitution imposes upon all federal legislation, including legislation that regulates judicial authority, is the principle that no law may unjustifiably deter or disadvantage the exercise of a constitutional right. The Supreme Court recognized decades ago that constitutional rights could be jeopardized and ultimately destroyed not only by laws directly forbidding or penalizing their exercise but also by laws making their exercise the occasion for withholding or withdrawing benefits or privileges that would otherwise be available.[13] "It is inconceivable that guaranties embedded in the Constitution of the United States may . . . be manipulated out of existence," [14] by using the invocation of such guarantees as a trigger for suspending access to a valued service that government would otherwise have extended. The fact that the service is one government could have chosen to abolish altogether is immaterial; it is the choice to withdraw something selectively when particular constitutional rights are exercised that marks a law as an indirect burden upon such exercise. And whenever a law has this character, it automatically becomes constitutionally suspect. Such a law is per se void to the extent it is intended to prevent or penalize the exercise of a constitutional right.[15] And, to the extent the law's tendency to deter or disadvantage such a right is but an unintended and incidental consequence of the measure, the law is valid only if demonstrably necessary to the attainment of a compelling governmental purpose—a purpose with respect to which the law is neither underinclusive nor overinclusive.[16]

One particularly pernicious device through which a law might deter or disadvantage the exercise of a right is the technique of making the right's exercise ineligible for a generally available form of governmental protection.

The kind and degree of protection to provide—the combination of executive and judicial enforcement authority to confer—is left, in the first instance, to the judgment of the legislature. But so fundamental is "the right of every individual to claim the protection of the laws, whenever he receives an injury." [17] that such protection cannot be suspended or reduced so as to abandon the enjoyment of selected rights to a jeopardy from which others are shielded. Government even bears responsibility for the private intimidation or harassment of citizens that it invites, whether directly [18] or indirectly [19]—including the abuse that it encourages by suspending or withholding ordinarily available devices of law enforcement.[20]

And then Professor Tribe cites some examples that we are talking about here, where he is saying that Government even bears responsibility for the private intimidation or harassment of citizens that it invites, whether directly or indirectly, including the abuse it encourages by suspending or withholding the ordinarily available devices for enforcement. It gives as an example the law that compels the disclosure of membership lists.

This is an example where Government could be responsible, indeed the Government was responsible, for predictable private abuse that would result. You compel the NAACP in Alabama, going back to the early days of civil rights, to disclose its membership lists. The law says all membership lists have to be disclosed.

That is an invasion of privacy because the State government knew that predictable private abuse would result.

Even more plainly, the Federal Government is accountable for the *public* harassment or persecution of citizens that predictably results when it declares open season on them by placing the rights they seek to exercise in a "free-fire" zone, one that is expressly ineligible for the usual panoply of executive and judicial mechanisms for enforcing such rights through making state and local officials civilly and criminally liable for their abridgment. At least when surrounding rights are fully protected through such mechanisms, "denying the equal protection of the laws includes the omission to protect, as well as the omission to pass laws for protection." *United States* v. *Hall*, 26 Fed. Cas. 79 (C.C.S.D.Ala. 1871).

Congress' sweeping authority to define federal torts and crimes, for example,[21] would confront an insuperable constitutional obstacle were that authority to be deployed in such a way as to protect from hostile state and local governmental activity only such constitutional rights as might meet political favor with the electorate at any given time. Thus, 42 U.S.C. § 1983 currently subjects to civil liability in federal court all who, under color of state law, deprive individuals of their constitutional rights; and 18 U.S.C. § 241 now makes criminal the willful deprivation of such rights by state and local officers, among others, who "threaten or intimidate any citizen in the free exercise or enjoyment of any right or privilege secured to him by the Constitution . . ., or because or his having exercised the same."

Such harassment is not immunized from federal prosecution by the theoretical existence of state remedies against it.[22] Nor is such harassment immunized by the fact that it takes the form of arrests, searches, seizures, or interrogations under a patently void statute—one that could not possibly lead to a valid conviction; indeed, precisely such harassment is currently subject to preventive relief by federal injunction. See *Younger* v. *Harris*, 401 U.S. 37, 47-49 (1971).

Now imagine what would happen if Congress were to amend 18 U.S.C. § 241 to make it inapplicable, or to limit its punishment to nominal fines, whenever the "right or privilege" that had been subjected to threat or

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[10] *Williams* v. *Rhodes*, 393 U.S. 23, 29 (1968) (emphasis added).

[11] But see Ex parte *Garland*, 71 U.S. (4 Wall.) 333 (1867) (former Confederate sympathizers cannot be denied access as advocates in cases before federal courts).

[12] Id.

[13] See, e.g., *Frost & Frost Trucking Co.* v. *Railroad Commission*, 271 U.S. 581, 593-94 (1926).

[14] Id. quoted with approval in *Western and Southern Life Insurance Company* v. *State Board of Equalization of California*, 49 U.S.L. Week 4542, 4546 (U.S. Supreme Court, May 26, 1981).

[15] See *United States* v. *Jackson*, 390 U.S. 570, 581 (1968); *Shapiro* v. *Thompson*, 394 U.S. 618, 631 (1968); *Frost & Frost Trucking Co.* v. *Railroad Commission*, 271 U.S. at 593-94.

[16] See *Shapiro* v. *Thompson*, 394 U.S. at 634; *Memorial Hospital* v. *Maricopa County*, 415 U.S. 250, 258 (1974); *Sherbert* v. *Verner*, 374 U.S. 398, 404-07 (1963). See also *Thomas* v. *Review Bd. of Indiana Employment Security Div.*, 101 S.Ct. 1425, 1431 (1981).

[17] *Boddie* v. *Connecticut*, 401 U.S. 371, 374 (1971); *Marbury* v. *Madison*, 5 U.S. (1 Cranch) 137, 163 (1803).

[18] *See Lombard* v. *Louisiana*, 373 U.S. 267 (1963) (property owners invited to invoke facially neutral trespass laws against blacks during sit-ins at restaurants).

[19] *NAACP* v. *Alabama*, 357 U.S. 449, 462 (1958) (compelled disclosure of membership lists made government responsible for predictable private abuse that would result).

[20] See *Gregory* v. *Chicago*, 394 U.S. 111 (1969); *Feiner* v. *New York*, 340 U.S. 315, 326-27 (1951) (Black, J., dissenting); Z. Chafee, "Free Speech in the United States" 245 (1948).

[21] See, e.g., *United States* v. *Hudson & Goodwin*, 11 U.S. (7 Cranch) 32 (1812) (federal courts have no authority to punish conduct without congressional enactment specifically defining the conduct as criminal).

[22] See *Screws* v. *United States*, 325 U.S. 91 (1945) (state police who beat black suspect to death may be federally prosecuted under 18 U.S.C. § 242 for willful deprivation of suspect's constitutional rights under color of law notwithstanding possible state prosecution for murder).

intimidation was the right to an abortion, or the right not to have even "voluntary" prayers conducted in one's public school, or any other of a short list of rights of which a majority in Congress happened to disapprove. It is unthinkable that such a law would, and unimaginable that it should, be upheld—not because Congress' reach in enacting it would have exceeded its grasp (Congress' power to define federal crimes and to regulate their punishment is at least as "plenary" as many of its other powers and is, if anything, broader than its power to control federal judicial jurisdiction) but because in its reach Congress would have collided with the rights that it had selectively sought to disadvantage.[23]

The same would follow if Congress were to withdraw from the reach of 42 U.S.C. § 1983 the right to bring up one's children without undue public intrusion, or the right to end a pregnancy, or indeed any other specific right, thus subjecting to federal civil remedies at law and equity all actions under color of state law depriving citizens of their constitutional rights—except for the rights thereby left by Congress to fend for themselves. The fact that Congress' exclusion of selected rights might involve a limit on the judicial branch rather than, or in addition to, the executive branch, obviously makes no constitutional difference so far as the external constraints on Congress' powers are concerned.

Mr. President, I ask unanimous consent that I may yield the floor to the distinguished Senator from Connecticut without this being considered as the end of a speech for the purpose of the two-speech rule.

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

Mr. WEICKER. I thank the distinguished Senator from Rhode Island, both for his yielding and for the excellence of his comments. I believe efforts such as his have indeed reacquainted a Nation with the Constitution of the United States, and efforts such as his that have preserved some very basic freedoms that have been under attack here on the floor.

Now, Mr. President, I would like to read a commentary which ran in the Sunday Express-News in San Antonio, Tex., on May 16, 1982. The column is entitled "State Approved Religion Just Will Not Work." It is written by a gentleman by the name of Maury Maverick.

It starts off quoting the first amendment of the U.S. Constitution, that "Congress shall make no law respecting the establishment of religion * * *"

You Presbyterians, Lutherans, Quakers, Methodists and Baptists deserve a pat on the back. It was your religious predecessors who saved our country one time long ago from having a state religion. Now the living must again save the country, but this time from the crazies of the Moral Majority who would have a football coach tell your kid how to pray.

Presbyterians, Lutherans, Quakers, Methodists and Baptists flocked behind the banner of Thomas Jefferson and James Madison and were responsible for the enactment of the famous "Virginia Bill for Religious Liberty." From that great document came the First Amendment of the Bill of Rights. In the face of the current threat against religious liberty, Jews with the vision of Leo Pfeffer of the American Jewish Congress, and Catholics with the courage of Father Robert Drinan will join in the fight for the continuation of separation of church and state. So will blacks. These three minorities will be the first to suffer.

The idea of having a government-sponsored period for prayer finds its roots in the Book of Common Prayer of the Anglican church. That religious body persuaded Parliament to pass acts in 1548 and 1549 making the Anglican way of prayer the official and proper way to pray. Because of this, England was disrupted, and it became worse and worse as each new king or queen struggled to impress his or her viewpoint upon the government on how to pray.

Minorities in England, outraged by the Anglicans, came to these shores and, becoming the majority in certain areas began periods of religious tyranny of their own.

Justice Hugo Black, in the landmark case of Engel vs. Vitale, the decision Reagan and the other people of limited vision are now trying to overturn, caught the spirit of religious liberty by writing:

"By the time of the adoption of the Constitution, our history shows that there was a widespread awareness among many Americans of the dangers of a union of Church and State. These people knew, some of them from bitter personal experience, that one of the greatest dangers to the freedom of the individual to worship in his own way lay in the Government's placing its official stamp of approval upon one particular kind of prayer. . . . They knew the anguish, the hardship and bitter strife when zealous religious groups struggled with one another to obtain the Government's stamp of approval from each King, Queen or Protector. . . ."

"But, Maverick," I can hear the innocents say who do not know their history, "all we want is a neutral prayer."

A neutral prayer? Man alive, we already tried that and it didn't work!

In Engel vs. Vitale and the State of New York caused the following "neutral prayer" to be read aloud: "Almighty God, we acknowledge our dependence upon Thee, and we beg Thy blessings upon us, our parents, our teachers and our country."

To this state-devised "neutral prayer" the Supreme Court declared, ". . . it is no part of the business of government to compose official prayers for any group of Americans to recite as a part of a religious program carried on by government." In other cases of the Supreme Court in situations where children ostensibly could refuse to participate, the result was to demean and intimidate those refusing.

Whenever in this world there is state-approved, regimented and official religion, there is trouble, be it in Iran, Israel—where a reform rabbi is a lesser person than an orthodox rabbi—France, Spain or Roman Catholic South Ireland sitting next to Anglican North Ireland. In our own century it has been the Jewish students who have, generation after generation, suffered at schools by being forced to participate in the Christian exercise of religion. How would you like a Jewish principal of a public school telling your Christian kid to pray a Jewish prayer?

Priests, preachers, rabbis and mullahs can be tyrants just like anyone else. When our Texas ancestors signed the Declaration of Independence of the Republic of Texas, they understood how abusive clergymen can be and specifically described them in that great document as the ". . . eternal enemies of civil liberty, the ever ready minions of power, and the usual instruments of tyrants." There ain't nothing mushmouth about that language.

But our brave forefathers didn't stop with the Declaration. They wrote into the Constitution of the Republic of Texas, "Ministers of the gospel, being by their profession dedicated to God and the care of souls, ought not to be diverted from the great duties of their functions: therefore no minister of the gospel, or priest of any denomination whatever, shall be eligible to the office of the Executive of the Republic, nor to a seat to either branch of the Congress of the same."

Our present Texas Constitution reads, "No money shall be appropriated or drawn from the treasury for the benefit of any sect or religious society; nor shall property belonging to the State be appropriated for any such purpose." The latter phrase means you don't turn a government funded public school over to the pope or a football coach for the purpose of student praying.

Writing to John Adams, my hero Thomas Jefferson stated, "I never told my religion, nor scrutinized that of another. I never attempted to make a convert, nor wished to change another's creed. I have ever judged of others' religion by their lives . . . for it is from our lives and not from our words, that religion must be read."

Don't you see the danger in the proposed constitutional amendment urged by the lunatics and as now adopted by President Reagan? What the goofy crowd wants to do is to take away the right of the federal judiciary to protect you or me if the state does violate religious liberty.

Years ago I wrote to a famous jurist and asked him to inscribe on the flyleaf of a book those words about liberty which he had written and which he considered his best comment on the subject.

The judge was a deeply religious man, but he knew the state ought to keep its nose out of prayer and the courts should be available to prevent state abuse of religion. From a chamber of the Supreme Court, the jurist took pen in hand and wrote these words back to me, words that can make your spine tingle, and even weep.

"Under our constitutional system, courts stand against any winds that blow as havens of refuge for those who might otherwise suffer because they are helpless, weak, outnumbered, or because they are non-conforming victims of prejudice and public excitement."

Then he concluded with a personal note, "In love of freedom and country. Washington, D.C. 1962. Sincerely, Hugo Black."

Mr. President, there you have in very succinct form one of the aspects of the argument being made here, on the Senate floor. My good friend, the Senator from Montana (Mr. BAUCUS), will surely be here to argue the three separate but equal branches of Government in opposition to this amendment, that is, we should not strip the courts of their function to protect us

[23] Whatever such a law's other aims, it would fit too poorly (to pass muster under strict scrutiny) any objective other than the forbidden one of deterring or penalizing the rights excluded.

should the legislative and executive branches fail to do so. I prefer to come at this head-on in substance as being a violation of the first amendment of the Constitution. I do not want anybody's nose in the religious affairs of my family—not my children, not me, not my wife; nobody. It is nobody's business. It is a matter between me and the Creator.

I ask those of adult age, if this is such a good idea, why not impose it on all 232 million Americans? That would include all those of voting age. Why shuffle this off to be practiced upon the children? How about all 232 million having to stand up and recite a state prayer?

I think we know what would happen. Whoever made that suggestion would not last very long on the local school board. They would not last very long if they were a Governor. They would not last very long if they were a Senator. Kids cannot vote. We are going to tell them what is best for them. Why not teach them the Constitution of the United States because, indeed, the whole country has forgotten that. That is what the trouble is.

I remember, around the time of Watergate, several enterprising young reporters that worked for one of the networks going into a supermarket in Miami, Fla. I remember this as if it were yesterday. They had the Bill of Rights on a clipboard, not one word changed, as if it were a petition. They would ask people coming in if they would sign this petition, the Bill of Rights of the Constitution of the United States. Do you realize that over 75 percent would not sign it? And when they were asked why they would not sign it, over 50 percent said it was a Communist document.

Now, that is how far we have come in understanding the origins of our own Government and in failing to understand our greatness.

The United States is not No. 1 because of the number of its citizens. If that were the case, China, Russia, India, many other nations, would be preeminent in the world.

We are No. 1 because of what emanates from the mind. The reason why this Nation is No. 1 is that, we do have total freedom to think. Religious freedom is not a partial matter; it is a total freedom.

That is what is at issue here.

This is one of the moments in American history when American people are becoming reacquainted with their Constitution and what it stands for. Do not forget the men and women who wrote that document came off some very harsh experiences.

Even with the proximity in time of their having been exiled or their having left persecution and death, they were bound to forget very quickly. Certainly we can be forgiven as a generation when earlier generations of Amercians, much closer to the time period of the Revolution, killed those who believed in the Mormon faith as they trecked West. Certainly we can be forgiven for not understanding what that document said when residents of Salem, Mass., put to death 19 of their own in the name of religion. And they were only a few years away from their own persecution.

But because we have that excuse does not permit us to forget that great law of the land which is the Constitution and which is just that, the law of the land.

And so we become reacquainted with the first amendment and we become reacquainted with the reasons for its passage:

> Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof.

Suppose, for instance, my faith prohibits me from hearing any words except those that are proscribed by my faith. What if that is a basic tenet of my religious faith? What is my child supposed to do? What is my child supposed to do when this voluntary prayer routine is being gone into? Leave? Protest? Get into a constitutional court case?

It seems to me that that is prohibiting the free exercise thereof. There is not a list of exceptions in the first amendment. There is not a footnote to the Constitution listing exceptions. It means just that, "shall make no law respecting an establishment of religion." That is everything. "Or prohibiting the free exercise thereof." No exceptions.

Madison, Jefferson, all of these men who wrote the Constitution, came off an experience of tyranny and of state religion. I think it is great that we have this rich religious heritage in this country. I am proud of the fact that my great uncle was the Archbishop of Canterbury, Randel Davidson. I am proud of that fact. But I also have to point out, as an American who knows his history, that the Archbishop of Canterbury back in the 1600's was not on the Mayflower and for very good reason: Because the people on that ship were fleeing from the Archbishop of Canterbury and his partner, the King of England, because they had successfully merged the civil and the religious authority of that nation.

The greatest mischief throughout history has been conceived by the merged authorities, civil and religious.

Now, before I yield to my good friend from Montana, people will say:

> Well, that can't happen here. We are not talking about people being burned at the stake or martyred, exiled or thrown into prison.

Well, then, you better read your history to find out how the intolerance and persecution did start. Somebody did not just get up in the morning, grab his neighbor and tie him to a stake.

These matters of intolerance and of visiting death on one's neighbor in the name of the Almighty start with little works and little deeds that are innocuous, that are neutral—like a little neutral prayer.

If you really believe in your particular faith, you should not accept anything that is neutral.

I do not accept these little neutral acts. These little neutral acts have a way of building up. All you have to do is tell how testy people get in the Senate when the business of religion comes up.

Mind you, we have some pretty well established rules as to how we treat each other, and even those become strained. What do you think happens out there in the streets? When we go to people's homes, we are not in the habit of getting into religious debates, for good reason.

This Constitution is a piece of genius, and it is something that has been left to us intact. If anything, I would say that the words written in there have expanded our liberties; but never, as far as I know, have they been contracted.

Take a look at all these amendments. Tell me which amendments—with the exception of prohibition, when others were trying to moralize in another day and age—tell me what in here contracts our liberties. Nothing.

This is going to be the first generation to do that? We have spent everything else around here. We have burned up the air; we have contaminated the water; we have just about laid waste to every other heritage, every other piece of capital given to us. Now this goes? Oh, no. Not as long as this Senator and other Senators can stand and defend it.

If anybody thinks the future of the United States is in a weapons system or is in the gross national product or is in our personal income statistics or anything else, it is not. It is right here in the Constitution. In this resides our greatest strength, but only if it is left alone.

Mr. President, I yield the floor to the distinguished Senator from Montana (Mr. BAUCUS) for the purpose of debate, without losing my right to the floor, without this being considered as the end of a speech for the purpose of the two-speech rule; and I ask unanimous consent, also, that at the end of the Senator's remarks, or remarks of Senators to whom he yields, I be recognized, and that I be allowed to leave the Chamber while so yielding.

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

Mr. BAUCUS. Mr. President, first, I thank the Senator from Connecticut and give him my appreciation and respect. The Senator once again, as he

has done many times before on the floor of the Senate—and in other locations, in public forums—has eloquently and courageously defended the Constitution. I thank the Senator for his efforts here today in defense of the Constitution.

Mr. President, I support the pending amendment. For those who have forgotten in this debate what the pending amendment is, let me explain.

The pending amendment to the bill very simply states that Federal courts must remain open to those citizens who wish to litigate their constitutional rights. That is the pending amendment. One might ask, "Why is that the pending amendment?" And I answer that it is the pending amendment because court shipping is the issue before us.

The debate today and yesterday and for the last month has been over the Helms amendment. The Helms amendment, too, is pending. That is the first-degree amendment to the committee substitute.

The Helms amendment has been characterized as a school prayer amendment, but it is not a school prayer amendment. It is not a voluntary prayer amendment. It is not even an amendment which deals with religion. It is a court stripping amendment. That is why the pending amendment, the amendment which declares that Federal courts must remain open to those citizens who wish to litigate their constitutional rights, is before us today.

The real issue before us is whether or not the Senate is willing to set the vicious and pernicious precedent of removing the Supreme Court's power and right to enforce the Constitution. That is the issue before us. The Helms amendment is a court-stripping amendment. That is what it is all about. It is a court-stripping amendment that the Weicker amendment addresses; and the amendment offered by the Senator from Montana is now pending because we are dealing here with the proposed court stripping in the Helms amendment. The ongoing debate is about court stripping.

Today's procedural vote was about court stripping, and I am here because I am concerned about court stripping.

The American Bar Association opposes the pending amendment—that is, the Helms amendment—because it is court stripping. The Attorney General of the United States has not endorsed the Helms amendment because it is court stripping. The President of the United States has not endorsed the Helms amendment because it is court stripping. The President favors the right process, the correct process, to resolve this issue—the constitutional amendment process. The Senator from Montana favors that process. I would be pleased if the Senate would call up the constitutional amendment so that we could fully debate it. That is the process set forth in our Constitution for resolving constitutional issues.

That is why the President submitted the constitutional amendment, and that is why the President of the United States has not endorsed the Helms amendment. He has not endorsed the Helms amendment because the Helms amendment is a court-stripping amendment.

What is involved in this ongoing dialog is an attempt to explain to the American people and to the press that we are not talking about school prayer. We are not talking about religion in our schools. We are talking about court stripping.

When I say court stripping, Mr. President, I mean prohibiting the U.S. Supreme Court from hearing virtually any issue regarding prayer in the public schools.

Someone may well say: "Fine, the issue is court stripping. What difference does that make? Why does this issue deserve any more discussion than, say, a tax bill or an appropriations bill or, for that matter, any other bill before the Senate?"

My response is quite simple. What is being proposed on the Senate floor by the Senator from North Carolina is a totally radical departure from the way we have protected constitutional rights for nearly 200 years in our country's history.

It may seem on its face like a simple, substantive vote on an issue that concerns some constituents—maybe some more than others. But, in effect, if the principle before us is enacted and withstands court challenges, from that moment on, the Supreme Court will be able to protect only those constitutional rights that Congress permits it to protect.

Mr. President, I hope my fellow Senators fully appreciate what that means. I hope the press covering this debate fully appreciate what that means.

What this bill would mean to Americans, to citizens of the United States of America, to all residents of the United States of America, whether citizens or not, is that if this bill passes and is upheld by the courts, Congress would then be free to deny citizens any constitutional right by a simple majority vote.

Congress would be free to take away personal property from individuals without due process of law. Think of that. Think of what a radical departure that is from our form of government—Congress taking personal property away from individual citizens without due process of law.

Congress would be free to authorize searches of individual homes without a search warrant.

Mr. President, unreasonable searches and seizures are prohibited by the fourth amendment, part of the Bill of Rights, one of the reasons our Founding Fathers left continental Europe to come to our country to form a new country, and a new government. They wanted to set up a government where they could be free from unwarranted searches and seizures and to establish a system by which a search warrant would be necessary before the Government could intrude and search one's home.

Congress, would also be free to close down the Nation's press rooms. Think of that. Congress could eliminate the first amendment, one of the most vital and important portions of the Bill of Rights.

And Congress would be free to establish a national religion.

These were the very abuses of Government from which those who founded our country were seeking refuge. These were the abuses they were trying to prevent when they came to our country and framed our Constitution. They established a judicial branch and a Supreme Court to assure that the constitutional protections that they placed in the Constitution would be honored by the other branches of Government.

Mr. President, that is a very, very fundamental point. The framers of the Constitution knew that if citizens of the United States of America are going to enjoy those constitutional protections, that is if they are going to keep those constitutional protections and withstand the whimsical majority that sometimes flames the passions of legislators in the U.S. Congress, they had to set up a judicial branch of government and Supreme Court and other Federal courts to insure that those constitutional rights would be guaranteed to individual citizens.

I am convinced that if the average American knew that the pending amendment before us was a court-stripping amendment, an amendment prohibiting Supreme Court review of a Federal constitutional issue, in this instance school prayer, that American would agree with me that this is not the way to go about responding to an unpopular or inappropriate decision of the U.S. Supreme Court.

If this Helms provision is passed by Congress and upheld as constitutional, each of our constitutional rights would be hanging on the very slenderest of threads.

If freedom of the press in no longer the order of the day, let us pass a statute and get the President to sign it. That is all it would take—and the Supreme Court could no longer enforce the constitutitonal guarantee of freedom of the press.

If freedom of religion is no longer the order of the day, let us pass a statute as the Helms amendment purports to provide, and get the President to

sign it. That is all it would take—and the Supreme Court could no longer enforce the constitutional guarantee of freedom of religion.

If the Government decides that citizens can now have the privacy of their homes invaded by Government officials operating without a warrant, let us pass a statute and get the President to sign it. That is all it would take—and the Supreme Court could no longer enforce the constitutional protection against unwarranted search and seizure.

The pattern is clear. What is being proposed here is a fundamental change in the rules by which constitutional protections are guaranteed. And what is more--this can happen here on the floor of the Senate by simple majority vote. That is all it takes—a majority, 51 percent of those present and voting to undermine, to prohibit, to eliminate a Federal constitutional guarantee.

If the proponents of these measures want us to begin to dismantle the Constitution by simple majority vote, then let them put together a national consensus of two-thirds of the Congress and three-quarters of the States to permanently alter the rules by which constitutional protections are guaranteed.

That is, let them propose a constitutional amendment in the same way that our framers intended for our country to address constitutional changes.

But let us not let them make the kind of fundamental change in our form of government they are seeking by simple majority as this school prayer amendment by the Senator from North Carolina contemplates.

We should keep in mind that this administration has been unwilling to endorse the pending Helms amendment. The President wants to restore voluntary prayer to the schools. You bet he does. He said so in his radio address to the Nation just last Saturday. But he is not advocating that we strip the Supreme Court of its jurisdiction to hear school prayer cases.

Mr. President, I have been addressing the question of the administration position on this pending court-stripping amendment, and, as I indicated earlier, the President himself is not in favor of the pending Helms amendment. In fact, in a radio address to the Nation Saturday he said he favors the constitutional amendment to address the question, but he sidestepped very definitely any support for the pending amendment, that is the Helms amendment.

He wants us to vote on his proposed constitutional amendment, not only because he supports it but because he knows that it is the constitutional amendment process that is the correct way for us to address constitutional decisions of the U.S. Supreme Court.

I challenge the President to speak out and help get the Senate off the track that it is now headed down. I will join with him to have us address the school prayer issue in the context of the constitutional amendment, but I urge him to join me in rejecting the course of attempting to strip the Supreme Court of its jurisdiction over school prayer cases.

While some may disagree with the substance of the President's proposed constitutional amendment, all of us can agree that it is the proper way for addressing the school prayer issue.

As stated today, and as stated yesterday, and I have stated on previous occasions, I believe the amendment process is the proper process in which the Senate can address the question of school prayer. But I am not in favor of prohibiting Supreme Court review over school prayer as proposed by the Senator from North Carolina.

Mr. President, I would also like to make one additional point about the manner in which this amendment is being raised. I do not think this proposal should be before us in the context of a debt limit bill. No issue of such great magnitude as a school prayer issue should be considered as a rider to a money bill of this nature. It should be processed and called up as a freestanding piece of legislation.

Let me make this point clear. We are now considering a debt limit bill, a bill which has to be passed if the Nation is to pay its bills, and here we are today being asked to pass an amendment as a rider to the underlying debt limit bill, stripping the U.S. Supreme Court of jurisidiction over school prayer.

Mr. President, that to me is not the proper way to conduct our business here. Rather we should debate school prayer either in the context of a constitutional amendment or in some other context so that we should air the issue fully and not just bring up the school prayer amendment to the debt limit bill.

Let me point out one other thing. There has not been one single witness to testify on the underlying Helms legislation in the Senate in this Congress or any other Congress. The original Helms proposal is S. 481 and is pending before the Separation of Powers Subcommittee, of which I am a member. That is an important point. Not one single witness has appeared on the underlying Helms legislation that is causing this delay; not one single witness has ever testified before a Senate committee in this Congress or any prior Congress on the Helms amendment.

The chairman of the appropriate subcommittee, the other Senator from North Carolina, Senator EAST, who is a supporter of this proposal, has not had the opportunity of 1 day of hearings on S. 481. I might add S. 481 is essentially the Helms amendment. The subcommittee has not been asked to vote on this amendment and the subcommittee and the full committee have not been asked to have hearings on it as of this date. Rather the entire subcommittee and the committee process has been totally end run. This Helms amendment is here without any serious Senate consideration.

I should also note the other body has had extensive hearings on this proposal in the last Congress. In fact, Mr. President, there is a full volume of hearings before the House Judiciary Committee here on my desk, and I believe it is no small coincidence that the House of Representatives has not favorably responded to court-stripping proposals simply because the House has studied them. The House has held hearings, the House has extensively debated the issue and, in my judgment, that is the reason why the House has not responded favorably to court-stripping proposals.

We in this body have not had any hearings; not one witness has testifed. I believe, Mr. President, perhaps presumptuously, that if the Senate of the United States were to have hearings, if witnesses were called to testify on the underlying Helms amendment, the result would be the same in this body. And the Senate, too, would understand the full import of the court-stripping bills and would not report them favorably.

I might further add that the House opposition to court stripping is bipartisan. Both parties are opposed to court stripping. The House opposition crosses ideological lines, and I believe the depth of sentiment in the Senate against court stripping would be just as bipartisan, would be similar, if the Senate were willing to study the proposal and would permit it to come up through the traditional committee process.

I ask each of my colleagues to assess what is at stake. We can address the school prayer issue, but let us do it in the manner prescribed in our Constitution, through the amendment process. Let us not forsake our Constitution in an effort to cast politically popular votes. To do that is to ignore our obligation to our oath of office to uphold the Constitution. We should not lose sight of that, Mr. President.

Each of us here, each of us in the Senate, took an oath of office to uphold the Constitution of the United States. What is more fundamental in our Constitution than the separation of powers, three branches of Government, coequal branches of Government; checks and balances so that one branch does not have the power to usurp or swallow up the other?

The underlying Helms amendment, which prohibits the Supreme Court from hearing any case involving school prayer, is the first step down the road

to prohibiting Supreme Court jurisdiction over any Federal constitutional issue, any Federal constitutional claim, and that violates the fundamental doctrine of separation of powers, coequal branches of Government, and checks and balances, all of which are written into our Constitution.

If we are to uphold the Constitution of the United States, an oath which we swore, then I think, Mr. President, we should resoundingly reject the Helms amendment because to support the Helms amendment is to obliterate one of the three coequal branches of Government.

I do not think that is what the framers had in mind, and I also do not think that is what the American people would want us to do if they understood the issue before us.

Mr. President, I would now like to read an article which appeared in the Washington Post of May 17 of this year. It is a column that I authored, in which I commend the administration for selecting the route of a constitutional amendment to address the school prayer issue. Let me read that column. As I say, Mr. President, in this column I commend the President. The reason I commend the President is he realizes that the proper way to meet and address the question of school prayer is by amending the Constitution and not by prohibiting the Supreme Court from reviewing issues arising from school prayer claims.

As I said, this article appeared on the op-ed page of the Washington Post on May 17 of this year. The title of the article is "The President Strikes a Blow for the Courts":

[From the Washington Post, May 17, 1982]

THE PRESIDENT STRIKES A BLOW FOR THE COURTS

(By MAX BAUCUS)

President Reagan's recent endorsement of a constitutional amendment that would allow voluntary school prayer has been characterized mainly as a gesture to restless conservatives.

But viewing the president's announcement only as a political story misses much of its significance.

Buried in many reports of the president's statement was the fact that the administration also refused to endorse "New Right" legislation that would strip the federal courts of jurisdiction over school prayer.

By choosing a constitutional amendment, the administration is acknowledging that fundamental constitutional principles must not be sacrificed on the altar of political appeasement.

For three years, some proponents of school prayer have advocated legislation that would strip the Supreme Court and lower federal courts of their jurisdiction to hear school prayer cases.

This bill was seen as a way to address the Supreme Court's 1962-63 school prayer decisions. Such a statute, if passed by a majority of Congress and signed by the president, would free state courts to overturn (or leave alone) previous court rulings on school prayer.

Such legislation presents a radical threat to the Constitution. Since 1803, when the Supreme Court ruled in *Marbury v. Madison*, the court has determined what is constitutional. Unpopular decisions can be overturned if two-thirds of Congress and three-fourths of the states agree to a constitutional amendment, according to Article V of the Constitution.

The court-stripping legislation before Congress would made an end run around this process.

In his analysis of the court-stripping approach, Attorney General William French Smith stated:

"Congress may not . . . consistent with the Constitution, make 'exceptions' to Supreme Court jurisdiction which would intrude upon the core functions of the Supreme Court as an independent and equal branch in our system of separation of powers . . . The integrity of our system of federal law depends upon a single court of last resort having a final say on the resolution of federal questions."

I applaud President Reagan and Attorney General Smith for rejecting the court-stripping approach and endorsing a constitutional amendment.

The administration's position is clear: fundamental constitutional values must take precedence over the interests of single-issue groups, whether from the right or left of the political spectrum.

The Senate soon may be asked to vote on the "Human Life Statute," legislation that would overturn the *Roe v. Wade* abortion decision.

The Reagan administration's analysis of the school prayer issue should be a message to those who support the Human Life Statute. Those in the "New Right" who support the proposed statute should be seeking a constitutional amendment.

There will never be complete agreement on social issues such as abortion, school prayer and busing. But we should agree that Article V of the Constitution provides the framework for us to resolve these public policy disputes.

Mr. President, I would like now to speak more generally on this issue facing us, court stripping.

Mr. President, the issue before us is profound, and I do not use that word lightly. Efforts in the Helms bill are an assault on the independence of one of our three branches of our Federal Government—the Federal judiciary. Recent developments have convinced me that the judicial branch is facing an attack of major proportions:

In April of 1979, the then democratically controlled Senate voted 51 to 40 in favor of an amendment, offered by Senator JESSE HELMS of North Carolina, to a Supreme Court jurisdiction bill. The amendment would have eliminated Supreme Court and lower Federal court jurisdiction over the issue of school prayer. Identical legislation is currently pending on the Senate calendar, that is the bill before us, which is no longer on the calendar but which is one of the pending issues.

Last year, subcommittees of both House and Senate Judiciary Committees held hearings on the overall issue of congressional attempts to limit the Federal courts.

On July 10 of last year, the Separation of Powers Subcommittee of the Senate Judiciary Committee favorably reported legislation that would eliminate lower Federal court jurisdiction in certain abortion cases. Identical legislation is pending on the Senate Calendar.

Last fall, the Separation of Powers and the Constitution Subcommittees reported legislation designed to prevent lower Federal courts from issuing any busing orders. Those bills have been disposed of one way or the other at this point but they are still before us if not in letter, certainly in spirit.

The entire Senate recently completed a prolonged debate on an amendment to the Department of Justice authorization bill which would severely limit those instances in which a Federal court could issue a busing order.

At last count, there are approximately 30 separate pieces of legislation pending in the House and the Senate that would limit the jurisdiction of the Federal courts.

Clearly, the issue of congressional control over the Federal courts is not merely an academic exercise. Rather, the issue may be the single most important item on our Nation's noneconomic agenda in the 1980's. In my view, the outcome of this debate will fundamentally and profoundly determine the status of individual rights and liberties in this country for decades to come.

I might add, Mr. President, that I think the country would rather that we address economic issues than the noneconomic issues—that is, get on with the debt limit bill, do what we can here in the Congress to lower interest rates, lower deficits, lower unemployment, pass legislation that would effectively allow Americans to compete with overseas countries and companies, find some ways to restore some stability to our international monetary system and address the questions that have been facing Americans in the most direct and fundamental areas, the pocketbook issues—jobs, income, inflation, interest rates—rather than devote time on the issue before us which, as we all know, is one that the Congress should not pass because it so adversely alters our form of government.

The framers of our Constitution, I think, 200 years ago designed a judicial branch intentionally to protect the integrity of the Constitution. For example, Mr. President, Alexander Hamilton stated in Federalist Paper No. 78 that it is the duty of the courts "to declare all acts contrary to the manifest tenor of the Constitution void. Without this," he observed, "all reservations of particular rights or privileges would amount to nothing."

