

## SENATE—Wednesday, March 10, 1982

(Legislative day of Monday, February 22, 1982)

The Senate met at 10:30 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, LL.D., D.D., offered the following prayer:

Let us pray.

Father in Heaven, the hour of decision is always a lonely one and often agonizing. When the facts are in, the debate completed, and discussion exhausted, each is left alone with his conscience to choose his option. Many seek to avoid such a moment, leadership accepts the responsibility and declares its position.

Thank Thee Father, for men and women who accept such onerous duty which is the burden of leadership. Thank Thee that they may freely look to the Holy Spirit, the Divine Comforter, who counsels and illumines from within. May He make His presence known to this body and guide the Senators in the way of God, the way of integrity, honor, and justice. We ask this in the name of the One who is Wonderful Counsellor. Amen.

## RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The acting majority leader is recognized.

## THE JOURNAL

Mr. STEVENS. 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.

## SENATOR HARRISON A. WILLIAMS, JR.

Mr. STEVENS. Mr. President, I want to take a few minutes of the leader's time to reply to the statements made by Senator WILLIAMS on television last evening indicating that he thinks partisanship is creeping into the consideration of Senate Resolution 204, a resolution to expel Senator HARRISON A. WILLIAMS, JR., from the Senate.

When this matter first came to public attention, I was the acting minority leader. On February 5, 1980, I made a statement which referred to an editorial in the Washington Post regarding Abscam and reminded Members of Congress that even Members of Congress deserve to be presumed innocent until proven guilty.

We have done everything we can from the point of view of the leadership on this side to insure that the comments made by Members of the Senate from either side of the aisle concerning the Williams matter would be made in a manner required by our rules. We have urged every Member of the Senate to refrain from forming premature judgments when making public comments on this matter.

On September 24, 1981, the distinguished majority leader sent a letter to the Republican Senators, with copies sent to the minority leader, Senator ROBERT C. BYRD and to Senator WILLIAMS and his attorney, stating precisely the majority leader's hope that Senators not form premature judgments on this matter.

Mr. President, I ask unanimous consent that the letter that was sent to the Members of the Senate by the majority leader be printed in the RECORD at this point so that the record is clear as to the position we have taken.

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

SEPTEMBER 24, 1981.

Hon. TED STEVENS,  
U.S. Senate,  
Washington, D.C.

DEAR TED: As I indicated in a September 14 floor statement, it is the intention of the Leadership to recommend that the Senate proceed in early November to consider S. Res. 204, a resolution expelling Senator Harrison A. Williams, Jr. from the Senate.

I urge you to become personally familiar with the evidence and arguments related to this resolution. At such time as the measure is scheduled, the Senate will defer other business so that the full attention of Members can be devoted to it, and the Senate can fully and fairly meet its constitutional responsibilities. As soon as a precise date can be established to commence this proceeding, Senators will be notified so that their schedules can be appropriately adjusted.

The documentary and videotape materials pertinent to this measure are voluminous, and ample time has been allowed for Members to review them. In the meanwhile, I hope that in fairness to Senator Williams, Senators will refrain from forming premature judgments or making public comments on this matter.

Sincerely,

HOWARD H. BAKER, JR.

Mr. STEVENS. Repeatedly, the majority leader has stated at our policy conferences that we would not take a leadership position on the Williams resolution. He has repeatedly urged, as I have, that each Member of the Senate not express public opinions or make premature judgments until we had the opportunity to listen to the presentation of Senator WILLIAMS' position on the floor.

In every instance, the leadership has made an effort to accommodate requests to postpone consideration of the resolution. I remember when the circumstances would have been different politically, as we stated on the floor yesterday, the suggestion made last year that there ought to be a postponement of this matter was rejected by many. The postponements that have taken place, every single one, have been at the specific request of Senator WILLIAMS. No action whatsoever has been taken by the leadership on either side to seek partisan advantage on this matter.

Both leaders have conducted themselves, I believe, in an exemplary manner.

I might say that Senator CRANSTON and I have tried to mirror that in our public statements. There is no partisanship on this resolution, and I think it is unfortunate the suggestion has been made that there has been any in the past.

I urge Members of the Senate to realize that there can be no partisan advantage accruing to any Member of the Senate from injecting partisanship into this matter by virtue of the duty that is imposed upon us under our rules and under the Constitution.

## ORDER DESIGNATING A PERIOD FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. STEVENS. Mr. President, I ask unanimous consent that following the time allocated to the Senators under special orders, there be a period for the transaction of routine morning business not to extend beyond 12:30, with Senators being permitted to speak for not more than 10 minutes.

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

## ORDER OF PROCEDURE

Mr. STEVENS. Mr. President, it is our intention to yield 7 minutes of the leader's time to the Senator from Alabama, who has a special order this morning. I ask unanimous consent that the special order time reserved for the Senator from Tennessee (Mr. BAKER) be transferred to the control of the Senator from Alabama (Mr. DENTON).

The PRESIDING OFFICER. Without objection, it is ordered.

Mr. STEVENS. Mr. President, I reserve the remainder of our time at this point and inquire of the acting minority leader if he wishes to use his time.

#### RECOGNITION OF THE ACTING MINORITY LEADER

The PRESIDING OFFICER. The acting minority leader is recognized.

Mr. PROXMIRE. Mr. President, I say to the distinguished majority whip that I will use only a couple of minutes of the minority leader's time and then yield the floor so the Senator from Alabama can proceed.

#### RELIGIOUS PERSECUTION IN ETHIOPIA

Mr. PROXMIRE. Mr. President, consider the plight of approximately 25,000 Falashas in Ethiopia.

According to a group of 12 American and Canadian tourists who visited Ethiopia last fall, all Falasha villages in Gendar Province, where most Falashas live, have been sealed off by the military governor.

Representatives of both the 1,300 Israeli Falashas and of an American support committee state that many Falasha religious leaders have been arrested and tortured in Gendar Province—arrested and tortured, Mr. President. Figures conflict as to the number of Falashas actually killed.

In order to call attention to the Falashas' persecution, Israeli supporters are attempting to form a public council, structured after the Public Council for Soviet Jewry.

Describing the treatment of the Falashas as genocidal, Israeli Knesset member Shulamit Aloni contends that the United Nations should condemn the Ethiopian Government for suppressing the Falashas' basic human rights.

Mr. President, a treaty has been pending before the Senate since 1949 which, if ratified, would reflect our high regard for the most basic human right of all—the right to be protected from cold-blooded extermination.

This treaty has been rigorously analyzed during five sets of hearings held over the past 30 years. Throughout the hearings, the purpose of the treaty has remained quite clear. The purpose of the Genocide Treaty was, and still is, to insure that, within the limits of their own constitutions, nations will attempt to prevent and punish those who attempt the destruction of a national, ethnical, racial, or religious group.

If the United States were to add its approval to that of the 85 nations who already are parties to the Genocide Treaty—which includes every other major country in the world—we would have far more leverage in cases where genocide is alleged, as in the case of the Falashas.

Mr. President, I yield the floor.

Mr. STEVENS. At this point, Mr. President, I yield the remainder of the leader's time, as I have already indicated, and the time of the Senator

from Tennessee to the Senator from Alabama.

#### RECOGNITION OF SENATOR DENTON

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

Mr. DENTON. I thank the leadership.

Mr. President, I believe I have 37 minutes. I do not intend to use that much time.

#### THE PRESIDENT'S BUDGET

Mr. DENTON. Mr. President, at the outset of our budget process for fiscal year 1983, I wish to express my enthusiastic support for the President's budget requests and for his program for reordering Federal and State responsibilities.

In my view, this Nation is confronting a point of no return, for we must now choose the correct course to take us away from mortally dangerous policies toward our society, our economy, and our security.

To reestablish and preserve the degree of well-being and security essential to our survival, we must strive to be objective and as bipartisan as possible as we consider the policy alternatives now before us. In particular, we must give the most deliberate and constructive consideration to the administration's proposals before we conclude they will not work. We vitally need a general sense of unity as we undertake that process. I believe we are, as a body, capable of measuring up to that need, but as yet we have barely begun to do so.

In social welfare policies we, and perhaps even more the members of our committee and subcommittee staffs, still tend to think in terms of the ruts we have been in for some 20 years. Those ruts were worn deep by people mostly well intended, but those ruts cannot be the parameters within which we now operate.

Many of the committees of the Senate have been unable to agree on requested budget figures for the programs under their cognizance. In one of my own subcommittees, "business as usual" at reconciliation and authorization levels would have meant a request \$2.1 billion above the President's request, and I was urged to accept the higher figure.

But I am only one of 100 Senators. What will happen if each of those other 99 asks for the same \$2.1 billion increase? What then will be our deficit? Where then will the citizens of this land seek for responsible government?

Mr. President, we cannot go on spending this Nation into bankruptcy, a condition in which it will be able to help no one.

We must find a way to stop our suicidal spending habits. We need dramatically new approaches that will preserve Federal involvement in responding to the needy but also permit the Nation's private enterprise sector to live, breathe and flourish.

It is that sector that is the only natural, enduring source of production, services, and jobs. It is that sector which can and will flourish not only to its own profit but flourish so as to increase total revenues from taxes, so as to increase employment not only of the totally qualified but also of those somehow lacking in qualifications or abilities who would otherwise require Government's expenditure on welfare and support programs.

Over several decades, free enterprise has become over-regulated and over-taxed. We have virtually outlawed the work ethic, not just for the working man but also for executives and entrepreneurs, by applying over-restrictive disincentives to the risk taking that is required for modernization, expansion, capital improvement, and the generation of invention and innovation.

The United States needs, on the whole, to reindustrialize, for efficiency and for international competitiveness. Our heavy industrial base was built decades before those of nations like West Germany and Japan, whom we helped to build the modern industry that now gives them advantage.

President Reagan has seen the needs and has proposed programs that are, overall, correct in their orientation. But we in Congress cut less spending than he asked, we gave more tax breaks than he asked, the economy moved in unpredictable and uncontrollable ways, preset entitlements skyrocketed, yet we now point to "his" deficit! We are too prone to propose our own programs without first trying to find a way to make his program work and to use our own initiative to build on it and develop it.

But many, expecting a revolutionary quick fix for the economic ills of our country, appear impatient with the careful evolutionary character of the President's program. Many oppose his effort to increase, over a period of time, our Federal Government's concentration on the problems of national defense, describing it as an abdication of Federal responsibility for social welfare. This opposition reflects an insensitivity to the real needs of our own people and a propensity to ignore the constitutionally mandated distribution of powers.

Let us, briefly, review the development of Ronald Reagan's lifelong perspective on these matters. At the time of the Great Depression, Reagan voted four times for Franklin Delano Roosevelt, who saw that free enterprise had become too free, too irresponsible, too negligent of compassion. Wall Street

was a gamble, not a business; labor was exploited; banks were unreliable repositories for the hard-earned dollars of our people.

Reagan was then a liberal, as I personally believe he should have been, and he supported the adjustments by which Government injected more compassion into the rough and tumble that at the time characterized our free enterprise economy.

This process of reform continued in a generally suitable way to correct labor's plight, to bring blacks out of voting and educational and sociological discrimination. Women began to receive overdue attention to their rights. The needs of the poor, the elderly, and the disadvantaged were more adequately addressed. Even so, Mr. President, there remains room for more improvement in many of these areas.

But, in general, in addressing these and other needs, the ship of state has sailed into dangerous waters and we must now correct her course.

Now President Reagan, in a different era, correctly perceives the newly appropriate needs. He sees the need to provide some relative freedom for free enterprise and to sober up our expectations in a reappraisal of some extremely dangerous habits into which we have fallen.

President Reagan's program is a new beginning. It is an overdue effort to return to the indispensably precious principles established by our Founding Fathers. He proposes a steering correction to bring us once more onto the course laid down by the letter and intent of the Constitution that has served us so well.

The preamble to the Constitution charges us in the Federal Government to "establish Justice, insure domestic Tranquility, Provide for the common defense, Promote the general Welfare, and secure the Blessings of Liberty \* \* \*". Please note that this does not require us to "provide" for the general welfare. Nor does it allow us simply to "promote" the common defense.

The 10th amendment specifies that—

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

That, Mr. President, is the concept of federalism.

I believe that those who accuse the administration and the Congress of an inordinate concentration on the reconstruction of our common defense defy both the lessons of history and the current pressing considerations of prudence and logic.

Throughout the great part of our national history, spending for the common defense has been the largest component of the Federal budget. Only in fiscal year 1971 did that pattern change, and change to the point

where today we spend twice as much for social programs as we do for defense, reversing the ratio that existed when President Kennedy was our Chief Executive.

Prudence and logic tell us that our survival as individuals and the continuation of our way of life depend on national security. Put succinctly, the single indispensable social service that a government must provide for its citizens is national security; the capacity to preserve the Nation, its values, and its way of life.

Since World War II, more than half the population of the world has fallen under Communist control. Some may think that I am inordinately concerned by that fact, but let me mention its consequences for our economy, for our social concerns, and for the social programs that the President proposes to reduce.

We are all justifiably concerned about our economy, but those who think they can find solutions by cutting defense spending do not understand, apparently, that our military strength, and how it is perceived by other nations, directly affects our economy and has been doing so for the last 15 years or more.

When we are seen as strong, and determined in our strength, our allies are eager to trade with us. We find ready access to resources and markets throughout the world. Our adversaries find little opportunity to expand their sphere of influence and control. Because economic relations with us are important to other nations, we have economic leverage that is effective and can take the place of other, more drastic, measures.

When we are seen as weak, as is now the case, our allies look elsewhere for economic benefit and for strategic leadership. Our European friends orient pipelines, and pipedreams, to the East. We are unable to muster support for opposition to and sanctions against the adventurist policies of our adversaries, their surrogates, and their puppets.

Whole blocks of the world are being denied to us, as is the case in Indochina, Afghanistan, the Horn of Africa, and even parts of Central America. When we lose access to the resources and markets of those countries, we and they lose the mutual benefits and profits of our trade. One way to illustrate the meaning of that loss is to state that we lose some of our capacity to care for our poor and unfortunate, while they lose the capacity to develop their economies so as to better the lot of their people.

One case in point is the prospect of oil in the South China Sea off the coast of Vietnam. There are thousands of other examples, many behind us and more in front of us, that have drastic effects on our economy.

I ask, Mr. President, is it compassion that is served by not doing what we can and should to slow down the communization of the world? I am referring to the possession of a realistic, bipartisan foreign policy; the possession of adequate military power and of the will to use it properly when justified; and the confidence in our constancy and ability that would permit allies and friends to use their own military power in our stead when necessary.

Mr. President, we cannot solve our budgetary and economic problems by ill-advised and shortsighted cuts in our defense spending. And we must not be blinded to the imperatives of national defense by the fear that we may have to defend ourselves. Our interests and those of our allies demand that we stand firm.

We dare not neglect our common defense now. Liberals as well as conservatives agree that the Soviet Union has acquired the capability, in a first strike, to destroy most of our people and most of our ability to strike back. We cannot rely for our continued existence upon the presumed good will of those who are avowedly committed to our destruction. We must be strong enough so that we can ourselves prevent, deter, that very real threat. Only then can we truly say that we have provided for the common defense.

We all agree, I believe, on the necessity to revise a pattern of Federal spending that has, in a relatively short time, given us a massive Federal deficit that grows each year. But each of us appears to believe that the cuts should come from someone else's program. And, if we believe what we read in the papers, each Member of Congress has a personal plan for revenue and expenditure that differs not only from that of the President but also from that of every other Member of the Congress.

I stand with the President. This does not mean that I do not care about the real social needs of our Nation, but if Government expands to the point at which it destroys the economy, it is the poor who will suffer most of all and suffer first.

We must confront the stark and urgent need to correct our Federal Government's recent unrealistic spending habit. We must make cuts in some good but not essential social programs, or we will surely perish. We must, at the same time, insure that our revenue collection function is properly and fairly administered.

I do not claim special wisdom or enlightenment about the current problems of high interest rates, about the meaning of a Federal deficit of this or that size or, indeed, of how one or another expert calculates what the deficit will be. The complexity of our economic problems is well illustrated, if by nothing else, by the fact that the

experts, the economists, are able to agree on little other than that there is a problem.

But I do understand that the programs we have tried to implement over the past years have not been effective. Our decades-old fight against poverty has left that economic disease virtually unchanged.

During the last two decades, our country's attempt to turn poverty into plenty has produced a multibillion dollar welfare system. Between 1968 and 1979, welfare outlays more than quintupled. In 1979 alone, Federal, State, and local expenditures for just the 64 Federal categorical grant programs based on need totaled \$89.9 billion.

Some maintain that, because the proportion of our people classified as poor has dropped from 22 percent in 1959 to 12 percent today, our war against poverty has been successful. In the absence, however, of Government assistance provided in a quantity many times greater than in 1959, the incidence of poverty would be almost as high today as it was then.

Mr. President, poverty programs have succeeded in giving poor people a handout, but they have not given them a "hand-up" to earn their own living and to keep themselves out of poverty. We have been treating the symptoms, not the disease.

Our so-called welfare system, including programs such as AFDC, food stamps, medicaid, and subsidized housing, serves people reasonably well during temporary hardship and provides an important floor for protection of the aged, the infirm, and the disabled. But it also creates a kind of bondage for some recipients, spawning new problems perhaps more harmful than those it is meant to solve.

Our tradition and our heritage do teach us to "love thy neighbor as thyself." We try to help those who are unfortunate and deprived. But if Government tries too much to be the Good Samaritan, it can easily become big brother.

If we love our neighbor more than we love ourselves, if we subsidize his idleness, if we underwrite his "coping-out," we deprive him of the opportunity to respect himself. We also strip him of his initiative and of the motivation for self-improvement. We thus guarantee an increasing number of poverty stricken people at sky-rocketing Government and social cost. If legislators knowingly use demagoguery and pork-barrel politics to provide to the underserving so as to win votes from a growing constituency of dependency, I believe they seriously betray their trust and the national interest.

Mr. President, the previous administration attempted to address the growing problem by "more of the same". The result was the enactment of the

largest tax increases in American history. The higher levels of taxation strangled the economy. Every job that was lost because of that policy, every potential job that was never created, added to the unemployment and welfare rolls. The policy increased the cost of the so-called safety net, expanded Government expenditures, reduced Government revenues, and brought about larger and larger deficits.

Throwing money at the problem does not solve it. As Dr. Thomas Sowell of Stanford University has pointed out:

A few years ago, someone calculated how much it would cost to lift every man, woman and child in America out of poverty by simply giving them money. It was one-third of what was being spent on poverty programs.

Each of us has his own horror story of a good program gone berserk, generally about a program dear to the heart of someone else. Each of these well-intentioned programs has proven to be but one more paving block on the road to economic hell.

And all of this hardly considers our enormous entitlements and the new ogre of "off-budget credit activity."

Mr. President, when it has been so compellingly demonstrated that the remedies of the past do not work, why do we continue to try them? It is as thoughtless for us to attempt to solve our current economic difficulties by old remedies as it would be for us to base our national defense on the biplane, the horse cavalry, and Old Ironsides.

By contrast, President Reagan seeks to address the basic economic problems of our country, to promote the general welfare, by remaining faithful to the principles of our free enterprise system. He seeks to set the stage for business to prosper by implementing an enlightened fiscal policy and by relaxing the grip of unwise, unnecessary regulation. Jobs are created by business, not by the Government. If our economy is to prosper, if our people are to have work, it is business that must provide the jobs.

I emphasize that budget cuts, reductions in specific programs, are not at all the same thing as cuts in the benefits the truly needy actually receive. The President is determined, as I am, to prevent people, both individuals and groups, from falling through the cracks when we try, as we must, to reduce Government spending and change the way our Nation responds to the needs of those who do indeed require our help.

If we are serious about helping the poor, what are we doing, individually and collectively, to help find a better way to do so, to help the President's generally valid program become a realistic detailed plan, to work with the Jaycees and civic groups, with the pri-

vate sector, with churches, with other voluntary groups?

I often characterize the essence of our country, of our way of life, as "free enterprise times compassion." By "free enterprise" I mean not just entrepreneurial economy, but also the freedom to use personal choice in religion, to express one's views, to select and enjoy leisure pursuits, to choose one's vocation. By "compassion" I mean the Judeo-Christian and American tradition of preserving, respecting, and developing the individual.

In our system, rooted in and sustained by the ancient and established principles of free enterprise and compassion, the proper function of Government has always been seen as that of moderating between the contending demands of the two principles.

The Founding Fathers recognized, in one of those stunning instances of brilliant insight that occur so rarely in the long course of human development, that government should be a minimum, not a maximum, function. It is claimed that Thomas Jefferson first said, "That government is best which governs least." That is the fundamental principle underlying our Constitution.

Properly, government must do the minimum that is needed to insure that the dynamic of free enterprise does not trample compassion for the individual, and to insure that a false definition of compassion for individuals does not so constrain enterprise that it cannot operate freely.

President Reagan, in his state of the Union address, quoted a Democratic Governor who said, "The National Government should be worrying about arms control, not potholes." The Federal Government must seek to respond to the letter and spirit of federalism, not just a "new" federalism but the federalism that is at the heart of our constitutional system. My own State's Governor, a Democrat, says, "New Federalism is a call to give States the responsibility they should have with the idea they spend tax money better and more efficiently." I suspect that the Governors of the other States say about the same thing.

As the Governors are aware, the President seeks not an abdication of responsibility but a long overdue recognition and use of the increased ability, sensitivity, and sophistication of State governments in dealing with human needs. The President proposes, and most Governors accept, a continued essential Federal role for oversight of minimum welfare standards, civil rights, and pass through of resources to local governments.

Mr. President, the key question we confront is whether the Congress will even approach the President's program. Too many Members of the Congress ask more money than the Presi-

dent requested to fund the programs in which they have a special interest, programs all certainly well intentioned. They criticize the President for spending too much, for taxing too little, for a deficit that is too big. The President is roundly criticized for his efforts to try something different from what has just failed, yet his approach is the one most soundly rooted in the fundamental nature of our system.

And, Mr. President, inflation has slowed to the lowest rate in many years. Our unemployment rate, excruciatingly high, has nonetheless stabilized and is not now increasing. Interest rates have dropped. The experts now perceive that we are probably bottoming out and that things will soon get better. Even now, even with our current difficulties, the interest rates and the inflation that ravage business, the consumer, the elderly and those on fixed incomes, are far, far better than those left to us by the previous administration.

Yes, we are in a painful recession, but the President's program is not an artificial fix or a temporary bandaid. It is the solution. Mr. President, I implore my colleagues and all Americans to give that solution a chance to work. The President has said he wants to work with us, that he is firmly committed to his overall program but flexible on the specifics.

Instead of criticizing, instead of appearing to panic in the face of dire predictions of this or that awful consequence, instead of presenting the unseemly spectacle of flight in disarray before a parade of horrors, we should be rallying to the President's call to deal directly with the hard issues. We should be asking ourselves where else we can reduce spending, cut bureaucracy, increase efficiency, promote equity, respond to the interests of those who truly need our help, encourage business, counsel patience, and return responsibilities to our States and localities.

We in the Congress must find ways to motivate and stimulate the private sector to involve itself in our social problems, to allow business and the traditional voluntarism of our citizens to assume an increasing role in supporting individuals and enabling them to become productive members of our society. Private business and voluntary associations of our citizens should assume the active part in, and the responsibility for, much of what Government, in an excess of zeal, has tried inadequately and expensively to do. Congress must exercise its own initiative to bring about that result. That is what the President wants us to do.

We must fulfill our inescapable responsibility to provide for the common defense and to promote the general welfare.

I support our President. This is not a partisan position but one based on the urgent need of our Nation and the plight of its people. A majority of our people voted for his programs. For the sake of all our people, I urge my colleagues to support him by adhering to his budget request, by exercising patience, and by allowing the time required for his program to work.

#### RECOGNITION OF SENATOR PRYOR

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

#### FUN IN SUN

Mr. PRYOR. Mr. President, one day last week, a constituent of mine—who I suspect is an irate taxpayer—left a copy of an announcement in my office in Arkansas. It deals with something called a "Seminar for New Managers," sponsored by the Southwest Region Training Center of the Office of Personnel Management. The seminar is scheduled for May 9–May 21, 1982, at the Rolling Hills Golf Club in Fort Lauderdale, Fla. This is the third such seminar offered in fiscal year 1982. I ask unanimous consent that a copy of this notice from OPM be printed in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered. (See exhibit 1.)

Mr. PRYOR. Mr. President, a member of my staff called the person listed as a contact for further information. He was informed that this person was not in the Dallas, Tex. regional office of OPM—because he was attending a similar conference for new managers being held at that time. This one was at the Sheraton Orlando International Airport Inn, a hotel located in Orlando, Fla., about 20 minutes from Disney World.

The seminar now being held in Orlando began on February 28 and runs through March 12. It is a residential seminar for new managers with a cost to the taxpayer of \$1,350 per person. This covers room and board, per diem expenses, tuition and classroom material. Any travel costs incurred by the participants are additional, but they are also, of course, paid by the U.S. Government and the taxpayer. The seminar now under way in Orlando is being attended by 30 Government employees from a number of agencies: The Departments of Army, Navy, and Air Force, the Department of Health and Human Resources, Treasury, the Panama Canal Commission, the Bureau of Indian Affairs, the Bureau of Prisons, and the Department of Agriculture. Employees have traveled to Orlando from Maryland, Virginia,

Washington, D.C., Missouri, Panama, Wyoming, Colorado, New Mexico, and Texas.

Mr. President, how widespread is this practice of flying Government employees to faraway luxury commercial resorts for training? During fiscal year 1981, at least five such 2-week residential sessions were held by the southwest region—three at the Bandera Guest Ranch in Bandera, Tex.—about 45 miles west of San Antonio. Each session was attended by about 40 participants. Two more sessions were held at the Rolling Hills Golf Club in Fort Lauderdale, one session attended by 18 and the other by 38 participants.

How much does one of these sessions cost the taxpayer, Mr. President? The cost of the contract for training at Rolling Hills was \$25,429—plus air fare for each person, plus the cost of paying staff to conduct the training, and in some instances the use of contractors to do the training at about \$180 or more per day.

Contracts signed with commercial facilities for other training sessions held by the southwest region have been as high as \$35,000. There are also the hidden costs in service reductions resulting from the absence of these managers from their offices during the session.

The southwest region has also had an active schedule for fiscal year 1982 with five more training seminars scheduled. One was held at the Bandera Guest Ranch, Bandera, Tex. One is taking place now at the Sheraton Orlando, as I mentioned, at a cost not to exceed \$24,555. Two more are to be held at the Rolling Hills Golf Club in Fort Lauderdale—one at a cost not to exceed \$34,360.

How much is the Government spending on training each year? The southwest region—which I assume to be representative of the 10 OPM regions—conducted a total of 900 training sessions during fiscal year 1981. These sessions ranged in time from part of 1 day to 2 weeks. Many sessions were held at Government training facilities, but most others were held at resorts similar to those I have mentioned. The total cost of such training activities was approximately \$2.4 million in fiscal year 1981. The total Governmentwide cost of training by all agencies, according to one informal estimate, was in excess of \$1 billion in fiscal year 1981.

Why does the Government use outside facilities, when they have their own residential quarters? I was told that the Government only decides to go to a commercial facility to conduct its training when there are no comparable Government facilities available. When they decide to use a commercial site they must go through a competitive bidding process. They first set certain criteria such as costs, quality,

ability to schedule, accommodations, location, transportation, and availability. Then they issue a request for proposals, but in the southwest region—since publishing the request for proposal in the Commerce Business Daily hardly ever yields any results—they supplemented it with a request for solicitations from 19 handpicked resort facilities. They received bids for the February seminar in Orlando, for example, from the following: Rolling Hills Golf Club, Fort Lauderdale; the Sheraton in Orlando; the Hilton at Palm Beach, Fla.; the Holiday Inn at Hilton Head, S.C.; and the Holiday Inn at Jekyll Island, Ga. The price of use of the facility ranged from a high of \$49,257 to a low of \$26,796. For the May conference, which is about to take place, to be held at the Rolling Hills Golf Club, they received bids from the same five bidders, with Rolling Hills receiving the award at a bid of \$24,498.

Mr. President, I am very concerned with the escalating cost of Government, as all of us are. At this time of fiscal austerity, every penny of Government expenditures must be spent in the wisest and most efficient possible manner. I do not question the view that some Government training is vital, but I do question the need to conduct training outside Government facilities—and at country clubs in far-away and exotic resorts.

I also question, Mr. President, the need for such training at this time when a great number of Federal employees are being RIF'd and furloughed. I question this when agency services to the public are being decreased at the same time. In the southwest region alone, the Office of Personnel Management recently announced that it will close one branch office, and a number of Civil Service Information Centers are being reduced or eliminated. OPM just last week announced a reduction in force of over 700 of its own employees, while continuing these very elaborate training sessions at the most exotic resorts across America.

Mr. President, I question the wisdom of these expenditures, and I request that an investigation of training be conducted immediately by the General Accounting Office.

I am asking the General Accounting Office, in particular, to look into the training activities of the Southwest region and then, of course, of the other nine regions of OPM.

I also call upon the Director of the Office of Personnel Management to reevaluate such training costs and consider alternatives that would mean retention of services and the savings of millions and millions of tax dollars.

## EXHIBIT 1

U.S. OFFICE OF PERSONNEL  
MANAGEMENT,  
SOUTHWEST REGION LETTER,  
Dallas, Tex., February 17, 1982.

To: Heads of Activities, Administrative and Personnel Officers

SEMINAR FOR NEW MANAGERS—May 9-21,  
1982

The Southwest Region Training Center will conduct its third fiscal year 1982 session of the "Seminar for New Managers" on May 9 through 21, 1982, at the Rolling Hills Golf Club, Fort Lauderdale, Fla.

The "Seminar for New Managers" is the Office of Personnel Management's two-week residential seminar at the base of our executive and management training core curriculum. Designed for managers who have recently assumed managerial responsibilities, this intensive training experience has been validated as a significant first step of our management development effort.

If you have additional managers who need this training, I urge you to contact our Regional Training Center for the purpose of purchasing additional spaces for our May session.

For further information, please contact Larry Embrey at 214/767-8241 or FTS: 729-8241.

EDWARD VELA, Jr.,  
Regional Director.

## ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. There will now be a brief period for the transaction of routine morning business.

## OPENING THE JAPANESE MARKET FOR U.S. MEAT

Mr. BENTSEN. Mr. President, I have spent a great deal of time on the floor of the Senate in recent weeks outlining the problems and opportunities facing U.S. agriculture in the area of international trade. I have pointed out the fact that in many cases American farmers and ranchers are getting the short end of the stick in international trade. We are being locked out of markets overseas by unfair trade practices, but the executive branch historically has not been willing to press the case for American agriculture by aggressively using the legal remedies available to us under the international trade agreements.

As the ranking Democrat on the International Trade Subcommittee and as cochairman of the Senate Export Caucus, I have been working to change our international trade policy and to encourage our representatives to stand up for our rights under international law.

Nowhere is such an aggressive policy more needed than in our trade relations with Japan. Japan enjoys an incredible \$18 billion trade surplus with the United States, yet the Japanese have continually thwarted attempts by U.S. cattlemen and other industries to sell their products in that lucrative market.

Mr. President, last week I met with members of the board of directors of the U.S. Meat Export Federation for a very timely discussion of the international trade problems facing U.S. meat exporters. The chairman of the USMEF is Mr. George Feaster, a cattle feeder from Amarillo, Tex., and he has worked hard and effectively to promote U.S. meat exports. His efforts have been strongly supported by Texas and national producer groups and by the meat industry.

This meeting was particularly timely because of the fact that an important Japanese trade delegation was in town at that time. A major part of the message that Mr. Feaster and the other members of the USMEF board brought with them was the continuing problems that the cattle industry faces in trying to penetrate the thicket of nontariff trade barriers separating them from Japanese consumers.

Japanese consumers have proven to be eager to buy high-quality U.S. beef, and American cattle ranchers are most anxious to sell their beef, particularly in these times of lagging domestic demand and low prices. A breakthrough in access to the Japanese market would give the U.S. cattleman an important new market for his product.

It is the hope of the Senator from Texas that Mr. Esaki and the other members of this Japanese delegation will take back with them a message of deep concern on the part of the United States.

We are deeply concerned about the current trade deficit of some \$18 billion which we have with Japan. We are even more concerned with the unfair and unlawful methods which the Government of Japan has used to achieve this tremendous trade advantage, and we are determined that we must achieve fair trade, not free trade which is free only to the Japanese who wish to sell in this country but not to the American company which wishes to sell in Japan.

I have made a series of speeches on the Senate floor outlining the importance of international trade to the American farmer, the problems which we are facing with violations of the international trade agreements, and the remedies which are available to this country for these problems. At my request, hearings on agricultural trade barriers were held in the International Trade Subcommittee, on which I am the ranking Democrat, to explore ways to combat trade barriers to U.S. agriculture exports.

The situation which we face with Japan is a classic example of the problems, and the potential solutions, which are to be found in international trade in agricultural products, and indeed in other products as well.

## JAPANESE IMPORT QUOTAS

Japan maintains a system of import quotas on 22 categories of agricultural products. This system of import quotas is a clear and flagrant violation of the General Agreement on Trade and Tariffs, the GATT. In addition, U.S. agricultural products are also faced with a wide range of nontariff trade barriers which limit trade and add to the huge trade deficit which we have with Japan.

The potential benefits to hard-pressed U.S. farmers and ranchers of doing away with these trade barriers are obvious. The potential market for U.S. beef alone is estimated by the U.S. Department of Agriculture to be at least 200,000 metric tons within 5 years after liberalization.

The USMEF and its members have had a lot of experience in trying to penetrate the Japanese market. I worked closely with the USMEF and its members, many of whom are from my home State of Texas, during the multilateral trade negotiations which culminated in the Trade Act of 1979. At that time we won what the Japanese said were significant concessions of market access for U.S. beef. The Japanese increased their meat import quota for high-quality U.S. beef by 10,000 metric tons.

This may sound like a lot at first glance, but when I put a pencil to it I found that it only came to about one hamburger per Japanese per year. This is hardly a major breakthrough in the history of international free trade, which the Japanese profess to support so strongly and use so well to their advantage. Japanese imports had amounted to about one Big Mac per person-per-year, and then they added a quarter-pounder.

## OTHER TRADE BARRIERS

Japan is rightly famous for its nontariff trade barriers, and U.S. beef has to fight its way through a thicket of these barriers in addition to the quota restrictions.

Take the Livestock Industry Promotion Corporation, for instance. The LIPC is a quasi-governmental entity through which over 90 percent of our exports to Japan must go. The LIPC has done everything in their power to see that the U.S. cattle ranchers are not allowed to compete and develop a market for their products in Japan.

For instance, the LIPC keeps the price of U.S. meat at artificially high levels in order to discourage consumption and hold down consumer demand. A sirloin strip steak which sells for \$4.00 per pound on the west coast sells for \$4.50 per pound in Hong Kong, where it does not have to penetrate Japanese trade barriers. That same steak sells for about \$15.00 per pound in Japan, even though the LIPC paid the same \$4.00 per pound price for it on the west coast. The LIPC has a real racket going at the expense of the

American cattleman and the Japanese consumer.

## U.S. STEAKS ARE KEPT OUT

Japan brags quite regularly about the excellent job which they are doing of fulfilling their commitments under the trade agreements by buying the full quota amount of U.S. high-quality beef. On the surface they do indeed have an excellent track record in this area, particularly when compared to the very poor record of the European Community.

However, the LIPC belies these claims by keeping U.S. steaks out. The LIPC manipulates its purchases to fill most of the quota for high quality beef with less desirable cuts like short plate and chuck rather than the top quality loin cuts which we consider to be our best products. This satisfies the letter of the law, since the meat comes from choice and prime grade carcasses, but it is a flagrant violation of the spirit of the trade agreement. This manipulation hurts U.S. marketing efforts, which are aimed at selling U.S. beef as a top quality product, by labeling inferior cuts as top quality U.S. beef.

The extent of this manipulation is shocking. In a tender issued by the LIPC in December of 1981, only 6 percent of over 1,800 metric tons was allocated to strip loins. The other 94 percent was composed of short plates, square cut chucks, briskets, shoulder clods, and skirt plates—hardly what we would consider top quality cuts. Yet this entire tender was counted as part of the high quality beef quota, and a Texas rancher reading a Japanese press release would assume that that purchase was 1,800 tons of choice steaks.

## RESTRICTIONS COST U.S. JOBS, MONEY

The Japanese have almost totally locked out our top-of-the-line meat. Top quality U.S. steaks, individually wrapped and vacuum-sealed, are the Rolls-Royce of the world of beef. They are a value-added product, and as such generate additional jobs in meat processing in this country—jobs that are now being done in Japan.

They are the most profitable item to the U.S. meat industry, and represent the most dollars to the hard-pressed American cattle rancher. The U.S. Department of Agriculture has estimated that if meat trade with Japan could be fully liberalized and the European Community quota filled, the U.S. cattle industry could more than triple our beef exports. This would be worth over \$1 billion and would add about \$25 per head to U.S. cattle prices under current conditions.

## DIVIDE AND CONQUER

The Japanese have also engineered their meat import concessions in such a way as to cause strain between the United States and our friends the Australians, who are also major producers

and exporters of beef. The Australians produce grass-fed beef, which is an entirely different product than the grain-fed U.S. beef. Japan is a major market for both United States and Australian beef. However, in making these token concessions to the United States by setting up quotas for our high-quality beef, the Japanese have maintained a tight and unchanging ceiling on their total beef imports by cutting back on the Australian meat quota.

Further liberalizations of this kind will not help the U.S. cattleman and should not be considered acceptable by the executive branch. We must push for total liberalization of the Japanese meat import system. Further concessions of this kind will not only needlessly anger our valued friends the Australians, but they also will not help the American cattle rancher in the long run. Japan is an important market for Australia, and if the Australians see themselves being squeezed out in favor of high-quality beef quotas they might just decide to create their own grain-feed beef industry in order to stay in this market.

Right now the United States is the only country in the world which is a significant producer of high-quality grain-fed beef. To understand the risks of losing that status we need only ask our soybean farmers what happened after the Nixon soybean embargo in 1973. That mistake caused the Japanese to pour over \$1 billion into the development of a Brazilian soybean industry which is now a major competitor in a market which the United States use to dominate.

The Australians are major suppliers to the Japanese market, and they have as much to gain from Japanese trade liberalization as we do. The U.S. Department of Agriculture has estimated that Australian meat exports to Japan would increase even more than would U.S. meat exports following trade liberalization. In addition, elimination of the overall quota on total Japanese meat imports would end this contrived conflict between the United States and Australia and would allow each of us to market our separate products in an open and competitive market, just as the Japanese now do in our countries.

## U.S. PRESSURE NEEDED

Japan is a grown, developed nation now, and it is time that they accepted some of the responsibilities of maintaining the open world trading system which they are so dependent on and from which they benefit so much.

The Japanese are masterful negotiators. They will talk and talk and ship and ship. They have excuses by the Toyota pickup-load.

I believe that U.S. negotiators have spent far too much time worrying about the concerns of other nations and far too little time worrying about

the needs of U.S. farmers and ranchers. It is time that our State Department started working for the American farmer instead of the other way around.

We are asked to consider the political sensitivities Japanese politics and not to insist on our rights under the international trade agreements. Yet how much sensitivity to U.S. domestic politics have the Japanese shown in destroying the U.S. television industry, crippling the U.S. auto industry, and now in going gunning for U.S. high-technology industries such as semiconductors and computers?

The United States cannot and should not continue to pay nothing but lip service to this problem. We should insist on the open access to the Japanese market which we should have under the international trade laws, and we should use the remedies which we are legally entitled to under these laws to get this access. Failure to use these remedies makes a hollow mockery of them and only adds to the growing feeling that we cannot rely on the multilateral trade system.

#### MORE OPEN TRADE HELPS EVERYONE

The Senator from Texas understands how important international trade is to U.S. agriculture and to this Nation as a whole, and I want to build, not destroy, the international trade system.

I believe that a major test of the viability of the multilateral trade system will be the success of the United States and other nations around the world in gaining access to the Japanese market just as the Japanese have access to markets in other countries.

Our friends the Japanese must understand that we are their friends and that we value that friendship. We are not attacking their country if we file section 301 complaints or take other actions to secure our rights under the multilateral trade system.

We are only trying to make the multilateral trade system work for everyone, and thereby preserve it in the face of growing protectionist forces around the world that would tear it apart.

The American farmer is just as dependent on an open world trading system as is the Japanese industrialist, and I believe that the best interest of both our countries would be served by a fair and open trading system.

We are after trade, not aid. Given the opportunity, the U.S. farmer and rancher can both satisfy the demands of Japanese consumers for reasonably priced, high quality food and reduce the economic and political strains of the current \$18 billion trade deficit.

I hope that such an opportunity will be forthcoming, and as cochairman of the Senate Export Caucus and ranking Democrat on the International Trade Subcommittee I will continue to make every effort to hasten its arrival.

Japan is a country which operates by consensus. They respect and understand the significance of a consensus, and I will do my part to build a consensus for trade liberalization in this country. This consensus is forming rapidly, and it will be ignored by Japan and our other trading partners only at great risk to our current multilateral system of international trade.

#### WOMEN IN UTAH: LESSER KNOWN HEROINES

Mr. HATCH. Mr. President, Utah's women have played and continue to play a critical economic, cultural, and social role in every sphere of Utah life and constitute a significant portion of the labor force working both in and out of the home. From the beginning they worked hand in hand with their husbands on farms, in businesses, and in the domestic trades necessary for the rearing of large families. In the annals of Utah history, the names of a few women are heard repeatedly. These women have been used again and again in lesson and lecture as examples of strength. A few were strong and talented, often heroic, but many persons of less renown also merit attention. These individuals, too, gave support to their contemporaries. The personal histories of many of these women have been lost to us forever, but a few have been preserved to inspire us, both men and women, even to this day. Among them is Josephine Streep Chase, whose personal diary reveals to us the day-to-day life of a pioneer wife, mother of 16, Sunday Schoolteacher, successful manager of a large household, and faithful church member. Her diary reveals a pioneer story of struggle, disappointment, sadness, laughter, and work. It bespeaks of weariness, love of children, surmounting doubt, artistic yearnings, and impatience with frustrated dreams. One spring day, she realistically ended the entry by writing, "but I see plainly, this earth is not heaven." Upon reaching the last summer of her life, this brave woman who had battled so long against bruises of spirit and misery of body was gravely ill. It was as if she literally willed herself to keep ahead of each day's work. On July 18, 1894, she wrote:

Our paper said this morning that Utah was a State. There was a beehive at the heading and it was signed by Grover Cleveland, the President of the United States . . . well, I put our colors out and tied some willows and deer horns to the tree . . . our colors . . . red, white and blue.

Josephine was not alone in her hard work or earnest desire that things should be better. Women of many religious and ethnic groups who followed after her also labored in the hope that things could be made better—better for someone today and better for those who followed them.

Among the Greek immigrants who settled in Utah at the turn of the century, it is recorded that there was one "Magerou," matriarch of the first Greek families who came to work in Utah's mines. This woman was an experienced midwife, and as such, delivered many Utah babies. She was skilled in the folk cures of her native people and ministered to the psychological fears and physical ailments of the increasing numbers of immigrants who came to work in the mines. Steeped in the traditions of the old ways and skilled in the new, she nurtured all and contributed greatly to the integration of many into Utah life.

Similar to "Magerou," a number of women have emerged to lead particular groups in Utah. Among the Spanish-speaking people there were also women leaders, often known as "curanderas." One of these, Incarnacion Florez, was well known in Utah and the surrounding States for her cures. She practiced part art and part medicine, which she learned from five centuries of Spanish/Indian culture and which, for many Spanish-speaking people, provided the greatest fount of hope in the Anglo culture. From as far away as Texas people came to benefit from her healing powers which were inspired by a deep religious belief. She accepted no pay for her work and often provided food and shelter for the hungry and homeless. She was a unifying force, and a leader among her people.

The contributions of women in Utah's history are as various and colorful as the history of the State itself. Today, we would like to honor those women, both famous and not so famous, for the contributions they have made to Utah history. We should also be reminded by the examples of these women who never sought recognition, that our own actions should be driven not by a desire for notoriety or fortune, but by love of our fellow citizens. If we serve our Nation, our State, our neighborhoods, and families well, the rewards will be both personal and public.

Mr. STEVENS. Mr. President, is there further morning business?

The PRESIDING OFFICER. There is an order for a period of routine morning business not to extend beyond the hour of 12:30 during which Senators may speak for not more than 10 minutes each.

Mr. STEVENS. Mr. President, the leadership is informed that the Senator from Oregon (Mr. HATFIELD) and the Senator from Massachusetts (Mr. KENNEDY) wish to have a colloquy concerning proposed legislation at the hour of 12:15.

RECESS UNTIL 12:15 P.M.

Mr. STEVENS. Mr. President, I ask unanimous consent that the Senate

stand in recess until the hour of 12:15 p.m.

The PRESIDING OFFICER. Is there objection?

There being no objection, the Senate, at 11:15 a.m., recessed until 12:15 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. STEVENS).

The PRESIDING OFFICER. The Chair, in his capacity as a Senator from Alaska, suggests the absence of a quorum. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

(Mr. ABDNOR assumed the chair.)

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

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

Is there further morning business?

**CONCLUSION OF MORNING BUSINESS**

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

**SENATOR HARRISON A. WILLIAMS, JR.**

The PRESIDING OFFICER. The clerk will report the pending business.

The assistant legislative clerk read as follows:

A resolution (S. Res. 204) expelling Senator HARRISON A. WILLIAMS, JR., of New Jersey, from the Senate.

The Senate resumed consideration of the resolution.

**QUORUM CALL**

Mr. STEVENS. Mr. President, it is our intention to again institute a quorum call. There will be a live quorum. If it is not responded to, we will have a motion to instruct the Sergeant at Arms to compel the attendance of absent Senators. It is our attention to start the consideration of this matter at 1 p.m. today.

Mr. President, I suggest the absence of a quorum.

The clerk will call the roll.

The assistant legislative clerk called the roll, and the following Senators entered the Chamber and answered to their names:

[Quorum No. 24 Leg.]

**1st Call**

Abdnor	Dodd	Inouye
Biden	Exon	Metzenbaum
Byrd, Harry F., Jr.	Garn	Stevens
Byrd, Robert C.	Hatfield	Weicker
	Heflin	

The PRESIDING OFFICER. A quorum is not present. The clerk will call the names of the absent Senators.

Mr. STEVENS. Mr. President, I move that the Sergeant at Arms be instructed to compel the attendance of the absent Members, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Alaska. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Kansas (Mrs. KASSEBAUM) and the Senator from Texas (Mr. TOWER) are necessarily absent.

Mr. CRANSTON. I announce that the Senator from Louisiana (Mr. JOHNSTON) and the Senator from Nebraska (Mr. ZORINSKY), are necessarily absent.

The result was announced—yeas 93, nays 3, as follows:

[Rollcall Vote No. 49 Leg.]

**YEAS—93**

Abdnor	Exon	Metzenbaum
Andrews	Ford	Mitchell
Armstrong	Garn	Moynihan
Baker	Glenn	Murkowski
Baucus	Gorton	Nickles
Bentsen	Grassley	Nunn
Biden	Hart	Packwood
Boren	Hatch	Pell
Boschwitz	Hatfield	Percy
Bradley	Hawkins	Pressler
Bumpers	Hayakawa	Pryor
Burdick	Heflin	Randolph
Byrd,	Heinz	Riegle
Harry F., Jr.	Helms	Roth
Byrd, Robert C.	Hollings	Rudman
Cannon	Huddleston	Sarbanes
Chafee	Humphrey	Sasser
Chiles	Inouye	Schmitt
Cochran	Jackson	Simpson
Cohen	Jepsen	Specter
Cranston	Kasten	Stafford
D'Amato	Kennedy	Stennis
Danforth	Laxalt	Stevens
DeConcini	Leahy	Symms
Denton	Levin	Thurmond
Dixon	Long	Tsongas
Dodd	Lugar	Wallop
Dole	Mathias	Warner
Domenici	Matsunaga	Weicker
Durenberger	Mattingly	Williams
Eagleton	McClure	
East	Melcher	

**NAYS—3**

Goldwater	Proxmire	Quayle
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**NOT VOTING—4**

Johnston	Tower	Zorinsky
Kassebaum		

So the motion was agreed to.

The PRESIDING OFFICER (Mr. STEVENS). With the addition of the Senators voting who did not answer the question call, a quorum is present.

The Chair states that the proponents on this resolution have now used 466 minutes; the opponents have used 501 minutes, according to the Parliamentarian.

Mr. BAKER. Mr. President, as I have said once before, I think our previous unanimous-consent agreement dealing with the allocation of time equally each day has been more honored in the breach than in the observance. But I think, altogether, the time allocation has worked itself out very well, so I am not greatly concerned about it.

Unless there is some indication by the managers on both sides that they

would like to try to redress that imbalance, I suggest that we proceed, whatever the requirements of this day and subsequent days may require in terms of the presentations of the point of view of individual Senators.

I expect the Senate will be in session until 6 today, and in session tomorrow on this issue as necessary. The outlook for Friday is uncertain. While I have indicated previously that we would not be in session on Friday, I urge Senators to let me have a little more time to examine that prospect, so do not depend at this moment on not being in on Friday. I still hope that that will not be necessary. I thought I should give at least that advance notice to Members, that there is at least a possibility of that.

Mr. President, if I may speak on one subject just briefly, I should like to clarify the record.

I think I understand the pressure that the distinguished Senator from New Jersey is under, and I am sympathetic. I observed on television last night a remark by him which I understood to mean that he thought the Republican Conference had adopted a caucus position in support of either expulsion or some other result in this proceeding.

Simply for the sake of putting the record straight, I say to my friend from New Jersey and every Member of the Senate that that never happened.

There has never been a caucus position on this case. On the contrary, at every policy luncheon, at every meeting of our chairmen, at every meeting of the conference, there has been an admonition to "keep your mind open and to hear the arguments on this matter and not to make statements in public." I have hewed to that consistently.

I have checked the records of the conferences and the Policy Committee to make sure that that is universally so. It is so, and I simply want to say that for the record and for the benefit of my friend from New Jersey.

Mr. WILLIAMS. If the majority leader will yield, when I returned yesterday afternoon, I was given that information from a most reliable source, and then it was verified by a friend who happens to be a member of the cloth, the clergy, who had heard a report to that effect on the radio as he drove here from New Jersey.

That was my information, and the sources of the information have always been most reliable sources. I suggest that the majority leader would appreciate my response, having heard that. My response was deep disappointment, and I expressed that.

Mr. BAKER. I can understand the point of view of the Senator from New Jersey. Indeed, I would have felt that disappointment under similar circumstances. This is not meant to be a criti-

cism of the Senator from New Jersey. I do think I understand something of his dilemma and the pressure and stress that he is under at this time.

However, I wanted this RECORD, the CONGRESSIONAL RECORD, to show that, indeed, there was never such a caucus and, on the contrary, there were consistent and multiple admonitions to Members on this side that they should not form or express a judgment on this matter prior to hearing the debate.

Mr. WILLIAMS. To follow up on that, I have seen Members of the Senate quoted to the effect that they had made up their mind. That, of course, was again part of my deep disappointment, that judgment had been arrived at in the minds of many before the full case had been discussed in this limited context of the Senate debate.

Mr. ROBERT C. BYRD addressed the Chair.

Mr. BAKER. I yield to the minority leader.

Mr. ROBERT C. BYRD. Mr. President, I certainly sympathize with the position taken by the distinguished Senator from New Jersey (Mr. WILLIAMS), as was indicated through the press last evening. I understand his frustration and his anger; if that had been the case, I think that we all would have been somewhat angered and disappointed. We do not think this is a partisan issue at all. We have discussed it in that manner in our caucus, and it is not a partisan issue. So, I have empathy for his feeling of outrage.

At the same time, I believe the majority leader when he says what he has said that there has been no discussion in his caucuses. I hope I am not misstating what he said. But, in any event, he says there has been no position taken by the caucus and that every member of the caucus has been left to make his own determination within his own conscience. If I am misstating the Senator, I certainly want to correct the record.

However, I will say this, and I will close: It would have been a disappointment on the part of all of us on our side of the aisle had the Republican caucus taken a position which would have been a partisan position in this matter, and I would have thought it would have been uncharacteristic of the majority leader, knowing him as I do and having experienced over this year and a half his extreme consideration of the wishes and the needs of the minority. He has gone further in consideration of the needs of my people than I would have gone in many instances.

I thought the situation referred to by Mr. WILLIAMS was very unfair, and I would have been very disappointed likewise and would have stated it. But I believe the majority leader when he says that the Republican caucus took

no such position, and I am perfectly at ease with his statement in that regard.

As to a nose count, that is something else. I do not know of any nose count. There has been none on my side of the aisle. I have not ordered a nose count of votes. I do not know what the count is on this side of the aisle, but I think the majority leader is wise in having taken the floor to debunk any impression of a caucus position and to state for the RECORD what the facts really are.

Mr. BAKER. Mr. President, I thank the minority leader.

May I say that the caucus, meaning either the conference or the policy committee or the policy committee luncheon, has never been asked to take a position on this matter. They have never taken a position on this matter. There never has been any suggestion that they take a position on this matter and, indeed, to the contrary, there have been repeated admonitions from me and from others that Members should not take a position nor make a public statement in respect to this matter, the ultimate conclusion of this matter, until after the debate is finished on this floor. That is the reason why I wanted to make this statement at this time.

The reason I expressed some, I guess, facial concern when the minority leader began his remarks, when he said it never has been discussed in caucus, obviously it has been discussed. But in each instance when it was discussed my admonition was "Wait," and there was a universal and unexcepted view that that should not be the subject of a party caucus. It never was. Mr. President, I yield to the Senator from Utah.

Mr. GARN. Mr. President, I thank the majority leader.

I would only add to this that Senator INOUE is the Secretary of the Minority Conference, and I occupy the position of Secretary to the Republican Conference, and I further reiterate what the majority leader has said.

Under our rules, at least, it would be impossible for a Republican conference or caucus to take a position unless we resolved ourselves into a conference, and I would be the one who would call that particular conference.

To my good friend from New Jersey, who is the ranking minority member of the Banking Committee, with whom I have served there for years, we have not had a conference.

It would be literally impossible for us to take an official position because we have not held one during all of this time. I would have been the one to call one. So we just, from a procedural standpoint, we could not have held or taken a position on this because I have not even called a conference for that purpose to even talk about it.

Again, the majority leader in the policy luncheon, which is a discussion group, every week without fail, every Tuesday, has stated "I implore all of you not to take positions collectively or individually until this has been heard."

I thank the majority leader.

Mr. WILLIAMS. Mr. President, If I could just add one thing, if I might, if the majority leader will yield, my information was, as to the nature of the gathering that did discuss this question, different this morning. It was not that Senator GARN called a caucus, but it was in connection with a luncheon yesterday of the Members of the other side.

Mr. BAKER. Mr. President, if I may speak to that, that is the Republican policy luncheon held each Tuesday. That was not done yesterday at the policy luncheon. It was not done at any policy luncheon, at any conference, or any caucus.

I have asked the staff of the conference to supply me with the records since September. I have 16 times at 16 different luncheons admonished Republican members to not state a public position on this matter nor to make up their minds until after we have heard the debate. Sixteen times I have done it.

Now, it may be that the very act of admonishing Senators not to make up their minds has been fragmented and been suggested to others as a suggestion. But I want my friend from New Jersey to know it did not happen yesterday, it did not happen at any time, and will not happen in the future.

Mr. WILLIAMS. I thank the majority leader.

Mr. INOUE addressed the Chair.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUE. Mr. President, before I proceed I would like to express my gratitude to all those who assisted me in this endeavor and, if I may, I would like to single out three staff assistants who have spent many hours, many days, and many weekends working on this matter. They are John Pingree, John Hardy, and Robert Alm, who was the assistant in charge.

Mr. President, over the course of the past week the Senate has laid aside all other business and focused its entire attention on the case of the Senator from New Jersey.

I believe that the Senate will always regard these days as having been well spent. Well spent because we have all had our attention focused on the very difficult subject of ethical standards which accompany our high office; well spent because we have discussed the conduct of the FBI which must, I believe, and will be, investigated; and well spent because we have allowed a longtime and much-cherished colleague to present to us all of the facts

which he feels are important to our decision.

I hope that all of us, difficult as these days have been, will always regard this debate as a demonstration of the high sense of justice which is embodied in the Senate as an institution. And this afternoon, as we come close to the end of these proceedings, I wish to remind my colleagues of certain points which I feel essential to any decision in this case.

There are, to begin with, a few items which deserve further clarification. First and foremost, Mr. President, I believe that the Ethics Committee proceedings were fair. But that does not foreclose the raising of new evidence, even when that evidence involves witnesses who were available at the time of the committee hearing. As we know, the evidence in this matter has been dribbling out piece by piece, day by day, and week by week. As it comes out, we have new questions to ask old witnesses, and we have questions to ask new witnesses.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. INOUE. I would be very happy to yield.

MR. ROBERT C. BYRD. Mr. President, there is no Member of this Senate who is more respected than the distinguished Senator from Hawaii (Mr. INOUE), and I think that if there is any one individual who has stood out—there have been several—in this debate as a paragon of patience, consideration of his colleagues, fairness to both sides, integrity, and a person to be admired it is DANIEL INOUE.

This may be his last presentation of the matter, I do not know. He may have other words to say. But I think he is entitled to better attendance than we have at this moment.

The Senate has been diligent in its attendance. There have been times when I have had to be called from the floor, for example, to speak with the Foreign Minister of Germany; I have had a problem of the possibility of a complete shutdown of the National Steel Co. plant at Weirton, W. Va., with a loss of jobs of 12,000 employees, so all of us at times have had to be absent from the floor.

But as I look around now I think we ought to have better attendance, and I hope the Senator will forgive me for interrupting him. I think he is entitled to better attendance by the whole Senate, and I do not say this to cast any reflection on Senators who cannot be on the floor now because there are many reasons why they cannot be.

What I would suggest, Mr. Majority Leader, is that if the distinguished Senator from Hawaii is willing to yield for a quorum, we have a live quorum and see if we cannot get the full attendance to hear what DANNY INOUE is going to say. I think he is entitled to that.

So far as I am concerned, there is no speech in this debate which has been more impressive than was his opening statement. For him now to have half the attendance of the Senate, I think certainly does not create a good impression on any of us.

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

Mr. INOUE. I would be very happy to yield.

Mr. BAKER. I agree with the minority leader. He is entirely right. We have had good attendance until this moment, and now I will judge not more than 50 percent of the Senate is here.

This is an important presentation. It seems to me we have just two alternatives: One is to hope that those within the sound of my voice will come quickly to the floor so that we do not waste time, and the other is to attempt to persuade them to come through the tender mercies of the Sergeant at Arms.

I intend now, if the Senator will yield for that purpose, to suggest the absence of a quorum. I continue to hope it will not be necessary for it to go live and that consent will be given to rescind the call if it is clear that we have good attendance on the floor. Will the Senator yield so that I may suggest the absence of a quorum?

Mr. INOUE. I would be happy to.

QUORUM CALL

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators entered the Chamber and answered to their names:

[Quorum No. 25 Leg.]