Let us dwell on that for a moment. Alexander Hamilton, in Federalist Paper No. 78, stated that it is the duty of the courts—he is then referring to

the Federal courts—"to declare all acts contrary to the manifest tenor of the Constitution void. Without this, all reservations of particular rights or privileges would amount to nothing."

What did he say? He said it was the duty of the Federal courts to examine assaults on the Federal Constitution, the U.S. Constitution, and to declare void all acts which are contrary to the manifest tenor of the Constitution, the essential core of the Constitution, the essential meaning of the Constitution. Without this, all reservations of particular rights or privileges would amount to nothing.

This concept of the judicial branch was reaffirmed and expanded in one of the most celebrated U.S. Supreme Court cases Marbury against Madison. Until recently, the role of the Supreme Court as the final arbiter over the terms of the Constitution has not been seriously challenged, except by the traditional constitutional amendment process.

During the past 200 years on four different occasions, our Nation has responded to controversial Supreme Court decisions by the constitutional amendment process.

Even in the wake of the infamous Dred Scott decision, which held black Americans were not citizens, it was recognized that the proper way to alter that decision was not to have Congress pass a statute prohibiting Supreme Court review. Rather, the proper way was by the constitutional amendment process. And that is just what happened. A constitutional amendment was proposed and passed, adopted.

But today several single issue constituencies have failed to mobilize sufficient support to pass constitutional amendments to overturn constitutional decisions with which they disagree. Instead, they have begun to advocate a series of proposals that would permit Congress, by a mere majority, by a simple statute to overturn Supreme Court decisions. These constituencies would have Congress respond to a court decision it disagreed with by stripping the courts of the power to hear that category of cases.

The proponents of these bills argue that the "exceptions clause" in article III, section 2 of the Constitution provides Congress with the authority to enact these bills.

However, if the framers—that is, our Founding Fathers—were trying to provide a significant legislative check on the judicial branch, it is most unlikely that they would have designed a check like the "exceptions clause." Robert Bork, President Reagan's nominee to the District of Columbia Court of Appeals has commented on this. This is Robert Bork, the person nominated to the Court of Appeals for the District of Columbia by the President of the United States. Here is what he says about the exceptions clause and the meaning of it:

> Literally, that language of the "Exceptions Clause" would seem to allow this result.
>
> That is, allow the Congress by simple statute to except the Supreme Court from certain categories of cases.
>
> I think it does not allow this result because it was not intended as a means of blocking a Supreme Court that had, in Congress' view, done things it should. * * * The reason I think it was not intended is that clearly in the most serious kinds of cases, where the Supreme Court might do something that the Congress regarded as quite improper, the "exceptions clause" would provide no remedy.
>
> For example, if the Supreme Court should undertake to rule upon the constitutionality or the unconstitutionality of a war, and the Congress was quite upset, thinking that is not the Supreme Court's business, as indeed I agree it is not, to use the "exceptions clause" to remove Supreme Court jurisdiction would have the result not of returning power to the Congress but of turning the question over to each of the State court systems. We could not tolerate a situation in which 50 States were deciding through their own judges the constitutionality of a war. * * *
>
> I think the answer is that the Framers would not have devised a check upon the judiciary which does not return power to the Congress but returns power to the State judiciary systems, from which it probably cannot be removed. When one perceives that it is the result, then I think one has to say the Framers did not intend this as that kind of a check upon the Court.
>
> This perspective on the exceptions clause is most instructive. The glaring deficiencies of the clause are an effective retort to the argument that was intended to be used as a significant check on the judicial branch.

Let me just restate what Robert Bork has said. Robert Bork is pointing out very clearly that if the Helms amendment passes, and if Congress does have the authority, by a simple majority, to prohibit Supreme Court review over Federal constitutional issues, the result is this: First of all, individual Americans would no longer have the right to go to Federal courts to protect their constitutional rights.

Second, individual State courts, the highest State courts in each of the various States, would then be left to interpret Federal constitutional rights. That would mean 50 different, 50 separate, 50 overlapping, 50 inconsistent, 50 duplicative decisions respecting a single Federal constitutional right. That certainly, Mr. President, is not what the framers of our Constitution had in mind. They did not intend, as Judge Bork, points out, for each of the 50 States to declare whether or not an act of Congress to declare war is constitutional or not. They did not intend for each of the 50 States, with inconsistent decisions, overlapping decisions, contradictory decisions, to decide whether or not a certain effort violates freedom of speech, freedom of religion, freedom of assembly, the right to bear arms. Our Founding Fathers wrote one Constitution.

It seems to me, Mr. President, that it is clear our Founding Fathers wanted one supreme judiciary, and also wrote into the Constitution a check against that supreme judiciary. That check is the constitutional amendment process where the Congress and the States, by two-thirds and three-fourths majorities, can overturn Supreme Court decisions or alter the Constitution.

Another point is a check on the President. The President has, as the Chief Executive, the right to appoint people he wants to the Supreme Court when vacancies occur. That, too, is a check on the Federal judiciary. There are many others, too. But certainly the Founding Fathers did not want a check so great such as allowing the Congress by a simple majority or a simple statute to overturn the Supreme Court, a check so great that it would swallow up, it would usurp, it would overwhelm one of the three coequal branches of Government.

As we all know, as we learned in civics classes, as we learned in our earliest years when we began to study our form of government, our framers intended a system of checks and balances. Each of the three branches of government would be coequal.

Mr. President, it is clear, so eminently clear, it is so clear I do not know why we are addressing this issue. If the Helms amendment passes, the precedent is set not only for undermining the Supreme Court but also for undermining the Constitution itself and obliterating it so we have only two branches of government left. At that point, the American people will be subject to the whims and majorities our Founding Fathers tried to protect.

Mr. President, I ask unanimous consent that I may yield the floor to the distinguished Senator from New York for the purpose of debate only without losing my right to the floor and without this being considered as an end of a speech for the purpose of the two-speech rule, and that I be re-recognized at the conclusion of the Senator's remarks.

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

Mr. BAUCUS. Mr. President, before I yield, I want to commend the Senator from New York for his efforts in this regard. He is a stalwart defender of the U.S. Constitution, and I might say, Mr. President, that means a lot to this Senator, as I know it does to each and every American citizen who understands what this matter is all about and how profoundly this underlying amendment will upset individual constitutional rights if adopted.

Mr. MOYNIHAN. If the Senator from Montana could linger here for just a moment before attending to

other matters which will take him away, it is important for all of us in this Chamber who understand the gravity of the matter before us to thank the Senator from Montana and to express our confidence that history will record what possibly the press does not—although I think we have no objection at least to the way in which the press has reported the substance of our argument, which has nothing to do with school prayer but everything to do with protecting the Constitution.

Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. MOYNIHAN. A number of distinguished Senators have asked that their comments not be subsumed under the two-speech rule of the Senate when in cloture. It is my understanding that we are not now in cloture and there would be no such applicable limit. Am I wrong in that?

The PRESIDING OFFICER. The two-speech rule, which is to be found in paragraph 1a of rule XIX, applies regardless of whether the Senate is operating in cloture.

Mr. MOYNIHAN. But as long as one subject is under debate. It could be reasonably true if it were a single subject.

The PRESIDING OFFICER. The two-speech rule applies to the pending question.

Mr. MOYNIHAN. In that case, Mr. President, I ask unanimous consent that my remarks not be held subject to that ruling.

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

Mr. MOYNIHAN. I thank the Chair.

Mr. President, I would like to speak at this point in our debate to the subject of the McCardle decision, ex parte McCardle, to be precise, which was handed down in 1868, and which is frequently and properly cited as the one occasion on which the Court seems to have a knowledge of the possibility that the exceptions clause of article III could be directed at core functions of the Court, the term "core functions" being the term Attorney General Smith used in his statement to us several months ago saying that the exceptions clause could not.

Here I rely extensively and properly on the Committee on Federal Legislation of the Association of the Bar of the City of New York in a study it has made entitled "Jurisdiction-Stripping Proposals in Congress: the Threat to Traditional Constitutional Review."

The committee notes that those who urge that the exceptions clause gives Congress plenary power to divest the Supreme Court of appellate jurisdiction most often cite ex parte McCardle as the leading authority for this view.

I think I would like to be precise in this matter and note that this is done, for example, in Van Alstyne's "General Review of the Appeal at Question," which is the basic text.

The circumstances of the case are ironic in the extreme, if you will accept that term.

In 1867, Mr. William H. McCardle, who was a newspaper editor in Mississippi, had been arrested by the Army pursuant to the Military Reconstruction Act, which had been passed in that same year, 1867, that subjected the South to Federal military command.

Based upon antireconstructionist editorials that McCardle had published, he was charged with libel, with disturbing the peace, with inciting insurrection, and impeding Reconstruction. He petitioned the Federal circuit court for a writ of habeus corpus, challenging the constitutionality of the Military Reconstruction Act under a Habeus Corpus Act passed by the same Reconstruction Congress in 1867.

To repeat and to cite the committee's report, there is some irony. The 1867 Habeus Corpus Act was passed for the purpose of advancing Reconstruction by expanding the Federal courts to release former slaves and others who were being unlawfully held prisoner by the Southern States. But the terms of the statute were not confined to prisoners in State custody. McCardle, as an antireconstructionist, was using it as a device to challenge the very reconstruction that the act was intended to promote.

The circuit court denied McCardle's petition. He appealed to the Supreme Court under a provision of the 1867 act.

Now, the Government moved to dismiss the appeal and the Supreme Court denied the motion. The Government then faced the prospect that the Supreme Court, on reaching the merits, might declare one of the cornerstones of Reconstruction policy to be unconstitutional—to wit, the Military Reconstruction Act. To avert this threat while McCardle's appeal was still pending, Congress—Congress in this Chamber—repealed the provision of the 1867 Habeas Corpus Act that allowed a direct appeal to the Supreme Court.

In light of that repeal, the Supreme Court dismissed McCardle's appeal in a terse opinion, which, as the committee of the New York Bar Association notes, proponents of the current bills rely upon. When you read the opinion, you will see, in fact, how tenuous the proponents' argument really is. The Court says:

> The provision of the act of 1867, affirming the appellate jurisdiction of this court in cases of habeas corpus is expressly repealed. It is hardly possible to imagine a plainer instance of a positive exception.
>
> We are not at liberty—
>
> Said the Court—
>
> to inquire into the motives of the legislature. We can only examine into its power under the Constitution; and the power to make exceptions to the appellate jurisdiction of this court is given by express words.
>
> What, then, is the effect of the repealing act upon the case before us? We cannot be in doubt as to the answer. Without jurisdiction the court cannot proceed at all in any cause. Jurisdiction gives power to declare the law, and when it ceases to exist, the only function remaining to the court is that of announcing the fact and dismissing the cause.

Mr. President, in reading ex parte McCardle, it must be borne in mind that the opinion was written under the most intense pressure imaginable at the peak of radical reconstruction. As one commentary has noted—and recall that the Justices were meeting just down the hall and one floor below us, in that intense atmosphere of radical reconstruction—

> With troops in the streets of the Capitol and the President of the United States on trial before the Senate, a less ideal setting for dispassionate judicial inquiry could hardly be imagined.

Indeed, as Mr. Justice Douglas once observed, "There is a serious question whether the McCardle question could command a majority today."

We do note at the end of that case the statement:

> Counsel seem to have supposed, if effect be given to the repealing act in question, that the whole appellate power of the court, in cases of habeus corpus, is denied. But this is an error—

Said the very Court sitting not 100 yards away with respect to this Chamber in which a President was being impeached:

> This is an error. The Act of 1868 does not except from that jurisdiction any cases but appeals from Circuit Courts under the Act of 1867. It does not affect the jurisdiction which was previously exercised.

Now, what can that mean, Mr. President? It can mean only that the right of the Court to hear habeus corpus appeals, as it had existed prior to 1867, continued unabated during the period that the act of 1867 was in effect.

I repeat, "The Act of 1868 does not except from that jurisdiction any cases but appeals from Circuit Courts under the Act of 1867."

Mr. President, in other words, the Court said you cannot deny the Supreme Court jurisdiction over a whole class of constitutional issues. You cannot do it. The Court said that in 1868, even as it acknowledged the validity—or so it seemed—of a particular act with respect to a particular case and in the context of the most unusual and troubled constitutional crisis of our history.

(Mrs. KASSEBAUM assumed the chair.)

Mr. MOYNIHAN. Madam President, I am happy to see my distinguished and learned friend from Hawaii on the floor. I know he shares many of my views in this matter—our views in this

matter. I share his, he being the senior member of our friendship.

Mr. MATSUNAGA. Madam President, if the Senator from New York will yield——

Mr. MOYNIHAN. I am happy to yield.

Mr. MATSUNAGA. I congratulate him for the most illuminating statement he has been making on the floor. I think by sitting here, or listening to him over the monitor system in the office, one can really learn history. An important thing is that he places such great stress upon the importance of protecting the basic law of this land, the Constitution of the United States.

It is because the Helms prayer amendment would completely violate the basic precepts on which the founders of our country based and wrote the Constitution that I am with the Senator from New York 100 percent. I thank the Senator for yielding.

Mr. MOYNIHAN. Madam President, it is I who wish to be with the Senator from Hawaii in this matter because, as he says, we are not discussing school prayer. Were a Senator to come to this floor propose that the Senate approve an amendment to allow school prayer, send it to the House, and then refer it to the States as provided by the Constitution, I am certain that the Senator from Hawaii would not for a moment object to the procedure—not one bit. He might vote yes. I might vote no, but he would not think the lesser of any Member who voted the other way. We would be following a procedure that George Washington commended to us in his farewell address in our Chamber down the hall.

But this is stripping the Constitution of fundamental elements. It denies the equal and separate power of the Supreme Court as a branch of our Government.

We have been, through all our history, a government of mixed principles as the founders said. They established a principle of majority rule, and it is embodied in the Congress. And then they established the principle of minority rights, and they are embodied in the Supreme Court—equal justice under law, not to the majority but to the last person in this Nation, who may disagree with every other of the 232 million Americans but has the right to do so and can go to the Court and have that right affirmed.

That is what America is about. That is what McCardle was about. The whole effort of Reconstruction was to give rights to people, not to take them away. The Court in the McCardle decision in its very last words—I wish I could have them reproduced in the RECORD to get the feeling of the type face and the paper and the page size—says of the 1868 act, "It does not affect the jurisdiction which was previously exercised."

Whatever power of habeas corpus the Court had previously exercised, it continued to exercise.

Madam President, I observe that the distinguished Senator from Illinois has come to the floor in a matter of urgent business, and I would respectfully request that I may be allowed to yield to him such time as he requires without losing my right to the floor.

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

Mr. PERCY. Madam President, I thank my distinguished colleague for yielding at this time, without losing his right to the floor.

Mr. MOYNIHAN. Madam President, I amend my request; and without violating the two-speech rule.

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

URGENT NEED TO END RAIL STRIKE

Mr. PERCY. Madam President, I strongly supported the legislation passed by the Senate last night to end the current rail strike, and urge the House of Representatives to act on the emergency legislation today.

Illinois has been hard hit by the strike. At the crossroads of the Nation, Chicago remains—as it has since the beginning of the industrial age—as the hub of the Nation's rail network. In Metropolitan Chicago alone there are 30,000 railroad workers. Many thousand additional workers are employed elsewhere in the State.

According to the last Census of Transportation, railroads in the Chicago area accounted for the shipment of 25 million tons of manufactured goods; more than any other area of the Nation.

Downstate, railroads move both coal and agricultural commodities. We are fast approaching the harvest, and any lengthy delay in restoring rail service would severly injure Illinois farmers and processors, already weakened by historically low farm prices.

Bulk commodities destined for export through the Port of New Orleans or Great Lakes ports should not be delayed.

With predictions of a cold winter, it is important for utilities to begin stocking up on Illinois-basin coal in the event adverse winter weather slows deliveries.

The commerce of Chicago is dependent on good commuter rail service, now disrupted by this strike. Over 100,000 commuters have been forced to experience lengthy delays by seeking alternative modes of transportation.

Commuters have been forced aboard overcrowded Chicago Transit Authority trains and buses. Certain expressways have become clogged with additional automobiles.

Unlike most cities, retailers in Chicago depend on many of their customers arriving by public transportation. Millions of dollars in sales may be lost, as consumers postpone travel to retail shopping areas downtown and in outlying areas.

Amtrak service west of Chicago has been halted, inconveniencing thousands of travelers who have discovered the comfort of new ultra-modern bilevel coaches and sleeping cars. The Chicago Tribune editoralized yesterday that:

> The general harm the strike inflicts is all out of proportion to what the engineers themselves suffer. To the hundreds of thousands of people across the country who had to face an adventure in commuting Monday, the issue that the union walked out over must seem absurd.

Madam President, the unions only have a right to bargain for whatever benefits they can achieve. That bargaining process has been going on for a long time. But when the engineers, making an average salary of $38,000, try to enrich that after 12 unions have agreed in the rail strike, and there is only one union that remains, if they take into account the price that people pay who are out of work or who will be put out of work, they should think twice about it. I certainly commend them for the testimony that they gave that if the House and the Senate do act—and the Senate did promptly act last night—they will go back to work.

A General Motors plant has been closed in St. Louis as a result of the strike. It is estimated that $80 million are lost per day, and we will increase those losses unless we resolve this problem immediately.

I know that members of the Brotherhood of Locomotive Engineers would disagree with the editorial. But with unemployment in my own State at over 11 percent, with many factory workers and miners working shortened weeks, and others anxious about holding on to their jobs, the continuation of this strike is intolerable.

With the average annual wage for engineers at $38,000, as I have said, these serious economic times demand some sacrifice—particularly by those still fortunate enough to hold well-paying jobs.

I am certainly a strong believer in the principle that the best service Government can render to labor-management relations is to stay out of the collective bargaining process, to the greatest extent possible. In this instance, however, the public interest in maintaining a functioning rail system both for the civilian economy and defense purposes is clearly overriding and there is no alternative but for the Government to act swiftly to bring this strike to an immediate end.

The Senate Labor and Human Resources Committee hearing brought out numerous examples of worker lay-

offs. In my own State of Illinois, more than 500 miners near Sesser were furloughed because of a shortage of rail cars at Old Ben coal mine No. 21.

Illinois has been one of the hardest hit by the recession and unemployment—4 of 10 cities in the country with the highest unemployment rates are in my State—and every effort must be made without further delay to assure that no additional injury be done to the State's economy and work force.

I supported the recommendations of the Labor Committee and was pleased to see that my colleagues agreed.

I ask unanimous consent to have printed in the RECORD an editorial from yesterday's Chicago Tribune calling for swift congressional action to end this unjustified strike.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Chicago Tribune, September 21, 1982]

A STRIKE THAT CHOKES THE ECONOMY

If you are fortunate enough to have a job, you probably had trouble getting to it Monday. The railroad engineers have gone on strike during a recession that has put unemployment rates higher than at any time since the Great Depression. The strike threatens to hurt an economy that is making the first steps toward recovery, and that may be the very thing that emboldened the engineers to walk out. The general harm the strike inflicts is all out of proportion to what the engineers themselves suffer.

To the hundreds of thousands of people across the country who had to face an adventure in commuting Monday the issue that the union walked out over must seem absurd. The engineers want to retain the current difference in wages between themselves and all other rail workers. And they are striking now to retain the right to strike later if the railroads offer other workers a pay increase without providing them one that is proportional.

This is the issue on which the engineers are willing to stagger the economy and hassle commuters in order to prevail. But the railroad unions have made themselves a reputation for behaving badly over trifles and antiquities in their contracts. The engineer's timing might be bad, but they are acting completely in character.

Because the engineers truculence threatens to cause such a great problem for the economy and because the rail unions have such a chokehold on the country, the Reagan administration has taken an active role in the negotiations. Because of the negotiating impasse, it has been forced to go to Congress for legislation empowering it to order the engineers back to work.

Congress may very well be in the mood to take strong action against the striking engineers. At a time when unions in most other industries—with the exception, perhaps, of some public employee unions—have been willing to settle for much less than anyone would have expected just a year or so ago, for the engineers to walk out over such a minor point is simply outrageous.

The engineers are betting on the suffering they can cause to the country by their strike, but his may boomerang, just as another strike did when the air controllers defied President Reagan and walked out of the towers. Public sentiment in these hard times is not with those who are willing to imperil everybody just to squeeze a little more money from their employer.

Mr. PERCY. Madam President, I thank my distinguished colleague for yielding to me. I realize that he was engaged in a project of which I have been supportive, and I wish him Godspeed in this effort. I trust that he shall prevail.

Mr. MOYNIHAN. Madam President, I thank my friend from Illinois for his generous remarks.

ORDER FOR REFERRAL OF H.R. 7019 AND H.R. 7072 TO THE COMMITTEE ON APPROPRIATIONS

Mr. BAKER. Mr. President, the request I am about to make has been cleared with the minority leader, I am told, and I now ask unanimous consent that once the Senate receives from the House of Representatives H.R. 7019, the Transportation appropriations bill, and H.R. 7072, the Agriculture appropriations bill, that they be referred to the Committee on Appropriations.

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

TEMPORARY INCREASE IN THE PUBLIC DEBT

The Senate continued with the consideration of the joint resolution.

Mr. MOYNIHAN. This is an important issue. The one and only instance in which the court has expressed an opinion on this issue occurred in 1868, not the most settled moment in the history of this Republic. This if nothing else suggests the singularity of the issue before us now.

These decisions were made while, on the floor of the Senate, a President was being impeached for having done no wrong but, rather, for merely having had a view different from that of a majority. A true constitutional crisis.

It is with some measure of gravity that the president of the American Bar Association last year, addressing himself to the chairmen of the two committees of the Judiciary, said that the issue we debate on this floor today was the most grave constitutional crisis since the Civil War. I will read his comment in order that the record should be precise. The president of the American Bar Association, on behalf of the Bar Association, wrote the Judiciary Committees of Congress to state, "We confront at this very moment the greatest constitutional crisis since the Civil War."

We confront it in an atmosphere different from, but reminiscent of, the extraordinary emotions that swept across this very Chamber in 1868, when a President was on trial, being impeached not for any scintilla of wrongdoing as such but merely for having held wrongful opinions, in the minds of the majority. That great issue of majority rule but minority rights was then settled by one vote in this Chamber—one vote by a man who returned to his home, I think in Kansas, although I do not remember exactly, and never saw a moment of public life again. He saved the Constitution and destroyed his own career.

Madam President, I see my friend, perhaps the most learned of the many distinguished attorneys in this Chamber, the former attorney general of the State of Missouri, who has come to the floor. I am happy to yield to him such time as he may require.

Madam President, with the Senator from Missouri present, I will now desist in my comments on ex parte McCardle, save to note that later in the same year, 1868, the Supreme Court made the distinction even plainer—the distinction it made between the restrictions placed upon it by the act of 1868 and by its previous and plenipotentiary powers.

It said in ex parte Yerger that the Court considered another appeal by another anti-reconstructionist newspaper editor held in military custody under the Military Reconstruction Act. Like McCardle, Yerger was charged with impeding reconstruction. Like McCardle, he petitioned a circuit court for a writ of habeas corpus under the Habeas Corpus Act of 1867. The circuit court denied Yerger's petition, and Yerger sought review by the Supreme Court. But unlike McCardle, Yerger invoked the Supreme Court's appellate jurisdiction under the procedures provided by the Judiciary Act of 1789, not the repealed provision for direct appeals of the Habeas Corpus Act of 1867. The Supreme Court held, over objection by the Government, that it had appellate jurisdiction under the prior law.

That seems to be the compelling conclusion to those unhappy events of 1867.

Madam President, I ask unanimous consent to yield to the distinguished and learned Senator from Missouri, the former attorney general of that great State, without violating the two-speech rule.

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

Mr. DANFORTH. Madam President, I thank the Senator from New York for yielding to me and for his effusive comments about me.

Mr. MOYNIHAN. My chaste characterization.

Mr. DANFORTH. Madam President, the issue before the Senate is the separation of church and state. That is an issue with a very long history in America. Thomas Jefferson, the author of our Declaration of Independence and of Virginia's Statute of

Religious Freedom, advocated a "wall of separation" between church and state when writing to a Baptist association in rural Connecticut. Now it is argued by some that this wall of separation should be breached.

While there have been repeated efforts to chip away at the wall of separation, it has stood the test of time. Indeed, it has served as a strong foundation of American liberty. Liberty must include the right to worship freely, and worship freely we do. Thousands of churches and scores of denominations across our land testify to that.

The framers of our Constitution were well aware of Europe's long history of intolerance which resulted from the close association of Government and religion. Indeed, it would be little exaggeration to say that the entire history of the Europe our forefathers fled was one of religious persecution and war. This history, with its torrents of blood, was one we Americans were determined not to repeat. The genius of our form of government was to take the energy out of the struggle between church and state by concentrating on the goals of liberty, prosperity, and peace—goals on which all people can agree. Religious sects were neither to be obstructed nor aided by the Federal Government. This is the meaning of the first amendment: "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof."

The benefits of this separation of government and religion are manifest and manifold. One only has to ponder the religious aspects of the continuing violence in Ireland or the Middle East to realize what a blessing we have inherited.

From our own experience in the Senate we know that the Founding Fathers were right in their concern over divisiveness. Religion, which in doctrine is a reconciling factor, so often acts as a wedge when politicized. Surely this was obvious when school prayer was debated on the floor of the Senate last fall. At least two things were interesting about that debate. The first was that for reasons I do not understand, Senators who took part felt compelled to identify for the Senate their own religious affiliations. It was, to say the least, an unusual spectacle. In the course of that debate, one Senator after another was constrained to tell the Senate that he was a Baptist, or a Lutheran, or a Presbyterian. And the interesting thing was that no one ever asked.

Madam President, this strange phenomenon does not occur when we debate tax bills or defense bills or energy bills. But when Senators debate the question of prayer, suddenly they are no longer Senators from the several States. They are Baptists or Episcopalians or Catholics or Mormons.

The second point of interest about that debate will receive only a brief reference, because I am concerned about opening old wounds. It was the remarkable colloquy then held between the junior Senators from South Carolina and Ohio. Suffice it to say that it was the ugliest exchange I have heard since I have been in the Senate, and ironically, the subject of the exchange was prayer.

The point is surely this. The subject of so-called voluntary prayer has been extremely divisive when debated by mature people in the restrained setting of the U.S. Senate. It would be even more divisive among 10-year-old children in the schoolroom.

It is argued that what is at issue is only voluntary prayer and that there is nothing threatening or devisive about allowing a child to pray on a voluntary basis. I would agree with this conclusion if school prayer were truly voluntary. Indeed, that is the whole point of an amendment I will offer to the Helms amendment if the Senate proceeds that far. Of course a child may pray by volition. Indeed, any child who so desires can today find numerous daily opportunities to offer prayer to God. There is no constitutional or practical way to prevent such prayer. What is at issue today is not voluntary prayer, but rather organized prayer—prayer which would be held at times and places determined by school officials, prayer of a content and form to be determined by school teachers and administrators.

In summary, Madam President, the Helms amendment concerns Government sponsored and supervised prayer for schoolchildren. There is nothing voluntary about it. In the first place, school attendance is compulsory. It is required of all children by statute. A child who wishes not to participate in school sponsored prayer would be compelled to be present at the school by force of law. Second, a child in elementary school feels tremendous pressure not to make a spectacle, but rather to conform. When prayers are being said, few youngsters would have the strength to excuse themselves and to endure the inevitable abuse from other children. Third, I do not think it is possible to devise a prayer which would be voluntarily accepted by all and rejected by none. Prayer that is so general and so diluted as not to offend those of most faiths is not prayer at all. True prayer is robust prayer. It is bold prayer. It is almost by definition sectarian prayer. Yet such geniune prayer would offend children of other faiths.

In considering the issue of school prayer, it is important to examine the first amendment to the Constitution and the deliberations at the time it was adopted. The debates over the first amendment show that the participants largely shared a fundamental assumption: namely, that the freedom of individual conscience and the free exercise of religion should be insisted upon. In fact, the only mention of religion in the U.S. Constitution apart from the first amendment occurs in article VI: "No religious test shall ever be required as a qualification to any officer or public trust under the United States." Contrast this with the Massachusetts constitution of 1780, which declared it to be the duty of the "towns, parishes, precincts and other bodies politic" to support and provide funds for "public worship of God."

Religion, a source of civil war and sectarian strife, of qualifications for enjoying basic civil rights, of revolutions and oppression, was to be kept apart in a separate sphere. The laws of the land were to apply to all citizens, regardless of their religious views. James Madison, who, as a Member of the House of Representatives, was so influential in the shaping of the first amendment, forcefully spoke of the danger religion and Government posed to each other. The Constitution would put away the danger, as he explained it in Federalist No. 10. There, Madison argued that factions pose the most serious danger to liberty. Based on history, Madison believed that religious sects would be sources of factionalism, endangering the liberty of the citizenry as a whole. The religious factions were to be rendered harmless by tolerating a multiplicity of religious sects, thereby dividing their power; this would protect both the sects themselves and liberty as a whole.

Just as it is not the intention of opponents of state-sponsored prayer to downgrade the role of religion, so that was not the intention of Madison. It was James Madison who spoke so persuasively of the positive good done on behalf of religion by the enforced separation of church and state. I refer, of course, to his 1785 "Memorial and Remonstrance" to the General Assembly of the State of Virginia. The Remonstrance is among the fundamental American texts setting out the importance of religious liberty. The Supreme Court has turned to it again and again for guidance about the meaning of the establishment clause. In 1785, Madison found it necessary to oppose the eloquent Patrick Henry, who had introduced a bill in the Virginia General Assembly to establish public support for teachers of religion. In the Remonstrance Madison argued strenuously against the bill, and he ultimately prevailed. But his line of argument against that legislation is unusually instructive in the present debate over school prayer.

Because religious duties have such a high priority in the lives of men, said Madison, religion in our country is left

without secular direction or governmental interference. Therefore even the smallest breach of religious liberty is to be resisted. The public support of religion would enable public officials to use religion politically, thus contaminating the purity of religion. Pious men in Europe struggled for centuries to protect religion from oppression by civil governments. Official support for religion inevitably would mean preferring one sect over another and, thus, would engender violent animosity among the sects. Finally, Madison concluded, because "the equal right of every citizen to the free exercise of his religion according to the dictates of conscience" is a fundamental right, legislatures have no right to abridge it.

The advocates of the Helms amendment point out that several of the States at the time of the adoption of the bill of rights had established churches. That is certainly undeniable. They go on to say that the first amendment prohibits only the establishment of a national church. But that is the utmost oversimplification. The Constitution is the living charter of our Government. It cannot be interpreted only by looking at the circumstances of the time at which particular constitutional language was adopted. Because established state churches existed in 1789 does not mean that the principles embodied in the first amendment were meant forever to support established state churches. This is a point that must be returned to later.

The same dangers Madison feared, animosity among religious sects and the infringement of free conscience, are being promoted by the advocates of state-sponsored prayer in the public schools. Even if we should restrict ourselves to the Judeo-Christian tradition, upon which Bible should prayers be based? The Hebrew Bible? Not for Christians. Even Protestants and Catholics recognize different versions of the Bible.

When Madison was waging the struggle for religious freedom, he enjoyed the strong support of Virginia Baptists. For the Baptists allied with Madison, state interference with religion was "repugnant to the Spirit of the Gospel." I note that over 200 years later Baptists, together with other denominations, have strongly opposed the present attempt to tamper with the separation of church and state.

The "Resolution on Voluntary Prayer in Public Schools" adopted by the Southern Baptist Convention in June 1980 put the issue well.

Whereas, the Supreme Court has not held that it is illegal for any individual to pray or read his or her Bible in public schools,

Be it resolved, That this convention records its opposition to attempts, either by law or other means to circumvent the Supreme Court's decision forbidding government authorized or sponsored religious exercises in public schools, and

Be it further resolved, That we hereby affirm our belief in the right to have voluntary prayer in the public schools.

The Southern Baptist Convention recognized the critical facts that, first, the Supreme Court has not proscribed genuinely voluntary prayer in the schools, and second, circumventing the jurisdiction of the Supreme Court will bring about religious exercises authored or sponsored by Government.

I would be remiss not to point out that the Southern Baptists, in their 1982 convention, altered their previously clear position somewhat. They endorsed the President's proposed constitutional amendment on school prayer. In so doing they stated that the "proposed amendment does not constitute a call for Government-written or Government-mandated prayer."

Unfortunately, I cannot believe that that is the case. As sent to the Congress, the proposed constitutional amendment opens the door to prayers composed by State and local school officials. The separation of church and state as presently understood would be endangered by reestablishing such a practice.

In May of this year, I received a letter from Mr. James Dunn, the executive director of the Baptist Joint Committee on Public Affairs. His letter puts it well. He writes:

All prayer is free and voluntary or it's not prayer. Because the Supreme Court rulings did not ban truly voluntary prayer in schools, the current debate is about what Mr. Justice Stevens calls "compelled ritual."

We hope that you'll not be caught up in an election year tidal wave of cheap political demagoguery. Prayer is too sacred, too intimate, too personal, to be prostituted by government involvement.

After the 1982 Southern Baptist Convention, Mr. Dunn, in a June 24 letter to the editor of the New York Times, wrote the following:

The Baptist Joint Committee on Public Affairs, which has fought constitutional amendments on prayer in schools for nearly 20 years will continue to do battle with those who would turn 200 years of constitutional history on its head. And at the same time it will seek to re-educate its Southern Baptist constituency that government can neither grant nor refuse the right of anyone to prayer.

This agency will also remind lawmakers and Baptists alike that, in the words of the late former president of the Southern Baptist Convention, Dr. George W. Truett of Dallas, "Christ's religion needs no prop of any kind from any worldly source, and to the degree that it is thus supported is a millstone hanged about its neck."

In November 1981, the North Carolina Baptist Convention was explicit in reaffirming its judgment that the current efforts to deny the Federal courts jurisdiction over school prayer cases violate the separation of church and state. The North Carolina Baptist resolution states:

Whereas, there are pending proposed amendments to the Constitution of the United States whose effect would be to authorize state and local governments once again to provide for religious services, to require "voluntary" and/or "nondenominational" prayers, and to determine the content of prayers, the time the prayers are said, and the place where they are said, and

Whereas, there are also bills pending in Congress which would deny to the federal courts jurisdiction over cases involving government sponsored religious exercises in the public schools, and

Whereas, prayer is a personal communication between an individual and God and does not depend on either the permission or sponsorship of government or its agents, and

Whereas, the Supreme Court did not rule out purely voluntary individual prayers in the public schools, and

Whereas, Baptists of America have long struggled for a strict separation of church and state,

Be it therefore resolved, that the North Carolina Baptist State Convention . . . reemphasizes its support of the principles of religious liberty and of the separation of church and state.

Also, earlier this year, I received a letter from Mr. Grady C. Cothen, the president of the Sunday School board of the Southern Baptist Convention, headquartered in Nashville. He enclosed an article he authored in 1980 entitled "The Confusion Concerning Prayer in Public Schools." Commenting on the 1979 Helms amendment that sought to strip jurisdiction over prayer cases from the Federal courts, Mr. Cothen points out the problems that led him to oppose the amendment. If the Federal courts were forbidden to hear such cases, he suggests, control of the entire matter would devolve upon the State legislatures and courts. Statehouses and State courts almost invariably are connected with the majority religions of those States, so that those in a religious minority would have a difficult time seeking relief from the majority religious practices that would be reestablished in the public schools. As he points out, this religious influence might please Baptists in Mississippi or Georgia but frustrate them in Utah, where the dominant influence would be Mormon, or in New Orleans, where it might be Catholic. In short, local governments would be needlessly entangled with religion, making the violation of the rights of minorities all too easy. The surest route to preserve religious liberty, he concludes, is to leave the Federal courts alone. I believe we should heed Mr. Cothen's advice.

In a similar vein, an editorial from the December 3, 1981, Baptist Messenger, the newspaper of Oklahoma Baptists, points out that "the church always has been the primary channel for biblical instruction." The editor puts it well when he argues that:

Christian prayers and readings from the New Testament are offensive to Jews, Mus-

lims and other non-Christians, Nondenominational or interfaith prayers would sound empty and strange to most evangelical Christians. Certain versions of the Bible are offensive to Catholics and others are offensive to fundamentalist Christians. Who is to choose?

The editor believes that voluntary prayer means prayer "free from interference from any other person, especially one who could be considered an authority figure." He continues:

I am uncomfortable at the prospect of any school official or teacher setting a time for Bible reading and prayer, or choosing a passage for Bible reading. As a parent, I don't want someone whose religious beliefs I don't know teaching my children the Bible. That's why I exercise care in choosing a church to attend. I would rather teach the Bible at home and at Church than risk the confusion that can result from some of the cults and strange doctrines being pushed on the pliable minds of children and youth today.

The Messenger editorial worries, as we in the Senate should, about the impressionability of elementary and secondary students. The editor observes:

If adult behavior is determined so much by peer pressure, how much more are children and young people programmed by their peers to think, act, and dress alike. How can we expect him or her to act differently from the majority when he must choose whether to participate in Bible study or prayer.