Andrews	Hatfield	Proxmire
Armstrong	Hawkins	Pryor
Baker	Heflin	Quayle
Baucus	Helms	Randolph
Bentsen	Humphrey	Riegle
Bradley	Johnston	Roth
Byrd,	Kennedy	Rudman
Harry F., Jr.	Laxalt	Sasser
Byrd, Robert C.	Levin	Schmitt
Cochran	Mathias	Specter
Cohen	Matsunaga	Stennis
Cranston	Mattingly	Stevens
Danforth	McClure	Wallop
Exon	Melcher	Warner
Garn	Murkowski	Weicker
Gorton	Nunn	Williams
Hatch	Pell	

The PRESIDING OFFICER. A quorum is not present. The majority leader is recognized.

Mr. BAKER. Mr. President, I move that the Sergeant at Arms be instructed to compel the attendance of absent Senators, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Tennessee. The

yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Kansas (Mr. DOLE), the Senator from Iowa (Mr. GRASSLEY), the Senator from Kansas (Mrs. KASSEBAUM), and the Senator from South Carolina (Mr. THURMOND), are necessarily absent.

Mr. CRANSTON. I announce that the Senator from Maryland (Mr. SARBANES) and the Senator from Nebraska (Mr. ZORINSKY), are necessarily absent.

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

The result was announced—yeas 90, nays 4, as follows:

[Rollcall Vote No. 50 Leg.]

YEAS—90

Abdnor	Exon	Metzenbaum
Andrews	Ford	Mitchell
Armstrong	Garn	Moynihan
Baker	Glenn	Murkowski
Baucus	Gorton	Nickles
Bentsen	Hart	Nunn
Biden	Hatch	Packwood
Boren	Hatfield	Pell
Boschwitz	Hawkins	Percy
Bradley	Hayakawa	Pressler
Bumpers	Heflin	Pryor
Burdick	Helms	Randolph
Byrd,	Hollings	Riegle
Harry F., Jr.	Huddleston	Roth
Byrd, Robert C.	Humphrey	Rudman
Cannon	Inouye	Sasser
Chafee	Jackson	Schmitt
Chiles	Jepsen	Simpson
Cochran	Johnston	Specter
Cohen	Kasten	Stafford
Cranston	Kennedy	Stennis
D'Amato	Laxalt	Stevens
Danforth	Leahy	Symms
DeConcini	Levin	Tower
Denton	Lugar	Tsongas
Dixon	Mathias	Wallop
Dodd	Matsunaga	Warner
Domenici	Mattingly	Weicker
Durenberger	McClure	Williams
Eagleton	Melcher	
East		

NAYS—4

Goldwater	Proxmire	Quayle
Long		

NOT VOTING—6

Dole	Kassebaum	Thurmond
Grassley	Sarbanes	Zorinsky

So the motion was agreed to.

The PRESIDING OFFICER. With the addition of Senators voting who did not answer the quorum call, a quorum is now present.

Mr. BAKER. Mr. President, I hope Senators will remain on the floor, mindful of the admonition of the minority leader that the Senator from Hawaii is one of the most respected Members in this body, if not, indeed, the most respected. We are to hear his remarks at this time. I urge all Members to remain on the floor the remainder of this day to hear him and other speakers.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. BAKER. I yield.

Mr. ROBERT C. BYRD. Mr. President, I thank the majority leader for

what he has said. Mr. INOUE is the Senator who is doing his best, out of conscience, deep conscience, to represent Mr. WILLIAMS. I think of all Senators who ought to be listened to, it should be DANNY INOUE.

I thank all Senators for responding to the call.

Mr. INOUE. Mr. President, I am overwhelmed by these good and kind words.

(The VICE PRESIDENT assumed the chair.)

Mr. INOUE. Mr. President, it has been suggested that the new evidence that continues to dribble out day by day, week by week, really does not go to the heart of this case, that it does not alter the words of PETE WILLIAMS. I think we should keep in mind that his words were not spoken in a vacuum, that his words must always be read with the words of other individuals who were involved. It is to the words of these other individuals that this new evidence goes.

The heart of this case consists of the actions of Angelo Errichetti, the profane Mayor of Camden; Mel Weinberg, a supercon man; Anthony Amoroso, the FBI agent; and HARRISON WILLIAMS.

The new evidence substantially affects the credibility and the motives of three of the four principal participants in this case. So, Mr. President, I suggest that if this evidence undermines the credibility of these participants or changes the context of these conversations or suggests a manipulation of events, it will go to the heart of this case, straight to the heart of this case. Because without these three—Errichetti, Amoroso, Weinberg—there is no context. Without these three—Amoroso, Errichetti, and Weinberg—there are no conversations to review. Without these three—Errichetti, Amoroso, and Weinberg—there is no case.

I know that all of us have read recent editorials and we have heard from our constituents that PETE WILLIAMS was convicted of crimes and, therefore, expulsion is the only remedy possible.

The Ethics Committee has said that the Senate should proceed independently of these convictions, and I agree. The convictions in Brooklyn are a house of cards that could collapse at any moment.

If the Senate's action is based on the trial court, and the trial court verdict is overturned, there will be nothing left except perhaps a Senate that looks foolish because we were in a rush to thrust an embarrassment from our midst. I believe that all of us who have spoken thus far would agree on at least this one proposition. It is the task of the Senate to judge our colleague solely on the evidence before us. And the Senate cannot and should not rest its decision on an initial judg-

ment of a court in what will undoubtedly be a long and complex judicial process.

Mr. President, I know that such a view of this case will not win us any friends; I know that this view will be misunderstood by many of our constituents. But I believe that such a view will serve this body as an institution by maintaining the independence of our judgment of a colleague's behavior. It has been said many times that the Constitution commits that power into our hands and that we must not—we must not—delegate it to the judicial branch.

Much has been made of the acceptance by PETE WILLIAMS of stock certificates representing interest in three valueless dummy corporations—GTO, PRV, and PIT. Let us examine again the issue of value of these stock certificates, both from the standpoint of actual value, and from Senator WILLIAMS' perception of the value or potential value of these certificates. I think it is absolutely clear from the record that the three corporations and, consequently, the stock in these three corporations, had no actual value. No one argues with that. During the meeting of July 11, 1979, at which these corporations were purportedly formed—incidentally, a meeting that Senator WILLIAMS did not attend—an attempt was made to observe certain legal formalities. The corporations were, however, never legally incorporated and anyone who views the videotape of this meeting cannot help but think that the meeting was little more than ludicrous.

At the trial, the FBI agent, Mr. Amoroso, admitted that the corporations had no bank accounts, had no assets of any kind, had no registered agent, and that the stock in those corporations was worthless. Similarly, the Government's witness, Mr. Sandy Williams, the notably unsuccessful businessman and long-time political associate of PETE WILLIAMS, who agreed to testify against PETE for promise of immunity, also testified that the stock had absolutely no value.

After the close of the investigation against PETE WILLIAMS, the Justice Department itself recognized that the stock in these admittedly fictitious corporations had no value, but it decided not to bring a civil suit, because he had never received anything of value. We have been told that it matters not whether the stock actually had any value, but that what is important is what Senator WILLIAMS thought regarding the value or the potential value of the stock. I agree. His intentions are important. I think that we can get a good indication of what Senator WILLIAMS thought of the value of the stock from the way he treated these stock certificates.

Prior to the meeting during which the three corporations were purport-

edly formed and before receiving any paper, PETE WILLIAMS gave his lawyer a copy of the Senate Rules and asked him to review its provisions and to advise him as to whether he should disclose any interest in these corporations. He was advised by his lawyer that there was no necessity to disclose his ownership because the stock had no value.

After the incorporation meeting, the FBI agent, Mr. Amoroso, anxiously sought to arrange a meeting with PETE WILLIAMS to deliver these stock certificates. He succeeded in setting up a meeting through PETE WILLIAMS' lawyer. PETE WILLIAMS had indicated to his lawyer that he was not interested in receiving any stock because it was worthless, a belief entirely consistent with the advice of his lawyer. But, he said if they wanted to give him any stock, they could meet him at the Kennedy Airport at the lounge, the Northwest Airlines lounge, before his plane departed for Europe.

Incidentally, after meeting with Amoroso and the others, he went about introducing these FBI agents to his colleagues, who were there in the waiting room. This meeting was not arranged in some sleazy, dark corner or in some cellar of the airport. It was not a meeting arranged to deliver surreptitiously \$18 million in stock certificates.

Upon receiving these stock certificates, these certificates that we have been told had a perceived value of \$18 million, what did PETE do with them? He put them in his flight bag, where I would put my coughdrops and plane ticket. And it went through all these various customs points throughout the trip.

After returning to Washington, the same bag was just thrown on the floor in an office that he knew had been burglarized many times before. And, in fact, the Capitol Police record shows that, right after his return from Europe, his office was burglarized.

Remember, these \$18 million certificates were not placed in a safe. Where would you put \$18 million of stock certificates? In a flight bag on a floor? Or in a safe-deposit box? Or at least take them home?

The stock certificates lay untouched on his office floor for 5 months, until the existence of the stock was brought to his attention by an interview with FBI agents.

Is all of this—an indifference to receiving the stock certificates in the first place, the casual discarding of the certificates on the floor of an office which, incidentally, had been burglarized many times—is all of this consistent with the claim that PETE WILLIAMS believed the stock had a value of \$18 million? You think about it. Is that the way any one of you would have

treated stock that was valued at \$18 million or, for that matter, \$1,000?

Much has also been made of PETE WILLIAMS' alleged attempt to conceal his interest in the stock. It has been suggested that PETE WILLIAMS clearly intended to conceal his purported interest in the dummy corporations. But I suggest to all of you that a careful review of the statement made by PETE on tape seemed to me to be clearly inconsistent with such a claim.

If he had been so anxious to conceal his interest, why would he have indicated at various times that he intended to disclose his interest and thereby risk offending those who seemed intent on having him conceal his interest?

As early as May 31, 1979, well before the three corporations were purportedly formed, in a meeting attended by Senator WILLIAMS, Sandy Williams, Alex Feinberg, George Katz, Mel Weinberg, and the FBI man, Mr. Amoroso, Senator WILLIAMS, stated to those present—and this is from one of our tapes:

My situation is this. I've got to, under the law, disclose an interest when I have an interest. But up until now there's been no defined interest, in what? In ideas basically. We've dealt with no corporate stock.

Alex Feinberg then stated, "But when and if you do."

WILLIAMS replied, "When that happens that's part of my law."

Alex Feinberg, PETE WILLIAMS' lawyer, knew that Senator WILLIAMS would never agree to conceal his interest.

In a brief conversation before the May 31 meeting and before Senator WILLIAMS had arrived at the scene—and this is on tape—Alex Feinberg stated in unequivocal words to Mel Weinberg:

He can't, Christ. He'll ruin himself. He has to file a disclosure. If he files a false disclosure, he's guilty of perjury and he won't do it.

After May 31, 1979, despite persistent attempts by Government agents to get Senator WILLIAMS to conceal illegally his interest in the corporations, Senator WILLIAMS continued to indicate his intention not to hide any interest.

On September 11, 1979, in a meeting with Angelo Errichetti, Alex Feinberg, George Katz, Sandy Williams, Mel Weinberg, Amoroso, and others, PETE WILLIAMS stated he would pay taxes on any gain he might realize on the sale of the stock. This statement of intention caused considerable consternation.

As late as October 7, 1979, Senator WILLIAMS told Mel Weinberg and FBI agent Amoroso, "I am going to have to go public with something or other."

We have been asked to believe that PETE WILLIAMS intended to conceal his interest in these corporations. It would have been so easy for him to agree

with those who were clearly bent on having him hide his interest, if it had been his intent to conceal his interest.

In light of the fact that PETE in his own way made known over a period of months his intention not to conceal his stock interest, I for one cannot believe he ever intended to conceal his interest.

In addition, I believe that the attention of the Senate was most emphatically directed to the tape of January 15, 1980. In fact, it has been characterized as the most important meeting. I was more than somewhat surprised by this characterization because, from the beginning, I felt that if there was any particular weak portion of this case, it was this January 15 tape.

I still believe that it is weak, and if this is the centerpiece of the case against PETE WILLIAMS, then I think that fact speaks volumes.

So if I may, I will take you through this tape very carefully. If it is the most important meeting, we should look at it very carefully, because I believe it is a clear demonstration of what has been wrong from the beginning with this investigation. I believe that it will begin to show all of you just how weak, if not nonexistent, the criminal case was, and why Senator WILLIAMS has insisted on appealing to the Senate for justice.

We began these proceedings, most of us, looking at him and saying, "PETE, you're guilty. You have to prove you are innocent," which is quite contrary to what I have been told was the democratic way—that you are innocent until proven guilty. But that has not been the case here. So to do him justice, let us go to this transcript and read it line by line. It is in part 6 of the trial proceedings, on page 348. That is where it begins.

Let me take you through this tape. This is the conversation between PETE and this Abdul Habib, the sheik.

The opening sequence on page 349 is simply an exchange of pleasantries: "How are you?" "I'm fine." "Sholem alechem."

On page 350, the sheik begins with a discussion of the titanium venture and the Senator's participation in that venture. The sheik then raises his desire for insisting on emigrating to the United States. This is the first link between the two, the mine and the immigration bill, page 350.

Up until then, we have no immigration bill. Senator WILLIAMS tells the sheik that there would have to be good reasons for such a bill and that certain criteria must be met. Read that page.

On page 351, Senator WILLIAMS notes that a good character is important, as well as a showing of personal hardship, if the immigrant is forced to return to his country. He is telling the sheik what the requirements are.

Then PETE begins to explore the background of the sheik's case.

On page 352, the Senator states his favorable impression of the sheik and continues on by asking him more questions about himself.

At the bottom of page 353, the Senator asked the sheik, "Do you know the Ambassador from Morocco?" Obviously, Amoroso does not. But when the sheik says, "Yes, I do," PETE WILLIAMS almost leaps up, leaps at the opportunity to get the information about this mutual friend through the sheik rather than pursuing this strained conversation. Look at the taped conversation.

It is at this point that the sheik abruptly switches back to the titanium mine. This switch in topics avoids the subject of the supposedly mutual friend and at the same time provides the second drawing together of these two subjects, the mine and the immigration bill.

For the next two pages, PETE WILLIAMS discusses the value of titanium deposits and the fact that nothing has been done to further the supposed venture.

It is at that point, at the bottom of page 355, that the sheik offers a bribe. The bribe, as it has been often stated, was clearly refused. "No, no, no, no."

It is at this point that this taped conversation is abruptly interrupted. While the prosecutor and the agents have said the interruption was not prearranged, I cannot help but comment on how incredibly fortunate the timing was because it cut off our opportunity to hear PETE's full explanation of his refusal. I can just see the agents in the back room scurrying around and saying, "This is not what we want on the tape."

Let us take a moment to picture this scene: A U.S. Senator has just been offered a bribe by a foreign dignitary, a foreign dignitary whom we have been led to believe can speak English but with some difficulty, who is not too familiar with our laws and our customs.

Now, PETE has a few moments to recover and reflect. The offer has been made, the interruption has been made. Should he have run out at this point and called the FBI? I just wonder how many of us would have at that point stood up, run out of the room, picked up the telephone and called the FBI and said, "Mr. FBI, I have just been offered a bribe?"

Should he resume his forceful denials and explain the stupidity of the sheik's action?

I doubt whether any of us would embarrass a foreign dignitary who purportedly is not familiar with our laws and our customs. So what alternative does he have? I would suggest that he had only one if he wished to remain gracious, and that was to change the subject from the immigration bill to

something else, and that is precisely what he did.

On page 356, the next page, he changed the subject to the only other topic of a shared interest, and that was the titanium mine. He did not do so in order to link the bill and the mine. He did so in order to get as far away from the bribe offer as possible.

At the end of his statement comes one of those phrases upon which much emphasis has been laid, and I am going to quote this very carefully:

And the, and the, elements that I can help with, your, your personal situation. Er, I am very, I find it, er, a desirable thing to do for you personally. And it's part of creating something of value, bringing in that ore.

We have been told that this is the *quid pro quo*, a promise to invest for a promise to introduce a bill.

The question now arises did PETE WILLIAMS make such a promise? We cannot stop here. Conveniently we are asked to stop here, but I think we must go to the rest of the tape.

The next statement by PETE WILLIAMS clearly belies the so-called promise. The Senator insists on:

Make sure the elements are there that would support legislation . . .

If he wanted to just introduce a bill, there was no necessity to pursue this questioning of prerequisites, his qualifications, his biographical sketch. Yet that is exactly what he did.

On page 357 PETE continues to press for more background, more detail on the sheik. This continues on page 358 when again the sheik brings up the titanium mine, and then on page 359 we again have one of those key passages which you are supposed to read literally. The sheik links the mine and the bill by saying, and this is the sheik now.

Uh as long as possible for sure assured me er regard, er permanent residence. Er, business for titanium mine will be successfully concluded. End of, end of, er month.

According to the transcripts the Senator's response is supposed to be, "Yes." I do not know what he said "yes" to, but this is the big deal now. However, if you watch the tapes his response was not the affirmative response but rather the "yes" we all use in a conversation simply to keep the conversation going, "yes, yes, yes, yes," with a question mark.

So on page 360 PETE says:

You can leave with my assurance that I will do those things that will, will bring you on for the consideration of permanency. Quite frankly I can't issue that. I cannot personally. Er, it, it is a law. And it has to be goes through the whole dignified process of passing a law. I can give you my pledge. I will do all that is necessary to get that to the proper decision. You see.

On page 361 PETE says:

At the earliest time that we could get together. It would be it's, it's essential that I have a background of knowledge. And I, I can give you an absolute pledge I will do ev-

erything in my power to advance your permanency.

Consideration of permanency, proper decision, background of knowledge—these are not the words of a man promising an act. These are the words of a man responding to an inquiry by saying that he will see whether anything can be done within applicable rules and regulations.

This is not a way that a dishonest Senator would behave. This is not the way an unethical Senator would behave. I would like to suggest that this is the way all of us behave. If one wants a bill like this we ask him, and then we say we will do our best, but it is the law. It has to go through a process, that I cannot personally guarantee you.

I want to again express my surprise at the emphasis that this meeting has been given. If any meeting was harmless, if any tape was disposable, this was the one. I urge you all to carefully review this tape, and if you do, I think you will find what I said to be true.

I also believe this tape brings into sharp focus the problems with this expulsion resolution. In all of the previous cases where we had expelled a Senator, the evidence has been unequivocal. That such a measure of proof was used seems only fitting when the Senate was considering this extraordinary act of expulsion.

In the Bright and Blount cases the evidence was in the form of letters, and in all of the other cases it was a conduct of engaging in a rebellion. Whether this was by writing or by conduct the actions which were judged were unequivocal.

The case of Senator HARRISON ARLINGTON WILLIAMS, JR., is based on a much different foundation. This case is based almost entirely on the interpretation which we placed on conversation, interpretations. It is, therefore, much more difficult to state unequivocally what took place in these conversations. Whether we agree or disagree with the linguistic analysis that we heard last Thursday by Professor Shuy, it demonstrated, if it demonstrated nothing else, that a strong argument can be made by the lack of criminal or unethical conduct in these conversations on the part of PETE WILLIAMS.

If we must interpret, and if we must guess at, the meaning of words, phrases, and whole conversations, if the evidence is equivocal, then I say we should not employ the remedy of expulsion. This sanction of expulsion is too final to be used on equivocal evidence, and the case before us rests on an equivocal foundation.

Yesterday my distinguished friend from Alabama in his rebuttal suggested that I had stated in my opening remarks that the Senate should be expelling Members only in cases of treason and disloyalty. Such was neither

the meaning nor the intent of my words. I am certain a careful reading of the RECORD will show that, and I am certain all of you will agree with me.

It is undisputed that the Senate has only expelled Members in the past for offenses of that type, and my characterization of those crimes was dastardly and sinister. Certainly I would also put murder in that category; I would put rape in that category; I would put the assassination of the President in that category; and the acceptance of cash bribes in that category. But what is the nature of the crime that is alleged here?

It is not rape; it is not murder; it is not assassination; it is not acceptance of a cash bribe. Here we have an accusation based on spoken words that invite multiple interpretations. We also have an accusation that requires us to read into the inner soul of the accused to specifically determine what he intended.

On the other hand, we have the clearcut cases of treason and disloyalty or, as my friend suggests, rape, robbery, and assassination.

On the other hand, here we have words that, I submit, generate reasonable doubt. We are called upon in this case to impose the most serious sanction, a sanction from which there is absolutely no retreat. It is final. And we are called to do this for the alleged commission of a crime based on a case filled with doubt and multiple plausible interpretation of the evidence. One which, if considered carefully and in its entirety, is so equivocal as to lead one to question seriously how a jury could have ever concluded that PETE WILLIAMS could have committed crimes beyond any reasonable doubt. The very nature of this vigorous and lengthy debate should demonstrate to all of us how difficult it is to be certain of the evidence.

Just recall yesterday, the confusion in the questions and the answers, the unanswered questions; add to this the unsubpenaed and now unavailable witnesses. How can we, under these circumstances, impose the most severe sanction, the sanction of finality?

The Constitution has been quoted many times. We know what the qualifications are: 30 years of age, 9 years a citizen, and a resident of the State he or she represents.

But now it appears that we may have added a fourth requirement. Now we may also be subject to a pass-fail test on our probity and our sense of ethics. This test is to be initiated by, and under the sole control of, the executive branch. I am certain that the Founding Fathers would surely not have countenanced such a malicious device. The integrity of the Senate is challenged by this investigation, and the Constitution compels us to reject its advance. And it compels us to that

rejection, even if it means countenancing behavior which we would find repugnant.

Mr. President, this has been a most trying time for all of us. It has been a sad time.

For months, in preparation for the decision which we must ultimately make, Members have been conscientiously viewing these tapes. We have been reading the transcript of our Ethics Committee hearings, and studying the findings of the committee which underlie its recommendation of expulsion.

During the course of the deliberations that began last Wednesday, the distinguished chairman and vice chairman of the Ethics Committee have ably and, I must say, fairly explained why they believe the Senate must pronounce the ultimate penalty on our colleague, Senator WILLIAMS.

Along with some of my colleagues, I have tried to explain why such a drastic penalty is not only unwarranted, but may implicitly encourage a dangerous intrusion on the independence of the legislature by the executive branch.

Finally, the press has been reporting this sad episode since early February 1980, and has, within the past week, been quite explicit in its editorials and feature articles as to what the issues are, and what we should do. They have been telling us where our duty lies.

All of this, of course, is in the highest traditions of democracy—an open, robust and free debate.

After all of the facts and all of the points of view have been considered and deliberated, however, the time comes when each of us must make his or her decision.

Many years ago, Mayor Jimmy Walker of New York City said there are two things that we must do alone—die and testify. I would like to add a third for the Members of the Senate.

Each of us must decide the case of PETE WILLIAMS alone; without regard to the pain and suffering that we may have suffered, or the embarrassment we may have experienced; without regard to the pressures from the press; and without regard to the pressures of political expediency. We are the guardians of this institution, which was created by the Constitution.

In closing, I have some painful words. This has been a painful episode for all of us. After PETE WILLIAMS made his rather lengthy presentation, several Senators approached me, some called me at my home, to tell me that PETE blew it.

He should not have talked so long. It was rambling. With the passage of every minute he was killing himself. He should have been a bit more humble. He should have gone on television. He appeared too arrogant. Jeanette should not have gone on TV.

Well, I believe that PETE WILLIAMS believes that he is innocent. Can we

tell an innocent person not to speak up for himself? Are we to punish him because his presentation was rambling and not in the tradition of Daniel Webster? Are we to punish him because his wife believes in him?

Well, my dear colleagues, let us not punish PETE because he caused us pain and embarrassment, because editorials urge us to do so, or because it is the politically expedient thing to do. Or because he has not had the good grace to resign.

Thank you.

I yield to the Senator from Montana.

The VICE PRESIDENT. The Senator from Montana is recognized.

Mr. MELCHER. Mr. President, in our State of Montana, there is a part of its history when there was an era when punishment was administered to what some people conceived to be lawbreakers—not under lawful procedures, but by force, by gangs of self-righteous citizens. They called themselves the vigilantes. That era did not last long in Montana, but it is a type of activity outside the law that probably resulted in some innocent people being hounded out of the area or hung by a rope without the protection of due process of the law.

I am not proud of those episodes. But at times people who are otherwise decent and law-abiding citizens convince themselves that their goal of establishing justice could not wait the slowness of applying the law in its fullest measure.

Mr. President, I am not suggesting that our procedures here in the Senate or the procedures that the law provides for Senator WILLIAMS through the appellate process are not going to be fully fair and recognize all of his rights. Rather, I bring up this point about the episode of the vigilantes in Montana to give some indication through the course of history that, probably in all of the States, there have been many episodes where due process of the law to protect an individual's rights have been risked, jeopardized, or ignored.

I believe that our main function in the Senate proceedings on this resolution is to make certain that we follow what has been the best wisdom historically, to carefully and conscientiously keep due process as our ultimate goal in whatever determination we make concerning this resolution.

As to a simple censure motion as compared to an expulsion motion, let me state, for the very reasons that Senator CRANSTON outlined yesterday, I believe censure is necessary. As to expulsion now, it is hard to determine if we have seen all of the evidence. And I suggest right here at the outset of my remarks that there is a third possibility of censure now, accompanied with automatic expulsion if Senator WILLIAMS' court appeals do not result in a

finding of his innocence as he asserts under oath.

Each of us would rather that we were on other subjects, on other matters. We would wish that the resolution before us had never existed or was behind us.

I firmly believe that there is desperate need for the Senate to be addressing the problems of the economy. We slip every day deeper into a recession that threatens to engulf more jobs, make more families poor or destitute, cause farm, ranch, and small business foreclosures, and bankrupt large businesses and institutions and decimate many of our basic industries.

All of this year so far the Senate, I will remind my colleagues, has spent practically all of its time debating whether or not to televise ourselves, and the rest of the time, other than that, dealing with a filibuster on busing.

The busing filibuster is over and I am personally ready to vote, as I told the majority leader, on the first day of the television debate—I am ready to vote for it and to get on to other matters.

Now we are on the Senate Ethics Committee resolution for expulsion of Senator WILLIAMS or to censure the Senator.

I am not yet ready to vote for expulsion because I am not sure of all the facts. I am not sure about the credibility of the evidence that has been presented because I am not sure of the credibility of those who gathered the evidence to present to the prosecutors, and eventually, the same evidence that went to the Ethics Committee. I am not sure that all of the evidence has been presented by the Justice Department.

I am not sure that the quality and credibility of the evidence can be judged without being assured that the quality and credibility of the Justice Department agents has been properly determined.

I suggest that, without those assurances, the fair and complete approach to the punishment to be meted out by the Senate upon Senator WILLIAMS would be a resolution of censure now, and automatic expulsion following failure of Senator WILLIAMS to gain reversal of his conviction through the appeals process. This resolution before us, unless amended, only deals with expulsion, and presumes no doubt of guilt of not only unethical conduct but also implies a verdict of the jury and the ruling thus far by Judge Pratt on due process is correct. Since the jury verdict, more evidence has been released by the Justice Department. Since the ruling on due process by Judge Pratt, more evidence has been submitted to him by the defense seeking to reopen Judge Pratt's ruling on due process.

That evidence, which has been alluded to in Monday's debate by the Ethics Committee chairman, may or may not be found significant to Judge Pratt. It concerns allegations of actions of the FBI agents in accepting gifts paid for by Weinberg, who was paid by the Justice Department at least \$130,000 of taxpayers' money to assist in the FBI scam.

I shall not attempt to prejudge these allegations, but it is for these and other reasons that I ponder—indeed, I question—how well we understand the quality of the evidence against Senator WILLIAMS and the credibility of that evidence, which is not as clearcut as either the Ethics Committee resolution would lead us to believe or the public is led to believe by news accounts.

No independent review of the facts has been conducted. The Ethics Committee report is a simple recitation of Prosecutor Puccio's case, plus testimony submitted by Senator WILLIAMS and other witnesses. Basically, it is a case regarding Senator WILLIAMS which was presented by Mr. Puccio which was concluded almost a year ago.

Now, my colleagues, I ask your indulgence while I spell out to you my doubts, my feelings, and my yet unformed final judgment on this resolution of expulsion. I do so with some sense of political risk.

Sam Rayburn's well-known advice to Members of the House was pointed and blunt:

The speech you never gave on the House floor will never come back to haunt you. The speech you have not given cannot hurt you.

Despite Rayburn's admonition, given before my time of service in the House and preceding my tenure here in Washington by several years, and despite understanding the soundness of the admonition, I am drawn strongly to present my views to you.

Both from the committee arguments or from the transcripts I note incomplete and conflicting evidence which creates doubts in my mind. And these doubts one by one, small as they are, are nevertheless like metal filings drawn toward a magnet. And like the metal filings, each of them individually small, when gathered on the magnet collectively grow in significance.

Those individual small doubts gathered together lead me to express my strong convictions on the seriousness of the question posed before the Senate on this matter of the resolution of expulsion of Senator HARRISON WILLIAMS.

And so I give the speech now that Sam Rayburn might have advised against.

My strong convictions on this matter concern two areas, two areas, not one—but two.

The first, of course, is the resolution of expulsion itself. But that is probably the lesser of the two areas. That is the lesser of my concerns. Senator WILLIAMS' expulsion recommended by the committee based on its review of the trial, and testimony the committee received after that would remove a friend from the Senate.

If he is guilty as the committee states—so be it. Unlike many of you, that would not cause me anguish. If he is guilty as the committee believes, I would bid Senator WILLIAMS "farewell" and go on to other matters. I would have some sorrow for him but I would have thanks for the committee's diligence. But there are continually flaws in the committee arguments and findings that keep unfolding, and that really have concerned me as to the conclusiveness of the evidence presented. Do we know and understand those unfolding facts? How are we to judge guilt?

The greater matter before us, the second matter, is the method used by the Justice Department to gather evidence and the presentation of that evidence by the Justice Department, and the withholding of evidence by the Justice Department, or the prosecutor, or the judge to convince a jury that Senator WILLIAMS should be convicted. The FBI scam used taxpayers' money—none of which WILLIAMS accepted. Justice Department methods in obtaining evidence, in my judgment, violated the law.

That is, that the Justice Department conspired to violate the law, that evidence was withheld by either the Justice Department or the judge, contrary to law, and that the depth of this quagmire of Justice Department illegal activities has not yet been gauged.

We have been told by the Ethics Committee that consideration by the Senate of Justice Department irregularities is for another time. It is my belief that that is an equal problem we face today with the WILLIAMS expulsion—and we cannot conclude the consideration of that problem until we consider the intertwining of Justice Department falseness and deliberate misleading of the public, the jury, and, indeed, the Senate itself.

We, the U.S. Senate, sit now as jurors hearing the evidence against Senator WILLIAMS.

I am certain that among us there are votes now for expulsion and votes for censure, and perhaps some votes that are undecided.

The majority of the Senate must vote for censure or there will be none. Two-thirds or more of us must vote for expulsion or there will be none. We are all elected by a majority in our home States, and it is a majority of us by two-thirds who must now vote to unseat a Senator whom a ma-

majority of his constituents have seated for 23 years.

We do not welcome the chore before us, but each of us must now sit as would a juror in a criminal case.

A majority of you, my colleagues, are lawyers by profession. I am not. Those of you who are recognize how difficult our task is as jurors. In that vein, I feel that I may have somewhat of an advantage over most of you for, while I am not a lawyer, I have sat as juror before and I have applied the juror's oath to a case.

In every court in this country the judge instructs the jury—tells the juror that his "function is to determine the facts. They are the sole and exclusive judges of the facts."

Jurors are told to "disregard actions of the court during a trial, and that, if the jurors come to believe during the course of the trial that the court has expressed or intimated any opinion as to the facts, they should regard it." The law is that jurors are "to decide each case solely on the evidence in the courtroom. They must completely disregard any press, television, or radio reports which they have read, seen, or heard. Jurors are to put aside such matters and determine the facts without prejudice, fear or favor, solely from a fair consideration of the evidence."

I am not here to speak at length about due process, the law of entrapment, or to debate at length Judge Pratt's rulings at Senator WILLIAMS' trial on whether they were fair or unfair.

I am not here bound by the jury's verdict against Senator WILLIAMS in 1981. Nor are we bound by Judge Pratt's ruling on due process. You are not bound—none of us are—by these findings.

There is more evidence now than what was presented to the jury at the trial, and I shall speak more about that later.

Neither you nor I are bound by that verdict, for it is the interpretation of the evidence by 12 people who heard what Judge Pratt let them hear. And there was more to be heard than the jury at the Williams trial was allowed to hear by Judge Pratt.

We are 100 Members of the U.S. Senate now asked to judge the evidence before us. The Ethics Committee, in voting out their resolution to expel Senator WILLIAMS, is in essence sitting as a grand jury and filed these charges. But since filing the resolution, there are further questions about more and new evidence that keep arising.

The report of the Ethics Committee and their forceful presentation here has told us that conclusive evidence was presented, and that conclusive evidence, including video tapes of Senator WILLIAMS, provides high-quality

evidence of the nature which requires expulsion. At this point, if all the evidence has been presented and my understanding of the evidence is clear, I for one must disagree with the Ethics Committee in their finding.

First, if the video tape evidence against Senator WILLIAMS were so strong, then the FBI would not have met after most of these video tape sessions and stated that the Senator had not yet committed a crime—or, as lawyers say, committed an "overt act in the conspiracy."

The case against Senator WILLIAMS lacks integrity on the part of the FBI. It lacks quality and credibility because of the perjury of its star witness, Mel Weinberg, and the lack of proper FBI control over its informant because of the non-arm's-length relationship between Weinberg and his supervising FBI agents.

I am concerned because the Ethics Committee has not conducted a truly independent investigation. Instead, we have been presented with a reiteration of the prosecution's case which, because of Judge Pratt's rulings, I believe to be flawed and will be reversed on appeal. They have drawn on trial transcripts and on testimony submitted by Senator WILLIAMS without actually testing by their own investigation the credibility and quality of the FBI evidence.

The committee is acting more like an appellate court reviewing the jury trial, receiving additional testimony, but not truly making an independent investigation on their own.

We are told that many of the total batch of tapes are not relevant because, if they were, the committee says the Williams defense would get them and demonstrate the exculpatory evidence. It bothers me when the committee chairman and ranking member brush aside 10 missing tapes on an explanation of Weinberg that they were stolen and that in any event there probably was evidence in them to help WILLIAMS.

I am disturbed by what was said by the committee chairman. On Monday he stated, "an alleged forged letter." "Alleged forged letter," I think, is a misstatement of fact. It was a real letter; it was a forged letter. It is not alleged.

Informant Weinberg was truly the Justice Department's person. They hired him, apparently paid him \$130,000 as his share of the scam.

Errichetti was the mayor of Camden and does meet with Senators. It seems wrong and misleading to me to describe Errichetti as somebody who would not be meeting with Senators when, in fact, he was an elected mayor of Camden at that time. Of course he meets with Senators.

Mr. President, I do have to agree with the committee's statements about the lack of importance of the linguist's

review. To me, it is not impressive as defense material.

But, really, Mr. President, if the committee did not know that the forged letter is fact and not allegation, it points up the real need and the value of an independent investigation.

It has been described that other Senators have been on the list.

Yet, on Monday, the chairman of the Ethics Committee suggested to this body that the Justice Department never really authorized a bribe to be offered to Senator THURMOND, and he suggested that really all they were doing was letting Congressman Jenrette further implicate himself by puffing as to what he, Jenrette, could provide to Weinberg and Amoroso. That point aroused my interest, so I spoke with Jenrette's attorney and was provided with actual trial transcripts.

We should remember that former Congressman Jenrette was first video taped talking about Senator THURMOND on January 7, 1980. The codefendant in the Jenrette trial was John Stow. As early as April 25, 1979, there was a taped phone conversation between Weinberg and Stow in which Weinberg asked Stow if he could "get" the Representative—Jenrette—and "You don't follow what I'm saying; like, we are financing something for, ah, a United States Senator?"

Stow. "Yeah."

WEINBERG. "Ah, there is no problem there. It was a 120 percent financing to be done. You got to have the juice behind you."

The building and business that Mr. Stow was trying to get financed was named after Senator THURMOND and that was discussed.

We should keep in mind that Weinberg called Representative Jenrette between January 1 and January 6, 1980, and said in that conversation that Tony—that was Amoroso—"was coming back from overseas and, that had been verified earlier," and to the effect that Jenrette had better get his stuff together as related to the Senator because Tony is tough.

Weinberg said: "Maybe you (Jenrette) can explain to Tony why you haven't got the Senator (THURMOND). So you better be at that meeting."

On January 7, 1980, Jenrette went to a meeting with Weinberg and Amoroso. In 2 weeks, U.S. Attorney Ruff called Heymann, Assistant Attorney General, Criminal Division, and said, "We believe Senator THURMOND should be offered a bribe for \$100K." That was in late June.

Heymann testified in Federal court, under cross examination by Jenrette's attorney, that after just 15 minutes of thought, he authorized such a bribe figure. What happened?

I think it became clear that they could not approach Senator THURMOND and really did not get to him. He refused to meet them.

But you have to remember that, at February 2, 1980, just 3 weeks after this point in time, Abscam ventures were leaked to the press and so the Abscam scam was over.

I have been looking at some of the statements by the committee that occurred on Monday. My good friend, the chairman of the committee, says all involved need a chance to defend themselves, and indeed they do, considering what is before Judge Pratt right now—the allegations before Judge Pratt, which is an attempt to reopen the due process hearing by defense attorneys of Senator WILLIAMS. This is especially so because those allegations regard some of the agents involved in the scam.

Yes, they do need a chance to defend themselves. There may be a great deal of evidence considered on this, and it is now a matter before Judge Pratt, and that is exactly the point: The WILLIAMS charge cannot stand except on FBI evidence. The WILLIAMS conviction cannot stand except on FBI evidence. The continual hammering that we have had here during the past several days of the committee's reading of the conversation from transcripts of WILLIAMS and various of the FBI scam personages does not change that fact.

We have to understand how good this evidence is, how credible it is, and what quality it is. I cannot see myself doing the same, having the same types of conversation that are in those tapes, that Senator WILLIAMS had with those people. But that is not the point. The point is really this: Is all of the evidence in?

I want to address that point, setting aside all the months of Abscam arranged scenes and discussions and thoughts to involve Senator WILLIAMS in an illegal act prior to September 12, 1979. I want to go to that point in which Weinberg, hired by the FBI, asked Errichetti to forge a letter.

What does the letter say? It is dated September 11.

*To whom it may concern:*

In light of the fact that I am, at present, a stockholder in, and advisor to, the corporation which is involved in the mining and processing of titanium dioxide, I would be pleased to serve in the same capacity in the new corporation, which new corporation is purchasing the existing operation.

That is a forged letter. That is all it says. But it was obtained. It was discussed on September 12, asked for by the Justice Department through Weinberg of Errichetti on September 12.

Why September 12? Because a meeting on September 11, with Senator WILLIAMS on the tape, did not give any evidence of the needed overt act. So, in the discussion of September 14, the forgery having been accomplished by Errichetti, it was given to the FBI Agent Anthony Amoroso.

I hope all of you have noted the letter. I hope all of you have noted that it is a forgery. It is not alleged to be a forgery; it is a forgery. It is described as a forgery.

The Justice Department hired Weinberg to get Errichetti to forge the letter, to incriminate Senator WILLIAMS. There was no incriminating evidence, at least in the judgment of this FBI agent, against WILLIAMS at this point; or, if there was incriminating evidence, it was not viewed by those agents as being significant enough to go to a grand jury. They believed they needed the forged letter to make a charge against WILLIAMS stand up in court.

The question is this: Why does the Justice Department, through their hiring Weinberg, need a forged letter to present to another Justice Department agent posing as a sheik?

There are two possibilities. First, the forged letter was to be used as evidence against WILLIAMS at a trial.

Second, the forged letter may have been necessary so that the FBI Abscam group—this group—could convince their superiors, their higher-ups in the Justice Department—convince their superiors falsely that they had valid evidence on Senator WILLIAMS.

I suggest to all of you that those are the only two possibilities.

The explanation given by the vice chairman of the Ethics Committee, which I will get to in a moment, simply does not hold water. Both these points may be true, because the forged letter, known to be a forgery by Agents Amoroso and Brady, was logged in as FBI 1-A exhibit and put in a sealed envelope and taped.

A few days later, prior to September 27, Agent Brady filed a 302 report. He dictated it, it was typed, and the final date of filing was September 27. That report described the forgery and demonstrated the knowledge of Agent Brady and Agent Amoroso that the letter was forged and that it was obtained by Weinberg for them. I assume that the 302 report was known to others in the Justice Department. It was never presented to the grand jury but may have appeared at Senator WILLIAMS' trial in Government 134 exhibit file.

It is significant that the forgery may not have caused the jury as much concern as it does me.

On Monday, Senator HEFLIN stated the facts as he believed them to be concerning the letter asked for by Weinberg of Errichetti. The following is the nature of Senator HEFLIN's statement, that is, that the letter was forged by Errichetti, was asked for by the Justice Department through Weinberg, and was to be used against Errichetti. That is why the agents knew it was forged. Nevertheless, it was not used in the Errichetti trial,

nor was Errichetti charged with forgery.

It was put in a file marked as an exhibit and sealed and taped, regarding WILLIAMS and then shows up in the Government's 134 exhibit file in Senator WILLIAMS' case, not in the Errichetti case.

What does Good say about this?

The transcript shows that in the due process hearings of June 22, 23, 24, and 25, 1981, in the case of the United States against WILLIAMS, in Judge Pratt's due process hearing, FBI Agent Good, who is running this scam testifying regarding obtaining evidence on WILLIAMS, when they could get it and what they considered valid evidence, was asked about the September 11 meeting, with WILLIAMS. It goes through several pages. Read it for yourselves. I am going to read Agent Good's direct answer under oath.

For what reason was it felt necessary to get a letter from Senator WILLIAMS after the lengthy meeting that was videotaped on September 11, 1979?

Answer: Additional evidence.

So they were using the letter not against Errichetti but against WILLIAMS. It does not show up in the Errichetti case. It never was intended to show up in the Errichetti case.

Only two answers are available as to why they wanted to get a forged letter. Why did the Justice Department get a forged letter to show to their own people? There are only two explanations. I will repeat: One was to put it in the file and save it, to see whether it could be used against WILLIAMS at his trial. The other explanation may be the more logical one—that those agents at that time, not having demonstrable proof of an overt act by WILLIAMS, wanted to convince their superiors that they were doing a pretty good job and to keep the scam going. Both explanations could be true.

However, an independent investigation, I believe, would have shown that the forged letter was placed in that FBI 1-A file on Senator WILLIAMS and later in the exhibit file on Senator WILLIAMS and never had anything to do with Errichetti. That is why I think it is important, and I stress that I do not believe we have had a significant or sufficient independent investigation of this forgery.

This causes me grave concern for another reason, because this forged letter bears out exactly what is demonstrated in the FBI internal memo from section chief, W. D. Gow to assistant director in charge, Francis M. Mullen, Jr., on November 27, 1979. The subject is Abscam, and the purpose is to provide results of a conference held this date. That is the purpose of the memo. What is the recommendation? None.

I will read from this report what referred to WILLIAMS. I will read from the Gow memo:

Relative to the matter concerning U.S. Senator Harrison Williams of New Jersey, the following was decided:

1. It will be necessary to recontact U.S. Senator Williams in attempt to obtain an overt action on his part regarding his sponsoring of some type of legislation; i.e., tax cover for titanium mine; environmental standards for titanium mine and/or import quotas for titanium mine.

2. It was also suggested that attempts should be made to elicit from U.S. Senator Williams whether or not he wanted his shares hidden, through discussions concerning reporting of personal taxes and official acts that he promised to provide.

If the above information is obtained, prosecutors at the meeting felt that they could prove that Senator Williams was in violation of Title 18, Section 201 USC and Conspiracy to Defraud the Government.

The two can go together. One is the forged letter in September, because they did not think they had enough and put it in a file and saved it. For what purpose? One of the two purposes I have described may be accurate, or perhaps you have another. But the Errichetti deal does not fit.

Then, a couple of months later, November, when the Gow-Mullen memo demonstrates that they really need to recontact WILLIAMS to get him to commit an overt act and suggest what attempts should be made, and what they should be.

There are two conflicting Justice Department pieces of evidence here. The first is forged, and the jury saw it and knew it to be a forgery, but they were never shown the 302 form and as a result they probably did not attach much significance to it.

The second is a memo of these Justice Department officers involved in the Abscam, stating that not sufficient evidence had been filed for a case against WILLIAMS. Knowledge of the second document was not available for the jury. It is available, however, for us and was available for the jury, but Judge Pratt did not allow it to be shown to the jury. It came to light to Senator WILLIAMS and the public in July of 1981, through Judge Penn, in another Abscam case, not from Judge Pratt.

This same Gow-Mullen memorandum refers to the evidence that had been collected by the FBI against Senator WILLIAMS, and Gow was the FBI section chief. It says, "We do not have an overt act." Then he sent a memorandum to Mullen, who was the assistant director in charge of the FBI investigation. It came to light only because Judge Penn admitted it as evidence in another Abscam case when he, Judge Penn, was considering due process.

But he would have allowed it to go to the jury had he known about it during the trial. The memorandum is

dated November 27, 1979, and documents the Justice Department's belief at that time that, without an overt act, it had no case against Senator WILLIAMS.

On Monday, when Senator HEFLIN was giving the view of the Senate Ethics Committee, he stated that this exculpatory memorandum, even if it had been known to the defense at the time of the Williams trial, could not have been made available to the jury. Well, that may be his opinion and that may be Judge Pratt's opinion, but it is not Judge Penn's opinion.

I have spoken to the lawyers who participated in the defense of the Abscam trials, and there is a real doubt about this appraisal of the law, of this evidence not being available for the jury. First, that memorandum was released to the Jenrette defense by Federal Judge Penn under the Brady against Maryland legal principle which states that any evidence construed to be favorable to the defense shall be turned over to the judge or the defendant prior to the trial.

Judge Penn asked for Brady material to be submitted to him in camera, in secret, prior to the trial. Later, Mr. Jenrette was convicted, the Government turned over 23 documents that should have been turned over earlier. One of those documents was the Gow memorandum. Judge Penn immediately turned the document over to the defense under Brady, and permitted the defense to use it in its motion for a new trial, and in its due process motion. That is an admission in itself that the contents are admissible in the trial.

I would like to submit this for the record, Mr. President, the Brady against Maryland decision. I ask unanimous consent that it be printed in the RECORD.

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

BRADY V. MARYLAND

CERTIORARI TO THE COURT OF APPEALS OF MARYLAND

No. 490. Argued March 18-19, 1963.—Decided May 13, 1963.

In separate trials in a Maryland Court, where the jury is the judge of both the law and the facts but the court passes on the admissibility of the evidence, petitioner and a companion were convicted of first-degree murder and sentenced to death. At his trial, petitioner admitted participating in the crime but claimed that his companion did the actual killing. In his summation to the jury, petitioner's counsel conceded that petitioner was guilty of murder in the first degree and asked only that the jury return that verdict "without capital punishment." Prior to the trial, petitioner's counsel had requested the prosecution to allow him to examine the companion's extrajudicial statements. Several of these were shown to him; but one in which the companion admitted the actual killing was withheld by the prosecution and did not come to petitioner's notice until after he had been tried, convicted

and sentenced and after his conviction had been affirmed by the Maryland Court of Appeals. In a post-conviction proceeding, the Maryland Court of Appeals held that suppression of the evidence by the prosecutor denied petitioner due process of law, and it remanded the case for a new trial of the question of punishment, but not the question of guilt, since it was of the opinion that nothing in the suppressed confession "could have reduced [petitioner's] offense below murder in the first degree." *Held*, Petitioner was not denied a federal constitutional right when his new trial was restricted to the question of punishment; and the judgment is affirmed. Pp. 84-91.

(a) Suppression by the prosecution of evidence favorable to an accused who has requested it violates due process where the evidence is material either to guilt or to punishment, irrespective of the good faith or bad faith of the prosecution. Pp. 86-88.

(b) When the Court of Appeals restricted petitioner's new trial to the question of punishment, it did not deny him due process or equal protection of the laws under the Fourteenth Amendment, since the suppressed evidence was admissible only on the issue of punishment. Pp. 88-91.

226 Md. 422, 174 A. 2d 167, affirmed.

*E. Clinton Bamberger, Jr.* argued the cause for petitioner. With him on the brief was *John Martin Jones, Jr.*

*Thomas W. Jamison III*, Special Assistant Attorney General of Maryland, argued the cause for respondent. With him on the brief were *Thomas B. Finan*, Attorney General, and *Robert C. Murphy*, Deputy Attorney General.

Opinion of the Court by Mr. Justice Douglas, announced by Mr. Justice Brennan.

Petitioner and a companion, Boblit, were found guilty of murder in the first degree and were sentenced to death, their convictions being affirmed by the Court of Appeals of Maryland. 220 Md. 454, 154 A. 2d 434. Their trials were separate, petitioner being tried first. At his trial Brady took the stand and admitted his participation in the crime, but he claimed that Boblit did the actual killing. And, in his summation to the jury, Brady's counsel conceded that Brady was guilty of murder in the first degree, asking only that the jury return that verdict "without capital punishment." Prior to the trial petitioner's counsel had requested the prosecution to allow him to examine Boblit's extrajudicial statements. Several of those statements were shown to him; but one dated July 9, 1958, in which Boblit admitted the actual homicide, was withheld by the prosecution and did not come to petitioner's notice until after he had been tried, convicted, and sentenced, and after his conviction had been affirmed.

Petitioner moved the trial court for a new trial based on the newly discovered evidence that had been suppressed by the prosecution. Petitioner's appeal from a denial of that motion was dismissed by the Court of Appeals without prejudice to relief under the Maryland Post Conviction Procedure Act. 222 Md. 442, 160 A. 2d 912. The petition for post-conviction relief was dismissed by the trial court; and on appeal the Court of Appeals held that suppression of the evidence by the prosecution denied petitioner due process of law and remanded the case for a retrial of the question of punishment, not the question of guilt. 226 Md. 422, 174 A.

2d 167. The case is here on certiorari, 371 U.S. 812.<sup>1</sup>

The crime in question was murder committed in the perpetration of a robbery. Punishment for that crime in Maryland is life imprisonment or death, the jury being empowered to restrict the punishment to life by addition of the words "without capital punishment." 3 Md. Ann. Code, 1957, Art. 27, § 413. In Maryland, by reason of the state constitution, the jury in a criminal case are "the Judges of Law, as well as of fact." Art. XV, § 5. The question presented is whether petitioner was denied a federal right when the Court of Appeals restricted the new trial to the question of punishment.

We agree with the Court of Appeals that suppression of this confession was a violation of the Due Process Clause of the Fourteenth Amendment. The court of Appeals relied in the main on two decisions from the Third Circuit Court of Appeals—*United States ex rel. Almeida v. Baldi*, 195 F. 2d 815, and *United States ex rel. Thompson v. Dye*, 221 F. 2d 763—which, we agree, state the correct constitutional rule.

This ruling is an extension of *Mooney v. Holohan*, 294 U.S. 103, 112, where the Court ruled on what nondisclosure by a prosecutor violates due process:

"It is a requirement that cannot be deemed to be satisfied by mere notice and hearing if a State has contrived a conviction through the pretense of a trial which in truth is but used as a means of depriving a defendant of liberty through a deliberate deception of court and jury by the presentation of testimony known to be perjured. Such a contrivance by a State to procure the conviction and imprisonment of a defendant is as inconsistent with the rudimentary demands of justice as is the obtaining of a like result by intimidation."

In *Pyle v. Kansas*, 317 U.S. 213, 215-216, we phrased the rule in broader terms:

"Petitioner's papers are ineptly drawn, but they do set forth allegations that his imprisonment resulted from perjured testimony, knowingly used by the State authorities to obtain his conviction, and from the deliberate suppression by those same authorities of evidence favorable to him. These allegations sufficiently charge a deprivation of rights guaranteed by the Federal Constitution, and if proven, would entitle petitioner to release from his present custody. *Mooney v. Holohan*, 294 U.S. 103."

The Third Circuit in the *Baldi* case construed that statement in *Pyle v. Kansas* to mean that the "suppression of evidence favorable" to the accused was itself sufficient

<sup>1</sup> Neither party suggests that the decision below is not a "final judgment" within the meaning of 28 U.S.C. § 1257(3), and no attack on the reviewability of the lower court's judgment could be successfully maintained. For the general rule that "Final judgment in a criminal case means sentence. The sentence is the judgment" (*Berman v. United States*, 302 U.S. 211, 212) cannot be applied here. If in fact the Fourteenth Amendment entitles petitioner to a new trial on the issue of guilt as well as punishment the ruling below has seriously prejudiced him. It is the right to a trial on the issue of guilt "that presents a serious and unsettled question" (*Cohen v. Beneficial Loan Corp.*, 337 U.S. 541, 547) that "is fundamental to the further conduct of the case" (*United States v. General Motors Corp.*, 323 U.S. 373, 377). This question is "independent of, and unaffected by" (*Radio Station WOW v. Johnson*, 326 U.S. 120, 126) what may transpire in a trial at which petitioner can receive only a life imprisonment or death sentence. It cannot be mooted by such a proceeding. See *Largent v. Texas*, 318 U.S. 418, 421-422. Cf. *Local No. 438 v. Curry*, 371 U.S. 542, 549.

to amount to a denial of due process. 195 F. 2d, at 820. In *Napue v. Illinois*, 360 U.S. 264, 269, we extended the test formulated in *Mooney v. Holohan* when we said: "The same result obtains when the State, although not soliciting false evidence, allows it to go uncorrected when it appears." And see *Alcorta v. Texas*, 355 U.S. 28; *Wilde v. Wyoming*, 362 U.S. 607. Cf. *Durley v. Mayo*, 351 U.S. 277, 285 (dissenting opinion).

We now hold that the suppression by the prosecution of evidence favorable to an accused upon request violates due process where the evidence is material either to guilt or to punishment, irrespective of the good faith or bad faith of the prosecution.

The principle of *Mooney v. Holohan* is not punishment of society for misdeeds of a prosecutor but avoidance of an unfair trial to the accused. Society wins not only when the guilty are convicted but when criminal trials are fair; our system of the administration of justice suffers when any accused is treated unfairly. An inscription on the walls of the Department of Justice states the proposition candidly for the federal domain: "The United States wins its point whenever justice is done its citizens in the courts."<sup>2</sup> A prosecution that withholds evidence on demand of an accused which, if made available, would tend to exculpate him or reduce the penalty helps shape a trial that bears heavily on the defendant. That casts the prosecutor in the role of an architect of a proceeding that does not comport with standards of justice, even though, as in the present case, his action is not "the result of guile," to use the words of the Court of Appeals. 226 Md., at 427, 174 A. 2d, at 169.

The question remains whether petitioner was denied a constitutional right when the Court of Appeals restricted his new trial to the question of punishment. In justification of that ruling the Court of Appeals stated:

"There is considerable doubt as to how much good Boblit's undisclosed confession would have done Brady if it had been before the jury. It clearly implicated Brady as being the one who wanted to strangle the victim, Brooks. Boblit, according to this statement, also favored killing him, but he wanted to do it by shooting. We cannot put ourselves in the place of the jury and assume what their views would have been as to whether it did or did not matter whether it was Brady's hands or Boblit's hands that twisted the shirt about the victim's neck. . . . [I]t would be 'too dogmatic' for us to say that the jury would not have attached any significance to this evidence in considering the punishment of the defendant Brady.

"Not without some doubt, we conclude that the withholding of this particular confession of Boblit's was prejudicial to the defendant Brady. . . .

"The appellant's sole claim of prejudice goes to the punishment imposed. If Boblit's withheld confession had been before the jury, nothing in it could have reduced the appellant Brady's offense below murder in

the first degree. We, therefore, see no occasion to retry that issue." 226 Md., at 429-430, 174 A. 2d, at 171. (Italics added.)

If this were a jurisdiction where the jury was not the judge of the law, a different question would be presented. But since it is, how can the Maryland Court of Appeals state that nothing in the suppressed confession could have reduced petitioner's offense "below murder in the first degree"? If, as a matter of Maryland law, juries in criminal cases could determine the admissibility of such evidence on the issue of innocence or guilt, the question would seem to be foreclosed.

But Maryland's constitutional provision making the jury in criminal cases "the Judges of Law" does not mean precisely what it seems to say.<sup>3</sup> The present status of that provision was reviewed recently in *Giles v. State*, 229 Md. 370, 183 A. 2d 359, appeal dismissed, 372 U.S. 767, where the several exceptions, added by statute or carved out by judicial construction, are reviewed. One of those exceptions, material here, is that "Trial courts have always passed and still pass upon the admissibility of evidence the jury may consider on the issue of the innocence or guilt of the accused." 229 Md., at 383, 183 A. 2d, at 365. The cases cited make up a long line going back nearly a century. *Wheeler v. State*, 42 Md. 563, 570, stated that instructions to the jury were advisory only "except in regard to questions as to what shall be considered as evidence." And the court "having such right, it follows of course, that it also has the right to prevent counsel from arguing against such an instruction." *Bell v. State*, 57 Md. 108, 120. And see *Beard v. State*, 71 Md. 275, 280, 17 A. 1044, 1045; *Dick v. State*, 107 Md. 11, 21, 68 A. 286, 290. Cf. *Vogel v. State*, 163 Md. 267, 162 A. 705.

We usually walk on treacherous ground when we explore state law,<sup>4</sup> for state courts, state agencies, and state legislatures are its final expositors under our federal regime. But, as we read the Maryland decisions, it is the court, not the jury, that passes on the "admissibility of evidence" pertinent to "the issue of the innocence or guilt of the accused." *Giles v. State*, *supra*. In the present case a unanimous Court of Appeals has said that nothing in the suppressed confession "could have reduced the appellant Brady's offense below murder in the first degree." We read that statement as a ruling on the admissibility of the confession on the issue of innocence or guilt. A sporting theory of justice might assume that if the suppressed confession had been used at the first trial, the judge's ruling that it was not admissible on the issue of innocence or guilt might have been flouted by the jury just as might have been done if the court had first admitted a confession and then stricken it from the record.<sup>5</sup> But we cannot raise that trial

<sup>2</sup> See Dennis, Maryland's Antique constitutional Thorn, 92 U. of Pa. L. Rev. 34, 39, 43; Prescott, Juries as Judges of the Law: Should the Practice be Continued, 60 Md. St. Bar Assn. Rept. 246, 253-254.

<sup>3</sup> For one unhappy incident of recent vintage see *Oklahoma Packing Co. v. Oklahoma Gas & Electric Co.*, 309 U.S. 4, that replaced an earlier opinion in the same case, 309 U.S. 703.

<sup>4</sup> In the matter of confessions a hybrid situation exists. It is the duty of the Court to determine from the proof, usually taken out of the presence of the jury, if they were freely and voluntarily made, etc., and admissible. If admitted, the jury is entitled to hear and consider proof of the circumstances surrounding their obtention, the better to determine their weight and sufficiency. The fact that the Court admits them clothes them with no presumption for the jury's purposes that they are either

strategy to the dignity of a constitutional right and say that the deprivation of this defendant of that sporting chance through the use of a bifurcated trial (cf. *Williams v. New York*, 337 U.S. 241) denies him due process or violates the Equal Protection Clause of the Fourteenth Amendment.

*Affirmed.*

Separate opinion of Mr. Justice White.