The Baptists, while often the first of American churches to recognize and oppose dangers to church-state separation, are far from alone. Listen to the formal statements by these other churches:

The Lutheran Church, Missouri Synod:

The Board of Parish Education of the Lutheran Church—Missouri Synod, feels that the . . . (prayer) Amendment fails to recognize fully the religious pluralism of the American scene. We believe that Christians cannot join with non-Christians in addressing God in circumstances that deny Jesus Christ as Savior and Lord. We believe that non-Christians should neither be expected to participate in Christian prayer nor should they expect Christians to join them in prayer that deny Christ.

The concept of voluntary participation in prayer provides either a coercive force or an embarrassing situation for both Christians and non-Christians. Under these circumstances we believe that it is best for the public school not to engage in prayer or other religious worship exercises.—The Board of Parish Education, July 29, 1966.

The Presbyterian Church in the United States:

We hold that the state should not impose religion in any of its expressions upon its citizens. The recent Court decisions overruling state laws requiring Bible reading and the Lord's Prayer are therefore in our judgment theologically sound.—General Assembly, 1964.

The Seventh-day Adventist:

Under the Helms Amendment, which would prohibit the Supreme Court from ruling on the issue or prayer in schools—the very body, it should be noted, that our forefathers determined should survey fidelity to the First Amendment—a Baptist child might be asked to recite a Buddhist prayer in Hawaii, and a Buddhist child might be asked to recite a Christian prayer in Mississippi. Such ought not to be. To call such a prayer "voluntary" is to play not only with words but with the spiritual sensitivities of our children. It would be a travesty of our First Amendment indeed should each state be free to determine what constitutes religious freedom.—June 1980.

The Episcopal Church:

Resolved, That this Executive Council encourages the use of prayer in connection with all aspects of daily life while at the same time strongly opposing all attempts by the state to establish when or how people shall pray, and thus opposing all government legislation which would prescribe means or methods of prayer in public schools or which is designed to encourage local authorities to prescribe such means or methods of prayer.—The Executive Council of the Episcopal Church, 1981.

Many churches, then, are united in their opposition to legislative proposals which would undermine the 1962 and 1963 decisions of the U.S. Supreme Court prohibiting State-sponsored prayer in public school classrooms. Let us turn to these famous decisions. What has the Supreme Court held?

Appreciation of the Supreme Court opinions treating prayer in the schools must begin, of course, with a recognition of why the Federal Government finds itself concerned with actions of local school boards and State legislatures. After all, the first amendment says that "Congress shall make no law respecting an establishment of religion." But after the ratification of the 14th amendment in 1868, the Court found itself compelled to protect the rights guaranteed in the first amendment against State action as well. This application followed from section 1 of the 14th amendment, which reads:

Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property without due process of law; nor deny to any person within its jurisdiction the equal protection of the law.

Thus we find the three branches of the Federal Government worrying over what transpires in every school building in every school district of the country. To complain that this task is too burdensome or too instructive on our part does not excuse us from our duty.

In 1962 the Court handed down Engel against Vitale. The case centered on the brief prayer composed by the N.Y. Board of Regents and recommended by them to local school boards for use in morning exercises. The prayer read: "Almighty God, we acknowledge our dependence upon Thee, and we beg Thy blessings upon us, our parents, our teachers, and our country." The use of the prayer was challenged as a violation of the first amendment by Mr. and Mrs. Steven Engel, parents of children in the New Hyde Park, N.Y., public schools. The case began in the State court, with New York's highest court upholding the power of State schools to use the prayer so long as it was voluntary—that is to say, so long as pupils were not compelled to join in the prayer when parents objected. Students who so wished could remain silent or be excused from the room.

The U.S. Supreme Court agreed to hear the case on appeal from the New York courts and in a 6 to 1 decision overruled the previous rulings. In Engel the Court said:

. . . the constitutional prohibition against laws respecting an establishment of religion must at least mean that in this country it is no part of the business of government to compose official prayers for any group of the American people to recite as a part of a religious program carried on by government.

Furthermore, that the Regent's Prayer was considered voluntary by its proponents did not make any difference. In the words of the Court:

. . . The . . . argument . . . that the program . . . does not require all pupils to recite the prayer but permits those who wish to do so to remain silent or be excused from the room, ignores the essential nature of the program's constitutional defects . . . . The Establishment Clause does not depend upon any showing of direct governmental compulsion . . . . When the power, prestige and financial support of government is placed behind a particular religious belief, the indirect coercive pressure upon religious minorities to conform to the prevailing officially approved religion is plain.

The Court made clear in its opinion that its interpretation of the first amendment operates to the benefit of religion. Commenting on the foremost purpose of the first amendment, the Court observed:

It has been argued that to apply the Constitution in such a way as to prohibit State laws respecting an establishment of religious services in public schools is to indicate a hostility toward religion or prayer. Nothing, of course, could be more wrong. The history of man is inseparable from the history of religion. And perhaps it is not too much to say that since the beginning of that history many people have devoutly believed that "more things are wrought by prayer than this world dreams of." It was doubtless largely due to men who believed that there grew up a sentiment that caused men to leave the crosscurrents of officially established state religions and religious persecution in Europe and come to this country filled with the hope that they could find a place in which they could pray when they pleased to the God of their faith in the language they chose.

This last quoted passage from Engel against Vitale is especially significant to today's debate. It would seem at first blush that a vote against the Helms amendment is a vote against religion, and no Senator would want to

be in a position of voting against religion. In fact, however, it is not a vote against religion at all. If it were, Baptists, Lutherans, an other denominations would not oppose the Helms position. On the contrary, opposition to the Helms Amendment, at least in its present form, is opposition to the trivializing of religion and to the coercion of children who take their own religious traditions seriously.

The 1963 decision of the Supreme Court, Abington School District against Schempp, focused on the required reading of verses from the Bible and the recitation of the Lord's Prayer following the reading. Again, the State statute allowed students not to participate or to excuse themselves from the schoolroom. Here the Court, by a vote of 8 to 1, found that the Pennsylvania statute required religious exercises directly in violation of the establishment clause of the first amendment. Citing the previous opinion in Engel, the Court said:

> Nor are these required exercises mitigated by the fact that individual students may absent themselves upon parental request, for that fact furnishes no defense to a claim of unconstitutionality under the establishment clause.

Again, the Court's careful scrutiny of the Pennsylvania prayer requirement reveals that such a regimen is anything but voluntary. The recitation of the Lord's Prayer was required by school officials at the beginning of the day; the observance was a part of the curricular activities of students required to attend school, held in school buildings under the supervision of teachers. Rather than being the setting for voluntary prayer, the Pennsylvania statute was a veritable recipe for compulsion.

To repeat, the main focus of the Court in both Engel and Abington was the prohibition of State sponsorship of religion or religious exercises. In Abington the Court found the establishment clause forbids State actions which either advance or inhibit religion:

> . . . to withstand the strictures of the Establishment Clause there must be a secular legislative purpose and a primary effect that neither advances nor inhibits religion. 374 U.S. 203, 222 (1963)

In a concurring opinon in Abington, Justice Brennan addressed the changes in the United States since 1789. The opinion is important for the argument over the meaning of the words of the first amendment. At the time the Bill of Rights was ratified, established State churches were in existence. This leads some supporters of the Helms amendment to say that the first amendment was meant only to forbid the establishment of a national church. In answer to this argument, Justice Brennan in Abington replies:

> A too literal quest for the advice of the Founding Fathers upon the issues of these cases seems to me futile and misdirected. . .

I do not denigrate the need to try to recover the original meaning of the words of the first amendment. But I do believe that life in our democratic land is in constant flux. The great genius of our Constitution is that it can encompass these changes. Consider the fact that the United States of 1789 was a land of 13 States, almost exclusively agrarian, with a population of only 3 million.

Justice Brennan sets out four reasons why the first amendment needs to be seen in a larger context than the one urged on us by advocates of the Helms amendment. First, the debate in the first Congress on the establishment clause is ambiguous at best. That debate gives guidance but not definitive guidance. Madison himself preferred an absolute separation of church and state, as demonstrated by his struggles in Virginia and by his "Memorial and Remonstrance," which I already mentioned. As Brennan says:

> If the framers of the Amendment meant to prohibit Congress merely from the establishment of a "church" one may properly wonder why they didn't so state. That the words church and religion were regarded as synonymous seems highly improbable.

Second, at the time of the founding, public schools were practically nonexistent. Education for the most part was confined to private, sectarian schools. Therefore, the authors of the first amendment obviously do not speak to the practice of prayer in the public schools. A later Supreme Court had to face the question. Third, our country is much more religiously diverse today than in 1789. No exception can be taken to this fact. Primarily Protestant in character in the late 18th century, the United States is more and more an amalgam of faiths. The fourth of Justice Brennan's reasons is that the development of free public education was spurred by that religious diversity. In his words:

> It is implicit in the history and character of American public education that the public schools serve a uniquely public function: the training of American citizens in an atmosphere free of parochial, divisive, or separatist influence of any sort—an atmosphere in which children may assimilate a heritage common to all American groups and religions.

The absence of religion from the public school classroom is therefore a protection both for the common heritage that every schoolchild shares and for the numerous religious beliefs held by our children.

Now let me return to the Supreme Court's decisions subsequent to Abington. Following the Court's landmark decision in the early sixties, lower Federal courts and State courts began applying the principles laid down to a number of different situations. The Supreme Court itself has not comprehensively addressed the question of prayer in elementary and secondary public schools since that time. Nevertheless, on several occasions the Court has denied certiorari or declined to review the lower court's decisions. We are then left to conclude that the lower court decisions have correctly interpreted the mandate of Engel and Abington.

While I think it unnecessary to go through each of these cases, I do wish to remark on their general character. Arising out of the States of Florida, New Jersey, Massachusetts, Illinois, New York, and Texas, each decision turned finally on the question of State sponsorship. In each case, the State's purported effort to achieve voluntariness was not sufficient to pass the tests required by the establishment clause. In several of these cases, required Bible reading and unison prayers were involved. In several, school officials were directed to organize devotional periods on school property. In one of the most recent instances, school officials in Guilderland, N.Y., would have been required to supervise student-initiated devotional activities on school property.

In emphasizing what is constitutionally prohibited, let us not overlook what the first amendment does allow. Thirty years ago the Supreme Court ruled that the wall of separation was not breached by public schools permitting children so desiring to leave the school premises during the day for religious instruction or worship. Such arrangements continue to operate across the country. Also, a period for silent meditation is a practice that has been recognized repeatedly. Although the Supreme Court has never expressly addressed silent meditation, Justice Brennan's concurring opinion in Abington indicates his belief that "reverent silence" could not jeopardize "either the religious liberties of any members of the community or the proper degree of separation between the sphere of religion and government."

Now, let us pause and consider again what the Senate's advocates of prayer in the public schools would actually bring about.

Earlier in this debate I asked the Senator from North Carolina whether he would object to a public schoolteacher, who happens to be a devout Roman Catholic, putting up the text of the Hail Mary on the blackboard and announcing to her students that they would now voluntarily recite the prayer. He replied, in effect, that it would not bother him in the least if his grandchildren were in that class. Yet I suspect that many people would have difficulty sharing the Senator's enthusiasm for this situation.

Or consider the Jewish child from an orthodox household in an elementary school classroom where the Lord's Prayer is recited daily. Even if the child may remain silent or be ex-

cused from the room, imagine what a spectacle is made and what potential there is for abuse from the other children. The Jewish children in such a setting are immediately divided from their fellow students, and to what end? The Lord's Prayer is not voluntary to them. And, in the truest sense, it is not a voluntary prayer at all. It is not a prayer literally arising from the will of the individual student. It is, instead, a prescribed form of prayer, to be delivered at a time and place specified by Government officials.

What about the public high school student from a devout Christian family who finds himself in a class where a strictly nondenominational prayer is recited at the beginning of the day, a prayer that makes no mention of Jesus Christ? If the student believes that prayer is to be offered through the mediation of Christ, then such an exercise, repeated every day of the school year, would not be true prayer to that student. To him it would be a mockery of prayer.

What of the devout Roman Catholic student in a public junior high? Here is a student whose religious training has taught him to believe in the hierarchy of bishops and priest headed by the Pope in Rome, whose authority descends from the apostle Peter. To such a student a highly individualistic prayer suggested by a Protestant teacher and removed from the body of Catholic doctrine would be foreign to the child's religious tradition.

By these examples I am trying to illustrate the plain truth that prayer, by its very nature, must recognize theological difference. Prayer must, in the words of a priest, "respect the Jewish reverence for God the Father, it must recognize the Christian belief in the Trinity, and it must see the need for Christian Catholics to include the Trinity, Mary and the saints." No single prayer can achieve these ends without offending many devout people. No lowest common denominator of prayer can achieve these ends without offending all devout people.

(Mr. ABDNOR assumed the chair.)

Mr. DANFORTH. The Statistical Abstract lists about 90 religious bodies in this country with more than 50,000 members each. One of those is the Buddhists. Imagine a recently arrived Vietnamese child who is a Buddhist, a fourth grader, in a classroom of students who were raised in the Judeo-Christian tradition. That child is guaranteed his religious rights under the Constitution as much as any child. A refusal to join prayers led or, at any rate, supervised by school officials would surely result in embarrassment for this child, and I cannot conceive that such embarrassment would serve the purpose of either religion or America.

There are other examples along this line. The Muslim population of the United States is increasing. For Muslim, a follower of Islam, prayer involves a detailed ritual of turning to Mecca and prostrating oneself. The prayer itself is a simple adoration of Allah, and does not involve requests or any asking of a blessing, as most Christian prayers by contrast do.

As these hypothetical situations illustrate—and it would not be difficult to multiply them—the United States is more and more a religiously diverse Nation. The free exercise of religion is a guarantee to all citizens of all faiths. The suggestion that a period for voluntary prayer would bring religion into public schools raises the question: What is sufficient to pass for religion? For those within a religious tradition, it simply is not true that one prayer is as good as any other. Prayer arises from the content of the faith, and it is the job of the churches, not the Government, to describe what that content is. Any thought that the form of prayer is of no matter to the various denominations should be put to rest by considering the enormous controversies triggered by recent liturgical reform in the Roman Catholic and Episcopal Churches.

In addition to the wording of prayer, the time and place of public worship is of great concern to religious denominations. The time of worship; for example, the Sabbath, the Day of Resurrection, and days of obligation. And the place—its religious art and architecture—both point to the content of the underlying faith. No denomination would be willing to delegate the organization of public worship to a school board, and it is unlikely that any worship organized by a school board would bear any relationship to religion.

In a time of weakened public values, it is not surprising that many Americans are hoping that religion will save the day. This is perfectly appropriate and understandable. But the real question is whether the sort of prayer contemplated for public schools is authentic religion, rooted in tradition and practiced in all its richness, or whether it only bears the label of religion affixed to it by well-meaning politicians.

The point I am stressing is not lost on some of the key supporters of the Helms prayer amendment. Jerry Falwell, the founder of the Moral Majority, knows the difficulty of asking men and women of diverse faiths to join in prayer. In a meeting with the Religious Newswriters Association in New Orleans, Mr. Falwell is quoted as observing that:

> If we ever opened a Moral Majority meeting with prayer, silent or otherwise, we would disintegrate.

Pressed for an explanation of this remark, Mr. Cal Thomas, director of communications for the Moral Majority said, according to the New York Times, that meetings of the organization were not opened with prayer because it is a political organization that includes Jews, Catholics, Mormons, Protestants, and even "nonreligious" members. Mr. Thomas put it well when he asked: "What kind of prayer would we use?"

Now I ask the Senate: If Mr. Falwell and Mr. Thomas understand the divisiveness of questions over prayer in the context of Moral Majority meetings, how could they possibly miss the same point when the question over prayer in public school classrooms arises? Mr. Thomas says that prayers are not said at meetings of the Moral Majority because it is a "political organization" rather than a religious one. Then what would Mr. Falwell and Mr. Thomas consider a room full of public school children to be? The children of the various religious faiths in this Nation's public schools would feel the same unease and disquiet over prayer that adult members of the Moral Majority would were prayer to open their meetings. Perhaps Mr. Falwell thinks that young children do not have the same sensibilities that adults do on questions of religion. To some extent a difference in sensibility is obvious. But it is just as obvious that children are even less understanding of differences between them than are adults. As I observed earlier, even in the restrained setting of the U.S. Senate, Senators cannot refrain from referring, in offensive terms, to the religious faith of other Senators. Imagine the scenes we can expect in public school classrooms.

The advocates of State-sponsored school prayer betray, it seems to me, a view that the churches, the church schools, and the homes of our land, can no longer do the important work of promoting religious faith, can no longer bring to the content and conduct of our children's lives the moral framework of religion. It is as though we are told that religion is too important to be left to the church and the home, and that here too, there must be a role for Government. I do not share this lack of confidence in church and home, nor do I share the view that urges Government to enter every aspect of American life. The home and the church and the private church school are precisely the places where attentive, reverent, and humble prayer can be practiced, where religion can be embraced in its fullness.

During the course of last autumn's debate on this bill, the senior Senator from North Carolina asked me if I could think of any circumstance when prayer could do a student any harm. At the time of that question, I was not sufficiently quick to come up with an example. Soon thereafter, however, examples came readily to mind. Now, I would like the Senate to consider one of my concerns before voting on the Helms amendment.

In recent years, a phenomenon has developed in America. A number of cults, purporting to be religious, have sprung up throughout the country. These cults have included the Scientologists, and Hare Krishnas, and the group known as the Moonies. Much of the work of these cults has been aimed at winning converts from the ranks of younger people, luring them away from the influence of their families and from the religious traditions in which they were raised. It is reported that the methods used by the cults in the conversion of young people are carefully developed and involve a highly sophisticated use of psychology. The young people are said to be brainwashed, or by some descriptions, turned into zombies.

Cultists have made concerted efforts to pursue their causes. Visitors to many airports can attest to the cultists' determination and to their commitment to follow the course laid out for them. Suppose that the strategy of the cultists involved not peddling in airports but teaching in schools. A cult might easily reason that teachers have a profound influence on the way children think, and that, through the insertion of religion in the classroom, a child could be converted to the cult.

In the event that cultists otherwise are qualified to teach in public schools, they could not, under the Constitution, be excluded by reason of their religious affiliation. Therefore, if a concerted effort were made by, say, Scientologists, to train their members for teaching and to place them in public schools, school boards could not exclude them on the basis of religion. They would have the same right to employment in public schools as Protestants, Catholics, and Jews.

The sole protection that now exists against the use of the schools by the cults is that whatever religious affiliation teachers may have, they may not now use the classroom as a place to practice religion. If Scientologists were to gain employment in our public schools, they would be compelled to maintain strict separation between religious and classroom activities.

Mr. President, let us suppose that the Helms amendment were adopted in its present form. The cultist teacher could then invite the class to observe a voluntary period of prayer. If the teacher is trained in sophisticated psychological methods of indoctrinating children, one wonders how long voluntary prayer would remain voluntary. In any event, the practices of the teacher could be easily fashioned to escape the reach of the courts.

We think of the practice of religion as benign, and it usually is. But one need only review history from the crusades and the inquisition through the burning of witches at Salem, from the pogroms to Jonestown, to discover that there are many perverse exceptions to the rule. The Constitution was written with the exceptional circumstances in mind. My concern is simply this: If Congress were to restrict the courts in school prayer cases, the classroom could be used by malevolent forces as a place to alter the minds of children, and the courts would not interfere.

The amendment to the debt limit bill before us would strip jurisdiction over prayer cases from the Federal courts. There is a wide divergence of opinion over the constitutionality of the Helms amendment. But I will leave that argument to others. I want to emphasize that it would be unwise to do so even if Congress has the power. Religious belief and its protection by the Constitution is not something with which to tamper lightly. The Federal courts have been a bulwark against the corruption of religion by politics, and against the domination of one religion over others. The effort of the Helms amendment to weaken that bulwark should be resisted.

In light of that fact, if the Senate proceeds to vote on the Helm amendment, I shall offer an amendment to define voluntary prayer. It is straightforward:

The term "voluntary prayer" shall not include any prayer composed, prescribed, directed, supervised, or organized by an official or employee of a State or local government agency, including public school principals and teachers.

The purpose of my amendment would be to assure that any prayers allowed in the public schools are truly voluntary, free of coercion, overt or subtle, from school teachers or school officials. The purpose of this amendment, in other words, would be to make clear that the Senate takes religious freedom seriously, that the Senate does not accept the concept of State-sponsored school prayer. My amendment should be supported by those Senators who want to go on the record for voluntary prayer. I believe my amendment would be compatible with the interpretation of the first amendment and its establishment clause put forward by the Supreme Court. By adopting my amendment, the Senate would resist the efforts of those who wish to authorize State-sponsored school prayer.

I urge the Senate, in the name of religious liberty and constitutional principle, to resist a blatant attempt to violate the great principle of separation of church and state. We must uphold the time-honored tradition that promotes the free exercise of religion and that keeps that hand of Government from abusing the freedom of conscience. Our Nation needs to hold steady to the course of religious toleration, to the principles of government established by our forefathers, and perpetuated and extended to the present hour. Let us turn away from the divisiveness and ugliness of spirit sure to befall us should our resistance fail.

In voting on this question, it falls to our part, I believe, to affirm the wisdom of centuries as against the passions of a season. It is our obligation to affirm the scope of religious liberty marked out by the Constitution. It is our obligation to the children of every faith to preserve the guarantee of religious liberty extended by the first amendment.

Mr. President, the floor was yielded to me by the Senator from New York, who asked unanimous consent that the yielding of the floor not be considered to violate the two-speech rule. I in turn yield the floor with the same unanimous-consent request.

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

AN APPEAL FOR PEACE

Mr. CRANSTON. Mr. President, earlier today my office delivered the following letter to Israeli Prime Minister Menachem Begin to the Israeli Embassy in Washington:

DEAR MR. PRIME MINISTER: For almost two generations, my country has joined with yours to build an Israel which can provide its people with increasing opportunities for human fulfillment within peaceful borders, and to work for a peace and a stability in the Middle East that will benefit your people, our people, all people.

This history does not permit Americans to direct Israel's actions. However, our share in the chronicle of your country does entitle us to be known as your friend. And the truest mark of friendship is not flattery or unquestioning support, but honest counsel. Indeed, it would be a betrayal of friendship to conceal criticism of actions we think likely to defeat the goals we have shared for so long.

As you well know, the State of Israel has no stronger supporter in the U.S. Congress than I.

Repeatedly through the years, during both Democratic and Republican Administrations, I have helped lead battles in the U.S. Senate to defend the mutual interests of our two countries, to augment Israel's strength and security, and to oppose the enhancement of the military power of Arab nations hostile to Israel.

I do not doubt that the root cause of all the violence in the Middle East lies in the Arab holy war against Israel, lies in the refusal of so many Arab nations to recognize the right of Israel to exist and in their refusal to make peace with her, and lies in PLO terrorism.

I do not believe that the United States would sit idly by if Cuban forces defied one of our neighbors and massed thousands of armed guerrillas on one of our borders, commenced transforming them into military units replete with increasing supplies of Soviet equipment, including tanks, rockets, and artillery, and proceeded to wound and kill Americans in terrorist attacks launched across our border upon our communities and our citizens.

After all, we sent U.S. trained forces into hostile action at the Bay of Pigs, and we risked a nuclear confrontation because of our concern over military developments in

Cuba—an island 90 miles off our shore—that we considered a threat to our national security.

Even now, every Soviet infant, child, woman, and man is targeted by American nuclear missiles. They are held hostage, threatened with instant death if those who rule the Soviet Union attack us or our allies. And every American, in turn, is targeted and held hostage by Soviet nuclear weapons. Indeed, every human on God's earth is held in thrall by this threat of the holocaust of all holocausts, one that would consume Jew and Gentile alike, one that would not discriminate between faiths and races. There is no longer any exodus to a place which cannot be reached by the missiles of man. Until the United States moves with more resolution, determination and creativity than we are now displaying to terminate this threat to each and all of us, our own hands are not clean.

Isreal is not alone in its use of military force to defend its perceived interests. There is a terrible global drift toward war. Violence is endemic in the world.

The U.S. has itself resorted to force to advance its perceived interests. In Vietnam, we too suffered the harsh consequences of overestimating the utility of force. We learned in Vietnam that violence begets violence; that expanding force has an impulse of its own, beyond the control of those who sit in government offices; that the unleashed beast of brutality cannot separate the innocent and the helpless from the armored enemy.

I did not condemn Israel's initial move into Lebanon for the avowed purpose of protecting Israeli citizens against repeated PLO attacks launched from that country.

And I refrained, despite deep misgivings, from commenting publicly on your siege of Beirut and your entry into its western section. I am reluctant to criticize a treasured friend and ally—especially when that friend and ally is in the midst of a military struggle.

But the massacre of hundreds of men, women and children is another matter. It will be some time before we accurately know who was to blame for the massacre. We may never know.

The question of responsibility is easier to answer. By moving Israeli forces into West Beirut for your declared purpose of restoring stability and preventing bloodshed, your government took on certain responsibilities.

You assumed responsibility for preserving order and protecting human life in Beirut—in this you failed.

Mr. Prime Minister, the recent behavior of your military forces in Beirut is causing deep concern and expressions of outrage among many of Israel's friends. This concern threatens to erode support for Israel in the United States and among the American people. As a matter of conscience, I, too, must now speak out.

I am troubled by the methods you are employing for the apparent purpose of controlling the destiny of Lebanon. To critics and friends of Israel alike, it increasingly appears that you and General Sharon have substituted naked military force for a balanced foreign policy which should reflect a decent respect for the opinion of mankind.

Moreover, however justified your original goals, the horror of Lebanon is now harming the security of Israel. It is repelling your friends and strengthening your enemies. In Biblical times, a handful of the righteous could stand against the world. In our more secular times, however, no country can stand alone, or with but a handful of allies. How can Israel think to increase its safety through self-inflicted isolation?

The people of Israel have always been known for their deeply ingrained reverence for human life and for the dignity of the individual, a reverence born of the great historical suffering of the Jewish people. Lesser nations have allowed war to harden them, and have permitted prolonged war to erode their reverence for justice, no matter how virtuous their cause may have been.

But Israel was born out of centuries of hope and struggle and an eternity of faith. It is my hope and my prayer that this faith and reverence can now manifest itself in courageous initiatives to help bring peace to Lebanon and then to provide an enduring solution for the West Bank and Gaza.

I believe that Israel should take the following initiatives:

1. I urge your government to withdraw Israeli forces from Beirut immediately upon arrival of the multinational forces who are to assist the Lebanese Army in assuming security responsibilities.

2. I urge your government to cooperate in achieving the swift withdrawal of all foreign forces from Lebanon—Syrian, PLO, and Israeli. And I urge that your government exercise the utmost restraint in the use of your superior military strength against Syrian and PLO forces still in Lebanon until such an agreement is reached.

3. I urge your government to return to Israel's traditional concern over only immediate threats to its own borders and that your government abandon its reliance on military force for the solution of essentially diplomatic problems.

4. Finally, though I myself have reservations about elements of President Reagan's proposed peace plan, I urge your government to reconsider promptly its outright, precipitous rejection of his entire proposal.

Perhaps the most somber consequence of the current strife in Lebanon is the dimming of the inspiring moral beacon which has shone so brightly from beleaguered Israel.

Some day the turmoil and the killing in Lebanon must end. Israel will still be surrounded by hostile neighbors. Will you then be more secure if you have dissipated the moral strength which armed your people and enlisted your friends?

A bold vision of peace and reconciliation is essential in the days ahead if we are to leave a safer world for our children.

Yours in peace,

ALAN CRANSTON.

Mr. BAKER. Mr. President, if the Senator will yield to me without losing his right to the floor, I would like to make one announcement.

Mr. DANFORTH. Yes, Mr. President.

ORDER FOR RECESS UNTIL 10 A.M. TOMORROW

Mr. BAKER. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 10 a.m. tomorrow.

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

Mr. BAKER. Mr. President, it is anticipated that shortly after 10:30 a.m., tomorrow after the recognition of the two leaders under the standing order and any special orders, we shall resume the consideration of the unfinished business. A cloture vote is scheduled for noon tomorrow under the provisions of rule XXII.

Mr. WEICKER. Will the Senator yield for a question?

Mr. BAKER. Yes.

Mr. WEICKER. Will the Senator include in that request a recognition of this Senator upon resumption of House Joint Resolution 520?

Mr. BAKER. I am inclined to think there will be an objection to that, Mr. President.

Mr. HELMS. Will the Senator yield to me with his right to the floor protected?

Mr. WEICKER. Yes.

Mr. HELMS. Mr. President, I have not objected for days on end to the repeated request that various Senators be accorded the right to the floor undisputed. This has served to discourage some of us who might want to speak on the other side of this issue. I hope that my friend from Connecticut will understand the friendliness with which I say I think we ought to put the recognition up for grabs, so to speak. Or, if he wishes recognition, he may have it provided he accords me, say, no more than 15 minutes, including in the request that he will regain the right, or something like that. I hate to be foreclosed.

Mr. WEICKER. To my good friend from North Carolina, let me say that is exactly what I did this morning with his colleague from North Carolina (Mr. EAST). I would be happy to give him 15 minutes or whatever time. The point is not to foreclose the Senator from North Carolina from being able to expose his point of view. I would be happy to concede whatever time the Senator from North Carolina wants for himself or whatever Senator wishes to speak to his point of view.

Mr. HELMS. Just so it is recognized that the Senator from North Carolina or Alabama or whoever may wish to speak has that right.

Mr. WEICKER. I think the Senator should know that this morning, in order to do exactly what the Senator intends, I had a schedule laid out for those who wanted to speak on my side of the issue. I dumped it the moment the Senator from North Carolina (Mr. EAST) came to the floor.

Mr. HELMS. The Senator is always graciously kind, and I appreciate his doing that this morning.

I will ask the distinguished majority leader, under those conditions, if I may be recognized for no more than 15 minutes tomorrow morning.

Mr. WEICKER. Whatever the Senator desires.

Mr. HELMS. Very well.

Mr. BAKER. I am not sure that is left to me, Mr. President. I believe I understand now that there will be no objection to a unanimous-consent request that when we resume consider-

ation of the unfinished business the Senator from Connecticut will be recognized, but at his request sometime during the morning the Senator from North Carolina would be recognized.

Mr. WEICKER. Any time for whatever period of time.

Mr. BAKER. Mr. President, I think the best way is to have no agreement at all if the parties are in agreement themselves.

Mr. HELMS. Mr. President, if the Senator will yield, the relationship of Senators is such that we do not really need to lock this in because the word of the Senator from Connecticut is certainly good enough for me. Having that understanding with him, informal as it is, I will certainly agree to his recognition.

Mr. BAKER. I thank the Senator.

Ali right, Mr. President, as I say, I am prepared to do the wrapup as soon as we put the Senate in morning business, but I express my gratitude to the Senator for permitting me to make this announcement at this time. I believe consent has already been granted that no interruption will appear in his presentation, is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. BAKER. I thank the Chair.

Mr. President, I yield.

Mr. WEICKER. Mr. President. I commend the distinguished Senator from Missouri, who is certainly one of the great Members of this Chamber in terms of his contributions to it and to the Nation. Also, if this is not known by all who have heard his words, I believe he is an ordained minister in the Episcopal faith, my faith.

I know that the words he has spoken here this afternoon will go down in the annals of this Nation as being astute and feeling and courageous. He has brought a sense of history, a sense of love, and a sense of duty to the argument against the amendment before this body.

I want to tell him that I was very moved by his words, and I am sure that many other people over the ages will be reading these comments.

Mr. President, it is my understanding that the majority leader cares to bring matters to a close for the day. I am more than glad to continue to address the subject before this body.

I ask unanimous consent that I be permitted to put in a call for a quorum, without losing my right to the floor, and that I be rerecognized at the conclusion of said quorum call or at the time that the order for the quorum call is rescinded.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

ORDER FOR THE RECOGNITION OF SENATOR CHILES ON TOMORROW

Mr. BAKER. Mr. President, I ask unanimous consent that on tomorrow after the recognition of the two leaders under the standing order the Senator from Florida (Mr. CHILES) be recognized on special order of not to exceed 15 minutes.

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

ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I ask unanimous consent that there now be a brief period for the transaction of routine morning business to extend not past the hour of 5 p.m. today in which Senators may speak.

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

ORDER HOLDING H.R. 7065 AT THE DESK

Mr. BAKER. Mr. President, there is at the desk I believe a bill from the House of Representatives H.R. 7065 a bill to amend the Community Services Block Grant Act to clarify the authority of the Secretary of Health and Human Services to designate community action agencies for certain community action programs administered by the Secretary for fiscal year 1982, and for other purposes; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. BAKER. Mr. President, I ask unanimous consent that that measure be held at the desk until the close of business on Thursday, September 23.

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

DIRECTION TO SENATE LEGAL COUNSEL

Mr. BAKER. Mr. President, there is another matter that I believe has been cleared on the other side, a resolution dealing with direction of the Senate legal counsel. I send the resolution to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 477) to direct the Senate Legal Counsel to represent Senate parties in *W. Henson Moore, et al.* v. *The United States House of Representatives, et al.* and in *Ron Paul* v. *The United States of America, et al.*, Civil Action Nos. 82-2318 and 82-2353, respectively.

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

There being no objection, the Senate proceeded to consider the resolution.

Mr. BAKER. Mr. President, on August 19, of this year, the Senate and the House passed H.R. 4961, the Tax Equity and Fiscal Responsibility Act of 1982. The President signed the bill into law on September 3, as Public Law 97-248. Two lawsuits have been brought by Members of the House of Representatives in the U.S. District Court for the District of Columbia seeking a declaratory judgment that passage of H.R. 4961 by the Houses was in controvention of article I, section 7, clause 1 of the Constitution and that the Tax Equity and Fiscal Responsibility Act of 1982 is null and void.

The complaints name the U.S. Senate, the President of the Senate, and the Secretary of the Senate as defendants.

The following resolution would direct the Senate legal counsel to defend the Senate parties in these cases.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 477) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 477

Whereas, in the cases of *W. Henson Moore et al.* v. *The United States House of Representatives, et al.* and *Ron Paul* v. *The United States of America*, Civil Action Nos. 82-2318 and 82-2352, respectively, pending in the United States District Court for the District of Columbia, the constitutionality of the Tax Equity and Fiscal Responsibility Act of 1982, Public Law 97-248, has been challenged as having been enacted in violation of Article I, Section 7, Clause 1 of the United States Constitution;

Whereas, the complaints in these actions name the United States Senate, the Honorable George Herbert Walker Bush, in his capacity as President of the Senate, and William F. Hildenbrand, Secretary of the Senate, as parties defendants;

Whereas, pursuant to section 703(a) and 704(a) of the Ethics in Government Act of 1978, 2 U.S.C. §§ 288b(a) and 288c(a) (Supp. IV 1980), the Senate may direct its counsel to defend the Senate, its members and officers, in civil actions relating to their official responsibilities: Now, therefore, be it

Resolved, That the Senate Legal Counsel is directed to represent the United States Senate, the Honorable George Herbert Walker Bush, in his capacity as President of the Senate, and William F. Hildenbrand, Secretary of the Senate, in the cases of *W. Henson Moore, et al.* v. *The House of Representatives, et al.* v. *Ron Paul* v. *The United States of America, et al.*

Mr. BAKER. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. HEFLIN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

PENALTIES FOR CRIMES AGAINST CABINET OFFICERS, SUPREME COURT JUSTICES, AND PRESIDENTIAL STAFF MEMBERS

Mr. BAKER. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 907.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 907) entitled "An Act to amend sections 351 and 1751 of title 18 of the United States Code to provide penalties for crimes against Cabinet officers, Supreme Court Justices, and Presidential staff members, and for other purposes," do pass with the following amendment:

Strike out all after the enacting clause and insert: That (a) subsection (a) of section 351 of title 18 of the United States Code is amended to read as follows:

"(a) Whoever kills any individual who is a Member of Congress or a Member-of-Congress-elect, a member of the executive branch of the Government who is the head, or a person nominated to be head during the pendency of such nomination, of a department listed in section 101 of title 5 or the second ranking official in such department, the Director (or a person nominated to be Director during the pendency of such nomination) or Deputy Director of Central Intelligence, or a Justice of the United States, as defined in section 451 of title 28, or a person nominated to be a Justice of the United States, during the pendency of such nomination, shall be punished as provided by sections 1111 and 1112 of this title.".

(b) Section 351 of title 18 of the United States Code is amended by adding at the end the following:

"(h) In a prosecution for an offense under this section the Government need not prove that the defendant knew that the victim of the offense was an official protected by this section.

"(i) There is extraterritorial jurisdiction over the conduct prohibited by this section.".

SEC. 2. (a) The section heading of section 351 of title 18 of the United States Code is amended to read as follows:

"§ 351. Congressional, Cabinet, and Supreme Court assassination, kidnaping, and assault; penalties".

(b) In the table of sections at the beginning of chapter 18 of title 18 of the United States Code, the item relating to section 351 is amended to read as follows:

"351. Congressional, Cabinet, and Supreme Court assassination, kidnaping, and assault; penalties.".

(c) The chapter heading of chapter 18 of title 18 of the United States Code is amended to read as follows:

"CHAPTER 18—CONGRESSIONAL, CABINET, AND SUPREME COURT ASSASSINATION, KIDNAPING, AND ASSAULT".

(d) The table of chapters at the beginning of part I of title 18 of the United States Code is amended so that the item relating to chapter 18 reads as follows:

"18. Congressional, Cabinet, and Supreme Court assassination, kidnaping, and assault ..... 351".

(e) Subsection (c) of section 2516 of title 18 of the United States Code is amended by striking out "(violations with respect to congressional" and all that follows through "assault)" and inserting in lieu thereof the following: "(violations with respect to congressional, Cabinet, or Supreme Court assassinations, kidnaping, and assault)".

SEC. 3. (a) Subsection (a) of section 1751 of title 18 of the United States Code is amended to read as follows:

"(a) Whoever kills (1) any individual who is the President of the United States, the President-elect, the Vice President, or, if there is no Vice President, the officer next in the order of succession to the Office of the President of the United States, the Vice President-elect, or any person who is acting as President under the Constitution and laws of the United States, or (2) any person appointed under section 105(a)(2)(A) of title 3 employed in the Executive Office of the President or appointed under section 106(a)(1)(A) of title 3 employed in the Office of the Vice President, shall be punished as provided by sections 1111 and 1112 of this title.".

(b) Subsection (e) of section 1751 of title 18 of the United States Code is amended to read as follows:

"(e) Whoever assaults any person designated in subsection (a)(1) shall be fined not more than $10,000, or imprisoned not more than ten years, or both. Whoever assaults any person designated in subsection (a)(2) shall be fined not more than $5,000, or imprisoned not more than one year, or both; and if personal injury results, shall be fined not more than $10,000, or imprisoned not more than ten years, or both.".

(c) Subsection (g) of section 1751 of title 18 of the United States Code is amended by striking out "this section" and inserting in lieu thereof "subsection (a)(1)".

(d) Section 1751 of title 18 of the United States Code is amended by adding at the end the following:

"(j) In a prosecution for an offense under this section the Government need not prove that the defendant knew that the victim of the offense was an official protected by this section.

"(k) There is extraterritorial jurisdiction over the conduct prohibited by this section."

SEC. 4. (a) The section heading of section 1751 of title 18 of the United States Code is amended to read as follows:

"§ 1751. Presidential and Presidential staff assassination, kidnaping, and assault; penalties".

(b) In the table of sections at the beginning of chapter 84 of title 18 of the United States Code the item relating to section 1751 is amended to read as follows:

"1751. Presidential and Presidential staff assassination, kidnaping, and assault; penalties.".

(c) The heading of chapter 84 of title 18 of the United States Code is amended to read as follows:

"CHAPTER 84—PRESIDENTIAL AND PRESIDENTIAL STAFF ASSASSINATION, KIDNAPING, AND ASSAULT".

(d) The table of chapters at the beginning of part I of title 18 of the United States Code is amended so that the item relating to chapter 84 reads as follows:

"84. Presidential and Presidential staff assassination, kidnaping, and assault ..... 1751".

(e) Subsection (c) of section 2516 of title 18 of the United States Code is amended by striking out "(Presidential assassinations, kidnaping, and assault)" inserting in lieu thereof "(Presidential assassinations, kidnapping, and assault)" and inserting in lieu thereof "(Presidential and Presidential staff assassination, kidnapping, and assault)".

Mr. BAKER. Mr. President, I move that the Senate concur in the House amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Tennessee.

The motion was agreed to.

Mr. BAKER. Mr. President, I am prepared on this side to proceed to the consideration of two measures by unanimous consent.

DESIGNATION OF MARY McLEOD BETHUNE COUNCIL HOUSE AS A NATIONAL HISTORIC SITE

Mr. BAKER. Mr. President, with respect to Calendar Order No. 772, S. 2436, if there is no disagreement on the part of the acting minority leader, I ask the Chair to lay that before the Senate at this time.

Mr. HEFLIN. There is no objection.

Mr. BAKER. Mr. President, I ask that the Chair lay before the Senate S. 2436.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 2436) to designate the Mary McLeod Bethune Council House in Washington, District of Columbia, as a national historic site, and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on Energy and Natural Resources with amendments, as follows:

On page 4, strike line 9, through and including "that" on line 14, and insert the following:

The Secretary will provide technical assistance to mark, restore, interpret, operate, and maintain the historic site and may also include provisions by which the Secretary will provide financial assistance to mark, interpret, and restore the historic site (including the making of preservation-related capital improvements and repairs but not including other routine operations). Such agreement may also contain provisions that—

On page 5, after line 17, insert the following:

SEC. 5. Beginning after September 30, 1983, there is authorized to be appropriated $100,000 to provide financial assistance under section 3 of this Act. There is also authorized to be appropriated for purposes of making grants to the National Council of Negro Women for purposes of this Act an additional $100,000 to be provided, as may be agreed to by the Secretary of the Interior and the National Council, on a fifty-fifty matching basis to the extent that funds or

services are contributed by the National Council for such purposes. Sums authorized to be appropriated under this section shall remain available until expended.

So as to make the bill read:

S. 2436

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

CONGRESSIONAL FINDINGS AND PURPOSE

SECTION 1. (a) FINDINGS.—The Congress finds and declares that—

(1) the Mary McLeod Bethune Council House was the residence in Washington, District of Columbia, of Mary McLeod Bethune, renowned educator, national political leader, and founder of the National Council of Negro Women;

(2) it was at this location that Mary McLeod Bethune directed activities that brought her national and international recognition;

(3) this site was significant as a center for the development of strategies and programs which advanced the interests of black women and the black community;

(4) it was at this location that Mary McLeod Bethune as the president of the National Council of Negro Women received heads of state, government officials, and leaders from across the world;

(5) the Mary McLeod Bethune Council House was the first national headquarters of the National Council of Negro Women, and is the site of the Mary McLeod Bethune Memorial Museum and the National Archives for Black Women's History;

(6) the archives, which houses the largest extant manuscript collection of materials pertaining to black women and their organizations, contains extensive correspondence, photographs, and memorabilia relating to Mary McLeod Bethune; and

(7) the museum and archives actively collect artifacts, clothing, artwork, and other materials which document the history of black women and the black community.

(b) PURPOSE.—It is the purpose of this Act—

(1) to assure the preservation, maintenance, and interpretation of this house and site because of the historic meaning and prominence of the life and achievements of Mary McLeod Bethune, an outstanding leader in the areas of housing, employment, civil rights, and women's rights; and

(2) to assure the continuation of the Mary McLeod Bethune Memorial Museum and the National Archives for Black Women's History at this site, the preservation of which is necessary for the continued interpretation of the history of black women in America.

ESTABLISHMENT OF HISTORIC SITE

SEC. 2. In order to further the purpose of this Act and the Act of August 21, 1935 (16 U.S.C. 461-7), the Mary McLeod Bethune Council House at 1318 Vermont Avenue Northwest, in the city of Washington, District of Columbia, is hereby designated as a national historic site (hereinafter in this Act referred to as the "historic site").

COOPERATIVE AGREEMENT

SEC. 3. In furtherance of the purposes of this Act and the Act of August 21, 1935 (16 U.S.C. 461-7), the Secretary of the Interior is authorized and directed to enter into cooperative agreements with the National Council of Negro Women. Such agreements may include provisions by which the Secretary will provide technical assistance to mark, restore, interpret, operate, and maintain the historic site and may also include provisions by which the Secretary will provide financial assistance to mark, interpret, and restore the historic site (including the making of preservation-related capital improvements and repairs but not including other routine operations). Such agreement may also contain provisions that—

(1) the Secretary of the Interior, acting through the National Park Service, shall have right of access at all reasonable times to all public portions of the property covered by such agreement for the purpose of conducting visitors through such properties and interpreting them to the public; and

(2) no changes or alterations shall be made in such properties except by mutual agreement between the Secretary and the other parties to such agreements.

No limitation or control of any kind over the use of such properties customarily used for the purposes of the National Council of Negro Women shall be imposed by any such agreement.

ANNUAL REPORT

SEC. 4. The National Council of Negro Women shall, as a condition of the receipt of any assistance under this Act, provide to the Secretary of the Interior and to the Congress of the United States an annual report documenting the activities and expenditures for which any such assistance was used during the preceding fiscal year.

SEC. 5. Beginning after September 30, 1983, there is authorized to be appropriated $100,000 to provide financial assistance under section 3 of this Act. There is also authorized to be appropriated for purposes of making grants to the National Council of Negro Women for purposes of this Act an additional $100,000 to be provided, as may be agreed to by the Secretary of the Interior and the National Council, on a fifty-fifty matching basis to the extent that funds or services are contributed by the National Council for such purposes. Sums authorized to be appropriated under this section shall remain available until expended.

Mr. THURMOND. Mr. President, I rise today in support of S. 2436, a bill designating the Mary McLeod Bethune Council House in Washington, D.C., as a national historic site, which I cosponsored.

Ms. Bethune was born near Mayesville, S.C., 1 of 17 children of Sam and Patsy McLeod. She attended elementary school in Mayesville, residing with her parents until the age of 13, when she left for boarding school in North Carolina.

As an adult, Ms. Bethune founded and was first president of both Bethune-Cookman College and the National Council of Negro Women. While in Washington, she resided in the Council House, from which she directed her many activities on behalf of black women.

Mr. President, I take pride in cosponoring this bill in honor of a distinguished South Carolinian. I call on my colleagues in both Houses of Congress to insure its swift passage.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute.

The committee amendment was agreed to.

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 it pass?

So the bill (S. 2436) was passed.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. HEFLIN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ANTI-ARSON ACT OF 1982

Mr. BAKER. I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 6454.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 6454) to amend title 18, United States Code, to clarify the applicability of offenses involving explosives and fire.

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

Without objection, the Senate proceeded to consider the bill.

UP AMENDMENT NO. 1265

Mr. HEFLIN. Mr. President, on behalf of Senator ROBERT C. BYRD, I propose an amendment which Senator GLENN has requested him to propose at this time.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Alabama (Mr. HEFLIN) on behalf of Mr. GLENN proposes an unprinted amendment numbered 1265.

Mr. BAKER. 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:

At the end of the bill add the following new section:

"SEC. 3. The Director of the Federal Bureau of Investigation is authorized and directed to classify the offense of arson as a Part I crime in its Uniform Crime Reports. In addition, the Director of the Federal Bureau of Investigations is authorized and directed to develop and prepare a special statistical report in cooperation with the National Fire Data Center for the crime of arson, and shall make public the results of that report.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Alabama.

The amendment (UP No. 1265) was agreed to.

● Mr. GLENN. Mr. President, I am pleased that the Senate has begun

consideration of H.R. 6454. Although there is still a very long way to go in our fight against arson, consideration of this antiarson legislation today is an indication that Congress is finally starting to become serious about this deadly, billion dollar crime.

Each year arson kills 1,000 people; injures in excess of 3,000 people; causes direct property losses of at least $1.7 billion; and results in indirect losses estimated at up to $15 billion.

The result has been that the United States has the highest rate of arson in the world; arson is this Nation's fastest growing crime, quadrupling during the last decade and increasing tenfold in dollar losses; and that arson represents 25 percent of all fires and also 25 percent of our fire insurance premiums.

H.R. 6454 is virtually identical to S. 2438 which I introduced in April of this year to clarify that arson involving property used in or affecting interstate or foreign commerce is a violation of the Federal law. Like S. 2438, H.R. 6454 would accomplish this objective by adding the words "or fire" to the Federal Explosive Statute, title 18, United States Code, section 844.

This legislation would enhance the effectiveness of Federal investigations and prosecutions of arson by eliminating the necessity of proving that substances, such as gasoline, were in an "explosive state" at the time an arson was committed. (See my remarks on S. 2438 which were reprinted in the April 27, 1982 CONGRESSIONAL RECORD.) Under current law, satisfying this element of proof is quite often an onerous task requiring considerable investigative time and effort. Moreover, an estimated 30 percent of the arson investigations of the Bureau of Alcohol, Tobacco, and Firearms are dropped because of insufficient evidence that a fire has been caused by means of an explosive. Eliminating this requirement of proof will also avoid prolonged trial-delaying testimony concerning the nature of incendiary material used to commit arson.

This legislation will also close a loophole in the law which allows arsonists in certain jurisdictions to escape Federal prosecutions and convictions. Recent court decisions in the ninth circuit and elsewhere have held that the Federal Explosive Statute was not intended to apply to arson cases. For example, based on this interpretation of the statute, the U.S. Court of Appeals, in *United States* v. *Gere*, 622 F 2d. 1291 (9th Cir., 1981), reversed the conviction for arson under 18 U.S.C. 844(i) in a case in which a Los Angeles firefighter lost his life, 24 others were injured and property damage totalled approximately $1.5 million. (Also see *United States* v. *Cornett* (W.D.N.C., Aug. 19, 1982)). By clarifying that arsons affecting interstate commerce are covered by this statute, the legislation will preclude further unfortunate decisions based on this interpretation of the statute.

During the consideration of H.R. 6454 on the House floor, it was stated that:

> Criminals who callously pose a risk of death to others while committing the crime of arson and who profit by the destruction of property must not be allowed to escape the punishment which justice requires through a loophole in the Federal law.

The legislation that we are considering today will also include the Anti-Arson Act of 1982—S. 294—as recently passed by the Senate Committee on Governmental Affairs by a unanimous vote. I introduced S. 294 on January 27, 1981; its provisions will be offered as an amendment to H.R. 6454. My amendment would permanently elevate arson to "Part I" or major crime status for purposes of the Federal Bureau of Investigation's (FBI) Uniform Crime Reports (UCR). It would also require the FBI to study the crime of arson and prepare a special statistical report and make public the results of that report.

In the past, according to the U.S. Fire Administration, it has been "impossible to accurately measure the arson problem and its various components." This has contributed to a wide variation of statistics on arson. To overcome this problem, I introduced legislation to make arson a "Part I" crime. Since 1978, the FBI has been required to classify arson as a "Part I" offense. However, this is only a temporary requirement and has been continued each year only by virtue of being included as part of annual Department of Justice authorization bills.

The purpose of the FBI's uniform crime reporting program is to generate reliable criminal statistics for use in law enforcement administration, operation, management, and research. In order to provide nationwide uniformity in the reporting of data, the system utilizes standardized definitions to overcome the variances in definitions of criminal offenses in different sections of the country. When implemented in 1930, seven offenses were selected to serve as an index for evaluating fluctuations in the volume of crime. These "crime index offenses" or "Part I" crimes are murder, rape, robbery, aggravated assault, burglary, larceny, and motor vehicle theft. As previously mentioned, arson was added to the index in 1978.

The permanent classification of arson as a "Part I" offense will provide the accurate reliable statistics that are necessary to combat the crime of arson for several reasons.

First, it will require local police departments to become more directly involved with the crime of arson. This in turn would require them to work more closely with fire departments in order to obtain the necessary information. Cooperation between police and fire departments is crucial if we are to obtain accurate, reliable statistics on arson. Testifying before the Senate Judiciary's Subcommittee on Crime in 1980, Mr. Paul Zolbe of the FBI stated:

> . . . With the full cooperation of the fire services and law enforcement throughout the Nation, information on the crime of arson will enjoy the same level of credibility as that of other crimes which have historically comprised the Crime Index.

Second, it will encourage local law enforcement agencies to comply with the arson reporting requirement. Fearing that the requirement would not become permanent, many of the more than 15,000 agencies voluntarily participating in the UCR program have been reluctant to assume the added responsibility and cost of complying with the requirement. In 1979, only 8,528 fully or partially complied with the requirement, 11,500 in 1980, and 11,048 in 1981. Without substantial compliance, we will not be able to obtain complete, reliable data.

Third, it will add stability to the collection of information on arson by guaranteeing that no disruption will occur in the arson data collection effort. The FBI, for example, estimates that it will take 5 years of uninterrupted arson data collection before we begin to obtain accurate, reliable data.

Further, the permanent classification of arson as a "Part I" crime will reflect the very serious nature of this crime. In addition to the arson death toll, arson is America's costliest crime. In 1981, the average loss per incident for arson was $9,399. This amount is nearly double the combined average loss per incident for the remaining "Part I" offenses. In 1981, the average loss for auto theft was $3,173, for burglary $924, for robbery $665, and for larceny $340. Accordingly, it would be anomalous to classify arson as a minor offense. For example, prior to 1978, if a person torched the World Trade Center in New York City and killed 1,000 people in the process, it would be considered a minor crime along with such crimes as drunkenness and loitering. However, if the same person stole a car in front of the trade center and went joyriding across the river into New Jersey, it would be considered a "Part I" offense or a major crime.

Viewing arson as a serious crime will help focus public attention on this burgeoning problem. Increased public awareness will in turn put pressure on legislators, officials, the insurance industry and others to develop effective solutions to the arson epidemic that plagues our Nation.

Finally, the permanent classification of arson as a "Part I" crime will result in more useful statistics. Under this classification, information on volume,

trend, rate, clearances, persons arrested and the nature of the offense will be gathered. Only arrest information is gathered for "Part II" offenses. The more in-depth information is needed to better understand and assess the scope of the arson problem, shape antiarson programs and direct an adequate flow of dollars to our antiarson efforts.

My amendment would also require the FBI to conduct a study on the crime of arson and prepare a special statistical report. The study would determine the nature, extent, and seriousness of arson. Similar studies have been conducted by the FBI in the past where problems in the criminal statistics area could not be efficiently addressed by the basic UCR program. The study and report are necessary because reliable arson statistics will not be available for several years, notwithstanding the permanent classification of arson as a "Part I" crime.

In addition to the statistical aspects of the report, the study could examine: Arson in housing supported by programs of or owned by the Department of Housing and Urban Development; the reasons for noncompliance with the arson reporting requirements by many local law enforcement agencies; the scope of the problem between local police and fire departments concerning the crime of arson; and whether or not there is an adequate level of Federal antiarson assistance to States and localities.

S. 2438 and H.R. 6454 are supported by the firefighting community and the insurance industry. Resolutions in support of this legislation have been recently adopted by the International Association of Arson Investigators, Inc., and the National Association of Attorneys General. I ask that the resolutions be included in the RECORD at the conclusion of my remarks. The measures follow the recommendation of the Attorney General's Task Force on Crime, and the aim of the legislation is supported by the administration.

S. 294, as originally introduced, has 23 Senate cosponsors and has enjoyed wide support from the firefighting community, the insurance industry, the American Bar Association, and others. Resolutions in support of S. 294 were adopted by numerous groups, including the ABA, the Virginia General Assembly and the National Association of Attorneys General.

Mr. President, the passage of the antiarson legislation today is a significant first step in our battle against arson. I pledge to continue the battle, and I hope my colleagues will join me.

The resolutions follow:

RESOLUTION

Whereas, the International Association of Arson Investigators, Inc., is a not for profit association composed of more then 6000 members from the fire service, law enforcement and the private sector engaged in the control of arson, and

Whereas, arson is recognized as the fastest growing crime in the United States, causing loss of life, injury and destruction of property in the billions of dollars yearly, and

Whereas, the IAAI encourages the task force concept of arson investigation and

Whereas, the IAAI encourages the application of Federal explosives statutes to address an element of arson-related criminal activity that warrants federal attention, and

Whereas, because some Federal courts are reluctant to support the prosecution of certain arson crimes that fall within the "Explosives" definition as contained in Title 18, United States Code, Section 844 (j): Therefore, be it

Resolved, That the Officers and Board of Directors of the IAAI support legislation introduced by Senator John Glenn in S. 2438 that would amend certain subsections of 18 U.S.C. 844 to include the phrase "or fire".

RESOLUTION OF THE NATIONAL ASSOCIATION OF ATTORNEYS GENERAL—EXPANSION OF FEDERAL ARSON STATUTE

Whereas, federal jurisdiction over arson is limited to cases involving explosions that are not defined to include fires started by gasoline; and

Whereas, arson cases often include organized criminal elements that travel quickly between state lines making state enforcement of some arson cases exceedingly difficult; and

Whereas, some federal enforcement of arson cases, whether started by fire or otherwise, is necessary in order to reduce the incidence of arson; and

Whereas, legislation is pending in the Congress, H.R. 6454 and S. 2438, which would expand federal jurisdiction over arson to include fires started by gasoline: Now, therefore, be it

Resolved, That the National Association of Attorneys General supports H.R. 6454 and S. 2438, that would expand federal jurisdiction over arson to include fires started by gasoline; and be it further

Resolved, That the General Counsel of this Association is authorized to transmit these views to the Congress, the Administration, and other appropriate individuals.●

The PRESIDING OFFICER. If there be no further amendments to be proposed, the question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time. The bill (H.R. 6454) was read the third time, and passed.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. HEFLIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

DISTRICT OF COLUMBIA GOVERNMENT

Mr. BAKER. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 2457.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 2457) entitled "An Act to amend the District of Columbia Self-Government and Governmental Reorganization Act to increase the amount authorized to be appropriated as the annual Federal payment to the District of Columbia", do pass with the following amendment:

Strike out all after the enacting clause, and insert: That section 502 of the District of Columbia Self-Government and Governmental Reorganization Act (D.C. Code, sec. 47-3406) is amended by striking out "and for the fiscal year ending September 30, 1982, and for each fiscal year ending after September 30, 1982, the sum of $336,600,000" and inserting in lieu thereof "for the fiscal year ending September 30, 1982, the sum of $336,600,000; and for the fiscal year ending September 30, 198-, and for each fiscal year ending after September 30, 1983, the sum of $361,000,000." Of any funds appropriated for the fiscal year ending on September 30, 1983, under the authorization contained in this section, not less than $14,300,000 must be paid to the District of Columbia Retirement Board to eliminate any deficits in the District of Columbia Teachers' Retirement Fund and the District of Columbia Police Officers and Fire Fighters' Retirement Fund.

Mr. BAKER. Mr. President, I move that the Senate disagree to the House amendment, that the Senate request a conference with the House of Representatives, and the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. MATHIAS, Mr. RUDMAN, and Mr. EAGLETON conferees on the part of the Senate.

NASA AUTHORIZATIONS, 1983

Mr. BAKER. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 5890.

The Presiding Officer laid before the Senate a message from the House of Representatives announcing its disagreement to the amendment of the Senate to the bill (H.R. 5890) to authorize appropriations to the National Aeronautics and Space Administration for research and development, construction of facilities, and research and program management, and for other purposes, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. BAKER. I move that the Senate insist upon its amendment and agree to the request of the House for a conference on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Senators PACKWOOD, SCHMITT, GOLDWATER, CANNON, and RIEGLE conferees on the part of the Senate.

H.R. 6872 HELD AT THE DESK UNTIL CLOSE OF BUSINESS ON SEPTEMBER 23, 1982

Mr. BAKER. Mr. President, I believe this request has been cleared as well. I now ask unanimous consent that H.R. 6872 be held at the desk until the close of business on tomorrow.

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

H.R. 5154 HELD AT THE DESK PENDING FURTHER DISPOSITION

Mr. BAKER. Mr. President, I ask unanimous consent that the bill H.R. 5154 be held at the desk pending further disposition.

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

ORDER FOR STAR PRINT OF S. 2907

Mr. BAKER. Mr. President, I ask unanimous consent that S. 2907 introduced by the distinguished Senator from California (Mr. HAYAKAWA) be star-printed to reflect the proper spelling of the beneficiary, which I send to the desk.

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

EXECUTIVE CALENDAR

Mr. BAKER. Mr. President, on today's Executive Calendar I am prepared to proceed to the consideration of those items listed under Department of State, on page 5, through U.S. Arms Control and Disarmament Agency, all of the nominations on page 6, on page 7, on page 8, on page 9, and on page 10 are nominations placed on the Secretary's desk in the Foreign Service.

I will inquire of the acting minority leader if he is in position to consider all or part of the nominations just identified?

Mr. HEFLIN. Those nominations have been cleared on this side of the aisle and I am in position to so agree.

Mr. BAKER. I thank the acting minority leader.

EXECUTIVE SESSION

Mr. BAKER. Mr. President, in view of that, I ask unanimous consent that the Senate now go into executive session for the purpose of considering the nominations just identified.

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

The nominations previously identified by the majority leader are considered and confirmed en bloc.

Mr. BAKER. Mr. President, I thank the Chair.

The nominations considered and confirmed en bloc follow:

DEPARTMENT OF STATE

Fernando E. Rondon, of Virginia, a career member of the Senior Foreign Service, class of counselor, now Ambassador Extraordinary and Plenipotentiary of the United States of America to the Democratic Republic of Madagascar, to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to the Federal and Islamic Republic of the Comoros.

Kenneth W. Dam, of Illinois, to be Deputy Secretary of State, vice Walter J. Stoessel, Jr.

Henry Allen Holmes, of the District of Columbia, a career member of the Senior Foreign Service, class of minister-counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Portugal.

Rozanne L. Ridgway, of the District of Columbia, a career member of the Senior Foreign Service, class of career minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the German Democratic Republic.

W. Allen Wallis, of New York, to be Under Secretary of State for Economic Affairs, vice Myer Rashish, resigned.

U.S. ARMS CONTROL AND DISARMAMENT AGENCY

William Robert Graham, of California, to be a member of the General Advisory Committee of the U.S. Arms Control and Disarmament Agency, vice McGeorge Bundy, resigned.

Colin Spencer Grey, of New York, to be a member of the General Advisory Committee of the U.S. Arms Control and Disarmament Agency, vice Bert Thomas Combs, resigned.

Roland F. Herbst, of California, to be a member of the General Advisory Committee of the U.S. Arms Control and Disarmament Agency, vice Lawrence Owen Cooper, Sr., resigned.

Francis P. Hoeber, of Virginia, to be a member of the General Advisory Committee of the U.S. Arms Control and Disarmament Agency, vice Paul Mead Doty, resigned.

Charles Burton Marshall, of Virginia, to be a member of the General Advisory Committee of the U.S. Arms Control and Disarmament Agency, vice Harry Arthur Huge, resigned.

Jaime Oaxaca, of California, to be a member of the General Advisory Committee of the U.S. Arms Control and Disarmament Agency, vice Joseph Lane Kirkland, resigned.

Shirley N. Pettis, of California, to be a member of the General Advisory Committee of the U.S. Arms Control and Disarmament Agency, vice Arthur B. Krim, resigned.

John P. Roche, of Massachusetts, to be a member of the General Advisory Committee of the U.S. Arms Control and Disarmament Agency, vice Wolfgang Kurt Hermann Panofsky, resigned.

Donald Rumsfeld, of Illinois, to be a member of the General Advisory Committee of the U.S. Arms Control and Disarmament Agency, vice Harold Melvin Agnew, resigned.

Harriet Fast Scott, of Virginia, to be a member of the General Advisory Committee of the U.S. Arms Control and Disarmament Agency, vice Jane Cahill Pfeiffer, resigned.

Laurence Hirsch Silberman, of California, to be a member of the General Advisory Committee of the U.S. Arms Control and Disarmament Agency, vice Brent Scowcroft, resigned.

Elmo Russell Zumwalt, Jr., of Virginia, to be a Member of the General Advisory Committee of the U.S. Arms Control and Disarmament Agency, vice George M. Seignious II, resigned.

Eli S. Jacobs, of California, to be a member of the General Advisory Committee of the U.S. Arms Control and Disarmament Agency, vice Thomas John Watson, Jr., resigned.

Robert B. Hotz, of Maryland, to be a member of the General Advisory Committee of the U.S. Arms Control and Disarmament Agency, vice Margaret Bush Wilson, resigned.

U.S. ADVISORY COMMISSION ON PUBLIC DIPLOMACY

Edwin J. Feulner, Jr., of Virginia, to be a member of the U.S. Advisory Commission on Public Diplomacy for a term expiring July 1, 1985, vice Jean McKee.

U.S. INFORMATION AGENCY

W. Scott Thompson, of Massachusetts, to be an Associate Director of the International Communication Agency, vice Robert John Hughes.

UNITED NATIONS

The following-named persons to be representatives and alternate representatives of the United States of America to the 37th Session of the General Assembly of the United Nations:

Representatives: Kenneth L. Adelman, of Virginia; J. Bennett Johnston, U.S. Senator from the State of Louisiana; Robert W. Kasten, Jr., U.S. Senator from the State of Wisconsin; Jeane J. Kirkpatrick, of Maryland; John Davis Lodge, of Connecticut.

Alternate Representatives: Charles M. Lichenstein, of the District of Columbia; Gordon C. Luce, of California; Hernan Padilla, of Puerto Rico; William Courtney Sherman, of Virginia; Jose S. Sorzano, of Virginia.

INTERNATIONAL ATOMIC ENERGY AGENCY

The following-named persons to be the representative and alternate representatives of the United States of America to the 26th Session of the General Conference of the International Atomic Energy Agency:

Representative: W. Kenneth Davis, of California.

Alternate Representatives: Richard T. Kennedy, of the District of Columbia; Roger Kirk, of the District of Columbia; Thomas Morgan Roberts, of the District of Columbia.

THE JUDICIARY

Edward Rafeedie, of California, to be U.S. district judge for the Central District of California vice David W. Williams, retired.

David D. Dowd, Jr., of Ohio, to be U.S. district judge for the Northern District of Ohio vice Leroy J. Contie, elevated.

COPYRIGHT ROYALTY TRIBUNAL

Edward W. Ray, of California, to be a Commissioner of the Copyright Royalty Tribunal for a term of 7 years from September 27, 1982. (Reappointment.)

NOMINATIONS PLACED ON THE SECRETARY'S DESK IN THE FOREIGN SERVICE

Foreign Service nominations beginning Herbert A. Cochran, and ending Michael J. Mercurio, which nominations were received by the Senate on August 31, 1982, and appeared in the CONGRESSIONAL RECORD of September 8, 1982.

Foreign Service nominations beginning Michael Hayden Armacost, and ending E. William Tatge, which nominations were received by the Senate and appeared in the

CONGRESSIONAL RECORD of September 13, 1982.

Foreign Service nominations beginning Robert L. Barry, and ending Emmett N. Wilson, Jr., which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of September 17, 1982.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the nominees were confirmed en bloc.

Mr. HEFLIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAKER. Mr. President, I ask unanimous consent that the President be immediately notified that the Senate has given its consent to these nominations.

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

LEGISLATIVE SESSION

Mr. BAKER. I ask unanimous consent that the Senate now return to legislative session.

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

PUBLIC LOSING LANDS TO OUTLAWS

Mr. HAYAKAWA. Mr. President, Marihuana is grown in every State of these United States. And nowhere is it a greater threat to the public than in our national forests and parks. Our public lands are becoming treacherous as marihuana growers protect their high-valued crops (which are worth up to $6,000 per plant) from thieves, law enforcement officers, and innocent members of the public, including loggers, cattlemen, and recreationalists. The U.S. Forest Service reports that 80 percent of the growers are armed during the growing season and virtually all are armed at harvest time. Crimes against visitors in the national forests have tripled and assaults have increased by 400 percent since 1969. Much of this violence is linked directly to the cultivation of marihuana. In addition, arson of Forest Service buildings, sabotage of Forest Service vehicles, poisoning of livestock, civil disobedience, and campaigns to prevent the application of herbicides, booby-traps designed to maim or kill visitors, and threats against Forest Service employees and their families are all becoming commonplace in marihuana cultivation areas.

In order to bring this matter to the attention of the public and Congress, I will be holding a hearing in the Forestry, Water Resources and Environment Subcommittee of the Senate Agriculture Committee on September 30. I hope to accomplish several things with the hearing: First, to gain a clear understanding of the current situation; second, to learn the extent of related criminal activities on public lands; and third, to gain a better understanding of the lines of responsibility between Federal, State, local, and community law enforcement officials in dealing with the problem. In addition, by drawing attention to this matter, I hope to place it on the agenda of the next Congress.

Until now, Congress has taken little notice of this pervasive illegal activity, and I feel strongly that we must begin to understand and deal with the matter. In the past we have viewed marihuana as an international problem, but the Drug Enforcement Agency has been so effective in curbing imports of marihuana that the profits from domestic cultivation have increased. Today it is a major commerical crop in numerous States and ranks just behind corn, soybeans, and wheat in cash value. Without a doubt, if left unchecked, the increased cultivation of marihuana on public lands will create a wholly unacceptable threat to the public safety of our citizenry. Our efforts to eliminate overseas production of dangerous drugs must not be hampered just because some believe we can't even clean up our own backyard.

I request unanimous consent that the five-part series of articles which appeared in the Sacramento Bee, be printed in the record. Titled "The New Lawless," this series paints a frightening picture. I commend the article to my colleagues, and trust that they, too, will share my deep concern on this matter.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Sacramento Bee, Sacramento, Calif., June 20, 1982]

PUBLIC LOSING LANDS TO OUTLAWS

(By Jim McClung)

Well-armed modern outlaws have taken from the public the use of thousands of square miles of California's foothills, mountain valleys and national forests.

Through terror, intimidation and murder they have created back-country enclaves where there is no law but their own.

Vast areas, particularly in Northern California, are no longer safe for loggers, forest rangers, recreation-seeking city dwellers and residents of rural hamlets. With rare exception, local law enforcement and the state Department of Justice have simply given up trying to police them.

Law officers say the sites range from the Mexican border into Oregon and beyond. A four-month investigation by The Bee found scores of these areas under the control of a dangerous breed of rural gangsters, The New Lawless.

Who are they? Some, but by no means all, are high-stakes marijuana growers whose financial interests are large enough to ensure that their illegal enterprise is surrounded by violence.

Some are superannuated flower children of the '60s who gave up weaving god's eyes on the Telegraph Avenue sidewalks in favor of poaching and living off welfare in another kind of jungle in the remote ridges of Humboldt or Nevada counties.

Some are back-to-nature psuedo-pioneers who masquerade as gold miners to legitimize squatting on U.S. public lands.

Some are survivalists, commandos of catastrophe in camouflage uniforms who enforce their claim to what used to be the public's land with submachineguns and semiautomatic rifles while preparing for the nuclear Armageddon.

One thing they have in common is contempt for the law. They pay no income taxes, acknowledge no hunting restrictions, observe no penal code but their own, have no building standards and recognize no right to use the land but theirs.

They are also exceedingly well-armed, able to mount more firepower than the thin ranks of rural lawmen who attempt to keep them in check. The Colt Frontiers and the Winchester lever-actions that legend has won the West have been replaced by Israeli-made Uzis, Soviet AK47 assault rifles, American AR-15 semiautomatic rifles, TNT and plastique explosives.

For example, just last month Trinity County miner Brian Hill and two companions were ambushed on State Route 96 between Willow Creek and Orleans in Humboldt County. Highwaymen armed with a Uzi and a .30-caliber machine gun blasted out the windshield and windows of the sedan and took several hundred dollars from the occupants. They overlooked $14,000 in cash in the trunk.

They practice their own brand of civil and criminal justice. One "defendant was James Leroy Jamison, 33," who was forced to his knees on State Route 32 six miles northeast of Chico last October for one violation or another and was killed by nine bullets fired into his head and face.

His was one of a dozen murder cases in Butte County in the last few years suspected of being connected to drug traffic.

Sources told The Bee that survivalist John Satkofsky of the Berry Creek region of Butte County took direct action to close down a methamphetamine laboratory bordering his ranch last summer: He opened fire on the makeshift building with a .243 caliber rifle. It sent the illegal chemists scurrying out, fearful of an explosion.

Satkofsky feared the refuse from the lab would poison his well. When the lab operators learned of his grievance, they brought in a "mediator" who represented the Laguna Beach investors in the project. The problem was resolved as tidily as any Superior Court judge might have done—the operators moved the lab site and paid Satkofsky $5,000 for any potential damage to the well.

Where do The New Lawless reign? In Northern California The Bee identified lawless enclaves scattered throughout the coastal mountain ranges from Monterey north, in the Sierra Nevada. Salmon-Trinity Alps and the Siskiyous. There is a well-established marijuana-growing belt that rings the Sacramento Valley from El Dorado County in the east to Lake County in the west.

Marijuana is grown commercially in 43 of California's 58 counties and in all of the 17 national forests within the State. The focus in this series will be on Northern California.

In most cases, sheriffs officers, forest rangers and Forest Service firefighters prudently stay out of the danger areas. The lawmen who do go in first send in special weapons teams to protect narcotics officers who move in to clean out the cannabis weed.

The Bee investigation concluded that marijuana cultivation—and the violence

that accompanies those who deal in the profitable trade—flourishes largely unchecked in Northern California.