1. The Maryland Court of Appeals declared, "The suppression or withholding by the State of material evidence exculpatory to an accused is a violation of due process" without citing the United States Constitution or the Maryland Constitution which also has a due process clause.\* We therefore cannot be sure which Constitution was invoked by the court below and thus whether the State, the only party aggrieved by this portion of the judgment, could even bring the issue here if it desired to do so. See *New York City v. Central Savings Bank*, 306 U.S. 661; *Minnesota v. National Tea Co.*, 309 U.S. 551. But in any event, there is no cross-petition by the State, nor has it challenged the correctness of the ruling below that a new trial on punishment was called for by the requirements of due process. In my view, therefore, the Court should not reach the due process question which it decides. It certainly is not the case, as it may be suggested, that without it we would have only a state law question, for assuming the court below was correct in finding a violation of petitioner's rights in the suppression of evidence, the federal question he wants decided here still remains, namely, whether denying him a new trial on guilt as well as punishment deprives him of equal protection. There is thus a federal question to deal with in this Court, cf. *Bell v. Hood*, 327 U.S. 678, wholly aside from the due process question involving the suppression of evidence. The majority opinion makes this unmistakably clear. Before dealing with the due process issue it says, "The question presented is whether petitioner was denied a federal right when the Court of Appeals restricted the new trial to the question of punishment." After discussing at some length and disposing of the suppression matter in federal constitutional terms it says the question still to be decided is the same as it was before: "The question remains whether petitioner was denied a constitutional right when the Court of Appeals restricted his new trial to the question of punishment."

The result, of course, is that the due process discussion by the Court is wholly advisory.

2. In any event the Court's due process advice goes substantially beyond the holding below. I would employ more confining language and would not cast in constitutional form a broad rule of criminal discovery. Instead, I would leave this task, at least for now, to the rulemaking or legislative process after full consideration by legislators, bench, and bar.

true or were freely and voluntarily made. However, after a confession has been admitted and read to the jury the judge may change his mind and strike it out of the record. Does he strike it out of the jury's mind? Dennis, Maryland's Antique Constitutional Thorn, 92 U. of Pa. L. Rev. 34, 39. See also *Bell v. State*, *supra*, at 120; *Vogel v. State*, 163 Md., at 272, 162 A., at 706-707.

\*Md. Const., Art. 23; *Home Utilities Co., Inc., v. Revere Copper & Brass, Inc.*, 209 Md. 610, 122 A. 2d 109; *Raymond v. State*, 192 Md. 602, 65 A. 2d 285; *County Comm'rs of Anne Arundel County v. English*, 182 Md. 514, 35 A. 2d 135; *Oursler v. Tawes*, 178 Md. 471, 13 A. 2d 763.

<sup>2</sup> Judge Simon E. Sobeloff when Solicitor General put the idea as follows in an address before the Judicial Conference of the Fourth Circuit on June 29, 1954:

"The Solicitor General is not a neutral, he is an advocate; but an advocate for a client whose business is not merely to prevail in the instant case. My client's chief business is not to achieve victory but to establish justice. We are constantly reminded of the now classic words penned by one of my illustrious predecessors, Frederick William Lehmann, that the Government wins its point when justice is done in its courts."

3. I concur in the Court's disposition of petitioner's equal protection argument.

Mr. Justice Harlan, whom Mr. Justice Black joins, dissenting.

I think this case presents only a single federal question: did the order of the Maryland Court of Appeals granting a new trial, limited to the issue of punishment, violate petitioner's Fourteenth Amendment right to equal protection? In my opinion an affirmative answer would be required if the Boblit statement would have been admissible on the issue of guilt at petitioner's original trial. This indeed seems to be the clear implication of this Court's opinion.

The Court, however, holds that the Fourteenth Amendment was not infringed because it considers the Court of Appeals' opinion, and the other Maryland cases dealing with Maryland's constitutional provision making juries in criminal cases "the Judges of Law, as well as of fact," as establishing that the Boblit statement would not have been admissible at the original trial on the issue of petitioner's guilt.

But I cannot read the Court of Appeals' opinion with any such assurance. That opinion can as easily, and perhaps more easily, be read as indicating that the new trial limitation followed from the Court of Appeals' concept of its power, under § 645G of the Maryland Post Conviction Procedure Act, Md. Code, Art. 27 (1960 Cum. Supp.) and Rule 870 of the Maryland Rules of Procedure, to fashion appropriate relief meeting the peculiar circumstances of this case,<sup>2</sup> rather than from the view that the Boblit statement would have been relevant at the original trial only on the issue of punishment. 226 Md., at 430, 174 A. 2d, at 171. This interpretation is indeed fortified by the Court of Appeals' earlier general discussion as to the admissibility of third-party confessions, which falls short of saying anything that is dispositive of the crucial issue here. 226 Md., at 427-429, 174 A. 2d, at 170.<sup>3</sup>

Nor do I find anything in any of the other Maryland cases cited by the Court (*ante*, p. 89) which bears on the admissibility *vel non* of the Boblit statement on the issue of guilt. None of these cases suggests anything more relevant here than that a jury may not "overrule" the trial court on questions relating to the admissibility of evidence. Indeed they are by no means clear as to what happens if the jury in fact undertakes to do so. In this very case, for example, the trial

<sup>1</sup> I agree with my Brother White that there is no necessity for deciding in this case the broad due process questions with which the Court deals at pp. 86-88 of its opinion.

<sup>2</sup> Section 645G provides in part: "If the court finds in favor of the petitioner, it shall enter an appropriate order with respect to the judgment or sentence in the former proceedings, and any supplementary orders as to arraignment, retrial, custody, bail, discharge, correction of sentence, or other matters that may be necessary and proper." Rule 870 provides that the Court of Appeals "will either affirm or reverse the judgment from which the appeal was taken, or direct the manner in which it shall be modified, changed or amended."

<sup>3</sup> It is noteworthy that the Court of Appeals did not indicate that it was limiting in any way the authority of *Day v. State*, 196 Md. 384, 76 A. 2d 729. In that case two defendants were jointly tried and convicted of felony murder. Each admitted participating in the felony but accused the other of the homicide. On appeal the defendants attacked the trial court's denial of a severance, and the State argued that neither defendant was harmed by the statements put in evidence at the joint trial because admission of the felony amounted to admission of guilt of felony murder. Nevertheless the Court of Appeals found an abuse of discretion and ordered separate new trials on all issues.

court charged that "in the final analysis the jury are the judges of both the law and the facts, and the verdict in this case is *entirely* the jury's responsibility." (Emphasis added.)

Moreover, uncertainty on this score is compounded by the State's acknowledgment at the oral argument here that the withheld Boblit statement would have been admissible at the trial on the issue of guilt.<sup>4</sup>

In this state of uncertainty as to the proper answer to the critical underlying issue of state law, and in view of the fact that the Court of Appeals did not in terms address itself to the equal protection question, I do not see how we can properly resolve this case at this juncture. I think the appropriate course is to vacate the judgment of the State Court of Appeals and remand the case to that court for further consideration in light of the governing constitutional principle stated at the outset of this opinion. Cf. *Minnesota v. National Tea Co.*, 309 U.S. 551.

Mr. MELCHER. Second, the defense of entrapment was admitted in the Jenrette case. Now, you know, in order to prove a person guilty beyond a reasonable doubt, the Government must prove at the time the offer is made to participants in the crime the individual targeted must be ready, willing, and able to participate in this crime.

While it is true that the Gow memo was really a very thorough admission by the Justice Department itself as of the date of the memorandum, that was November 27, 1979, that Senator WILLIAMS was not ready and was not willing to participate in the crime being offered to him; consequently, that document was admissible to show that Senator WILLIAMS was not predisposed to be a criminal.

Finally, that document could have been used at trial to show how much zeal was used by the Justice Department in the pursuit of the Senator, and that would have been relevant evidence. I believe that, had I been a juror, that memo may well have caused me to vote not guilty on its contents alone.

Senator WILLIAMS presented evidence of good character at his trial. The Gow memo would have been helpful proof to confirm specific examples of good character in that an effective lawyer could have contrasted the conduct of certain Congressmen, whose conduct was also described as criminal in that memorandum, with that of Senator WILLIAMS whose conduct was described as noncriminal, and to me that is a pretty significant point.

Lawyers and judges and members of the Ethics Committee may argue over whether or not this exculpatory memorandum can be supplied as evidence to a jury. But we have no argument here in the Senate. We have the memo, we can read it, we can understand it, and it tells us that the Justice

<sup>4</sup> In response to a question from the Bench as to whether Boblit's statement, had it been offered at petitioner's original trial, would have been admissible for all purposes, counsel for the State, after some colloquy, stated: "It would have been, yes."

Department lacked a case against WILLIAMS on November 27, 1979, because they did not have evidence of overt acts by WILLIAMS.

We are here as Senators in the U.S. Senate to judge the guilt or innocence of another Senator of having committed a crime and this document has particular relevance not only to ourselves and our judgment on WILLIAMS but also regarding the outcome of the appeal of the jury verdict by Senator WILLIAMS.

Judge Pratt disallows the memorandum as evidence for that trial. Yet Judge Penn, another Federal judge in another Abscam case, allows the same document as evidence. Let us look at Judge Pratt's decision in the due process hearing while denying this document's importance:

However, those opinions and the memoranda embodying them were not relevant to any of the specific issues the jury was called upon to decide in this case.

I find this opinion incredible on its face; the fact that the two jurors said—the two jurors sitting at that trial—that they would have reversed their conviction vote, reversed their vote for conviction, had they known about this and been able to have that piece of evidence present. How can a piece of evidence be irrelevant when it is so relevant to the jurors to the point that it would have changed their decision?

Tell me, my colleagues, those of you who are lawyers, does this not mean—this argument between two Federal judges, what should be admitted and what should not be admitted—either the appellate court or the Supreme Court will determine whether or not this exculpatory memorandum is allowed as evidence?

Then tell me also, my colleagues, particularly those of you who are lawyers, would you have preferred to set yourselves in the place of the appellate or the Supreme Court as a judge on the admission and the relevance of this memorandum as evidence?

Well, let us return to Judge Pratt. But, first of all, Judge Pratt in the Williams trial set aside from jury consideration the question of due process. Whether that was proper or not can be determined by subsequent actions of the defense in the appellate process. But it is clear that two jurors at the Williams trial that found WILLIAMS guilty, then months later, after reading the memorandum, stated that they would not have voted for conviction if they had been aware of the memo and its contents.

There is a reason for that, and I draw particularly to your attention, Senators, that the Government's case against WILLIAMS was laced with tapes that the Government contended were evidence of conspiracy on WILLIAMS' part.

Those tapes that were made prior to November 27, 1979, and have been carefully reviewed by the FBI scam team and found to be lacking in proof, and specifically the tapes did not show WILLIAMS committing an overt act, which is the essential ingredient they knew they must have in order to go to the grand jury asking for an indictment.

Returning to the trial, but for the jury's verdict of guilt, Senator WILLIAMS' guilt, we would probably not be spending any time on the expulsion resolution.

I believe we might be considering a censure resolution, and I believe one is necessary. Yet I fear that what may be happening here in the Senate is that we are detrimentally relying on the momentum of the process, the process of a jury conviction, Judge Pratt's ruling on due process, and the Ethics Committee report and, believe me, that is momentum, and here we are just sort of wrapping it up. But the fact is that had one exculpatory memorandum been produced in the defense as required by the U.S. Supreme Court in Brady against Maryland as found by Judge Penn to be necessary, and whose view I firmly believe will be supported on appeal, there would have been no conviction in the Williams trial, and this momentum would not have been started.

Again, I repeat that two jurors have publicly stated that with this evidence they would have voted not guilty. They would not have convicted, but for that, there would be no conviction today.

We are told that the clincher in the evidence is the January 15, 1980, videotape, and that is evidence; in essence, a "smoking gun."

Mr. President, I understand the majority leader recommends a break here, a short recess, and I am willing to take it to this point and return afterward to the "smoking gun," since my friend from Missouri raised the point of "smoking gun" last night.

My friend from Missouri said "smoking gun" and then he said "smoking machinegun." I think that would be a good point to return to after the recess.

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

Mr. MELCHER. Yes, I yield.

RECESS UNTIL 3:40 P.M.

Mr. BAKER. Mr. President, I have conferred with the managers on both sides. It appears that a recess of the Senate at this point would be in order. I ask unanimous consent that the Senate now stand in recess until the hour of 3:40 p.m.

The VICE PRESIDENT (presiding). Is there objection?

There being no objection, the Senate, at 3:21 p.m., recessed until 3:40 p.m.

[There was a disturbance in the gallery.]

The VICE PRESIDENT. The Sergeant at Arms will assist the Chair in achieving order.

The Senate is in recess.

Following the recess, the Senate reassembled when called to order by the Presiding Officer (Mr. GARN.)

The PRESIDING OFFICER. The majority leader is recognized.

Mr. BAKER. Mr. President, I assume it will take a few minutes to arrive at a quorum.

Mr. President, one Member has stated that perhaps we should confer with the National Highway Traffic Safety Administration. A fair amount of progress has been made on compulsory seatbelts. In my own mind, I can visualize the majority leader wanting seatbelts. It would improve the efficiency of the conduct of the Senate. [Laughter.]

Since such a resolution has not yet been adopted, and I have no authority to install them on my own, I have no alternative except to suggest the absence of a quorum.

Mr. President, before the clerk proceeds, the suggestion of the distinguished chairman of the Committee on Environment and Public Works, which has jurisdiction on such matters concerning such a resolution as I have just described, suggests, as an alternative, that we install with the seatbelts a set of airbags. [Laughter.]

Now, Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll and the following Senators entered the Chamber and answered to their names:

[Quorum No. 26 Leg.]

Baker	Grassley	Melcher
Baucus	Hawkins	Metzenbaum
Bradley	Heflin	Pressler
Burdick	Helms	Proxmire
Cannon	Humphrey	Pryor
Cochran	Inouye	Roth
Cranston	Jepsen	Rudman
Dole	Kassebaum	Stafford
Eagleton	Kennedy	Symms
Exon	Long	Tsongas
Garn	Mattingly	Wallop
Gorton	McClure	Welcker

The PRESIDING OFFICER. A quorum is not present. The clerk will call the names of the absent Senators.

Mr. BAKER. Mr. President, I move that the Sergeant at Arms be instructed to compel the attendance of absent Senators and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Tennessee. The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Nebraska (Mr. ZORINSKY) is necessarily absent.

The VICE PRESIDENT. Are there any other Senators in the Chamber who have not been recorded?

The result was announced—yeas 95, nays 4—as follows:

[Rollcall Vote No. 51 Leg.]

YEAS—95

Abdnor	Exon	Melcher
Andrews	Ford	Metzenbaum
Armstrong	Garn	Mitchell
Baker	Glenn	Moynihhan
Baucus	Gorton	Murkowski
Bentsen	Grassley	Nickles
Biden	Hart	Nunn
Boren	Hatch	Packwood
Boschwitz	Hatfield	Riegle
Bradley	Hawkins	Percy
Bumpers	Hayakawa	Pressler
Burdick	Heflin	Pryor
Byrd	Helms	Randolph
Harry F., Jr.	Helms	Riegle
Byrd, Robert C.	Hollings	Roth
Cannon	Huddleston	Rudman
Chafee	Humphrey	Sarbanes
Chiles	Inouye	Sasser
Cochran	Jackson	Schmitt
Cohen	Jepsen	Simpson
Cranston	Johnston	Specter
D'Amato	Kassebaum	Stafford
Danforth	Kasten	Stennis
DeConcini	Kennedy	Stevens
Denton	Laxalt	Symms
Dixon	Leahy	Thurmond
Dodd	Levin	Tower
Dole	Lugar	Tsongas
Domenici	Mathias	Wallop
Durenberger	Matsumaga	Warner
Eagleton	Mattingly	Weicker
East	McClure	Williams

NAYS—4

Goldwater	Proxmire	Quayle
Long		

NOT VOTING—1

Zorinsky

So the motion was agreed to.

The PRESIDING OFFICER. With the addition of Senators who did not answer the quorum call, a quorum is now present.

Mr. BAKER. Mr. President, as I announced earlier, I expect the Senate to remain in session until perhaps 6 o'clock this afternoon.

May we have order in the Senate, Mr. President?

The VICE PRESIDENT. The Senate will be in order. Senators will take their seats.

Mr. BAKER. I thank the Chair. I should hope that Senators who have statements to make would notify the two managers and give them an estimate of the time it will require so that we try to arrange a rational schedule for Members. I will not try to make any effort to limit debate. I am not suggesting a particular time to dispose of the pending amendment, but I think for the convenience of every Senator and in justice to Senator WILLIAMS and the committee that we ought now to try to establish the number of Senators who wish to speak and the length of time.

I would not be so bold as to suggest that some may wish to put their state-

ments in the RECORD, but that is always a possibility. (Laughter.)

Mr. LEAHY addressed the Chair.

Mr. BAKER. Mr. President, before I yield to the Senator from Vermont, I believe Senator MELCHER will finish his statement, to be followed by Senator SPECTER, and then to be followed by Senator BRADLEY.

I yield to the Senator from Louisiana.

Mr. LONG. I sought to ask a question the other day, and I have a number of questions, not a great number, but I do have a few questions in mind relevant to that, and I would like to ask about the matter. I would address them to the chairman or the ranking member.

Mr. BAKER. May I suggest then that perhaps the Senator from Louisiana could be recognized after the Senator from New Jersey, and it would give us four Members then.

Mr. LONG. At some point, certainly at some point, before we limit debate, I would like to simply ask what I had in mind asking and, so far as I know, that will terminate my part in debate, if you call for the asking of questions.

Mr. BAKER. That is a good deal if I ever heard one.

Mr. LEAHY. Mr. President, I wonder if I might ask the distinguished majority leader this question. I had earlier mentioned to the floor leaders in this debate that I would like to speak for probably 10 or 12 minutes at most. I had understood the possibility and realized the probability that Senator SPECTER and, perhaps, Senator BRADLEY would follow Senator MELCHER, and I hoped that I might follow them, and I realized there was a time problem. I would like to ask for some indication if I might have 10 or 15 minutes to speak this afternoon.

Mr. BAKER. I am sure the Senator can. I would like to not get into the scheduling business.

May I ask the Senator from Vermont and other Senators to make their wishes known to Senator WALLOP and to Senator INOUE, and whatever they arrange in that respect is eminently satisfactory to me.

One other question: May I inquire of the managers if there is any desire to allocate time on an equal basis between now and 2 o'clock tomorrow or leave it like it is and just do it as it occurs?

Mr. WALLOP. Mr. President, if the majority leader will yield to me, I think the way we have been going somehow or other it is working out. The Senator from Hawaii's time has exceeded the time of the Senator from Wyoming now so it seems to be working out.

I would think that if there was any intention on the part of the majority leader or another person to offer a tabling motion that both the Senator from Hawaii or his representative, and

I might want a couple of minutes each to set the scene before such a vote would be taken. But otherwise I am content with the arrangement we have been following. It seems to be working reasonably well.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. BAKER. I yield to the minority leader.

Mr. ROBERT C. BYRD. I hope there will be no tabling motion offered. I feel that Senator CRANSTON is entitled to an up or down vote on his amendment. I feel the Senator from New Jersey is entitled to an up or down vote on the resolution and, of course, I would recognize any Senator's right to offer a tabling motion.

I simply want to express that we should have an up or down vote, and I would hope that I would have an opportunity to speak very briefly, 5 minutes, 10 minutes, or some such time.

Mr. BAKER. I am certain the minority leader would not only have that opportunity but that we will look forward to those remarks whenever he cares to make them.

I had no present intention, I might say to the minority leader, to offer a tabling motion. I think the matter will resolve itself. I once again state that I have no desire to push it. I have the leaders' desire to try to work out a schedule, as I am sure the former majority leader, and now minority leader will recognize, but I have no inclination to cut off debate on this issue.

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

Mr. BAKER. Yes.

Mr. INOUE. May I inquire as to the schedule the Senator has planned for tomorrow?

Mr. BAKER. Yes, I thank the Senator from Hawaii. I think under the circumstances, it would be best to change our schedule a little.

#### ORDERS FOR THURSDAY

##### 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. on tomorrow.

The VICE PRESIDENT. Without objection, it is so ordered.

##### ORDER FOR THE RECOGNITION OF SENATOR SPECTER ON TOMORROW

Mr. BAKER. Mr. President, I ask unanimous consent that after the recognition of the two leaders under the standing order, that the distinguished Senator from Pennsylvania (Mr. SPECTER) be recognized on special order for not to exceed 15 minutes.

The VICE PRESIDENT. Is this prior to the order for the recognition of Senator PROXMIRE?

Mr. BAKER. I was not aware that there was an order to that end. Yes; I amend the order in that respect.

The VICE PRESIDENT. Without objection, it is so ordered.

##### ORDER FOR A PERIOD FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW

Mr. BAKER. Mr. President, I ask unanimous consent that at the conclusion of the time allocated to the two leaders under the standing order, and the special orders as they may be provided for, that there be a period for the transaction of routine morning business of not longer than 10 minutes in length, in which Senators may speak for 1 minute each.

The VICE PRESIDENT. Without objection, it is so ordered.

##### ORDER FOR THE RESUMPTION OF CONSIDERATION OF SENATE RESOLUTION ON TOMORROW

Mr. BAKER. Mr. President, I ask unanimous consent that at the close of morning business that the Senate resume consideration of Senate Resolution 204.

The VICE PRESIDENT. Without objection, it is so ordered.

Mr. BAKER. Now, Mr. President, the net effect of that will be to put the Senate back on Senate Resolution 204 at some time around 10:30 a.m., and I hope—

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

Mr. BAKER. Yes, I yield.

Mr. GOLDWATER. Does that mean we can hold no committee meetings after the Senate goes back to the resolution?

Mr. BAKER. No; it means that committee meetings, I will say to the Senator from Arizona, would be permissible until the hour of 12 noon.

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

Mr. BAKER. Yes, I yield.

Mr. METZENBAUM. The other day the majority leader indicated we would have a late night tonight or tomorrow night. Will you give us some idea of what your plans are in that respect?

Mr. BAKER. I thank the Senator from Ohio. I do not plan to ask the Senate to stay beyond 6 o'clock this evening. It would be my hope, I will say to the Senator from Ohio, that we could get this matter disposed of prior to 6 o'clock on tomorrow. Thursday is our regular late evening, or course, and Senators are all on notice, and it is possible we may be late on any Thursday, but especially on this Thursday.

Mr. METZENBAUM. I thank the Senator.

#### SENATOR HARRISON A. WILLIAMS, JR.

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

Mr. BAKER. I yield.

Mr. BUMPERS. The majority leader started off his statement, I understood

him to ask, of the Senators who wanted to be heard. I did not see a show of hands. Can he give us some idea of how many people want to speak, if he knows?

Mr. BAKER. I cannot at this point, but rather than asking for a show of hands, I would hope in the next 15 minutes or so the two managers might be available for Members to indicate their needs, and then I will make a further announcement on that a little later.

Mr. President, I thank all Senators and I yield the floor.

The VICE PRESIDENT. The Senator from Montana is recognized.

Mr. MELCHER. Mr. President, I am very much alarmed that we in the Senate are relying detrimentally on the momentum of the process of a jury conviction and Judge Pratt's due process hearing and the Ethics Committee report on expulsion.

Mr. MOYNIHAN. Mr. President, may we have order?

The VICE PRESIDENT. The Senate will be in order. Will Senators please take their places. The Senator from Montana cannot be heard.

The Senator will proceed.

Mr. MELCHER. On the matter of due process, which is so significant here, Judge Bryant is handling the case of one of the Abscam convicted former Congressmen; Judge Penn is handling the Abscam case of another former convicted Congressman. In both of those cases the judges have not yet ruled on due process, but Judge Pratt has ruled on due process regarding Senator WILLIAMS, even though in the case before Judge Bryant and in the case before Judge Penn there was no doubt of bribery, the money having been offered and the money accepted.

Not so in Senator WILLIAMS' case, however.

It seems odd to me that the momentum is here we have the convictions, and then the committee deal, and then the due process or put the due process in the middle, all created in Senator WILLIAMS' case, which has really given us sort of a push, a shove, toward adopting the committee report before the appeals process has been completed.

I point that out to you, Members of the Senate, because these other two Federal judges have not yet ruled on due process in the case of the two Congressmen who did take money, who undeniably were bribed.

Now, we are told that the clincher in the evidence is a January 15, 1980, video tape, and that is, in essence a "smoking gun." We are told that it has the evidence of the overt act. Without the cumulative effect of the previous tapes, this takes on a different meaning.

You probably have reviewed the January 15, 1980, video tape, and I

have reviewed it. For apparently the first time the Justice Department at that time through the fake sheik, Agent Farhart, raised the question of Senator WILLIAMS introducing a bill, would he introduce a bill, to gain residency for the sheik.

Now, I do not reach the conclusion that there is a quid pro quo between Senator WILLIAMS discussing the possibility of a bill being passed to make it possible for the sheik's residency and the involvement of the sheik in helping to finance a mining venture. I believe, as Professor Blakey testified to the Ethics Committee—Professor Blakey is a law professor from Notre Dame and former chief counsel for Senator McClellan's Subcommittee on Investigation. Professor Blakey testified to the Ethics Committee that, rather than being incriminating of Senator WILLIAMS, the tape itself is exculpatory evidence of Senator WILLIAMS. Now, I happen to agree with that. I believe the scene was contrived to produce evidence on video tape, but it simply failed to produce that evidence.

Now, certainly fairminded individuals can draw different conclusions from viewing these tapes, but, as jurors in the Senate, we must consider the evidence independently of the judicial process.

But why all this effort on the part of the FBI to make sure that a Senator who had previously not committed an overt act was set up again and video taped?

I suggest that to anyone who has reviewed the Abscam cases it is apparent that the FBI sought to send a message to the U.S. Congress. On the House side of this hill the FBI easily had quick success and actually filmed statements about "bagmen" and elected officials stuffing money into their pockets and bags. On the other hand, it is equally as clear that the FBI wanted to get to a Senator. We know that because authorization for a payoff—not a meeting—it did not actually occur, so the offer was not actually made to the chairman of our Judiciary Committee.

That testimony, that evidence, that authorization for the funds, and he testified in court later on, was from Assistant Attorney General Philip Heymann. So that Senator was not involved in the thing to that point. He never was involved in anything, period. But it disturbed me, and I hope it disturbs you, all of you in the Senate.

I hope you are also fully disturbed, as I am, that there was a list, that the attempt was going to be made, if it was possible.

We also know that another Member of this Senate jury, those of us here, was video taped talking to the same Mel Weinberg and FBI Agent Amoroso. But he was not charged. He did

not take money—though it was not even offered because a prosecutor who was monitoring the video session called in to Agent Amoroso and said, "Don't offer the money. Forget it. Call it off."

How many Senators were listed by the Justice Department for Abscam tryouts? Do we really know? How many Senators are on the FBI video tapes without knowing about it at all?

How would any of us look on video tape in this kind of a scam?

I am not trying to embarrass any of you. I am simply emphasizing how the FBI pursued three Senators, to our knowledge. To one, Senator THURMOND, they were ready to offer a bribe. Justice authorized money for a bribe to be offered if it worked out.

Yet, they could not get him to meet with them. He refused. To another Senator, they had the meetings, discussed his need for financial support and then shut off the meeting. Other Senators names apparently are on Justice-FBI lists for some sort of FBI scam.

Now, finally, we get over to the case of PETE WILLIAMS. What did he do? He refused the money repeatedly. What did the FBI do? Well, they got a forged letter, on an official Senate letterhead.

Now, what is going on? Are we supposed to view our Government, our Justice Department, as really making up lists?

Well, I will not want to board such a railroad train in disregard to due process. There must be truth and justice in this Chamber. We cannot rely on evidence that is perhaps not completely ever presented, still being withheld, some of it obviously gained in setting aside the law, shoving aside the law. It is sort of a crooked path littered with discredited evidence of the Justice Department-FBI scam, right here in the Senate, right here in the legislative body of this Government.

We make the laws that affect all Americans, the laws that apply to any person regardless of creed or religion or wealth. All of these laws apply to all of us and they apply to Senator WILLIAMS.

We are not prima donnas who are above the law and we are not as lawmakers subject to any greater rights or lesser rights than for all of the rest of the citizens for whom we write the laws.

Now, this frightens me because we have had a lot of momentum built up, a momentum toward, "Let's get this over." We have had the trial, the due process hearing, we have had the committee and their recommendation. What we really want to do is make sure that in these Senate proceedings, which sometimes cause me a lot of bewilderment and disbelief, we want to

get to actually all the truth, the whole truth.

I have repeatedly heard and read that we have PETE WILLIAMS here before us during the past few days emotionally pleading his case. Well, I see PETE WILLIAMS as fighting.

He has lost his first round in the court. He seems to be virtually without support, yet he fights on and the spirit within him is that of a fighter, a real scrapper. He is not here begging us to do anything. He is telling us that he believes he is innocent. He wants a chance to prove that. He wants a chance to get a reversal, to appeal and get a reversal of that conviction.

Well, ours is really not a mission of mercy, but a solemn duty to insure that the Senate, in judging PETE WILLIAMS, does not evade the most rigorous oversight and investigation of the Abscam deal, the most rigorous investigation that we are capable of. We must clean up that mess and insure that those prosecutors and Justice Department officials who, by making their own rules of law threaten the Constitution, by shifting the law or shoving it aside, bending it. We must assure that their successors will be deterred from perhaps other like actions.

Has there not really been a fundamental assault on due process and the executive branch attacking the legislative branch?

WILLIAMS stands here today not as a supplicant but as a part of the history of Abscam. Will this process help us see, make us see, will it batter into our consciousness the need to see Abscam for what it really is—an ugly, frightening and insidious example of executive branch tyranny? At times, you think it is a soap opera, but it is a tyrannical soap opera in which members of the coequal branch of Government were lured and coaxed into the arms of a devil of a con man, Mel Weinberg.

It is an arrangement known only to those who created it as being illegal. It is presented—this scam on WILLIAMS—as a legitimate business venture. He looked, he listened, but he is convicted.

If the evidence is not all in, we in the Senate are still being scammed. The Senate is being used if we do not have all the evidence or if it is evidence that should really be viewed as lacking credibility. If we just capitulate and accept it all, we will have been forced by Abscam into wilfully helping tilt the balance of constitutional power in favor of the executive branch. And that is a branch of Government we are responsible for monitoring ourselves.

We may not understand the depth of the plot of the Justice Department principally because all the facts are not in, but to the extent that we do understand the depth of the plot of the Justice Department, we understand that, quite likely, because PETE

WILLIAMS, who had nothing going for him, decided to take a stand and to fight. If he resigned in his silence, as many might have wished he had, most of us probably would never have been able to see, never have been able to realize this Justice Department involvement in Abscam. There are plenty of crooks and there is plenty of activity that is reprehensible. This would have remained hidden within the darkness which was deliberately perpetrated to hide all the Abscam operations.

It is impossible to believe that the fundamental constitutional mischief that is Abscam and PETE WILLIAMS' expulsion issue are unrelated or separable. They simply are not. They are brought together—they are intertwined. They are so inextricably tied in a knot together that to deal with expulsion without knowing of and fully understanding and investigating Abscam defies logic.

How many of you had heard about or even cared about the FBI's forged letter on the Senate's letterhead before PETE WILLIAMS raised the issue last week? Colleagues, we cannot have it both ways. We cannot on the one hand meekly assent to making PETE WILLIAMS the sacrificial lamb, while on the other hand launching a vigorous investigation of the very abuses that trapped WILLIAMS and that he has brought to our attention.

We are planning to investigate the executive branch principally because PETE WILLIAMS' trial, his appeal, and his persistence have brought the issue before us.

Had he chosen not to fight, if he had just given up after the trial, we would not fully realize the appalling imbalance that Abscam threatens to the system of checks and balances that keep this Nation free. I do not really believe that PETE WILLIAMS is fighting this fight just for his own survival. The man has already been convicted, he is already fighting in the courts.

The committee sought, they said, an independent investigation of WILLIAMS. Instead they relied on the trial transcripts and proceedings and some additional testimony. That was incomplete.

The FBI is involved in the trial transcript and in the subsequent proceedings. How much evidence is still to be seen? Certainly, not all of it is known right now. It certainly was not known when the committee recommendations were made, or when the committee adopted the resolution.

I understand that the committee vote on the resolution was sort of a compromise, which is disturbing to some Senators.

The committee drew almost exclusively from the trial record and from the trial judge's—Judge Pratt's procedures on due process. Yet Judge Penn and Judge Pratt seem to be on a legal collision course on appeal. Why rely

on one judge's ruling and disregard the other?

There must be more. Are we going to know it all? Are we going to be allowed to get more of the facts?

I am sure there is more to know about the FBI and the Justice Department, and how this all came about to bring about the overt act.

Perhaps some of you feel WILLIAMS is guilty of a crime, but we cannot have it both ways.

We cannot have it both ways. We cannot say—as does the committee in the reports and arguments made here on the floor—that this Senate debate is totally independent of anything that occurred outside and then turn around and make the trial, the trial judge, and the prosecutor the basis for expulsion of WILLIAMS. I ask can we investigate Abscam—that includes the trial judge, the FBI, and the prosecutor—while at the same time using the very scenario created by the Abscam team and the events that followed as a justification for expelling WILLIAMS? Would our investigation of Abscam then become even a bigger force than Abscam?

Senators, there may be that many of you have already made up your minds to expel WILLIAMS. Why then are you sitting through this debate? Why have a charade?

As the committee says, this proceeding must be an independent one. The committee sought to make it an independent one. It should be independent of the prosecution. Our investigation should be independent of them. This is our matter. To expel Senator WILLIAMS without an adequate independent investigation tarnishes the Senate. I do not believe Senator WILLIAMS' rights have been fully protected since evidence has emerged from this quagmire, to which I referred in this statement.

It seems to me that it proves the weakness of the Ethics Committee case as being independent.

There is a scene from history I want to call your attention to; a scene based on real life from "A Man for All Seasons."

Like the attorney general, renowned lawyer and king's legal adviser Thomas More refused Henry the VIII's demands for a legal pronouncement on one of the king's marriages. Thomas More's legal opinion on that was very important to Henry the VIII.

His refusal—More's refusal—set Henry against his former friend and one of his leading counselors.

Henry plotted. He sent a secret agent to More's household to seek evidence to discredit More. He seeks employment—gets none at all.

But More's daughter, Alice, cries:

"He is a spy. Arrest him. Father, that man is bad."

More replied: "There is no law against that."

More's son-in-law Roper interjects: "There is. God's law."

More replied: "Then God can arrest him."

More adds at this point in soliloquy that he is not God and would never attempt to dispense God's law. The play then continues:

MORE. "But in the thickets of (human) law, oh there I am a forester. I doubt if there's a man alive who could follow me there."

ALICE (Exasperated, pointing after the spy). "While you talk, he's gone."

MORE. "And go he should if he was the devil himself, until he broke the law."

ROPER. "So now you'd give the devil benefit of law."

MORE. "Yes, what would you do? Cut a great road through the law to get after the devil?"

ROPER. "I'd cut down every law in England to do that."

MORE (Roused and excited). "Oh? And when the last law was down, and the devil turned around on you—where would you hide, Roper, the laws all being flat? This country's planted thick with laws—man's laws, not God's—and if you cut them down d'you really think you could stand upright in the winds that would blow then? (Quietly) yes, I'd give the devil benefit of law, for my own safety's sake."

Sir Thomas More—in my church we call him Saint Thomas More—had no love for the devil.

He had love for the law and love for principle—for justice.

For our country's sake we should not allow all the laws to be cut down by the Justice Department—to set aside, bent—to gain what they have contrived to be seeking justice.

They have sought too hard, they have disregarded the law we have imposed here in the legislative branch to protect us all as citizens.

They have gone too far.

I do not believe there has been an adequate defense of the Justice Department action here in bending the law, in shoving it aside, to say that it is a process that sometimes you need to do enforce the law.

If they succeed in this striking down or bending of the law, like Thomas More, I believe it is a question of safety's sake and like More I ask "Can citizens stand upright in the winds blow then?"

Our prejudices must step aside. We are neither Republican nor Democrat—Conservative or Liberal—we are citizens fortunate to sit here as elected Senators.

We must sit fairly—impartially as jurors—we must sit truthfully—all of these—fair—impartial—truthful.

As jurors of the intertwining of Abscam and Senator WILLIAMS.

If we cannot do that and do that now, this country is in trouble.

The evidence is not all in and not all unraveled.

There has been mention of a forged letter. I do not think that was proper-

ly investigated, especially in light of the Weinberg-FBI agents relationships that we now know.

I spoke of an exculpating memo, what relevance it has.

I spoke of the allegations that are now before Judge Pratt with WILLIAMS trying to reopen the due process hearing, those allegations that involve some of the people and the evidence, and which, therefore, make me wonder how credible the evidence is.

I spoke of momentum, the momentum of the conviction, and the due process hearing, the finding by Pratt, and the committee's recommendations and resolution. This substantial momentum has bothered me.

Then I spoke about Brady against Maryland and the lack of its application in this case but which Senator WILLIAMS was not allowed to use.

You know, Mr. President, these points are doubts that have come to me. They are small doubts, like metal filings that are drawn toward the magnet, one at a time. They are not much. They are individually small. But when they are put together, drawn together to the magnet, they give the magnet a different shape, a greater magnitude, because of that. I have this afternoon presented my remarks and my strong conviction that we have not heard all of this; that we have not heard the complete case and the appeals process should go forward; that we should allow that as part of due process which we, as lawmakers, as Senators, have the responsibility to uphold.

The VICE PRESIDENT. The Senator from Wyoming.

Mr. WALLOP. Mr. President, at some time, though perhaps not this evening, because we are going out early, I shall take some time to rebut some of the remarks of the Senator from California, especially with regard to the committee's proceedings. But in line with the fact that the majority leader had asked the Senator from Hawaii and myself to recognize certain other Senators who wanted to speak, I shall now yield to the Senator from Vermont (Mr. LEAHY) for remarks which he has sought to make on this matter before us.

Mr. LEAHY. I thank the Chair.

Mr. President, I understand from the distinguished chairman that Senator SPECTER is not going to speak at this point.

Mr. WALLOP. It is my understanding that Senator SPECTER did not wish to speak at this moment.

Did the Senator from Arkansas wish to remain on my list? I do not mean to pin him down.

Mr. PRYOR. If I may remain on the list.

Mr. LEAHY. I shall be brief, I tell my friend from Arkansas.

Mr. PRYOR. I may take a few moments or a short while to say something.

Mr. LEAHY. Mr. President, I rise on the floor today as 1 of the 100 who are allowed to speak and vote here. I speak as one who, along with my distinguished colleague (Mr. STAFFORD), has the privilege of representing the State of Vermont in the Senate. I am mindful of my predecessors from Vermont, especially the two greatest Vermont Senators we have here. Those two are, of course, Senator Justin Morrill, noted so well for his foresight, and Senator Ralph Flanders, a man known and respected for his courage during the witch hunt days of the 1950's.

Even though Vermont is the 14th oldest of our States, it has sent very few people to represent it here. My own predecessor, the very distinguished and much loved George Aiken, was elected to this body the year I was born. He then served in the U.S. Senate until I came here, 7 years ago.

I remember so well the feelings I had when I first came on this floor. During my years in Washington as a law student, just 10 years before, I would come up between classes to sit in the galleries and I would watch the Senate with awe, reverence, and respect and, quite frankly, a heartfelt wish to be a Member of this body. I saw the giants of the Senate at that time—Mike Mansfield, RUSSELL LONG, Everett Dirksen, Phil Hart, BARRY GOLDWATER, JOHN STENNIS, my dearly beloved friend, Hubert Humphrey—and so many others. I saw many people who are among my distinguished colleagues now—Senator KENNEDY, the distinguished Democratic leader, Senator ROBERT C. BYRD, Senator RANDOLPH, Senator THURMOND, Senator INOUE. I think of Senators who were then who are no longer Members of the Senate—people like Senator Case, Senator Javits, Senator Church, and so many others I could name. I thought what an honor it would be to walk where these giants have walked.

All of this came back to me in a flood the day I took my oath of office on January 14, 1975.

I said, as each one of us has said when we began our terms, "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 in which I am about to enter: So help me God."

Can anybody, in taking this oath of office, not realize that they are held to a higher standard? Can anybody who serves in this Chamber not realize that, by being 1 of the 100, they bear responsibility to themselves, to the

U.S. Senate, and especially to the Nation, and they bear a higher responsibility than the other 220 million citizens in this country? It is because of that higher standard that we are here today.

Throughout the days we have been listening to this case unfolding before the Senate, I have thought over and over and over of that higher standard. And last night, when I went home, after my children had gone to bed, I sat up and I went back through the notes I have taken through this whole episode. Then I started writing down some thoughts that I wanted to share with my colleagues today.

As all of us, I have to refer to my own experiences in life—not just as a Senator, but all other aspects as well—in coming to a conclusion.

In doing this, I suppose I reacted as any member of a jury would. Really, that is what we are. We are a jury. Each of us must bring our own lifetime of experience to making a decision. In my own case, one of the greatest experiences I can bring to bear is the fact that almost half of my adult life was spent as a prosecuting attorney.

I must tell my colleagues that that is an experience that has affected my thinking. It is an experience that I recollected so much last night, when I heard the distinguished Senator from Missouri (Mr. EAGLETON) speaking. I can tell you one conclusion I have reached. That is to denounce the efforts of the Government in this case, to denounce the use of a slimy person like the informant, Mel Weinberg, in this manner, to use this worm to bait a hook of entrapment. In fact, my experience as a prosecuting attorney makes it impossible to find a precedent for anything as egregious, as disgusting as was done in this case. I could think of no district attorney I have served with who would resort to such a slimy, sleazy operation to entrap somebody.

For that reason, I shall join with the Senator from California (Mr. CRANSTON) and the Senator from Alaska (Mr. STEVENS) in asking—not just asking, demanding—a full-scale investigation of the activities of the executive branch in this regard, because it is an activity that is reprehensible; it is inexcusable. I hope to God it will never be repeated in this country again.

But I am not here as a district attorney, I am here as a member of a jury, a jury made up of 99 people—99 Senators, whether great or ordinary. And we are the only 99 people available who can vote, here and now, in this Chamber.

We are the only 99 people able to vote in this matter who know what it means to take the oath of a Senator. We are, in fact, the only jury of his peers that Senator HARRISON WILLIAMS can have, because we are the

only people on Earth eligible to vote who also have served in this Chamber. We are the only ones who know what it means to take that oath. But also, we are the only ones in this Chamber who know truly what it would mean to violate that oath.

Having listened to the facts of this case, I know that that oath was violated. It was violated by the Senator from New Jersey.

I know further that that violation was not one that can be redressed or punished by a motion of censure. I know, as so strongly stated by the distinguished Senator from Missouri and others, that censure is not the remedy.

Thomas Jefferson once said, "Sometimes it is said that a man cannot be trusted with the government of himself; can he then be trusted with the government of others?"

Senator HARRISON WILLIAMS was trusted with the government of others. I know as I stand here today that that trust was violated. I know that the faith of the Senate and the people has been breached.

The Constitution gives us the authority to determine the membership of our body. It gives us that authority to keep faith with the people of this country; but also, for the history of our country, to keep faith with the U.S. Senate, a body that I respect and love.

So I reached the very sad conclusion that there is only one remedy. That is to vote expulsion. That is the way I shall vote, Mr. President.

I yield back.

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

Mr. LEAHY. I yield the floor.

Mr. WILLIAMS. I ask if the Senator will yield for a question or two.

Mr. LEAHY. Of course.

Mr. WILLIAMS. Because of your background as a district attorney, as a prosecutor, there are certain elements of this case, which were manufactured by the Government, that I would like to explore with you. I think that we could gain a further appreciation for the wrongdoing—as the Senator described, the sleazy wrongdoing—of Government operators, including the prosecutor.

Is the Senator familiar with the negotiations over a period of time that the prosecutor in my case entertained with others to write a book on Abscam, which was conditioned, as a coauthor said, on the conviction of WILLIAMS?

Mr. LEAHY. I am not only familiar with that, but also, when the suggestion was made that the prosecutor in the case of the distinguished Senator from New Jersey might be named a U.S. attorney for the District of Columbia, a matter that would come before the Judiciary Committee, on which I serve, I notified my distinguished chairman of that committee

that I would want hearings, full hearings. I notified my staff that anything that might be up at that time would have to be set aside for those hearings, that I intended to spend every single second in those hearings, that I intended to ask very searching questions of Mr. Puccio.

I find his conduct—everything I have read about it—to be absolutely reprehensible. I think he is a man who has also violated his own oath of office. He is a man who does not deserve to be a member of our Government. Quite frankly, I do not think he is a man who deserves to be a member of the bar. I find his activity reprehensible, outrageous, disturbing. I would hate to see him stay as a member in any kind of governmental functions.

I said also that I do not feel at all that he is even entitled to be considered a member of the bar.

Those are my feelings as to the prosecutor in the case.

However, I also say that in this matter we still have within the rules—not only the rules of the Senate but also the obligations laid down to us as Senators—that we must determine this case under the facts. To that extent, while none of us would ignore a conviction or acquittal in this matter, it is a strict fact that conviction or acquittal becomes not relevant.

Mr. WILLIAMS. The Senator will agree with me, I am sure, that it is without any question that the standards that should guide us, the Members of the U.S. Senate, as in any public office, would be to say, "No," unequivocally, when a bribe was offered. There is no question about that.

Mr. LEAHY. Of course.

Mr. WILLIAMS. No. Aside from that. Just to know from your background as a prosecutor, is this proper prosecutorial conduct, to be not only in the "investigation" but also to be directing the operators who are doing the "investigating"?

Mr. LEAHY. I state again to the distinguished Senator from New Jersey, as I have stated before, that I find the conduct of Mr. Puccio throughout this matter, as well as the conduct of the other Government agents, to be reprehensible, to be without even responsibility. I feel, as Senator CRANSTON and Senator STEVENS have recommended, that it is a matter that should be looked into by the Senate. I feel it should. I feel that it is absolutely necessary. But that is not the issue before us today.

When we make that independent investigation by the Senate of the conduct of the Government in this case, I will address myself to those issues.

I have stated my own conclusions, based on the case of the distinguished Senator from New Jersey, and everything I have read about that. I have stated my own conclusions as to not

only Mr. Puccio but also others involved with him.

I will not, however, debate specific items that they have done, beyond what I have stated already as to my attitude toward Mr. Puccio and the members of the Government.

Mr. WILLIAMS. I would like to have the Senator's view of Mr. Puccio, the prosecutor who had directed the investigation. He was hiding in another room, watching me, when an offer of money was made to me. A bribe was offered, and I said, "No, no, no, no"; and as I am just beginning to explain what the law is that guides us, an agent bursts in and interrupts me and prevents my full explanation—at the direction of the prosecutor in my case.

My question is: Is it part of objective, independent prosecution for a prosecutor to be directing agents from a hidden position and to send the agents in to stop a conversation just as it is revealing the absence of criminal intent, just as it is revealing innocence—the rejection of a bribe offer?

Mr. LEAHY. I state to the distinguished Senator from New Jersey, a man whose legislative record I respect and whose accomplishments I also respect greatly, that the matter before us today—

Mr. WILLIAMS. I can tell the Senator from Vermont that that was the very last time I saw any of these wretched people, when they had to do something to get me to be looking like a criminal. They offered a bribe, and I turned them down. It was the prosecutor of my case who stopped my opportunity to explain exactly why, because I was going to live under the law, as I said, "No, no, no."

That was the one time in this whole Abscam business of 13 months that anything directly was pointed to me as wrong, and the answer was immediate—"no."

To separate out the actions of the Government from my conduct in this particular is, in my judgment, to avoid my conduct. My conduct was clearly an unequivocal "no" to the bribe. This was so unacceptable to the prosecutor that he stopped me right in mid-speech, as I explained why I was not going to take a bribe. That was the last meeting.

You, Senator LEAHY, will look at that record. You will note that the Government themselves said that meeting was needed because I had not done anything wrong. That meeting was needed to give me an offer of wrongdoing, and it was at that moment there was no wrongdoing.

To avoid looking at the Government's action is to look at half the case, I submit to you very seriously, very earnestly.

I have raised my voice, and I have only raised it not in personal antagonism but in a depth of conviction that that tape said this man, this Senator, broke no laws, honored our standards, dignified this office.

I thank you for yielding for the question. I also made a statement, and I thank you.

Mr. LEAHY. Naturally, I would yield for either purpose.

I state this to the Senator from New Jersey: He is right when he says that is half the case. It is also, however, something that the Ethics Committee looked at, heard basically the same arguments the Senator has made, and made eloquently here. That is only part of the case. They decided unanimously, contrary to the position of the Senator from New Jersey, as I did.

I have stated my position to this body because I felt I should. I suspect that others will state their positions either way. Ultimately, each of us must come to his or her conclusion.

I must tell the Senator from New Jersey that I have gone over and over and over again the facts he has discussed. However, as with the Ethics Committee, all members of the Senate Ethics Committee, that was not adequate to convince me to vote otherwise.

Mr. WILLIAMS. I cannot resist another question.

If you, as a prosecutor, happened to be close to an investigation and you saw a person in conduct that would exculpate him from the crimes being investigated, would you stop him from exculpating himself or would you stay with an effort to see him inculpate himself?

Mr. LEAHY. I would, of course, give the person a chance to exculpate himself. I would consider that required by the oath of office of any prosecutor.

Mr. WILLIAMS. I thank you.

In your allegiance to the Ethics Committee's hearings and methods involving this case, and as you, more than any other member, described the egregious, evil—perhaps in later days to be found criminal—activity of Government operators, I say to you that what came to us from the Ethics Committee, as their consideration of this case, was the product of those individuals whose conduct you find so reprehensible.

Mr. LEAHY. Mr. President, I have gone well beyond the time that I have told my colleagues I was going to take. I feel that not much would be served by, in effect, reiterating what I said earlier, and I yield the floor.

Mr. WALLOP. Mr. President, the Senator from Hawaii has asked that I yield to the Senator from New Jersey (Mr. BRADLEY).

Mr. BRADLEY. Mr. President, for over 2 years, the Senate has lived with the events called Abscam. These 2 years have been sad ones for Senator WILLIAMS and his family, for the people of New Jersey, for the Senate, and for the thousands of Americans Senator WILLIAMS has helped through his legislative accomplishments.

No Senators have labored more on this issue than the Senate Ethics Committee which is charged with responsibility for the standards of the Senate. Since its report last August on Senator WILLIAMS, I have agonized over my own course of action.

I am grateful for the help and friendship Senator WILLIAMS extended to me as a new Senator. It was long my sense of him that his service to New Jersey was a testimony to his caring, and to his propriety.

Now, I have seen and heard Senator WILLIAMS on tape—attending seven meetings in five locations over 11 months in pursuit of Arab money for a company. I have seen and heard him saying "no problem" when asked if he could help the company obtain Government contracts. Most important, I have heard him accepting that company's stock certificates, which were endorsed in blank and which he said provided him with foundations for future independence. Nothing in this debate can change that final fact.

My personal conflict is complicated by what many say has been an abuse of power by the FBI—an abuse which constitutes entrapment or even an assault on the legislative branch by the executive. It is my hope that the Senate will conduct an investigation of Abscam.

But such an investigation cannot erase the ethical question before us with regard to Senator WILLIAMS.

I am not a lawyer. My reading of the extensive report of the Ethics Committee and the responses of Senator WILLIAMS has not been done with a lawyer's eye. My hearing of the past days' debate has not been done with a lawyer's ear. It is the business of the judiciary to say whether or not Senator WILLIAMS is guilty or innocent by judicial standards.

We are not judges. We are the Senate. It is our constitutional responsibility, as Senators, to assess our colleague's actions by standards we hold for ourselves.

Like each of you, I carry in my own heart and in my own head an idea of the standards a Senator of the United States should follow and exemplify. For whatever reasons or friendships, under whatever motivation or provocation—whatever may have been the inducement or the entrapment—Senator WILLIAMS' behavior did not meet the minimum standards expected of a U.S. Senator and the Senate must react.

What is the proper reaction? The Ethics Committee unanimously recommends expulsion.

A search for exact precedents yields none. In history, the 15 Senators who have been expelled were all expelled on grounds of treason. Three other Senators, whom committees of the Senate had recommended for expulsion after charges of bribery, either re-

signed or lost at the polls before the Senate could act on the recommendations. The Senate never has been asked to vote on the expulsion of a sitting Senator who has been convicted of such a felony—until now. If this should happen again, our determination will be the precedent.

The House of Representatives has expelled Members who have been convicted of certain felonies.

There is also instructive history in the Senate's action on Federal judges. When a Federal judge did not voluntarily resign after having been found to have taken illegal fees, these "high crimes and misdemeanors" were grounds for impeachment, conviction, and removal from office.

With that much example in mind and with Senator WILLIAMS' case under consideration, one must ask the following questions:

First. Have the Senator's actions reduced public confidence in elected officials?

Second. What is the point at which embarrassing behavior becomes unacceptable behavior with regard to the Senate's institutional integrity?

Third. Should one mistake nullify years of service?

Fourth. Should years of service nullify one mistake?

Fifth. Can any other Senator imagine doing in a similar situation just what this Senator has done?

Sadly for the Senate and for Senator WILLIAMS, my answers to these questions point only to expulsion.

Bribery inverts and mocks the democratic process turning it upon itself. Among other things, Senator WILLIAMS has been found to have taken a bribe.

Some of my colleagues have said to me that they believe censure would be a more appropriate remedy. But the issue here is not a minor one. It is at the core of democratic government—the faith people extend to political institutions.

To protect that faith, the Senate has created an Ethics Committee and has vested that committee with guardian responsibility for the standards of the Senate. A Senator should reject a recommendation of the Ethics Committee only if that recommendation seems very substantially unsupported by the evidence before the committee and very clearly inconsistent with the standards of the committee and the Senate. Nothing in this case, I am sad to say, suggests such exceptions to me. I will vote for expulsion.

**THE VICE PRESIDENT.** Who yields time?

**MR. WALLOP.** Does the Senator from Arkansas wish time?

**MR. PRYOR.** I thank the distinguished chairman of the committee for yielding to me. I will not take very much of the Senate's time, and I apologize for rising this late in the after-

noon. I have been a member of the Ethics Committee and have voted in committee for expulsion, and I wanted to let my colleagues know that after that vote I did reserve the right with my colleagues on the committee to vote later for a lesser penalty.

I would only say, first, my colleagues in the Senate, that I am not going to vote for that lesser penalty. I, too, like the Senator from New Jersey (Mr. BRADLEY) and others, will vote for expulsion of Senator WILLIAMS.

But I thought I would be remiss if I did not mention two or three factors that I think go to the heart of the matter before the Senate this afternoon. It was 25 months ago when we first turned on our televisions and opened up our newspapers and listened to our radios and found that one of our colleagues had been charged, in the press at least, with serious wrongdoing.

To be honest, I think that these leaks from the Justice Department—not to just one member of the media, not to just two members of the media, but to all of the media—probably at that moment brought us to a new low in public life.

I must say to my colleagues and friends on this floor and in the press that I was very disappointed when I saw the treatment given to someone whose trial date had not been set, where a grand jury had not met, and where no sort of inquisition had been called. When we saw these unofficial accusations on the night of February 2, 1980, the only issue in the minds of the public of this country relative to Abscam and to Senator WILLIAMS was not whether he was guilty or whether he was innocent. It was where we were going to build the scaffold and how high that scaffold was going to be constructed.

That was the mindset at the time, I think, on the part of the American people.

I would also, like to bring another matter to the attention of the Senate, because it has been brought up on three occasions during the process of this proceeding. That relates to another of our colleagues, Senator PRESSLER of South Dakota. Senator PRESSLER and I have discussed on many occasions his own particular situation. In no way do I want to jeopardize his position because, frankly, I do not think he is in jeopardy. I do want to explain to my colleagues a few of the facts of that investigation that have just come to light and made known in the last several hours. I do so with the permission of the chairman of the Ethics Committee (Senator WALLOP) and the vice chairman (Senator HEFLIN) because I think it is pertinent. It relates to the manner and the means by which the Justice Department has gathered certain information and shows us how these investigations

started and how those facts were gathered.

On February 24, Senator PRESSLER had gone to a home in Northwest Washington, after he had been chosen to take the place of a Congressman from New Jersey who had not shown up at the FBI trap. Was there any reason whatsoever to believe that Senator PRESSLER had the propensity to take a bribe? Was there any reason whatsoever to believe that Senator LARRY PRESSLER of South Dakota—a person who served in Vietnam, was highly decorated, a Rhodes Scholar, a U.S. Senator—was on the take?

No; there was nothing, absolutely nothing, to indicate that Senator PRESSLER might be vulnerable.

I would also like to say that we had been led to believe that the Pressler matter was orchestrated and authorized by a so-called middleman. That is what I had been led to believe. That is what our colleagues had been led to believe.

During the process of the Ethics Committee hearings, we gave to Senator PRESSLER a letter that I will ask unanimous consent to have placed in the RECORD, a letter which totally exonerates our colleague, Senator PRESSLER, of South Dakota.

In this letter, we not only exonerated him, we also praised him for his integrity in this entire matter.

That letter was dated August 26, 1980. I ask unanimous consent, Mr. President, that this letter from the Ethics Committee be made a part of the record.

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

U.S. SENATE,  
SELECT COMMITTEE ON ETHICS,  
Washington, D.C., August 26, 1980.

HON. LARRY PRESSLER,  
Senate Office Building,  
Washington, D.C.

DEAR SENATOR PRESSLER: You asked the Senate Select Committee on Ethics to review the entire matter regarding your involvement in the Department of Justice operation known as "Abscam". There had been reports in the news media that you met with FBI undercover operatives. The Ethics Committee has made inquiries of officials of the Department of Justice, and recently viewed the FBI videotape of that meeting, which occurred on November 7, 1979.

We found nothing improper or unethical in your conduct. Although there was no specific offer of money, you repeatedly rejected suggestions that you might use your office in expectation of the payment of cash. Your rejections of the scheme were immediate, forthright and unequivocal. Your disapproval was typified by statements that you could not make any promises and that it would not be proper for you to do anything in return for a campaign contribution.

You have advised that you attended the November 7 meeting because you were informed by a campaign worker that some individuals were interested in making a contribution to your presidential campaign. We

have been informed by the Department of Justice that you had not been under any suspicion. You were not a target of the operation, and you were taken to the meeting on an impromptu notion by the undercover intermediary. The agents in control had only a few minutes advance notice that you were due to arrive. We certainly agree with the opinion of FBI Director Webster that the circumstances were insufficient to obligate you to make a report of the matter.

Your conduct was exemplary. In this test of integrity, your action upheld the honor of the United States Senate.

Sincerely yours,

HOWELL HEFLIN,

*Chairman.*

MALCOLM WALLOP,

*Vice Chairman.*

Mr. PRYOR. I believe it to be the duty of the Ethics Committee when we find there has been wrongdoing, to bring the matter before this full body.

I also believe it must be our clear duty, as members of the Ethics Committee, to realize that we have a corresponding responsibility. When we find that some Member of this body might have been wronged, we should attempt to set the record straight. If we feel that individual has been wronged, we must do everything to clarify the record and to exonerate that individual. This is the reason I am spending this amount of time on Senator PRESSLER's case.

Mr. President, we have—and I would like to have it printed in the RECORD—a total exoneration of Senator PRESSLER from Judge Pratt, dated July 15, 1981. I will read only a couple of sentences of this exoneration. It states:

Pressler, particularly, acted as citizens have a right to expect their elected representatives to act. He showed a clear awareness of the line between proper and improper conduct, and despite his confessed need for campaign money, and despite the additional attractiveness to him of the payment offered, he nevertheless refused to cross into impropriety.