Moreover, the combined state, federal and local marijuana eradication effort called "Operation Sinsemilla" has not been effective. (Sinsemilla—"without seeds" in Spanish—is the top-of-the-line product, made from the unfertilized female flowers of the plant, high in potency and with a sweet and mild smoke.)

The U.S. Drug Enforcement Agency initially provided $140,000 in financial aid, advice and aircraft, and the California Bureau of Narcotics Enforcement provided $200,000 and supervisory officers to help county sheriffs' narcotics officers.

Instead of being eradicated, the illicit $1 billion-a-year crop has become "a significant contributor to the financial health of the counties," said U.S. Attorney Joseph P. Russoniello of San Francisco.

To protect their illegal crops, armed and unruly growers intimidate legal residents, threatening to burn homes, shoot their cattle or destroy their businesses on the slightest provocation.

"The hippies don't want a shooting war with me, and vice versa," one rancher said "None of the ranchers snitch on growers because it would lead to a war that the rancher would lose."

Another rancher, who owns property in the Sierra foothills, told The Bee he has simply given up using part of his range because it is too dangerous.

Intimidation also comes in secreted explosive devices, bear traps and camouflaged Vietnam-style pits with needle-sharp bamboo punji-sticks on pathways. Vicious dogs and gunshots also warn strangers away.

With one showy but ineffective exception, the state Justice Department has done little to hinder the pot growers. County sheriffs departments are often too restricted by low budgets to amount a serious deterrent program.

For instance, the Butte County Board of Supervisors rejected federal grants for eradication last year. Hilda Wheeler, board chairman, said the supervisors thought Sheriff Larry Gillick had enough money in his own budget to do that.

Now, because of 1982-83 budget cuts, the Butte sheriff is being forced to lay off 31 officers from the 52-person department as of July 1. He lost six jobs the year before.

The exception, as far as state interest goes, was in 1979 when Attorney General George Deukmejian donned flak jacket and cap to accompany officers on a Mendocino County marijuana raid.

That was the same year that Deukmejian's Department of Justice in a confidential narcotics bulletin to law enforcement agencies reported that the marijuana crop in Humboldt, Mendocino, Lake and Del Norte counties was replacing the Mexican product as the major source for California users.

The war on pot was short-lived. It was the last such raid Deukmejian ventured out on. Recently Regina McGuiness, speaking for the attorney general's office, said that marijuana is now grown on small plots on hillsides, adding, "If we knew where it was, we'd get a warrant and go in and burn it."

Last year a confidential state narcotics report addressed the enforcement failures: "In some counties as much as 50 percent of the crops were not seized for a variety of reasons. The most common is the lack of manpower devoted to narcotics enforcement."

Deukmejian's press secretary, Tony Cimarusti, defended the state's inaction.

"What about the local sheriffs?" Cimarusti asked. "They have the jurisdiction. The state doesn't have the budget or the jurisdiction—unless they let the state know they have a problem they can't handle."

The attorney general was not available for comment.

Said one federal official in discussing the lack of performance by state and federal officers, "I think a lot of people took the ostrich approach—stuck their heads in the sand and hoped it would go away next year."

In the war against authority, aircraft are frequent targets because aerial surveillance is the primary tool to discover marijuana gardens. The U.S. Forest Service has discovered "The Fishline Alliance," a shadowy organization thought to be comprised of growers from San Diego to Canada. It exists primarily to combat the Forest Service herbicide spraying program, officials said.

The Alliance has circulated a crude two-page flier entitled "Helicopter Trap," which describes a method of building a trap to down helicopters. Using dynamite, TNT, plastique or other explosives, it is designed to detonate from the force of the downdraft from helicopter rotor blades as the aircraft hovers for spraying.

Many state and federal firefighters are so fearful of provoking the marijuana growers that they often will not man firelines until growers have been routed by lawmen.

Some of the foresters refused to talk to reporters. "When I'm in the woods. I don't see anything, hear anything or find anything." said one. "I just do my job and ignore everything else. To talk about those things would be placing myself in jeopardy."

Glenn Bradley, deputy Forest Service supervisor in the Shasta-Trinity National Forest, dates the problem back to the unrest on college campuses in the early 1960s.

"The thinking was that these are some of the flower kids from the city who are going to come up here and find the winters are pretty cold and miserable and they are probably going to go back to the city the next spring." Bradley said.

"So, there was not a whole lot of concern until it became apparent that these folks were here to stay.

"Then we started having friction between them and the other national forest users. In 1974-75 it became apparent it was a problem that either had to be dealt with or it would result in a takeover of a portion of the national forest."

The takeover has occurred in some areas of the 17 national forests in California. Nowhere has it been so complete and violent as in the Denny area on New River in the Big Bar District of the Shasta-Trinity National Forest.

There, a group of people who describe themselves as miners—but who are described by law enforcement officers as marijuana growers and squatters—live in tents, old cabins and houses.

Big Bar District Ranger Dave Wright says that portions of the national forest around Denny are going unmanaged because the Denny residents would endanger the lives of his rangers if he sent them into the area.

On the other side of the Northern Sacramento Valley, near Oroville in Butte County, Sheriff Larry Gillick ordered his deputies into a marijuana eradication program last summer. The effort has resulted in exchanges of gunfire between marijuana growers and deputies, arson to a sheriff's vehicle and persuasion applied to a local television station by growers seeking air time to tell their side of the story.

In nearby Nevada County, sheriff's deputies report numerous complaints by residents and visitors about savage-appearing people brandishing weapons at them and complaints of public roads being blocked with makeshift barricades. Marijuana growers are the offenders, deputies say.

Last year, when summoned to investigate, an apparent murder on San Juan Ridge, Nevada County deputies discovered a 100-plant marijuana garden near the body of "Levi" Larry.

Zachari Harmony, accused of the killing, won a self-defense verdict.

In another incident last year, a female clerk in the Brass Rail saloon was seriously wounded by a shot fired by a grower who drove through the town of North San Juan shooting a pistol into buildings.

The shooter was Leroy H. Yeoman, 32, who attempted to defend his conduct by saying he was stoned on marijuana. He was sentenced to one year in jail and five years on probation.

In El Dorado County, where the top marijuana-producing areas are near Swansboro, Georgetown and Somerset, reports of harassment and violence are beginning to surface. Sheriff Richard F. Pacileo employs an attack force of heavily armed deputies along with his narcotics squad when raiding a marijuana patch.

The U.S. General Accounting Office took notice of the problems in a report published last March for Agriculture Secretary John Block and Interior Secretary James Watt.

"During our review in California and Oregon of the federal role in providing outdoor recreation, we noted that field officials at selected locations of the Bureau of Land Management, Department of the Interior and the Forest Service, Department of Agriculture, were not always effectively enforcing laws relating to illegal and unauthorized activities on public lands," the report said.

To correct those deficiencies, the U.S. Department of Justice has launched a new attack on growers, using tried and proven methods—confiscation of property and the income tax laws.

Joseph P. Russoniello, U.S. attorney for the Northern District of California, is spearheading the effort in California.

Russoniello said his is a two-pronged attack: eradication of marijuana through confiscation of the land upon which it is grown, and identifying growers and landowners who are evading payment of taxes to the Internal Revenue Service.

The law provides for confiscation of personal property when the property is "instrumental" to the commission of a crime. The law is applicable to real estate just as it is to boats and aircraft used in smuggling, Russoniello said.

Some growers agree. They told The Bee the two things they fear most are the FBI's assuming control of the Drug Enforcement Agency and the new interest in them from the IRS.

TRIGGER-HAPPY GROWERS MAKE THEIR OWN LAWS

(By Jim McClung)

CHICO.—On Oct. 29, 1981, James Leroy Jamison, 33, was forced to his knees on State Route 32 six miles northeast of Chico and, for some violation of the outlaw's code, exe-

cuted with nine shots into his head and face.

Jamison, homicide investigators said, was one of a dozen suspected drug-related murder victims in rural Butte County since 1978.

All were involved in or somehow associated with the booming marijuana cultivation and drug manufacturing industry that is turning the foothills of the Sierra Nevada into an inhospitable shooting gallery.

Utility company employees are fearful for their safety as they tend gas and telephone lines. U.S. Forest Service employees fear for their lives when they stumble onto marijuana gardens guarded by hostile caretakers.

And local law enforcement is turning to military-like tactics and weapons in efforts to enforce the much-violated drug laws.

Ron Chaplin, a Butte County sheriff's sergeant working to eradicate marijuana, told The Bee, "The main problems (with the growers) are the violence and hostile attitudes directed toward recreation seekers. This is our biggest concern."

Chaplin said that 90 percent of the reports about pot growers come in anonymous calls from victims of harassment.

In El Dorado County, Sheriff Richard F. Pacileo sends in a special weapons team to capture suspected growers before allowing his narcotics officers to harvest, then destroy, targeted marijuana crops.

Undersheriff Don McDonald told The Bee that before making a raid his department performs a background investigation on each suspect to gauge the level of violence the arresting officers may expect. So far, no one has been hurt.

A narcotics officer for the Nevada County sheriff's office described the approximately 100 marijuana cultivators and drug lab operators arrested by his agency in the 1980-81 seasons as ranging from "outlaw biker types to Ph.D.s and everything in between." Ninety percent of those arrested were carrying weapons for the protection of their crops.

The officer said there are about 500 marijuana growers in Nevada County who are primary responsible for the numerous complaints about people brandishing weapons, public roads being closed off, and destruction of road markers. Roads are closed and markers obliterated in an effort to keep people from finding marijuana fields.

"These people are totally violating the rights of citizens to travel the roads in this county," the deputy said.

In Yuba County, a sheriff's deputy describes the growers as "really desperados—on welfare and public assistance who take more out of the community than they put into it. They take their grass money and run."

Placer County Sheriff Donald J. Nunes told The Bee that outlaw motorcycle gangs in the Iowa Hill and Foresthill areas, gold snipers in illegal homesteads on the Middle and North Forks of the American River, and foothills marijuana growers comprise the outlaw element in his county.

Nunes said a woman whose body was found near Iowa Hill two years ago probably was murdered by motorcycle gang members. Her killing and the double murder of an Ophir couple at about the same time were both narcotics-related, the sheriff said.

"What I want to do is monetarily break their backs here in this county," Nunes said. "I don't want Placer County to turn into another Mendocino or Siskiyou County. I'm going to break their damn backs and I want them to know it."

Nunes said growers even use geese as watchdogs to guard their crops. Growers also have used fishhooks hung from trees at eye level to ward off thieves or lawmen, Nunes reported.

Most of the shootings on public lands in Placer County occur near the forks of the American River where visitors may stumble across illegal homesteads maintained by gold snipers who dredge the river for nuggets. The sheriff and the U.S. Bureau of Land Management are evicting squatters through court proceedings.

Nunes said legitimate farmers in the foothills are a major source of information on marijuana growers. Fourteen marijuana gardens were harvested by Placer deputies last fall.

The sheriff views the cultivation of marijuana as a serious social problem because it represents "big money." "Because of the monetary value of the crops," said Nunes, "the growers will kill for it."

Ray Johnson, La Porte District ranger for the Plumas National Forest in Plumas County, told The Bee it costs some $5,000 a year just to replace road signs removed or destroyed in his district.

"Every year it is the same areas and the same signs," said Johnson. "We know who does it. It is done to make it harder for visitors to find out-of-the-way places.

"More than half of the problems we have in the forest are generated by these people . . . who have total disregard for laws, game regulations or anything.

"We are talking about a low-life individual that has no respect for law enforcement."

Johnson points to Strawberry Valley as one community on the 10-mile-long North San Juan Ridge which is home to marijuana growers.

Chaplin of Butte County says Berry Creek, Concow Lake, Lake Madrone, Feather Falls, Challenne and Forest Ranch are the communities which generate the most marijuana and violence in the marijuana belt which runs through his county.

About 10 persons who generally described themselves as survivalists lived in the Berry Creek area until last fall. They wore camouflage clothing, carried AR-15 semi-automatic rifles, lived off the land and grew marijuana.

Chaplin, accompanied by a Special Weapons and Tactics (SWAT) team, raided a survivalist from New York last summer and took his marijuana plants without firing a shot. "The guy taken down (raided) praised the SWAT team for their professional performance," said Chaplin.

Some of the survivalists have fled Butte County, but the The Bee found one remaining soldier of Armageddon who agreed to talk. He asked anonymity, expressing fear that his family might be hurt by other growers if he were identified.

The survivalist said a lot of violent people have moved into Berry Creek in the last few years, changing the character of the community. He said most growers are now armed to the teeth to combat marijuana thieves in the late summer and fall as the crops mature.

When he moved into Berry Creek in the 1970s violence was a rarity, the survivalist said.

He estimated there are about 100 growers in Berry Creek. Half of them grow enough to add $10,000 to the family coffers each year.

"About 25 percent of the growers are successful enough to make $40,000 to $50,000 a year," the source said. "They ski, do cocaine and Hawaii, and are broke and back on welfare by spring."

The source said the other 25 percent of the growers are backed by investors, mainly from the Laguna Beach area, who hire them as sharecroppers.

Most of the large marijuana sales in Butte County are to wholesaling syndicates from the Los Angeles area, he said. He added that only about 500 pounds of Berry Creek "kush" reached the market this year because of Chaplin's repeated raids.

"Only two patches got through," the source declared. "Berry Creek was totally wiped out by Chaplin in the 1981 season." Chaplin harvested 24 marijuana crops in Berry Creek last fall.

One of the wiped-out growers was a fellow survivalist, the source said. "Tom wanted one good crop so he could dig in and wait for Armageddon—when the Russians bomb Beale Air Force Base," said the source. "Chaplin got that crop. Tom is now in New York working for a television studio."

Last July when another Berry Creek survivalist, John Satkofsky, opened fire with a .243-caliber rifle on a laboratory next door to his 40-acre ranch off Raccoon Road and Rockefeller Drive, he brought to a halt the manufacture of methamphetamine by bikers from the Los Angeles area.

The cookers running the laboratory used a 100-kilowatt portable generator for power. They planned to operate from daylight to dark for 20 days to produce an estimated $1 million worth of speed.

The Bee's informant said Satkofsky feared that refuse from the lab would poison his well. His gunshots into the lab sent the cookers scurrying from the makeshift building for fear of an explosion of the methamphetamine ingredients.

When the cookers heard Satkofsky's grievance they set up a meeting with a "mediator" representing their Laguna Beach investors. The lab operators offered to move their operation and pay Satkofsky $5,000 for any potential damage to his well. Satkofsky accepted the proposal and the incident was closed.

The source said other landowners in Berry Creek were paid $20,000 to $30,000 to allow the operation to continue for the 20-day project. The entire incident occurred with little public notice, according to the source, and only rumors of the drug lab reached law enforcement officers.

LAWLESSNESS WORST IN DENNY AREA

(By Jim McClung)

DENNY.—In a California dotted with encampments where the New Lawless survivalists, marijuana growers and squatters reign through terror, the little community of Denny is in a class by itself.

Denny, on the New River in western Trinity County, is the most lawless rural community in the state.

Dave Wright, Big Bar District manager for the Shasta-Trinity National Forest, said candidly, "We do not have control over the management of the Denny area."

Small guerrilla bands of well-armed outlaws have claimed huge portions of the Shasta-Trinity and Klamath National Forests through violent confrontations with the U.S. Forest Service and state and local law enforcement officials.

Federal officials say they have lost control of some 100,000 acres of the Shasta-Trinity National Forest around Denny.

In addition, management of more than a million acres of public land is severely, restricted at the Forks of the Salmon River,

Orleans in Humboldt County, Seiad on the Klamath River and in Mad River country in southern Trinity County.

"It is a hell of a predicament that the Forest Service is in," said manager Wright. "More and more we are becoming a law enforcement agency whether we like it or not," he lamented, seeing the role of the Forest Service changing from the benign Smokey the Bear wilderness caretaker to that of a machine-gun-wielding police agency.

The Forest Service is in the forefront of the battle to prevent the outlaws from taking over. The outlaw population has intimidated the California Department of Fish and Game into abandoning enforcement responsibilities in many areas of Northern California during late summer and fall when the marijuana crop matures.

Said Trinity County Undersheriff Dave Laffranchini. "They basically are pot growers operating under the guise of gold miners.

"I've been through the back country and lower country there and I've seen a heck of a lot more Acapulco gold than mineral gold."

Brian Hill, a former New York City college teacher and "media coordinator" for the Denny area miners, contested that characterization.

The small miners here are as much of a melting pot as America is," Hill declared. "There are rightwingers, left-wingers. conservatives, radicals . . . and people fed up with the system.

"They are self-sufficient, rugged individuals with a great respect for nature and each other who want to be left alone."

Hill was himself a victim of violence last month. The miner and two men he describes as claim buyers from Concord were driving to a Klamath River claim when they were robbed by bandits on State Route 96 between Willow Creek and Orleans in Humboldt County.

The highwaymen, using an Uzi and a .30-caliber machine gun, blasted the windows out of the sedan the trio occupied. The robbers took several hundred dollars but overlooked $14,000 in the trunk when scared off by a motorist.

The Bee has learned the case is being investigated as a drug-related robbery. Investigators suspect the $14,000 was buy money for a marijuana transaction.

Hill said the $14,000 belonged to one of his companions who earned it on a deepwater diving job in Scotland.

Mike Ulberg, a resident of the Denny community, told the Bee, "We all live up here because we choose to live here. We're miners. This is our way of living."

Ulberg and the other self-described miners denied any involvement in marijuana farming, although they admit the illegal weed is grown along the New River.

They say the Forest Service is using the marijuana issue and the government code on illegal occupancy of public lands to put them out of business.

The miners contend they are guaranteed under the Constitution and the 1872 Mining Law the right to file a claim and live on that claim.

Forest Service officials say they have no quarrel with legitimate mining operators—but add that some of the small dredge operators like those in Denny use mining law as a guise to appropriate a piece of public land to live on while prospecting for gold in the river and drawing public assistance.

Confrontations over illegal occupancies in the Denny area go back for more than a decade. In 1971, resource officer Chuck McFadin was hit in the neck by a ricochet bullet fired near him while he conducted a mineral examination on a questionable mining claim. The wound was minor.

Documents obtained by The Bee chronicle assaults on federal officers over an 11-year period. They disclose a pattern of vocal and physical intimidation, threats against the lives of rangers and their families, shooting high-powered rifles into and over the Denny guard station, vandalism and burglary and theft of ranger station equipment.

Other acts include pistol-whipping a ranger and arson at two Denny area guard stations. The fires were in retaliation for Forest Service destruction of crude cabins that the court had found to be illegally on public land.

"When I came to the district in 1974, one of the primary tasks was to resolve the illegal occupancies," said Wright. He has been under gunfire 13 times.

"It was shots not fired directly at me, but over my head or beside me . . . the kind that make your knees knock," said Wright. Wright was given a "superior performance" award this year for his courage and perseverance in fighting illegal occupancies.

"The thing that bothers me the most is the blatant disregard for any regulation in any way, shape of form," said Wright. "The average citizen cannot use the Denny area because of it."

The outlaw lifestyle prompted the Trinity County Board of Supervisors to adopt an ordinance that allowed Weaverville welfare office workers to exclude from their office persons wearing guns and knives as they arrive to collect assistance checks.

One man with high visibility even in this community is Edward James "Zeke" Isaacs, 41, a one-time minister who is described as the unofficial mayor of Denny.

"That guy has been run through the mill," said-Denny miner Dory Rititavato, referring to Isaacs. "He has put out an effort to stop what is going on and they (the Forest Service) literally drove the man to drink."

Rititavato is no fan of the Forest Service. Federal officers burned down his cabin last Jan. 27 after successfully completing an illegal occupancy case against him.

Isaacs has survived numerous violent encounters with the Forest Service and local law enforcement.

Said the grizzled Isaacs: "The government establishes illegal occupancy by a phony validity test and the Forest Service has been screwing the small miner ever since I can remember. They cheat, lie, make phony tests and make promises they won't keep.

"And I don't think anybody has been as bad as (Dave) Wright."

As for weapons, Isaacs said, "Everybody up here packs a gun for hunting purposes and protection. If you are going into the back country, you would be foolish not to carry a gun. Guns are just part of living here."

Guns also are a big part of Isaacs' extensive problems with the law.

When two Humboldt County sheriff's deputies arrested Isaacs in Willow Creek in 1980 on a Trinity County warrant charging assault with a deadly weapon, Isaacs was less than cooperative.

Isaacs, leaving his 12-guage shotgun on his car seat, kicked one of the officers in the groin, hit the other in the head with his fist and attempted to take one deputy's revolver. After the deputies wrestled him into handcuffs and put Isaacs into the rear of their patrol car, Isaacs proceded to kick the back windows out.

On July 18, 1980, Isaacs was convicted of assaulting the deputies and sentenced to 90 days in jail, ordered to make restitution for the damaged patrol car and ordered not to possess a concealable firearm.

On Oct. 26, 1981, Isaacs again went to jail, charged with brandishing a shotgun at a sheriff's deputy in Trinity County.

Denny area violence was fatal Feb. 21, 1978. On that night, following an argument which began over the sale of a mining claim, according to lawmen, Edwin Lee Irvin, 49, of Denny and Dana Ray E. Humphrey, 19, of Eureka were shot to death in a gunbattle that left two other men wounded on a bluff above the New River.

Mayor Isaacs was a bystander in this shoot-out, deputies said, and acted as a medical corpsman in getting the wounded across the river in a crude tram.

Michael Edwin Smith, 44, a new resident of Denny, was convicted of the Irvin murder and is serving a term in Folsom Prison. Smith killed Irvin in Doug McGimsey's cabin with McGimsey's shotgun.

Two years earlier, McGimsey had pointed the same loaded shotgun at Forest Service Special Agent Jim Listoe while the officer was inspecting the McGimsey cabin for compliance with its "special use residence" permit.

As violent as the "miners" are, marijuana farmers currently represent a more widespread threat to the safety of citizens visiting the Klamath or Shasta-Trinity national forests, officers said.

Hikers on the Sierra Trail through the Marble Mountain Wilderness Area are threatened and run out by gun-toting marijuana growers, while deer hunters are reporting shots fired over their heads while hunting in the Salmon River country.

Marijuana farmers are placing shotgun shell booby traps around the perimeter of their gardens, the shells rigged to fire when trip wires are disturbed. They also place bear traps on paths leading to the fields. Some maintain roving guard dogs and employ armed guards to protect their crops from armed robbers.

In Siskiyou County near Happy Camp, growers are the victims of outlaw motorcycle gangs who demand extortionate protection payments, The Bee was told. Forest officials said the gangs are attempting to organize the growers so the bikers can control major marijuana cultivations in California and southern Oregon.

Growers are not the only victims of extortionists. A well established logger said that while he was logging in the Denny area, Chick Bryant, a "miner" now said to be in Idaho, approached him and offered to protect his equipment for a fee of $500 a week.

After a week of negotiation, the logger and Bryant agreed on $250 per week payments. The logger completed the job without vandalism to his equipment.

The previous logger on the same Denny area timber sale was not so lucky. He refused to pay protection money and suffered cut hydraulic lines, dirt poured in radiators and fuel tanks, slashed tires and other acts of vandalism which drove him from the job.

The Bee's logger source asked not to be identified by name or his crew could not last three days on any logging job in Northern California, he said.

"These people are terrorists in every sense of the word," said the logger.

OUTLAW POT GROWERS OUTGUN, OUTRUN LAWMEN

(By Jim McClung)

EUREKA.—Last spring, at the start of the 1982 marijuana growing season in Humboldt County, there was not one sheriff's deputy assigned to narcotics law enforcement.

Now, as the cannabis crop begins to develop, there is still no one assigned to that duty.

It is one more bit of evidence of the fact that outlaw marijuana growers and hoodlums in the $1 billion industry are in control of vast rural areas in the North Coast counties of Sonoma, Mendocino and Humboldt.

Through terror, intimidation and force of arms, The New Lawless are denying the public the right to use its own land, effectively sealing off thousands of acres of Northern California's most spectacular scenery from the law-abiding.

"We're not afraid of the cops," a marijuana grower told The Bee one evening in the Blue Circle tavern in Garberville. "Even if the cops see something when they come in here ('here' being the grower's turf between Garberville and Shelter Cove in Humboldt County) they don't report it. They're scared of us."

There is reason to be scared in the North Coast counties. Machine guns chatter in the heavily timbered canyons, tourists unearth murder victims on Pacific beaches, gunfights erupt and synthetic drug labs explode in fireballs.

So languid has been the federal and state law enforcement effort against growers that in southern Humboldt County, west of Garberville, they have not been molested since 1979. That territory, from Garberville west, is unequivocally the worst of the coastal outlaw havens.

The source at the Blue Circle described a chilling new use for illegal Mexican immigrants. He said growers hire them to perform many of the daily chores, including guard duty, for two reasons: they work cheap and at the end of the season they are "expendable."

"Who cares if a Mexican is killed and buried?" said the grower. "Nobody misses them. Nobody reports them missing and probably very few know where they are."

The grower knows that he and his industry are an economic boon to the depressed North Coast. "Everybody owes their living to marijuana," he said. "Without pot, Garberville would be a ghost town."

In Whitehorn, a community just above the Mendocino County line, The Bee found the toughest-looking marijuana growers encountered while seeking out The New Lawless.

They were dirty, tattooed, bearded and often accompanied by vicious-looking pit bulls. Guns and knives were commonplace.

Asked to talk about the violence surrounding the marijuana industry, one Whitehorn dweller said, "That's a touchy subject, man. No one wants to talk to you about that. You better get on down the road."

In Garberville, another grower said, "It's stupid for you to go out and try to talk to these hippies because they'll kill you if they decide that's what they should do."

A veteran police officer said of the reporter's visit to Whitehorn: "It's just like the Indians. They believe you can't kill an insane man because he's protected by the gods. I think they put you in the same light."

U.S. Attorney Joseph P. Russoniello of the Northern District told The Bee, "That's one of the side effects of fairly widespread avoidance of the law.

"You develop an atmosphere of lawlessness . . . such as bringing a bunch of Mexicans up and using them on the harvest and then murdering them. That's really insane, but when they have so little contact with law enforcement they can talk that way."

There is abundant irony in the fact that the U.S.-Mexican program to eradicate marijuana south of the border with the herbicide paraquat in 1976-77 led ultimately to Northern California's dope and violence problems. Mexico was the major producer for U.S. Markets until paraquat killed the weed and the market.

As quickly as the Mexican weed expired in the sun, the hippies of the 1960s who by then were ensconced in communes and crude dwellings on the northern coast recognized the marketability of their already reputable "California homegrown."

By 1979, the state Department of Justice recognized that Humboldt, Lake, Del Nort and Mendocino counties had replaced Mexico as the primary supplier to domestic users. And lawmen also realized that hoodlums were replacing hippies as cultivators of the commercial product.

As the California home-grown market expanded, so did crop size. As the price escalated, so did the level of violence which growers were willing to use to protect their crop.

Today, say law enforcement sources, the emerging commercial marijuana industry has expanded into 43 of the 58 California counties and into 19 Western and Southern states.

Intimidation of the U.S. Forest Service, California Division of Forestry, California Department of Fish and Game and of lawmen has made them abandon some of their responsibilities.

The intimidation is intense in Whitehorn, Honeydew, Alderpoint and Orleans in Humboldt County; from Willets north in Mendocino County; and in northwestern Sonoma county.

Humboldt County District Attorney Bernard C. DePaoli said, "It certainly has contaminated the northeastern part of the county, including the youngsters on the (Hoopa Indian) reservation, and it certainly has contaminated the southern part of the county—Garbervill, Blocksburg and Briceland."

DePaoli estimates commercial cultivation of marijuana has increased the level of violence by 200 percent in the last two years. He said the problems of violence have not been faced by the Legislature and county board of supervisors.

"I see Humboldt County becoming more of a battleground, more of a violent atmosphere," said the district attorney.

DePaoli pointed to a recent murder: "The case could have been solved in probably 36 hours. Instead no one even reported the guy dead for two months because it happened right in the middle of harvest.

"All the players in this action were non-Humboldt County people, including the deceased, and it was all over marijuana. In fact, the guy was killed by his own bodyguard."

Another example occurred last summer: "In three days we indicted something like 24 people . . . for violent acts over who's going to control marijuana traffic on the (Hoopa Indian) reservation.

"What we had was a bunch of doped up Native Americans . . . who were shooting at each other in downtown Hoopa, in the middle of the day . . . with the tourists driving by."

DePaoli predicted that outlaw violence is reaching such levels that, "I think you are going to find armed establishment reaction and resistance in the future—and I'm not an alarmist."

Election Day in Humboldt County indicated that marijuana carries political as well as economic clout. DePaoli said his hard-line stance on the issue cost him his job in the primary. Both DePaoli and Eureka Police Chief Ray Shipley, candidate for county sheriff, lost to candidates with a more liberal stance on the marijuana issue.

"I think what happened in both the race for sheriff and district attorney is that the public made a statement about its desire to allow marijuana a relatively healthy chance at physical and financial survival in our county," said the prosecutor.

"It seems as though in those areas where marijuana is more frequently grown, I received less than 10 percent of the vote—as did Shipley, who took a strong stand against marijuana. People out in the woods say that's what did it."

Humboldt County Sheriff Gene Cox said his department did not field a narcotics deputy because the Board of Supervisors stripped his budget of all narcotics enforcement funds and has repeatedly turned down sizable federal grants for marijuana eradication programs.

Cox said that areas like southwestern Humboldt have escaped raids because there is no money available to launch a respectable anti-marijuana effort.

A veteran narcotics officer told The Bee that there is only "selective enforcement" of narcotics laws in Humboldt. The officer pointed to an aerial surveillance flight last fall in which 80 marijuana gardens were spotted on a 4-mile-long stretch of hillside.

All but three of the 80 gardens were left to ripen and be harvested because the sheriff could not finance raids on them.

No one has more of a potential for conflict with marijuana growers than cattle ranchers. There is an uneasy standoff between the two.

"The hipples don't want a shooting war with me and vice versa," a rancher told The Bee. He added that identifying him as a source could lead to his ranch being burned, his cattle shot or his family assaulted.

"None of the ranchers snitch on growers because it would lead to a war that the rancher would lose."

He explained that ranchers have real estate investments, machinery, buildings and crops to protect, while the outlaw growers usually have nothing but old vehicles and promising gardens.

"Cows can't eat black grass," the rancher said, referring to a grower who during the 1981 season set more than 20 fires in the Alderpoint area.

The fires were in retaliation for a police raid on a pot patch. The grower believed someone in the forestry department had reported his marijuana crop.

In the nearby Mad River country in the 1980 season, growers set range fires in retaliation for each raid on their gardens. The fire-setting subsided, however, when the growers discovered that more patches were being found and reported by firefighters sent in to tend the blazes.

South of Humboldt County is Mendocino County, an estimated 1,700 commercial marijuana growers practice their trade. Arrest data and information gathered from growers reflect the grower lifestyle:

Of the 69 arrests on cultivation charges in Mendocino County between June 1 and Aug.

10, 1981, all but one suspect was drawing welfare payments or food stamps to live on while their valuable crops matured.

One narcotics agent told The Bee that in three years of marijuana eradication work in Mendocino county, he had arrested only one grower who was not on welfare, drawing food stamps or in the Medi-Cal program.

In Mendocino County the concern about violence is also increasing. Lt. Max Anglin of the Mendocino sheriff's office said, "Under normal circumstances I will not send a lone deputy into the northwest area of the county. There you are too far from help and the potential for violence against our deputies is definite."

As to visitors in the same area, Anglin said, "As long as travelers stay within 50 feet of the roadway they will be safe. the ones we worry about are the deer hunters and hikers—they are candidates for booby traps and shootings."

The officer said the No. 1 dope-growing community is Laytonville. Willets is second.

He pointed to the double murder of a Ukiah couple last October as one of the more brutal examples of increased violence linked to the narcotics trade.

In that case, Larry Cape, 39 and Venita Cape, 33, were killed with multiple gunshots to their heads and dumped on Cow Mountain. No charges have ever been filed.

Mendocino County District Attorney Joe Allen, sponsor of a ballot measure to legalize cultivation of marijuana for personal use, credits commercial cultivation for substantial increases in homicides, kidnapping, armed robbery and attempted murder.

Explaining his stance on cultivation for personal use vs. commercial use, Allen said, "It is like the difference in a bear cub and a full-grown grizzly. The one is not very dangerous and the other is."

Allen said this of The Lawless: "I think we have a pattern of outlaws of one kind or another taking to the hills. That was true in the Old West—the Hole in the Wall Gang, the Wild Bunch.

"What you did when you organized an outlaw gang was move off into some box canyon 40 miles from the county seat on the theory that you would be safer from law enforcement. . . . Today that is untrue . . . but the myth lives on."

In Sonoma County, also, cultivation of marijuana abounds, but the quality of the product has increased. Last fall, Sonoma County sheriff's officers flew with a San Francisco television crew to assist in spotting patches of marijuana.

The helicopter crew found a 300-plant marijuana garden on the 315-acre Wheeler Ranch, a highly publicized hippie commune from the early 1960s.

The find caused one lawman to observe that the only thing time had changed was the evolution of cheap hippie pot of the '60s into the high quality sinsemilla of today.

The residents, as did those of 20 years earlier, lived in shacks, lean-tos, tents and other non-code residences scattered about the property. However, unlike crops of the 1960s, that 1981 crop, had it been left unmolested to harvest, would have been worth in excess of $300,000.

FOLLOWING THE MARIJUANA CONNECTION

(By Jim McClung)

Connoisseurs of the fine marijuana in every major U.S. city will accent Christmas dinner this year with a joint of California homegrown, signaling a major marketing success for a highly illegal and in most cases inferior product.

The smoker may be in Houston, Dallas, Cleveland, Atlanta, Chicago, Boston and New York City. His marijuana may be from Humboldt, Trinity, Butte, Mendocino, Shasta, Placer and Monterey counties in California, and Josephine, Jackson and Douglas counties in Oregon.

The smoker and his weed will be together because the California wholesalers, middlemen and financiers trafficking in all lines of illegal narcotics have forged a public relations success that is to be envied.

"It's a fad Smokers in Cleveland can't get enough of California homegrown because it's the thing to do. Connoisseurs everywhere but California are smoking California homegrown," a wholesaler told The Bee.

"California smokers generally are more sophisticated and prefer Thai weed, Mexican red hair and a few lesser known exotics, all of which are better products than most of the California homegrown," the drug merchant told The Bee.

"The marijuana scene is like the wine scene in that the same standards apply. Not everybody can manufacture Dom Perignon just because they may be able to grow grapes. There are a lot of people growing cannabis indica in the state, but only a very few are producing stuff like premium 'Mad River Skunk,' " one source explained.

In the middle 1970s, the United States and Mexican governments launched a marijuana eradication effort that consisted of spraying paraquat, a herbicide, on the large Mexican plantations of marijuana that supplied the insatiable U.S. appetite. The foreign eradication effort spawned a California marijuana cultivation industry that first surfaced in counties from Monterey north and today produces a significant portion of the illegal weed marketed in the United States.

Commercial crops of cannabis indica sinsemilla are grown in 43 of California's 58 counties and in 19 Southern and Western states. Federal studies suggest that the California crop alone produces $1 billion in tax-free revenue for those in the trade.

To determine how homegrown finds its way from the fields in Northern California into the rosewood boxes of marijuana connoisseurs in the East, The Bee interviewed growers, dealers and wholesalers.

The Bee learned that there are thousands of persons, young and old, educated and not, violent and nonviolent, farming the illegal weed in Northern California and feeding their families from the profits.

There are thousands more who add to their annual income from legal jobs by growing a few plants of marijuana. And, there are those who operate plantation style with multiple gardens scattered over many acres.

A source in the California Bureau of Narcotics Enforcement told The Bee that "Operation Sinsemilla," an eradication effort using the combined forces of federal, state and local law enforcement agencies, had proven effective. He said that the size of the marijuana gardens in the state had been reduced from several thousand plants to a few hundred because the strike force uses aerial surveillance as its primary tool.

However, people in the trade say that the reduction in the size of the marijuana gardens is a result of growers learning that they can make as much money from 20 to 40 pounds of premium "skunk weed" as they can from 200 pounds of of marijuana of varying and lesser quality.

"The guys who grow weight get a cheaper price every year, while the small gardener who comes up with 20 pounds from 50 plants and takes his time to cure it properly will get top dollar. Dealers will seek him out for his crop, while the bulk farmers have to search for a buyer," a source told The Bee.

Much of the homegrown is produced on small ranches in the rural mountainous regions of Northern California. It is planted in March and April and requires about one full-time farmer for every 100 plants. It is harvested in the late fall and undergoes a curing process that may take several weeks.

The established farmer will have verbal contracts to place his weed in a marketing cooperative with other farmers or have previous arrangements with individual wholesalers. He will usually have to "front" his crop to the wholesaler and wait until the wholesaler gets paid before getting his money.