I ask unanimous consent to have this made a part of the RECORD.

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

[From the New York Times, July 15, 1981]

EXCERPTS FROM RULING BY FEDERAL JUDGE UPHOLDING THE JULY 15, 1981, ABCAM CONVICTIONS

(Following are excerpts from the ruling by District Judge George C. Pratt in which he upheld convictions of seven Abscam defendants):

SELECTION OF "TARGETS"

Defendants argue that Abscam was "outrageous" because its selection of Congressional targets was arbitrary and unprincipled. Early in the first due process hearing, this court stated that in the absence of evidence to the contrary it would assume that there was no "probable cause" or even "reasonable suspicion" which might be used as a predicate for making a bribe offer to any of the defendant Congressmen. No evidence is before the court that any of the defendant Congressmen committed any prior similar violations or engaged in any course of conduct or other circumstances that would war-

rant suspicions of criminality in the conduct of their legislative affairs.

Under these circumstances, defendants argue, to permit targets to be selected by middlemen violated due process because it did not provide sufficient protection to the innocent. Both legally and factually, the argument fails. On the legal side, Judge Newman noted on the earlier appeal in Myers that the Constitution does not require reasonable suspicion before a Congressman may be made the subject of an undercover sting.

Factually, too, the argument is undercut by what happened with Representative Patten and Senator Pressler, who had been brought to the undercover agents by middleman Silvestri. Neither one apparently knew he had been brought before the sheik's representatives to be offered money in return for a promise of favorable legislative action. However, neither one was overwhelmed by the circumstances, and each declined the offer. Pressler, particularly, acted as citizens have a right to expect their elected representatives to act. He showed a clear awareness of the line between proper and improper conduct, and despite his confessed need for campaign money, and despite the additional attractiveness to him of the payment offered, he nevertheless refused to cross into impropriety.

The court is convinced that the defendant Congressmen appeared through a "self-selecting" procedure that involved the other defendants as well. The agents did not set out to offer bribes to any particular Congressman. They set no standards, established no criteria. Instead, the middlemen, Errichetti, Criden and Silvestri, carried the word that money was there for the taking by any Congressman who would promise to give legislative aid to the sheik's need for asylum in the United States. Weinberg's description of Abscam accurately characterizes what happened: "We put out the word that money was available, we had a honey pot and the flies came."

In short, on this record it is clear that those defendants who appeared and accepted bribes were not "targets" in the sense that any Government agent selected them for some sort of "honesty test"; instead, each was a willing volunteer seeking illegal and corrupt payments.

Mr. PRYOR. Mr. President, there is one more concern that I rise to address for just a few moments before returning to the Williams matter. As I have stated, it was always told or implied to us by the Federal Bureau of Investigation that some middle-echelon official had authorized the action against Mr. PRESSLER. The Ethics Committee was assured that some middleman had made this authorization, and the FBI was apologetic about it.

However, Mr. President, yesterday—whether it was done under the Freedom of Information law or what, I'm not sure—after 16 letters sent by Senator PRESSLER to the Department of Justice and the Federal Bureau of Investigation, and after 8 conferences with the Department of Justice, and after 2 years of begging and pleading to set the record straight—Mr. President, finally yesterday at 10:30 or 11 o'clock in the morning, Senator PRESSLER began to uncover the truth. We

find that it was not a middleman, Mr. President.

I would like for this addendum, as it is called, dated November 7, 1979 to be made a part of the RECORD. Senator HEFLIN had no knowledge of this on Monday, when he stated this was a middleman. He corrected that RECORD yesterday and I felt the RECORD should be made clear because this may be the last opportunity.

The investigation, the attempt of a \$50,000 bribe on Senator PRESSLER, was not authorized by a middleman. That authorization was made by William Webster, the Director of the FBI, who has maintained that no one who is in this business who is not the subject of a justified, official investigation is going to be looked at by the Bureau.

William Webster has signed this memorandum. It states:

On 11/7/79 at 11:25 a.m. Supervisory Senior Resident Agent (SSRA) John Goode, Hauppauge Resident Agency.

I think that is on Long Island. Senator MOYNIHAN tried to teach me how to pronounce that a while ago, and I did not do a good job of it—

advised that Joseph Silvestri, a subject of this project, contacted UCA and indicated that he will be bringing U.S. Senator Larry Pressler, Republican, Humboldt, South Dakota, in place of U.S. Congressman William J. Hughes of New Jersey.

Inasmuch as authorization has been granted to expend \$50,000 for the purpose of a bribe to Hughes, ITSP—Transportation Crimes Unit recommends that this authorization be extended to Pressler. John Jacobs, Strike Force Attorney, Eastern District of New York, will be viewing this meeting.

Now, my colleagues, in the bottom left-hand corner—you may view it if you so desire—in William Webster's handwriting, is written:

Try to be sure this new Senator—

Senator PRESSLER—

knows he's being paid (bribed).

I ask my colleagues, if Senator PRESSLER was not a subject of investigation, as the letter of February 6, 1981, from the U.S. Department of Justice indicates, why then was it William Webster himself who gave this authorization?

Mr. President, I ask unanimous consent to have printed in the RECORD other material relative to the Pressler file and to the Pressler case, because I think that it goes to the heart of the matter before the Senate today.

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

U.S. SENATE,

Washington, D.C., February 21, 1980.

HON. BENJAMIN R. CIVILETTI,  
The Attorney General, Department of Justice, Washington, D.C.

DEAR MR. ATTORNEY GENERAL: I would like to request some information which I feel is essential to protect myself in regard to the ABCAM matter.

Let me first say that in my public statements I have been very supportive of the

FBI (see Los Angeles Times op ed article attached). I would also like to emphasize that my purpose in requesting this information is to have something on file which could be helpful sometime in the future if I should be up for a Federal appointment, or for election to office.

I would like to request the following:

1. A statement from you or the appropriate authority stating that I was not under any investigation or suspicion at the time I was interviewed by the ABSCAM operation.

2. I have noted that Director Webster has stated on several occasions that he was briefed before each Senator or Congressman came to the ABSCAM interviews. These press reports may not be accurate, but it was first notified of the potential interview at about 10:00 a.m. on the day of November 7. By the time the message got to my office it was close to 12:00 noon. It was not until nearly 3:00 p.m. that I agreed in principle to go to the house and subsequently went there at approximately 4:30-5:00 p.m. Thus, if the social contact who initiated the matter did it completely spontaneously and free of the FBI, it would have been virtually impossible for the Director to have had much notice of the time that I was going to the house. If I was a "wild card" in the whole scheme of things, the press reports would not seem to be accurate. If, indeed, the Director of the FBI was notified in advance and did a sort of analysis before each Senator or Congressman was taken to the house, it leaves the question that if I were under no suspicion, why was the meeting not called off? I need clarification in this area.

3. To refresh my own memory and for my own protection, I would like to obtain a copy of the video tape of my interview. If I cannot obtain a copy of the entire video tape, perhaps I could obtain a copy with other persons blocked out for the purpose of protection or future prosecution of those persons or for the purposes of confidentiality. If that is impossible, I would like to request at least a transcript of what I said during the meeting.

In addition to the reason previously stated, another reason for specifically requesting this information is because of speculation by many newsmen on why I was selected to go to the house. I have presumed that it was sort of a "wild card", but the Director's statement that he carefully reviewed each case before the Senator or Congressman was interviewed makes it difficult for me to explain why I was involved. There is the general impression that some—or most—of the subjects of this investigation had been the subject of ongoing investigations or were under some suspicion. I do not want to prejudice any of my colleagues or any of the other subjects, but this question arises as a direct result of the statement by the Director of the FBI.

I should emphasize that the statements I have seen or heard have all been in the press area and, based on my own experiences, I do not always take everything that is in the press at complete final face value.

In future years, the whole thing could cast a shadow on my involvement in the first place, so a letter stating that I was not under any suspicion or investigation could be very helpful. If I was under suspicion I would very much like to know about it.

Thank you for your fine cooperation and keep up your good work.

Best wishes for 1980.

Sincerely,

LARRY PRESSLER,  
U.S. Senator.

U.S. SENATE.

Washington, D.C., November 6, 1981.

HON. WILLIAM FRENCH SMITH,  
The Attorney General,

Department of Justice, Washington, D.C.

DEAR MR. ATTORNEY GENERAL: Per our telephone conversation of today, Friday, November 6, 1981, I am sending you certain material pertaining to my interest in the Abscam matter.

As you may recall, we met in your office last June 10, 1981, regarding the Abscam investigation. At that time, I asked to be furnished with material relating to me which developed as a result of this investigation. Based upon our visit, I was under the impression that such materials and tapes would be forthcoming.

As we discussed at that time, I was disturbed by the slowness of the Department, under your predecessors, in making clear the full extent of my involvement in this matter. The immediate purpose for our meeting was the fact that CBS Television had recently shown a copy of the videotape in which I appeared. I believe if this was available to a TV network, it certainly should have been provided to me; I do not even have a transcript of it.

As you know, I have been fortunate to have had a favorable accounting in the media of my actions in the Abscam investigation, and have received cursory letters from your predecessors indicating the propriety of my actions (copies enclosed). I have also been told by both Justice Department and FBI officials that my involvement in this matter was inadvertent rather than planned as a result of suspicions of previous misconduct. There is, however, a reoccurring suggestion that arises in the media that I was targeted for investigation. I have earlier provided you with examples of such speculation. It was, moreover, dismaying to hear FBI Director Webster further such implications in a recent broadcast. A copy of his statement is enclosed as is a copy of a letter I wrote to him on this subject. No response has yet been received to this letter.

Last week I contacted some of your assistants regarding the release of the material in question. I am concerned with what I believe to be a lack of understanding on their part.

Therefore, I would like to once again bring the details of my request to your attention. In addition to a letter from the Department of Justice outlining my involvement in this matter, along the lines which we discussed, I wish to be furnished with copies of all tapes—video and otherwise—documents and reports which were produced during the Abscam investigation. It has been reported in the press that I was mentioned in portions of the video tape other than that in which I personally appeared.

I believe that such a request is justified based upon the numerous disclosures to the media which have already occurred, the Freedom of Information Act, and the fact that investigations and criminal trials have now ended. Additionally, I think that such a request is reasonable based upon the comity between branches of government. As you know, I have refrained from criticism of the Department's actions in this investigation. Other, more objective observers have, however, questioned the propriety of the executive branch subjecting innocent members of the legislative branch to what some have described as unwarranted tests of virtue. Regardless of whether some individuals passed this test and turned down the temptation

offered, there always remains the possibility of speculation as to why they were included in such an investigation.

I might add that at least fourteen Senators have asked me about my involvement in this matter in regard to the Harrison Williams debate that will soon be occurring on the Senate floor. If a question arises on the Senate floor regarding what happened to the other United States Senator or what were the facts involving the other U.S. Senator who was taped, I would like to be able to respond with a statement from you. I think it is in your interest and my interest that I do not have to say that the Justice Department has refused to give me any documents, tapes or that after repeated requests, I have been denied access.

As we earlier discussed, there is the additional possibility that in some future campaign or under consideration for some future job, I may suddenly learn of the existence of some document or paper or tape or reference that I did not previously know about. I think from a professional point of view, I certainly have a right to know of the existence of any papers or documents casting any light on this complex matter. At any rate, I would like to put this matter to rest as soon as possible.

Thank you for your cordial conversation and consideration of this matter. I enjoy working with you and your department on other matters separate from this. Let me say that I think you are doing us credit as Attorney General and I look forward to continuing working with you in the years to come.

Sincerely,

LARRY PRESSLER,  
U.S. Senator.

Mr. WILLIAMS. Will the Senator yield?

Mr. PRYOR. I would like to complete my remarks.

Mr. WILLIAMS. Just on the Pressler matter.

Mr. PRYOR. Yes, I yield.

Mr. WILLIAMS. I thoroughly agree that the Senator from South Dakota should have been exonerated. This should have been clearly stated from the very beginning. There is a transcript of the Senator's conversation with the Government agents which has been made available and I think it would be appropriate at this time to have the transcript printed in the RECORD to accompany these remarks. I agree completely with what the Senator from Arkansas has said and I believe a comparison can certainly be made between my particular case and the actions of the Senator from South Dakota.

Mr. PRYOR. I have no objection whatsoever to the transcript being printed in the RECORD. My point is that I want to show the exoneration of our colleague, Senator PRESSLER. I want to show that we have been given half truths about the Pressler matter. Finally, after 16 letters to the Justice Department and eight conferences, requests for the videotapes taken of Senator PRESSLER, still the Justice Department has not shown the courtesy or the common decency to supply those tapes. Mr. PRESSLER has seen these tapes only on CBS television.

Mr. BAKER. Will the Senator yield?

Mr. PRYOR. I yield.

Mr. BAKER. Just to set the record straight, the tapes, if I am not mistaken, were delivered to the Ethics Committee. At my request, the Ethics Committee delivered the tapes to Senator PRESSLER 2 days ago. So he does have the tapes.

Mr. PRYOR. I am very proud to have that information, because it has taken 2 years for our colleague, Senator PRESSLER, to obtain those video tapes. I hope the majority leader can fill me in and tell me that I am wrong on this point: That Senator PRESSLER has not been able to obtain in writing from the Justice Department, one, a letter of exoneration or, two, the reasoning behind the fact that he was targeted for a bribe.

Mr. CRANSTON. Will the Senator yield?

Mr. BAKER. Will the Senator yield to me?

Mr. PRYOR. I am proud to yield.

Mr. BAKER. If the Senator from California would permit me, the Senator addressed his inquiry to me. I see the Senator from South Dakota is on the floor and, of course, he can speak for himself. But I believe he does not have a letter from the Director of the FBI or from the Justice Department exonerating him completely on these charges. I believe that, too, was delivered in the last 2 days.

Mr. PRYOR. The timing of the delivery is very interesting, may I say.

Mr. CRANSTON. Will the Senator yield?

Mr. PRESSLER. We did not get the letter, but we were told it is on the way.

Mr. PRYOR. Maybe we ought to call the Postmaster General.

Mr. BAKER. I will tell you about that. That happened in my office. I met with the Assistant Attorney General, Senator PRESSLER, and others and, over a period of weeks, we negotiated the language of this letter.

I can tell you first he had a great deal of difficulty in getting it. He should have had it sooner. He is entitled to the letter, but he has not received it. An arrangement was made and the letter was dictated from my office to the Director of the FBI. I am not trying to get involved in this or make it a longer story than it is. But I want the record to show that that letter was authorized by the Justice Department and it was executed 2 days ago. It does exonerate the Senator from South Dakota of any duplicity, of any wrongdoing whatever.

Mr. CRANSTON. Will the senator yield?

Mr. PRYOR. I am glad to yield.

Mr. CRANSTON. I would like to state that if any Senators had any doubt about the need for an investigation of activities by the Department of Justice and the FBI directed against the Members of this body and of the other body, I hope that any such

doubts will have been removed now due to the revelations by Senator PRYOR of what occurred without any justification at all in the targeting of Senator PRESSLER, and that there will be strong support for an immediate investigation pursuant to the resolution that Senator STEVENS and I will introduce following the conclusion of the Williams case.

Mr. INOUE. Will the Senator yield?

Mr. PRYOR. I am glad to yield to the Senator.

Mr. INOUE. Mr. President, I would like to say that the Senator from Arkansas has performed a great service. All I can say is shame, shame, shame.

Mr. PRYOR. I will not comment on that at this moment, but I would like to conclude because I have taken far too much of the Senate's time this afternoon.

I would like to conclude by saying that some of you may think that I have gotten off the track with the Pressler matter. But the problem with the matter before the Senate is that we have one respected individual and one respected institution that have committed a crime. Both are enormous transgressions not only against this Chamber and against this Senate but also against this country and what we have been led to believe about it.

I want to say that on September 3, when I cast that vote to expel from the Chamber a respected colleague and dear friend, Senator WILLIAMS, I did so not knowing if that was the right vote. I cast that vote having spent 2 years attempting to reconcile in my own mind and heart these two enormous wrongs. Which one was the greater, what was the punishment to be, and how severely would the punishment affect the persons and institutions involved?

I cast that vote on September 3, and I think my colleagues on the committee know that I attended virtually every meeting for those past 2 years. I feel almost like Errichetti, Weinberg, Feinberg, DeVito, and all of this cast of characters are a part of my everyday life now. In fact, this case has haunted me. My wife says it has driven me a little bit crazy. I think honestly and sincerely that we have a matter of great magnitude before us today regarding the penalty and the punishment of a dear friend. But, my friends, we have another matter and this may not be the day to solve it. It may not be the day to attack it. But it is a matter that should strike fear into the hearts of not just Senators. Generally, as has been said, we can take care of ourselves. But I am worried about John Smith, and I am worried about May Doe. They are defenseless. If the Federal Bureau of Investigation ever wants you, it is going to get you.

My colleagues, let me also say I would like to compliment Senator HEFLIN and Senator WALLOP for an outstanding, unselfish, patriotic job. I

can attest to the fact that everything that took place in that Ethics Committee was done on a bipartisan basis. It was done with only one thing in mind, and that was to bring justice to bear.

Due process in the Ethics Committee was granted to Senator WILLIAMS. It is my opinion that if the strict definition of due process were not granted to Senator WILLIAMS in the trials and in the proceedings before it got to the Ethics Committee—maybe it did not, under the strict interpretation of the law—if it did not meet that test, it certainly would have been a callous disregard for the rights of a human being.

He was washed up on our shore with both arms broken, both legs broken, and now we are asked to cut off his head and rip out his heart.

This is not a pleasant moment for the Senate. There is no way that we can make the so-called right decision. The Federal Bureau of Investigation is not on trial. As I balance the interests, the equities, and look at what I have to do, I think at this point that the only thing we can do is vote to expel our friend Senator WILLIAMS from the Senate.

Mr. HAYAKAWA addressed the Chair.

The VICE PRESIDENT. Who yields time?

Mr. WALLOP. For what would the distinguished Senator seek time?

Mr. HAYAKAWA. I would like to ask the distinguished Senator from Hawaii if he will yield me a few moments.

Mr. INOUE. I yield.

The VICE PRESIDENT. The distinguished Senator from California is recognized.

Mr. HAYAKAWA. I would like to quote remarks of my distinguished senior colleague from California.

The Ethics Committee argues that expulsion is warranted regardless of the criminal proceedings.

But I ask you: Would expulsion really be proposed, or would expulsion actually be our decision, if Senator WILLIAMS had been acquitted?

I believe it is clear that it is the criminal case that has driven the Senate toward expulsion.

As was pointed out so forcefully and eloquently by the Senator from Hawaii, there is no instance in which this body has expelled a Senator whose criminal conviction was still in the appellate process. In fact, the Senate in this century has permitted three convicted Senators to continue to sit until their appeals have been exhausted.

As Senator INOUE declared last week, some Americans view Abscam as a grand success in ridding America of corrupt politicians.

But you and I know, we know, as the Senator from Hawaii also noted, that there is much, much more involved in this case.

If the Department of Justice can engage in illegal activities against Members of the U.S. Senate and get away with it, a threat

will be posed—not just to Senators—to every citizen in this land.

Unchecked abuse of executive branch investigative and prosecutorial power could escalate into despotism and the ultimate subservience, the subservience of Congress to the executive branch in derogation of the Constitution.

The most notorious instance is the infamous "enemies list" memorandum of Charles Colson in which he hints at a sting or scam-type operation against at least one Member of the Congress. There is also clear evidence of executive branch action in the 1960's and 1970's to produce political intelligence by use of electronic surveillance, including taps used against the Congress.

Toleration by us of the Government's actions in Abscam carried out under the previous administration would, in my view, invite its repetition under circumstances that could produce a disastrous blow to our constitutional form of government.

There is an old adage that two wrongs do not make a right.

The Senate is in danger of making two wrongs into still another wrong.

The Justice Department, I believe, was wrong in its handling of Abscam.

The Department's misbehavior should be fully investigated and publicly aired.

Senator WILLIAMS was wrong for going along to the extent that he did.

A vote of censure is justified at this time and would stand up, in logic and in fairness, no matter what the courts eventually do.

But a vote to expel at this time would be unfair because it would be premature.

These are Senator CRANSTON'S words. I congratulate him on them.

I would like to add just a paragraph of my own.

Mr. President, we say in our prayers, I hope daily, "Lead us not into temptation."

Must we who are Members of the House and Senate revise that prayer to read, "Lead us not into temptation, especially let us not be led into temptation by the slimy crooks, the con men, and the hustlers hired by the Justice Department at our own, the taxpayers' expense, to lead us into temptation"?

The VICE PRESIDENT. The Senator from Hawaii.

Mr. INOUE. Mr. President, I believe the senior Senator from Mississippi wishes to be recognized.

Mr. STENNIS. Mr. President, I was going to speak in opposition to the distinguished Senator from Hawaii.

Mr. WALLOP. Mr. President, I yield to the Senator from Mississippi.

Mr. STENNIS. Mr. President, I shall not detain the Senate more than a few minutes.

As so many of our colleagues have said, and I am talking now to those who have come here in later years, Senator WILLIAMS has been almost an ideal Member of this body in many ways. I have sat here, near him, over 20 years. We have had the most pleas-

ant talks and contacts from time to time—not a great deal of official contact, because our committees were different, but all the official and personal contacts that I have had with him were pleasant and warm, and I feel certain that has been the general order, the general tone, of his service here.

He has always maintained, so far as I know, a very high standard with reference to his work, his duties, his consideration of the problems of the people and our Government. He was attentive to those duties and, as far as I know, his work has been average and better in his committee and in his presentations here, on the floor.

So, after these tributes that have been paid, I would like to emphasize as an eyewitness in that field, that they are correct and the Senator deserves credit.

Out of this record of achievements that I have referred to, I am amazed and hurt at these disclosures in this case. I do not want to review all the facts in detail. I shall not point out all the particulars, the course of his conduct, the pattern of operations, his contacts with these unlikely and questionable people. He was always traveling the wrong road. The whole subject matter showed, on its face, that it was tainted.

The thing that hurts me about it is that he did not turn his back on it and spurn it and make tracks the other way and stay away. Instead, he would go back again and again and again. These connections and contacts with this crowd, that he says himself left a bad impression on him, extended over a period of some 18 months, I believe, took him into various States with them, all the way from New York to Florida, which includes some seven different locations.

Again, I say there is always the same tone, the same tune, the same theme, and it was related to something that was tainted, something that he might acquire in some vague way, some benefit somewhere in the future. So, much as I would like to, Mr. President, I cannot accept his plea of innocence.

I really hoped that he would have testimony that could be accepted along that line. He showed up at these places over this period of time with this motley crowd. As I have said before, the same general subject matter was under discussion, and always the same theme. This seemed always to concern something of expected value which might accrue in time. This stature just does not fit the pattern of a Member of this body, and I am driven to say that and to vote for expulsion.

Especially is that true when a man is intelligent, and has these fine qualifications that others have spoken of, and that I have found, that we find in Senator WILLIAMS. Great as our regret

may be, under our form of government or under our Constitution, the status and image of the U.S. Senate is entrusted to the other 99 Members of us here, now, for the time being. It belongs not to us but to the people. It is the 99 remaining Members who will presently have to make this decision and carry this load of responsibility.

Mr. President, I want to say just a word with reference to the activities that went on. First, though, I feel very deeply that we are greatly indebted to these men who have carried on so well, so long, and so faithfully, all the way through, in handling this matter and presenting it here. It gives pride to me and makes the stature of them grow in this body, makes them stand very tall. I think the influence from it will do good a long, long time. I shall not stop to refer to each one of them particularly, but there have been fine presentations here. They have been lawyerlike and laymanlike and very high-level types of presentation.

I must say that Mr. MELCHER is the best witness I ever saw in many ways. Tremendous courage and endurance and willpower. It is sad to see this other that I refer to.

Mr. President, this activity of the FBI is a national disgrace. I am a former district prosecuting attorney and former district judge, and presided in a court of unlimited jurisdiction. I had some matters come up when I was judge that I could see—I thought I could see rather clearly—were tainted with some chicanery and trickery and connivance of some deputy sheriffs, and I just called in the attorneys for both sides, and defendants, and dismissed the case, dismissed the jury, and never did give any reason for it. It was not worth taking the field, except the district attorney, and he knew why I did it.

But the word got around. It is a contemptuous thing when one branch of a government—it does not make any difference what level—goes out among people and goes to thinking up crimes and thinking up what they can do among orderly people, whether they are Senators or not—I am talking about all the people—and entrapping. That is what it amounts to, as a practical matter, whether legally or not, to make out a crime there through their own conduct in part—in part—and then turn right around in the same breath and become prosecutors and try to carry the weight and dignity of the office that they hold, the department they belong to, and carry out their way what they have planned and schemed and contrived from the beginning. I say it is a national disgrace at whatever level it happens and whoever is connected with it, whoever is responsible. It must be dug out, must be written out by the firm, stern law

of the land. The responsibility is right here with us.

I hope we can proceed to trying to follow better business for the Government. I can get around to now, maybe, for the Senate. But that is a must, and it is up to us to give a shining light and let this thing fashion its way in some solid, firm, exact, definite laws in this field—not for the protection of Members of the Senate, no, or Members of the House, no, but for the protection of all Senators.

It is something that just cannot be tolerated. There is an old maxim in equity, the chancery court of England, common law of England, that he who comes into chancery court must come with clean hands. Activities of the kind to which I referred are with hands that are unclean from the beginning to the end. I feel that we must, that in trying to do our duty here, we must do the same duty.

I want to especially thank, as well as highly compliment, the Senator from Hawaii (Mr. INOUE) for the way he worked on this matter and the very fine manner in which he presented it on behalf of Senator WILLIAMS, both his presentation on the floor and the way in which he answered questions by Senators. He has rendered to the Senate a signal service of the highest order.

My thanks again to our colleagues and I hope that they will take this matter under consideration now and bring it to a vote.

Mr. BAKER. Mr. President, may I inquire of the managers if there are other Senators who wish to speak this evening? If not, it is now 3 minutes before 6, and I propose it is a good time to recess.

Mr. INOUE. Mr. President, I gather that the Senator from Louisiana has several questions he would like to propound and the Democratic leader also wishes to be heard.

Mr. ROBERT C. BYRD. Mr. President, I do not need to be heard today.

Mr. BAKER. I thank the minority leader. Does the Senator from Louisiana wish to proceed this evening?

Mr. LONG. I have a few questions I would like to ask.

Mr. BAKER. By all means.

Mr. WALLOP. Mr. President, there are others on my list. I am certain that they will be heard tomorrow.

Mr. LONG. Mr. President, let me just say to the Senator that I think he has conducted himself in managing this matter, and I say the same thing of the Senator from Alabama (Mr. HEFLIN), in the finest tradition of the Senate. I do wish to ask the Senator about this matter.

I ask my colleague to refer to a chart under tab C in the book provided by the committee. That is this brown book, summary of excerpted data for reference during floor action on Senate Resolution 204. I am looking at

the date 1976, opposite which appears the following:

U.S. TITANIUM CORP.

[in percent]

Penque-Williams, Inc., 56%.  
Ernest Garrett, 33%.  
Alan Toriello, 10.

U.S. TITANIUM CORP. (PROPOSED REORGANIZATION)

[in percent]

Sandy Williams, 22½%.  
Harrison Williams, 22½%.  
Ruth Garrett, 27.  
George Katz, 10.  
Alex Feinberg, 8  
Alan Toriello, 10.

I should like to ask the Senator if, in the organization of these three succeeding corporations, the assets of the U.S. Titanium Corp., from either the 1976 line or the 1978 line—which I assume would be mainly options on the Piney River mine—whether or not those options were transferred into these 1979 corporations which are listed: PIT, Inc., PRV Enterprises, GTD, Inc.

Mr. WALLOP. This information is not clearly described in any of the documents Senator WILLIAMS provided to the committee or anything else before the committee, but it is probable that no formal transfers ever took place.

Mr. LONG. The reason I ask that question is that the chart that was set forth would give one the impression that the assets of the U.S. Titanium Corp.—I assume that those are options—were transferred into the other corporations.

Mr. WALLOP. They were set up for that purpose, to acquire the Georgia property. There was one to add the additional property to the Piney River mine.

Mr. LONG. The reason that causes me to ask that question is this: Would not there be a burden on anyone who would organize these three final corporations, in recognizing the fact that Senator WILLIAMS apparently had an interest in the U.S. Titanium Corp., to provide him with stock in the successor corporations?

Mr. WALLOP. I will yield to Senator HEFLIN on that question. As the Senator knows, I am not a lawyer. I do not know what is required in transferring from a corporation. I suspect the answer is yes, but I also suspect that was the intent with all these things before it all unraveled.

I think that is the situation that took place, as well as the obvious statements in the transcripts when they were talking about the resale. There was specific talk in the transcripts about assets.

I will ask my colleague, the vice chairman.

Mr. HEFLIN. Will the Senator restate his question?

Mr. LONG. My question is this, and if this is not correct, I should like to be informed of it: Assuming that this

chart to which I made reference on tab C—assuming that these assets of U.S. Titanium Corp. were transferred into these three corporations that appear at the bottom, as the chart would suggest, did that not impose an obligation on those who organized these succeeding corporations to provide Senator WILLIAMS with the stock in the successor companies?

Mr. HEFLIN. First, as to the U.S. Titanium Corp., as to whether or not Senator WILLIAMS owned any stock in it, it is dependent on the trier of facts, whether it be the jury, or the court, or here, as to whether or not you believe the testimony of Sandy Williams. Sandy Williams, in effect, says so by the delivery of the Penque-Williams paper in 1976 as to that.

Assuming that Sandy Williams was correct in making that assumption, if he owned some interest in U.S. Titanium Corp. and there was a transfer of assets into these other corporations, it would depend on what the assets were and how the transfer would have occurred.

Technically, U.S. Titanium Corp. owned options, and then it becomes a little complicated. There is a Stone Foundation that had loaned money pertaining to those options and had in effect foreclosed them. It was a matter of then trying to—I believe the evidence will support this—there was an arrangement by which a redemption would be held.

I do not know technically, to answer your question, whether or not under the scheme of facts there would have been an obligation to have transferred stock into these new corporations. I do not believe I can correctly answer it. It could be under circumstances that the facts were so. On the other hand, it is possible that it could not be.

Mr. LONG. The reason I ask the question is that when reference is made to the stock that was given Senator WILLIAMS, if this stock was to a corporation succeeding that in which he had previously held stock, the thought occurs to me that it is quite different than if one were delivering stock in something in which he had not previously held an equity position.

Mr. WALLOP. There are a couple of things: First, as I did yesterday, I would point out to the Senator that the whole and very complex pedigree of all these corporations is on pages 1021 through 1026 of the investigation of Senator WILLIAMS, the volume 2 exhibits. It is a very complex thing. But one brief portion of the answer to you is as follows: U.S. Titanium was in default to the Stone Corp. Part of this money that was to be acquired under the loan was to be used to release the assets of U.S. Titanium, which Senator WILLIAMS had a part in by virtue of the gift letter.

I think it is fair to say that this was new stock in a new corporation that was being talked about, and the loan was the thing through which it would acquire real value.

Mr. LONG. I want to ask one further question.

Mr. HEFLIN. I have talked to staff. U.S. Titanium Corp. did own some property. They had also some options that had been foreclosed and may have had some redemption rights possibly about that. As to the property that they owned, in organizing and in transferring that property, if no consideration passed, no cash passed, but it was to follow through as to the ownership of the stock, then there would have been some reason and some consideration to pass stock that was in Sandy Williams' name on to him. If one-half of that were owned, if we were to believe that, then there would be, to answer your question, through the disguise of Sandy Williams, some obligation to deliver some stock or some value represented by the property that was owned by U.S. Titanium.

Mr. LONG. I thank the Senator.

Mr. WALLOP. Will the Senator yield just for a second? I do not want to interrupt the question.

Mr. LONG. I yield.

Mr. WALLOP. Mr. President, I ask unanimous consent that the memorandum submitted by special counsel, pages 1021 through 1027, be printed in the RECORD for the information of Senators. Not everyone has their books here, and it might help us, should this conversation carry through until tomorrow.

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

JULY 15, 1981.

MEMORANDUM

To: Senate Ethics Committee.

From: Robert S. Bennett, Special Counsel.

Re: Evolution of Corporate Structure for Titanium Venture.

This memorandum, which is based upon certain evidence introduced in the Committee's hearing in this matter, describes the evolution of three corporations formed to engage in the various titanium mining and manufacturing operations in which Senator Williams allegedly had an interest.<sup>1</sup>

1. In 1971 Sandy Williams met Ronald Penque, the majority owner of Picoel Corp., a corporation engaged in marketing certain solid waste recycling technology in which it presumably held a proprietary interest. [Trial Transcript Volume 1, pp. 932-33]

2. In 1972, Sandy Williams and Penque formed Penque-Williams, Inc., a Delaware corporation. This corporation was apparently formed for the various purposes of earning a finder's fee on the possible sale of the Great Atlantic & Pacific Tea Company [Trial Transcript Volume 3, p. 2202], and buying and selling scrap plastic. [Trial

Transcript Volume 1, p. 933] Each owned 50% of this corporation. [Trial Transcript Volume 1, p. 934]

3. In 1973, Sandy Williams and Picoel formed Picoel of New Jersey, a subsidiary of Picoel Corp., for the purpose of constructing, owning and operating a solid waste recycling plant in the New Jersey Meadowlands. Picoel Corp. owned 51% of this subsidiary, and Sandy Williams testified he gave Senator Williams half of his 49% interest in exchange for the Senator's agreement to assist the subsidiary in obtaining necessary approvals in New Jersey. [Trial Transcript Volume 1, p. 935]

4. In 1975, Penque-Williams purchased from Vance Wilkens an option to acquire an 84-acre plant site and 140 acres of mining property on the Piney River in Virginia. The original purpose of this transaction was to obtain a source for phosphorous, needed in the operation of the Picoel recycling plant. Sandy Williams testified that at this time he gave Senator Williams half of his 50% interest in Penque-Williams, Inc. in exchange for the Senator's agreement to help get this project off the ground. [Trial Transcript Volume 1, pp. 949-50]

5. Also in 1975, Biocel of Sussex County was formed as a subsidiary of Biocel Corp. for the purpose of constructing, owning and operating a solid waste recycling plant in Sussex County, New Jersey. Biocel Corp. owned 51% of this subsidiary. According to Sandy Williams, his interest in the remaining 49% was divided among his wife and son (13% collectively), Jeanette Williams, the Senator's wife (13%), Evelyn Feinberg, Alex Feinberg's wife (6½%), Elizabeth Evoy, Feinberg's partner's wife (6½%), and Joyce Toriello, wife of Alan Toriello who invested \$50,000 in the venture (10%). [Trial Transcript Volume 1, pp. 940-41]

6. In 1976, United States Titanium Corp. was formed for the purpose of exercising the Penque-Williams, Inc. option to acquire the Piney River plant and mines. The focus of the venture had by this time shifted from phosphorus to titanium. Penque-Williams held 56½% of the stock of this corporation; Ernest Garrett, who had introduced Sandy Williams to the Stone Foundation which provided financing for the exercise of the option, received 33½% of the stock; and Alan Toriello received 10%. The Stone Foundation put up approximately \$600,000, of which \$400,000 went to Vance Wilkens as the purchase price for the properties, \$100,000 went to Penque-Williams as a fee, and \$100,000 to Garrett. [Trial Transcript Volume 2, pp. 1300-03] Evidently, the Stone Foundation acquired the properties and immediately sold them to United States Titanium Corp. for \$1.2 million, with no cash down, taking back a mortgage and a pledge of the stock in United States Titanium Corp. as collateral. [Trial Transcript Volume 1, pp. 951-53, 956]

7. In 1977 United States Titanium Corp. defaulted in its mortgage payments to the Stone Foundation and the Stone Foundation took over the corporation. Penque evidently dropped out of the picture at this point. [Trial Transcript Volume 1, p. 956]

8. In 1978, a "reorganization" of the titanium venture was proposed, following the acquisition by Sandy Williams and George Katz, individually, of an option on an additional 400 acres of titanium mining property in the Piney River area. Sandy Williams and the Senator were to split 45%; Ruth Garrett, heir to Ernest was to receive 27%; George Katz, for his role in financing the option on the new property, was to receive

10%; Alex Feinberg, for protecting the Senator's interests and arranging meetings to solicit financing, was to receive 8%; and Alan Toriello was to receive 10% under this proposal. [Trial Transcript Volume 1, pp. 960-64]

9. In 1979, after Abdul Enterprises had agreed to finance the titanium venture, a three-corporation scheme was developed. PIT, Inc., a Virginia corporation, was formed for the purpose of acquiring and operating the 400 acre mine which was subject to the Sandy Williams-Katz option. PRV Enterprises, Inc., a Virginia corporation, was formed for the purpose of acquiring the 84-acre plant site and 140 acres of mining property owned nominally by United States Titanium Corp. and in substance by the Stone Foundation.<sup>2</sup> This is the plant site which Sandy Williams described at the September 11, 1979 meeting at the Hilton Hotel at JFK Airport as being susceptible to reconfiguration for titanium metal production. [Tape Transcripts (Volume 6), p. 247] GTD, Inc. was formed for the purpose of acquiring and operating a Savannah, Georgia titanium processing facility owned by American Cyanamid. This is the facility which Sandy Williams described at the September 11th meeting as being a source of cash flow from the manufacture of paint products from titanium dioxide. [Tape Transcripts (Volume 6), p. 247] Stock was issued in each of these corporations as follows:

Alexander Feinberg, 18% (endorsed in blank for delivery to Senator Williams).

Evoy and Feinberg, 18%.

Sandy Williams, 18%.

George Katz, 18%.

Angelo Errichetti, 28% (10% to be signed over equally to Tony DeVito and Mel Weinberg).

Errichetti, Sandy Williams, Katz and Feinberg were each elected directors of each of these three corporations. Errichetti was elected Chairman of the Board and President of each; Sandy, Vice President of each; and Katz, Secretary/Treasurer of each. [Tape Transcripts (Volume 6), pp. 144-50, 165-66]

10. In August 1979, Weinberg proposed selling the titanium venture to a second group of Arabs for \$170 million, which would yield an immediate \$70 million profit to the stockholders in the three existing corporations. In addition, these stockholders would retain an 18% interest in the acquiring entity. This was the subject of the September 11, 1979 meeting at the Hilton Hotel at JFK Airport, at which Senator Williams and the other stockholders in the three corporations described above approved the proposed transaction. [Tape Transcripts (Volume 6), pp. 209-88]

Mr. LONG. Will the Senator be so kind as to place in the RECORD the four pages to which he made reference?

Mr. WALLOP. That is what I have done.

Mr. LONG. I thank the Senator.

Mr. President, I should like to ask the Senator about one other matter.

Does the committee have any evidence or did any evidence come to the attention of the committee that would

<sup>1</sup>A chart and map illustrating the interrelationships among those corporations and their various interests, were introduced into evidence at the Committee hearing in this matter as Exhibits 43 and 44.

<sup>2</sup>There is some testimony that the 140 acres of mining property was owned by a corporation called Piney River Mines which was in turn owned by United States Titanium Corp. [Trial Transcript Volume 2, p. 1333]

indicate that Senator WILLIAMS did anything more about the immigration matter than to make a promise or to say to the alleged sheik that he would do all within his power, or some words to that effect to help the sheik with his immigration problem? In other words, did the Senator contact an agent of the Government, to the knowledge of the committee? Did he seek the help of the Judiciary Committee in preparing a bill? Did he contact the legislative counsel or anything of that sort?

Mr. WALLOP. I can answer. The answer to that is no. The whole thing broke 2 weeks later. If the Senator will recall the evidence as presented by the committee, Senator WILLIAMS and the sheik left with a handshake on it, that the loan would be available within the month. Two weeks after that, it all unraveled; the whole thing became a matter of public knowledge.

Mr. LONG. The reason I ask the question is that even in 2 weeks, if the Senator were relying on the loan, one would think that he might have at a minimum contacted the legislative counsel to seek to have a bill prepared or contact some agency of Government about the possibility of obtaining a bill.

Mr. WALLOP. True. But, again, if you read the transcript of that January 15 tape, what took place was that he sought from the sheik's secretary the information that would be necessary before such a bill could be drafted. He did not possess the information. He was asking the sheik's secretary to provide that information for him.

One can only presume that his receipt of that information would have had to be preliminary to any kind of drafting of a bill. He did not even know whether the sheik was married, as you recall, and there were some bits of information that he sought.

Mr. LONG. Does the committee have any information that subsequent to that meeting that the Senator did anything with regard to obtaining information to move forward or anything of that sort?

Mr. WALLOP. None to our knowledge. I do not know. Senator HEFLIN, if he knows of anything—but none to our knowledge.

Mr. LONG. I thank the Senator.

Mr. WALLOP. Mr. President, it is my understanding that Senator SPECTER wishes to be recognized—does the Senator know how much time he will need?

Mr. SPECTER. Very briefly, and I thank the Senator from Wyoming.

The VICE PRESIDENT. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, Senator PRESSLER had asked me to make a statement on his behalf. Although after I and others have participated in helping him obtain a letter from Director Webster of the FBI, the deci-

sion had been made not to include a statement regarding Senator PRESSLER in order not to inject Senator PRESSLER's situation into these proceedings, in the light of what has happened and some comments that have been made, Senator PRESSLER has now asked me to amplify on what has been said in a few particulars. I will be brief.

Senator PRESSLER was invited to meet with the FBI Abscam agents when he was looking for campaign contributions. When they sought to entice him to make commitments which could lead to illegal conduct he flatly refused and left the meeting. The video tape of Senator PRESSLER's meeting with the FBI Abscam agents demonstrates that he acted entirely properly. One statement capsulates it fully, when he said:

In any event, it would not be proper for me to promise to do anything in return for a campaign contribution, so I would not make any promises.

Senator PRESSLER had gone to this meeting pursuant to a representation that he was to meet with PAC representatives.

Yesterday, after Senator PRESSLER and Senator BAKER and Senator BOSCHWITZ and Senator STEVENS and others had been trying for a very protracted period of time to get a response from the FBI, top Justice Department officials finally agreed that Director Webster would give a letter to Senator PRESSLER. That, as I say, had been in process for some 25 months. Director Webster was out of town yesterday, but the commitment is that Director Webster will send this letter to Senator PRESSLER.

DEAR SENATOR PRESSLER: This is in response to your letter dated October 8, 1981, requesting clarification of my comments broadcast by an ABC on September 22, 1981. In answer to a question about the Abscam investigation, I stated, "We're only investigating people who we have reason to believe are engaged or would like to engage in crime". That did not refer to you.

Based on my review of the facts and circumstances, there is no reason to believe "you were engaged or would like to engage in crime".

Sincerely yours,

WILLIAM H. WEBSTER.

I believe that the statement of Judge Pratt has already been quoted in the record, and there is a letter from Senator HEFLIN, then chairman, and Senator WALLOP, then vice chairman, of the Senate Ethics Committee which exonerates Senator PRESSLER after they had viewed the tape in full.

There are a few other statements of Senator PRESSLER on the tape which are worth repeating. He said: "You know I can't promise anything." He further said: "We can't make any promises." Senator PRESSLER further said: "You can't make a commitment to do anything in these campaigns. I wouldn't feel intellectually honest doing that."

The tape discloses that the FBI Abscam agents stopped short of making Senator PRESSLER a bribe offer. In the absence of the bribe offer or prime facie evidence of other illegal conduct on the part of the FBI Abscam agents with whom Senator PRESSLER met, there was nothing for Senator PRESSLER to report.

His meeting with the agents lasted for 26 minutes, at which time he terminated the meeting by rising and leaving the room.

An evaluation of the FBI's conduct in handling Senator PRESSLER's situation may well be the subject for another proceeding on the resolution to be offered by Senator STEVENS and Senator CRANSTON. Senator PRESSLER's experience with the FBI Abscam agents may be damaging to Senator WILLIAMS' position in that it shows that a Senator can say no and walk out. Whether the FBI's conduct toward Senator PRESSLER raises any support for Senator WILLIAMS' contentions, I think it is important to make a brief statement on the entrapment issue, as I view it, so that there will be no misunderstanding of my own position in discussing the FBI's conduct relating to the principal resolution as to Senator WILLIAMS.

I personally do not believe the entrapment issue is relevant to the pending resolution. In my experience the defense of entrapment has customarily arisen in criminal cases where drug addicts or those similarly situated have had their weak wills overborne by law enforcement officials to sell drugs to feed their habits, to some similar inducement.

In my legal judgment, the defense of entrapment raises no excuse for a sophisticated, experienced, well-educated public official to take a bribe whatever provocation, inducement, or enticement may be involved.

Mr. President, I now ask unanimous consent that the full transcript of the videotape of Senator PRESSLER with the FBI Abscam agents be printed and made a part of the RECORD.

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

#### TRANSCRIPT

The following is a transcript of a conversation on November 7, 1979 at Washington, D.C. Those involved are Joe Silvestri (JS), Larry Pressler (LP), Tony DeVito (TD) and Mel Weinberg (MW).

It should be noted that certain parts are inaudible and are so marked (IA).

TD. Hello. Hi, Joe, how's everything going?

JS. All right. Yourself? Who's this man?

TD. Oh, that's Ernie. You know Ernie.

You talked to him on the phone.

JS. This is Senator Pressler.

LP. How are you? Glad to see you. How's it going? How's it going for you?

TD. Good. Fine.

JS. Good.

TD. You, you ran a little late, huh, Joe.

JS. Oh, listen. Pete was jammed up.  
 LP. It was my fault. I thought I had. . . .  
 JS. Jim is jammed up. I just left him. He can't do it 'til tomorrow morning.  
 TD. Is that right?  
 JS. Oh, unbelievable.  
 TD. Okay.  
 JS. I have to tell you something you're not going to believe. This man's running for President. Right now, he's running off to New Hampshire in an hour. He's in the primary up there.  
 TD. Is that right?  
 JS. That's right. I've got a question, take that pull away from me, I don't know if that's. . . .  
 MW. You're gonna, you're running for President in November?  
 JS. Yes.  
 LP. Yes.  
 JS. He really—when I heard that (inaudible), I said that's the man I gotta have.  
 TD. (Laughs.)  
 LP. I've been, I announced September 25th. I'm kind of a dark horse, but we're running to raise some issues that are important to us and also to get some experience and some exposure. We're gonna run, we'll be in the mini caucus in Florida, November 17th, and also we're gonna enter New Hampshire, Vermont, Massachusetts and Florida, then South Dakota where I'm from.  
 TD. Sure.  
 LP. So we'll have some delegates at the convention at worst. At best, maybe we'll do better.  
 JS. So I've invited the Senator to Atlantic City next week, introduce him to some of the bigger Republicans in our state. I happen to know a few. He's not sure if he can make it, but if he can make it, he'll be there.  
 LP. You know, next week is heavy. I'm heavy in Florida next week. I kind of budget my Senate duties in between trips to Florida. We have the November 17th mini convention down there, and I've been going down there a lot, but. . . .  
 TD. Well, that's where I'm from.  
 LP. Are you from Miami?  
 TD. Well, I live in Fort Lauderdale. I live on a boat, down in Fort Lauderdale, right. . . .  
 LP. Oh, do you?  
 TD. Yeah.  
 LP. Broward County, yeah, I. . . .  
 TD. Yeah, right up, you know where Pier 66 is?  
 LP. Yeah.  
 TD. Yeah. That's where I have the boat, down there now.  
 LP. I just had a meeting with the delegates in, at the Rolling Hills Country Club, something like that—Rolling Hills.  
 TD. Okay, I think I know where it is.  
 MW. I know where that is.  
 TD. Yeah.  
 MW. Yeah.  
 LP. Rolling—I'm not saying it quite right, that Rolling something Hills.  
 TD. I think it, it originally. . . .  
 MW. It was called the Rolling Hills.  
 LP. Yeah, and I was over in West Palm Beach. I had another meeting. I know Hamilton Forman down there, don't you know him or not. . . . (inaudible—low tone).  
 MW. Did you explain our situation?  
 JS. I explained to him who your bosses are and what their fears are. The Senator's been concerned, the whole Senate is; the whole, the whole Congress is concerned.  
 TD. Well, yeah.  
 JS. I don't know how the hell, we pull the, the hostages away from the students without starting a war.

TD. Right.  
 JS. But he, everybody, today I've talked to a few people who know your problem and last week you didn't have a real problem. This week you do.  
 TD. Well. . . .  
 JS. And the Senator understands that his. . . .  
 TD. Well, I'm, we've always, like I say. . . .  
 JS. I never believed it, Tony, honest to God.  
 TD. I, well, you understand, see, this is, you know, these guys are very, have a lot of foresight in knowing what their situations may eventually be. Okay? Now, I don't think the severity of what's happening right now is gonna apply to our people, but these guys wanna get the assurances, and they wanna have the right people on their side to be in a position that if it did happen, which might happen because if, you see, the way it's going right now with this, you know, this Iran thing, the guy could conceivably be put in that position, and when that happens he wants to know that the, he's got the right people, you know, lined up with him that are gonna go along with him, and get him into this country one, and number two, is make sure that they stay in this country. Okay, now, I don't know from what we've discussed before, okay, as far as the Congressmen are concerned, I know that they can introduce legislation and whatnot to bring somebody in or to keep him in while he's here and whatnot.  
 JS. Yeah.  
 TD. He's here and what, no, now this was a surprise to me (laughs), you know, you coming over here today. . . .  
 LP. Uh-huh.  
 TD. And, you know, I don't, like I say, Joe called and he knows, he knows you very well, he said.  
 LP. I'm sure you don't, you don't know anything about me, so. . . .  
 TD. Right. Now, what I wanna know really is, you know, what kind of a position you're in and what, you know, what can you do for us in that, in that respect. I mean that's, that's. . . .  
 LP. Yeah. I don't even know precisely, well, for example, I'll give you a little bit of my philosophy. I don't even know how you feel about it, I just attended a meeting—they're asking people for advice on what to do about the Shah, and I said keep him here. And, we made a decision to bring him here and keep him here, and we're gonna have to gut it out over there somehow and get the, you know, and maybe that's contrary to, but, you know, we just have certain commitments, that if we let a sick guy in, you know, we're not gonna throw him out for, you know, if you submit to blackmail once you'll be submitting again and again. But that really isn't relevant to a problem that you're concerned about.  
 TD. Right. Well, you know, this is what I'm concerned. . . .  
 JS. That's, that's a good move. You can tell your people you got a man who just voted to keep him here.  
 TD. Well. . . .  
 JS. And not give him up because that, they're threatening us with sixty bodies.  
 LP. But they're considering, you know, sending him back to Mexico or something like that. I'm against even that, unless the Shah wants to go.  
 MW. Right.  
 LP. I mean, if you, and we made a decision, and it's gonna be gruesome over there, but, you know, I don't know if it would help any to send, you know, I don't know to

settle, you're dealing with a bunch of crazy people over there in that case. But, do you foresee this, I mean, I need more information about the Middle East, very frankly, I don't know very much.  
 TD. Uh-huh.  
 LP. But my door is open, you know, I, I don't understand the whole situation as well as you obviously do, but I suppose people are nervous about if there is an overthrow or. . . .  
 TD. Right.  
 LP. Or anything of this sort.  
 TD. Well, this is their, their concern. Their concern is basically that they feel, and I think the way things are going with, and Somoza, you've got the Shah here. And, although the emphasis would not be that, that great with these people as it is with Somoza and the, the Shah of Iran.  
 JS. We don't have a dictator.  
 TD. Right.  
 JS. Tony, Tony doesn't represent a dictator.  
 TD. Right.  
 JS. Just plain businessmen that are, you know. . . .  
 TS. Ah.  
 LP. Are you doing business with United Arab Emirates, is that correct?  
 TD. Right. And that's where they're from, but, and what they're doin' is. . . .  
 JS. (Inaudible.)  
 LP. (Inaudible.) Yes.  
 TD. See, they're spreading, a lot of their money all over the world, you know, and in different areas, and here again there's, there's a problem because you're not supposed to take a lot of this money out of the country, and they see the handwriting on the wall. That someplace along the line, they may have to just get out there, okay, and that's why they're, they're spreading a lot of their money around like, okay. No matter where they go, they'll be set, they'll have their money, their investments and whatnot will be there. This is the place that they're really gonna wanna come and stay. It's the best, I don't, I can't match another country to this country as far as, you know, being able to come here and do what you want, and. . . .  
 LP. Sure.  
 TD. And, the freedom and whatnot. Now the only problem now is that they wanna get guarantees from people and they wanna line up the right people so that if and when there is turmoil. . . .  
 LP. Sure.  
 TD. About they're being here, you know, they're gonna be accused of probably stealing all the money from the country, you know, that, that they're coming from.  
 JS. Which, which always happens every-time somebody. . . .  
 TD. Right.  
 LP. They're gonna wanna, for example, even if they wanna home here, they have to get a visa or become an American citizen or they have to get permission to come into the country or something like that, I mean that's what they want in the bluntest terms.  
 TD. Yeah, the bluntest terms, the bottom line on this thing is what they want, is they wanna come to this country and they wanna be able to stay here and not get, you know, kicked out.  
 LP. UH-huh.  
 TD. Okay, over some reason. . . .  
 LP. In the event of an overthrow or something like that.  
 TD. Right. In the event that there is a hue and cry from their country after they've left saying, hey, they've left and

they've stolen everything and we want 'em, you know, we want 'em back, okay. Now my position is that I don't care whether they stole everything or not. My job is to make sure that they, you know, that they stay here. Okay. And in this light, that's what we're, you know, what we're trying to do is to line up the right people, who can be of service to 'em.

JS. Front runners.

TD. Right.

MW. Right

TD. Right. To make sure they're gonna stay here. Now, being a United States Senator, I don't know what you can do in that, in that vein, now. I, like I say, I was aware that, you know, the Congressmen could introduce legislation and apparently a lot of this has to go before Congress.

LP. Yeah.

TD. All right.

LP. You can't really introduce legislation any more. There's uh, except if there some kind of a, I mean, you have to give the reason now if the (inaudible) case, or something like that, there used to be a Congressman from New Jersey—what was his name? (Inaudible.)

JS. Yes.

LP. And he got into some kind of difficulty with introducing . . .

JS. Well, what they did, they set him up though, that was a mistake, he's gotten out of it, that's amazing, you know that.

LP. (Inaudible.)

JS. Helstoski was the name, right?

LP. Yeah. See, I was in the House before . . .

JS. Oh, okay, that's right, right, right.

LP. But, I knew him.

JS. They said he did something, what happened, you know, you're probably not up on it, and I didn't get a chance to tell you, but he . . . What happened is, we got lost in the Senate. We got separated, and I just met him right here in Georgetown, five blocks away, we didn't get a chance to talk about that aspect of it. I talked to his, Tony, I'll lay it very flat. I talked to his campaign manager, his treasurer, I had pledged to get him money to get through his campaign.

TD. Whose . . .

JS. The Senator. Simple as that. All right, that's, that's done. What a Senator can do.

TD. Now, oh, that's, that's something else now, that's . . .

JS. Right, what a Senator, no that's with us, what a Senator can do, and I've just found out today, 'cause we did the research, is actually ask for a private bill. You can sponsor a private bill for an individual.

LP. Uh-huh.

JS. For an individual, two, two individuals or whatever, a family.

LP. Yeah.

JS. And a private bill can have a termination date or be for a long lasting, and what they've done, they're read out on the, on the Senate floor, you know, in series. These are generally more than one at the same time, but the, the Congressman can ask you to do it.

LP. Yeah.

JS. I just went through it with Jim Florio.

LP. Yeah. Okay, then . . .

JS. But you have to pass the bill, you're the Senator. Has to be through the Senate, can no longer be through Congress. It was through Congress. Helstoski screwed that all up when he got into that trouble. So now they're saying you get five, ten, fifteen Congressmen, but it has to come through the Senate. It's a private bill just for, what did Jim call it, he call it an emergency visa.

LP. Well, why doesn't somebody introduce one for the Shah, for example, or (inaudible).

JS. Because I think we have that little implication of war, I think with these people we won't have any problems.

LP. Yeah.

JS. And what Tony's looking for is somebody like you to say yes, whatever I can do, whatever I can do, that's it.

LP. Yeah.

JS. As simple as that.

TD. Well, well (inaudible).

JS. And he wants you to say it, not me.

TD. Well, well, no, wait a minute. I don't want you to just say something, you know, because Joe said . . .

LP. Joe said it.

TD. Joe is giving you some information there. I would prefer that we do this thing in, you know, the right way. I wanna make sure that you can, you know, can really do something. And you don't seem like you're that sure of what you can do or not, and, and . . .

LP. Yeah. I can't promise anything, you know, 'cause . . .

TD. Well, you know, I would like to do this, I would like you to research this thing, and see what you can do for us, in that light.

LP. Yeah. It would be so hard to know because you'd have to, you'd have to persuade your colleagues, you know, and you'd have a reason. Course now, it would depend on the circumstances you know, like in my view we've treated our most faithful allies the worst in many cases. Whether it's Somoza, or the Shah, or whoever. It seems that the people who stand up for us get kicked in the teeth in the end. And, but, insofar as, I mean my door would always be open to entertain people's problems, but I can't, I've never looked into this matter, as a matter of fact, this is the first time I've known. I've no reason, if Jim Florio said that's the way it's done. But I don't know if we could really assure these people that one Senator or even the Senate would, you know, agree to this, you know, until they're presented with the matter, and I'm not being evasive. I'm just being very frank, because . . .

TD. Yeah, well . . .

LO. But let me research this, and I can at least tell you what the rules are.

TD. Okay. Well then, let, let me be perfectly blunt about this thing and frank. I, I'm sure Joe is, has mentioned this now, I don't care, we've got the money, okay, and we're willing to put out the money. (Telephone rings.) Excuse me.

Hello. Who? No, you've got the wrong number. Yeah, right. Okay.

We've got the money, okay, and like I said, and I told Joe, you know, \$50,000 is no, you know, is no problem, putting that kind of money out. I don't care what you wanna call it, I don't care if you wanna call it a campaign contribution, you wanna call it, I don't, you know.

JS. The Senator doesn't even know that we, haven't even worked out the details with his people, and how it comes, and the whole bit and . . .

TD. Well . . .

JS. He needs money. There's no two ways about it. He's gonna run a big campaign, it takes money, and unfortunately he's not a wild man, that's where, where he's at. He's not gonna make a crazy declaration. But he's the kind of man you need, because everybody obviously respects him. I just went back and checked with Jim Florio, and Jim said he's gonna do one hell of a job. He's doing better than he thought he was doing.

LP. Well, but I'm not going to be like a President, I mean, I'm running for reasons, to get my name known, I'm a young Senator and so forth. And, I mean I would be surprised if I, I'm not saying I'm not going to be elected President, but we're gonna do well in some of the primaries.

JS. You're already gonna do fantastic and that's important, and this is the kind of man that's . . .

LP. But I don't wanna mis- (inaudible) what we do, we're trying to run a viable campaign and we, we do seek contributions, but we can't make any promises or any, you know, other than to listen and to be educated, but then to make a judgment, you know.

TD. Well, I . . .

LP. That's that's . . .

TD. I, I would think that at this stage, what I would prefer that you do, okay, so that we get this thing off on the right foot is maybe to research this thing and see what you really can do, okay? I, you know, because from what I see here now, is Joe has just given you this thing, in the last few minutes as to, you know, what, we're looking for, okay, and I don't like to surprise anybody with anything like that.

LP. Sure, yeah.

TD. They, I, I want you to know what this thing is about, you know, and what, what we're looking for and if . . .

LP. Yeah.

TD. I, I wanna give you the advantage of knowing and being able to research it and find out what you can do, if, if anything.

LP. Uh-huh. Sure, yeah.

TD. And, you know, . . .

LP. Sure, yeah, I'll, I'll be glad to do that and well, you know, like this one fellow in the Iranian embassy, he didn't they, they said up in New York Sunday Magazine that he'd been a member of SAVAC, whatever they call it, so that he was looking for a job here, and I just felt strongly that we should get him a job and finally got him a job with some international company, but, you know, the people who have been friendly to us and, you know, we should help 'em out as much as we can help them out.

JS. Absolutely.

LP. God, we help all our enemies out more than we help our friends, but beyond a commitment to that, I mean like I can't promise that I would introduce "X" bill for "X" person if something happens. I mean, that would be something that you wouldn't want either, because I don't even know if I can, you know, first of all I've gotta . . .

TD. Well, why don't we do this. Why don't you find out what you can do. If you can introduce something like that. Now, we're even willing to go further into it by, by saying or doing, in order to cover you, okay, and put you in a better light, let's say, is investing some money, into finance, financing out in your area. Okay. Which would then give you a viable tool to utilize by saying well, the reason I'm, I'm helping out as far as he's concerned is because these people are investing money within my area, and I'm always interested in, in helping people within that area. In other words . . .

LP. Sure.

TD. What we're, what we would be in a position to do is, we would be in a position not only, uh, to financially . . .

LP. Sure.

TD. Take the responsibility but also to go further but to back you in your area by putting . . .

LP. Sure.

TD. You know, investing money there in some kind of businesses where later on if

somebody were to say, well, you know, why the hell is this guy taking such an interest in the, in the Arab. Okay. Well, then your answer could be, you know, well, let's see, it's easy . . .

LP. Sure.

TD. He's investing in our state, he's investing in this area, and he's doing this . . .

LP. Helping constituents out . . .

TD. He's, he's helping our economy and whatnot, so, you know, we're taking that, the concern on our part. But I, you know, like I say, I don't want to rush you into anything, I think you oughta look . . .

LP. Yeah. No, I appreciate this meeting, it's of great interest to me because I can see their point of view, they're sitting there in a situation that's volatile, I don't know that it's all that volatile. I haven't had reports of that in the United Arab Emirates, not knowing very much about the domestic problems . . .

TD. Right.

LP. But I think maybe they're concerned about something that won't develop. What they're concerned about, if their government were overthrown and they, they got the . . .

TD. They gotta get the hell outta there is what they're concerned about, and they want someplace (laughs) . . .

JS. They have 640,000 people in the UAE, when I was, when I was there, and only 10,000 of them are Arabs.

LP. I see.

JS. So they could have an inner uprising for no reason of their own. They have Indian and Pakistani laborers who are sending their children to school there who will begin to believe that's their homeland.

LP. Yeah.

TD. Abu Dabi (phonetic), which is the capital . . .

LP. They're (inaudible).

TD. Didn't have any paved streets in '71. They now have three major hospitals and 58 highrises in one town that was a sandpit in the Gulf.

LP. Yeah.

JS. So they, they have that problem, you know, now when these people grow and get older they'll say, well, this is my country, I was born here, and they could certainly throw them out and that's, that's really their problem.

TD. Well . . .

JS. Their problem, and . . .

LP. Now, are there a lot of Iranians who are trying to come to the United States?

JS. Not that we know of. These people are not Iranians.

TD. Not now, no.

JS. We don't really know . . .

LP. But I mean, as a result of that, I see, you, I see, you're (inaudible).

TD. You know, like you, what happens I think and this happens, it's happening probably all over the world, as the economy grows in each country and people become educated, is when they start having more and more trouble, is because of the fact that people see what's going on, and they're more aware of it and they want, they want more and as a result, you know, they go after whoever is in power.

LP. Yeah. But, as a practical matter, I don't know, I don't think you're gonna be able to report back that there's any way of guaranteeing that like in five years from now if there is a coup d'etat or something, or they're thrown out, or the situation becomes unstable—I don't know if there's any way of guaranteeing that "X" number of people are going to do "X" things, you

know, because I don't think, as I sit here, I've never looked into this, and I've never, I don't think that there's any way that, you know, you can introduce a bill cause if you introduced a bill then you have to get it passed, don't you. I mean you have to have . . .

JS. You have to have the rates, sure.

LP. You have to have 50, you have to have 51 Senators voting for it, and I would surely vote for anything that would help people, you know, who helped our country and who have been allies of ours and so forth, but it would be hard for you to give them a guarantee of this sort of thing other than to look at the records of people involved and, you know, my record has been one of, I've been on the side, I've taken sort of the Kissinger line, more or less, that in terms of treating some of our former allies much better in terms of, and, and that doesn't mean I agree with Kissinger in a lot of things, but he's taken a fairly strong stand for the Shah and for . . .

MW. Well, as long as you do your part to help them; I know there's no such thing as a guarantee.

LP. Yeah.

MW. Anyone knows that.

TD. Well . . .

MW. As long as you did your part to put the bill in (inaudible).

JS. Tony, we've been looking for an honest man, it's as simple as that, you know, the man who, who walked all over Greece for 25 years looking for an honest man. The Senator is telling you exactly the way it is, he's telling you he will be an ally for . . .

JS. Well, for allies, he's not gonna be an ally for a bum, you know, a dictator who took advantage of the people and put 'em to the stake every day or cut their hands off. He's the kind of man that you really need to take a lead if we ever get to that point. There's more people, we're (inaudible).

TD. Well, we're gonna get to that point, and what I'm saying is I wanna make sure that he's aware of what he can do and what he can't do, and I would rather . . .

LP. I'm not . . .

JS. You gotta, you gotta understand that every Senator is not an expert in every field. You're in SBA right, small business?

LP. Yeah, and Commerce . . .

JS. And Commerce and so on . . .

LP. Agriculture and . . .

JS. That's, that's what he would be the pro on if you get into that, he'll tell you how many dollars et cetera, et cetera. Hard to bring in every man, in fact I brought you an expert, believe it or not, he was a little senile, but he was an expert on immigration.

TD. I think he was a not senile. (Phone rings.)

JS. But he ran the whole Immigration Department for 15 years (laughs).

TD. (On phone) Hello. Yes. No. I'm, I'm in a meeting, I can call back later. Okay.

JS. Ah, the Senator . . .

LP. Let me (inaudible) 'cause I'd like to know what Florio, I'd like to know what the law on this, and I can find out from the Library of Congress.

TD. Why don't, I, I would appreciate doing something here.

LP. Listen. I'll do something for you, just a, I'm, I'm gonna have my staff prepare a memo—that means the Library of Congress—on what if a foreign citizen wants to enter the United States, his government's been overthrown, what is the policy of the United States government regarding that, regarding someone and, does it differ from different countries and so forth, I mean,

what if some guy in Saudi Arabia suddenly decides he wants to become a U.S. citizen or wants to live in this country, what process, what are the different processes he can go through, that's something I should know, I'm curious to know it myself. And I'll give you a copy of it.

JS. All right, I'd appreciate it.

TD. Why don't, why don't we do that, and find out what, what you can actually do and then we'll sit down and have another, another meeting . . .

LP. Sure.

TD. On this and . . .

LP. Sure.

JS. Maybe do something on emergency visas, et cetera, that's what Florio had mentioned.

LP. Sure, but in any event . . .

TD. Okay.

LP. In any event, it would not be proper for me to promise to do anything in return for a campaign contribution, so I would not make any promises or any—I mean you can judge, you can hear my general philosophy and then you'll make a judgment, but I can't, you know, you can't make a commitment to do anything in these campaigns. Indeed, I would not feel intellectually honest doing that, you know, until I'm faced with the situation. So maybe that's, maybe that makes it impossible for you to, you know, to help out or to take steps and . . .

TD. Well, why don't, why don't we leave it at the point that, let's see what you come up with first.

LP. Sure.

TD. And then we'll . . .

LP. 'Cause I should know that.

TD. Okay.

LP. Anyway, I should and you probably already know (to JS).

JS. I don't know, I only . . .

LP. I'm sure Florio told you.

JS. I got a ten minute briefing there from Jim, and he said . . .

LP. Okay.

JS. He said, he's always happy to do it, and he said because, same thing, allies, but he said such a problem that we lose our allies at the wrong time in history . . .

LP. Yeah.

JS. And that emergency legislation to, to get a temporary visa at least to get 'em, you know, safe for a while until they can work out a long-range plan and green cards for the families that are no problem.

LP. Yeah.

JS. But, you can always, you can always save a man's family with a green card and you can get a year with a year (inaudible). I don't really know, but, you know, I'm, I'm gonna be a pro at it.

LP. There's, there are people who have, who have introduced special legislation, when, when they keep a maid in the country for a year longer, but that's become very suspect, you can introduce a special bill. If they're already here, it delays the procedure if they somehow have some kind of a work permit or something. I've heard of this and like every, every Senator and Congressman has got a, you know, a cleaning lady, a maid that he pays less than minimum wages to probably, and sometimes they're from a foreign country and their visa runs out, and there's a way to introduce a bill that will delay the machinery of, over at the, but that's become, so now there are people who check everybody who's introduced a special bill and they ask you what your purpose was, and so it's, it's not easy to do.

TD. Well, that's why I say that we would then be interested in investing with, within you, your area to show a reason why.

JS. That's right.

TD. You would then come in and say . . .

LP. Yeah.

TD. Well, say, well sure, I'm doing this, I told you why, because . . .

JS. 'Cause I don't know what they need.

TD. They're investing four million, five million dollars into our district . . .

JS. In a granary, in a granary.

TD. In a granary or . . .

LP. Most of the people out in South Dakota—they're mad about foreign investment but, you know, still . . .

TD. Well, you know . . .

JS. Maybe, maybe we could, we could fund a hospital . . .

LP. (Laughs.)

TD. (Inaudible) ain't that.

LP. Listen, I'm gonna have to go back to the Hill, 'cause we have the Senate (inaudible).

JS. Yeah, he's gotta . . .

TD. All right, why don't we do it that way and then . . .

JS. He's gotta . . .

TD. And then we'll, we'll get together all right? We'll get together on that.

(Conversation among parties—unable to discern who says what.)

LP. It was really nice to meet you anyway.

JS. I, I don't know what I told Marilyn. Did I ask Marilyn to pick us up?

TD. Let me get, I'll get who do you call it, you gonna, you're gonna drop . . .

JS. Wait a minute. Let me see if Marilyn is outside.

(Conversation among parties—unable to discern who says what.)

TD. Let me do it my way.

JS. How come you never do it my way. I keep bringing guys up.

TD. (Inaudible) the last time . . .

JS. When? Last time I brought a guy . . .

LP. Are you gonna ride along with us?

JS. Yeah. Is she going. Yeah, she's gonna take (inaudible) she's gonna lose.

TD. All right, go ahead, he'll take you.

LP. See you later.

TD. Okay.

LP. All right, we gotta run.

TD. We'll talk to you later.

JS. Okay, I'll have Jim here in the morning, ten o'clock.

TD. Why don't you give us a call a little later.

JS. Okay. Wanna go out and eat or something?

TD. I don't think so.

JS. All right.

TD. All right.

JS. What do you think?

TD. I like the guy.

JS. A real Senator.

MW. Okay. I didn't know we had any Senators that don't . . .

TD. What's that, she's gonna take him . . .

Mr. SPECTER. I thank the Senator from Wyoming, and I yield the floor.

Mr. CRANSTON addressed the Chair.

The VICE PRESIDENT. Who yields time?

Mr. CRANSTON. Will you yield to me?

Mr. INOUE. I yield to the Senator from California.

Mr. CRANSTON. I would like simply to point out in relationship to the Pressler case that this is a shock-

ing example of misbehavior by the FBI. Senator PRESSLER was apparently targeted on the spur of the moment without any question of—let alone evidence—of a predisposition, of a willingness to commit a crime or any record of misdeeds on his part.

He walked out after an improper proposal was made to him.

There are those who have said or seemingly have felt that if you lead an unblemished life, you need not fear what the FBI might do to you. Here LARRY PRESSLER had done nothing to raise a question of any wrongdoing and certainly engaged in no wrongdoing upon the occasion that has been taped, and yet he has suffered as a result of the FBI's totally improper targeting of him.

There are those who say where that there is smoke there must be fire. So when suddenly LARRY PRESSLER's name appears in the headlines in connection with Abscam, people wonder about LARRY PRESSLER. I know personally from conversations with him over these many months that this has given him a great deal of concern and a great deal of anguish.

I am delighted that finally, after all this time and after all the persistence of many of our leaders in this body, the matter has finally been cleared up, and there are now no doubts to surround the reputation and the conduct of LARRY PRESSLER.

But this is a very clear and frightening example of what not only every Senator and every Member of the House, but every citizen, has to fear. What if this happened to some other citizen, as innocent as LARRY, what if such a citizen had gone through this same set of events and had not been a U.S. Senator and had not had other Senators who went to bat for him to seek to clarify the record—which now is finally clarified in Senator PRESSLER's case? But what chance does the ordinary citizen have, an innocent citizen who might never have recovered from such a sorry and sordid effort by the FBI and by the Department of Justice.

This revelation today is simply further evidence that we need to investigate what are the practices of the FBI and the Department of Justice, not to protect ourselves but to protect all the citizens of this country. Following that investigation I trust that we will take action that will reduce the danger that these totally improper actions will be taken again by the FBI and the Department of Justice.

● Mr. MITCHELL. Mr. President, I will vote for Senate Joint Resolution 204, expelling Senator WILLIAMS from the U.S. Senate. I cannot and will not vote for the lesser alternative of censure.

Article 2 of the U.S. Constitution expressly grants to each House of Congress the power to punish or expel its

Members. Although this grant of power is clear, the Constitution provides little, if any, guidance with regard to the type of conduct for which such action is required by the Senate against one of its Members. The Constitution, by providing such a broad grant of authority, creates for each of us a serious responsibility. We must sit in judgment on the conduct of one of our Members. In so doing, we set a precedent which may be used against others. It is a duty which, by its very nature, rests heavily upon the Members of the Senate.

However, it is a responsibility and a duty that we cannot avoid. We have an obligation to the people of the United States to judge, to the best of our ability, the qualifications of a Member of this body who has been accused of violating his or her public trust. In discharging this responsibility, we must carefully evaluate Senator WILLIAMS' conduct with respect to the standards that we ourselves have established for our performance as Senators. It is our constitutional responsibility to decide whether Senator WILLIAMS has violated the code which was created by the U.S. Senate for the Members of the U.S. Senate. This is a different standard from that imposed on Federal courts and juries to decide whether Federal criminal law has been violated.

Before serving in this body, I had the privilege of serving as U.S. District Court Judge for the District of Maine. When I left the bench, I thought that I would never again face decisions as personally grave as those which I was forced to make with respect to the personal freedom of individuals who appeared before me accused of crimes for which imprisonment was the punishment. But the responsibility I feel today in casting a vote on this resolution of expulsion is a responsibility of equal personal gravity.

A review of the relevant historical precedents clearly shows that the Senate has consistently imposed the highest standards of moral and ethical conduct on its Members. We should not deviate from that course. It is imperative that we maintain strict adherence to those standards in order to preserve the integrity of the Senate and the confidence of the public in our integrity. Any attempt to weaken those standards will seriously weaken the institution itself.

I believe it to be a high honor and a privilege to serve the people of Maine and the Nation in the U.S. Senate. That honor and privilege carry with them a corresponding responsibility. Public office is truly a public trust.

No one forced me to enter the Senate. The same is true, I am sure, of every Member of the Senate. We all entered the Senate voluntarily, even eagerly. Having done so, we cannot

shrink from meeting the high standards which have been established appropriately, for this institution.

The claims of improper conduct made against Senator WILLIAMS allege violations of the gravest nature. Senator WILLIAMS has been accused of violating the Code of Conduct of the Senate. He has been accused of making promises and representations to an FBI undercover agent that he would use his position, power, influence and relationships to foster the success of a business venture in which he had a financial interest, in exchange for the promise of a loan to that venture. Such conduct is a violation of law and of Senate rule 37.

If these allegations are true, as the Senate Select Committee on Ethics has determined, we have no choice but to vote in favor of the expulsion resolution.

I have carefully reviewed the evidence that has been presented to us by the Select Committee on Ethics. I have also carefully reviewed the materials that have been provided to us by Senator WILLIAMS. I have listened carefully to the lengthy debate on the Senate floor. Even if one views the evidence in the light most favorable to Senator WILLIAMS, one must conclude that his conduct did in fact violate the Rules of the Senate.

I do not intend to review here in detail the many facets of this case. I do, however, want to make several points that should be emphasized. I do not find the due process arguments raised by Senator WILLIAMS relating to the criminal trial of particular relevance to this Senate proceeding. We are not engaged in a criminal prosecution in the Senate. The enforcement of our criminal statutes is obviously a matter for the courts. Even if there were due process violations which could, in some way, affect the right of the Government to prosecute in a criminal tribunal, there is no legal or historical basis for concluding that the Senate's power to review the conduct of its Members is thereby restricted.

Of course, the Senate must now proceed in a manner which provides the due process to its Members that is appropriate to Senate proceedings. That has occurred. There has been no suggestion that such due process has not been fully accorded to Senator WILLIAMS in the Senate's proceedings in this matter.

We must, of course, act on the totality of facts. But we cannot, and should not, restrict our review because of the alleged improper conduct of other parties in the criminal case before the courts. If, as Senator WILLIAMS contends, agents of the U.S. Government overstepped their authority in their attempts to obtain a conviction, there is another more appropriate forum for the consideration of that claim. Our review here, at this time, should focus

upon those actions of Senator WILLIAMS which reflect upon his ability to continue to serve as a U.S. Senator.

The evidence, even if viewed in the light most favorable to Senator WILLIAMS, shows clearly that he understood that his influence as a U.S. Senator was being used by others to achieve an economic benefit. It is uncontested that Senator WILLIAMS knew he was meeting with individuals, whom he thought were foreign nationals, in order to convince them to contribute money to a scheme which Senator WILLIAMS' friends believed could result in the advancement of their financial interest.

Further, I am wholly unpersuaded by Senator WILLIAMS' claim that he had no belief in the value of his own interest in the mining venture. The transcripts and tapes of the meetings compel the opposite conclusion. Plainly, Senator WILLIAMS believed that he could benefit from the success of the mining venture. He received an interest in corporations which he expected would operate the mining business. He participated in and approved the plans to hide his interest in the mining venture and, simultaneously, agreed to use his influence as a U.S. Senator to assist in obtaining Government contracts for that venture.

On the basis of these facts alone, I am compelled to conclude that Senator WILLIAMS knowingly and willingly participated in a scheme which violated, in several instances, rule 37 of the Standing Rules of the Senate relating to conflicts of interest. It may be true, as he alleges, that his conduct was initially the result of bad judgment. But the evidence clearly demonstrates that his participation in the scheme soon became not only unethical and improper, but also illegal. There is nothing in any of the materials I have reviewed which justifies his continued participation.

In my judgment, the evidence also shows that Senator WILLIAMS engaged in illegal acts, by violating the laws against conspiracy, bribery, receiving an illegal gratuity, conflict of interest, and interstate travel in aid of a racketeering enterprise. There may be some illegal act which would not necessarily be proper grounds for expulsion from the Senate. But when such illegal conduct involves a violation of the basic standards of ethics, honesty and integrity required of an elected representative of the people, then these illegal acts are appropriate grounds for expulsion. In this instance, this conduct involved the knowing use and abuse of the office of Senator for personal gain. It is, in my mind, sufficient and proper grounds for expulsion.

After carefully reviewing the evidence, I have concluded that Senator WILLIAMS' conduct in this manner was inconsistent with the conscientious performance of his official duties. I be-

lieve that Senator WILLIAMS actively encouraged the improper use of his influence as a U.S. Senator. I have also concluded that Senator WILLIAMS believed that he was advancing his financial interest by the use of his influence as a U.S. Senator. These conclusions have convinced me that I must vote for Senate Joint Resolution 204.

In addition to the actions of Senator WILLIAMS in this matter, I have carefully reviewed the allegations and the evidence concerning the actions of the Federal investigators. The information available about those actions does concern those of us who believe that the authority of the Government must be used only in conformity with the highest standards of integrity, fairness and due process. It is appropriate that this body examine the proper role of our Federal investigatory agencies in this matter to determine if abuse occurred and, if so, to prevent future abuses. However, in spite of our feelings or what we may find about the role of the FBI in this case, the facts relating to Senator WILLIAMS' conduct cannot change. The conduct of the FBI in this matter is a matter for consideration at another time. Today it is our duty to review the conduct of Senator WILLIAMS.

The facts clearly establish that Senator WILLIAMS violated the trust that was granted to him by the people of New Jersey; that he has misused his office in a manner which violated the criminal laws of the United States; that he has violated the Standard of Conduct established by this body for its Members; and that he has abused his privilege as a Member of this body. I must, and will, therefore, vote in favor of Senate Joint Resolution 204 and the expulsion of Senator WILLIAMS. ●

Mr. BAKER addressed the Chair.

The VICE PRESIDENT. The majority leader.

Mr. BAKER. I believe no other Senator plans to speak this evening. I intend to ask the Senate to recess momentarily until 10 tomorrow morning, but before I do that and while we check one or two details I suggest the absence of a quorum.

The VICE PRESIDENT. 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 (Mr. RUDMAN). Without objection, it is so ordered.

#### MESSAGE FROM THE HOUSE

At 6:25 p.m., a message from the House of Representatives, delivered by Mr. Gregory, one of its reading clerks, announced that the House agrees to

the amendment of the Senate to the bill (H.R. 4482) to establish a U.S. Court of Appeals for the Federal Circuit, to establish a U.S. Claims Court, and for other purposes, with an amendment.

The message also announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 2160. An act to amend the Potato Research and Promotion Act.

#### ENROLLED JOINT RESOLUTIONS SIGNED

The message further announced that the Speaker has signed the following joint resolutions:

H.J. Res. 348. Joint resolution to provide for the awarding of a special gold medal to Her Majesty Queen Beatrix in recognition of the 1982 bicentennial anniversary of diplomatic and trade relations between The Netherlands and the United States; and

H.J. Res. 373. Joint resolution expressing the sense of the Congress that the Government of the Soviet Union should respect the rights of its citizens to practice their religion and to emigrate, and that these matters should be among the issues raised at the 38th meeting of the United Nations Commission on Human Rights at Geneva in February 1982.

#### HOUSE BILL REFERRED

The following bill was read the first and second times by unanimous consent, and referred to the Committee on Agriculture, Nutrition, and Forestry:

H.R. 2160. An act to amend the Potato Research and Promotion Act.

#### MEASURE PLACED ON THE CALENDAR

Pursuant to the order of the Senate of December 10, 1981, the Committee on Energy and Natural Resources and the Committee on the Judiciary were discharged from the further consideration of the following bill; which was placed on the calendar:

S. 1937. A bill to extend the expiration date of section 252 of the Energy Policy and Conservation Act.

#### REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. THURMOND, from the Committee on the Judiciary, with an amendment and an amendment to the title:

S. J. Res. 140. Joint resolution designating February 11, 1982, "National Inventors' Day."

By Mr. THURMOND, from the Committee on the Judiciary, without amendment:

S.J. Res. 149. Joint resolution to designate the week of June 6, 1982, through June 12, 1982, as "National Child Abuse Prevention Week."

By Mr. THURMOND, from the Committee on the Judiciary, without amendment:

S. Con. Res. 62. Concurrent resolution to congratulate Hadassah, the Women's Zionist Organization of America, on the celebration of its 70th anniversary.

By Mr. PERCY, from the Committee on Foreign Relations, without amendment:

S. 2166. A bill to provide for the distribution within the United States of the International Communication Agency slide show entitled "Montana: The People Speak."

By Mr. THURMOND, from the Committee on the Judiciary, with an amendment in the nature of a substitute and an amendment to the title:

S. 907. A bill to amend section 351 of chapter 18 of the United States Code to include Cabinet officers, and for other purposes (Rept. No. 97-320).

#### EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. THURMOND, from the Committee on the Judiciary:

J. Alan Johnson, of Pennsylvania, to be United States Attorney for the Western District of Pennsylvania for the term of four years;

William L. Lutz, of New Mexico, to be United States Attorney for the District of New Mexico for the term of four years;

David D. Queen, of Maryland, to be United States Attorney for the Middle District of Pennsylvania for the term of four years; and

Christian Hansen, Jr., of Vermont, to be United States Marshal for the District of Vermont for the term of four years.

By Mr. HATCH, from the Committee on Labor and Human Resources:

George S. Roukis, of New York, to be a Member of the National Mediation Board for the term expiring July 1, 1984.

(The above nomination was reported from the Committee on Labor and Human Resources with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. PERCY, from the Committee on Foreign Relations:

Peter H. Dailey, of California, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Ireland.

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Peter H. Dailey.

Post: Ambassador (Ireland).

Contributions, amount, date, and donee.

1. Self: \$3,000, June 1980, Republican Unity Dinner; \$1,000 April 16, 1980, Reagan for President.

2. Spouse: \$1,000, April 16, 1980, Reagan for President.

3. Children and spouses names: None.

4. Parents names: None.

5. Grandparents names: None.

6. Brothers and spouses names: None.

7. Sisters and spouses names: Patricia A. Disney and Roy E. Disney; \$2,000, June 1980, Republican Unity Dinner.

(The above nomination was reported from the Committee on Foreign Relations with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Mr. PERCY. Mr. President, from the Committee on Foreign Relations, I also report favorably a nomination list in the Foreign Service which was received by the Senate and appeared in the CONGRESSIONAL RECORD of March 8, 1982, and, to save the expense of reprinting them on the Executive Calendar, I ask that they lie on the Secretary's desk for the information of Senators. (The list is reported as received with the exception of one nominee not reported with the list: Max L. Friedersdorf, of Florida.)

By Mr. PACKWOOD, from the Committee on Commerce, Science, and Transportation: James W. Winchester, of Mississippi, to be Associate Administrator of the National Oceanic and Atmospheric Administration.

The following officers of the U.S. Coast Guard for promotion to the grade of rear admiral:

James Irwin, USCG.

Bobby F. Hollingsworth, USCG.

Edward Nelson, Jr., USCG.

Clyde E. Robbins, USCG.

(The above nominations were reported from the Committee on Commerce, Science, and Transportation with the recommendation that it be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

#### 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. MELCHER:

S. 2185. A bill to amend the Federal Land Policy and Management Act of 1976 and the Public Rangeland Improvement Act of 1978, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. LUGAR:

S. 2186. A bill to authorize the Secretary of the Interior to acquire certain lands by exchange at Indiana Dunes National Lakeshore in the State of Indiana, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. HUMPHREY:

S. 2187. A bill to amend title 10, United States Code, to permit the appointment of a successor for any cadet at the Military Academy or the Air Force Academy or any midshipman at the Naval Academy who does not graduate from any such Academy with the class of cadets or midshipmen admitted with such cadet or midshipman; to the Committee on Armed Services.

By Mr. McCLURE (by request):

S. 2188. A bill to amend the Pennsylvania Avenue Development Corporation Act of 1972 to authorize appropriations and further borrowings for implementation of the development plan for Pennsylvania Avenue between the Capitol and the White House, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. THURMOND:

S. 2189. A bill to amend section 1951 of title 18 of the United States Code, and for other purposes; to the Committee on the Judiciary.

By Mr. KENNEDY (for himself, Mr. HATFIELD, Mr. WEICKER, Mr. PELL, Mr. TSONGAS, Mr. CRANSTON, Mr. MITCHELL, Mr. EAGLETON, Mr. DODD, Mr. STAFFORD, Mr. INOUE, Mr. HUDDESTON, Mr. LEAHY, Mr. BUMPERS, Mr. LEVIN, Mr. CHAFFEE, Mr. MOYNIHAN, Mr. RIEGLE, Mr. SARBANES, and Mr. MATSUNAGA):

S.J. Res. 163. A joint resolution on Nuclear Weapons Freeze and Reductions; to the Committee on Foreign Relations.

#### STATEMENT ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. LUGAR:

S. 2186. A bill to authorize the Secretary of the Interior to acquire certain lands by exchange at Indiana Dunes National Lakeshore in the State of Indiana, and for other purposes; to the Committee on Energy and Natural Resources.

#### TRANSFER OF CERTAIN FEDERAL LANDS TO THE STATE OF INDIANA

● Mr. LUGAR. Mr. President, I am introducing today a bill to transfer a 31-acre tract of land from the U.S. Government to the State of Indiana in exchange for the transfer of a 69-acre tract from the State of Indiana to the U.S. Government. The effect of the transfer would be to place ownership in the government which actually manages that tract. There would be no change effected in existing or future plans for managing either tract.

The 69-acre tract which the U.S. Government would acquire is presently being managed by the National Park Service for the protection of heron and their habitat and is within the 388-acre heron rookery at the Indiana Dunes National Lakeshore. The remainder of the heron rookery parcel is owned by the U.S. Government.

The 31-acre tract is within the Hoosier prairie unit of 331 acres and is presently being managed by the State of Indiana as a parking facility and for a visitor contact station. It is located in Schererville, Ind., Lake County, and is approximately 30 miles from the heron rookery parcel. The remainder of the Hoosier prairie unit is owned by the State.

The 69-acre tract which the Federal Government would acquire is appraised at \$77,000. The 31 acres which the State of Indiana would acquire is appraised at \$200,000. The sole reason for the difference in value is that it would be easier to develop the 31-acre site than it would be the 69-acre site, although commercial and residential construction is prohibited and no one intends to develop either site.

Although there is a difference in appraised values, the Federal Government would acquire a tract of great environmental value. The heron rookery parcel contains a portion of the Little Calumet River that provides good habitat for salmonid fish species and is utilized by fishermen.

The wooded section provides an excellent location for observation of woodland wildflowers and scientific study of great blue herons. The mesophytic forest of the heron rookery is the largest, highest quality, and most typical mesophytic forest in the national lakeshore.

The wildflower associations within the forested portion of this parcel are exemplary and the salmonid fishery is thriving. The established great blue heron rookery is the only one of its kind in the State that is receiving Government protection.

Although the Hoosier prairie unit is of great value for natural area preservation and scientific study, the 31-acre unit is the least valuable part of it. The State of Indiana has recently constructed a parking lot on the 31-acre tract, a testimony to its natural resource value.

An exchange of ownership of these two tracts would represent a net gain for both the State of Indiana and the U.S. Government and should not be barred simply because of artificial differences in appraisal values based on potential development which no one intends or plans to effect.

By Mr. HUMPHREY:

S. 2187. A bill to amend title 10, United States Code, to permit the appointment of a successor for any cadet at the Military Academy or the Air Force Academy or any midshipman at the Naval Academy who does not graduate from any such academy with the class of cadets or midshipmen admitted with such cadet or midshipman; to the Committee on Armed Services.

#### APPOINTMENT OF SUCCESSORS FOR CADETS AND MIDSHIPMEN

● Mr. HUMPHREY. Mr. President, the nomination of young men and women to our Nation's service academies is one of the most important responsibilities of a U.S. Senator. The congressional nomination process provides the academies with those candidates best qualified for leadership positions in our military.

Yet, under special circumstances, a Senator may lose the opportunity to nominate the candidate of choice. A program adopted by the Academies, known as "administrative turnback" or "stop out," allows selected third classmen—sophomores—to leave an Academy for up to a year. This option is offered to a small number of desirable cadets or midshipmen who would otherwise resign from the Academy. Also, second—juniors—or third classmen may delay graduation due to medical or academic reasons or other hardship under the administrative turnback program.

However, when any cadet or midshipman elects to stop out from an Academy no vacancies are created. The cadet or midshipman remains charged to the Senator's five-vacancy

allotment even though the cadet or midshipman has taken 5 years rather than 4 to graduate. But, if a first classman—seniors—elects to postpone graduation for whatever reason, the appointment of a successor candidate is not delayed.

The legislation I am introducing today will correct this inequity by amending title 10, United States Code. This measure provides that a cadet or midshipman is charged to a Member for 4 years or until the cadet is permanently separated from the Academy, whichever is less.

This legislation, which has already been sponsored in the House of Representatives by Congressman GREGG, will prevent Senators from being denied the opportunity to nominate the candidate of their choice under the circumstances previously outlined. The present inequity in the administrative turnback program requires immediate attention. ●

By Mr. McCLURE (by request):

S. 2188. A bill to amend the Pennsylvania Avenue Development Corporation Act of 1972 to authorize appropriations and further borrowings for implementation of the development plan for Pennsylvania Avenue between the Capitol and the White House, and for other purposes; to the Committee on Energy and Natural Resources.

#### AUTHORIZATION OF APPROPRIATIONS FOR DEVELOPMENT OF PENNSYLVANIA AVENUE

● Mr. McCLURE. Mr. President, at the request of the administration, I send to the desk for appropriate reference a bill to amend the Pennsylvania Avenue Development Corporation Act of 1972 to authorize appropriations and further borrowings for implementation of the development plan for Pennsylvania Avenue between the Capitol and the White House, and for other purposes.

Mr. President, this draft legislation was submitted and recommended by the Pennsylvania Avenue Development Corporation, and I ask unanimous consent that the bill and the letter of transmittal that accompanied the proposal from Max N. Berry, Chairman of the Corporation, be printed in the RECORD.

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

S. 2188

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Pennsylvania Avenue Development Corporation Act of 1972 (86 Stat. 1266, as amended, 40 U.S.C. 871), is amended further as follows:*

(1) By striking in paragraph (10) of section 6, the figure "100,000,000" and inserting in lieu thereof "120,000,000."

(2) By adding at the end of section 17(a), "There are further authorized to be appropriated for operating and administrative expenses of the Corporation sums not to

exceed \$3,250,000, each, for the fiscal years ending September 30, 1984, September 30, 1985, September 30, 1986, September 30, 1987, and September 30, 1988."

PENNSYLVANIA AVENUE  
DEVELOPMENT CORPORATION,  
Washington, D.C., February 24, 1982.

Hon. GEORGE BUSH,  
Vice President of the United States,  
President of the Senate,  
Dirksen Office Building,  
Washington, D.C.

DEAR MR. VICE PRESIDENT: One of the three appropriation requests for the Pennsylvania Avenue Development Corporation presented in the President's Budget Appendix for fiscal year 1983 will require an increase in the authorized funding level. The Corporation's authorized level of borrowing from the U.S. Treasury for Land Acquisition and Development is presently \$100,000,000; to date over \$99,000,000 in borrowing authority has been appropriated.

Additionally, the Corporation's authorization for Salaries and Expenses' appropriations expires at the end of fiscal year 1983.

The enclosed draft authorization bill is respectfully submitted for your consideration and support, so that the PADDC may be able to receive the additional budget authority it requires in fiscal year 1983 (for land acquisition) and in future fiscal years (for land acquisition and salaries and expenses).

The Office of Management and Budget has advised us that there is no objection from the standpoint of the administration's program to the submission of this draft legislation to the Congress, and that its enactment would be in accord with the President's budget.

Thank you.

Sincerely,

MAX N. BERRY,  
Chairman. ●

By Mr. THURMOND:

S. 2189. A bill to amend section 1951 of title 18 of the United States Code, and for other purposes; to the Committee on the Judiciary.

LEGISLATION DEALING WITH EXTORTION

Mr. THURMOND. Mr. President, I am introducing today a bill to overrule the Supreme Court's 5 to 4 decision in *United States v. Enmons*, 410 U.S. 396 (1973), which held that the Hobbs Act (18 U.S.C. 1951) does not proscribe violent, extortionate activities by employees or union officials in the course of a labor dispute aimed at achieving a legitimate labor objective. This decision is illogical, unreasonable, and unrealistic. As I recently stated in a letter to Mr. Lloyd McBride of the United Steelworkers of America, the Court in the *Enmons* case, construing the definition of "extortion," "enthroned an irrational rule in Federal extortion law that would, for example, permit the kidnapping and execution of a company president to obtain . . . improved wages, fringe benefits, and working conditions during a legitimate strike."

*Enmons* sanctions the "labor dispute" version of the long-discredited "claim of right" excuse, sometimes urged in extortion and blackmail cases. This excuse holds that the legitimacy of the end—such as obtaining

property to which one has some colorable claim—justifies any means to obtain it. Such a doctrine hardly provides a rational basis for the resolution of disputes in a modern civilized society in which there are adequate institutional alternatives.

Mr. President, suffice it to say at this point that the legislative history of the Hobbs Act does not support the *Enmons* decision. The Court ought to correct its own mistake, but that is unlikely. Accordingly, I hope my colleagues will favorably consider legislatively overruling the case.

Mr. President, I should point out that I personally would prefer to enact legislation to make it a Federal crime to use any serious violence—whether it involves the extortionate taking of property or simple disruption of business activity—to affect and interrupt commerce. S. 613, which I introduced last session, would have provided the broader, albeit more controversial, coverage. The administration and others feel more comfortable with the more modest Federal involvement in this important area embodied in this legislation. I am glad to accommodate these interests by placing this bill before the Senate for consideration.

Mr. President, I ask unanimous consent that a copy of the bill be printed in the RECORD at the end of my remarks.

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

S. 2189

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1951 of title 18 of the United States Code is amended as follows:*

(a) Subsection (b)(2) is amended to read as follows:

"(2) The term 'extortion' means the obtaining of property from another, with his consent, induced by use of actual or threatened force, violence, or fear thereof, or wrongful use of fear not involving force or violence, or under color of official right."

(b) Subsection (c) is amended to read as follows:

"(c) Nothing in this section shall be construed as indicating an intent on the part of the Congress—

"(1) to repeal, modify, or affect section 17 of title 15, sections 52, 101 through 115, and 151 through 166 of title 29, or sections 151 through 188 of title 45; or

"(2) to exclude Federal jurisdiction over the offenses defined in this section on the ground that the conduct is also a violation of State or local law, or that the conduct, if it involves force, violence, or fear thereof, takes place in the course of a legitimate business or labor dispute or in pursuit of a legitimate business or labor objective.

"(3) to chill legitimate labor activity by authorizing federal prosecution for offenses occurring during a labor dispute which do not involve extortion. Such excluded offenses shall continue to be subject to prosecution by State and local authorities having jurisdiction over them."

By Mr. KENNEDY (for himself,  
Mr. HATFIELD, Mr. WEICKER,

Mr. PELL, Mr. TSONGAS, Mr. CRANSTON, Mr. MITCHELL, Mr. EAGLETON, Mr. DODD, Mr. STAFFORD, Mr. INOUE, Mr. HUDDLESTON, Mr. LEAHY, Mr. BUMPERS, Mr. LEVIN, Mr. CHAFFEE, Mr. MOYNIHAN, Mr. RIEGLE, Mr. SARBANES, and Mr. MATSUNAGA):

S.J. Res. 163. Joint resolution on nuclear weapons freeze and reductions; to the Committee on Foreign Relations.

NUCLEAR WEAPONS FREEZE AND REDUCTIONS

Mr. KENNEDY. Mr. President, It has been a decade since the U.S. Senate ratified the last treaty for the control of strategic nuclear weapons.

Today the arms race rushes ahead toward a nuclear confrontation that could well mean the annihilation of humanity.

We who live in this generation and serve in this Congress have the solemn responsibility to see to it that there will be others who live and serve here after us—that there will be a history to be written—and that they shall remember and honor us for taking what may be the last real chance to avert the last great war.

Let us recognize the stark truth: Humanity's final world war will be a war against the world itself—and all life will be the loser. Let us recall the warning of Abraham Lincoln about the stakes for America in another century—that his fellow citizens would nobly save or meanly lose this last best hope of Earth.

Now as we near the end of our own century, we shall save or lose the last best hope for an Earth of life, of progress, of laughing children, loving families, and human aspiration.

The only sure choice is for both sides to halt and then to reverse the nuclear arms race.

The only responsible choice is for us in the Senate to take a stand. There may be a temptation to be silent, but there is a higher obligation to speak out and to move forward on this issue.

So today Senator HATFIELD and I, together with a number of our colleagues, are introducing a joint resolution calling for American-Soviet agreement to a nuclear weapons freeze followed by major reductions in the nuclear arsenals of both nations, in a manner that enhances stability. An identical joint resolution is being introduced in the House by Representative MARKEY, Representative CONTE, Representative BINGHAM, along with more than 100 cosponsors.

In considering the choice before us, let us first ask—what are the consequences if we do not act?

Together, the United States and the Soviet Union stockpile a total of 15,000 strategic nuclear warheads—with nearly 4 tons of TNT for every man,

woman, and child presently living on this planet.

Today the Earth itself is an endangered species. Two powerful nations now have the power not only to destroy one another, but to consume all the achievements of all past centuries and to incinerate the future itself. Yet each side continues to mount its megatonnage and calibrate its strategies for nuclear confrontation and conflict.

As an American, I believe we must maintain a national defense second to none, sufficient to deter any attack from any adversary. But I also believe that we are nearing a time when the world as we know it will be only a second away from nothingness. As Jonathan Schell wrote recently in the *New Yorker*:

These bombs were built as "weapons" for "war," but their significance greatly transcends war and all its outcomes. They grew out of history, yet they threaten to end history. They were made by men, yet they threaten to annihilate man. They are a pit into which the whole world can fall—a nemesis of all human intentions, actions, and hopes.

And even if we are spared, even if the world somehow survives the continuing span of nuclear nightmare, the costs of it already shadow our other hopes—and again and again they will subvert our best intentions.

The world in an arms race is a world impoverished. And for America, the arms race cripples our capacity to do anything else. Today we are cutting immunization for children in order to finance the weapons that may someday kill them. Every new shelter for a missile means fewer homes for our families.

Every new warhead guidance system that can read enemy defenses means more schools where children will not learn to read. Every new escalation that could mean death at an early age across the Earth also darkens the golden years of our senior citizens now.

In the truest sense, this is not national security. Instead, the intensifying cost and increasing number of our weapons weakens the Nation. The arms race that could take all life already diminishes the quality of all our lives.

It is also an important aspect of our current economic distress.

If the administration passes their proposed military program, it will cost an additional \$1.675 trillion in the next 5 years, according to their own estimates—and as much as \$750 billion more than that, according to other estimates.

Under these conditions, it will be virtually impossible to balance the budget or to bring the economy back to full employment. The cost of the MX missile system by itself equals a quarter of the administration's estimate of their next budget deficit. The B-1 bomber alone will cost more than

all the job training programs enacted by Congress in the past 20 years.

We can reduce military spending even without a mutual nuclear arms freeze. Our colleague Senator DOMENICI has proposed cuts of \$20 to \$25 billion over the next 3 years. But that is only a fraction of the potential gain from an agreement to stop the nuclear arms race. Such a freeze, by itself, could save \$20 billion each year, and negotiated reductions could save billions more.

In short, the two greatest issues of our time—the prosperity of our economy and the probability of survival in the nuclear age—are inextricably intertwined. A process of mutual nuclear restraint is a necessary defense against the prospect of endless budget deficits.

But now the world hurtles quickly and recklessly in the opposite direction. The Soviets are in the midst of a massive nuclear build-up—which, in the near future, can be slowed down and then reversed only by a freeze followed by reductions. At the same time, from high places in our own country and Capital, we hear a proliferation of foolish talk about "winnable nuclear wars." Many experts agree with the conclusion of common sense—that this is an impossible notion, a replica of the dark calculations of Dr. Strangelove. The theory of winnable nuclear wars is the nuclear equivalent of the Kemp-Roth tax cut—with one critical difference: This time we would be gambling not only our economic wealth, but perhaps even existence itself. Those who propound such a theory show too much readiness to see it tried—and too little commitment to arms control.

In 1982, we must resolve that arms control will become more than rule-making for a barely controlled arms race. The past administration's SALT initiative was stalled in the Senate, and the present administration's START initiative is stalled at dead center.

We need a new initiative—and the true starting point now is for the United States and the Soviet Union to stop and then reverse the nuclear arms race. We cannot afford to lose this opportunity. The essential conditions for a freeze now exist. The strategic power of both sides is at approximate parity. And with a freeze in place, we can at last begin a real reduction in our nuclear arsenals.

Let us be clear about what a freeze—and the reductions to follow—will and will not mean.

It does not mean acceptance of Soviet misdeeds in other areas. I reject the proposition that a firm stand on Poland will set back the cause of arms control. We do not enter a freeze or reductions of nuclear arms because we like the Soviets or they like us—but

because both of us prefer existence to extinction.

Nor does the Kennedy-Hatfield resolution require trust by one side for the other. Every measure we would take depends on strict verification. Not only must the two sides decide when and how to implement the freeze, but they must give special attention to destabilizing weapons and insure that reductions occur in a manner that enhances stability and reduces the risk of nuclear war.

Our joint resolution does not call for unilateral action but for mutual agreement. The Soviet Union is now in the midst of a dangerous arms build-up—which can be slowed down and turned around only with a freeze followed by reductions. And the policy of this resolution will not weaken, but strengthen our defenses. Some of the resources that are freed can be reallocated to our conventional military forces, which is where we do need to do more.

Just as important, when the overall burden of military expenditures on the budget is lessened, our economy will improve. We will have resources for the revitalization of our industry and the restoration of our competitive position in the markets of the world. That is one of the great national security challenges for America in the 1980's, an area where our strength is being tested now.

The Kennedy-Hatfield resolution calls for "major, mutual, and verifiable" reductions "through annual percentages or equally effective means." Both George Kennan, our distinguished former Ambassador to the Soviet Union and Policy Planning Director under General Marshall and Dean Acheson, and Adm. H. G. Rickover, Director of Naval Nuclear Propulsion under seven Presidents, have argued eloquently and compellingly for deep cuts of at least 50 percent in the nuclear armories of both sides. These cuts could be achieved if we mutually agree to 7 percent annual reductions over 7 years under the percentage annual reduction approach—or alternative, equally effective approaches—proposed in our resolution and endorsed by the Senate Committee on Foreign Relations in 1979.

I am pleased to report that Ambassador Kennan has expressed to me his strong support for this initiative:

Progress along the lines of the Kennedy-Hatfield resolution is absolutely imperative and urgent. It can no longer be delayed and it should supersede all partisan and self-serving considerations.

The course defined in the Kennedy-Hatfield resolution can also strengthen the NATO alliance, which has been strained by administration policies that appear hostile to arms control and which speak too casually of nuclear exchanges in Europe. The fastest way to fray the Western Alliance, and

to encourage the disastrous course of unilateral disarmament in Europe, is to permit the perception that the United States is a barrier to mutual arms control. We must be the nation that clearly proposes, not opposes, progress on this issue. Ours must be the government that pursues common approaches to defense and arms control in concert with, instead of in isolation from our allies.

It has been more than a third of a century since the first nuclear cloud spread its grim shadow across the face of the Earth. I do not believe that we can go on as we have for another third of a century, without setting off the spark that could ignite that cloud again and consume the Earth in nuclear fire.

We do not have the time to wait, to temporize, to escalate, even as we pretend to be for restraint.

Now is the time, perhaps the last period of time we shall have, to insure that the world God made shall not be incinerated by weapons we have made.

As President Kennedy said at American University nearly 20 years ago, it is time "to examine our attitude toward peace itself. Too many of us think it is impossible. Too many think it is unreal. But that is a dangerous, defeatist belief. It leads to the conclusion that war is inevitable—that mankind is doomed—that we are gripped by forces we cannot control."

Twenty years later, it is time to break the deadlock that defeats efforts at arms control. It is time to take the first decisive step back from the brink, to put a freeze on the production, deployment, and further testing of nuclear weapons, and to negotiate major reductions in the massive arsenals on both sides—which is what the Kennedy-Hatfield resolution calls for. It is time, perhaps the final period of time we shall have, to move away from a strategy of annihilation and move forward to a strategy of peace.

Let us take what may be our last real chance to avert the last great war. Let us resolve to make the world safe for human survival.

Mr. President, I ask unanimous consent that the full text of our joint resolution, a list of original cosponsors in the Senate and the House, and a list of individual and organizational endorsements for the Kennedy-Hatfield initiative be printed in the RECORD.

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

S. J. RES. 163

Joint resolution on nuclear weapons freeze and reductions

Whereas the greatest challenge facing the earth is to prevent the occurrence of nuclear war by accident or design;

Whereas the nuclear arms race is dangerously increasing the risk of a holocaust that would be humanity's final war; and

Whereas a freeze followed by reductions in nuclear warheads, missiles, and other de-

livery systems is needed to halt the nuclear arms race and to reduce the risk of nuclear war;

*Resolved by the Senate and the House of Representatives of the United States of America in Congress assembled,*

1. As an immediate strategic arms control objective, the United States and the Soviet Union should:

(a) pursue a complete halt to the nuclear arms race;

(b) decide when and how to achieve a mutual and verifiable freeze on the testing, production, and further deployment of nuclear warheads, missiles, and other delivery systems; and

(c) give special attention to destabilizing weapons whose deployment would make such a freeze more difficult to achieve.

2. Proceeding from this freeze, the United States and the Soviet Union should pursue major, mutual and verifiable reductions in nuclear warheads, missiles, and other delivery systems, through annual percentages or equally effective means, in a manner that enhances stability.

SENATE COSPONSORS

Edward M. Kennedy (D-MA).  
 Mark O. Hatfield (R-OR).  
 Lowell P. Weicker (R-CT).  
 Claiborne Pell (D-RI).  
 Paul E. Tsongas (D-MA).  
 Alan Cranston (D-CA).  
 George J. Mitchell (D-ME).  
 Thomas F. Eagleton (D-MO).  
 Christopher J. Dodd (D-CT).  
 Robert T. Stafford (R-VT).  
 Daniel K. Inouye (D-HI).  
 Walter D. Huddleston (D-KY).  
 Patrick J. Leahy (D-VT).  
 Dale Bumpers (D-AR).  
 Carl D. Levin (D-MI).  
 John H. Chafee (R-RI).  
 Daniel Patrick Moynihan (D-NY).  
 Donald W. Riegle (D-MI).  
 Paul S. Sarbanes (D-MD).

HOUSE COSPONSORS

Edward Markey (D-MA).  
 Silvio Conte (D-MA).  
 Thomas Tauke (D-IO).  
 Michael Lowry (D-WA).  
 Edwin Forsythe (R-NJ).  
 Anthony Moffett (D-CT).  
 Robert Kastemeier (D-WI).  
 Anthony Bellinson (D-CA).  
 Henry Waxman (D-CA).  
 Shirley Chisholm (D-NY).  
 Bob Edgar (D-PA).  
 John Conyers (D-MI).  
 Tom Foglietta (D-PA).  
 Walter Fauntroy (D-DC).  
 Nick Mavroules (D-MA).  
 Fred Richmond (D-NY).  
 Joe Moakley (D-MA).  
 William Clay (D-MO).  
 Berkely Bedell (D-IO).  
 William Lehman (D-FL).  
 Donald Albosta (D-MI).  
 Lee Hamilton (D-IN).  
 James Oberstar (D-MN).  
 George Brown (D-CA).  
 Les AuCoin (D-OR).  
 Nick Joe Rahall (D-WV).  
 Michael Barnes (D-MD).  
 Barney Frank (D-MA).  
 Lawrence DeNardis (D-CT).  
 Robert Garcia (D-NY).  
 Tom Lantos (D-CA).  
 Sidney Yates (D-IL).  
 Matthew McHugh (D-NY).  
 Romano Mazzoli (D-KY).  
 Edward Boland (D-MA).  
 David Evans (D-IN).  
 William Ford (D-MI).  
 Martin Olav Sabo (D-MN).  
 Ted Weiss (D-NY).  
 John Seiberling (D-OH).  
 Leon Panetta (D-CA).  
 Gerry Studds (D-MA).  
 Jim Leach (R-IO).  
 Millicent Fenwick (R-NJ).  
 Al Swift (D-WA).  
 Mo Udall (D-AZ).  
 Fernand St Germain (D-RI).  
 Gus Savage (D-IL).  
 Peter Peyser (D-NY).  
 Jim Shannon (D-MA).  
 Ron Wyden (D-OR).  
 Ron Mottl (D-OH).  
 Jonathan Bingham (D-NY).  
 Howard Wolpe (D-MI).  
 Philip Burton (D-CA).  
 Richard Ottinger (D-NY).  
 Tom Harkin (D-IO).  
 Ron Dellums (D-CA).  
 Parren Mitchell (D-MD).  
 Sam Gejdenson (D-CT).  
 Charles Rangel (D-NY).  
 George Miller (D-CA).  
 Patricia Schroeder (D-CO).  
 Tony Coelho (D-CA).  
 Harold Hollenbeck (R-NJ).  
 Mervyn Dymally (D-CA).  
 Robert Matsui (D-CA).  
 Bruce Vento (D-MN).  
 Don Bonker (D-WA).  
 Albert Gore (D-TN).  
 Peter Rodino (D-NJ).  
 Brian Donnelly (D-MA).  
 William Ratchford (D-CT).  
 Paul Simon (D-IL).  
 Dennis Eckart (D-OH).  
 Harold Ford (D-TN).  
 Mark Marks (R-PA).  
 Dale Kildee (D-MI).  
 Doug Walgren (D-PA).  
 Tim Wirth (D-CO).  
 Jim Weaver (D-OR).  
 Henry Reuss (D-WI).  
 Don Pease (D-OH).  
 Pete Stark (D-CA).  
 Steve Neal (D-NC).  
 Don Edwards (D-CA).  
 Neal Smith (D-IO).  
 Ben Rosenthal (D-NY).  
 Barbara Mikulski (D-MD).  
 David Bonior (D-MI).  
 Louis Stokes (D-OH).  
 Charles Schumer (D-NY).  
 Margaret Heckler (R-MA).  
 Beryl Anthony (D-AR).  
 Pat Williams (D-MT).  
 George Crockett (D-MI).  
 Barbara Kennelly (D-CT).  
 William Brodhead (D-MI).  
 Mickey Leland (D-TX).  
 William Coyne (D-PA).  
 Gillis Long (D-LA).  
 Austin Murphy (D-PA).  
 Mario Biaggi (D-NY).  
 Stewart McKinney (R-CT).  
 Geraldine Ferraro (R-NY).  
 Claudine Schneider (R-RI).  
 Bob Shamansky (D-OH).  
 Joseph Addabbo (D-NY).  
 Stephen Solarz (D-NY).  
 Mike Synar (D-OK).  
 James Howard (D-NJ).  
 James Jones (D-TN).  
 Wyche Fowler (D-GA).  
 John Burton (D-CA).  
 William Green (R-NY).  
 Claude Pepper (D-FL).  
 Joe Early (D-MA).  
 Jim Blanchard (D-MT).  
 Bill Clinger (R-PA).

Manuel Lujan (R-NM).  
Robert Traxler (D-MI).  
Marty Russo (D-IL).

## ENDORSEMENTS

The following individuals and organizations have endorsed the Joint Resolution on a Nuclear Freeze and Reductions, introduced by Senators Kennedy and Hatfield and Representatives Markey, Conte, and Bingham:

## INDIVIDUALS

Dr. Herbert L. Abrams, Professor of Radiology, Harvard Medical School, and Chairman of Department of Radiology, Brigham and Women's Hospitals.

Ruth Adams, The Bulletin of Atomic Scientists.

Ed Asner, President, Screen Actors Guild.  
Michael Allen, Attorney.

Robert Alperin, Director, Government Relations Task Force, National Nuclear Weapons Freeze Campaign.

Joan Baez, President, Humanitas International.

George Ball, Senior Managing Director, Lehman Brothers, and former Under Secretary of State.

Richard Barnett, Senior Fellow, Institute for Policy Studies.

Stuart J. Beck, Attorney.  
Louis Rene Beres, Purdue University.

Dr. Paul Beeson, Co-Chairman, Physicians for Social Responsibility and Professor of Medicine, University of Washington.

Suzanne Berger, Professor of Physics, M.I.T.

Dr. Robert Berliner, Dean, Yale Medical School.

Leonard Bernstein, Composer-Conductor.  
Hans Bethe, Nobel Laureate in Physics.

Richard L. Bowditch, Jr., Business Executive.

Dr. T. Berry Brazelton, Chief, Child Development Unit, Children's Hospital Medical Center.

Harvey Brooks, Professor, John F. Kennedy School of Government, Harvard University.

David Brower, Friends of the Earth.

Yvonne Brathwaite Burke, Former Member of Congress.

Jack Calhoun, Director for Government Affairs, Child Welfare League of America.

Barry E. Carter, Professor, Georgetown Law Center, and former Staff Member, National Security Council.

Hodding Carter, Public Broadcasting System, and former Assistant Secretary of State.

Dr. Thomas C. Chalmers, President, Mt. Sinai Medical Center and Dean, Mt. Sinai School of Medicine.

Abraham Chayes, Professor of Law, Harvard Law School, and former Legal Advisor to the U.S. Department of State.

Warren Christopher, O'Melveny and Meyers, and former Deputy Secretary of State.

Harlan Cleveland, Director, Hubert H. Humphrey Institute of Public Affairs, University of Minnesota, and former Assistant Secretary of State and U.S. Ambassador to NATO.

Clark Clifford, Clifford and Warnke, and former Secretary of Defense.

William Colby, Reid and Priest, and former Director, Central Intelligence Agency.

David Cortwright, Executive Director, SANE.

Norman Cousins, Author.

Teana Crassover, Executive Director, Nurses Alliance for the Prevention of Nuclear War.

Ned Crosby, Center for Democratic Processes.

Mark Curtis, President, Association of American Colleges.

Rear Admiral Thomas Davies, USN (ret), former Commander of Carrier Division, Chief of Naval Development, and Assistant Director, U.S. Arms Control and Disarmament Agency.

James K. Devlin, President and Chairman of the Board, U.S. Telephone Communications, Inc.

Paul Doty, Director, Program on Science and International Affairs, John F. Kennedy School of Government, Harvard University.

John Dow, Former Member of Congress.

Marion Edelman, President, Children's Defense Fund.

Russell Edgerton, Executive Director, American Association for Higher Education.

Peter Eisenman, Director, Institute for Architecture and Urban Studies.

William Epstein, Consultant to the Secretary General of the United Nations.

Philip Farley, Senior Fellow, Stanford Arms Control and Disarmament Program, and former Deputy Director, U.S. Arms Control and Disarmament Agency.

Frances Farenthold, Former President of Wells College.

Bernard T. Feld, Chairman, Executive Committee, Pugwash Conferences, Professor of Physics, M.I.T., and Editor, The Bulletin of Atomic Scientists.

George Feldman, Former U.S. Ambassador to Luxembourg and Malta.

Arnold Fege, Director, Governmental Relations, National Parent Teacher Association.

Joseph Filner, Noblemet International.

Dr. Stuart Finch, Chief, Department of Medicine, Cooper Medical Center, and former Director of Research, Radiation Effects Research Foundation.

Edwin Firmage, Professor of Law, University of Utah.

James L. Fisher, President, Council for Advancement and Support of Education.

Roger Fisher, Professor of Law, Harvard Law School, and former Consultant to the Assistant Secretary of Defense for International Security.

Randy Forsberg, Founder, National Nuclear Weapons Freeze Campaign.

William Foster, Former Director, U.S. Arms Control and Disarmament Agency.

Alton Frye, Senior Fellow, Council on Foreign Relations.

Senator J. William Fulbright, former Chairman, Senate Committee on Foreign Relations.

Robert L. Gale, President, Association of Governing Boards of Universities and Colleges.

Sister Alice Gallin, Executive Director, Association of Catholic Colleges and Universities.

Mark Garrison (F.S.O. ret.), Director, Center for Foreign Policy Development, Brown University.

General James Marshall Gavin, former U.S. Ambassador to France.