Many of the growers try to circumvent the middlemen by marketing their products through relatives and friends who generally sell to unsophisticated street dealers and users.

The homegrown leaves the rural drying houses in car trunks, pickup trucks, rental trucks and airplanes. It is repackaged by dealers, depending upon the quality and the ultimate target buyer.

"The secret to getting the top tag for premium dope is to get your product into 'the flow' that spreads across the country and supplies all kinds of narcotics to every major city," says a source.

Premium homegrown dope, getting into "the flow" as it fans out from San Francisco, will get the top dollar because "the people with the big bucks will stand in line to get it," a source told The Bee.

The top homegrown like "Mad River Kush," "Humboldt Skunk," and "Hoopa Kush," goes to the wealthy in cities like San Francisco, Los Angeles and Cleveland. Rock stars are the first targets of dealers with top-of-the-line produce.

California homegrown is one item in a whole line of produce that keeps the narcotics dealers jumping all year long.

Homegrown, going into "the flow" at premium prices of about $1,600 a pound, competes with Mexican red hair that enters the flow at $575 and Thai weed at $1,200 a pound.

Mexican red hair, grown in Mexico under the supervision of U.S. farmers, generally is of far greater quality than homegrown.

Thai weed, which is the most popular smoke in California, generally is also of higher quality than homegrown.

But by the time the homegrown hits East Coast users, the price may have swollen to $3,200 a pound or $250 an ounce. "East Coast smokers seek out and pay that high tab even for low quality California homegrown because it is the thing to smoke. You can sell that stuff in the trendy places where people can afford fads," said the source.

Sources told The Bee that reputable wholesalers and dealers operate in existing and well-established channels that protect them from law enforcement. These connections are the most important thing for any grower.

"A respectable dealer or middleman knows where to sell 'skunk weed' and just as easily knows where to unload 'shake,' (a lowgrade smoking material), a source said.

"The last thing a reputable dealer or middleman wants to do is sell a load as top quality when, in fact, it may be so poor that it will damage his reputation. In this business, like many others, if you burn somebody

with inferior product, it will come back to haunt you," a dealer said.

The Bee sources said there are families of dealers with access to "the flow" in every major California city. "It is like the Laguna Beach crowd, which consists of an old group of hash smugglers and big-time dealers who have such established connections that they can easily move the multi-ton loads.

"They answer to about six guys who call all the shots. They are dependable and everybody is screened off to ensure that nobody kicks some bad money up the street.

"A safe deal requires established guys operating inside the established flows. A lot of guys, like the Laguna Beach bunch, make a lot of money in the flow without ever seeing the product. They just 'middle' the deals, never touching anything but money."

The term "middling" refers to a person who arranges the transfer of money and marijuana between parties who never see one another.

The flow in and out of San Francisco is in the hands of a few financiers, some of whom are so competitive that they engage in a game of seeing who can put together the largest shipments from Thailand. Some of the shipments exceed 100,000 pounds of marijuana.

"These rich dudes snort China white heroin from the Golden Triangle just to prove they are at the top," said a source.

In contrast, a successful dealer who beefs up his line of imported dope with California homegrown may be hesitant to go into the farming business himself in spite of huge profits that may be made.

"A dealer may finance a homegrown operation or several of them in order to pick up an unusually large input of cash, but it is a very risky business because of the exposure it requires," sources told The Bee.

"Setting up a plantation requires land, land ownership, workers, buildings, irrigation systems and that the financier trust his freedom to a person who has expertise at growing and curing marijuana. It is a far riskier task than middling a load here and there," the source said.

In addition, the source said, to run a successful farming enterprise would require a dealer to mix and mingle with common criminals and people who live and think like animals.

"It all goes to the company you keep. If you run around with ex-convicts you soon will be one of them," a source said.

"If you just peddle prime stuff to executives, rock stars and judges, or people who do, you can bet they are taking care of you, to take care of themselves," the source said.

But, there are thousands of marijuana growers toiling in their gardens today, looking toward the end of the growing season and financial reward.

Many of them are on their own 40- to 120-acre ranchettes, while others tend gardens on federal lands.

One grower with 31 acres, paid for with the first-year profits, is building himself a ranch house in southern Humboldt County and looking toward a banner year.

He said he expects to net some $35,000 to $45,000 from 100 plants and lives pretty well off the tax-free income. His goal is maintaining his property and income for 10 to 15 years and going into early retirement.

The grower scoffed at a reporter's salary, asking, "After taxes, what do you have left?"

ACID RAIN

Mr. MITCHELL. Mr. President, the environmental phenomenon of acid rain has already resulted in significant environmental degradation of the water resources of the eastern United States. The Senate Committee on Environment and Public Works approved last month a comprehensive acid rain mitigation strategy to alleviate the damage to out lakes and streams that is now occurring.

I would like to call to the attention of my colleagues two recent occurrences outside of this country which relate to the acid rain issue. They illustrate the growing international consensus about the severity of the acid rain threat, and the extent to which the view of the Reagan administration has isolated the United States from the mainstream of scientific and political thought.

The first illustration occurred this summer, when an international conference attended by 27 countries and international organizations in Stockholm concluded that "further concrete action is urgently needed * * * to reduce air pollution" to combat acid rain. The official conference was preceded by a meeting of international experts who reported that enough is known in order to reduce damages caused by acid rain.

The official conference conclusions states that the "acidification problem is serious and even if deposition remains stable, deterioration of soil and water will continue and may increase unless additional control measures are implemented and existing control policies are strengthened." The conference report found "the establishment and implementation of the concerted programs for the reduction of sulphur emissions to be a matter of urgency. Similar action should be taken as soon as possible for reducing emissions or nitrogen oxides."

The conference, sponsored by the Swedish Government, was held in Stockholm on the 10th anniversary of the 1972 U.N. Conference on the Human Environment at which Sweden first raised its concerns about acid rain. In contrast to that first conference, the meeting last month demonstrated a universal agreement among all countries that acid rain is a serious problem affecting both Europe and eastern North America. There was nearly unanimous agreement that action is needed now to reduce emissions. Only the United States and Britain argued that controls should be delayed until more research is completed. However, neither Britain nor the United States, represented by Kathleen Bennett of the U.S. Environmental Protection Agency, dissented from the conference conclusions that more controls are urgently needed.

The United States and British positions were contradicted by the report from the meeting of international acid rain experts which preceded the governmental conference. The experts found that sensitive lakes and streams in Europe and eastern North America are now receiving three to six times more acidic deposition than they can tolerate; that reductions in emissions will result in equivalent reductions in deposition over the industrialized regions where the damage is occurring; and that each reduction in deposition will result in an improvement in sensitive lakes and streams.

The experts also concluded that control techniques to reduce sulfur emissions were available and that possible future improvements in control techniques did not justify delaying emission reduction programs now.

The second illustration was a speech by the Honorable John Roberts, Canadian Minister of the Environment, on September 11, 1982. It is yet another reminder of the importance of the acid rain issue to our relationship with our most important ally.

The Canadian Government continues to express its concern that the United States has no intention of implementing its commitment in the Memorandum of Intent entered into with Canada on the issue of acid rain in 1980.

In his speech, Mr. Roberts expressed his frustration over the "disappointing lack of action toward resolving the acid rain problem." He cited language from the Memorandum of Intent, which indicates a high degree of commitment toward resolution of the problem:

> The Government of Canada and the Government of the United States of America:
>
> Share a concern about actual and potential damage resulting from transboundary air pollution, (which is the short and long range transport of air pollutants between their countries), including the already serious problem of acid rain; and
>
> Recognize this is an important and urgent bilateral problem as it involves the flow of air pollutants in both directions across the international boundary, especially the long range transport of air pollutants . . .

The memorandum also commits both countries to specific actions. It states that:

> To combat transboundary air pollution both Governments shall: develop domestic air pollution control policies and strategies, and as necessary and appropriate, seek legislative or other support to give effect to them; and promote vigorous enforcement of existing laws and regulations as they require limitation of emissions from new, substantially modified and existing facilities in a way which is responsive to the problems of transboundary air pollution; . . .

President Reagan has also made verbal commitments to deal with the problem of acid rain to Prime Minister Trudeau on two separate occasions.

But there has been little movement in the negotiations between Canada and the United States on a bilateral

air pollution treaty. Mr. Roberts described the situation as follows:

Over two years ago several scientific work groups were set up under the Memorandum of Intent to gather and interpret all of the available scientific information on acid rain and to prepare findings and conclusions to allow our two countries to map out precise strategies and plans of attack. Many of the best U.S. and Canadian scientists and experts were assigned to these work groups. We had anticipated that by now the work groups would have completed their tasks and we would be discussing and negotiating the actions our two countries needed to implement to achieve environmental needs and fulfill our international responsibilities. Instead, virtually every step of progress we thought we had made has been countered with a response that we return to first principles. We have only recently reached agreement on the final report on one work group. That is the first of five.

His conclusion is that:

Despite the very plain language of the Memorandum of Intent and all the fine statements that have been made since, very little has actually been accomplished. There seems to have been actual foot-dragging in some quarters.

The Canadian Government is now reappraising the usefulness of continuing the negotiations, as a result of the less than enthusiastic approach of the Reagan administration to the problem.

This country does not make casual commitments to another country, particularly our most important trading partner, in a negotiated Memorandum of Intent. Yet in the past 2 years, the Reagan administration has only obstructed useful dialog in the acid rain negotiations. For example, when Canada made an offer to reduce its sulfur emissions by 50 percent if the United States would do the same, our negotiators never even responded.

I understand and share the frustration that must be felt by the Canadians. As the scientific evidence of acid rain damage to water, crops and forests grows, and as the international community grows more united in the conviction that action must be taken now, the Reagan administration grows more adamant in its position that we just study the problem some more.

At the same time that the administration is demanding more study on acid rain, it has rejected a plan by the National Academy of Sciences for a joint review by the NAS and the Royal Society of Canada of scientific information that would form the basis of a United States-Canadian treaty to deal with acid rain on a bilateral level.

The administration not only rejected the NAS proposal, but has also cut off funds to this eminent scientific body for further research on acid rain, for the reason that the NAS lacks objectivity.

It is uncertain that the Reagan administration could be persuaded by any amount of scientific evidence that acid rain is a serious environmental problem. Notwithstanding the administration position, I call to the attention of my colleagues the recent findings by the international community, and the concerns expressed by Canada. I hope when the acid rain issue is debated by the Senate that this body will pay heed to the opinion of the American scientific community, the international scientific community, the Government of Canada, and the other 19 governments in attendance at the 1982 Stockholm conference.

The Committee on Environment and Public Works of this body has done so, by adopting a strong acid rain proposal which is a slightly modified version of the legislation I introduced a year ago. We examined the facts, and acted in the only responsible way possible—our strategy will reduce sulfur emissions in the United States by 8 million tons over the next 12 years. Enactment of this strategy would implement our commitment to the Canadians. They have taken the committee action as a heartening sign, notwithstanding contrary signals from the executive branch.

The United States has always been a leader in responding to environmental problems. Our 1970 Clean Air Act was a landmark law not only in this country but internationally as well. It has been the blueprint for the subsequent enactment of air pollution control laws throughout the industrialized world. Yet on the acid rain issue, we are becoming not just followers but obstructionists unwilling to acknowledge reality.

I hope we in the Senate will not abdicate our leadership role when this body has the opportunity to consider the issue of acid rain.

I ask unanimous consent that the conclusions and recommendations of the Stockholm 1982 Conference on Acidification of the Environment and the statement of the Honorable John Roberts be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE 1982 STOCKHOLM CONFERENCE ON ACIDIFICATION OF THE ENVIRONMENT: CONCLUSIONS AND RECOMMENDATIONS

1. The Conference noted that 13 countries had ratified the Convention on Long-Range Transboundary Air Pollution and urgently appealed to the remaining signatories to expedite their ratification so that the Convention formally can enter into force in the course of 1982. The participating Ministers and Heads of delegation reconfirmed the commitment to the full implementation of, and active contribution to, the work within the Convention.

2. The Conference took note of the progress made under the provisional implementation of the Convention.

3. It was noted that in North America the governments of Canada and the United States are developing a bilateral agreement which will reflect and further the development of effective domestic control programmes and other measures to combat transboundary air pollution and are taking interim actions available under the current authority.

4. The Conference considered that the signing of the Convention and the adoption of the Resolution on Long-Range Transboundary Air Pollution, in November 1979, was a clear recognition that acid deposition from air pollution, including long-range transboundary air pollution, is one of the major environmental problems, requiring policies for further urgent action at the national level and concerted international efforts.

5. The Conference recognized the value of developing a continuing public dialogue and the role of non-governmental organisations in this regard in order that scientific information is made available in an appropriate form.

6. Estimates indicate that in recent decades acid deposition has increased significantly, due primarily to increases in emissions of SO_x and NO_x through the combustion of fossil fuels. During the 1970's emissions increased in some countries, while others kept emissions of SO_x at stable levels or even reduced them. This can largely be explained by energy conservation measures, by reduced economic activities and by effects of emission controls.

7. An assessment of trends over the next 20 years indicates a stabilization of emissions and possibly a reduction. There are signs, however, that emissions in some countries are not going to follow the downward trend exhibited by those in some other countries. In addition it was recognized that downward trends in SO_2 emissions might be reversed if countries failed to comply with the obligations contained in the Convention.

8. Through various monitoring programmes, especially the European Monitoring and Evaluation Programme (EMEP), it has been confirmed that in most ECE countries a large part of acid deposition is of foreign origin.

9. The acidification problem is serious and, even if deposition remains stable, deterioration of soil and water will continue and may increase unless additional control measures are implemented and existing control policies are strengthened.

10. Based inter alia on the report from the preceding Expert Meetings, which is annexed to these conclusions and recommendations, the Conference agreed that further concrete action is urgently needed within the framework of the Convention to reduce air pollution, including long-range transboundary air pollution. Such action should include:

(a) Consultations within the framework of the Convention with the purpose of establishing concerted programmes for the reduction of sulphur emissions taking into account environmental needs, socioeconomic priorities and energy considerations. The Conference considered that the establishment and implementation of the concerted programmes for the reduction of sulphur emissions to be a matter of urgency. Similar actions should be taken as soon as possible for reducing emissions of nitrogen oxides;

(b) The use of best available technology which is economically feasible for the reduction of sulphur emissions. Flue gas desulphurization (FGD) has been proven as a main SO_x control strategy. Alternative technologies like the use of clean fuels, fuel cleaning and process modification are also

applied. In new and, where practicable, rebuilt installations, such as power stations, the above mentioned technologies should be introduced. Due to the consequences for transboundary pollution high stacks in place of emission control devices must today be considered an obsolete abatement mechanism for sulphur emissions. Best available technology which is economically feasible should also be applied to reduce NO_x emissions from both stationary and mobile sources;

(c) In applying these technologies account should be taken of the need to minimize waste products and polluting discharges to other environmental media;

(d) The support for research and development of advanced control technologies, appropriate for reducing emissions of SO_x and NO_x as well as the use and transfer of such technologies;

(e) The further development and implementation of energy conservation measures;

(f) The further development of the North American monitoring programmes as well as the European Monitoring and Evaluation Programme (EMEP), inter alia through better geographical coverage; improved emission data; standardization of sampling and measurement methods and improved modelling.

STATEMENT OF HON. JOHN ROBERTS, MINISTER OF THE ENVIRONMENT, CANADA

I'm honoured to be here today, and to have this chance to speak to the members of the Vermont Natural Resources Council. This must be a unique opportunity for you Vermonters too. Here it is an election year, you're being addressed by a federal politician, and he isn't asking you to vote for him.

While I'm not asking for your vote, I am asking for your support on an issue that is of great concern to me as a Canadian, and which should be of equal interest to you here in the Green Mountain State: the menace of acid rain.

I've seen back issues of your excellent newsletter, the "Vermont Environmental Report," so I know that you're all aware of what acid rain is, and that the threat that it poses to our lakes, streams and forests is all too genuine. It seems incredible to me that there are still people around today who are seriously advancing the argument that the case against acid rain is as yet unproven. Over 3,000 scientific studies have already been done on the subject. One recent Norwegian project alone is a compilation of over 100 papers describing the environmental impact of acid rain over an eight-year period.

In Canada we know that, of the 2,600 lakes sampled thus far in my home province of Ontario, 48 percent were identified as being very sensitive to acid rain. The United States National Academy of Sciences, the United States/Canada Research Consultation Group, the National Research Council of Canada—all argue that acid rain is a genuine threat, that it is caused by the long-range transport of sulphur dioxide and nitrogen oxides, and that emission controls are the best means of dealing with the problem.

I would like to emphasize that acid rain isn't something that threatens only Canadian resources. The evidence indicates that areas of the United States, especially here in new England, are also in jeopardy. A study, prepared for your Senator Stafford by the Office of Technology Assessment, found that one out of every four streams in the northeastern United States has already been damaged by acid rain. In the larger 27-state region covered by the study, one out of five streams has been harmed by acid rain.

The report indicated that in the northeast and upper midwest up to 80 percent of the lakes and streams are at risk. It held that there would be no hope of reversing possible damage to those bodies of water unless steps are taken to reduce the air pollution that causes acid rain.

I know that your reaction to these distressing findings will be like mine—one of shock, sadness and alarm. We have already lost many lakes to acid rain. They have been rendered fishless. A staggering tens of thousands of our lakes are in danger.

Frankly, I am discouraged that I have to go around from place to place reciting this grim litany in order to make the point that the case against acid rain has already been amply demonstrated. In fact, the validity of the arguments against acid rain has been accepted at the highest levels.

The United States and Canada signed a Memorandum of Intent on Transboundary Air Pollution on August 5, 1980. The preamble of that document stated:

"The government of the United States and government of Canada share a concern about actual and potential damage resulting from transboundary air pollution, including the already serious problem of acid rain."

The memorandum continues that both countries: ". . . reocognize that this is an important and urgent bilateral problem, as it involves the flow of air pollutants in both directions across the international boundary, especially the long-range transport of air pollutants."

President Reagan put it this way when he addressed our House of Commons on March 11, 1981: "We want to continue to work cooperatively to understand and control the air and water pollution that respects no borders."

Two months ago, at the June, 1982, Stockholm Conference on the Acidification of the Environment, a report was released that was endorsed and approved by all participating countries, including the United States. Paragraph eleven of the ministerial statement read:

"The acidification problem is serious and, even if depositions remain stable, deterioration of soil and water will continue and may increase unless additional control measures are implemented and existing control policies strengthened."

Let me reiterate: these statements about the reality and pressing urgency of the acid rain problem were endoresed and approved by representatives of the United States at a ministerial conference just this past June.

However, I reluctantly have to concede that there has been a disappointing lack of action toward resolving the acid rain problem. Indeed, despite the very plain language of the memorandum of intent and all the fine statements that have been made since, very little has actually been accomplished. There seems to have been actual foot-dragging in some quarters.

For instance, over two years ago several scientific work groups were set up under the memorandum of intent to gather and interpret all of the available scientific information on acid rain and to prepare findings and conclusions to allow our two countries to map out precise strategies and plans of attack. Many of the best U.S. and Canadian scientists and experts were assigned to these work groups. We had anticipated that by now the work groups would have completed their tasks and we would be discussing and negotiating the actions our two countries needed to implement to achieve environmental need and fulfill our international responsibilities. Instead, virtually every step of progress we thought we had made has been countered with a response that we return to first principles. We have only recently reached agreement on the final report on one work group. That is the first of five.

It was the lack of progress in our negotiations of a transboundary air pollution agreement that led me to the decision earlier this year to undertake a reappraisal of the usefulness of continuing the negotiations. This reappraisal is still going on.

Canadians, and people from Vermont too, are not interested in lip service and fine statements. We want action, before it's too late.

At the same time that bilateral action on acid rain has been stalled, a disinformation campaign on the subject seems to have started, and what one of my Canadian colleagues has called an "information haze" has been created. I've heard that the acid rain debate is really a Canadian conspiracy to force controls on American power plants, and thus make Canadian power exports more attractive. The following statements have actually been seriously advanced:

"There are a host of natural as well as man-made sources of these compounds (sulphates and nitrates), including lightning, volcanoes, sea spray and the organic decay of vegetation."

Or:

"It is not surprising to find that tomatoes are acidic, but most people are surprised to learn that a delicious pear can be more acidic than a tomato, or that bananas and carrots are nearly as acidic. All these have pH values that are well within the range of the rain that is the subject of scare headlines in the media."

The latter of these two imaginative statements can be credited to the Consolidation Coal Company; the former to the Edison Electric Institute in a brochure foisted upon an unsuspecting public entitled "Update on Acid Rain."

This is the level of the so-called serious debate that purports to show the "other side" of the acid rain question. Actually, it is not at all uncommon to record rain that is as acidic as, or more acidic than vinegar. It makes no difference at all to what fruit we compare acid rain; if it is acidic enough to kill a lake, it will. Certainly SO_2 and NO_x can be present in the atmosphere from natural sources. But in North America, over 90 percent of the sulphur in the air comes from man-made sources.

The Wall Street Journal recently published an editorial saying that the acid rain question calls for more research, that as yet too many unproven variables enter the equation, and that controls might prove to be ineffective, costly and inflationary. By a very strange coincidence, the impetus of that editorial seems to have come from information produced by the National Coal Association.

However, listen to what a responsible industry spokesman has to say.

S. David Freeman is the director of an enormous public utility, the Tennessee Valley Authority. According to Mr. Freeman, in a speech given to the Georgia Conservancy on June 24, 1982, by the mid-70s, the TVA had become the largest single source of atmospheric sulphur pollution in the entire United States, spewing out over 2.4 million tons of sulphur dioxide a year.

He admitted that cheap electricity was being subsidized by unacceptable air pollution.

Three short years ago, only five of TVA's 63 coal-fired plants met the Environmental Protection Agency's sulphur dioxide standards. Today, 49 of those plants are in full compliance with emission standards, and the authority is well on its way to compliance at the other 14. Through the increased use of low sulphur coal and various pollution control devices, the TVA is advancing on a rapid timetable and will achieve total compliance within the next year. At that time, it will have cut its pollution in half.

I was trememdously incouraged by Mr. Freeman's statements. As he put it, the TVA was merely facing the ecological facts of life. He bluntly stated that cheaper power prices at the cost of dirty air was simply not a bargain for the people of the Tennessee Valley. If the Tennessee Valley Authority can do it, why not other utilities?

Or take the example of the greatest single Canadian source of SO_2 emissions, the International Nickel Company smelter at Sudbury, Ontario. By the end of this year, INCO will have reduced SO_2 emissions to about one-third of what they were the peak years of the sixties.

Canadians aren't asking Americans to do anything that we aren't willing to do ourselves, or, for that matter, that isn't already being done by the TVA. We have determined and agreed to an environmental objective, a target loading for sulphate deposition, that would protect moderately sensitive lakes and streams from acidification. We want you to agree to that environmental objective. We will each have to take different actions to achieve it, and the design of these actions is a legitimate domestic right and reponsibility of each of our two countries. We have committed ourselves to a 50 percent reduction on SO_2 emissions east of the Saskatchewan-Manitoba border by the year 1990 if you take a parallel course of action east of the Mississippi River.

We are not seeking from you the same levels of emission reduction from the same types of sources as we might act upon in Canada. We are seeking a course of action that, in concert with our proposal, would achieve the environmental objective, that would protect moderately sensitive lakes and streams in our two countries from transboundary acidification. These parallel courses of action might not solve the entire acid rain problems, but they would certainly alleviate it, and they would buy us some much needed time. The TVA is reducing its SO_2 loadings by half without too much trouble, why can't the rest of us do it too?

Now, I'm not so naive as to think that this can be done without spending money. In the U.S., emission controls to attain these ends might lead to an average increase in the utility rate to consumers of about two percent, though this might be reduced by improvements in technology. In Canada, given the population differential—we have about one-tenth the population you do—the burden on individual citizens would be three to four times as great as on Americans. We would gladly pay it, and I don't say this merely as a matter of rhetoric; poll after poll has indicated readiness for Canadian consumers to safeguard the environment, even though the cost will come out of their own pockets.

The question we must ask ourselves is can we afford not to pay for controls. Fishing, tourism, the lumber industry—literally billions of dollars are at stake here. If we do not act now to stop acid rain, we are risking the economic and environmental prosperity of our own future generations.

Yet if I speak out on the subject as I am doing today, I know that I will be accused of interfering in American internal affairs. Nonsense. The long-range transport of air pollutants is by definition a bilateral issue. Some of your pollution comes from Canada; some of our pollution comes from the United States. Neither country can solve this problem on its own.

When Canadian experts provided information on acid rain in Washington, they did so at the express invitation of your senators and representatives; I do not call this interference. When our House of Commons passed a resolution congratulating your Senate Environment and Public Works Committee for voting favourably on a bill to reduce U.S. SO_2 emissions by 10 milion tons within the next 10 years, as it recently did, I don't call this interference.

If Canada were to drop out of the race entirely, Vermont would still have an acid rain problem to face. Nutrients would still leach from your soil, the loss of which would still jeopardize your forests and possibly agriculture. Your lakes and streams would still be dying, your trout and other fish still be disappearing. You would still have to combat the campaign of disinformation which holds that we don't yet have enough scientific information to justify acting against acid rain.

I say we do have enough information to act; it's not a matter of science any longer, it's a matter of political will. We have reached the point where a decision to stall and drag our feet on the pretext that more research is needed is, in fact, a political decision to do nothing. How much more honest it would be if the naysayers would simply come out and say, "No, the lakes simply aren't worth saving." We then could at least publicly debate the issue in an honest and open manner.

Our two nations have a long and fruitful history of working together to solve our mutual problems. Look at the excellent job we have just done to clean up phosphorous pollution in the Great Lakes. You know we can work together; we must work together. It is within our power to overcome the menace of acid rain. I fervently hope we can do so before it is too late. If not, if we fail, Canadians will not be the only ones to suffer. The lakes of Vermont will be as dead as the lakes in Ontario.

This is why I have spoken to you today. I want to enlist your help to fight the acid rain battle, for I know what valuable allies you will be. I know that you love your beautiful state as much as I love Canada. Let us hope that on both sides of the border we will be able to pass on the full richness of our environmental heritage to our descendants.

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 a message from the President of the United States submitting a nomination which was referred to the Committee on the Judiciary.

(The nomination received today is printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 2:03 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 bill and joint resolutions, without amendment:

S. 215. An act for the relief of Lourie Ann Eder; and

S.J. Res. 165. Joint resolution authorizing and requesting the President to proclaim 1983 as the "Year of the Bible"; and

S.J. Res. 174. Joint resolution to authorize and request the President to designate October 16, 1982, as "World Food Day"; and

S.J. Res. 186. Joint resolution to authorize and request the President to designate the week of September 19 through 25, 1982, as "National Cystic Fibrosis Week"; and

S.J. Res. 193. Joint resolution designating the week of November 7 through November 13, 1982, as "National Respiratory Therapy Week"; and

S.J. Res. 205. Joint resolution to designate September 1982 as "National Sewing Month"; and

S.J. Res. 250. Joint resolution to provide for resolution of the single outstanding issue in the current railway labor-management dispute, and for other purposes.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 1524. An act to amend the Internal Revenue Code of 1954 to provide that certain procedures and adjustments shall be treated as inconsistent with the normalization method of treating public utility property; and

H.R. 4948. An act to amend the Internal Revenue Code of 1954 to provide for the application of cash or deferred arrangement rules to money purchase plans; and

H.R. 5154. An act to amend the Lanham Trademark Act to prohibit any State from requiring that a registered trademark be altered for use within such State, and to encourage private enterprise with special emphasis on the preservation of small business; and

H.R. 5204. An act to authorize and direct the Secretary of the Interior to accept certain lands for the benefit of the Sycuan Band of Mission Indians; and

H.R. 6005. An act to discontinue or amend certain requirements for agency reports to Congress; and

H.R. 6055. An act to revise subchapter S of the Internal Revenue Code of 1954 (relating to small business corporations); and

H.R. 6458. An act to amend the Public Health Service Act and related laws to consolidate the laws relating to the Alcohol, Drug Abuse, and Mental Health Administration, the National Institute of Mental Health, the National Institute of Alcohol Abuse and Alcoholism and the National Institute on Drug Abuse, and for other purposes; and

H.R. 6794. An act to amend title 38, United States Code, to improve job training and job placement programs and educational assistance programs for veterans; and

H.R. 6872. An act to provide greater discretion to the Supreme Court in selecting the cases it will review to extend to all Federal jurors eligibility for Federal worker's compensation, to provide for the taxing of attorney fees in certain actions brought by jurors, to authorize the service of jury summonses by ordinary mail, to permit courts of the United States, to establish the order of hearing for certain civil matters, and for other purposes; and

H.R. 6875. An act to provide financial assistance to the Wolf Trap Foundation for the Performing Arts for reconstruction of the Filene Center in Wolf Trap Farm Park, and for other purposes; and

H.R. 6976. An act to amend title 28, United States Code, to require the Attorney General to acquire and exchange information to assist Federal, State, and local officials in the identification of certain deceased individuals and in the location of missing persons (including unemancipated persons); and

H.R. 7019. An act making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1983, and for other purposes; and

H.R. 7065. An act to amend the Community Services Block Grant Act to clarify the authority of the Secretary of Health and Human Services to designate community action agencies for certain community action programs administered by the Secretary for fiscal year 1982, and for othr purposes; and

H.R. 7072. An act making appropriations for Agriculture, Rural Development, and Related Agencies programs for the fiscal year ending September 30, 1983, and for other purposes; and

H.R. 7093. An act to amend the Internal Revenue Code of 1954 to reduce the rate of certain taxes paid to the Virgin Islands on Virginia Islands source income; and

H.R. 7094. An act to amend the Internal Revenue Code of 1954 to impose a tax on failures to adhere to conditions of existing determination letters relating to independent management of the assets of multiemployer plans; and

H.J. Res. 568. Joint resolution to provide for the designation of October 5, 1982, as "Dr. Robert H. Goddard Day"; and

H. Con. Res. 407. Concurrent resolution to express thanks to former First Lady Betty Ford.

The message also announced that the House has passed the following bill, with amendments, in which it requests the concurrence of the Senate:

S. 1872. An act to amend the act establishing the Capitol Reef National Park in the State of Utah to provide for a grazing phaseout schedule, and for other purposes.

The message further announced that the House has passed the following joint resolution, with an amendment, in which it requests the concurrence of the Senate:

S.J. Res. 101. Joint resolution designating "National High School Activities Week."

ENROLLED BILL SIGNED

At 2:51 p.m., a message from the House of Representatives, delivered by Mr. Gregory, one of its reading clerks, announced that the Speaker has signed the following enrolled joint resolution:

S.J. Res. 250. Joint resolution to provide for resolution of the single outstanding issue in the current railway labor-management dispute, and for other purposes.

The enrolled joint resolution was subsequently signed by the President pro tempore (Mr. THURMOND).

At 4:14 p.m., a message from the House of Representatives, delivered by Mr. Gregory, announced that the Speaker has signed the following enrolled bill and joint resolution:

S. 215. An act for the relief of Lourie Ann Eder.

S.J. Res. 186. Joint resolution to authorize and request the President to designate the week of September 19 through 25, 1982 as "National Cystic Fibrosis Week"; and

S.J. Res. 205. Joint resolution to designate September 1982 as "National Sewing Month".

HOUSE BILLS REFERRED

The following bills and joint resolution were read the first and second times by unanimous consent, and referred as indicated:

H.R. 1524. An act to amend the Internal Revenue Code of 1954 to provide that certain procedures and adjustments shall be treated as inconsistent with the normalization method of treating public utility property; referred to the Committee on Finance.

H.R. 4948. An act to amend the Internal Revenue Code of 1954 to provide for the application of cash or deferred arrangement rules to money purchase plans; referred to the Committee on Finance.

H.R. 5204. An act to authorize and direct the Secretary of the Interior to accept certain lands for the benefit of the Sycuan Band of Mission Indians; referred to Select Committee on Indian Affairs.

H.R. 6005. An act to discontinue or amend certain requirements for agency reports to Congress; referred to the Committee on Governmental Affairs.

H.R. 6055. An act to revise subchapter S of the Internal Revenue Code of 1954 (relating to small business corporations); referred to the Committee on Finance.

H.R. 6976. An act to amend title 28, United States Code, to require the Attorney General to acquire and exchange information to assist Federal, State, and local officials in the identification of certain deceased individuals and in the location of missing persons (including unemancipated persons); referred to the Committee on the Judiciary.

H.R. 7019. An act making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1983, and for other purposes; referred to the Committee on Appropriations, by unanimous consent.

H.R. 7072. An act making appropriations for Agriculture, rural development, and related agencies programs for the fiscal year ending September 30, 1983, and for other purposes; referred to the Committee on Appropriations, by unanimous consent.

H.R. 7093. An act to amend the Internal Revenue Code of 1954 to reduce the rate of certain taxes paid to the Virgin Islands on Virgin Islands source income; referred to the Committee on Finance.

H.R. 7094. An act to amend the Internal Revenue Code of 1954 to impose a tax on failures to adhere to conditions of existing determination letters relating to independent management of the assets of multiemployer plans; referred to the Committee on Finance.

H.J. Res. 568. Joint resolution to provide for the designation of October 5, 1982, as "Dr. Robert H. Goddard Day"; referred to the Committee on the Judiciary.

HOUSE CONCURRENT RESOLUTION REFERRED

The following concurrent resolution was referred as indicated:

H. Con. Res. 407. Concurrent resolution to express thanks to former First Lady Betty Ford; referred to the Committee on the Judiciary.

HOUSE BILLS PLACED ON THE CALENDAR

The following bills were read the first and second times by unanimous consent, and placed on the calendar:

H.R. 6458. An act to amend the Public Health Service Act and related laws to consolidate the laws relating to the Alcohol, Drug Abuse, and Mental Health Administration, the National Institute of Mental Health, the National Institute of Alcohol Abuse and Alcoholism, and the National Institute on Drug Abuse, and for other purposes; and

H.R. 6794. An act to amend title 38, United States Code, to improve job training and job placement programs, and educational assistance programs for veterans; and

H.R. 6875. An act to provide financial assistance to the Wolf Trap Foundation for the Performing Arts for reconstruction of the Filene Center in Wolf Trap Farm Park, and for other purposes.

HOUSE BILLS HELD AT THE DESK

The following bill was ordered held at the desk by unanimous consent:

H.R. 5154. An act to amend the Lanham Trademark Act to prohibit any State from requiring that a registered trademark be altered for use within such State, and to encourage private enterprise with special emphasis on the preservation of small business.

The following bills were ordered held at the desk until the close of business on Thursday, September 23, 1982, by unanimous consent:

H.R. 6872. An act to provide greater discretion to the Supreme Court in selecting the cases it will review to extend to all Federal jurors eligibility for Federal worker's compensation, to provide for the taxing of attorney fees in certain actions brought by jurors, to authorize the service of jury summonses by ordinary mail, to permit courts of the United States, to establish the order of hearing for certain civil matters, and for other purposes; and

H.R. 7065. An act to amend the Community Services Block Grant Act to clarify the authority of the Secretary of Health and Human Services to designate community action agencies for certain community action programs administered by the Secretary for fiscal year 1982, and for other purposes.

ENROLLED BILLS SIGNED

The PRESIDENT pro tempore (Mr. THURMOND) announced that on today, September 22, 1982, he signed the following enrolled bills, which had been previously signed by the Speaker of the House of Representatives:

S. 1628. an act to amend the Emergency Fund Act (Act of June 26, 1948, 62 Stat. 1052); and

H.R 5288. An act granting the consent of Congress to the compact between the States of New Hampshire and Vermont concerning solid waste.

ENROLLED BILLS AND JOINT RESOLUTIONS PRESENTED

The Secretary of the Senate reported that on today, September 22, 1982, he presented to the President of the United States the following enrolled bills and joint resolutions:

S. 215. An act for the relief of Lourie Ann Eder; and

S. 1628. An act to amend the Emergency Fund Act (Act of June 26, 1948, 62 Stat. 1052); and

S.J. Res. 186. Joint resolution to authorize and request the President to designate the week of September 19 through 25, 1982, as "National Cystic Fibrosis Week"; and

S.J. Res. 205. Joint resolution to designate September 1982 as "National Sewing Month"; and

S.J. Res. 250. Joint resolution to provide for resolution of the single outstanding issue in the current railway labor-management dispute, and for other purposes.

EXECUTIVE COMMUNICATION

The following communication was laid before the Senate, Tuesday, September 21, 1982, together with accompanying papers, reports, and documents, and was referred as indicated:

EC-4245. A communication from the Secretary of Transportation transmitting a draft of proposed legislation to provide for the resolution of the single outstanding issue in the current railway labor-management dispute; to the Committee on Labor and Human Resources.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-4246. A communication from the President of the National Railroad Passenger Corporation transmitting, pursuant to law, a report on progress in completing the Northeast Corridor Improvement Project; to the Committee on Commerce, Science, and Transportation.