Dr. David Greer, Director of Community Medicine, Brown University College of Medicine.

Mary Grefe, Former President of the American Association of University Women.

Dr. Jack Geiger, Arthur C. Logan Professor of Community Medicine, City College of New York.

Marshall Goldman, Associate Director, Russian Research Center and Professor of Economics, Wellesley College.

C. Gus Grant, Vice-Chairman, Southern Pacific Communications, and President, Spacenet.

Dr. Lester Grinspoon, President, American Psychiatric Association.

Jerome Grossman, President, Council for a Liveable World.

Morton Halperin, former Deputy Assistant Secretary of Defense for Policy Planning and Arms Control.

Averell Harriman, Former Governor of New York, Under Secretary of State, and U.S. Ambassador to Great Britain and the Soviet Union.

Robert Heilbroner, New School of Social Research.

Terry Herndon, President, National Education Association.

Antonia Hernandez, Director, Washington Office of Mexican-American Legal Defense and Education Fund.

Dr. Howard Hiatt, Director, Harvard School of Public Health, Harvard University.

Stanley Hoffmann, Professor of Government and Chairman, Center for European Studies, Harvard University.

Townsend Hoopes, former Under Secretary of the Air Force.

Mildred M. Horton, Former Director, WAVES, Former President, Wellesley College.

Alan Houseman, Director, Center for Law and Social Policy.

Samuel Husk, Director, Council of Greater City Schools.

Dr. David Imig, Executive Director, American Colleges for Teacher Education.

Russell Jim, President, Affiliated Tribes of Northwest Indians.

Dr. Carl Johnson, Associate Clinical Professor of Preventive Medicine, University of Colorado Medical School.

David Jones, U.S. Student Association.

Alan Kay, President, Business Alert to Nuclear War.

Edy Kaufman, Department of Political Science, University of California.

George Kennan, Professor Emeritus, Institute for Advanced Studies, Princeton, and former U.S. Ambassador to the Soviet Union and Yugoslavia.

Coretta Scott King, President, the Martin Luther King Jr. Center for Nonviolent Social Change.

Kenneth Kenniston, Professor of Science, Technology and Society, M.I.T.

George Kistiakowsky, Professor Emeritus of Chemistry, Harvard University, and former Science Advisor to Presidents Eisenhower, Kennedy and Johnson.

Philip Klutznick, Former Secretary of Commerce.

Paul Kreisberg, Director of Studies, Council on Foreign Relations, and former Deputy Director, Policy planning Staff, U.S. Department of State.

Rear Admiral Gene R. La Rocque, USN(ret), Director, Center for Defense Information.

W. Anthony Lake, Professor of International Relations, Amherst College, and former Director, Policy Planning Staff, U.S. Department of State.

Dr. Alexander Leaf, Ridley Watts Professor and Chairman of Department of Preventive Medicine, Harvard Medical School.

Dr. Philip R. Lee, School of Medicine, University of California.

Rear Admiral William Lemos, USN(ret).

James F. Leonard, Chairman of the Board, the Committee for National Security and former President, U.S. Association for the United Nations and Deputy Ambassador to the United Nations.

Wassily Leontief, Professor of Economics, New York University, and Nobel Laureate.

John W. Lewis, Director, Arms Control and Disarmament Program, Stanford University.

Dr. Robert J. Lifton, Professor of Psychiatry, Harvard Medical School.

David Linebaugh, Foreign Service Officer (ret), and former Deputy Assistant Director, the U.S. Arms Control and Disarmament Agency.

Sol Linowitz, former U.S. Ambassador to the Organization of American States and Special Envoy to the Middle East.

Henry Cabot Lodge, Former U.S. Ambassador to the United Nations and U.S. Senator.

Dr. Bernard Lown, Professor of Cardiology, Harvard School of Public Health and Co-President, International Physicians for the Prevention of Nuclear War.

Amory Lovins, Friends of the Earth.

Patrick J. Lucey, former Governor of Wisconsin.

J. Roderick MacArthur, Director, John D. and Catherine MacArthur Foundation.

Carl Marcy, Co-Director, American Committee on East-West Accord.

Jeanne B. Mattison, Co-Director, American Committee on East-West Accord.

Dr. John E. Mack, Professor of Psychiatry, Harvard Medical School.

Dr. Judd Marmor, Professor Emeritus of Psychiatry, University of Southern California School of Medicine.

George McGovern, former U.S. Senator.

Donald McHenry, Professor, School of Foreign Service, Georgetown University, and former U.S. Ambassador to the United Nations.

Thomas McIntyre, former U.S. Senator.

Leonard Meeker, Member, Board of Directors, Union of Concerned Scientists, and former Legal Advisor, U.S. Department of State.

Seymour Melman, Professor of Economics, Columbia University.

Dr. Karl Menninger, Menninger Foundation and Villages, Inc.

Matthew Meselson, Professor of Biochemistry and Molecular Biology, Harvard University.

Ronald E. Muller, American University.

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Robert Redford, Actor.

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Eli Sagan, Author.

Carl Sagan, Astronomer, Cornell University.

Harrison Salisbury, Soviet Scholar and Author.

Erwin A. Salk, Attorney.

Dr. Jonas Salk, Founding Director and Resident Fellow, Salk Institute for Biological Studies.

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#### NUCLEAR WEAPONS FREEZE

Mr. HATFIELD. Mr. President, I am pleased to join with my esteemed colleague, Senator KENNEDY, this morning.

We are relaunching a concept which I believe provides the most effective means of getting a grip on the nuclear arms race. The nuclear freeze is not the only avenue available to the arms control community. But I have felt, since I first introduced a virtually identical moratorium amendment to the SALT II treaty, that it is the only idea which makes sense on so many levels at once. It is time-sensitive. It recognizes that we are poised on the edge of a cliff known as strategic nuclear parity. It recognizes that need for an idea that is as simple as it is practical. It recognizes the urgency of dealing forthrightly with the specter of the mutual counterforce relationship between the U.S. and the

U.S.S.R., which is now in the process of crystallization.

We have entered an era in which remarkable scientific advances in weaponry have dramatically heightened strategic instability. Painstaking efforts at arms control are likely to be overpowered by the forces generated by mutual suspicion and technological weapons innovation.

We are rapidly approaching a decisive point of demarcation in the history of the nuclear arms race, the first-strike counterforce threshold. Once this strategic Rubicon has been crossed, the arsenals of both the United States and the Soviet Union will be assumed to be highly vulnerable to surprise attack. As a result, efforts to control the momentum and direction of the arms race will be vastly complicated; the possibility for accidental war will substantially increase.

The mistrust between the United States and the Soviet Union will continue to grow. The new strategic age will be characterized by a world bristling with time-urgent, offensive weapons entailing dramatic loss of effective human control over their use, the increasing transfer of such control to computers programed to respond in minutes to nuclear threats both real and imagined, and the movement of war technology into space. This strategic posture on both sides promises to be exacerbated further by unpredictable United States-Soviet geopolitical rivalry over increasingly scarce resources.

Like nitroglycerin coating a matchstick, this layering of military advances over global economic uncertainty will likely fuse into a volatile, potentially explosive whole.

These trends seem ominous and unmistakable. Only an innovative and unprecedented agreement between the Reagan administration and the increasingly embattled Soviet leadership can bring stability to the nuclear balance.

Instead of soberly assessing the strategic, political, and economic vulnerability of the U.S.S.R., the United States bemoans the death of U.S. strategic superiority. This self-destructive lament is increasingly reminiscent of the bomber and missile gaps of earlier decades. We again seem bent on elevating world perceptions of Soviet strategic power to underserved heights and unnecessarily weakening our own image in the eyes of our allies and enemies.

It is critical to note that 147 times within the past 20 months, U.S. computer malfunctions have signaled a Soviet strategic attack. Four of these incidents were severe enough to result in orders to strategic forces to increase their state of alert. On November 9, 1979, for example, a mistake caused by a programing error led to the signaling of a Soviet submarine-

launched attack. According to Pentagon sources, it took 6 minutes for U.S. command authorities to make a positive identification of the mistake.

The fundamental failure of the SALT process rests with its inability to throttle the engine driving the arms race; it has failed to deal with weapons-related scientific advancement combined with a great increase in the number of warheads.

In 1960, both sides together had 6,500 nuclear weapons; today they have perhaps 16,000. By the time SALT II would have ended in 1985, there would have been 22,500-24,400 total strategic warheads. Little wonder that there was only a strange, half-hearted support for a document under which the nuclear arsenals would, in the name of "strategic arms limitation," be expanded beyond the present total, which has an explosive equivalent of some 1 million Hiroshima-sized bombs.

Along with the failure to control the number of weapons, the SALT process has been notably weak in addressing the technological breakthroughs that have begun to complicate the process of arms control. Like a paper clip holding together a charged circuit, the treaty offered at best a precarious solution to a fundamentally dangerous condition. Hence, even in a decade governed by SALT II, both sides would pass well beyond the first-strike counterforce threshold.

A decade shadowed by the high-tension brinkmanship of a first-strike world can be avoided. It will require, however, a historic decision to freeze the deployment of first-strike weaponry on both sides. It will also require an equally unprecedented decision to halt ongoing advances in weapons accuracy and reliability.

In short, it will require a nuclear moratorium.

The United States and the Soviet Union have never been as strategically equal as they are today. Congressional testimony from military experts makes reference to rough parity between the two countries. Moreover, this rough equality exists in a nuclear balance where neither side has yet acquired an effective first-strike capability. The new arms race will make mincemeat of the present strategic balance. This then is a moment of historic opportunity.

The Reagan administration should move forcefully, therefore, to place a moratorium on further testing, deployment and production of strategic systems at the heart of the SALT negotiating process. Such a proposal should then give way to the deeper cuts advocated by President Reagan. It would place a strict ceiling on the arms race while offering profound opportunities for nuclear stability.

A moratorium on further deployment of additional missiles and bomb-

ers would effectively prevent large numbers of additional warheads from entering the arsenals of either the United States or the Soviet Union. Such a limitation on warhead numbers, combined with the diminution of confidence in the accuracies of MIRV'ed land- and sea-based missiles, will effectively prevent either side from crossing the first-strike threshold.

The political, strategic, and economic benefits flowing from a moratorium agreement would be unprecedented. The United States would benefit from the moratorium concept because the agreement would prevent further deployment of existing or new-generation Soviet SS-18 heavy rockets, as well as the large SS-17 and SS-19 missiles. Combined with the loss of confidence in first-strike advantage, resulting from the ban on flight testing, this would substantially diminish the danger of a Soviet first-strike threat. This, in turn, would lessen the need for a complex and enormously expensive MX system. This would save the United States an absolute minimum of \$50 billion, which could be redirected toward neglected U.S. conventional defense needs or our growing dependency on foreign oil. Additional costs savings associated with the moratorium would easily measure in the tens of billions of dollars through 1986.

The moratorium agreement would be a temporary firebreak, encircling and containing a weapons race threatening to rage out of control. Once the agreement had controlled armaments and technological advances at present strategic levels, the intervening years would be used to negotiate a specifically phased, balanced reduction of weapons. Particular emphasis should be placed on time-urgent MIRV'ed missile forces on both sides.

The moratorium benefits from its conceptual simplicity. The Carter administration experienced great difficulties in gaining the American people's acceptance of SALT II. The moratorium concept, on the other hand, has the inestimable political virtue of simplicity. Its benefits to mankind are readily apparent to mankind itself, rather than to only a select handful of scientists and strategic analysts. There would be no mistaking the moral implications of an agreement to stop the arms race, and an intense national and international campaign for ratification could be effectively mounted. To a world now cowering in the face of the awesome dangers and technological complexities of the arms race, a moratorium would symbolize hope.

Critics are likely to charge that the moratorium will be rejected outright by the Soviet Union. They will point to Soviet rejection of the so-called deep-cut proposal by the Carter administration in March 1977. Close

analysis of this proposal, however, reveals that it was almost certainly interpreted by Soviet leaders as locking them into a position of strategic inferiority. A moratorium today would establish a far more equal strategic balance.

By signing a nuclear moratorium agreement, the superpowers would present themselves with the legal and moral authority so essential to attacking the problem of nuclear proliferation in the developing world.

The momentum which this simple but practical idea has gained in communities and houses of worship across the land is as heartwarming as it is inspirational. For it is a sad commentary on the health of our Nation that we remain numb, immobilized to this absolute threat to the Earth. As each day passes, we inch toward global suicide. We invest billions, our best minds, and God's precious resources to transform the greatest nightmare imaginable into reality. It must stop. Now. Only from this point can we begin the work of reducing and, finally, eliminating nuclear weapons. I say to my friends who think such an idea unrealistic, show me the realism in the mentality which now prevails and tells us that nuclear war is thinkable, containable, and survivable. Show me how it can possibly be justifiable to create weapons so destructive that sanction for the innocent is impossible. We stand by as children starve by the millions because we lack the capability and the will to eliminate hunger. Yet we have found the will to develop missiles capable of flying over the polar cap and landing within a few hundred yards of their destination. This is not innovation; it is a profound distortion of man's purpose on Earth.

We shall set our own course. President Eisenhower said, upon leaving office, that one of these days the people would make the governments of the world stand aside to let them have peace. We are taking a bold step in that direction today.

The Soviet Union and the United States are embarking on an arms race that will change the shape of strategic policy and enhance the possibility of nuclear war. This will be done in the name of strategic stability, but it is difficult to imagine a more tortuous path toward peace.

The nuclear path we are taking leads us through a precarious uncharted minefield. Leaders on both sides will inevitably be forced to make decisions over the continuance of modern civilization in brief moments of awesome tension; enormous numbers of weapons on Earth and in space will overwhelm meager efforts at arms control; weapons will have the capability of targeting and destroying the forces of the opposition in moments; the age will bristle with international tension over the acquisition of scarce

resources and the proliferation of nuclear weapons to nations committed to defend their resources at all costs. Once surrounded by these dangers, it is possible that we could find our way safely out of this nuclear minefield. It is more likely that we would not.

But history has shown that moments of overreaching danger can also offer glimpses of unprecedented opportunity and hope. Doors remain open. Remarkable, unexplored opportunities exist. And if civilized man is increasingly frightened and anxious over the dangers of the modern age, it is also true that history has shown us to be graced with enormous reservoirs of energy and courage.

Our challenge now is to summon this courage and to renounce the growing sense of desperation that seems to close in on us all with each passing year. A future brilliant with the force of human energies and ideas awaits our decision to build the foundation of our survival.

Mr. President, I ask unanimous consent to have printed in the RECORD the first of a three-part series on nuclear war in the New Yorker, written by Jonathan Schell. It is an excellent, comprehensive article on the madness of nuclear war, and I urge my colleagues to read it.

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

[From the New Yorker, Feb. 1, 1982]

REFLECTIONS: THE FATE OF THE EARTH—A  
REPUBLIC OF INSECTS AND GRASS

Since July 16, 1945, when the first atomic bomb was detonated, at the Trinity test site, near Alamogordo, New Mexico, mankind has lived with nuclear weapons in its midst. Each year, the number of bombs has grown, until now there are some fifty thousand warheads in the world, possessing the explosive yield of roughly twenty billion tons of TNT, or one million six hundred thousand times the yield of the bomb that was dropped by the United States on the city of Hiroshima, in Japan, less than a month after the Trinity explosion. These bombs were built as "weapons" for "war," but their significance greatly transcends war and all its causes and outcomes. They grew out of history, yet they threaten to end history. They were made by men, yet they threaten to annihilate man. They are a pit into which the whole world can fall—a nemesis of all human intentions, actions, and hopes. Only life itself, which they threaten to swallow up, can give the measure of their significance. Yet in spite of the immeasurable importance of nuclear weapons, the world has declined, on the whole, to think about them very much. We have thus far failed to fashion, or to discover within ourselves, an emotional or intellectual or political response to them. This peculiar failure of response, in which hundreds of millions of people acknowledge the presence of an immediate, unremitting threat to their existence and to the existence of the world they live in but do nothing about it—a failure in which both self-interest and fellow-feeling seem to have died—has itself been such a striking phenomenon that it has to be regarded as an extremely important part of the nuclear

predicament as this has existed so far. Only very recently have there been signs, in Europe and in the United States, that public opinion has been stirring awake, and that ordinary people may be beginning to ask themselves how they should respond to the nuclear peril.

In what follows, I shall offer some thoughts on the origin and the significance of this predicament, on why we have so long resisted attempts to think about it (we even call a nuclear holocaust "unthinkable") or deal with it, and on the shape and magnitude of the choice that it forces upon us. But first I wish to describe the consequences for the world, insofar as these can be known, of a full-scale nuclear holocaust at the current level of global armament. We have lived in the shadow of nuclear arms for more than thirty-six years, so it does not seem too soon for us to familiarize ourselves with them—to acquaint ourselves with such matters as the "thermal pulse," the "blast wave," and the "three stages of radiation sickness." A description of a full-scale holocaust seems to be made necessary by the simple but basic rule that in order to discuss something one should first know what it is. A considerable number of excellent studies concentrating on various aspects of the damage that can be done by nuclear arms do exist, many of them written only in the last few years.

These include a report entitled "The Effects of Nuclear War," which was published in 1979 by the Congressional Office of Technology Assessment, and which deals chiefly with the consequences of a holocaust for the societies of the United States and the Soviet Union; the latest (1977) edition of the indispensable, classic textbook "The Effects of Nuclear Weapons," which is edited by Samuel Glasstone and Philip J. Dolan (hereafter I shall refer to it as "Glasstone") and was published jointly by the Department of Defense and the Energy Research and Development Administration, and which makes use of the government's findings from the bombing of Hiroshima and Nagasaki and from the American nuclear-test program to describe the characteristics and the destructive effects of nuclear explosions of all kinds; "Hiroshima and Nagasaki," a comprehensive study, carried out by a group of distinguished Japanese scientists and published here in 1981, of the consequences of the bombing of those two cities; "Long-Term Worldwide Effects of Multiple Nuclear-Weapons Detonations," a report on the global ecological consequences of a nuclear holocaust which was published in 1975 by the National Academy of Sciences (hereafter referred to as the N.A.S. report); a report of research conducted in 1974 and 1975 for the Department of Transportation's Climatic Impact Assessment Program on the consequences of manmade perturbances—including the explosion of nuclear weapons—of the earth's atmosphere; and "Survival of Food Crops and Livestock in the Event of Nuclear War," proceedings of a 1970 symposium held at Brookhaven National Laboratory, on Long Island, and sponsored by the Office of Civil Defense, the Atomic Energy Commission, and the Department of Agriculture, at which the effects of radiation from fallout on both domesticated and natural ecosystems were discussed. Drawing on these and other printed sources, and also on interviews that I conducted recently with a number of scientists, I have attempted to piece together an account of the principal consequences of a full-scale holocaust. Such an account, which

in its nature must be both technical and gruesome, cannot be other than hateful to dwell on, yet it may be only by descending into this hell in imagination now that we can hope to escape descending into it in reality at some later time. The knowledge we thus gain cannot in itself protect us from nuclear annihilation, but without it we cannot begin to take the measures that can actually protect us—or, for that matter, even begin to think in an appropriate way about our plight.

The widespread belief that a nuclear holocaust would in some sense bring about the end of the world has been reflected in the pronouncements of both American and Soviet leaders in the years since the invention of nuclear weapons. For example, President Dwight Eisenhower wrote in a letter in 1956 that one day both sides would have to "meet at the conference table with the understanding that the era of armaments has ended, and the human race must conform its actions to this truth or die." More recently—at a press conference in 1974—Secretary of State Henry Kissinger said that "the accumulation of nuclear arms has to be constrained if mankind is not to destroy itself." And President Jimmy Carter said in his farewell address a year ago that after a nuclear holocaust "the survivors, if any, would live in despair amid the poisoned ruins of a civilization that had committed suicide." Soviet leaders have been no less categorical in their remarks. In late 1981, for example, the Soviet government printed a booklet in which it stated, "The Soviet Union holds that nuclear war would be a universal disaster, and that it would most probably mean the end of civilization. It may lead to the destruction of all mankind." In these and other statements, examples of which could be multiplied indefinitely, Soviet and American leaders have acknowledged the supreme importance of the nuclear peril. However, they have not been precise about what level of catastrophe they were speaking of, and a variety of different outcomes, including the annihilation of the belligerent nations, the destruction of "human civilization," the extinction of mankind, and the extinction of life on earth, have been mentioned, in loose rhetorical fashion, more or less interchangeably. No doubt, the leaders have been vague in part because of the difficulty of making reliable predictions about an event that has no precedent. Yet it seems important to arrive, on the basis of available information, at some judgment concerning the likelihood of these outcomes, for they are not the same. Nor, presumably, would the appropriate political response to all of them be the same. The annihilation of the belligerent nations would be a catastrophe beyond anything in history, but it would not be the end of the world.

The destruction of human civilization, even without the biological destruction of the human species, may perhaps rightly be called the end of the world, since it would be the end of that sum of cultural achievements and human relationships which constitutes what many people mean when they speak of "the world." The biological destruction of mankind would, of course, be the end of the world in a stricter sense. As for the destruction of all life on the planet, it would be not merely a human but a planetary end—the death of the earth. And although the annihilation of other forms of life could hardly be of concern to human beings once they themselves had been annihilated, this more comprehensive, planetary termination is nevertheless full of sorrowful

meaning for us as we reflect on the possibility now, while we still exist. We not only live on the earth but also are of the earth, and the thought of its death, or even of its mutilation, touches a deep chord in our nature. Finally, it must be noted that a number of observers have, especially in recent years, denied that a holocaust would obliterate even the societies directly attacked. If this were so, then nuclear weapons, while remaining fearsome, would be qualitatively no different from other weapons of war, and the greater part of the nuclear predicament would melt away. (In the discussions of some analysts, nuclear attacks are made to sound almost beneficial. For example, one official of the Office of Civil Defense wrote a few years back that although it might be "verging on the macabre" to say so, "a nuclear war could alleviate some of the factors leading to today's ecological disturbances that are due to current high-population concentrations and heavy industrial production." According to a different, less sanguine view of things, this observation and other cheerful asides of the kind which crop up from time to time in the literature go well over the verge of the macabre.)

Anyone who inquires into the effects of a nuclear holocaust is bound to be assailed by powerful and conflicting emotions. Preeminent among these, almost certainly, will be an overwhelming revulsion at the tremendous scene of devastation, suffering, and death which is opened to view. And accompanying the revulsion there may be a sense of helplessness and defeat, brought about by an awareness of the incapacity of the human soul to take in so much horror. A nuclear holocaust, widely regarded as "unthinkable" but never as undoable, appears to confront us with an action that we can perform but cannot quite conceive. Following upon these first responses, there may come a recoil, and a decision, whether conscious or unconscious, not to think any longer about the possibility of a nuclear holocaust. (Since a holocaust is a wholly prospective rather than a present calamity, the act of thinking about it is voluntary, and the choice of not thinking about it is always available.) When one tries to face the nuclear predicament, one feels sick, whereas when one pushes it out of mind, as apparently one must do most of the time in order to carry on with life, one feels well again. But this feeling of well-being is based on a denial of the most important reality of our time, and therefore is itself a kind of sickness. A society that systematically shuts its eyes to an urgent peril to its physical survival and fails to take any steps to save itself cannot be called psychologically well. In effect, whether we think about nuclear weapons or avoid thinking about them, their presence among us makes us sick, and there seems to be little of a purely mental or emotional nature that we can do about it.

A part of our quandary may lie in the fact that even a denial of the reality stems from what is, in a sense, a refusal to accept nuclear annihilation; that is, a refusal to accept even in imagination what Dr. Robert Jay Lifton, the author of pioneering studies of the psychology of the nuclear predicament, has appropriately called an "immersion in death." As such, the denial may have intermixed in it something that is valuable and worthy of respect. Like active revulsion and protest against nuclear weapons, a denial of their reality may spring—in part, at least—from a love of life, and since a love of life may ultimately be all that we have to pit against our doom, we cannot afford

thoughtlessly to tear aside any of its manifestations. Because denial is a form of self-protection, if only against anguishing thoughts and feelings, and because it contains something useful, and perhaps even, in its way, necessary to life, anyone who invites people to draw aside the veil and look at the peril face to face is at risk of trespassing on inhibitions that are a part of our humanity. I hope in this article to proceed with the utmost possible respect for all forms of refusal to accept the unnatural and horrifying prospect of a nuclear holocaust.

When men split the nucleus of the atom, they unleashed into terrestrial nature a basic energy of the cosmos—the energy latent in mass—which had never before been active in any major way on earth. Until then, this energy had been kept largely within the nucleus by a force known to physicists as the strong force, which is the glue that holds the nucleus of an atom together, and is by far the strongest of the four basic forces that determine the behavior of all matter in the universe. The strong force and what is called the weak force are chiefly responsible for the static properties of nuclei.

The two others, which, being outside the nucleus, had until the explosion of nuclear weapons been responsible for virtually all life and motion on earth since the earth's formation, four and a half billion years ago, are the electromagnetic force, which is responsible for, among other things, all chemical bonds, and the gravitational force, which is a force of attraction between masses. It is largely because strong-force reactions, in which the energy in mass is released, were almost entirely excluded from terrestrial affairs (one of the few exceptions is a spontaneous nuclear chain reaction that once broke out in a West African uranium deposit) and because weak-force reactions (manifested in the decay of radioactive materials) were inconspicuous enough to go mostly unnoticed that the two great conservation laws of nineteenth-century physics—the law of the conservation of energy and the law of the conservation of mass—appeared to physicists of that time to hold true. Nineteenth-century science believed that mass and energy constituted separate, closed systems, in which the amount of each remained forever constant, no matter what transformations each might undergo. It was not until twentieth-century physicists, pursuing their investigations into the realms of the irreducibly small and the unexceedably large, examined the properties of energy, mass, time, and space in the subatomic realm and the cosmic realm that mass and energy were discovered to be interchangeable entities. The new relationship was governed by Albert Einstein's laws of relativity and by quantum theory, and these—not to go deeply into theoretical matters—can be described as general physical laws of the universe, of which the Newtonian laws proved to be limiting cases. (It is because the limits included almost all the middle-sized phenomena readily available to human inspection that the need for more encompassing laws was not felt until our century.)

Broadly speaking, Newtonian physics emerged as a human-scale or earthly-scale physics, valid for velocities and sizes commonly encountered by human senses, while relativity together with quantum theory was recognized as a universal physics, valid for all phenomena. (Something of the uncanny quality of modern physics' violation of common sense—by, for instance, the concept of "curved space"—inheres in the seem-

ingly ungraspable, and therefore "unreal," power of nuclear weapons, whose construction is based on the new principles.) Likewise, the laws of conservation of mass and energy held, to a high degree of approximation, for most then observable earthly energies, masses, and velocities but broke down for the energies, masses, and velocities in the subatomic realm. Einstein noted, "It turned out that the inertia of a system necessarily depends on its energy content, and this led straight to the notion that inert mass is simply latent energy. The principle of the conservation of mass lost its independence and became fused with that of the conservation of energy." Of mass in its slow-moving, relatively unenergetic terrestrial state, Einstein remarked, "It is as though a man who is fabulously rich [i.e., mass] should never spend or give away a cent [i.e., of its energy]; no one could tell how rich he was," and on that ground Einstein excused his nineteenth-century predecessors for failing to notice what he called the "tremendous energy" in mass. By comparison with the forms of energy active on earth during its first four and a half billion years, the amount of energy latent in mass was indeed tremendous.

The rate of conversion of mass into energy is given by Einstein's formula  $E=mc^2$ , or energy equals mass times the speed of light squared—a formula that has won what is, considering the fateful importance it has assumed for the survival of human life, a well-justified place in popular folklore. Since the speed of light is over a hundred and eighty-six thousand miles per second—the greatest velocity attainable by anything in the universe—the value in energy obtained from the transformation of even small quantities of mass is extremely high. For example, the amount of mass expended in the destruction of Hiroshima was about a gram—or one-thirtieth of an ounce. (The bomb itself, a complex machine, weighed four tons.) It would have required twelve thousand five hundred tons of TNT to release the same amount of energy. You might say that the energy yielded by application of the universal physics of the twentieth century exceeds the energy yielded by that of the terrestrial, or planetary, physics of the nineteenth century as the cosmos exceeds the earth. Yet it was within the earth's comparatively tiny, frail ecosphere that mankind released the newly tapped cosmic energy. In view of this scientific background, President Harry Truman was speaking to the point when, in his announcement that the United States had dropped an atomic bomb on Hiroshima, he told the world that "the basic power of the universe" had been harnessed for war by the United States, and added that "the force from which the sun draws its powers has been loosed against those who brought war to the Far East." The huge—the monstrous—disproportion between "the basic power of the universe" and the merely terrestrial creatures by which and against which it was aimed in anger defined the dread predicament that the world has tried, and failed, to come to terms with ever since.

It was fortunate for earthly life that it grew up sheltered from strong-force reactions and from the nuclear energies that they release; in fact, it is doubtful whether life could have developed at all on earth if it had somehow been conditioned by continuous strong-force reactions. These release enormous bursts of energy themselves, but they also set the stage for the protracted re-

lease of energy by the other nuclear force—the weak force—in the form of nuclear radiation. When an atomic nucleus is split, releasing energy, various unstable isotopes are produced, and these new nuclei, acting under the influence of the weak force, decay, emitting radioactivity into the environment. Most of the radioactivity that occurs naturally on earth is emitted by radioactive isotopes created in strong-force reactions that occurred before the formation of the earth—in early supernovae or at the beginning of the universe, when atoms were taking shape—and by new unstable isotopes that are the products of this radioactivity. (A smaller amount of radioactivity is being continually created by the bombardment of the earth with cosmic rays.) The original radioactive isotopes are like clocks that were wound up once and have been running down ever since. Their numbers have been decreasing as their nuclei have decayed and become stable, with each species dwindling at a precise and different rate. Left to itself, the planet's supply of radioactivity would, over billions of years, have gradually declined. But when man began to split the nuclei of atoms, in bombs and in nuclear reactors, he began to create fresh batches of radioactive materials, and these, like new clocks set ticking, emitted new radiation as they also began to dwindle away toward stability. (Testing in the atmosphere was banned by treaty in 1963—France and China did not concur and have since held atmospheric tests—but before that it increased the background radiation of the earth. As a result, the present annual per-capita radiation dose in the United States is four and a half percent above the natural background level for this country.) In general magnitude, the energy of radioactive emissions greatly overmatches the strength of the chemical bonds that hold living things together.

The vulnerability to radioactivity of genetic material, in particular, is well known. It is perhaps not surprising that when cosmic energies are turned loose on a small planet, overwhelming destruction is the result. Einstein was only one among many far-seeing people to express an understanding of this fundamental mismatch of strengths when he stated, in 1950, as he contemplated the likely detonation of a hydrogen—or thermonuclear—bomb (the first one was actually exploded, by the United States in the fall of 1952), that "radioactive poisoning of the atmosphere and hence annihilation of any life on earth has been brought within the range of technical possibilities."

The path of scientific discovery from Einstein's formulation, in 1905 for the conversion of mass into energy to the actual release by man of nuclear energy—a path in which the principles of quantum mechanics had to be developed and the basic structure of matter had to be unfolded—took several decades to travel. As late as the early nineteen-thirties, many of the best-qualified scientists had no notion that the nucleus of the atom could be fissioned. But in 1938 two Austrian physicists, Lise Meitner and Otto Frisch, correctly interpreting the results of some earlier experiments, announced that if uranium atoms were bombarded with neutrons they would split—or fission—into nearly equal parts, forming new elements and releasing some of their mass as energy, the amount being calculable by Einstein's renowned equation. The next step in obtaining usable energy from matter would be to bring about a chain reaction of fissioning uranium atoms, and this was undertaken in

1939 by the United States government, first under the auspices of an Advisory Committee on Uranium and later by the secret, multi-billion-dollar program known as the Manhattan Project, whose aim was to build an atomic bomb for use by the Allies in the Second World War.

When a uranium nucleus is split, it releases several neutrons at high velocity. In a chain reaction, the neutrons released split other nuclei, which, in turn, release other neutrons, and these neutrons split still further nuclei, and so on—in a series that ends only when the available material is used up or dispersed. In some substances, such as uranium-235 or plutonium-239, a spontaneous chain reaction will start when enough of the material—a quantity known as a critical mass—is assembled in one place. But a chain reaction does not necessarily make a bomb. For an explosion to occur, the reaction has to go on long enough for explosive energies to build up before the immensely rapid expansion of the fissionable material brought about by the energy released in the chain reaction terminates the reaction. The required prolongation can be produced by sudden compression of the fissionable material to a very high density. Then the neutrons, flying about among the more tightly packed atoms, will spawn a larger number of "generations" of fissioned nuclei before the chain reaction is halted by dispersion. Since the number of fissions increases exponentially with each new generation, a huge amount of energy is created very rapidly in the late generations of the reaction. According to Glasstone, the release of energy equivalent to one hundred thousand tons of TNT would require the creation of fifty-eight generations before the reaction ended, and ninety-nine and nine-tenths per cent of the energy would be released in the last seven generations. Since each generation would require no more than a hundred-millionth of a second, this energy would be released in less than a tenth of a millionth of a second. ("Clearly," Glasstone remarks "most of the fission energy is released in an extremely short period.")

In a fission reaction, energy is released in an expenditure of mass. Each atom contains a balance of forces and energies. Within the nucleus, the "tremendous energy" latent in mass is kept out of general circulation by the binding action of the strong force, holding the particles of the nucleus—its protons and neutrons—together. The strong force, however, is opposed by positive electrical charges that are carried by the protons in the nucleus and tend to drive the protons apart. The nuclei of the heaviest atoms, such as uranium and plutonium, are the least tightly bound together, because they contain the largest numbers of protons and so the electrical repulsion is greatest in them. (In fact, the presence of the disintegrative pressure of the electrical force within nuclei, which increases with the number of protons, forms an upper limit to the size of nuclei; there is a point beyond which they cannot cohere for any length of time.) Because of the relative weakness of the binding force in the heaviest nuclei, they are the best for fissioning. When the nucleus of an atom of uranium-235 is struck by a neutron, the binding grip of the strong force is loosed, electrical repulsion takes over, the nucleus divides, and its fragments are driven apart with an energy of motion which, in obedience to Einstein's equation, is equal to the amount of the mass lost times the speed of light squared.

Energy can also be released by fusion, which is the basis for the hydrogen bomb. To cause fusion, nuclei must be driven against one another with such velocity that the electrical repulsion between their respective protons is overcome and the strong force can act to bind them together into new nuclei. The best nuclei for fusion are the lightest—those of hydrogen and its isotopes and the elements nearest them in mass, because, having the fewest protons, they have the smallest amount of electrical repulsion to overcome. Dr. Henry Kendall, who teaches physics at the Massachusetts Institute of Technology and guides research in particle physics there, and who, as chairman of the Union of Concerned Scientists, has for many years devoted much of his time and attention to the nuclear question in all its aspects, recently described to me what happens in a fusion reaction. "Let a small rounded depression—or 'well,' to use the proper physical term—in a level board stand for a nucleus, and let a much smaller steel ball stand for a particle," he said. "If you roll the ball along the board at the well, it will travel down one side of the well, up the other, and out again. On the other hand, if you start the ball rolling at a point partway down one side of the well, it will rise to an equal height on the other side, then return to its starting point, and, barring other influences, continue to oscillate like that forever. This is a good representation of the bound state of the particle in the nucleus. The problem of fusion is to introduce the steel ball into the well from the outside and have it remain there in the bound state instead of shooting out the other side. It can do this only by somehow giving up energy. In fusion, we give the name 'binding energy' to the amount that must be given up for the outside particle to become bound in the well. A good example of this loss of energy occurs in the fusion of deuterium and tritium, two isotopes of hydrogen. The tritium nucleus contains one proton and two neutrons, and the deuterium nucleus contains one proton and one neutron, for a total of five particles. In the fusion of these isotopes, four of the particles—two neutrons and two protons—hang together very tightly, and are able to swat out the remaining neutron with incredible violence, thus getting rid of the necessary amount of energy. And this is the energy that a fusion reaction releases. Once the four other particles have done that, they can run around in their hole undisturbed. But in order for this or any fusion reaction to take place the nuclei have to be driven very close together. Only then can the strong force reach out its stubby but powerful arms in the giant handshake that fuses the nuclei together and unleashes the explosive energy of the hydrogen bomb."

Fission and fusion can occur in a great many forms, but in all of them mass is lost, the grip of the strong force is tightened on the products of the reaction, and energy is released. A typical hydrogen bomb is a four-stage device. In the first stage, a conventional explosion is set off; in the second stage, the conventional explosion initiates a fission reaction, which is, in fact, an atomic bomb; in the third stage, the heat from the atomic bomb initiates a fusion reaction; and in the fourth stage neutrons from the fusion reaction initiate additional fission, on a scale vastly greater than the first, in a surrounding blanket of fissionable material. In my conversation with Dr. Kendall, he described the explosion of an average hydrogen bomb to me in somewhat more detail. "The trig-

ger," he said, "consists of a carefully fashioned, subcritical, spherical piece of plutonium, with a neutron-initiator device in its interior and a high-explosive jacket surrounding it. Things begin when detonators all over the sphere of the high-explosive jacket go off—as nearly simultaneously as the design permits. Now the high-explosive jacket explodes and sends a shock wave travelling inward in a shrinking concentric sphere, and gaining in force and temperature as it proceeds. When its leading edge reaches the plutonium core, there is an abrupt jump in pressure, which squeezes the plutonium in on all sides with great precision. The pressure makes the plutonium go from subcritical to supercritical. At this point, the neutron initiator fires, and the chain reaction begins. The trick is to compress the plutonium as much as possible as quickly as possible, because then more generations of nuclei will be fissioned, and more energy will be released, before the explosion, in effect, blows itself out. When that happens, all the energy from the plutonium trigger will have been released, and particles whose atomic identity has been lost will be boiling and surging in an expanding sphere whose temperature exceeds stellar level. In all the universe, temperatures of equal heat are to be found only in such transient phenomena as exploding supernovae. Now the fusion—otherwise known as the thermonuclear reaction, because of the extreme heat needed to initiate it—can begin. The fusion fuels—lithium and isotopes of hydrogen—fly around with such velocity that they can simply coast right into one another, spitting out nuclear particles as they fuse. This is not a chain reaction, but again the explosion is stopped by the expansion caused by its own heat. By the time that happens, however, the last stage—the fissioning, by neutrons released both by the fission trigger and by the fusion reaction, of the surrounding blanket of material, which might be uranium-238—is under way. There is basically no limit to the size or yield of a thermonuclear weapon. The only limits on a bomb's destructive effect are the earth's capacity to absorb the blast."

Whereas most conventional bombs produce only one destructive effect—the shock wave—nuclear weapons produce many destructive effects. At the moment of the explosion, when the temperature of the weapon material, instantly gasified, is at the superstellar level, the pressure is millions of times the normal atmospheric pressure. Immediately, radiation, consisting mainly of gamma rays, which are a very high-energy form of electromagnetic radiation, begins to stream outward into the environment. This is called the "initial nuclear radiation," and is the first of the destructive effects of a nuclear explosion. In an air burst of a one-megaton bomb—a bomb with the explosive yield of a million tons of TNT, which is a medium-sized weapon in present-day nuclear arsenals—the initial nuclear radiation can kill unprotected human beings in an area of some six square miles. Virtually simultaneously with the initial nuclear radiation, in a second destructive effect of the explosion, an electromagnetic pulse is generated by the intense gamma radiation acting on the air. In a high-altitude detonation, the pulse can knock out electrical equipment over a wide area by inducing a powerful surge of voltage through various conductors, such as antennas, overhead power lines, pipes, and railroad tracks. The Defense Department's Civil Preparedness Agency reported in 1977 that a single multi-

kiloton nuclear weapon detonated one hundred and twenty-five miles over Omaha, Nebraska, could generate an electromagnetic pulse strong enough to damage solid-state electrical circuits throughout the entire continental United States and in parts of Canada and Mexico, and thus threaten to bring the economies of these countries to a halt. When the fusion and fission reactions have blown themselves out, a fireball takes shape. As it expands, energy is absorbed in the form of X rays by the surrounding air, and then the air re-radiates a portion of that energy into the environment in the form of the thermal pulse—a wave of blinding light and intense heat—which is the third of the destructive effects of a nuclear explosion. (If the burst is low enough, the fireball touches the ground, vaporizing or incinerating almost everything within it.) The thermal pulse of a one-megaton bomb lasts for about ten seconds and can cause second-degree burns in exposed human beings at a distance of nine and a half miles, or in an area of more than two hundred and eighty square miles, and that of a twenty-megaton bomb (a large weapon by modern standards) lasts for about twenty seconds and can produce the same consequences at a distance of twenty-eight miles, or in an area of two thousand four hundred and sixty square miles. As the fireball expands, it also sends out a blast wave in all directions, and this is the fourth destructive effect of the explosion. The blast wave of an air-burst one-megaton bomb can flatten or severely damage all but the strongest buildings within a radius of four and a half miles, and that of a twenty-megaton bomb can do the same within a radius of twelve miles. As the fireball burns, it rises, condensing water from the surrounding atmosphere to form the characteristic mushroom cloud. If the bomb has been set off on the ground or close enough to it so that the fireball touches the surface, in a so-called ground burst, a crater will be formed, and tons of dust and debris will be fused with the intensely radioactive fission products and sucked up into the mushroom cloud. This mixture will return to earth as radioactive fallout, most of it in the form of fine ash, in the fifth destructive effect of the explosion. Depending upon the composition of the surface, from forty to seventy per cent of this fallout—often called the "early" or "local" fallout—descends to earth within about a day of the explosion, in the vicinity of the blast and downwind from it, exposing human beings to radiation disease, an illness that is fatal when exposure is intense. Air bursts may also produce local fallout, but in much smaller quantities. The lethal range of the local fallout depends on a number of circumstances, including the weather, but under average conditions a one-megaton ground blast would, according to the report by the Office of Technology Assessment, lethally contaminate over a thousand square miles. (A lethal dose, by convention, is considered to be the amount of radiation that, if delivered over a short period of time, would kill half the able-bodied young adult population.)

The initial nuclear radiation, the electromagnetic pulse, the thermal pulse, the blast wave, and the local fallout may be described as the local primary effects of nuclear weapons. Naturally, when many bombs are exploded the scope of these effects is increased accordingly. But in addition these primary effects produce innumerable secondary effects on societies and natural environments, some of which may be even more

harmful than the primary ones. To give just one example, nuclear weapons, by flattening and setting fire to huge, heavily built-up areas, generate mass fires, and in some cases these may kill more people than the original thermal pulses and blast waves. Moreover, there are—quite distinct from both the local primary effects of individual bombs and their secondary effects—global primary effects, which do not become significant unless thousands of bombs are detonated all around the earth. And these global primary effects produce innumerable secondary effects of their own throughout the ecosystem of the earth as a whole. For a full-scale holocaust is more than the sum of its local parts; it is also a powerful direct blow to the ecosystem. In that sense, a holocaust is to the earth what a single bomb is to a city. Three grave direct global effects have been discovered so far. The first is the "delayed," or "worldwide," fallout. In detonations greater than one hundred kilotons, part of the fallout does not fall to the ground in the vicinity of the explosion but rises high into the troposphere and into the stratosphere, circulates around the earth, and then, over months or years, descends, contaminating the whole surface of the globe—although with doses of radiation far weaker than those delivered by the local fallout. Nuclear-fission products comprise some three hundred radioactive isotopes, and though some of them decay to relatively harmless levels of radioactivity within a few hours, minutes, or even seconds, others persist to emit radiation for up to millions of years. The short-lived isotopes are the ones most responsible for the lethal effects of the local fallout, and the long-lived ones are responsible for the contamination of the earth by stratospheric fallout. The energy released by all fallout from a thermonuclear explosion is about five per cent of the total. By convention, this energy is not calculated in the stated yield of a weapon, yet in a ten-thousand-megaton attack the equivalent of five hundred megatons of explosive energy, or forty thousand times the yield of the Hiroshima bomb, would be released in the form of radioactivity. This release may be considered a protracted afterburst, which is dispersed into the land, air, and sea, and into the tissues, bones, roots, stems, and leaves of living things, and goes on detonating there almost indefinitely after the explosion. The second of the global effects that have been discovered so far is the lofting, from ground bursts, of millions of tons of dust into the stratosphere; this is likely to produce general cooling of the earth's surface. The third of the global effects is a predicted partial destruction of the layer of ozone that surrounds the entire earth in the stratosphere. A nuclear fireball, by burning nitrogen in the air, produces large quantities of oxides of nitrogen. These are carried by the heat of the blast into the stratosphere, where, through a series of chemical reactions, they bring about a depletion of the ozone layer. Such a depletion may persist for years. The 1975 N.A.S. report has estimated that in a holocaust in which ten thousand megatons were detonated in the Northern Hemisphere the reduction of ozone in this hemisphere could be as high as seventy per cent and in the Southern Hemisphere as high as forty per cent, and that it could take as long as thirty years for the ozone level to return to normal. The ozone layer is crucial to life on earth, because it shields the surface of the earth from lethal levels of ultraviolet radiation, which is present in sunlight. Glasstone remarks

simply, "If it were not for the absorption of much of the solar ultraviolet radiation by the ozone, life as currently known could not exist except possibly in the ocean." Without the ozone shield, sunlight, the life-giver, would become a life-extinguisher. In judging the global effects of a holocaust, therefore, the primary question is not how many people would be irradiated, burned, or crushed to death by the immediate effects of the bombs but how well the ecosystem, regarded as a single living entity, on which all forms of life depend for their continued existence, would hold up. The issue is the habitability of the earth, and it is in this context, not in the context of the direct slaughter of hundreds of millions of people by the local effects, that the question of human survival arises.

Usually, people wait for things to occur before trying to describe them. (Futurology has never been a very respectable field of inquiry.) But since we cannot afford under any circumstances to let a holocaust occur, we are forced in this one case to become the historians of the future—to chronicle and commit to memory an event that we have never experienced and must never experience. This unique endeavor, in which foresight is asked to perform a task usually reserved for hindsight, raises a host of special difficulties. There is a categorical difference, often overlooked, between trying to describe an event that has already happened (whether it is Napoleon's invasion of Russia or the pollution of the environment by acid rain) and trying to describe one that has yet to happen—and one, in addition, for which there is no precedent, or even near-precedent, in history. Lacking experience to guide our thoughts and impress itself on our feelings, we resort to speculation. But speculation, however brilliantly it may be carried out, is at best only a poor substitute for experience. Experience gives us facts, whereas in pure speculation we are thrown back on theory, which has never been a very reliable guide to future events. Moreover, experience engraves its lessons in our hearts through suffering and the other consequences that it has for our lives; but speculation leaves our lives untouched, and so gives us leeway to reject its conclusions, no matter how well argued they may be. (In the world of strategic theory, in particular, where strategists labor to simulate actual situations on the far side of the nuclear abyss, so that generals and statesmen can prepare to make their decisions in case the worst happens, there is sometimes an unfortunate tendency to mistake pure ratiocination for reality, and to pretend to a knowledge of the future that it is not given to human beings to have.) Our knowledge of the local primary effects of the bombs, which is based both on the physical principles that made their construction possible and on experience gathered from the bombings of Hiroshima and Nagasaki and from testing, is quite solid. And our knowledge of the extent of the local primary effects of many weapons used together, which is obtained simply by using the multiplication table, is also solid: knowing that the thermal pulse of a twenty-megaton bomb can give people at least second-degree burns in an area of two thousand four hundred and sixty square miles, we can easily figure out that the pulses of a hundred twenty-megaton bombs can give people at least second-degree burns in an area of two hundred and forty-six thousand square miles. Nevertheless, it may be that our knowledge even of the primary effects is still incomplete, for

during our test program new ones kept being discovered. One example is the electromagnetic pulse, whose importance was not recognized until around 1960, when, after more than a decade of tests, scientists realized that this effect accounted for unexpected electrical failures that had been occurring all along in equipment around the test sites. And it is only in recent years that the Defense Department has been trying to take account strategically of this startling capacity of just one bomb to put the technical equipment of a whole continent out of action.

When we proceed from the local effects of single explosions to the effects of thousands of them on societies and environments, the picture clouds considerably, because then we go beyond both the certainties of physics and our slender base of experience, and speculatively encounter the full complexity of human affairs and of the biosphere. Looked at in its entirety, a nuclear holocaust can be said to assail human life at three levels: the level of individual life, the level of human society, and the level of the natural environment—including the environment of the Earth as a whole. At none of these levels can the destructiveness of nuclear weapons be measured in terms of firepower alone. At each level, life has both considerable recuperative powers, which might restore it even after devastating injury, and points of exceptional vulnerability, which leave it open to sudden, wholesale, and permanent collapse, even when comparatively little violence has been applied. Just as a machine may break down if one small part is removed, and a person may die if a single artery or vein is blocked, a modern technological society may come to a standstill if its fuel supply is cut off, and an ecosystem may collapse if its ozone shield is depleted. Nuclear weapons thus do not only kill directly, with their tremendous violence, but also kill indirectly, by breaking down the man-made and the natural systems on which individual lives collectively depend. Human beings require constant provision and care, supplied both by their societies and by the natural environment, and if these are suddenly removed people will die just as surely as if they had been struck by a bullet. Nuclear weapons are unique in that they attack the support systems of life at every level. And these systems, of course, are not isolated from each other but are parts of a single whole: ecological collapse, if it goes far enough, will bring about social collapse, and social collapse will bring about individual deaths. Furthermore, the destructive consequences of a nuclear attack are immeasurably compounded by the likelihood that all or most of the bombs will be detonated within the space of a few hours, in a single huge concussion. Normally, a locality devastated by a catastrophe, whether natural or man-made, will sooner or later receive help from untouched outside areas, as Hiroshima and Nagasaki did after they were bombed; but a nuclear holocaust would devastate the "outside" areas as well, leaving the victims to fend for themselves in a shattered society and natural environment. And what is true for each city is also true for the earth as a whole: a devastated earth can hardly expect "outside" help. The earth is the largest of the support systems for life, and the impairment of the earth is the largest of the perils posed by nuclear weapons.

The incredible complexity of all these effects, acting, interacting, and interacting again, precludes confident detailed representation of the events in a holocaust. We

deal inevitably with approximations, probabilities, even guesses. However, it is important to point out that our uncertainty pertains not to whether the effects will interact, multiplying their destructive power as they do so, but only to how. It follows that our almost built-in bias, determined by the limitations of the human mind in judging future events, is to underestimate the harm. To fear interactive consequences that we cannot predict, or even imagine, may not be impossible, but it is very difficult. Let us consider, for example, some of the possible ways in which a person in a targeted country might die. He might be incinerated by the fireball or the thermal pulse. He might be lethally irradiated by the initial nuclear radiation. He might be crushed to death or hurled to his death by the blast wave or its debris. He might be lethally irradiated by the local fallout. He might be burned to death in a firestorm. He might be injured by one or another of these effects and then die of his wounds before he was able to make his way out of the devastated zone in which he found himself. He might die of starvation, because the economy had collapsed and no food was being grown or delivered, or because existing local crops had been killed by radiation, or because the local ecosystem had been ruined, or because the ecosystem of the earth as a whole was collapsing. He might die of cold, for lack of heat and clothing, or of exposure, for lack of shelter. He might be killed by people seeking food or shelter that he had obtained. He might die of an illness spread in an epidemic. He might be killed by exposure to the sun if he stayed outside too long following serious ozone depletion. Or he might be killed by any combination of these perils. But while there is almost no end to the ways to die in and after a holocaust, each person has only one life to lose: someone who has been killed by the thermal pulse can't be killed again in an epidemic. Therefore, anyone who wishes to describe a holocaust is always at risk of depicting scenes of devastation that in reality would never take place, because the people in them would already have been killed off in some earlier scene of devastation. The task is made all the more confusing by the fact that causes of death and destruction do not exist side by side in the world but often encompass one another, in widening rings. Thus, if it turned out that a holocaust rendered the earth uninhabitable by human beings, then all the more immediate forms of death would be nothing more than redundant preliminaries, leading up to the extinction of the whole species by a hostile environment. Or if a continental ecosystem was so thoroughly destroyed by a direct attack that it could no longer sustain a significant human population, the more immediate causes of death would again decline in importance. In much the same way, if an airplane is hit by gunfire, and thereby caused to crash, dooming all the passengers, it makes little difference whether the shots also killed a few of the passengers in advance of the crash. On the other hand, if the larger consequences, which are less predictable than the local ones, failed to occur, then the local ones would have their full importance again.

Faced with uncertainties of this kind, some analysts of nuclear destruction have resorted to fiction, assigning to the imagination the work that investigation is unable to do. But then the results are just what one would expect: fiction. An approach more appropriate to our intellectual circumstances would be to acknowledge a high degree of

uncertainty as an intrinsic and extremely important part of dealing with a possible holocaust. A nuclear holocaust is an event that is obscure because it is future, and uncertainty, while it has to be recognized in all calculations of future events, has a special place in calculations of a nuclear holocaust, because a holocaust is something that we aspire to keep in the future forever, and never to permit into the present. You might say that uncertainty, like the thermal pulses or the blast waves, is one of the features of a holocaust. Our procedure, then, should be not to insist on a precision that is beyond our grasp but to inquire into the rough probabilities of various results insofar as we can judge them, and then to ask ourselves what our political responsibilities are in the light of these probabilities. This embrace of investigative modesty—this acceptance of our limited ability to predict the consequences of a holocaust—would itself be a token of our reluctance to extinguish ourselves.

There are two further aspects of a holocaust which, though they do not further obscure the factual picture, nevertheless vex our understanding of this event. The first is that although in imagination we can try to survey the whole prospective scene of destruction, inquiring into how many would live and how many would die and how far the collapse of the environment would go under attacks of different sizes, and piling up statistics on how many square miles would be lethally contaminated, or what percentage of the population would receive first-, second-, or third-degree burns, or be trapped in the rubble of its burning houses, or be irradiated to death, no one actually experiencing a holocaust would have any such overview. The news of other parts necessary to put together that picture would be one of the things that were immediately lost, and each surviving person, his vision drastically foreshortened by the collapse of his world, and his impressions clouded by his pain, shock, bewilderment, and grief, would see only as far as whatever scene of chaos and agony happened to lie at hand. For it would not be only such abstractions as "industry" and "society" and "the environment" that would be destroyed in a nuclear holocaust; it would also be, over and over again, the small collections of cherished things, known landscapes, and beloved people that made up the immediate contents of individual lives.

The other obstacle to our understanding is that when we strain to picture what the scene would be like after a holocaust we tend to forget that for most people, and perhaps for all, it wouldn't be *like* anything, because they would be dead. To depict the scene as it would appear to the living is to that extent a falsification, and the greater the number killed, the greater the falsification. The right vantage point from which to view a holocaust is that of a corpse, but from that vantage point, of course, there is nothing to report.

The specific train of events that might lead up to an attack is, obviously, among the unpredictable, but a few general possibilities can be outlined. One would be a wholly accidental attack, triggered by human error or mechanical failure. On three occasions in the last couple of years, American nuclear forces were placed on the early stages of alert: twice because of the malfunctioning of a computer chip in the North American Air Defense Command's warning system, and once when a test tape depicting a missile attack was inadvertently inserted in the

system. The greatest danger in computer-generated misinformation and other mechanical errors may be that one error might start a chain reaction of escalating responses between command centers, leading, eventually, to an attack. If in the midst of a crisis Country A was misled by its computers into thinking that Country B was getting ready to attack, and went on alert, Country B might notice this and go on alert in response. Then Country A, observing the now indubitably real alert of Country B, might conclude that its computers had been right after all, and increase its alert. This move would then be noticed by Country B, which would, in turn, increase its alert, and so on, until either the mistake was straightened out or an attack was launched. A holocaust might also be touched off by conventional or nuclear hostilities between smaller powers, which could draw in the superpowers. Another possibility would be a deliberate, unprovoked preemptive strike by one side against the other. Most observers regard an attack of this kind as exceedingly unlikely in either direction, but the logic of present nuclear strategy drives both sides to prepare to respond to one, for the central tenet of nuclear strategy is that each side will refrain from launching an all-out first strike against the other only if it knows that even after it has done so the other side will retain forces sufficient to launch an utterly devastating counterblow. What is more likely, in the opinion of many, is a preemptive strike launched in the midst of an international crisis. Neither quite planned (in the sense of being a cold-blooded, premeditated strike, out of the blue) nor quite accidental (in the sense of being caused by technical failure), such an attack would be precipitated by a combination on one side or both sides of belligerency, reckless actions, miscalculation, and fear of a first strike by the other side. Each side's possible fear of a first strike by the other side has become an element of increasing danger in recent years. Modern weapons, such as the Soviet SS-18 and SS-19 and the improved American Minuteman III missile and planned MX missile, have a greatly increased ability to destroy enemy missiles in their silos, thus adding to the incentive on both sides to strike first. The peril is that in a crisis either side, fearful of losing the preemptive advantage, would go ahead and order a first strike.

It was during an international crisis—the Cuban missile crisis, in 1962—that the world apparently came as close as it has yet come to a nuclear holocaust. On that occasion, and perhaps on that occasion alone, a dread of nuclear doom became palpable not only in the councils of power but among ordinary people around the world. At the height of the crisis, it is reported, President John Kennedy believed that the odds on the occurrence of a holocaust were between one out of three and even. In the memoir "Thirteen Days," Robert Kennedy, the President's brother, who was Attorney General at the time, and who advised the President in the crisis, offered a recollection of the moments of greatest peril. President Kennedy had ordered a blockade of all shipping to Cuba, where, American intelligence had found, the Soviet Union was emplacing missiles capable of carrying nuclear warheads. Missile crews in the United States had been placed on maximum alert. Now, at a few minutes after ten o'clock on the morning of October 24th, two Russian ships, accompanied by a Russian submarine, had ap-

proached to within a few miles of the blockade. Robert Kennedy wrote in his memoir:

"I think these few minutes were the time of gravest concern for the President. Was the world on the brink of a holocaust? Was it our error? A mistake? Was there something further that should have been done? Or not done? His hand went up to his face and covered his mouth. He opened and closed his fist. His face seemed drawn, his eyes pained, almost gray. We stared at each other across the table. For a few fleeting seconds, it was almost as though no one else was there and he was no longer the President."

"Inexplicably, I thought of when he was ill and almost died; when he lost his child; when we learned that our oldest brother had been killed; of personal times of strain and hurt. . . . We had come to the time of final decision. . . . I felt we were on the edge of a precipice with no way off. This time, the moment was now—not next week—not tomorrow, 'so we can have another meeting and decide,' not in eight hours, 'so we can send another message to Khrushchev and perhaps he will finally understand.' No, none of that was possible. One thousand miles away in the vast expanse of the Atlantic Ocean the final decisions were going to be made in the next few minutes. President Kennedy had initiated the course of events, but he no longer had control over them."