EC-4247. A communication from the Comptroller General of the United States transmitting, pursuant to law, a report entitled "Runways at Small Airports are Deteriorating Because of Deferred Maintenance; Action Needed by FAA and the Congress"; to the Committee on Commerce, Science, and Transportation.

EC-4248. A communication from the Comptroller General of the United States transmitting, pursuant to law, a report entitled "Changes to the Motor Vehicle Recall Program Could Reduce Potential Safety Hazards"; to the Committee on Commerce, Science, and Transportation.

EC-4249. A communication from the Under Secretary of the Interior transmitting pursuant to law, a report on a decision made to change the holding of oil and gas lease sale No. 71 in the Diapir Field, Alaska to October 1982; to the Committee on Energy and Natural Resources.

EC-4250. A communication from the Director of Minerals Management Service of the Department of the Interior transmitting, pursuant to law, a report on a refund of an excess royalty payment to Shell Oil Company, Conoco Inc., and Cabot Corp.; to the Committee on Energy and Natural Resources.

EC-4251. A communication from the Director of the Office of Management and Budget transmitting, pursuant to law, the cumulative report on rescissions and deferrals as of September 1, 1982; to the Committees on Agriculture, Nutrition, and Forestry; Appropriations; Armed Services; Banking, Housing, and Urban Affairs; the Budget; Commerce, Science, and Transportation; Energy and Natural Resources, Environment and Public Works; Finance; Foreign Relations; Judiciary; Labor and Human Resources; Small Business; and Veterans Affairs.

EC-4252. A communication from the Secretary of State transmitting, pursuant to law, a report on payments made by the United States to private individuals or corporations in satisfaction of loan guarantees and assurances made with respect to credits extended to the Polish People's Republic in the absence of a default declaration by Poland; to the Committee on Appropriations.

EC-4253. A communication from the Deputy Assistant Secretary of Defense transmitting, pursuant to law, a report on contracts under sections 2304(a)11 and 2304(a)16 of title 10, United States Code October through March 1982; to the Committee on Armed Services.

EC-4254. A communication from the Chairman of the Interstate Commerce Commission transmitting, pursuant to law, a report on the effects on small communities of trucking regulatory reform; to the Committee on Commerce, Science, and Transportation.

EC-4255. A communication from the Deputy Assistant Secretary of Defense for Administration transmitting, pursuant to law, a report on an altered Privacy Act system of records; to the Committee on Governmental Affairs.

EC-4256. A communication from the Deputy Assistant Secretary of Defense for Administration transmitting, pursuant to law, a report on a new Privacy Act system of records; to the Committee on Governmental Affairs.

EC-4257. A communication from the President of the United States transmitting a draft of proposed legislation to utilize the proceeds from the sale of Federal real property to retire the national debt; to the Committee on Governmental Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. COCHRAN, from the Committee on Appropriations, with amendments:

H.R. 7072. An act making appropriations for Agriculture, Rural Development, and Related Agencies programs for the fiscal year ending September 30, 1983, and for other purposes (Rept. No. 97-566).

By Mr. ANDREWS, from the Committee on Appropriations, with amendments:

H.R. 7019. An act making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1983, and for other purposes (Rept. No. 97-567).

By Mr. McCLURE, from the Committee of Conference on the disagreeing votes of the two Houses thereon, on the amendment of the Senate to the amendment of the House to the bill (S. 1409) to authorize the Secretary of the Interior to construct, operate, and maintain modifications of the existing Buffalo Bill Dam and Reservoir, Shoshone project, Pick-Sloan Missouri Basin program, Wyoming, and for other purposes (Rept. No. 97-568).

By Mr. HELMS, from the Committee on Agriculture, Nutrition, and Forestry, without amendment:

H.R. 2035. An act to authorize certain employees of the United States Department of Agriculture charged with the enforcement of animal quarantine laws to carry firearms for self-protection (Rept. No. 97-569).

H.R. 3881. An act to direct the Secretary of Agriculture to release on behalf of the United States a reversionary interest in certain lands conveyed to the Arkansas Forestry Commission, and to direct the Secretary of the Interior to convey certain mineral interests of the United States in such lands to such Commission (Rept. No. 97-570).

H.R. 6422. An act to direct the Secretary of Agriculture to release on behalf of the United States a reversionary interest in certain land previously conveyed to the State of Connecticut (Rept. No. 97-571).

By Mr. LAXALT, from the Committee on Appropriations, with amendments:

H.R. 6968. An act making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1983, and for other purposes (Rept. No. 97-572).

By Mr. MATTINGLY, from the Committee on Appropriations, with amendments:

S. 2939. An original bill making appropriations for the legislative branch for the fiscal year ending September 30, 1983, and for other purposes (Rept. No. 97-573).

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. DeCONCINI:

S. 2937. A bill to amend the Internal Revenue Code of 1954 to extend certain energy credits; to the Committee on Finance.

By Mr. BENTSEN:

S. 2938. A bill to amend the Internal Revenue Code of 1954 to treat as medical care the expenses of meals and lodging of a parent or guardian accompanying a child away from home for the purpose of receiving medical care, and the expenses of meals and lodging of a child away from home for the purpose of receiving medical care on an outpatient basis; to the Committee on Finance.

By Mr. MATTINGLY:

S. 2939. An original bill making appropriations for the legislative branch for the fiscal year ending September 30, 1983, and for other purposes; from the Committee on Appropriations; placed on the calendar.

By Mr. BUMPERS (for himself, Mr. TSONGAS, Mr. BRADLEY, Mr. GORTON, Mr. DECONCINI, Mr. SPECTER, Mr. GLENN, Mr. PRESSLER, Mr. SASSER, Mr. HATFIELD, Mr. INOUYE, Mr. STAFFORD, Mr. NUNN, Mr. CHAFEE, Mr. RIEGLE, Mr. WEICKER, Mr. PRYOR, Mr. DANFORTH, Mr. CRANSTON, Mr. MOYNIHAN, Mr. DODD, Mr. HUDDLESTON, Mr. HART, Mr. DIXON, Mr. EXON, Mr. BURDICK, Mr. BAUCUS, Mr. FORD, Mr. HOLLINGS and Mr. JACKSON):

S.J. Res. 251. Joint resolution authorizing and requesting the President to designate October 10, 1982, as "National Peace Day"; to the Committee on the Judiciary.

By Mr. DURENBERGER:

S.J. Res. 252. Joint resolution authorizing and requesting the President to issue a proclamation designating the period from October 3, 1982, through October 9, 1982, as "National Schoolbus Safety Week of 1982"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. BAKER (for himself and Mr. ROBERT C. BYRD):

S. Res. 477. Resolution to direct the Senate legal counsel to represent Senate parties in *W. Henson Moore, et al.* v. *The United States House of Representatives, et al* and in *Ron Paul* v. *The United States of America, et al.*, Civil Action Nos. 82-2318 and 82-2353, respectively; considered and agreed to.

By Mr. DODD (for himself, Mr. KENNEDY, Mr. TSONGAS, Mr. CHAFEE, Mr. HATFIELD, Mr. PACKWOOD, Mr. INOUYE, Mr. RANDOLPH, Mr. WEICKER, Mr. RIEGLE, Mr. BURDICK, and Mr. HOLLINGS):

S. Res. 478. A resolution expressing the sense of the Senate with respect to the need to maintain guidelines which insure equal rights with regard to education opportunity; to the Committee on Labor and Human Resources.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DECONCINI:

S. 2937. A bill to amend the Internal Revenue Code of 1954 to extend certain energy credits; to the Committee on Finance.

SOLAR ENERGY TAX CREDIT ACT OF 1982

Mr. DECONCINI. Mr. President, I am today introducing legislation which would extend the termination date of both the business and residential energy tax credits for solar, wind, geothermal, and ocean thermal energy systems—at least until December 31, 1995. These incentives were originally enacted as part of the Crude Oil Windfall Profit Tax Act of 1980, and are currently scheduled to expire at the end of 1985. Similar but not identical legislation has been introduced in the House of Representatives by Congressman FUQUA, of Florida, and Congressman FISH, of New York.

Mr. President, we are now in the depth of the most severe national recession since the Great Depression of five decades ago. Of course we hear a lot of hope expressed every day about "recovery" and "upturns," but economic recovery depends, to the greatest extent, on the willingness of the American people to invest in their own country. Investment decisions are not made frivolously. Any decision to order new equipment, to increase inventories, or to otherwise make a major commitment of capital must be a result of long range projections and careful planning.

The same is especially true of the manufacturers and potential customers of solar energy equipment. This industry is new, and the technology is new to the consumer. But we have come a long way in a short period of time. Up to this year sales within the solar industry grew an average of 25 percent annually.

Frankly, this has been accomplished only because there was a strong and determined national effort. Congress took the lead in solar policy formation in 1974 because the administration did not have a coherent energy policy, and, because this country stood at the edge of disaster in the face of the OPEC oil embargo. It has been this national effort which has created energy out of dreams and technologies out of mere concepts. But let us not forget that the energy crisis is not over. Petroleum imports still account for a quarter of our consumption and we, in turn, will export billions of our dollars to the OPEC nations again this year.

We have a national interest in energy independence and a national interest in the development of renewable energy technologies. And what is more, the money stays right here in this country.

The administration will argue that the solar tax credits constitute an unwarranted subsidy by the Federal Government. That simply is not so. In fact, it has been calculated the Treasury will achieve net revenue gains from the reduced number of deductions taken as business fuel cost write-offs. Companies that rely upon fossil fuels and electricity for their energy needs are allowed to deduct the costs of these fuels as a business expense. For every new solar installation, the Treasury receives income it would have lost if conventional fuels had been used.

Mr. President, I believe a great majority of my colleagues will agree with me that the solar energy tax credits should be extended beyond 1985. Earlier in this session Senate Resolution 232 was introduced to express the Senate's support for the energy tax credits and had at least 64 cosponsors. I offered the same resolution as an amendment to an appropriations measure and it was accepted and passed by both Houses of Congress.

So, I believe the only question about extending the credits might be: Why now? Why do we not wait until next year or until when the credits are due to expire? Well, Mr. President, as I have pointed out, this is a critical decisionmaking period for all businesses—but especially for the fledgling solar industry. It has been hit hard by the recession and by the abandonment of almost all support by this administration. Financial recovery has to be projected over an extended period of time. This act would give the industry and the financial community some confidence for at least 10 more years. It may very well be that we might want to increase or expand the tax credits in some way. That, of course, would probably require a good deal of consideration and that should be a priority for the next Congress.

We can now, however, extend the tax credits for 10 years and help assure the venture capital, or third-party financing, which is necessary for the planning of commercial projects.

If there is not sufficient time to properly consider this legislation, then it will at least serve notice that this matter will indeed be a priority early in the next Congress. And, that congressional attention is being brought to bear on this country's determination to develop its' solar energy potential.

I ask unaninous consent that the text of the bill be printed in the RECORD in its entirety.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2937

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 "Solar Energy Tax Credit Act of 1982".

SECTION 1. EXTENSION OF CERTAIN ENERGY CREDITS

(a) RESIDENTIAL ENERGY CREDIT.—

(1) IN GENERAL.—Subsection (f) of section 44C of the Internal Revenue Code of 1954 (relating to termination of residential energy credit) is amended by striking our "1985" and inserting in lieu thereof "1995".

(2) CONFORMING AMENDMENT.—Subparagraph (B) of section 44C(b)(6) of such Code is amended by striking out "1987" in the text and capiton thereof and inserting in lieu thereof "1997".

(b) INVESTMENT TAX CREDIT.—

(1) IN GENERAL.—Clause (i) of section 46(a)(2)(C) of such Code (relating to the energy percentage) is amended by striking out "December 31, 1985" each place it appears and inserting in lieu thereof "December 31, 1995".

(2) CONFORMING AMENDMENT.—Clause (iv) of section 46(a)(2)(C) of such Code (relating to longer period for certain hydroelectric gen-

erating property) is amended by striking out "property, 'December 31, 1988,' shall be substituted for 'December 31, 1985" and inserting in lieu thereof "property, 'December 31, 1998,' shall be substituted for 'December 31, 1995".

SEC. 2. EFFECTIVE DATE

The amendments made by this act shall take effect on December 31, 1985.

By Mr. BENTSEN:

S. 2938. A bill to amend the Internal Revenue Code of 1954 to treat as medical care the expenses of meals and lodging of a parent or guardian accompanying a child away from home for the purpose of receiving medical care, and the expenses of meals and lodging of a child away from home for the purpose of receiving medical care on an outpatient basis; to the Committee on Finance.

CHILD CARE MEDICAL EXPENSE DEDUCTION ACT

● Mr. BENTSEN. Mr. President, today I am introducing legislation which expands the medical expense deduction to include costs incurred by a parent or guardian who must accompany a child away from home for the purpose of receiving outpatient medical care.

Expenses for health care in the United States increased by almost 20 percent last year—that is more than double the rate of this country's inflation during the same period. I know how difficult it is for many families to obtain the necessary health care when confronted by these costs. Yet, America prides itself on having the best medical facilities and most skillful doctors in the world. In the past, Congress has recognized the need to encourage adequate and effective health care for Americans by providing them a tax deduction for many expenses incurred in receiving health care. Under current law certain expenses related to physician care, medicine, and transportation are deductible. For example, if a parent must take a child to an area that specializes in the particular care that child needs, the transportation expenses incurred in going to that doctor, hospital, or clinic are tax deductible. The law does not apply to the cost of meals and lodging that a parent also must confront when a child is receiving outpatient care away from home.

The purpose of this legislation, Mr. President, is to expand the medical deduction provision to include those living expenses such as meals and lodging that parents must pay so that their children can receive needed medical treatment that is not obtainable in their hometown. This expansion would lift an economic burden from many families who need to concentrate their energies on a child who suffers from a serious illness.

In Texas, we are blessed with some of the finest medical facilities in the world. Many parents take their children to medical facilities in Houston to receive cancer treatment, including chemotherapy and radiation. Since the treatment often is handled on an out-patient basis, parents and children frequently are away from home for extended periods of time. A recent University of Texas System Cancer Center survey indicated that 43 percent of its patients over a 1-month period required housing accomodations. Of these visits, which generally included one parent and child, 79 percent were return visits and each visit averaged 5 days. It does not take long to realize that in this situation the housing expenses, the absence from home and job, and the uninsured portion of expensive medical treatment can create an astronomical financial burden on families.

There is no doubt that these parents need to be with their children during these difficult times to comfort them and assist with their healing. My bill amends the Internal Revenue Code to provide families with realistic help during this critical time when they are under intense psychological stress because of a seriously ill child. Mr. President, this legislation addresses those lodging and meal expenses that are necessary solely because of a child's medical needs. These expenses certainly meet the criteria for which the medical deduction tax provision was designed to assist.

In closing, I urge my Senate colleagues to approve this measure so that a parent or guardian can deduct reasonable living expenses incurred when accompanying an ill child to out-of-town medical treatment. I ask unanimous consent that a copy of the bill be printed in the RECORD at the closing of these remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2938

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TREATMENT OF CERTAIN MEALS AND CERTAIN LODGING EXPENSES OF A PARENT AND CHILD AS MEDICAL CARE IN THE CASE OF A CHILD AWAY FROM HOME FOR PURPOSE OF RECEIVING MEDICAL CARE.

(a) IN GENERAL.—Paragraph (1) of section 213(d) of the Internal Revenue Code of 1954 (defining medical care) is amended—

(1) by striking out "or" at the end of subparagraph (B),

(2) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof ", or", and

(3) by adding at the end thereof the following new subparagraph:

"(D) for the meals and lodging of—

"(i) one parent or guardian of a child when—

"(I) such child is away from home for the purpose of receiving medical care, and

"(II) such parent or guardian is away from home and accompanies such child, and

"(ii) a child when he is away from home for the purpose of receiving medical care as an outpatient.".

(b) CHILD DEFINED.—Subsection (d) of section 213 of such Code is amended by adding at the end thereof the following new paragraph:

"(7) The term 'child' means an individual who has not attained the age of 18 before the close of the taxable year.".

SEC. 2. EFFECTIVE DATE.

The amendments made by section 1 shall apply to amounts paid in taxable years beginning after December 31, 1982.●

By Mr. BUMPERS (for himself, Mr. TSONGAS, Mr. BRADLEY, Mr. GORTON, Mr. DECONCINI, Mr. SPECTER, Mr. GLENN, Mr. PRESSLER, Mr. SASSER, Mr. HATFIELD, Mr. INOUYE, Mr. STAFFORD, Mr. NUNN, Mr. CHAFEE, Mr. RIEGLE, Mr. WEICKER, Mr. PRYOR, Mr. DANFORTH, Mr. CRANSTON, Mr. MOYNIHAN, Mr. DODD, Mr. HUDDLESTON, Mr. HART, Mr. DIXON, Mr. EXON, Mr. BURDICK, Mr. BAUCUS, Mr. FORD, Mr. HOLLINGS, and Mr. JACKSON):

S.J. Res. 251. Joint resolution authorizing and requesting the President to designate October 10, 1982, as "National Peace Day"; to the Committee on the Judiciary.

(The remarks of Mr. BUMPERS on this legislation and the text of the legislation appear earlier in today's RECORD.)

By Mr. DURENBERGER:

S.J. Res. 252. Joint resolution authorizing and requesting the President to issue a proclamation designating the period from October 3, 1982, through October 9, 1982, as "National Schoolbus Safety Week of 1982"; to the Committee on the Judiciary.

NATIONAL SCHOOLBUS SAFETY WEEK

● Mr. DURENBERGER. Mr. President, the safety of our Nation's students should be one of our highest priorities. In 1980, schoolbus transportation accidents killed about 180 persons, including 90 students, 5 busdrivers, and 85 other people. The National Safety Council reports that of the 90 students killed, 75 were pedestrians either approaching or leaving the bus. In addition, about 4,600 students were injured in schoolbus-related accidents.

It is imperative that we increase public awareness of this problem by establishing a "National Schoolbus Safety Week" from October 3, 1982 through October 9, 1982. This week will provide an opportunity for schools and communities to plan activities related to schoolbus safety and will increase the awareness among our Nation's drivers that there are 22 million students transported to and from school each day.

Summer is over and schools are back in session. Now is a particularly good time for us to be alert to the deaths and accidents that occur each year during the fall when traffic increases and students are using schoolbuses. I

hope all my Senate colleagues will join in cosponsoring this important and timely resolution.●

ADDITIONAL COSPONSORS

S. 27

At the request of Mr. DOLE, the name of the Senator from Texas (Mr. BENTSEN) was added as a cosponsor of S. 27, a bill to amend the Internal Revenue Code of 1954 to make permanent the allowance of a deduction for eliminating architectural and transportation barriers for the handicapped and to increase the amount of such deduction from $25,000 to $100,000.

S. 1018

At the request of Mr. CHAFEE, the name of the Senator from Iowa (Mr. GRASSLEY) was added as a cosponsor of S. 1018, a bill to protect and conserve fish and wildlife resources, and for other purposes.

S. 2918

At the request of Mr. CHAFFEE, the names of the Senator from Montana (Mr. BAUCUS), and the Senator from Minnesota (Mr. DURENBERGER) were added as cosponsors of S. 2918, a bill to permit the investment of employee benefit plans in residential mortgages.

S. 2919

At the request of Mr. LUGAR, the names of the Senator from New York (Mr. MOYNIHAN), the Senator from Rhode Island (Mr. PELL), and the Senator from Maryland (Mr. MATHIAS) were added as cosponsors of S. 2919, a bill to help insure the Nation's independent factual knowledge of Soviet bloc countries, to help maintain the national capability for advanced research and training on which that knowledge depends, and to provide partial financial support for national programs to serve both purposes.

S. 2930

At the request of Mr. ROBERT C. BYRD, his name was added as a cosponsor of S. 2930, a bill to provide for the protection of migrant and seasonal agricultural workers and for the registration of contractors of migrant and seasonal agricultural labor, and for other purposes.

SENATE JOINT RESOLUTION 178

At the request of Mr. HATCH, the names of the Senator from Wisconsin (Mr. KASTEN), and the Senator from Arkansas (Mr. PRYOR) were added as cosponsors of Senate Joint Resolution 178, a joint resolution to authorize and request the President to proclaim the second week in April as "National Medical Laboratory Week."

SENATE JOINT RESOLUTION 215

At the request of Mr. HATCH, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of Senate Joint Resolution 215, a joint resolution to provide that the week beginning March 6, 1983, shall be designated as "Women's History Week."

SENATE JOINT RESOLUTION 234

At the request of Mr. GOLDWATER, the name of the Senator from Oklahoma (Mr. NICKLES) was added as a cosponsor of Senate Joint Resolution 234, a joint resolution to provide for the designation of the week commencing with the third Monday in February 1983 as "National Patriotism Week."

SENATE JOINT RESOLUTION 241

At the request of Mr. HUMPHREY, the name of the Senator from Pennsylvania (Mr. HEINZ) was added as a cosponsor of Senate Joint Resolution 241, a joint resolution to provide for the designation of the week of December 12, 1982 through December 18, 1982 as "National Drunk and Drugged Driving Awareness Week."

SENATE JOINT RESOLUTION 242

At the request of Mr. JEPSEN, the name of the Senator from Minnesota (Mr. DURENBERGER) was added as a cosponsor of Senate Joint Resolution 242, a joint resolution designating September 22, 1982, as "American Businesswomen's Day."

SENATE CONCURRENT RESOLUTION 123

At the request of Mr. HART, the name of the Senator from Nevada (Mr. CANNON) was added as a cosponsor of Senate Concurrent Resolution 123, a concurrent resolution expressing the sense of the Congress with respect to a means test for the medicare program.

SENATE RESOLUTION 477—RELATING TO SENATE LEGAL COUNSEL REPRESENTATION

Mr. BAKER (for himself and Mr. ROBERT C. BYRD) submitted the following resolution; which was considered and agreed to:

S. RES. 477

Whereas, in the cases of W. Henson Moore, et al. v. the United States House of Representatives, et al. and Ron Paul v. The United States of America, civil Action Nos. 82-2318 and 82-2352, respectively, pending in the United States District Court for the District of Columbia, the constitutionality of the Tax Equity and Fiscal Responsibility Act of 1982, Public Law 97-248, has been challenged as having been enacted in violation of Article I, Section 7, clause 1 of the United States Constitution;

Whereas, the complaints in these actions name the United States Senate, the Honorable George Herbert Walker Bush, in his capacity as President of the Senate, and William F. Hildenbrand, Secretary of the Senate, as parties defendants;

Whereas, pursuant to section 703(a) and 704(a) of the Ethics in Government Act of 1978, 2 U.S.C. §§ 288b(a) and 288c(a) (Supp. IV 1980), the Senate may direct its counsel to defend the Senate, its members and officers, in civil actions relating to their official responsibilities: Now, therefore, be it

Resolved, That the Senate Legal Counsel is directed to represent the United States Senate, the Honorable George Herbert Walker Bush, in his capacity as President of the Senate, and William F. Hildenbrand, Secretary of the Senate, in the cases of W. Henson Moore, et al. v. The House of Representatives, et al. and Ron Paul v. The United States of America, et al.

SENATE RESOLUTION 478—RELATING TO EQUAL RIGHTS UNDER TITLE IX OF THE EDUCATION AMENDMENTS OF 1972

Mr. DODD (for himself, Mr. KENNEDY, Mr. TSONGAS, Mr. CHAFEE, Mr. HATFIELD, Mr. PACKWOOD, Mr. INOUYE, Mr. RANDOLPH, Mr. WEICKER, Mr. RIEGLE, Mr. BURDICK, and Mr. HOLLINGS) submitted the following resolution, which was referred to the Committee on Labor and Human Resources:

S. RES. 478

Whereas education is the backbone of American democracy and shapes the minds and spirits of our future generations;

Whereas extensive inequities based on sex, such as discrimination in admissions, vocational education and counseling, continue to exist in education communities;

Whereas in a time when the average working woman earns only 59 cents for every dollar that her male counterpart receives, we cannot deny women equal access to education programs, and thus the opportunity for career advancement and economic equity;

Whereas title IX of the Education Amendments of 1972, which provides that "no person shall, on the basis of sex, be excluded from participation in, be denied benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance", has proven to be effective in providing women with equal education opportunities; and

Whereas while many sectors of our society need relief from overly burdensome regulations, corrective action to reduce that burden must not be taken at the expense of women who are, as a result of established guidelines for protection, at long last realizing equal opportunities in education: Now, therefore, be it

Resolved, That it is the sense of the Senate that guidelines relating to title IX of the Education Amendments of 1972 should not be repealed or altered in a manner which will deny any person equal access to education.

Mr. DODD. Mr. President, I am submitting this resolution today for myself and Senators KENNEDY, TSONGAS, CHAFEE, HATFIELD, PACKWOOD, INOUYE, RANDOLPH, WEICKER, RIEGLE, BURDICK, and HOLLINGS.

This resolution expresses the sense of the Senate that it is essential to maintain guidelines insuring equal rights in educational opportunity.

Identical legislation, House Resolution 268, has been submitted in the House of Representatives by Congresswoman CLAUDINE SCHNEIDER, where it currently has 150 cosponsors.

Since title IX took effect, the record shows, female students have scored dramatic gains. The enrollment of women in vocational courses traditionally dominated by men has more than

doubled and the share of professional degrees earned by professional women has quadrupled.

In 1972, women were only 11 percent of the students in medical schools, 10 percent of law school students, and 2 percent of those in dental schools.

In 1980, the proportion of women in medical school and law school had tripled—up to 26 percent and 34 percent, respectively. Women constituted 17 percent of dental schools students that year, a 1,011-percent jump.

Graduate degrees earned by women in male-dominated fields have also risen dramatically. Women awarded doctorates increased from 16 percent in 1972 of the total to 30 percent in 1980.

One area in which women have made exceptionally large gains, thanks to title IX, is athletics, termed the "most visible and familiar" aspect of title IX by the National Advisory Council on Women's Educational Programs. Under title IX the number of females involved in interscholastic high school athletic programs has increased by 527 percent. By 1980, there were 36 female athletes for every 100 male athletes, compared with 1972 when there were only 18 female athletes for every 100 male athletes.

Before title IX was passed, virtually no college or university offered scholarships to talented women athletes—of every 100 such scholarships awarded in 1974, only 1 went to a woman. Today the ratio is 22 out of every 100.

In my State, the number of female athletes at the University of Connecticut has jumped from a total of 50 in 1974 to 250 in 1982. Likewise, there are now 11 full-time and 8 part-time coaches to train these athletes, while in 1974 there were only 4. And the number of athletic scholarships awarded to women at the University of Connecticut has climbed from 1 in 1975 to 74 in 1982.

Thus, title IX has wrought dramatic changes in my State. And what title IX has done in Connecticut, it has done in the other 49 States as well.

Close to one-third of the Nation's professional women work in the field of education, and title IX is designed to protect their rights too. Women still continue to trail men in salaries and tenure as well as in chances for career advancement, but it can be said the most impressive change in this particular area is in the number of women heading colleges and universities. Over the past 6 years, the number rose from 149 to 219.

Mr. President, it is obvious that, despite the gains that women have made since 1972, there is still a long road ahead with much catching up to do, and title IX is needed more than ever.

I have outlined for you today just a few examples of how title IX has been instrumental in effecting positive change in the education arena. Despite various attempts to weaken these much-needed regulations, the record makes it clear that they have a necessary and vital role to play in the education process.

Title IX is not an example of good intentions gone awry. It is instead an example of how equal treatment of the sexes in college admissions, athletic programs, and education employment can improve the skills and resources of American women to help serve the American future.

The changes which have already occured have been positive and substantial; with our support they can continue to provide equal educational opportunities, advancements, and improvements in the years ahead.

It is my hope today that my colleagues in the Senate will act promptly to approve this resolution and reaffirm our commitment to a policy of equality in providing educational opportunities to all Americans.

Mr. KENNEDY. Mr. President, I am pleased to join my colleagues in the Senate today in cosponsoring a resolution reaffirming the commitment of Congress to equal opportunity in education and urging that title IX of the 1972 educational amendments not be weakened.

In the decade since title IX was enacted, we have made tremendous progress in the elimination of sex discrimination in schools which receive Federal financial assistance. In 1979, for the first time since World War II, women college students outnumbered men students; 5.9 million of the 11.6 million undergraduates enrolled in this Nation's colleges and universities were women. Significant gains also have been made in the number of degrees awarded to women in customarily male fields such as agriculture, architecture, and business and management. And participation by female athletes in interscholastic high school sports increased by 527 percent in the last 10 years, as many athletic programs previously limited to male students were opened to students of both sexes.

As supporters of equal educational opportunities for women, we use these statistics with pride to mirror the years of progress we have made. We must prevent these figures from being misused as an excuse for weakening enforcement of title IX.

Despite the gains we have made, we still have miles to go to achieve truly equal educational opportunities for women. In 1980, of some 16,000 district school superintendents, only 154 were women. Women head only 6 percent of coeducational institutions of higher education, compared to 67 percent of women's colleges. And, despite gains by women in traditionally male fields, the proportion of women in some of these areas, such as engineering, remains very small.

The need for title IX is as strong now as it was in 1972. Only by continued implementation of title IX will we guarantee women their right to equal educational opportunity.

Mr. TSONGAS. Mr. President, since title IX was passed in 1972, this legislation has made a substantial difference in the quality and quantity of educational opportunities for women. I oppose any effort on the part of the administration, the Department of Education, and Members of Congress to weaken this vital legislation.

Any form of discrimination is unacceptable, and title IX must remain the viable tool it has been in combating sex discrimination in education.

Title IX of the Education Amendments of 1972 should not be repealed or altered in a manner which will deny any person equal access to education.

I join Senator DODD and my other colleagues in introducing this resolution today.

AMENDMENTS SUBMITTED FOR PRINTING

CAPITAL ASSISTANCE ACT OF 1982

AMENDMENTS NOS. 3614 THROUGH 3616

(Ordered to be printed and lie on the table.)

Mr. CHAFEE submitted three amendments intended to be proposed by him to the bill (S. 2879) to provide flexibility to the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, and the Federal supervisory agencies to deal with financially distressed depository institutions, to enhance the competitiveness of depository institutions, to expand the range of services provided by such institutions, to protect depositors and creditors of such institutions, and for other purposes.

COMMITTEE MEETINGS

Mr. BAKER. Mr. President, I have a collection of unanimous-consent requests in respect to committees meeting tomorrow. I believe they have all been cleared by the minority or the acting minority leader.

COMMITTEE ON FINANCE

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on Wednesday, September 22, to hold a markup of subchapter S, technical corrections to past tax bills.

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

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on

Thursday, Septemer 23, to meet to consider miscellaneous matters.

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

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. BAKER. Mr. President, I ask unanimous consent that the Select Committee on Indian Affairs be authorized to meet during the session of the Senate on Wednesday, September 22, at 9:30 to hold a hearing on S. 2847, the Indian Housing Act of 1982.

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

SUBCOMMITTEE ON PUBLIC LANDS AND RESERVED WATER

Mr. BAKER. Mr. President, I ask unanimous consent that the Subcommittee on Public Lands and Reserved Water, of the Committee on Energy and Natural Resources, be authorized to meet during the session of the Senate on Thursday, September 23, at 9 a.m., to hold a hearing to consider S. 2801, the Wilderness Protection Act of 1982.

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

SUBCOMMITTEE ON INTERNATIONAL ECONOMIC POLICY

Mr. BAKER. Mr. President, I ask unanimous consent that the Subcommittee on International Economic Policy, of the Committee on Foreign Relations, be authorized to meet during the session of the Senate on Thursday, September 23, at 11:30 a.m., to receive a secret CIA briefing on the world debt.

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

ADDITIONAL STATEMENTS

RECENT STUDIES ANALYZE LEFTIST VIEWS HELD BY MEDIA "ELITE"

● Mr. HELMS. Mr. President, for decades the American people have been subjected to a daily barrage of biased news coverage in our Nation's print and electronic media. Sometimes subtle, more often blatant, this constant flow of distorted information is undermining our cultural foundations as well as deforming our political process.

Recently, two studies have appeared which analyze the political and social views of the so-called media elite. Allan Brownfeld, a syndicated columnist, in an article appearing in the Washington Times of September 21, 1982, has focused attention on these two studies.

In a study by S. Robert Lichter and Stanley Rothman under the auspices of the Research Institute on International Change at Columbia University a number of significant facts relating to the values held by the media elite were uncovered. For example, only 8 percent of those polled attend church or synagogue weekly and 86 percent seldom or never attend religious services. The poll indicated further that 50 percent do not have any religious affiliation.

It is certainly in order to ask whether or not this ostensible secularist bias affects reporting on major national issues such as school prayer and abortion. According to the study, "Fifty-four percent place themselves to the left of center, compared to only 19 percent who choose the right side of the spectrum."

According to Brownfeld's review of the study:

On social issues their views are similarly liberal. Ninety percent of the media elite believe in freedom of choice with regard to abortions and only 25 percent think that homosexuality is wrong. Only 3 percent strongly agree that homosexuals should not teach in public schools and only 15 percent strongly agree that adultery is wrong.

Mr. President, not only has media bias affected coverage of family issues, but it has also affected coverage of matters related to our foreign policy and national defense. Who can forget the massive attack on our foreign policy during the Vietnam war years when our boys were fighting to defend freedom in Southeast Asia? Who can deny the bias of the establishment media elite regarding events in Central America today?

Brownfeld cites another study be Prof. Stanley Rothman of Smith College,. entitled, "The Mass Media in Post Industrial Society" which concludes that the media demonstrates a bias against patriotism and a strong defense policy. Rothman is quoted as concluding that the media demonstrates:

A generalized distrust of the American military, of people who are "overly patriotic," of the policy and of the working class and lower middle class Americans who do not share cosmopolitan lifestyles.

Mr. President, back in the sixties the media developed a slogan about a credibility gap between the Government and the American people. I submit that the American people can justly raise the question as to whether or not there is a credibility gap between what the establishment media elite has been feeding the public and reality. These two studies certainly provide food for thought on this important matter.

Mr. President, I ask that the article by Mr. Brownfeld be placed in the RECORD at this time.

The article follows:

[From the Washington Times, Sept. 21, 1982]

IS THE LIBERAL MEDIA BIAS REAL OR IMAGINED?

(By Allan Brownfeld)

In recent years there has been much discussion about the alleged liberal bias of the media—at least the "elite media," which reaches a national audience and sets the agenda for the American political discussion and debate. Included in this "elite media" are newspapers such as *The New York Times* and *The Washington Post*, news magazines such as *Time* and *Newsweek*, and the major television networks, NBC, CBS and ABC.

Some of the criticism of the media has been narrowly partisan. Republicans objected to news reports about Watergate, for example, largely because their party had been caught in an act of wrong-doing. The media, accordingly, dismissed most of the criticism aimed at it as simply self-serving. Former Vice President Spiro Agnew was vocal in his criticism of the media. His criticism was, in the eyes of many, largely discredited when Agnew himself admitted to serious violations of trust which led to his resignation.

Still, recognizing that it is easy to blame the messenger of bad news for the substance of his report, the charges of media bias turn out, upon careful examination, to be quite correct.

An interesting study was recently directed by S. Robert Lichter and Stanley Rothman under the auspices of the Research Institute on International Change at Columbia University. The media elite was polled about their political and social views and these views were then compared with a larger sample. By its own responses to questions the media elite paints a picture of itself as quite liberal.

The authors note that, "Substantial numbers of the media elite grew up at some distance from the social and cultural traditions of small town 'middle America.' Instead, they were drawn from big cities in the northeast and north central states. Their parents tended to be well off, highly educated members of the upper middle class, especially the educated professions . . . Only 8 percent go to church or synagogue weekly, and 86 percent seldom or never attend religious services. Exactly 50 percent eschew any religious affiliation . . . Ideologically, a majority of leading journalists describe themselves to the left of center, compared to only 19 percent who choose the right side of the spectrum."

Consider the voting patterns of the media elite. In 1964, 94 percent voted for Lyndon Johnson and only 6 percent for Barry Goldwater. In 1978, when Richard Nixon was carrying the country, 87 percent of the media elite voted for Hubert Humphrey and only 19 percent for Nixon. In the Nixon landslide of 1972—when George McGovern carried only one state, Massachusetts, and the District of Columbia, 81 percent of the media elite voted for McGovern and 19 percent for Nixon. In 1976, when the country was almost evenly dividing its vote between Gerald Ford and Jimmy Carter, the media elite voted 81 percent for Carter and 19 percent for Ford. By any standard, this is a one-sided political record.

Authors Lichter and Rothman point out that, "Over the entire 16 year period, less than one-fifth of the media elite supported any Republican presidential candidate. In an era when presidential elections are often settled by a swing vote of 5 to 10 percent, the Democratic margin among elite journalists has been 30 to 50 percent greater than among the entire electorate. These presidential choices are consistent with the media elite's liberal views on a wide range of social and political issues. They show a strong preference for assistance to the poor in the form of income redistribution and guaranteed employment . . ."