Any number of future crises that would lead to an attack can be pictured, but I would like to mention one possible category that seems particularly dangerous. In the theory of nuclear deterrence, each side would ideally deter attacks at every level of violence with a deterrent force at the same level. Thus, conventional attacks would be deterred with conventional forces, tactical attacks would be deterred with tactical forces, and strategic attacks would be deterred with strategic forces. The theoretical advantage of matching forces in this fashion would be that the opening moves in hypothetical hostilities would not automatically lead to escalation—for example, by leading the side weaker in conventional forces to respond to a conventional attack with nuclear weapons. However, the facts of geography make such ideal deterrent symmetry impracticable. The Soviet Union's proximity both to Western Europe and to the Middle East gives it a heavy conventional preponderance in those parts of the world. Therefore, throughout the postwar period it has been American policy to deter a Soviet conventional attack in Europe with tactical nuclear arms. And in January 1980 President Carter, in effect, extended the policy to include protection of the nations around the Persian Gulf. In his State of the Union address for 1980, Carter said, "An attempt by any outside force to gain control of the Persian Gulf region will be regarded as an assault on the vital interests of the United States of America. And such an assault will be repelled by any means necessary, including military force." Since the United States clearly lacked the conventional power to repel a Soviet attack in a region near the borders of the Soviet Union, "any means" could refer to nothing but nuclear arms. The threat was spelled out explicitly shortly after the speech, in a story in the *New York Times*—thought to be a leak from the Administration—about a 1979 Defense Department "study," which, according to the *Times*, said that American conventional forces could not stop a Soviet thrust into northern Iran, and that "to prevail in an

Iranian scenario, we might have to threaten or make use of tactical nuclear weapons." The words of this study put the world on notice that the use of nuclear arms not only was contemplated in past crises but will continue to be contemplated in future ones.

It is possible to picture a nuclear attack of any shape or size. An attack might use all the weapons at the attacker's disposal or any portion of them. It might be aimed at military targets, at industry, at the population, or at all or some combination of these. The attack might be mainly air-burst, and would increase the range of severe damage from the blast waves, or it might be mainly ground-burst, to destroy hard targets such as land-based nuclear missiles or command-and-control centers, or to deliver the largest possible amount of fallout, or it might combine air bursts and ground bursts in any proportion. It could be launched in the daytime or at night, in summer or in winter, with warning or without warning. The sequence of events once hostilities had begun also lies open. For example, it seems quite possible that the leaders of a nation that had just suffered a nuclear attack would be sparing in their response, tailoring it to political objectives rather than to the vengeful aim of wiping out the society whose leaders had launched the attack. On the other hand, they might retaliate with all the forces at their disposal, as they say they will do. Then again, the two sides might expend their forces gradually, in a series of ad-hoc "exchanges," launched in an atmosphere of misinformation and intellectual and moral disorientation. The state of mind of the decision-makers might be one of calm rationality, of hatred, of shock, of hysteria, or even of outright insanity. They might follow coldly reasoned scenarios of destruction to the letter, and exterminate one another in that way. Or, for all we are able to know now, having at first hardened their "resolve" to follow the scenarios through to the end, they might suddenly reverse themselves, and proceed to the negotiating table after only incompletely destroying one another. Lacking any experience of what decisions human beings make under full-scale nuclear attack, we simply do not know what they would do.

Not surprisingly, predictions of the course of an attack are subject to intellectual fashion (there being nothing in the way of experience to guide them). In the nineteen-sixties, for example, it was widely believed that the most important attack to deter was an all-out one, but in the last few years the idea that a "limited nuclear war" might be fought has come into vogue. (The concept of limited nuclear war also had an earlier vogue, in the late nineteen-fifties, when some strategists were seeking an alternative to Secretary of State John Foster Dulles's strategy of "massive retaliation.") The premise of the limited-war theory is that nuclear hostilities can be halted at some new equilibrium in the balance of forces, before all-out attacks have been launched. In particular, it has been argued recently by nuclear theorists that the Soviet Union is now able to launch a devastating first strike at American bombers and land-based missiles, leaving the United States in the unfavorable position of having to choose between using its less accurate submarine-based missiles to directly attack Soviet society—and thus risk a direct attack on its own society in return—and doing nothing. Rather than initiate the annihilation of both societies, it is argued, American leaders might acquiesce in the Soviet first strike.

But there is something dream-like and fantastic in this concept of a wholly one-way nuclear strike, which, while leaving intact the power of the assaulted country to devastate the society of the aggressor, would somehow allow the aggressor to dictate terms. What seems to have been forgotten is that, unless one assumes that the adversary has gone insane (in which case not even the most foolproof scenarios can save us), military actions are taken with some aim in mind—for example, the aim of conquering a particular territory. This imagined first strike would in itself achieve nothing, and the moment the Soviet Union might try to achieve some actual advantage—for example, by marching into the Middle East to seize its oil fields—two or three nuclear weapons from among the thousands remaining in American arsenals would suffice to put a quick end to the undertaking. Or if the United States retaliated with only ten bombs on Soviet cities, holding back the rest, the Soviet Union would suffer unprecedented losses while gaining nothing. In other words, in this scenario—and, indeed, in any number of other scenarios for "limited nuclear war" which could be mentioned—strategic theory seems to have taken on a weird life of its own, in which the weapons are pictured as having their own quarrel to settle, irrespective of mere human purposes. In general, in the theoretically sophisticated but often humanly deficient world of nuclear strategic theory it is likely to be overlooked that the outbreak of nuclear hostilities in itself assumes the collapse of every usual restraint of reason and humanity. Once the mass killing of a nuclear holocaust had begun, the scruples, and even the reckonings of self-interest, that normally keep the actions of nations within certain bounds will by definition have been trampled down, and will probably offer little further protection for anybody. In the unimaginable mental and spiritual climate of the world at that point it is hard to imagine what force could be counted on to hold the world back from all-out destruction.

However, it would be misleading to suggest that once one nuclear weapon had been used it would be inevitable for all of them to be used. Rather, the point is that once a catastrophe that we now find "unthinkable" actually commenced, people would act in ways that are unforeseeably by theorists—or, for that matter, by the future actors themselves. Predictions about the size and form of a nuclear holocaust are really predictions about human decisions, and these are notoriously incalculable in advance—especially when the decisions in question are going to be made in the midst of unimaginable mayhem. Secretary of Defense Robert McNamara probably said the last word on this subject when he remarked before the House Armed Services Committee in 1963, in regard to a possible defense of Europe, that once the first tactical nuclear weapon had been used the world would have been launched into "a vast unknown." Therefore, in picturing a Soviet attack on the United States I shall not venture any predictions concerning the shape and size of the attack, since to do so, it seems to me, would be to pretend to a kind of knowledge that we are incapable of. Instead, I shall simply choose two basic assumptions—using the word to mean not predictions but postulates. The first assumption is that most of the Soviet strategic forces are used in the attack, and the second is that the attack is aimed at military facilities, industry, and the population centers of the United States. I have

chosen these assumptions not because I "predict" an attack of this kind, which is the most damaging of the attacks that appear to have a likely chance of occurring, but because, in the absence of any basis for confident prediction, and, in particular, of any reliable assurance that an attack would remain "limited," they are the only assumptions that represent the full measure of our peril. At the very least, they are not far-fetched. The first assumption is supported by many statements by leaders on both sides. The Soviet government, which, of course, is one of the actors concerned, has frequently stated the view that nuclear hostilities cannot be limited, and Defense Secretary Harold Brown also said, in 1977, that a nuclear conflict probably could not be limited. Concerning the second assumption, the significant point is that the fundamental logic of the strategy of both sides is, in McNamara's words, to hold not just the military forces of the other side hostage but also its "society as a whole." Just how the strategists on both sides achieve this is unknown, but it seems unwarranted to suppose that there will be much relief for either population in the merciful sentiments of targeters.

A further set of assumptions that influence one's judgment of the consequences of a holocaust concerns the possibility of civil defense. These assumptions also depend in part on certain circumstances that are unknowable in advance, such as whether the attack occurs in the daytime or at night, but they also depend on circumstances that are more or less built into the situation, and can therefore be predicted. The two main components of a conceivable civil defense against nuclear attack are evacuation and sheltering. In a protracted crisis, a country might seek to protect its population by evacuating its cities and towns before any attack had actually been launched; but, for a variety of reasons, such a strategy seems impracticable or useless. To begin with, an enemy that was bent on attacking one's population might retarget its missiles against people in the places to which they had fled. Also, during the days of evacuation people would be more vulnerable to attack than they were even in their cities. (Probably the worst assumption regarding evacuation would be that the attack came while evacuation was under way.) A further disadvantage of a policy of evacuation is that it would offer the foe a means of utterly disrupting the society by threats alone, since an evacuated society would be one that had stopped functioning for any other purpose. Shelters appear to be no more promising than evacuation. The Soviet missiles closest to the United States, which are stationed on submarines several hundred miles from our shores, can deliver their warheads on coastal targets about ten minutes after they are fired, and on inland targets a few minutes later. The intercontinental ballistic missiles, which are all launched from within the Soviet Union, would arrive fifteen or twenty minutes after that. The bombers would arrive in several hours. But, according to the Arms Control and Disarmament Agency, it requires fifteen minutes after missiles have been launched for the earliest warnings to be given to the population. Even assuming—very optimistically, I think—that it would take only another fifteen minutes or so for any significant number of people to become aware of the warnings and go to shelters, a surprise attack would indeed catch the great majority of people by surprise.

For most people, however, the lack of any opportunity to proceed to shelters would be without importance in any case, since shelters, even if they existed, would be of no use. It is now commonly acknowledged that economically feasible shelters cannot provide protection against the blast, heat, intense radiation, and mass fires that would probably occur in densely populated regions of the country—that such shelters could save lives only in places that were subjected to nothing worse than modest amounts of fallout.

Furthermore, there is a very serious question whether many people would survive in the long run even if they did manage to save themselves in the short run by sealing themselves up in shelters for several weeks or months. Finally, it seems worth mentioning that, whatever the potential value of shelters might be, most existing ones either are situated in places where they are useless (in large cities, for example) or lack some or all of the following necessary equipment for an effective shelter: adequate shielding from radiation; air filters that would screen out radioactive particles; food and water to last as long as several months; an independent heating system, in places where winters are severe; medical supplies for the injured, sick, and dying, who might be in the majority in the shelters; radiation counters to measure levels of radiation outdoors, so that people could know when it was safe to leave the shelter and could determine whether food and drink were contaminated; and a burial system wholly contained within the shelter, in which to bury those who died of their injuries or illness during the shelter period.

Systems setting up evacuation procedures and shelters are often presented as humanitarian measures that would save lives in the event of a nuclear attack. In the last analysis, however, the civil-defense issue is a strategic, not a humanitarian, question. It is fundamental to the nuclear strategy of both the Soviet Union and the United States that each preserve the capacity to devastate the population of the other after itself absorbing the largest first strike that is within the other's capacity. Therefore, any serious attempt by either side to make its population safe from nuclear attack—assuming for the moment that this could be done—would be extremely likely to call forth a strategic countermove by the other side, probably taking the form of increased armament. Since the extraordinary power of modern weapons makes such compensation quite easy, it is safe to assume that for the foreseeable future the population of each side is going to remain exactly as vulnerable as the other side wants it to be.

The yardsticks by which one can measure the destruction that will be caused by weapons of different sizes are provided by the bombings of Hiroshima and Nagasaki and American nuclear tests in which the effects of hydrogen bombs with up to sixteen hundred times the explosive yield of the Hiroshima bomb were determined. The data gathered from these experiences make it a straightforward matter to work out the distances from the explosion at which different intensities of the various effects of a bomb are likely to occur. In the back of the Glasstone book, the reader will find a small dial computer that places all this information at his fingertips. Thus, if one would like to know how deep a crater a twenty-megaton ground burst will leave in wet soil one has only to set a pointer at twenty megatons and look in a small window showing

crater size to find that the depth would be six hundred feet—a hole deep enough to bury a fair-sized skyscraper. Yet this small circular computer, on which the downfall of every city on earth is distilled into a few lines and figures, can, of course, tell us nothing of the human reality of nuclear destruction. Part of the horror of thinking about a holocaust lies in the fact that it leads us to supplant the human world with a statistical world; we seek a human truth and come up with a handful of figures. The only source that gives us a glimpse of that human truth is the testimony of the survivors of the Hiroshima and Nagasaki bombings. Because the bombing of Hiroshima has been more thoroughly investigated than the bombing of Nagasaki, and therefore more information about it is available, I shall restrict myself to a brief description of that catastrophe.

On August 6, 1945, at 8:16 a.m., a fission bomb with a yield of twelve and a half kilotons was detonated about nineteen hundred feet above the central section of Hiroshima. By present-day standards, the bomb was a small one, and in today's arsenals it would be classed among the merely tactical weapons. Nevertheless, it was large enough to transform a city of some three hundred and forty thousand people into hell in the space of a few seconds. "It is no exaggeration," the authors of "Hiroshima and Nagasaki" tell us, "to say that the whole city was ruined instantaneously." In that instant, tens of thousands of people were burned, blasted, and crushed to death. Other tens of thousands suffered injuries of every description or were doomed to die of radiation sickness. The center of the city was flattened, and every part of the city was damaged. The trunks of bamboo trees as far away as five miles from ground zero—the point on the ground directly under the center of the explosion—were charred. Almost half the trees within a mile and a quarter were knocked down. Windows nearly seventeen miles away were broken. Half an hour after the blast, fires set by the thermal pulse and by the collapse of the buildings began to coalesce into a firestorm, which lasted for six hours. Starting about 9 a.m. and lasting until late afternoon, a "black rain" generated by the bomb (otherwise, the day was fair) fell on the western portions of the city, carrying radioactive fallout from the blast to the ground. For four hours at midday, a violent whirlwind, born of the strange meteorological conditions produced by the explosion, further devastated the city. The number of people who were killed outright or who died of their injuries over the next three months is estimated to be a hundred and thirty thousand. Sixty-eight per cent of the buildings in the city were either completely destroyed or damaged beyond repair, and the center of the city was turned into a flat, rubble-strewn plain dotted with the ruins of a few of the sturdier buildings.

In the minutes after the detonation, the day grew dark, as heavy clouds of dust and smoke filled the air. A whole city had fallen in a moment, and in and under its ruins were its people. Among those still living, most were injured, and of these most were burned or had in some way been battered or had suffered both kinds of injury. Those within a mile and a quarter of ground zero had also been subjected to intense nuclear radiation, often in lethal doses. When people revived enough from their unconsciousness or shock to see what was happening around them, they found that where a second before there had been a city getting

ready to go about its daily business on a peaceful, warm August morning, now there was a heap of debris and corpses and a stunned mass of injured humanity. But at first, as they awakened and tried to find their bearings in the gathering darkness, many felt cut off and alone. In a recent volume of recollections by survivors called "Unforgettable Fire," in which the effects of the bombing are rendered in drawings as well as in words, Mrs. Haruko Ogasawara, a young girl on that August morning, recalls that she was at first knocked unconscious. She goes on to write:

"How many seconds or minutes had passed I could not tell, but, regaining consciousness, I found myself lying on the ground covered with pieces of wood. When I stood up in a frantic effort to look around, there was darkness. Terribly frightened, I thought I was alone in a world of death, and groped for any light. My fear was so great I did not think anyone would truly understand. When I came to my senses, I found my clothes in shreds, and I was without my wooden sandals."

Soon cries of pain and cries of help from the wounded filled the air. Survivors heard the voices of their families and their friends calling out in the gloom. Mrs. Ogasawara writes:

"Suddenly, I wondered what had happened to my mother and sister. My mother was then forty-five, and my sister five years old. When the darkness began to fade, I found that there was nothing around me. My house, the next door neighbor's house, and the next had vanished. I was standing amid the ruins of my house. No one was around. It was quiet, very quiet—an eerie moment. I discovered my mother in a water tank. She had fainted. Crying out, 'Mama, Mama,' I shook her to bring her back to her senses. After coming to, my mother began to shout madly for my sister: 'Eiko! Eiko.'

"I wonder how much time had passed when there were cries of searchers. Children were calling their parents' names, and parents were calling the names of their children. We were calling desperately for my sister and listening for her voice and looking to see her. Suddenly, Mother cried 'Oh Eiko.' Four or five meters away, my sister's head was sticking out and was calling my mother. . . . Mother and I worked desperately to remove the plaster and pillars and pulled her out with great effort. Her body had turned purple from the bruises, and her arm was badly wounded that we could have placed two fingers in the wound."

Others were less fortunate in their searches and rescue attempts. In "Unforgettable Fire," a housewife describes a scene she saw:

"A mother, driven half-mad, while looking for her child, was calling his name. At last she found him. His head looked like a boiled octopus. His eyes were half-closed, and his mouth was white, pursed, and swollen."

Throughout the city, parents were discovering their wounded or dead children, and children were discovering their wounded or dead parents. Kikuno Segawa recalls seeing a little girl with her dead mother:

"A woman who looked like an expectant mother was dead. At her side, a girl of about three years of age brought some water in an empty can she had found. She was trying to let her mother drink from it."

The sight of people in extremities of suffering was ubiquitous. Kinzo Nishida recalls: "While taking my severely wounded wife out to the riverbank by the side of the hill of Nakahiro-machi, I was horrified, indeed,

at the sight of a stark naked man standing in the rain with his eyeball in his palm. He looked to be in great pain, but there was nothing that I could do for him."

Many people were astonished by the sheer sudden absence of the known world. The writer Yoko Ota later wrote:

"I just could not understand why our surroundings had changed so greatly in one instant. . . . I thought it might have been something which had nothing to do with the war—the collapse of the earth, which it was said would take place at the end of the world, and which I had read about as a child."

And a history professor who looked back at the city after the explosion remarked later, "I saw that Hiroshima had disappeared."

As the fires sprang up in the ruins, many people, having found injured family members and friends, were now forced to abandon them to the flames or to lose their own lives in the firestorm. Those who left children, husbands, wives, friends, and strangers to burn often found these experiences the most awful of the entire ordeal. Mikio Inoue describes how one man, a professor, came to abandon his wife:

"It was when I crossed Miyuki Bridge that I saw Professor Takenaka, standing at the foot of the bridge. He was almost naked, wearing nothing but shorts, and he had a ball of rice in his right hand. Beyond the streetcar line, the northern area was covered by red fire burning against the sky. Far away from the line, Ote-machi was also a sea of fire.

"That day, Professor Takenaka had not gone to Hiroshima University, and the A-bomb exploded when he was at home. He tried to rescue his wife, who was trapped under a roofbeam, but all his efforts were in vain. The fire was threatening him also. His wife pleaded, 'Run away, dear!' He was forced to desert his wife and escape from the fire. He was now at the foot of Miyuki Bridge.

"But I wonder how he came to hold that ball of rice in his hand. His naked figure, standing there before the flames with that ball of rice, looked to me as a symbol of the modest hopes of human beings."

In "Hiroshima," John Hersey describes the flight of a group of German priests and their Japanese colleagues through a burning section of the city:

"The street was cluttered with parts of houses that had slid into it, and with fallen telephone poles and wires. From every second or third house came the voices of people buried and abandoned, who invariably screamed, with formal politeness, 'Tasukete kure! Help, if you please!' The priests recognized several ruins from which these cries came as the homes of friends, but because of the fire it was too late to help."

And thus it happened that throughout Hiroshima all the ties of affection and respect that join human beings to one another were being pulled and rent by the spreading firestorm. Soon processions of the injured—processions of a kind that had never been seen before in history—began to file away from the center of the city toward its outskirts. Most of the people suffered from burns, which had often blackened their skin or caused it to sag off them. A grocer who joined one of these processions has described them in an interview with Robert Jay Lifton which appears in his book "Death in Life":

"They held their arms bent [forward] . . . and their skin—not only on their hands but

on their faces and bodies, too—hung down. . . . If there had been only one or two such people . . . perhaps I would not have had such a strong impression. But wherever I walked, I met these people. . . . Many of them died along the road. I can still picture them in my mind—like walking ghosts. They didn't look like people of this world."

The grocer also recalls that because of people's injuries "you couldn't tell whether you were looking at them from in front or in back." People found it impossible to recognize one another. A woman who at the time was a girl of thirteen, and suffered disfiguring burns on her face, has recalled, "My face was so distorted and changed that people couldn't tell who I was. After a while I could call others' names but they couldn't recognize me." In addition to being injured, many people were vomiting—an early symptom of radiation sickness. For many, horrifying and unreal events occurred in a chaotic jumble. In "Unforgettable Fire," Torako Hironaka enumerates some of the things that she remembers:

1. Some burned work-clothes.
2. People crying for help with their heads, shoulders, or the soles of their feet injured by fragments of broken window glass. Glass fragments were scattered everywhere.
3. [A woman] crying, saying "Aigo! Aigo!" (a Korean expression of sorrow).
4. A burning pine tree.
5. A naked woman.
6. Naked girls crying, "Stupid America!"
7. I was crouching in a puddle, for fear of being shot by a machine gun. My breasts were torn.
8. Burned down electric power lines.
9. A telephone pole had burned and fallen down.
10. A field of watermelons.
11. A dead horse.
12. What with dead cats, pigs, and people, it was just a hell on earth.

Physical collapse brought emotional and spiritual collapse with it. The survivors were, on the whole, listless and stupefied. After the escapes, and the failures to escape, from the firestorm, a silence fell over the city and its remaining population. People suffered and died without speaking or otherwise making a sound. The processions of the injured, too, were soundless. Dr. Michihiko Hachiya has written in his book "Hiroshima Diary":

"Those who were able walked silently toward the suburbs in the distant hills, their spirits broken, their initiative gone. When asked whence they had come, they pointed to the city and said, 'That way,' and when asked where they were going, pointed away from the city and said, 'This way.' They were so broken and confused that they moved and behaved like automatons.

"Their reactions had astonished outsiders, who reported with amazement the spectacle of long files of people holding stolidly to a narrow, rough path when close by was a smooth, easy road going in the same direction. The outsiders could not grasp the fact that they were witnessing the exodus of a people who walked in the realm of dreams."

Those who were still capable of action often acted in an absurd or an insane way. Some of them energetically pursued tasks that had made sense in the intact Hiroshima of a few minutes before but were not utterly inappropriate. Hersey relates that the German priests were bent on bringing to safety a suitcase, containing diocesan accounts and a sum of money, that they had rescued from the fire and were carrying around with them through the burning city.

And Dr. Lifton describes a young soldier's punctilious efforts to find and preserve the ashes of a burned military code book while people around him were screaming for help. Other people simply lost their minds. For example, when the German priests were escaping from the firestorm, one of them, Father Wilhelm Kleinsorge, carried on his back a Mr. Fukai, who kept saying that he wanted to remain where he was. When Father Kleinsorge finally put Mr. Fukai down, he started running. Hersey writes:

"Father Kleinsorge shouted to a dozen soldiers, who were standing by the bridge, to stop him. As Father Kleinsorge started back to get Mr. Fukai, Father LaSalle called out, 'Hurry! Don't waste time!' So Father Kleinsorge just requested the soldiers to take care of Mr. Fukai. They said they would, but the little, broken man got away from them, and the last the priests could see of him, he was running back toward the fire."

In the weeks after the bombing, many survivors began to notice the appearance of petechiae—small spots caused by hemorrhages—on their skin. These usually signaled the onset of the critical stage of radiation sickness. In the first stage, the victims characteristically vomited repeatedly, ran a fever, and developed an abnormal thirst. (The cry "Water! Water!" was one of the few sounds often heard in Hiroshima on the day of the bombing.) Then, after a few hours or days, there was a deceptively hopeful period of remission of symptoms, called the latency period, which lasted from about a week to about four weeks. Radiation attacks the reproductive function of cells, and those that reproduce most frequently are therefore the most vulnerable. Among these are the bone-marrow cells, which are responsible for the production of blood cells.

During the latency period, the count of white blood cells, which are instrumental in fighting infections, and the count of platelets, which are instrumental in clotting, drop precipitously, so the body is poorly defended against infection and is liable to hemorrhaging. In the third, and final, stage, which may last for several weeks, the victim's hair may fall out and he may suffer from diarrhea and may bleed from the intestines, the mouth, or other parts of the body, and in the end he will either recover or die.

Because the fireball of the Hiroshima bomb did not touch the ground, very little ground material was mixed with the fission products of the bomb, and therefore very little local fallout was generated. (What fallout there was descended in the black rain.) Therefore, the fatalities from radiation sickness were probably all caused by the initial nuclear radiation, and since this affected only people within a radius of a mile and a quarter of ground zero, most of the people who received lethal doses were killed more quickly by the thermal pulse and the blast wave.

Thus, Hiroshima did not experience the mass radiation sickness that can be expected if a weapon is ground-burst. Since the Nagasaki bomb was also burst in the air, the effect of widespread lethal fallout on large areas, causing the death by radiation sickness of whole populations in the hours, days, and weeks after the blast, is a form of nuclear horror that the world has not experienced.

In the months and years following the bombing of Hiroshima, after radiation sickness had run its course and most of the injured had either died of their wounds or re-

covered from them, the inhabitants of the city began to learn that the exposure to radiation they had experienced would bring about a wide variety of illnesses, many of them lethal, throughout the lifetimes of those who had been exposed.

An early sign that the harm from radiation was not restricted to radiation sickness came in the months immediately following the bombing, when people found that their reproductive organs had been temporarily harmed, with men experiencing sterility and women experiencing abnormalities in their menstrual cycles. Then, over the years, other illnesses, including cataracts of the eye and leukemia and other forms of cancer, began to appear in larger than normally expected numbers among the exposed population. In all these illnesses, correlations have been found between nearness to the explosion and incidence of the disease.

Also, fetuses exposed to the bomb's radiation in utero exhibited abnormalities and developmental retardation. Those exposed within the mile-and-a-quarter radius were seven times as likely as unexposed fetuses to die in utero, and were also seven times as likely to die at birth or in infancy.

Surviving children who were exposed in utero tended to be shorter and lighter than other children, and were more often mentally retarded. One of the most serious abnormalities caused by exposure to the bomb's radiation was microcephaly—abnormal smallness of the head, which is often accompanied by mental retardation. In one study, thirty-three cases of microcephaly were found among a hundred and sixty-nine children exposed in utero.

What happened at Hiroshima was less than a millionth part of a holocaust at present levels of world nuclear armament. The more than millionfold difference amounts to more than a difference in magnitude; it is also a difference in kind. The authors of "Hiroshima and Nagasaki" observe that "an atomic bomb's massive destruction and indiscriminate slaughter involves the sweeping breakdown of all order and existence—in a word, the collapse of society itself," and that therefore "the essence of atomic destruction lies in the totality of its impact on man and society."

This is true also of a holocaust, of course, except that the totalities in question are now not single cities but nations, ecosystems, and the earth's ecosphere. Yet with the exception of fallout, which was relatively light at Hiroshima and Nagasaki (because both the bombs were air-burst), the immediate devastation caused by today's bombs would be of a sort similar to the devastation in those cities.

The immediate effects of a twenty-megaton bomb are not different in kind from those of a twelve-and-a-half-kiloton bomb; they are only more extensive. (The proportions of the effects do change greatly with yield, however. In small bombs, the effects of the initial nuclear radiation are important, because it strikes areas in which people might otherwise have remained alive, but in larger bombs—ones in the megaton range—the consequences of initial nuclear radiation, whose range does not increase very much with yield, are negligible, because it strikes areas in which everyone will have already been burned or blasted to death.) In bursts of both weapons, for instance, there is a radius within which the thermal pulse can ignite newspapers: for the twelve-and-a-half-kiloton weapon, it is a little over two miles; for the twenty-megaton weapon, it is twenty-five miles.

(Since there is no inherent limit on the size of a nuclear weapon, these figures can be increased indefinitely, subject only to the limitations imposed by the technical capacities of the bomb builder—and of the earth's capacity to absorb the blast. The Soviet Union, which has shown a liking for sheer size in so many of its undertakings, once detonated a sixty-megaton bomb.)

Therefore, while the total effect of a holocaust is qualitatively different from the total effect of a single bomb, the experience of individual people in a holocaust would be, in the short term (and again excepting the presence of lethal fallout wherever the bombs were ground-burst), very much like the experience of individual people in Hiroshima.

The Hiroshima people's experience, accordingly, is of much more than historical interest. It is a picture of what our whole world is always poised to become—a backdrop of scarcely imaginable horror lying just behind the surface of our normal life, and capable of breaking through into that normal life at any second.

Whether we choose to think about it or not, it is an omnipresent, inescapable truth about our lives today that at every single moment each one of us may suddenly become the deranged mother looking for her burned child; the professor with the ball of rice in his hand whose wife has just told him "Run away, dear!" and died in the fires; Mr. Fukai running back into the firestorm; the naked man standing on the blasted plain that was his city, holding his eyeball in his hand; or, more likely, one of millions of corpses. For whatever our "modest hopes" as human beings may be, every one of them can be nullified by a nuclear holocaust.

One way to begin to grasp the destructive power of present-day nuclear weapons is to describe the consequences of the detonation of a one-megaton bomb, which possesses eighty times the explosive power of the Hiroshima bomb, on a large city, such as New York. Burst some eighty-five hundred feet above the Empire State Building, a one-megaton bomb would gut or flatten almost every building between Battery Park and 125th Street, or within a radius of four and four-tenths miles, or in an area of sixty-one square miles, and would heavily damage buildings between the northern tip of Staten Island and the George Washington Bridge, or within a radius of about eight miles, or in a radius of about eight miles, or in an area of about two hundred square miles.

A conventional explosive delivers a swift shock, like a slap, to whatever it hits, but the blast wave of a sizable nuclear weapon endures for several seconds and "can surround and destroy whole buildings" (Glassstone). People, of course, would be picked up and hurled away from the blast along with the rest of the debris. Within the sixty-one square miles, the walls, roofs, and floors of any buildings that had not been flattened would be collapsed, and the people and furniture inside would be swept down onto the street. (Technically, this zone would be hit by various overpressures of at least five pounds per square inch. Overpressure is defined as the pressure in excess of normal atmospheric pressure.)

As far away as ten miles from ground zero, pieces of glass and other sharp objects would be hurled about by the blast wave at lethal velocities. In Hiroshima, where buildings were low and, outside the center of the city, were often constructed of light materi-

als, injuries from falling building were often minor. But in New York, where the buildings are tall and are constructed of heavy materials, the physical collapse of the city would certainly kill millions of people.

The streets of New York are narrow ravines running between the high walls of the city's buildings. In a nuclear attack, the walls would fall and the ravines would fill up. The people in the buildings would fall to the street with the debris of the buildings, and the people in the street would be crushed by this avalanche of people and buildings. At a distance of two miles or so from ground zero, winds would reach four hundred miles an hour, and another two miles away they would reach a hundred and eighty miles an hour.

Meanwhile, the fireball would be growing, until it was more than a mile wide, and rocketing upward, to a height of over six miles. For ten seconds, it would broil the city below. Anyone caught in the open within nine miles of ground zero would receive third-degree burns and would probably be killed; closer to the explosion, people would be charred and killed instantly. From Greenwich Village up to Central Park, the heat would be great enough to melt metal and glass. Readily inflammable materials, such as newspapers and dry leaves, would ignite in all five boroughs (though in only a small part of Staten Island) and west to the Passaic River, in New Jersey, within a radius of about nine and a half miles from ground zero, thereby creating an area of more than two hundred and eighty square miles in which mass fires were likely to break out.

If it were possible (as it would not be) for someone to stand at Fifth Avenue and Seventy-second Street (about two miles from ground zero) without being instantly killed, he would see the following sequence of events. A dazzling white light from the fireball would illumine the scene, continuing for perhaps thirty seconds. Simultaneously, searing heat would ignite everything inflammable and start to melt windows, cars, buses, lampposts, and everything else made of metal or glass. People in the street would immediately catch fire, and would shortly be reduced to heavily charred corpses. About five seconds after the light appeared, the blast wave would strike, laden with the debris of a now nonexistent midtown. Some buildings might be crushed, as though a giant fist had squeezed them on all sides, and others might be picked up off their foundations and whirled uptown with the other debris. On the far side of Central Park, the West Side skyline would fall from south to north.

The four-hundred-mile-an-hour wind would blow from south to north, die down after a few seconds, and then blow in the reverse direction with diminished intensity. While these things were happening, the fireball would be burning in the sky for the ten seconds of the thermal pulse. Soon huge, thick clouds of dust and smoke would envelop the scene, and as the mushroom cloud rushed overhead (it would have a diameter of about twelve miles) the light from the sun would be blotted out, and day would turn to night. Within minutes, fires, ignited both by the thermal pulse and by broken gas mains, tanks of gas and oil, and the like, would begin to spread in darkness, and a strong, steady wind would begin to blow in the direction of the blast. As at Hiroshima, a whirlwind might be produced, which would sweep through the ruins, and radioactive rain, generated under the meteorologi-

cal conditions created by the blast, might fall.

Before long, the individual fires would coalesce into a mass fire, which, depending largely on the winds, would become either a conflagration or a firestorm. In a conflagration, prevailing winds spread a wall of fire as far as there is any combustible material to sustain it; in a firestorm, a vertical up-draft caused by the fire itself sucks the surrounding air in toward a central point, and the fires therefore converge in a single fire of extreme heat. A mass fire of either kind renders shelters useless by burning up all the oxygen in the air and creating toxic gases, so that anyone in the shelters is asphyxiated, and also by heating the ground to such high temperatures that the shelters turn, in effect, into ovens, cremating the people inside them. In Dresden, several days after the firestorm raised there by Allied conventional bombing, the interiors of some bomb shelters were still so hot that when they were opened the rushing air caused the contents to burst into flame. Only those who had fled their shelters when the bombing started had any chance of surviving. (It is difficult to predict in a particular situation which form the fires will take. In actual experience, Hiroshima suffered a firestorm and Nagasaki suffered a conflagration.)

In this vast theatre of physical effects, all the scenes of agony and death that took place at Hiroshima would again take place, but now involving millions of people rather than hundreds of thousands. Like the people of Hiroshima, the people of New York would be burned, battered, crushed, and irradiated in every conceivable way. The city and its people would be mingled in a smoldering heap. And then, as the fires started, the survivors (most of whom would be on the periphery of the explosion) would be driven to abandon to the flames those family members and other people who were unable to flee, or else to die with them. Before long, while the ruins burned, the processions of injured, mute people would begin their slow progress out of the outskirts of the devastated zone. However, this time a much smaller proportion of the population than at Hiroshima would have a chance of escaping.

In general, as the size of the area of devastation increases, the possibilities for escape decrease. When the devastated area is relatively small, as it was at Hiroshima, people who are not incapacitated will have a good chance of escaping to safety before the fires coalesce into a mass fire. But when the devastated area is great, as it would be after the detonation of a megaton bomb, and fires are springing up at a distance of nine and half miles from ground zero, and when what used to be the streets are piled high with burning rubble, and the day (if the attack occurs in the daytime) has grown impenetrably dark, there is little chance that anyone who is not on the very edge of the devastated area will be able to make his way to safety. In New York, most people would die wherever the blast found them, or not very far from there.

If instead of being burst in the air the bomb were burst on or near the ground in the vicinity of the Empire State Building, the overpressure would be very much greater near the center of the blast area but the range hit by a minimum of five pounds per square inch of overpressure would be less. The range of the thermal pulse would be about the same as that of the air burst. The fireball would be almost two miles across,

and would engulf midtown Manhattan from Greenwich Village nearly to Central Park. Very little is known about what would happen to a city that was inside a fireball, but one would expect a good deal of what was there to be first pulverized and then melted or vaporized. Any human beings in the area would be reduced to smoke and ashes; they would simply disappear. A crater roughly three blocks in diameter and two hundred feet deep would open up.

In addition, heavy radioactive fallout would be created as dust and debris from the city rose with the mushroom cloud and then fell back to the ground. Fallout would begin to drop almost immediately, contaminating the ground beneath the cloud with levels of radiation many times lethal dose, and quickly killing anyone who might have survived the blast wave and the thermal pulse and might now be attempting an escape; it is difficult to believe that there would be appreciable survival of the people of the city after a megaton ground burst. And for the next twenty-four hours or so more fallout would descend downwind from the blast, in a plume whose direction and length would depend on the speed and the direction of the wind that happened to be blowing at the time of the attack. If the wind was blowing at fifteen miles an hour, fallout of lethal intensity would descend in a plume about a hundred and fifty miles long and as much as fifteen miles wide. Fallout that was sublethal but could still cause serious illness would extend another hundred and fifty miles downwind.

Exposure to radioactivity in human beings is measured in units called rems—an acronym for "roentgen equivalent in man." The roentgen is a standard measurement of gamma- and X-ray radiation, and the expression "equivalent in man" indicates that an adjustment has been made to take into account the differences in the degree of biological damage that is caused by radiation of different types. Many of the kinds of harm done to human beings by radiation—for example, the incidence of cancer and of genetic damage—depend on the dose accumulated over many years; but radiation sickness, capable of causing death, results from an "acute" dose, received in a period of anything from a few seconds to several days. Because almost ninety per cent of the so-called "infinite-time dose" of radiation from fallout—that is, the dose from a given quantity of fallout that one would receive if one lived for many thousands of years—is emitted in the first week, the one-week accumulated dose is often used as a convenient measure for calculating the immediate harm from fallout. Doses in the thousands of rems, which could be expected throughout the city, would attack the central nervous system and would bring about death within a few hours.

Doses of around a thousand rems, which would be delivered some tens of miles downwind from the blast, would kill within two weeks everyone who was exposed to them. Doses of around five hundred rems, which would be delivered as far as a hundred and fifty miles downwind (given a wind speed of fifteen miles per hour), would kill half of all exposed able-bodied young adults. At this level of exposure, radiation sickness proceeds at the three stages observed at Hiroshima. The plume of lethal fallout could descend, depending on the direction of the wind, on other parts of New York State and parts of New Jersey, Pennsylvania, Delaware, Maryland, Connecticut, Massachusetts, Rhode Island, Vermont, and New

Hampshire, killing additional millions of people. The circumstances in heavily contaminated areas, in which millions of people were all declining together, over a period of weeks, toward painful deaths, are ones that, like so many of the consequences of nuclear explosions, have never been experienced.

A description of the effects of a one-megaton bomb on New York City gives some notion of the meaning in human terms of a megaton of nuclear explosive power, but a weapon that is more likely to be used against New York is the twenty-megaton bomb, which has one thousand six hundred times the yield of the Hiroshima bomb.

The Soviet Union is estimated to have at least a hundred and thirteen twenty-megaton bombs in its nuclear arsenal, carried by Bear intercontinental bombers. In addition, some of the Soviet SS-18 missiles are capable of carrying bombs of this size, although the actual yields are not known. Since the explosive power of the twenty-megaton bombs greatly exceeds the amount necessary to destroy most military targets, it is reasonable to suppose that they are meant for use against large cities.

If a twenty-megaton bomb were air-burst over the Empire State Building at an altitude of thirty thousand feet, the zone gutted or flattened by the blast wave would have a radius of twelve miles and an area of more than four hundred and fifty square miles, reaching from the middle of Staten Island to the northern edge of the Bronx, the eastern edge of Queens, and well into New Jersey, and the zone of heavy damage from the blast wave (the zone hit by a minimum of two pounds of overpressure per square inch) would have a radius of twenty-one and a half miles, or an area of one thousand four hundred and fifty square miles, reaching to the southernmost tip of Staten Island, north as far as southern Rockland County, east into Nassau County, and west to Morris County, New Jersey.

The fireball would be about four and a half miles in diameter and would radiate the thermal pulse for some twenty seconds. People caught in the open twenty-three miles away from ground zero, in Long Island, New Jersey, and southern New York State, would be burned to death. People hundreds of miles away who looked at the burst would be temporarily blinded and would risk permanent eye injury. (After the test of a fifteen-megaton bomb on Bikini Atoll, in the South Pacific, in March of 1954, small animals were found to have suffered retinal burns at a distance of three hundred and forty-five miles.) The mushroom cloud would be seventy miles in diameter. New York City and its suburbs would be transformed into a lifeless, flat, scorched desert in a few seconds.

If a twenty-megaton bomb were ground-burst on the Empire State Building, the range of severe blast damage would, as with the one-megaton ground blast, be reduced, but the fireball, which would be almost six miles in diameter, would cover Manhattan from Wall Street to northern Central Park and also parts of New Jersey, Brooklyn, and Queens, and everyone within it would be instantly killed, with most of them physically disappearing. Fallout would again be generated, this time covering thousands of square miles with lethal intensities of radiation. A fair portion of New York City and its incinerated population, now radioactive dust, would have risen into the mushroom cloud and would not be descending on the surrounding territory. On one of the few occasions when local fallout was generated by a

test explosion in the multi-megaton range, the fifteen-megaton bomb tested on Bikini Atoll, which was exploded seven feet above the surface of a coral reef, "caused substantial contamination over an area of more than seven thousand square miles," according to Glasstone. If, as seems likely, a twenty-megaton bomb ground-burst on New York would produce at least a comparable amount of fallout, and if the wind carried the fallout onto populated areas, then this one bomb would probably doom upward of twenty million people, or almost ten percent of the population of the United States.

The "strategic" forces of the Soviet Union—those that can deliver nuclear warheads to the United States—are so far capable of carrying seven thousand warheads with an estimated maximum yield of more than seventeen thousand megatons of explosive power, and, barring unexpected developments in arms-control talks, the number of warheads is expected to rise in the coming years. The actual megatonnage of the Soviet strategic forces is not known, and, for a number of reasons, including the fact that smaller warheads can be delivered more accurately, it is very likely that the actual megatonnage is lower than the maximum possible; however, it is reasonable to suppose that the actual megatonnage is as much as two-thirds of the maximum, which would be about eleven and a half thousand megatons. If we assume that in a first strike the Soviets held back about a thousand megatons (itself an immense force), then the attack would amount to about ten thousand megatons, or the equivalent of eight hundred thousand Hiroshima bombs. American strategic forces comprise about nine thousand warheads with a yield of some three thousand five hundred megatons. The total yield of these American forces was made comparatively low for strategic reasons.

American planners discovered that smaller warheads can be delivered more accurately than larger ones, and are therefore more useful for attacking strategic forces on the other side. And, in fact, American missiles are substantially more accurate than Soviet ones. However, in the last year or so, in spite of this advantage in numbers of warheads and in accuracy, American leaders have come to believe that the American forces are inadequate, and, again barring unexpected developments in arms-control talks, both the yield of the American arsenal and the number of warheads in it are likely to rise dramatically. (Neither the United States nor the Soviet Union reveals the total explosive yield of its own forces. The public is left to turn to private organizations, which, by making use of hundreds of pieces of information that have been released by the two governments, piece together an over-all picture. The figures I have used to estimate the maximum capacities of the two sides are taken for the most part from tables provided in the latest edition of "The Military Balance," a standard yearly reference work on the strength of military forces around the world, which is published by a research institute in London called the International Institute for Strategic Studies.)

The territory of the United States, including Alaska and Hawaii, is three million six hundred and fifteen thousand one hundred and twenty-two square miles. It contains approximately two hundred and twenty-five million people, of whom sixty per cent, or about a hundred and thirty-five million, live in various urban centers with a total area of

only eighteen thousand square miles. I asked Dr. Kendall, who has done considerable research on the consequences of nuclear attacks, to sketch out in rough terms what the actual distribution of bombs might be in a ten-thousand-megaton Soviet attack in the early nineteen-eighties on all targets in the United States, military and civilian.

"Without serious distortion," he said, "we can begin by imagining that we would be dealing with ten thousand weapons of one megaton each, although in fact the yields would, of course, vary considerably. Let us also make the assumption, based on common knowledge of weapons design, that on average the yield would be one-half fission and one-half fusion. This proportion is important, because it is the fission products—a virtual museum of about three hundred radioactive isotopes, decaying at different rates—that give off radioactivity in fallout. Fusion can add to the total in ground bursts by radioactivation of ground material by neutrons, but the quantity added is comparatively small. Targets can be divided into two categories—hard and soft. Hard targets, of which there are about a thousand in the United States, are mostly missile silos. The majority of them can be destroyed only by huge, blunt over-pressures, ranging anywhere from many hundreds to a few thousand pounds per square inch, and we can expect that two weapons might be devoted to each one to assure destruction. That would use up two thousand megatons. Because other strategic military targets—such as Strategic Air Command bases—are near centers of population, an attack on them as well, perhaps using another couple of hundred megatons, could cause a total of more than twenty million casualties, according to studies by the Arms Control and Disarmament Agency.

If the nearly eight thousand weapons remaining were then devoted to the cities and towns of the United States in order of population, every community down to the level of fifteen hundred inhabitants would be hit with a megaton bomb—which is, of course, many, many times what would be necessary to annihilate a town that size. For obvious reasons, industry is highly correlated with population density, so an attack on the one necessarily hits the other, especially when an attack of this magnitude is considered. Ten thousand targets would include everything worth hitting in the country and much more; it would simply be the United States. The targeters would run out of targets and victims long before they ran out of bombs. If you imagine that the bombs were distributed according to population, then, allowing for the fact that the attack on the military installations would have already killed about twenty million people, you would have about forty megatons to devote to each remaining million people in the country. For the seven and a half million people in New York City, that would come to three hundred megatons. Bearing in mind what one megaton can do, you can see that this would be preposterous overkill. In practice, one might expect the New York metropolitan area to be hit with some dozens of one-megaton weapons."

In the first moments of a ten-thousand-megaton attack on the United States, I learned from Dr. Kendall and from other sources, flashes of white light would suddenly illumine large areas of the country as thousands of suns, each one brighter than the sun itself, blossomed over cities, suburbs, and towns. In those same moments, when the first wave of missiles arrived, the

vast majority of the people in the regions first targeted would be irradiated, crushed, or burned to death. The thermal pulses could subject more than six hundred thousand square miles, or one-sixth of the total land mass of the nation, to a minimum level of forty calories per centimetre squared—a level of heat that chars human beings. (At Hiroshima, charred remains in the rough shape of human beings were a common sight.) Tens of millions of people would go up in smoke. As the attack proceeded, as much as three-quarters of the country could be subjected to incendiary levels of heat, and so, wherever there was inflammable material, could be set ablaze. In the ten seconds or so after each bomb hit, as blast waves swept outward from thousands of ground zeros, the physical plant of the United States would be swept away like leaves in a giant gust of wind.

The six hundred square miles already scorched by the forty or more calories of heat per centimetre squared would now be hit by blast waves of a minimum of five pounds per square inch, and virtually all the habitations, places of work, and other man-made things there—substantially the whole human construct in the United States—would be vaporized, blasted, or otherwise pulverized out of existence. Then, as clouds of dust rose from the earth, and mushroom clouds spread overhead, often linking to form vast canopies, day would turn to night. (Those clouds could blanket as much as a third of the nation.) Shortly, fires would spring up in the debris of the cities and in every forest dry enough to burn. These fires would simply burn down the United States.

When one pictures a full-scale attack on the United States, or on any other country, therefore, the picture of a single city being flattened by a single bomb—an image firmly engraved in the public imagination, probably because of the bombings of Hiroshima and Nagasaki—must give way to a picture of substantial sections of the country being turned by a sort of nuclear carpet-bombing into immense infernal regions, literally tens of thousands of square miles in area, from which escape is impossible.

In Hiroshima and Nagasaki, those who had not been killed or injured so severely that they could not move were able to flee to the undevastated world around them, where they found help, but in any city where three or four bombs had been used—not to mention fifty, or a hundred—flight from one blast would only be flight toward another, and no one could escape alive.

Within these regions, each of three of the immediate effects of nuclear weapons—initial radiation, thermal pulse, and blast wave—would alone be enough to kill most people: the initial nuclear radiation would subject tens of thousands of square miles to lethal doses; the blast waves, coming from all sides, would nowhere fall below the overpressure necessary to destroy almost all buildings; and the thermal pulses, also coming from all sides, would always be great enough to kill exposed people and, in addition, to set on fire everything that would burn. The ease with which virtually the whole population of the country could be trapped in these zones of universal death is suggested by the fact that the sixty per cent of the population that lives in an area of eighteen thousand square miles could be annihilated with only three hundred one-megaton bombs—the number necessary to cover the area with a minimum of five pounds per square inch of overpressure and forty calories per centimeter squared of heat. That

would leave nine thousand seven hundred megatons, or ninety-seven percent of the megatonnage in the attacking force, available for other targets. (It is hard to imagine what a targeter would do with all his bombs in these circumstances. Above several thousand megatons, it would almost become a matter of trying to hunt down individual people with nuclear warheads.)

The statistics on the initial nuclear radiation, the thermal pulses, and the blast waves in a nuclear holocaust can be presented in any number of ways, but all of them would be only variations on a simple theme—the annihilation of the United States and its people. Yet while the immediate nuclear effects are great enough in a ten-thousand-megaton attack to destroy the country many times over, they are not the most powerfully lethal of the local effects of nuclear weapons. The killing power of the local fallout is far greater. Therefore, if the Soviet Union was bent on producing the maximum overkill—if, that is, its surviving leaders, whether out of calculation, rage, or madness, decided to eliminate the United States not merely as a political and social entity but as a biological one—they would burst their bombs on the ground rather than in the air. Although the scope of severe blast damage would then be reduced, the blast waves, fireballs, and thermal pulses would still be far more than enough to destroy the country, and, in addition, provided only that the bombs were dispersed widely enough, lethal fallout would spread throughout the nation.

The amount of radiation delivered by the fallout from a ground burst of a given size is still uncertain—not least because, as Glasstone notes, there has never been a “true land surface burst” of a bomb with a yield of over one kiloton. (The Bikini burst was in part over the ocean.) Many factors make for uncertainty. To mention just a few: the relative amounts of the fallout that rises into the stratosphere and the fallout that descends to the ground near the blast are dependent on, among other things, the yield of the weapon, and, in any case, can be only guessed at; the composition of the fallout will vary with the composition of the material on the ground that is sucked up into the mushroom cloud; prediction of the distribution of fallout by winds of various speeds at various altitudes depends on a choice of several “models;” and the calculation of the arrival time of the fallout—an important calculation, since fallout cannot harm living things until it lands near them—is subject to similar speculative doubts.

However, calculations on the basis of figures for a one-megaton ground burst which are given in the Office of Technology Assessment's report show that ten thousand megatons would yield one-week doses around the country averaging more than ten thousand rems. In actuality, of course, the bombs would almost certainly not be evenly spaced around the country but, rather, would be concentrated in populated areas and in missile fields; and the likelihood is that in most places where people lived or worked the doses would be many times the average, commonly reaching several tens of thousands of rems for the first week, while in remote areas they would be less, or, conceivably, even nonexistent. (The United States contains large tracts of empty desert, and to target them would be virtually meaning less from any point of view.)

These figures provide a context for judging the question of civil defense. With overwhelming immediate local effects striking

the vast majority of the population, and with one-week doses of radiation then rising into the tens of thousands of rems, evacuation and shelters are a vain hope. Needless to say, in these circumstances evacuation before an attack would be an exercise in transporting people from one death to another. In some depictions of a holocaust, various rescue operations are described, with unafflicted survivors bringing food, clothes, and medical care to the afflicted, and the afflicted making their way to thriving, untouched communities, where churches, school auditoriums, and the like would have been set up for their care—as often happens after a bad snowstorm, say. Obviously, none of this could come about. In the first place, in a full-scale attack there would in all likelihood be no surviving communities, and, in the second place, everyone who failed to seal himself off from the outside environment for as long as several months would soon die of radiation sickness. Hence, in the months after a holocaust there would be no activity of any sort, as, in a reversal of the normal state of things, the dead would lie on the surface and the living, if there were any, would be buried underground.

To this description of radiation levels around the country, an addition remains to be made. This is the fact that attacks on the seventy-six nuclear power plants in the United States would produce fallout whose radiation had much greater longevity than that of the weapons alone. The physicist Dr. Kosta Tsipis, of M.I.T., and one of his students, Steven Fetter, recently published an article in *Scientific American* called “Catastrophic Releases of Radioactivity,” in which they calculate the damage from a one-megaton thermonuclear ground burst on a one-gigawatt nuclear power plant. In such a ground burst, the facility's radioactive contents would be vaporized along with everything nearby, and the remains would be carried up into the mushroom cloud, from which they would descend to the earth with the rest of the fallout.

But whereas the fission products of the weapon were newly made, and contained many isotopes that would decay to insignificant levels very swiftly, the fission products in a reactor would be a collection of longer-lived isotopes (and this applies even more strongly to the spent fuel in the reactor's holding pond), since the short-lived ones would, for the most part, have had enough time to reduce themselves to harmless levels. The intense but comparatively short-lived radiation from the weapon would kill people in the first few weeks and months, but the long-lived radiation that was produced both by the weapon and by the power plant could prevent anyone from living on a vast area of land for decades after it fell. For example, after a year an area of some seventeen hundred square miles downwind of a power plant on which a one-megaton bomb had been ground-burst (again assuming a fifteen-mile-an-hour wind) would still be delivering more than fifty rems per year to anyone who tried to live there, and that is two hundred and fifty times the “safe” dose established by the E.P.A.

The bomb by itself would produce this effect over an area of only twenty-six square miles. (In addition to offering an enemy a way of redoubling the effectiveness of his attacks in a full-scale holocaust, reactors provide targets of unparalleled danger in possible terrorist nuclear attacks. In an earlier paper, Tsipis and Fetter observe that “the destruction of a reactor with a nuclear weapon, even of relatively small yield such

as a crude terrorist nuclear device, would represent a national catastrophe of lasting consequences." It can be put down as one further alarming oddity of life in a nuclear world that in building nuclear power plants nations have opened themselves to catastrophic devastation and long-term contamination of their territories by enemies who manage to get hold of a few nuclear weapons.)

If, in a nuclear holocaust, anyone hid himself deep enough under the earth and stayed there long enough to survive, he would emerge into a dying natural environment. The vulnerability of the environment is the last word in the argument against the usefulness of shelters: there is no hole big enough to hide all of nature in. Radioactivity penetrates the environment in many ways. The two most important components of radiation from fallout are gamma rays, which are electromagnetic radiation of the highest intensity, and beta particles, which are electrons fired at high speed from decaying nuclei.

Gamma rays subject organisms to penetrating whole-body doses, and are responsible for most of the ill effects of radiation from fallout. Beta particles, which are less penetrating than gamma rays, act at short range, doing harm when they collect on the skin, or on the surface of a leaf. They are harmful to plants on whose foliage the fallout descends—producing "beta burn"—and to grazing animals, which can suffer burns as well as gastrointestinal damage from eating the foliage.

Two of the most harmful radioactive isotopes present in fallout are strontium-90 (with a half-life of twenty-eight years) and cesium-137 (with a half-life of thirty years). They are taken up into the food chain through the roots of plants or through direct ingestion by animals, and contaminate the environment from within. Strontium-90 happens to resemble calcium in its chemical composition, and therefore finds its way into the human diet through dairy products and is eventually deposited by the body in the bones, where it is thought to cause bone cancer. (Every person in the world now has in his bones a measurable deposit of strontium-90 traceable to the fallout from atmospheric nuclear testing.)

Over the years, agencies and departments of the government have sponsored numerous research projects in which a large variety of plants and animals were irradiated in order to ascertain the lethal or sterilizing dose for each. These findings permit the prediction of many gross ecological consequences of a nuclear attack. According to "Survival of Food Crops and Livestock in the Event of Nuclear War," the proceedings of the 1970 symposium at Brookhaven National Laboratory, the lethal doses for most mammals lie between a few hundred rads and a thousand rads of gamma radiation; a rad—for "roentgen absorbed dose"—is a roentgen of radiation that has been absorbed by an organism, and is roughly equal to a rem.

For example, the lethal doses of gamma radiation for animals in pasture, where fallout would be descending on them directly and they would be eating fallout that had fallen on the grass, and would thus suffer from doses of beta radiation as well, would be one hundred and eighty rads for cattle; two hundred and forty rads for sheep; five hundred and fifty rads for swine; three hundred and fifty rads for horses; and eight hundred rads for poultry. In a ten-thousand-megaton attack, which would create

levels of radiation around the country averaging more than ten thousand rads, most of the mammals of the United States would be killed off.

The lethal doses for birds are in roughly the same range as those for mammals, and birds, too, would be killed off. Fish are killed at doses of between one thousand one hundred rads and about five thousand six hundred rads, but their fate is less predictable. On the one hand, water is a shield from radiation, and would afford some protection; on the other hand, fallout might concentrate in bodies of water as it ran off from the land. (Because radiation causes no pain, animals, wandering at will through the environment, would not avoid it.) The one class of animals containing a number of species quite likely to survive, at least in the short run, is the insect class, for which in most known cases the lethal doses lie between about two thousand rads and about a hundred thousand rads. Insects, therefore, would be destroyed selectively.

Unfortunately for the rest of the environment, many of the phytophagous species—insects that feed directly on vegetation—which "include some of the most ravaging species on earth" (according to Dr. Vernon M. Stern, an entomologist at the University of California at Riverside, writing in "Survival of Food Crops"), have very high tolerances, and so could be expected to survive disproportionately, and then to multiply greatly in the aftermath of an attack. The demise of their natural predators, the birds, would enhance their success.

Plants in general have a higher tolerance to radioactivity than animals do. Nevertheless, according to Dr. George M. Woodwell, who supervised the irradiation with gamma rays, over several years, of a small forest at Brookhaven Laboratory, a gamma-ray dose of ten thousand rads "would devastate most vegetation" in the United States, and, as in the case of the pastured animals, when one figure in the beta radiation that would also be delivered by fallout the estimates for the lethal doses of gamma rays must be reduced—in this case, cut in half. As a general rule, Dr. Woodwell and his colleagues at Brookhaven discovered, large plants are more vulnerable to radiation than small ones. Trees are among the first to die, grasses among the last. The most sensitive trees are pines and the other conifers, for which lethal doses are in roughly the same range as those for mammals. Any survivors coming out of their shelters a few months after the attack would find that all the pine trees that were still standing were already dead. The lethal doses for most deciduous trees range from about two thousand rads of gamma-ray radiation to about ten thousand rads, with the lethal doses for eighty per cent of deciduous species falling between two thousand and eight thousand rads. Since the addition of the beta-ray burden could lower these lethal doses for gamma rays by as much as fifty per cent, the actual lethal doses in gamma rays for these trees during an attack could be from one thousand to four thousand rads, and in a full-scale attack they would die.

Then, after the trees had died, forest fires would break out around the United States. (Because as much as three-quarters of the country could be subjected to incendiary levels of the thermal pulses, the sheer scorching of the land could have killed off a substantial part of the plant life in the country in the first few seconds after the detonations, before radioactive poisoning set in.) Lethal doses for grasses on which tests

have been done range between six thousand and thirty-three thousand rads, and a good deal of grass would therefore survive, except where the attacks had been heaviest. Most crops, on the other hand, are killed by doses below five thousand rads, and would be eliminated. (The lethal dose for spring barley seedlings, for example, is one thousand nine hundred and ninety rads, and that for spring wheat seedlings is three thousand and ninety rads.)

When vegetation is killed off, the land on which it grew is degraded. And as the land eroded after an attack life in lakes, rivers, and estuaries, already hard hit by radiation directly, would be further damaged by minerals flowing into the watercourses, causing eutrophication—a process in which an oversupply of nutrients in the water encourages the growth of algae and microscopic organisms, which, in turn, deplete the oxygen content of the water. When the soil loses its nutrients, it loses its ability to "sustain a mature community" (in Dr. Woodwell's words), and "gross simplification" of the environment occurs, in which "hardy species," such as moss and grass, replace vulnerable ones, such as trees; and "succession"—the process by which ecosystems recover lost diversity—is then "delayed or even arrested." In sum, a full-scale nuclear attack on the United States would devastate the natural environment on a scale unknown since early geological times, when, in response to natural catastrophes whose nature has not been determined, sudden mass extinctions of species and whole ecosystems occurred all over the earth. How far this "gross simplification" of the environment would go once virtually all animal life and the greater part of plant life had been destroyed and what patterns the surviving remnants of life would arrange themselves into over the long run are imponderables; but it appears that at the outset the United States would be a republic of insects and grass.