On the social issues their views are similarly liberal. Ninety percent of the media

elite believe in freedom of choice with regad to abortions and only 25 percent think that homosexuality is wrong. Only 3 percent strongly agree that homosexuals should not teach in public schools and only 15 percent strongly agree that adultery is wrong.

In fact, state the authors, the media elite has something of a Third World mentality: "In most instances, majorities of the media elite voice the same criticisms that are raised in the Third World. Fifty six percent agree that American economic exploitation has contributed to Third World poverty. About the same proportion 57 percent, also find America's heavy use of natural resources to be 'immoral.' By a three-to-one margin, leading journalists soundly reject the counter-argument that Third World nations would be even worse off without the assistance they've received from Western nations. Indeed, precisely half agree with the claim that the main goal of our foreign policy has been to protect American business interests . . ."

In another study, "The Mass Media In Post Industrial Society," Professor Stanley Rothman of Smith College, who co-authored the Columbia study, concludes that "pivotal members of the elite media share a 'paradigm,' which tells them what the world should be like and which leads them to deal with events in certain ways." This paradigm, for example, dictates that:

Groups calling for radical change are generally described as humanitarian. If their programs show few signs of success, patience is urged.

Groups calling for a conservative change generally are treated as if their only conceivable motivation is narrow self-interest or psychological malfunction.

Social problems are assumed soluble by a combination of good will and rational management. If injustice persists, then it is not because the solutions are lacking but because self-interested, powerful individuals and groups are blocking reasonable policies.

In addition, writes Rothman, the elite media evince "a generalized distrust of the American military, of people who are 'overly patriotic,' of the police and of the working class and lower middle class Americans who do not share cosmopolitan lifestyles."

Media bias, it is clear, is not a figment of the imagination of those who have been on the receiving end of press criticism. It is institutional, it is pervasive, and it has distorted our political discourse. Only by recognizing its reality will we be able to take the next step of taking action to blunt its effect and influence.●

UKRAINIAN INSURGENT ARMY DAY

● Mr. D'AMATO. Mr. President, on Friday, September 17, 1982, I introduced Senate Joint Resolution 248, a joint resolution to proclaim October 14, 1982, Ukrainian Insurgent Army Day. At this time I would ask unanimous consent that Senate Joint Resolution 248 be printed in the RECORD in its entirety.

The joint resolution follows:

S.J. RES. 248

Whereas on June 30, 1941, Ukraine, a nation of over fifty million people, proclaimed the reestablishment of its national independence and statehood, and

Whereas, after the Proclamation of Independence, the Ukrainian people launched a war of liberation without any external support on two fronts against Nazi Germany and Bolshevik Russia, two of the largest, totalitarian, imperialist military powers in history, in defense of the principle of national independence and basic human liberties, and

Whereas, on the initiative of the revolutionary Organization of Ukrainian Nationalists (OUN), Ukrainian self-defense and insurgent detachments were formed to fight the occupying German National-Socialist and Russian Communist forces in Ukraine, employing insurgent-guerrilla means of warfare, and

Whereas these units were later transformed into a Ukrainian Insurgent Army (UPA), founded forty years ago on October 14, 1942, and placed under the command of General Roman Shukhevych-Taras Chuprynka, and

Whereas the UPA organized an all-national uprising and fought for over a decade first against Nazi Germany and Bolshevik Stalinist Russia, and later against the tripartite pact of the U.S.S.R., CSR, and Communist Poland established in 1947, and

Whereas in November 1943, in the forests of central Ukraine, on the initiative of the UPA and OUN, a conference of subjugated nations was held, attended by the representatives of 13 subjugated nations, culminating in the establishment of a common front against Hitler's Nazi Germany and Stalin's Bolshevik Russia, known as the Antibolshevik Bloc of Nations (ABN), and

Whereas the valor and herosim of the freedom-fighters of the UPA and of the entire Ukrainian nation, which sacrifices innumerable lives in the struggle against both totalitarian systems and in defense of national independence and democracy for all nations and individuals, attest to the unconquerable spirit of a subjugated nation in its quest for freedom, and

Whereas in 1982, the Ukrainian nation and the Ukrainian community in the United States will be commemorating the fortieth anniversary of the founding of the Ukrainian Insurgent Army (UPA) and call upon the American people to join with them in honoring the memory of the UPA and the martyrs who laid down their lives in their sacred mission: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress of the United States of America by joint resolution proclaims October 14, 1982, Ukrainian Insurgent Army Day, authorizing and requesting the President of the United States to honor the memory of the valiant heroes of the Ukraine, the freedom-fighters of the UPA and its commander-in-chief General Roman Shukhevych-Taras Chuprynka, who fell in battle with Russian MVD forces on March 5, 1950, as well as the entire Ukrainian nation, which fought and continues to struggle for its national independence and statehood, and for freedom and justice for all the enslaved and oppressed peoples of the world, by issuing an appropriate Presidential proclamation in this regard.●

WHAT KIND OF JOURNALISM IS THIS?

● Mr. HELMS. Mr. President, I suppose by now all of us should be immune to the outrageous conduct of some of the so-called major media in this country who apparently have no shame in coloring and distorting the news. There is a growing apprehension that somewhere down the road, the American people may be so misled that they will tolerate an overthrow of our system of government.

That would be tragic, and I pray that it never happens. Everybody's freedom will go down the drain—and the first to go, if history teaches us anything, will be freedom of the press.

I was appalled this past Sunday, September 19, to note a quote attributed to Secretary of Agriculture John Block—a quote that was 180 degrees from what Jack Block actually had said.

The quote emerged from a September 13 address made by Secretary Block in Nebraska. What he said, and the record is clear, was: "European agriculture has been a pampered, spoiled child." I will discuss the basis for that remark in a moment, but first let us note what the Washington Post quoted Secretary Block as having said:

American agriculture has been a pampered, spoiled child.

Secretary Block said nothing of the sort in Nebraska, or anywhere else. And while the Washington Post now lamely "explains" that its mistake was sombody else's, the fact remains that any responsible reporter, particularly one who knows Jack Block, would surely have checked on the accuracy of such a quote attributed to a Secretary of Agriculture who has demonstrated his complete dedication to the American farmers.

But the Washington Post did not check the accuracy of the quote. And, what is even worse, the day after having published the false quote, the newspaper ran a few obscure lines on an inside page blaming somebody else for an error that was unmistakably that of the reporter who wrote the story.

Bear in mind, Mr. President, that the reporter had 6 days in which he could have checked his "facts." But he did not check. As a result, a canard was published not only in the Washington Post but presumably in many other newpapers which subscribe to the syndicated service of the Washington Post.

As I mentioned earlier, Mr. President, Secretary Block spoke in Nebraska, at Omaha, on Monday, September 13. His audience was the Agricultural Subcommittee of President Reagan's Export Council. He described the problems our Nation is encountering with excessive subsidization of agricultural exports by the European Community (EC).

The EC has subsidized its internal production to such a degree that the member nations have generated oversupplies of several commodities. While this is an internal matter for the EC, it also becomes a concern for the United States when these oversupplies

spill over into our markets. The EC disposes of its surpluses by subsidizing exports of these products.

Export subsidies by the EC are displacing American exports and depressing American farm prices. Such action should not be tolerated. The Reagan administration, including Secretary Block and Ambassador Brock, have taken a firm stance against these practices of the EC, and I commend them for it.

So, Mr. President, Secretary Block was describing and explaining this issue to the President's Export Council. To emphasize the point, he made the analogy that "European agriculture has been a pampered, spoiled child."

A reporter covering the event incorrectly reported the quote. Later that same day, United Press International ran a retraction. The Associated Press and UPI both ran stories later in the week correcting and explaining the quote.

Yet, 6 days after the fact, the Washington Post ran its article claiming that Secretary Block had said "American agriculture has been a pampered, spoiled child."

Not only was the false quote included in the Post article—it was prominently printed in large type in the center of the page. Then on September 20, the Post printed its small correction stating that they were "not aware" that UPI had run a retraction of the original quote.

However, further compounding the error the theme of the article was based on that incorrect quote, falsely implying that the administration is somehow deliberately punishing "spoiled" American farmers with low prices and distressed times.

The Post stated in its "correction" that they were "not aware" of the retraction. The fact is that at least four different stories were run on the news wires correcting the quote prior to the Post article. Did the Post reporter, and its editors just happen to miss all four corrections?

One final question: Would not a responsible newspaper have expressed its regrets in a manner that would have absolved Secretary Block?

Mr. President, Secretary Block has issued a public statement presenting the facts of this matter in a forthright and accurate way. But the Washington Post refused to print the Secretary's statement. So that Senators may have access to Secretary Block's perspective, I ask unanimous consent that his letter to me and the text of his statement be printed in the RECORD at the conclusion of my remarks.

The letter follows:

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, D.C., September 20, 1982.

Hon. JESSE HELMS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR: American farmers and I have been dealt a major injustice by a misquotation.

In Omaha on September 13, I stated that the European Common Market is unfairly subsidizing its agricultural exports in competition with American farmers. This has been going on for a score of years and has pitted the treasuries of the Common Market against the American farmers. This is unfair, and I said in Omaha, "European agriculture has been a pampered, spoiled child."

This statement was misquoted to indicate that I said, "American agriculture." This news account was corrected, but the situation was compounded yesterday when the Washington Post used the incorrect quote in large bold type.

I wanted you to know the background, and I hope that you will join me in correcting this injustice to American farmers and to me.

Sincerely,

JOHN R. BLOCK,
Secretary.

Attachment.

STATEMENT BY SECRETARY OF AGRICULTURE JOHN R. BLOCK

Today's Sunday edition of The Washington Post either engaged in a deliberate, partisan, irresponsible act of journalism at my expense, or it demonstrated shamefully inept journalistic procedures at the Post.

In two columns of large, black, bold type, the Sunday Washington Post quoted me as saying, "American agriculture has been a pampered, spoiled child."

Six days earlier in Omaha, Neb., when I criticized the European Common Market for unfairly subsidizing its agricultural exports in competition with American farmers, I said: "European agriculture has been a pampered, spoiled child."

At that time, United Press International first wrote that I had said "American agriculture," but then printed a correction. Later in the week, the Associated Press ran an article about the UPI error. AP pointed out that the erroneous quote has shocked members of the Nebraska Wheat Board into calling for my resignation until they discovered the UPI error.

Still, The Washington Post on Sunday chose to run the erroneous quote, "American agriculture has been a pampered, spoiled child," as if I had said it. Further, the Post lifted the quote from the text, ran it in two columns of heavy type, and placed black lines around the quote in the center of the page so that it would catch any reader's eye who leafed through the newspaper.

The Post also used the erroneous quote as a theme in the article, suggesting that pampered, spoiled children must be disciplined and that the tough times that farmers are having in 1982 is the farmers' equivalent of being sent to their rooms in punishment.

That attitude and the quote are so completely at odds with my known position and my statements on American agriculture that a responsible newspaper that has covered my statements as thoroughly as the Post would have had such disbelief it would have checked with me to see if the quote could possibly be true. The Post did not check with me or with my office.

It is hard to believe that The Washington Post could have been so completely out of touch that it was not aware of the UPI correction, of the AP article about the error, and the fracas that the error caused.

Thus The Washington Post article today was either a deliberate, partisan, irresponsible attack, or it demonstrated a shabby, inept journalistic procedure for determining the truth.

On Monday, September 20, 1982, The Washington Post corrected its Sunday edition misquote, but the correction was presented in a much less conspicuous manner than the error which appeared the previous day. Also, the Post failed to run the above statement which was filed with it on Sunday, September 19.●

THE NATIONAL CONVENTION OF THE MILITARY ORDER OF THE WORLD WARS

● Mr. GOLDWATER. Mr. President, a short time ago, the National Convention of the Military Order of the World Wars was held in Portland, Oreg. As usual, this excellent organization came up with some suggestions in the form of resolutions which were designed to improve our Nation's status in the world and to provide some consistency in terms of foreign policy and national strategy.

Repeatedly, I have stated that we do not have a true national strategy. The Military Order of the World Wars has proposed in their first resolution that a new grand global strategy is needed. I concur completely. In their other resolutions, they address such important issues as prisoners of war, registration for selective service, Reserve officer training programs, chemical and biological warfare, and terrorism. All of these issues are vitally important to the future of our Nation. The Military Order of the World Wars and its members believe deeply in this Nation and they have clearly expressed their genuine dedication toward our Nation and its security.

Mr. President, I ask that the resolutions passed by the National Convention of the Military Order of the World Wars be printed in their entirety and I commend these thoughts to my colleagues for their careful study.

The resolutions referred to are as follows:

RESOLUTIONS PASSED AT NATIONAL CONVENTION

Excerpts from Resolutions passed at the National Convention follow.

Resolution No. 1 urges the members of Congress

(1) To accept the fact that the security of the United States, its people, and its allies, is in real and dire jeopardy;

(2) That a new grand global stategy is essential to assure our defense while maintaining a policy of helping our allies and other non-Communist countries to defend themselves against internal and external Communist takeover;

(3) That our government do all in its power to re-educate our people to the real truths before them, in the full knowledge

that an educated people will remain a free people;

(4) In furtherance of all the foregoing, that the Senate reject any unilateral disarmament or other scheme placing us in an inferior military position to the Warsaw Pact nations, and act with resolution to restore a balance of power with the Soviets and their vassal states; and

That we can accept arms reduction only in the framework of free visible scrutiny, and the prior redress of the current power imbalance.

Resolution No. 2 resolves that the national policy of the United States, morally and justly, should be never to abandon or fail to support any service man of our Nation, and to commit this country to unending and vigorous hostility toward any Nation which holds Americans prisoner for doing their duty and being loyal citizens.

Resolution No. 3 resolves that the Congress and Administration of this Nation do forthwith pass and enact all necessary laws denying to all who unlawfully fail to register for selective military service, or who thereafter unlawfully fail to serve if called upon, any and all federally-funded benefits to which they might otherwise be entitled, in addition to other penalties provided by law.

Resolution No. 4:

(1) Reaffirms our longstanding support for the ROTC programs of our Nation;

(2) Calls upon Congress to enact all necessary laws to assure the preservation of these programs, including the dignity of their instructor personnel by equalizing their status in all particulars with the other faculty members at the institutions where they serve; and

(3) Urges that this form a part and parcel of a program for enactment by the Congress of United States Universal National Service of some significant and practical form, including qualified military service in the Armed Forces of the United States for all of its young citizens.

Resolution No. 5 calls upon the Congress to immediately require the development by and for our Armed Forces and the production of full defenses, plans and countermeasures against chemical and biological weapons needed for the protection of our people and those of our allies.

Resolution No. 6 resolves that the Congress of the United States and the President be urged to re-establish, with sufficient operational support, adequate intelligence and combating antiterrorist forces, specializing in these areas and applicable to both domestic and international terrorism, which forces, when implemented, will defeat the purposes of those terrorists and render decent and law-abiding persons secure in their persons and properties and safe once again; and further that local law enforcement organizations be encouraged and assisted in the support of such national efforts; and

Further resolves that the President urge other governments to promulgate and publish like antiterrorist policies, and cause the United States to enter into agreements with other such countries for mutual operations and coordination of operations in the interests of world peace and safety.

Resolution No. 7 extends our thanks to the host Portland Chapter, and to the citizens of Oregon and particularly of the beautiful city of Portland and all of their officials for hosting a most successful convention.●

TRIBUTE TO JOHN M. OLIN

● Mr. GOLDWATER. Mr. President, I believe it is fitting that a tribute should be given in the Senate to the memory of one of this country's great industrialists and philanthropists, John M. Olin, who died several days ago at the age of 89.

John Olin was one of the most articulate spokesmen in the Nation for the free enterprise system during his long and fruitful life. He believed in this country and was responsible for the education and development of many of our economists in Government and industry today.

John gave of himself to insure that our free enterprise system would survive. To that end, he established the John M. Olin Foundation which is dedicated to the preservation of a free society.

He was a trustee for many years at his alma mater, Cornell University. He also served on the boards of John Hopkins in Baltimore and Washington University in St. Louis.

John was an inventor, philanthropist, industrialist, conservationist, and sportsman. His efforts to save the North Atlantic salmon will forever be appreciated by this country and Canada. His love of black Labrador retrievers was well known. His favorite dog, King Buck, won the National Field Trial Championship in 1952 and 1958.

John Olin was a friend of mine. He was one of that group of rugged individualists who always put principle and honesty above all else. He shall be missed.●

1982 SCHOLASTIC APTITUDE TESTS

● Mr. JEPSEN. Mr. President, USA Today, the new national newspaper, as well as other newspapers, ran articles today on the results of the 1982 scholastic aptitude test released by the college board.

For the first time since 1962, high school seniors showed improvement in their scores on mathematics and language college entrance tests. In all, approximately 1 million seniors took the tests on which the report is based.

It comes as no surprise, at least to this Senator, that Iowa ranked No. 1 in the Nation. That ranking again underscores the quality education for which Iowa is known.

Iowa students and their teachers deserve the highest praise. In Iowa, education is taken seriously.

I ask that the article from USA Today, headlined "Nation's Report Card; SAT Scores Up," be inserted in the RECORD. I also ask that an accompanying State-by-State tally be placed in the RECORD.

The information follows:

[From the USA TODAY, Sept. 22, 1982]

NATION'S REPORT CARD: SAT SCORES UP

(By Saundra Keyes)

For the first time in 19 years, American high school seniors this year improved their scores on math and language college entrance tests.

Results released by the College Board Tuesday revealed that about 1 million seniors who took the 1982 Scholastic Aptitude Test nudged the average score up two points on the verbal section and one point in the math category.

It was the first time since 1962 that both scores have increased.

But the new scores of 467 in math and 426 in verbal remain far behind the lofty 502-478 averages that prevailed in 1963 before the downward spiral began. Information was not available on the number of students who took the test that year.

The SAT is scored on a scale of 200 to 800.

The College Board, a non-profit organization that sponsors the exam, and educators have warned that results should not be considered the barometer of American education.

That admonition is generally ignored, and reported declines in SAT scores are widely bemoaned as signs of deterioration in American schools.

The steady decline was even mentioned in the 1980 Republican platform, which blamed federal intervention in the schools for eroding standards.

College Board executives issued the familiar warning Tuesday in announcing the new scores, but gave the figures a roseate glow anyway.

The 1 million seniors who took the SAT represent only a third of their class, but two-thirds of those go directly to college.

In any analysis of the state-by-state scores, cautioned testers, the greater the number of students taking the test in a state, the lower the score in that state.

Board officials found other evidence that students are hitting the books harder.

Scores on achievement tests in 15 specific subjects rose 5 points to 537, the highest level since 1976.

Scores improved on the Test of Standard Written English for the first time since the introduction of the test in 1975.

The tests are required of applicants at most colleges.

SAT SCORES: A STATE-BY-STATE TALLY

The College Board Tuesday released a state-by-state breakdown of student scores on the Scholastic Aptitude Test.

These are the state averages for 1982. They are followed by the percentage of SAT-takers among high school seniors in 1980, the latest year that figure was available.

The number in the last column refers to the percentage of students in each state taking the test. Where fewer students took the tests the scores tended to be higher state-wide.

State	Verbal	Rank	Math	Rank	Total	Rank	Percent
Alabama	463	23	501	28	964	26	6
Alaska	446	28	477	31	923	29	31
Arizona	470	18	511	20	981	20	11
Arkansas	480	12	519	11	999	12	4
California	425	39	474	32	899	33	36
Colorado	468	20	515	15	983	18	16
Connecticut	432	33	464	37	896	35	69
Delaware	432	33	465	35	897	34	42

State	Verbal	Rank	Math	Rank	Total	Rank	Percent
Florida	426	37	463	39	889	38	39
Georgia	394	48	429	49	823	49	51
Hawaii	392	49	465	35	857	47	47
Idaho	482	11	513	17	995	15	7
Illinois	462	24	515	15	977	21	14
Indiana	407	46	453	45	860	46	48
Iowa	516	2	572	1	1,088	1	3
Kansas	500	4	545	6	1,045	4	5
Kentucky	475	17	510	21	985	17	6
Louisiana	470	18	505	25	975	22	5
Maine	427	36	463	39	890	37	46
Maryland	425	39	464	37	889	38	50
Massachusetts	425	39	463	39	888	40	65
Michigan	459	26	514	17	973	24	10
Minnesota	485	8	543	7	1,028	7	7
Mississippi	479	15	509	23	988	16	3
Missouri	465	22	510	21	975	22	10
Montana	487	7	546	5	1,033	6	8
Nebraska	493	6	552	4	1,045	4	5
Nevada	436	30	481	30	917	30	18
N. Hampshire	443	29	482	29	925	28	56
New Jersey	416	44	453	45	869	44	64
New Mexico	480	12	517	14	997	14	8
New York	429	35	467	26	896	35	59
N. Carolina	396	47	431	48	827	48	47
North Dakoka	505	3	563	2	1,068	3	3
Ohio	456	27	502	26	958	27	16
Oklahoma	483	10	518	13	1,001	11	5
Oregon	435	31	473	33	908	31	40
Pennsylvania	424	42	461	43	885	42	50
Rhode Island	420	43	457	44	877	43	59
S. Carolina	378	50	412	50	790	50	48
South Dakota	522	1	553	3	1,075	2	2
Tennessee	480	12	519	11	999	12	9
Texas	415	45	453	45	868	45	32
Utah	494	5	528	10	1,022	8	4
Vermont	433	32	471	34	904	32	54
Virginia	426	37	462	42	888	40	52
Washington	468	20	514	17	982	19	19
West Virginia	462	24	506	24	968	25	7
Wisconsin	476	16	535	8	1,011	10	10
Wyoming	484	9	533	9	1,017	9	5

INVESTIGATION OF THE MASSACRE IN BEIRUT

● Mr. LEVIN. Mr. President, last week various individuals whose identities are still unknown, entered two Palestinian refugee camps in Beirut, Shatila, and Sabra. There, under circumstances which at best are unclear and at worst are unthinkable, they murdered an uncounted number of innocent men, women, and children. The full dimensions of the tragedy are not yet known; nor are all the factors which led up to it or all the circumstances which contributed to it.

It is that uncertainty which is so destructive. Without firm data, speculation has poisoned the environment and polluted our discussions of these tragic events. There is no evidence—no evidence—suggesting that Israeli troops participated directly in the slaughter. But there are questions—questions—about the extent of the foreknowledge which those troops may have had about the plans of the forces they permitted to enter the camps and there are questions about how promptly they responded once they became aware of what was taking place.

Mr. President, those questions need to be answered. They need to be answered clearly and decisively. I believe that our best hope of getting those answers would be for the Government of Israel to initiate a complete and independent investigation of the chain of events which led to the massacre. Such an investigation ought to examine the events which took place in the camps, as well as the rationale for the initial decision to enter West Beirut—including claims that armed PLO terrorists remained in the city in violation of the withdrawal agreement. The President of Israel has called for such an investigation but the Prime Minister—and now the Knesset—has declined to approve such a plan. They appear to prefer a proposal which would allow the Cabinet to conduct an inquiry. I do not believe that will be sufficient and I do not believe its conclusion will be as readily accepted. The events in those two camps have had immense human and international consequences. The people of the world, no less than the people of Lebanon and Israel, are entitled to a full and fair appraisal of what took place there. I do not believe they will settle for less.

Accordingly, I call on the Government of Israel to reconsider its decision and approve an open and independent investigation of these tragic events.●

AN ASSESSMENT OF REAGANOMICS

Mr. BAUCUS. Mr. President, all of us remember the joyful days of 1981 when President Reagan's economic program moved through Congress. The future was rosy. Reaganomics was going to get America moving again, rekindling our Nation's productivity and spurring a new era of prosperity.

But today, that hope has faded. Record unemployment together with persistently high interest rates has driven many parts of this Nation into the depths of a depression. For the victims of this plight, Reaganomics is another broken promise.

Recently, Bob Phillips, editor of the Western News in Libby, Mont., wrote a poignant and blunt assessment of Reaganomics—1 year later. This editorial captures the frustrations felt by the thousands who remain jobless in an economy that continues to sink lower and lower.

Unemployment in the Libby, Mont., and surrounding Lincoln County reached 36 percent earlier this year. This editorial, which I ask to have printed in the RECORD, reflects the lost hope felt by those who have to suffer day to day from the economic depression. I urge my colleagues to read and consider these views.

The editorial follows:

REAGANOMICS A FORMULA FOR GREED AND DISASTER

It has been evident to some people for a good while that, not only are Ronald Reagan and company's economic policies going to fail to restore economic prosperity to this country, they are quite likely to bring on the greatest disaster since the Great Depression.

Even worse, there are undoubtedly many within the administration who have realized this fact all along. Their silence on the matter can be attributed only to some deep, sinister motive among the wealthy and powerful of this country to use presidential power in order to increase their own wealth and power.

Paranoia! some will shout. But the facts speak for themselves. Reagan came into office with grandiloquence, speaking of the need to "make America great again." Then, inheriting a tax system that was already inherently unfair, one that overtaxed the middle class and granted privilege to wealthy individuals and corporations, the administration immediately moved to give even greater tax breaks to the rich.

At the same time—even in the midst of a deep and worsening recession—Reagan insisted on the largest peacetime military increase in history. Claiming that peace depended on military strength, be brought on some of the worst Soviet-American relations ever. Advocating an end to the nuclear arms race, he immediately increased funding for construction of those very weapons.

Reaganomics does not work. "Trickle down" economics does not work. Any theory that assumes that by giving the rich more money, it will help the middle and lower classes, is not only naive, it is downright corrupt.

Why is it that Americans can so easily be deceived by pompous and clever rhetoric? For more than two years now, we have been hearing about how high interest rates have finally succeeded in bringing down inflation, and how it is now necessary to lower interest rates to stimulate the economy.

All the while, the filthy rich of this country have been lending out money at insane interest, getting wealthier and wealthier while the average American has often been barely able to make a living. And still it goes on. And still many Americans are unaware of the tremendous, predatory greed that is at the heart of this nation's economic problems.

Perhaps all this is nothing new under the sun. Perhaps, as some will say, there has always been—and will always be—greed, government corruption, and a economic and military establishment that is unresponsive to public criticism. But surely the problem is worse today than ever before, because today the stakes are much higher than in the past.

The point is not that Ronald Reagan is a bumbler, or uninformed, or perhaps even somewhat dishonest. The point is that he is not really in charge of the government at all, but merely a figurehead mouthpiece for those behind the scenes. He is a tragic, sadly comical figure who finally realized his ambition of becoming president, only to preside over one of the most corrupt and destructive administrations in history.

And the American people put him in office because they thought he was going to clean up government. That is what is sad. The gullibility of the American people is what is sad.

And the question remains, amidst all the political accusations and election-year politicking, amidst a growing crisis that threatens the gravest of consequences—who really is in charge of America?

SEC GOVERNMENT-BUSINESS FORUM ON SMALL BUSINESS CAPITAL FORMATION

● Mr. NUNN. Mr. President, tomorrow in a Washington suburb, a not-very-well publicized, but nevertheless very

important conference is taking place. Beginning tomorrow, and for the next 3 days, approximately 200 individuals from around the Nation, representing business, government, and the professions will meet in the first annual Securities and Exchange Commission sponsored Government-Business Forum on Small Business Capital Formation.

This forum, which is being held pursuant to the requirements imposed by Congress through amendments to the securities laws in the "Small Business Investment Incentives Act of 1980," will focus on the current status of problems and programs relating to small business capital formation. The objective of the forum will be to identify securities, tax, credit, and other significant problems encountered by small business in their efforts to obtain, and retain, capital.

Mr. President, in January 1980, over 2,000 small business men and women came to Washington to participate in the first White House Conference on Small Business. That conference developed an agenda of 60 items that, in their opinion, would significantly improve the climate for the creation, growth, and development of the small business community. Among the concerns raised by the delegates was the extensive regulation and cost in attempting to raise capital through stock issues. In part in response to those concerns, and under the leadership of Senator NELSON, the former chairman of the Senate Small Business Committee, and the Senator from Maryland, Senator SARBANES, who was then the chairman of the Senate Banking Committee's Securities Subcommittee, the Senate expeditiously considered, and succeeded in enacting, the "Small Business Investment Incentives Act of 1980." Senator SARBANES remains active in the issues of small business, and in insuring that the legislation passed is fully implemented.

The centerpiece of the legislation contains amendments to the Investment Company Act of 1940 which recognizes the unique "business development company" functions of venture capital investment companies. The law puts these business development companies under different, and a more relaxed set of securities regulations more compatible with the nature of the venture capital industry. That law also directed the Securities and Exchange Commission to develop a uniform exemption from registration for small issuers, and where possible, to simplify the issuance of securities for smaller issuers.

While there have been some problems that will need to be clarified in the statute, the SEC has moved expeditiously to adopt "Regulation D" to implement the registration exemptions, and to promulgate the simplified reporting requirements for securities registration.

While Congress recognized that the amendments incorporated in this statute could be extremely useful to the entire small business community, a beneficial side bar to the development of the legislation was the close working relationship that developed between the SEC, the professions representing small businesses in need of capital, and the small business community. In an effort to capitalize on that relationship, Congress directed the SEC to conduct an annual forum between business and Government to continually assess the capital needs of the small business community. The forum which will be conducted over the next 3 days, under the leadership of SEC Commissioner Evans, and the SEC's Officer of Small Business Policy, will focus on four major issues:

First, access to investors, including reviewing incentives for institutional investors to invest in small businesses, and the impact of ERISA on investment opportunities;

Second, capital formation, including reducing cost associated with securities regulation and the desirability of a uniform Federal-State securities regulation;

Third, taxation, including changes in corporate tax rates, and the tax treatment of captial gains; and

Fourth, credit, including a review of the impact of Federal credit assistance program.

Mr. President, this is an important conference. Its recommendations could serve as a further agenda for action and should bolster the 1980 White House Conference on Small Business recommendations, and the recommendations made by the American Bar Association in its 1979 Small Business Securities Conference in Snowmass, Colo., and the 1980 Small Business Tax Conference in The Homestead, Va. As the ranking Democratic Member of the Senate Small Business Committee, I look forward to reviewing the results of this first SEC forum on the capital formation requirements on small business.●

PROGRAM

Mr. BAKER. Mr. President, on tomorrow the Senate will convene at 10 a.m. After the recognition of the two leaders under the standing order, the distinguished Senator from Florida (Mr. CHILES) will be recognized on special order for not to exceed 15 minutes.

It is anticipated that on tomorrow provision will be made for the transaction of routine morning business after the execution of the special order.

Sometime prior to the hour of 12 noon, Mr. President, the Senate will resume consideration of the unfinished business, at which time the Baucus second-degree amendment will be the pending question.

A cloture motion has been filed pursuant to the provisions of rule XXII, and by unanimous-consent the vote on cloture will occur at 12 noon without the intervention of a mandatory quorum as required by the rule.

It is hoped by the leadership on this side that we can complete this bill tomorrow. I realize that I have expressed that hope previously, as long as a week ago. But this time, Mr. President, I must urge Members to consider that we have to dispose of this matter, and it may be necessary to use heroic measures to do so.

So no one should be surprised, Mr. President, if we proceed to try to dispatch the business of the country and of the Senate during the course of tomorrow and complete the enactment of the debt limit bill.

RECESS UNTIL 10 A.M. TOMORROW

Mr. BAKER. Mr. President, if there is no other Senator seeking recognition, and I see none, I move, in accordance with the order just entered, that the Senate now stand in recess until the hour of 10 o'clock a.m. tomorrow morning.

The motion was agreed to; and at 4:44 p.m., the Senate recessed until Thursday, September 23, 1982, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate September 22, 1982:

THE JUDICIARY

George G. Fagg, of Iowa, to be U.S. circuit judge for the eighth circuit vice Roy L. Stephenson, retired.

CONFIRMATIONS

Executive nominations confirmed by the Senate September 22, 1982:

DEPARTMENT OF STATE

Fernando E. Rondon, of Virginia, a Career Member of the Senior Foreign Service, class of Counselor, now Ambassador Extraordinary and Plenipotentiary of the United States of America to the Democratic Republic of Madagascar, to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to the Federal and Islamic Republic of the Comoros.

Kenneth W. Dam, of Illinois, to be Deputy Secretary of State.

Henry Allen Holmes, of the District of Columbia, a Career Member of the Senior Foreign Service, class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Portugal.

Rozanne L. Ridgway, of the District of Columbia, a Career Member of the Senior Foreign Service, class of Career Minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the German Democratic Republic.

W. Allen Wallis, of New York, to be Under Secretary of State for Economic Affairs.

U.S. ARMS CONTROL AND DISARMAMENT AGENCY

William Robert Graham, of California, to be a Member of the General Advisory Committee of the U.S. Arms Control and Disarmament Agency.

Colin Spencer Grey, of New York, to be a Member of the General Advisory Committee of the U.S. Arms Control and Disarmament Agency.

Roland F. Herbst, of California, to be a Member of the General Advisory Committee of the U.S. Arms Control and Disarmament Agency.

Francis P. Hoeber, of Virginia, to be a Member of the General Advisory Committee of the U.S. Arms Control and Disarmament Agency.

Charles Burton Marshall, of Virginia, to be a Member of the General Advisory Committee of the U.S. Arms Control and Disarmament Agency.

Jaime Oaxaca, of California, to be a Member of the General Advisory Committee of the U.S. Arms Control and Disarmament Agency.

Shirley N. Pettis, of California, to be a Member of the General Advisory Committee of the U.S. Arms Control and Disarmament Agency.

John P. Roche, of Massachusetts, to be a Member of the General Advisory Committee of the U.S. Arms Control and Disarmament Agency.

Donald Rumsfeld, of Illinois, to be a Member of the General Advisory Committee of the U.S. Arms Control and Disarmament Agency.

Harriet Fast Scott, of Virginia, to be a Member of the General Advisory Committee of the U.S. Arms Control and Disarmament Agency.

Laurence Hirsch Silberman, of California, to be a Member of the General Advisory Committee of the U.S. Arms Control and Disarmament Agency.

Elmo Russell Zumwalt, Jr., of Virginia, to be a Member of the General Advisory Committee of the U.S. Arms Control and Disarmament Agency.

Eli S. Jacobs, of California, to be a Member of the General Advisory Committee of the U.S. Arms Control and Disarmament Agency.

Robert B. Hotz, of Maryland, to be a Member of the General Advisory Committee of the U.S. Arms Control and Disarmament Agency.

U.S. ADVISORY COMMISSION ON PUBLIC DIPLOMACY

Edwin J. Feulner, Jr., of Virginia, to be a Member of the U.S. Advisory Commission on Public Diplomacy for a term expiring July 1, 1985.

U.S. INFORMATION AGENCY

W. Scott Thompson, of Massachusetts, to be an Associate Director of the U.S. Information Agency.

UNITED NATIONS

The following-named persons to be Representatives and Alternate Representatives of the United States of America to the 37th Session of the General Assembly of the United Nations:

Representatives:

Kenneth L. Adelman, of Virginia.

J. Bennett Johnston, U.S. Senator from the State of Louisiana.

Robert W. Kasten, Jr., U.S. Senator from the State of Wisconsin.

Jeane J. Kirkpatrick, of Maryland.

John Davis Lodge, of Connecticut.

Alternate Representatives:

Charles M. Lichenstein, of the District of Columbia.

Gordon C. Luce, of California.

Hernan Padilla, of Puerto Rico.

William Courtney Sherman, of Virginia.

Jose S. Sorzano, of Virginia.

INTERNATIONAL ATOMIC ENERGY AGENCY

The following-named persons to be the Representative and Alternate Representatives of the United States of America to the 26th Session of the General Conference of the International Atomic Energy Agency:

Representative:

W. Kenneth Davis, of California.

Alternate Representatives:

Richard T. Kennedy, of the District of Columbia.

Roger Kirk, of the District of Columbia.

Thomas Morgan Roberts, of the District of Columbia.

The above nominations were approved subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

THE JUDICIARY

Edward Rafeedie, of California, to be U.S. district judge for the central district of California.

David D. Dowd, Jr., of Ohio, to be U.S. district judge for the northern district of Ohio.

COPYRIGHT ROYALTY TRIBUNAL

Edward W. Ray, of California, to be a Commissioner of the Copyright Royalty Tribunal for a term of 7 years from September 27, 1982.

FOREIGN SERVICE

Foreign Service nominations beginning Herbert A. Cochran, and ending Michael J. Mercurio, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on September 8, 1982.

Foreign Service nominations beginning Michael Hayden Armacost, and ending E. William Tatge, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on September 13, 1982.

Foreign Service nominations beginning Robert L. Barry, and ending Emmett N. Wilson, Jr., which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on September 17, 1982.