It has sometimes been claimed that the United States could survive a nuclear attack by the Soviet Union, but the bare figures on the extent of the blast waves, the thermal pulses, and the accumulated local fallout dash this hope irrevocably. They spell the doom of the United States. And if one imagines the reverse attack on the Soviet Union, its doom is spelled out in similar figures. (The greater land mass of the Soviet Union and the lower megatonnage of the American forces might reduce the factor of overkill somewhat.) Likewise, any country subjected to an attack of more than a few hundred megatons would be doomed. Japan, China, and the countries of Europe, where population densities are high, are especially vulnerable to damage, even at "low" levels of attack. There is no country in Europe in which survival of the population would be appreciable after the detonation of several hundred megatons; most European countries would be annihilated by tens of megatons. And these conclusions emerge even before one takes into account the global ecological consequences of a holocaust, which would be superimposed on the local consequences. As human life and the structure of human existence are seen in the light of each person's daily life and experience, they look impressively extensive and solid, but when human things are seen in the light of the universal power unleashed onto the earth by nuclear weapons they prove to be limited and fragile, as though they were nothing more than a mold or a lichen that appears in certain crevices of the landscape

and can be burned off with relative ease by nuclear fire.

Many discussions of nuclear attacks on the United States devote considerable attention to their effect on the nation's economy, but if the population has been largely killed off and the natural environment is in a state of collapse "the economy" becomes a meaningless concept; for example, it makes no difference what percentage of "the automobile industry" has survived if all the producers and drivers of automobiles have died. Estimates of economic survival after a full-scale holocaust are, in fact, doubly unreal, because, as a number of government reports have shown; the nation's economy is so much more vulnerable to attack than the population that even at most levels of "limited" attack a greater proportion of the economy than of the population would be destroyed. An intact economic plant that goes to waste because there aren't enough people left to run it is one absurdity that a nuclear holocaust does not present us with. At relatively low levels of attack, however, the more or less complete destruction of the economy, accompanied by the survival of as much as twenty or thirty per cent of the population, is conceivable. Since the notion of "limited nuclear war" has recently become attractive to the American leadership, it may not be digressive to discuss what the consequences of smaller attacks would be. Our knowledge of nuclear effects is too imprecise to permit us to know at exactly what level of attack a given percentage of the population would survive, but the fact that sixty per cent of the population lives in eighteen thousand square miles and could be eliminated by the thermal pulses, blast waves, and mass fires produced by about three hundred one-megaton bombs suggests some rough magnitudes. The fallout that would be produced by the bombs if they were ground-burst would very likely kill ten or fifteen per cent of the remaining population (it could lethally contaminate some three hundred thousand square miles), and if several hundred additional megatons were used the percentage of the entire population killed in the short term might rise to something like eighty-five. Or, to put it differently, if the level of attack on civilian targets did not rise above the low hundreds of megatons tens of millions of people might survive in the short term. But that same level of attack would destroy so much of the physical plant of the economy, and, of course, so many of the laborers and managers who make it work, that in effect the economy would be nearly one hundred per cent destroyed. (There is a tendency when one is analyzing nuclear attacks to begin to accustom oneself to such expressions as "a thousand megatons," and therefore to begin to regard lower amounts as inconsequential. Yet even one megaton, which contains the explosive yield of eighty Hiroshimas, would, if it should be dropped in the United States in the form of a number of small bombs, be an unimaginable catastrophe. Ten megatons—eight hundred Hiroshimas—would leave any nation on earth devastated beyond anything in our historical experience. A hundred megatons—eight thousand Hiroshimas—is already outside comprehension.)

As soon as one assumes that many tens of millions of people might survive the early stages of an attack, what are often called the long-term effects of a holocaust come into view; in fact, it is only when the imagined attack is reduced to this level that it begins to make sense to talk about many of the long-term effects, because only then will

there be people left living to suffer them. The most obvious of these is injury. In an attack that killed from fifty to seventy per cent of the population outright, the great majority of the survivors would be injured. In a limited attack, some people might try to make their way to shelters to escape the fallout, which would be less intense than in the larger attack but still lethal in most populated areas. (If we again assume ground bursts, and also assume that two thousand megatons have been used on military targets, then average levels of radiation around the country would be in the low thousands of rems. But in this case averages would have little or no meaning; actual levels would be very high in some places and very low or nonexistent in others, depending on targeting and weather patterns.) People who reached shelters and sealed themselves in time might have a chance of survival in some areas, but a large number of people would have received lethal doses of radiation without knowing it (since exposure to radiation is painless) and would enter the shelters and die there, making life in the shelters unbearable for the others. With many people seeking to get into the shelters, attempts to decide who was to be allowed to enter and who was to be kept out would begin in bitterness and end in chaos. (In the nineteen-fifties, when Americans gave greater thought to the matter of shelters than they do now, some communities began to prepare to defend their shelters against intruders by arming themselves.) Also, the withdrawal into shelters of the uninjured or lightly injured portion of the population would be more consequential for the survivors as a body, because in a limited attack there might be a considerable number of people on the surface who would have had a chance of surviving if they had not been abandoned. The widespread use of shelters would therefore mean additional deaths; the injured or sick people would die unattended on the surface while the uninjured and healthy people hid underground.

The injuries from the attack would very likely be compounded by epidemics. Dr. H. Jack Geiger, who teaches community medicine at the School of Biomedical Education of the City College of New York, recently described to me the likely medical conditions after a limited attack. "The landscape would be strewn with millions of corpses of human beings and animals," he pointed out. "This alone is a situation without precedent in history. There would be an immense source of pollution of water and food. If you read the literature concerning natural disasters such as floods and typhoons, you find that there is always an associated danger of cholera or typhoid. The corpses would also feed a fast-growing population of insects and insects happen to be a prime vector of disease. Naturally, medical measures to fight disease would not be taken, since the blasts would have destroyed virtually all medical facilities. Nor, of course, would there be such elementary sanitary facilities as running water and garbage collection. Finally, the population's resistance to infection would have been weakened, since many would be suffering from sublethal radiation sickness and wounds. It would be impossible to devise circumstances more favorable to the spread of epidemics."

Strategists of nuclear conflict often speak of a period of "recovery" after a limited attack, but a likelier prospect is a long-term radical deterioration in the conditions of life. For a while, some supplies of food and clothing would be found in the rubble, but

then these would give out. For a people, the economy—any kind of economy, whether primitive or modern—is the means of survival from day to day. So if you ruin the economy—if you suspend its functioning, even for a few months—you take away the means of survival. Eventually, if enough people do live, the economy will revive in one form or another, but in the meantime people will die; they will starve, because the supply of food has been cut off; they will freeze, because they have no fuel or shelter; they will perish of illness, because they have no medical care. If the economy in question is a modern technological one, the consequences will be particularly severe, for then the obstacles to restoring it will be greatest. Because a modern economy, like an ecosystem, is a single, interdependent whole, in which each part requires many other parts to keep functioning, its wholesale breakdown will leave people unable to perform the simplest, most essential tasks. Even agriculture—the immediate means of subsistence—is caught up in the operations of the interdependent machine, and breaks down when it breaks down. Modern agriculture depends on fertilizers to make crops grow, on machines to cultivate the crops, on transportation to carry the produce thousands of miles to the consumers, on fuel to run the means of transportation and the agricultural machinery, and on pesticides and drugs to increase production. If fertilizers, machines, transportation, fuel, pesticides, and drugs are taken away, agriculture will come to a halt, and people will starve. Also, because of the interdependence of the system, no sector of the economy can be repaired unless many of the other sectors are in good order.

But in a nuclear attack, of course, all sectors of the economy would be devastated at once. The task facing the survivors, therefore, would be not to restore the old economy but to invent a new one, on a far more primitive level. But the invention of a primitive economy would not be a simple matter. Even economies we think of as primitive depend on considerable knowledge accumulated through long experience, and in modern times this knowledge has been largely lost. The economy of the Middle Ages, for example, was far less productive than our own, but it was exceedingly complex, and it would not be within the capacity of people in our time suddenly to establish a medieval economic system in the ruins of their twentieth-century one. After a limited nuclear attack, the typical predicament of a survivor would be that of, say, a bus driver in a city who was used to shopping at a supermarket and found himself facing the question of how to grow his own food, or of a bookkeeper in a suburb who found that he must make his own clothing, not to mention the cloth for the clothing. Innumerable things that we now take for granted would abruptly be lacking. In addition to food and clothing, they would include: heating, electric lights, running water, telephones, mail, transportation of all kinds, all household appliances powered by electricity or gas, information other than by word of mouth, medical facilities, sanitary facilities, and basic social services, such as fire departments and police. To restore these essentials of life takes time; but there would be no time. Hunger, illness, and possibly cold would press in on the dazed, bewildered, disorganized, injured remnant of the population on the very day of attack. They would have to start foraging immediately for their next meal. Sitting among the debris of the Space Age, they would find that the pieces

of a shattered modern economy around them—here an automobile, there a washing machine—were mismatched to their elemental needs. Nor would life be made easier for them by the fact that their first need, once they left any shelters they might have found, would be to flee the heavily irradiated, burned-out territories where they used to live, and to start over in less irradiated, unburned territories, which would probably be in the wilderness. Facing these urgent requirements, they would not be worrying about rebuilding the automobile industry or the electronics industry; they would be worrying about how to find nonradioactive berries in the woods, or how to tell which trees had edible bark.

Lastly, over the decades not only would the survivors of a limited attack face a contaminated and degraded environment but they themselves—their flesh, bones, and genetic endowment—would be contaminated: the generations that would be trying to rebuild a human life would be sick and possibly deformed generations. The actual doses received by particular survivors would, of course, depend on their circumstances, but some notion of the extent of the contamination can perhaps be gathered from the fact that if people came out of shelters after three months into an area in which the fallout would in the long run deliver a dose of ten thousand rems they would still receive about three percent of the total, or three hundred rems, over their lifetime, with two hundred of those rems being received in the first year. I spoke to Dr. Edward Radford, who is a professor of environmental epidemiology at the University of Pittsburgh, and who was chairman from 1977 to 1980 of the National Academy of Sciences' Committee on the Biological Effects of Ionizing Radiations, about the medical consequences of such exposure. "The present incidence of cancer, exclusive of skin cancer, in the United States population is thirty per cent, and roughly seventeen per cent die of the disease," he told me. "Since the dose of radiation that doubles the cancer rate is about one hundred and fifty rems, we could expect that a dose of three hundred rems would cause just about everybody to get cancer of one kind or another, and perhaps half of them would die from it. In addition, the dose that is estimated to cause a doubling of the spontaneous-mutation rate—which now affects ten per cent of all births—is also one hundred and fifty rems, and therefore we could also expect genetic abnormalities to increase dramatically." Whether a human community could survive bearing this burden of illness and mutation is at best questionable.

In considering the global consequences of a holocaust, the first question to be asked is how widespread the hostilities would be. It is often assumed that a holocaust, even if it were full-scale, would be restricted to the Northern Hemisphere, destroying the United States, the Soviet Union, Europe, China, and Japan, but in fact there is no assurance that hostilities would not spread to other parts of the world. Both Soviet and American leaders believe that the rivalry between their countries has worldwide ideological significance, and in the name of their causes they might well extend their attacks almost anywhere. Furthermore, it takes very little imagination to see that once the superpowers had absorbed several thousand megatons of nuclear explosives each they would no longer be superpowers; indeed, they would no longer exist as nations at all. At that point, any sizable nation that had

been spared attack—for example, Vietnam, Mexico, Nigeria, Australia, or South Africa—might, in the minds of the leaders of the ex-superpowers, become tempting as a target. It might suddenly occur to them that on a devastated earth mere survival would be the stuff of global might, and either or both of the ex-superpowers might then set about destroying those surviving middle-ranking powers that seemed closest to sharing the ideology of the enemy. Again, it is impossible to know what thoughts would go through the minds of men in caves, or perhaps in airborne command posts, who had just carried out the slaughter of hundreds of millions of people and whose nations had been annihilated in a similar slaughter (and it should always be borne in mind that sheer insanity is one of the possibilities), but it could be that in some confused attempt to shape the political future of the post-holocaust world (if there is one) they would carry their struggle into the would-be-neutral world. It could be that even now the United States has a few dozen megatons reserved in one contingency plan or another for, say, Cuba, Vietnam, and North Korea, while the Soviet Union may have a similar fate in mind for, among others, Israel, South Africa, and Australia. We also have to ask ourselves what the Chinese, the French, and the British, who all possess nuclear arms, and the Israelis, the South Africans, and the Indians, who are all suspected of possessing them, would attempt once the mayhem began. And this list of nuclear-armed and possibly nuclear-armed countries shows every sign of being a growing one.

Although it may seem inappropriate to mention "civilization" in the same breath as the death of hundreds of millions of people, it should at least be pointed out that a full-scale holocaust would, if it extended throughout the Northern Hemisphere, eliminate the civilizations of Europe, China, Japan, Russia, and the United States from the earth.

As I have already mentioned, there are uncertainties inherent in any attempt to predict the consequences of a nuclear holocaust; but when we try to estimate those consequences for the targeted countries it turns out that the readily calculable local primary effects of the bombs are so overwhelming that we never arrive at the uncertainties. Obviously, there can be no tangled interplay of destructive influences in society if there is no society; and the local primary effects are more than enough to remove society from the picture. This is why those observers who speak of "recovery" after a holocaust or of "winning" a nuclear "war" are dreaming. They are living in a past that has been swept away forever by nuclear arms. However, when it comes to inquiring into the global ecological consequences of a holocaust and, with them, the risk of human extinction, the uncertainties, and the political questions they raise, move to the fore. To begin with, this inquiry requires us to concentrate our attention on the earth. The earth is a compound mystery, for it presents us with the mystery of life in its entirety, the mystery of every individual form of life, and the mystery of ourselves, and all our thoughts and works. (Since we are earth-made, investigation of the earth eventually becomes introspection.) The reason for our ignorance is not that our knowledge of the earth is slight—on the contrary, it is extensive, and has grown in this century more than in all other centuries put together—but that the amount to be known is demon-

strably so much greater. There is a sense, of course, in which knowledge can increase ignorance. By leading to fresh discoveries, knowledge may open up new wonders to our view but not yet to our understanding. Our century's discoveries in the earth sciences have increased our ignorance in just this sense: they have given us a glimpse of how much there is still to find out. Dr. Lewis Thomas, the noted biologist and essayist, has defined this ignorance in categorical terms, saying, "We are ignorant about how we work, about where we fit in, and most of all about the enormous, imponderable system of life in which we are embedded as working parts. We do not really understand nature, at all." Of all the things to be said in a discussion of the global effects of a nuclear holocaust, this is by far the most important: that because of the extent of what we know that we don't know, we are simply debarred from making confident judgments.

Since an awareness of the boundaries of present knowledge is a necessary part of science's effort to achieve precision and clarity, it is not surprising that the literature on global nuclear effects is littered with reminders of the fallibility and, above all, of the incompleteness of our present understanding. This appropriate modest, tentative spirit has perhaps been best summed up in the opening comments of the Office of Technology Assessment report, which states that the most important thing to know about a holocaust is not anything that "is known" but "what is not known." A similar acknowledgment of the importance of the unknown is implicit in a remark in a 1977 "interim" report by the National Academy of Sciences on the peril to the stratosphere from man-made disturbances in general. "It is unfortunately true," the report says, "that, accompanying very substantial overall progress, the recent development of our understanding of stratospheric chemistry has been dominated by major upheavals caused by the recognition of the importance of processes whose role either had not been properly appreciated . . . or whose rate coefficient had been grossly misjudged. . . . To say how many more major upheavals we should expect in the future is rather like trying to foresee the unforeseeable." The report goes on to note that as knowledge of the chemistry of the stratosphere has improved, it has turned out that "even with the largest computers it is not possible to represent the detailed three-dimensional motions in the atmosphere while including the detailed chemical reactions." Before the "upheavals," scientists seemed to "know" a good deal; afterward, they knew that they knew less.

Our ignorance pertains to the possibility of altogether unknown major effects of nuclear explosions as well as to the magnitude of the known ones and their infinite interactions. Like so much else in science, the discovery of what is known so far about the effects of nuclear explosions is a story of surprises, starting with the surprise that the nucleus could be fissioned at all. Perhaps the second big surprise was the extent of harmful fallout; this came to light in the fifteen-megaton test at Bikini in 1954, when, to the amazement of the designers of the test, fallout began to descend on Marshall Islanders and on American servicemen manning weather stations on atolls at supposedly safe distances from the explosion. It was not until this test that the world was alerted to the real magnitude—or, at any rate, to the magnitude as it is understood so far—of the peril from nuclear fallout. The next sur-

prise was the extent of the effects of the electromagnetic pulse. Probably the most recent surprise has been the discovery, in the nineteen-seventies, of the peril to the ozone layer. Around 1970, a number of scientists became worried that the use of supersonic transports, which fly in the stratosphere and emit oxides of nitrogen, would deplete the ozone layer, and it occurred to two Columbia physicists—Henry M. Foley and Malvin A. Ruderman—that since nuclear weapons were known to produce nitric oxide in the stratosphere, the capacity of this compound for depleting the ozone might be tested by trying to find out whether ozone levels had dropped as a result of the atmospheric testing of nuclear weapons. The investigation was inconclusive, but it led the two men to worry about the fate of the ozone in the event of a nuclear holocaust. Their concern awakened the concern of other scientists, and in 1975 the National Academy of Sciences produced its report "Long-Term Worldwide Effects of Multiple Nuclear-Weapons Detonations," which attempted, among other things, to measure this peril. The sequence of events leading to our present awareness of this peril is illuminating, because it shows how a broad new development in scientific thought—in this case, the growing awareness in the nineteen-seventies of the vulnerability of the ecosystem to human intervention—brought to light an immense effect of nuclear weapons which had previously gone unnoticed. It is always difficult to become aware of one's ignorance, but as we try to give due weight to our present ignorance it can help us to recall that little more than a decade ago possibly the gravest global consequence of a holocaust which we now know of was totally unsuspected. Given the incomplete state of our knowledge of the earth, it seems unjustified at this point to assume that further developments in science will not bring forth further surprises.

The embryonic state of the earth sciences is one reason for our uncertainty concerning the outcome of a nuclear holocaust, but there is a moral and political reason that may be even more fundamental. Epistemologically, the earth is a special object. Scientific inquiry into the effects of a holocaust, like every other form of inquiry into this subject, is restricted by our lack of experience with large-scale nuclear destruction. But the lack of experience is not the result of neglect or accident, or even of our reluctance to face the horror of our predicament. In scientific work, experience means experiments, and scientific knowledge is not considered to be knowledge until it has been confirmed by experiment—or, at least, by observation. Until then, no matter how plausible a theory sounds, and no matter how dazzling it may appear intellectually, it is relegated to the limbo of hypothesis. But when it comes to judging the consequences of a nuclear holocaust there can be no experimentation, and thus no empirical verification. We cannot run experiments with the earth, because we have only one earth, on which we depend for our survival; we are not in possession of any spare earths that we might blow up in some universal laboratory in order to discover their tolerance of nuclear holocausts. Hence, our knowledge of the resiliency of the earth in the face of nuclear attack is limited by our fear of bringing about just the event—human extinction—whose likelihood we are chiefly interested in finding out about. The famous uncertainty principle, formulated by the German physicist Werner Heisenberg, has

shown that our knowledge of atomic phenomena is limited because the experimental procedures with which we must carry out our observations inevitably interfere with the phenomena that we wish to measure. The question of extinction by nuclear arms—or by any other means, for that matter—presents us with an opposite but related uncertainty principle: our knowledge of extinction is limited because the experiments with which we would carry out our observations interfere with us, the observers, and, in fact, might put an end to us. This uncertainty principle complements the first. Both principles recognize that a limit to our knowledge is fixed by the fact that we are incarnate beings, not disembodied spirits, and that observation, like other human activities, is a physical process and so can interfere both with what is under observation and with the observer. Therefore, it is ultimately extinction itself that fixes the boundary to what we can know about extinction. No human being will ever be able to say with confidence, "Now I see how many megatons it takes for us to exterminate ourselves." To the extent that this check stands in the way of investigation, our uncertainty is forced on us not so much by the limitations of our intellectual ability as by the irreducible fact that we have no platform for observation except our mortal frames. In these circumstances, which are rudiments of the human condition, toleration of uncertainty is the path of life, and the demand for certainty is the path toward death.

We have had some experience of moral and political restraints on research in the field of medicine, in which, in all civilized countries, there are restrictions on experimenting with human beings; when the results might be injurious, laboratory animals are used instead. However, in investigating the properties of the earth we lack even any recourse that would be analogous to the use of these animals, for if we have no extra, dispensable earths to experiment with, neither are we in possession of any planets bearing life of some different sort. (As far as we now know, among the planets in the solar system the earth stands alone as a bearer of life.) And while it is true that we can run experiments in various corners of the earth and try to extrapolate the results to the earth as a whole, what is always missing from the results is the totality of the ecosystem, with its endless pathways of cause and effect, linking the biochemistry of the humblest alga and global chemical and dynamic balances into an indivisible whole. This whole is a mechanism in itself; indeed, it may be regarded as a single living being. Dr. Thomas, for one, has likened the earth to a cell. The analogy is compelling, but in one noteworthy respect, at least, there is a difference between the earth and a cell: whereas each cell is one among billions struck from the same genetic mold, the earth, as the mother of all life, has no living parent. If the behavior of cells is often predictable, it is because they exist en masse, and what a billion of them, programmed by their genetic material, have done a billion times the billion and first is likely to do again. But the earth is a member of no class as yet open to our observation which would permit the drawing of such inferences by generalization. When it comes to trying to predict its tolerance to perturbances, we are in the position of someone asked to deduce the whole of medicine by observing one human being. With respect to its individuality, then, the earth is not so much like a cell

as like an individual person. Like a person, the earth is unique; like a person, it is sacred; and, like a person, it is unpredictable by the generalizing laws of science.

If we had no knowledge at all of the likely consequences of a holocaust for the earth, there would, of course, be no basis whatever for judgment. However, given the extent of what there is to know about the earth, it is no contradiction to say that while our ignorance is vast and, in a certain sense, irremediable (although, at the same time, the amount that we can and certainly will find out is also probably measureless), our knowledge is also vast, and that what we know is extremely alarming. Since in a global holocaust even the so-called local effects of the explosions may cover the whole land mass of the Northern Hemisphere, they may have secondary consequences that are truly global.

The destruction of estuarine life throughout the Northern Hemisphere and the radioactive poisoning of the local waters could cause general harm to life in the oceans. Ecological collapse on the land in large parts of the Northern Hemisphere could have large consequences for the climate of the earth as a whole. Loss of vegetation, for example, increases the surface reflectivity of the earth, and this has a cooling effect on the atmosphere. In heavily irradiated zones, the mutation of plant pathogens might create virulent strains that could, in the words of the 1975 N.A.S. report, "produce disease epidemics that would spread globally." The irradiated northern half of the earth would in general become a huge radioecological laboratory, in which many species would be driven to extinction, others would flourish and possibly invade unharmed parts of the earth, and still others would evolve into new and unpredictable forms.

But more important by far, in all probability, than the global aftereffects of the local destruction would be the direct global effects, the most important of which is ozone loss. The concentration of ozone in the earth's atmosphere is very small—not more than ten parts by weight per million parts of air.

Yet the ozone layer has a critical importance to life on earth, because it protects the earth's surface from the harmful ultraviolet radiation in sunlight, which would otherwise be "lethal to unprotected organisms as we now know them," to quote Dr. Martyn M. Caldwell, a leading authority on the biological effects of ultraviolet radiation, in a recent article of his in *BioScience* titled "Plant Life and Ultraviolet Radiation: Some Perspective in the History of the Earth's UV Climate." I have already mentioned Glasstone's remark that without the absorption of solar ultraviolet radiation by the ozone "life as currently known could not exist except possibly in the ocean."

The 1975 N.A.S. report states, "As biologists, geologists, and other students of evolution recognize, the development of an oxygen-rich atmosphere, with its ozone layer, was a precondition to the development of multicelled plants and animals, and all life forms on land have evolved under this shield" (italics in the original). B. W. Boville, of the Canadian Atmospheric Environment Service, has written that the ozone layer is "a crucial element to climate and to the existence of all life on earth."

Dr. Fred Iklé, who served as the director of the Arms Control and Disarmament Agency under Presidents Nixon and Ford, and now serves as Under Secretary of De-

fense for Policy under President Reagan, has stated that severe reduction of the ozone layer through nuclear explosions could "shatter ecological structure that permits man to remain alive on this planet." And a paper delivered at a United Nations-sponsored scientific conference in March, 1977, states, "The whole biological world, so dependent on micro-organisms, may, if doses [of ultraviolet radiation] increase, be in serious trouble."

As the passage from the N.A.S. report states, the beginnings of multicelled life are associated with the formation of an ozone layer. In the earliest stages of evolution, when there was little or no oxygen in the atmosphere, and no ozone layer—ozone ( $O_3$ ) is formed when sunlight strikes oxygen ( $O_2$ ) in the upper atmosphere—ultraviolet radiation, which would then have reached the surface of the earth relatively unimpeded, may have been one of the most important sources of the energy that built up the first biological macromolecules, about three and a half billion years ago.

But about two billion years ago, when those molecules had formed into single-celled organisms freed themselves from dependence on ultraviolet light as a source of energy by coming to rely instead on photosynthesis—a method of extracting energy from sunlight by making use of carbon dioxide and water, which were available everywhere in the environment, as they are today.

Photosynthesis was "probably the largest single step on the evolutionary path leading to the growth of higher life forms" (according to Dr. Michael McElroy, a physicist at Harvard's Center for Earth and Planetary Physics, who has done important new work in the study of the earth's atmosphere), and set the stage for terrestrial life as it exists today. For that life to develop, however, the genetic material, DNA, had also to develop, and ultraviolet light, as it happens, is particularly destructive of DNA, causing it to lose "biological activity," as Dr. Caldwell notes.

Furthermore, ultraviolet light inhibits photosynthesis, and thus on the earth of two billion years ago it placed another barrier in the way of what turned out to be the next step in evolution. And there was still another barrier to evolution in the fact that oxygen, a by-product of photosynthesis, was poisonous to existing organisms. At first, it is suggested, organisms solved their oxygen problem by fixing oxygen to ferrous iron—a procedure that would explain the existence of banded iron formations found in sedimentary rock that is some two billion years old.

But it was life's second solution to its oxygen problem—the development of enzymes capable of returning oxygen harmlessly to the environment—that proved to be the more successful one. It lifted the barriers to evolution just mentioned: by detoxifying oxygen it liberated life from its dependence on iron, leaving life "free to proliferate in the ocean, with rapid growth in oxygen" (McElroy); and by enriching the atmosphere with oxygen it assured the gradual creation of an ozone layer, which blocked out much of the ultraviolet radiation.

Once this was done, the way was cleared, in the opinion of some scientists, for the "eruptive proliferation of species" (Caldwell) that geologists find in the fossil record of the Cambrian period, nearly six hundred million years ago. A hundred and eighty million years later, in the Silurian, life made a second leap ahead when, after more than

three billion years in the ocean, it made its "dramatic appearance" (Caldwell) on land, and this leap, too, can be associated with the growth of the ozone shield, which, it is thought, around that time reached a density that would permit organisms to survive on land, without the partial protection from ultraviolet radiation which water affords.

If the formation of the ozone layer was one of the necessary preconditions for the "dramatic appearance" of life on land, then the question naturally arises whether heavy depletion of the ozone, by nuclear explosions or any other cause, might not bring about a dramatic disappearance of life, including human life, from the land. (Spray cans, inconspicuously, are one possible cause of harm to the ozone, because they put chlorocarbons into the atmosphere, and these are broken down by sunlight, releasing chlorine, which depletes ozone.) But that question, having been raised, is one of those which cannot be answered with confidence, given the present state of our knowledge of the workings of the earth.

Even the estimates of ozone loss that would be brought about by holocausts of different sizes are highly uncertain (in calculating some of these figures, the National Academy of Sciences found the largest computers insufficient)—as is made clear in the 1975 N.A.S. report, which found that the explosion of ten thousand megatons of nuclear weapons would increase the amount of nitric oxide in the stratosphere to something between five and fifty times the normal amount (a tenfold uncertainty is characteristic of calculations in this field), that it would (as has been mentioned) reduce the ozone layer in the Northern Hemisphere, where the report assumes that the explosions would occur, by anything from thirty to seventy per cent, and that it would reduce it in the Southern Hemisphere by anything from twenty to forty per cent. I recently asked Dr. McElroy what the current estimation of danger to the ozone layer from man-made oxides of nitrogen in general was.

"In the years after the N.A.S. report of 1975, the estimates of harm were lowered, but since about 1977 they have risen again," he told me. He went on to discuss a possible increase in nitrous oxide in the atmosphere brought about by, say, agricultural fertilizers. "At present, it is estimated that a doubling of the nitrous oxide in the troposphere, which becomes nitric oxide—one of the compounds that deplete ozone—after it reaches the stratosphere, would bring about a fifteen-per-cent reduction in the ozone. That is a higher estimate for the nitrous-oxide effect than the one made in 1975.

However, a nuclear holocaust would inject nitric oxide directly into the stratosphere, and in amounts much greater than would be produced, indirectly, by the twofold increase in nitrous oxide, and no one has done any study of the consequences for the ozone of these larger amounts in the light of the knowledge acquired since 1975.

But my guess is that the figures would not have changed radically, and that the estimates for ozone reduction by a nuclear holocaust given in 1975 would not be far off." In mid-1981, the first measurement of an actual reduction of the ozone layer was made.

The National Aeronautics and Space Administration reported "preliminary" findings indicating that ozone in a region of the stratosphere some twenty-five miles up—in the higher part of the ozone layer—had decreased at the rate of approximately half a

per cent a year over the past decade. While this chilling discovery does not bear directly on the consequences of a holocaust for the ozone, it does tend to confirm the more general hypothesis that the ozone is vulnerable to human intervention.

The extent of the biological damage that would be done by various increases in ultraviolet radiation is, if anything, even less well known than what the increases caused by nuclear detonations might be, but the available information suggests that the damage to the whole ecosystem would be severe. One reason is that certain wavelengths of ultraviolet that are known to be particularly harmful biologically would be disproportionately increased by ozone reduction.

Moreover, the cause of the biological damage—increased ultraviolet radiation—would be similar everywhere, but the effects would be different for each of the earth's species and ecosystems. And the effects of those effects, spreading outward indefinitely through the interconnected web of life, are not within the realm of the calculable.

However, it is known with certainty that ultraviolet radiation is harmful or fatal to living things. In fact, precisely because of its abiotic qualities ultraviolet light has long been in use as a sterilizing agent in medical and other scientific work. The most comprehensive study of ultraviolet's effects which has been done so far is the Department of Transportation's Climatic Impact Assessment Program report "Impacts of Climatic Change on the Biosphere."

It states that "excessive UV-B radiation"—the part of the ultraviolet spectrum which would be significantly increased by ozone depletion—"is a decidedly detrimental factor for most organisms, including man," and continues, "Even current levels of solar UV-B irradiance can be linked with phenomena such as increased mutation rates, delay of cell division, depression of photosynthesis in phytoplankton, skin cancer in humans, cancer eye in certain cattle, and lethality of many lower organisms, such as aquatic invertebrates and bacteria."

Research concerning the effects of UV-B irradiance on specific organisms—and especially on organisms in their natural habitats—has been slight, and in a recent conversation Dr. Caldwell, who was chairman of the scientific panel that produced the Climatic Impact Assessment Program report, told me that not enough experiments have been done for anyone to generalize with confidence about the ultimate fate of living things subjected to increased ultraviolet radiation.

From the experiments that have been done however, it is known that, among mammals, human beings are especially vulnerable, because of their lack of body hair. Since some ultraviolet light reaches the earth in normal circumstances, human beings (and other creatures) have developed adaptations to deal with it.

The main adaptation in man is tanning, which helps to prevent sunburn. The susceptibility of fair-skinned people to these ailments and also to skin cancer is traceable to their relative inability to tan, and one consequence of reduced ozone could be higher rates of skin cancer among human beings.

Of much greater seriousness, though, would be the temporary loss of sight through photophthalmia, or snow blindness, which can be contracted by exposure to heightened ultraviolet radiation and may last for several days after each exposure. Photophthalmia is, in the words of the 1975

N.A.S. report, "disabling and painful;" also, "there are no immune groups," and "there is no adaptation."

One can avoid photophthalmia by wearing goggles whenever one goes outside, but so far the world has made no provision for each person on earth to have a pair of goggles in case the ozone is depleted. However, if the higher estimates of depletion turn out to be correct, people will not be able to stay outdoors very long anyway. At these levels, "incapacitating" sunburn would occur in several minutes; if the reduction of the ozone reached the seventy-percent maximum that the report assigns to the Northern Hemisphere, the time could be ten minutes.

Moreover, the report states that in the months immediately following the attack ozone depletion could be even higher than seventy percent. "We have no simple way," the report observes, "to estimate the magnitude of short-term depletion." The ten-minute rule is not one that the strategists of "recovery" after a nuclear attack usually figure into their calculations.

If high levels of ultraviolet radiation occur, then anyone who crawls out of his shelter after radiation from fallout has declined to tolerable levels will have to crawl back in immediately. In the meantime, though, people would not have been able to go out to produce food, and they would starve.

A further possible harmful consequence—in itself a potential human and ecological catastrophe of global proportions—is that increased ultraviolet light would raise the amounts of Vitamin D in the skin of mammals and birds to toxic levels.

But the experimentation necessary to determine whether or not this sweeping catastrophe would occur has not been done. The 1975 N.A.S. report observes, alarmingly but inconclusively, "We do not know whether man and other vertebrate animals could tolerate an increased Vitamin D synthesis that might result from a large and rapid increase in (ultraviolet) exposure." The report "urgently" recommends further study of the question.

The skin of many mammals would be protected by fur or other covering, but their eyes would remain exposed.

In a recent lecture, Dr. Tspis said that ozone reduction might bring about the blinding of the world's animals, and that this effect alone would have the makings of a global ecological catastrophe. I discussed the subject with Dr. Frederick Urbach, who teaches medicine at Temple University and is the editor of a volume titled "The Biologic Effects of Ultraviolet Radiation with Emphasis on the Skin," and who has conducted extensive research on the effect of ultraviolet radiation on animals. He confirmed that the peril to the eyes of animals is vast and real. "If you go much above fifty percent reduction of the ozone, the increase in ultraviolet radiation begins to do injury to the cornea," he told me.

"You get a bad sunburn of the eye. People don't usually get it, because at normal levels the anatomy of the face gives protection. But when there is snow on the ground the ultraviolet radiation is reflected back up into the eye. The problem is easily remedied by wearing glasses, but animals will hardly be able to do that.

There is a story—probably apocryphal—that when Hannibal crossed the Alps, where ultraviolet is more intense, some of his elephants went blind. When animals can't see, they can't protect themselves. A blind animal does not survive well in nature.

Repeated injury causes scarring of the cornea, and this would eventually make the animals permanently blind. We see this happening to the mice that we irradiate with ultraviolet wavelengths in the laboratory; after a while, they develop opaque corneas. In the event of ozone depletion, the same thing would happen not only to mammals but to insects and birds."

Sight and smell permit animals to find their way in the environment and to fulfill the roles mapped out for them by nature, and the loss of sight would throw the environment into disarray as billions of blinded beasts, insects, and birds began to stumble through the world. The disorientation of insects would be fateful not only for them but for plant life, much of which depends on insects for pollination and other processes essential to survival. Ultraviolet light is, in fact, known to play a role in many activities of insects, including phototaxis, celestial navigation, and sex identification, and an increase in ultraviolet light would no doubt impair these capacities. But plant life would in any case be under direct assault from increased ultraviolet radiation.

While confident generalization about the fate of plants has to be ruled out, experiments that have been performed with crops show that while some are quite resistant, others, including tomatoes, beans, peas, and onions, would be killed or "severely scalded," according to the N.A.S. report. Because ultraviolet radiation breaks down DNA, which regulates reproduction, and because it also represses photosynthesis, which is the chief metabolic process of plants, the direct effect of increased ultraviolet radiation on plant life is likely to be widespread and serious.

And because many species, the N.A.S. report states, "survive at an upper limit of tolerance," any increase in ultraviolet radiation is "a threat to the survival of certain species and accordingly to entire ecosystems."

The global damage to plants and the global damage to the insects are synergistic: the damage to the insects damages the plants, which, in turn, damage the insects again, in a chain of effects whose outcome is unforeseeable. On the question of the harm to the insects that would be caused by the harm to the rest of the ecosystem, Ting H. Hsiao, a professor of entomology at Utah State University, has written in the Climatic Impact Assessment Program report, "Since insects are important in the world's ecosystems, any changes in other components of the ecosystem could have an impact on insect populations.

Ultraviolet radiation is a physical factor that directly influences all biotic components of the ecosystem. . . . A change in abiotic factors, such as temperature, rainfall, or wind, associated with elevated ultraviolet radiation could profoundly affect behavior, biology, population structure, dispersal, and migration of insects." Dr. Hsiao's observations about insects and the ecosystem can, in fact, be generalized to include all global effects of a holocaust, for there are few that do not have potential large consequences for the character and severity of all the others.

The web of life in the oceans, perhaps more than any other part of the environment, is vulnerable to damage from increased ultraviolet radiation. John Calkins, of the Department of Radiation Medicine of the University of Kentucky, and D. Stuart Nachtwey, a professor of radiation biology at Oregon State University, remark in the

Climatic Impact Assessment Program report that the experimentation that has been done so far, though it is inadequate, suggests that "many aquatic micro-organisms and invertebrates have little reserve capacity to cope with surface levels of solar UV-B." The organisms at greatest risk are the unicellular organisms that lie at the base of the marine food chain, and thus ultimately sustain the higher creatures in the oceans. Since the removal of an organism from the food chain can eliminate all the organisms above it in the chain, the loss of even part of the chain's base could have huge consequences. Once again, quantitative judgments are not possible, but such experiments as have been carried out make the danger clear. In the early nineteen-seventies, researchers discovered that even normal levels of UV-B radiation are harmful or fatal to many aquatic organisms if they are not permitted to descend deeper into the water or otherwise shield themselves from exposure. The finding is important, because it means that the question to be asked about increased UV-B radiation is not whether it would be biologically harmful but whether the intensity would be great enough to overpower the mechanisms of defense that organisms have built up over billions of years of evolution to deal with normal levels of ultraviolet radiation. The defense mechanisms include the screening of the DNA molecules with less critical molecules; enzymatic mechanisms by which damage done in the daytime is repaired at night; and delay of cell division (when cells can be most sensitive to ultraviolet radiation) until the nighttime. But fleeing, which can save some organisms from the ultraviolet peril, may get them into other kinds of trouble. In general, organisms find the niche in the environment that is best suited to them, and if they are suddenly forced to leave it they may die. Or, if they survive, they may destroy the ecological niche that permits some other species to survive. If a change in the environment occurs slowly, an organism may prove able to adapt, but a holocaust would bring a sudden change, and the usefulness of adaptation would be greatly reduced. A glimpse of a few of the complexities involved in ultraviolet stress is offered by some experiments that were done by Dr. Nachtwey and several colleagues on the unicellular alga called *Chlamydomonas reinhardtii*. If the alga is resting near the surface of the ocean on a cloudy day, and the sun suddenly appears, it will dive for safety, and if ultraviolet radiation is at normal levels it will get deep enough fast enough to survive. But if the ozone has been decreased by as little as sixteen percent, the alga will be killed in mid-dive by the more intense ultraviolet rays. The crucial factor for *C. Reinhardtii* turns out to be its swimming speed.

Because experimentation has been so slight, and because the complexities are so immense, both the Climatic Impact Assessment Program report and the N.A.S. report hold back from sweeping judgments about the fate of oceanic life as a whole in the event of severe ozone reduction, but at one point the N.A.S. report does state that "under extreme circumstances, certain habitats could become devoid of living organisms," and at another point, speaking of the global effects in their entirety, it states, "Large-scale detonations will create conditions sufficient to modify the oceanic environment, on a global basis, with a resultant modification of the marine biota. In areas of major perturbations this influence will be in

the form of local or extensive extinctions or reduction in susceptible species, with a subsequent disruption of the normal food web."

A second global consequence of ozone reduction would be climatic change. The earth's climate, like the ecosphere as a whole, the 1975 N.A.S. report reminds us, is "holocenoic;" in other words, it is a whole in which "any action influencing a single part of the system can be expected to have an effect on all other parts of the system." As is hardly surprising, the totality of those effects is unknown even for a single major climatic disturbance, and the N.A.S. report notes that "no adequate climatic models exist that would permit prediction of the nature and degree of climatic changes that might result from a large-scale nuclear event." Of the three large components of the earth's surface—land, sea, and air—the air is probably the most changeable. The parts of this delicately balanced whole include, among many others, the chemical composition of both the troposphere and the stratosphere; the temperature levels of the atmosphere and the degree of moisture at all altitudes; the temperature and reflectivity of the earth's surface; the circulatory patterns of the air; the circulatory patterns of the ocean currents; and the degree of retention of the earth's reflected warmth by the atmosphere, in the so-called greenhouse effect. Each of these parts could be disturbed by a holocaust, and the disturbance of any one would disturb many or all of the others. According to present thinking, a depletion of the ozone layer would simultaneously act to warm the surface of the earth, by permitting more solar radiation to reach it, and act to cool it, by reducing the layer's capacity to radiate back to earth the heat reflected from the earth's surface. But, according to the N.A.S. report, the cooling at the surface of the earth, which might last for several years, is expected to exceed the warming by, at most, an amount estimated (very tentatively, considering that "no adequate climatic models exist") at approximately one degree Fahrenheit. Temperature change at the surface, however, may be less important than temperature change elsewhere in the atmosphere. For example, cooling of the upper troposphere and of the lower stratosphere "is likely to be much larger" than cooling at the surface, and may cause alterations in the cloud cover, which would, in turn, influence the climate. This whole subject, however, is one of the many subjects that remain relatively unexplored. It is estimated that dust and smoke lofted by the explosions would add to the cooling by another degree Fahrenheit. Temperatures on earth can fluctuate tens of degrees in a single day, yet the net reduction of a couple of degrees in the temperature of the entire surface of the earth after a holocaust would be of great consequence. For example, it could cut the biological productivity of deciduous forests by as much as twenty per cent, shift the monsoons in Asia in a way that could be ruinous for both agriculture and ecosystems, and eliminate all wheat-growing in Canada. The N.A.S. report also mentions that climatic change identified as "dramatic" and "major," but not otherwise specified, "cannot be ruled out," and adds that although the change is likely to last only a few years, the possibility exists that it "may not be reversible." Greater reductions would, of course, have larger consequences. Another global consequence of the injection of oxides of nitrogen into the stratosphere by nuclear explosions would be pollution of the environment as these gases

fell back into the troposphere. Nitrogen dioxide, for example, is one of the most harmful components of the smog that afflicts many modern cities, such as Los Angeles. It reacts with hydrocarbons present in the air above these cities, actually causing in the process some ozone formation. While ozone in the stratosphere is beneficial to human beings, ozone near ground level is not. It has been found not only to increase respiratory problems among human beings but to be harmful to some plant life. The formation of nitrogen dioxide, accordingly, is still another global effect of a holocaust whose consequences are not calculable. In addition, nitrogen dioxide is responsible in polluted cities for turning the sky brown, and after a holocaust it might happen that the sky of the whole earth would turn from blue to brown for as long as the pollution lasted (perhaps several years).

The known consequences of global contamination by stratospheric fallout (as distinct from the tropospheric fallout on the targeted countries) would seem great in comparison with anything except other nuclear effects, but against this backdrop they seem moderate—although, as usual, the state of knowledge precludes confident prediction. The stratospheric portion of the fallout is much less intense than the tropospheric portion, because it can remain in the atmosphere for several years, and by the time it descends to earth its radioactivity has declined to very low levels. The N.A.S. report estimates that a ten-thousand-megaton holocaust would deliver over the following twenty to thirty years a dose of four rems to every person in the Northern Hemisphere and a third of that to every person in the Southern Hemisphere, and would cause a two-per-cent rise in the death rate from cancer. The same doses would cause serious genetic disease to increase around the world by up to about two per cent, with a noticeable but decreasing number of mutations appearing in the next thirty generations. There would, however, be "hot spots" in some parts of the world, where, because of certain patterns of weather, the doses of radiation would be many times as great. Also, the world would be contaminated with particles of plutonium, which would cause an as yet unestimated rise in the incidence of lung cancer. (All these effects, which were calculated by the N.A.S. in 1975 for a ten-thousand-megaton holocaust, would presumably be greater in a twenty-thousand-megaton holocaust.)

In recent years, scientists in many fields have accumulated enough knowledge to begin to look on the earth as a single, concrete mechanism, and to at least begin to ask how it works. One of their discoveries has been that life and life's inanimate terrestrial surroundings have a strong reciprocal influence on each other. For life, the land, oceans, and air have been the environment, but, equally, for the land, oceans, and air life has been the environment—the conditioning force. The injection of oxygen into the atmosphere by living things, which led to the formation of an ozone layer, which, in turn, shut out lethal ultraviolet rays from the sun and permitted the rise of multicellular organisms, was only one of life's large-scale interventions. The more closely scientists look at life and its evolution, the less they find it possible to draw a sharp distinction between "life," on the one hand, and an inanimate "environment" in which it exists, on the other.

Rather, "the environment" of the present day appears to be a house of unimaginable

intricacy which life has to a very great extent built and furnished for its own use. It seems that life even regulates and maintains the chemical environment of the earth in a way that turns out to suit its own needs. In a far-reaching speculative article entitled "Chemical Processes in the Solar System: A Kinetic Perspective," Dr. McElroy has described the terrestrial cycles by which the most important elements of the atmosphere—oxygen, carbon, and nitrogen—are kept in proportions that are favorable to life. He finds that in each case life itself—its birth, metabolism, and decay—is chiefly responsible for maintaining the balance. For example, he calculates that if for some reason respiration and decay were suddenly cut off, photosynthesis would devour all the inorganic carbon on the surface of the ocean and in the atmosphere within forty years. Thereafter, carbon welling up from the deep ocean would fuel photosynthesis in the oceans for another thousand years, but then "life as we know it would terminate." Dr. McElroy also observes that the amount of ozone in the stratosphere is influenced by the amount of organic decay, and thus by the amount of life, on earth. Nitrous oxide is a product of organic decay, and because it produces nitric oxide—one of the compounds responsible for ozone depletion—it plays the role of regulator. In the absence of human intervention, living things are largely responsible for introducing nitrous oxide into the atmosphere. When life is exceptionally abundant, it releases more nitrous oxide into the atmosphere, and may thus act to cut back on the ozone, and that cutback lets in more ultraviolet rays. On the other hand, when life is sparse and depleted, nitrous-oxide production is reduced, the ozone layer builds up, and ultraviolet rays are cut back.

These speculative glimpses of what might be called the metabolism of the earth give substance to the growing conviction among scientists that the earth, like a single cell or a single organism, is a systemic whole, and in a general way they tend to confirm the fear that any large man-made perturbation of terrestrial nature could lead to a catastrophic systemic breakdown. Nuclear explosions are far from being the only perturbations in question; a heating of the global atmosphere through an increased greenhouse effect, which could be caused by the injection of vast amounts of carbon dioxide into the air (for instance, from the increased burning of coal), is another notable peril of this kind. But a nuclear holocaust would be unique in its suddenness, which would permit no observation of slowly building environmental damage before the full—and, for man, perhaps the final—catastrophe occurred. The geological record does not sustain the fear that sudden perturbations can extinguish all life on earth (if it did, we would not be here to reflect on the subject), but it does suggest that sudden, drastic ecological collapse is possible. It suggests that life as a whole, if it is given hundreds of millions of years in which to recuperate and send out new evolutionary lines, has an astounding resilience, and an ability to bring forth new and ever more impressive life forms, but it also suggests that abrupt interventions can radically disrupt any particular evolutionary configuration and dispatch hundreds of thousands of species into extinction.

The view of the earth as a single system, or organism, has only recently proceeded from poetic metaphor to actual scientific investigation, and on the whole Dr. Thomas's

observation that "we do not really understand nature, at all" still holds. It is as much on the basis of this ignorance, whose scope we are only now in a position to grasp, as on the basis of the particular items of knowledge in our possession that I believe that the following judgment can be made: Bearing in mind that the possible consequences of the detonations of thousands of megatons of nuclear explosives include the blinding of insects, birds, and beasts all over the world; the extinction of many ocean species, among them some at the base of the food chain; the temporary or permanent alteration of the climate of the globe, with the outside chance of "dramatic" and "major" alterations in the structure of the atmosphere; the pollution of the whole ecosphere with oxides of nitrogen; the incapacitation in ten minutes of unprotected people who go out into the sunlight; the blinding of people who go out into the sunlight; a significant decrease in photosynthesis in plants around the world; the scalding and killing of many crops; the increase in rates of cancer and mutation around the world, but especially in the targeted zones, and the attendant risk of global epidemics; the possible poisoning of all vertebrates by sharply increased levels of Vitamin D in their skin as a result of increased ultraviolet light; and the outright slaughter on all targeted continents of most human beings and other living things by the initial nuclear radiation, the fireballs, the thermal pulses, the blast waves, the mass fires, and the fallout from the explosions; and, considering that these consequences will all interact with one another in unguessable ways and, furthermore, are in all likelihood an incomplete list, which will be added to as our knowledge of the earth increases, one must conclude that a full-scale nuclear holocaust could lead to the extinction of mankind.

To say that human extinction is a certainty would, of course, be a misrepresentation—just as it would be a misrepresentation to say that extinction can be ruled out. To begin with, we know that a holocaust may not occur at all. If one does occur, the adversaries may not use all their weapons. If they do use all their weapons, the global effects, in the ozone and elsewhere, may be moderate. And if the effects are not moderate but extreme, the ecosphere may prove resilient enough to withstand them without breaking down catastrophically. These are all substantial reasons for supposing that mankind will not be extinguished in a nuclear holocaust, or even that extinction in a holocaust is unlikely, and they tend to calm our fear and to reduce our sense of urgency. Yet at the same time we are compelled to admit that there *may* be a holocaust, that the adversaries *may* use all their weapons, that the global effects, including effects of which we are as yet unaware, *may* be severe, that the ecosphere *may* suffer catastrophic breakdown, and that our species *may* be extinguished. We are left with uncertainty, and are forced to make our decisions in a state of uncertainty. If we wish to act to save our species, we have to muster our resolve in spite of our awareness that the life of the species may not now in fact be jeopardized. On the other hand, if we wish to ignore the peril, we have to admit that we do so in the knowledge that the species may be in danger of imminent self-destruction. When the existence of nuclear weapons was made known, thoughtful people everywhere in the world realized that if the great powers entered into a nuclear-arms race the human species would sooner or later face

the possibility of extinction. They also realized that in the absence of international agreements preventing it an arms race would probably occur.

They knew that the path of nuclear armament was a dead end for mankind. The discovery of the energy in mass—of "the basic power of the universe"—and of a means by which man could release that energy altered the relationship between man and the source of his life, the earth. In the shadow of this power, the earth became small and the life of the human species doubtful. In that sense, the question of human extinction has been on the political agenda of the world ever since the first nuclear weapon was detonated, and there was no need for the world to build up its present tremendous arsenals before starting to worry about it. At just what point the species crossed, or will have crossed, the boundary between merely having the technical knowledge to destroy itself and actually having the arsenals at hand, ready to be used at any second, is not precisely knowable. But it is clear that at present, with some twenty thousand megatons of nuclear explosive power in existence, and with more being added every day, we have entered into the zone of uncertainty, which is to say the zone of risk of extinction. But the mere risk of extinction has a significance that is categorically different from, and immeasurably greater than, that of any other risk, and as we make our decisions we have to take that significance into account. Up to now, every risk has been contained within the frame of life; extinction would shatter the frame. It represents not the defeat of some purpose but an abyss in which all human purposes would be drowned for all time. We have no rights to place the possibility of this limitless, eternal defeat on the same footing as risks that we run in the ordinary conduct of our affairs in our particular transient moment of human history. To employ a mathematical analogy, we can say that although the risk of extinction may be fractional, the stake is, humanly speaking, infinite, and a fraction of infinity is still infinity. In other words, once we learn that a holocaust *might* lead to extinction we have no right to gamble, because if we lose, the game will be over, and neither we nor anyone else will ever get another chance. Therefore, although, scientifically speaking, there is all the difference in the world between the mere possibility that a holocaust will bring about extinction and the certainty of it, morally they are the same, and we have no choice but to address the issue of nuclear weapons as though we knew for a certainty that their use would put an end to our species. In weighing the fate of the earth and, with it, our own fate, we stand before a mystery, and in tampering with the earth we tamper with a mystery. We are in deep ignorance. Our ignorance should dispose us to wonder, our wonder should make us humble, our humility should inspire us to reverence and caution, and our reverence and caution should lead us to act without delay to withdraw the threat we now pose to the earth and to ourselves.

In trying to describe possible consequences of a nuclear holocaust, I have mentioned the limitless complexity of its effects on human society and on the ecosphere—a complexity that sometimes seems to be as great as that of life itself. But if these effects should lead to human extinction, then all the complexity will give way to the utmost simplicity—the simplicity of nothingness. We—the human race—shall cease to be.—JONATHAN SCHELL.

● Mr. WEICKER. Mr. President, I join my colleagues in support of the joint resolution calling for a mutual, verifiable freeze on nuclear arms with the Soviet Union. The resolution's simplicity is also its strength. As a first step toward general disarmament, we must bring the arms race between the superpowers to a full stop.

In diplomatic circles, aside from the Geneva talks, there is an unearthly stillness on the subject of disarmament. The SALT negotiations are in limbo. The comprehensive test ban talks have been terminated. Discussion of a chemical weapons treaty has been broken off and antisatellite negotiations terminated.

Yes, the diplomats are silent. But in the distance we can hear the factories and defense plants churning out more nuclear weapons with every passing day. The Union of Concerned Scientists estimates that if the current buildup continues unabated, the United States and U.S.S.R. will amass nuclear arsenals that include 75,000 warheads with an explosive power approaching 2 million Hiroshima bombs; 10,000 missiles and bombers, double the number today, as well as a new generation of small weapons systems that could deliver thermonuclear warheads unverifiable by ordinary detection systems.

The United States alone is expected to spend \$300 billion to stockpile missiles, aircraft, and bombs—\$300 billion that is surely needed to rebuild our cities and revitalize our industrial base.

Elsewhere around the world, 10 or more nations, some of which are extremely unstable, are expected to join the nuclear powers.

As if this proliferation of nuclear weapons were not bad enough, we are also witnessing a perverse attitudinal change on the part of some strategists at the Pentagon. Ever since the explosions at Nagasaki and Hiroshima, the goal of the United States has been to deter nuclear war. Now, there is talk of fighting and winning one. In the President's fiscal year 1983 budget statement, we read that:

U.S. defense policies ensure our preparedness to respond to and, if necessary, *successfully fight either conventional or nuclear war.* (Italics added.)

Whatever these strategists may think, anyone who has ever studied the subject knows that there is no such thing as a successful nuclear war. Any nuclear exchange, however limited, means the murder of millions of people, the breakup of civilization, and a fierce, if not fatal, blow to the ecology of the planet. Those who persist in contemplating a nuclear victory should be forced to read Jonathan Schell's frighteningly detailed description of a nuclear holocaust in the New Yorker.

When he accepted his Peace Prize in 1964, Martin Luther King, Jr., told the Nobel Committee:

I refuse to accept the cynical notion that nation after nation must spiral down a militaristic stairway into the hell of nuclear destruction.

The American people do not accept that cynical notion any more than King did. And they are beginning to let us know it. From Vermont to California, citizens groups are calling for a halt to the arms race. Town meetings and State legislatures across the country have endorsed the idea of a nuclear freeze.

In my own State, the Connecticut Coalition for a Nuclear Arms Freeze has secured more than 30,000 signatures on its petitions and gained the backing of both houses of the legislature.

The joint resolution we are introducing today is a direct result of these grassroots efforts. It commits us to pursue a complete halt to the arms race, giving special attention to the deployment of destabilizing weapons which would make such a freeze more difficult to achieve. In words more vague than some of us would like, it commits us to finding a way and a time we can achieve this mutual freeze. For my part, I hope that can be done sooner rather than later. The premises and promises embodied in this resolution are noble ones. But they must be followed up with action. For if we do not get America back on the path to disarmament, we will most certainly travel down the road to destruction.

Johnathan Schell writes:

In weighing the fate of the earth, and with it, our own fate, we stand before a mystery, and in tampering with the earth we tamper with a mystery. We are in deep ignorance. Our ignorance should make us humble, our humility should inspire us to reverence and caution, and our reverence and caution should lead us to act without delay to withdraw the threat we now pose to the earth and to ourselves.

Mr. President, the nuclear gun we are holding is, in many ways, pointed at our own temple. Its trigger could be pulled by a saboteur or even an errant computer. I say to my colleagues, is it not time we put the gun away? And I urge them to support this joint resolution.

● Mr. PELL. Mr. President, I am pleased to join a number of my colleagues in sponsoring a resolution calling for the achievement of a mutual and verifiable freeze on nuclear weapons and for major, mutual and verifiable reductions in the nuclear arsenals of the United States and the Soviet Union.

I am deeply convinced that we must take steps on an urgent basis to bring the nuclear arms race to a halt and to reduce the size of the bloated nuclear arsenals with which the two sides threaten each other.

Unless we act now in cooperation with the Soviet Union to change our direction, a rekindled arms race could lead to a nuclear conflagration which would destroy our world. As Gen. David C. Jones, Chairman of the Joint Chiefs of Staff, told me during his testimony last November before the Foreign Relations Committee, an all-out nuclear war "would be the greatest catastrophe in history by many orders of magnitude." We must, above all, avoid such a catastrophe.

Yet, the distressing reality is that the United States and the Soviet Union are on a collision course that could lead to nuclear war. People in Western Europe and the United States have awakened to this danger, and a real transatlantic peace movement has developed. We have lived with the threat of mutual annihilation for over three decades. Yet despite the absence of direct conflict during that period and the fading memories of World War II, the fear of nuclear war is increasing, not receding.

The situation in which the United States and the Soviet Union now find themselves reminds me of a sailboat race that I saw off Newport last summer. Two large vessels were converging on each other at an alarming rate, and people on observation boats shouted warnings. Yet to my amazement and dismay, neither helmsman heeded the warnings, and consequently the boats collided. One of them was demasted, and the other was severely damaged.

We must avoid such a disastrous collision between the ships of state of the United States and the Soviet Union. We must be prepared to work with the Soviet leadership to alter the present collision course. The resolution which I and a bipartisan group of colleagues are introducing today charts a course which both sides could win—away from needless weapons competition and the prospect of nuclear catastrophe. As the ranking Democratic member of the Committee on Foreign Relations, I intend to see that the committee gives this resolution careful and thorough consideration. I hope that other Senators will join us in this venture so that we can work together to set a course for a secure and stable peace.

I hope that the President of the United States will appreciate that the approach incorporated in this bipartisan resolution is consistent with his own efforts to achieve arms control. A nuclear freeze would reinforce and set the stage for success in the START talks. A freeze would also help insure that the achievements of SALT I and SALT II are not lost.

Mr. President, I have had the opportunity to hear the views of citizens on nuclear arms issues frequently in my own State, and also in other States. I have been struck and encouraged by

the degree of understanding of nuclear dangers and by the growing determination among Americans to try to get something done to get the two sides off the present perilous course.

The depth of feeling was exemplified by an article in the March 4 Providence Journal. Nikki Salk, a 10th grader at Classical High School wrote:

Many people don't wish to get involved, because they don't believe the nuclear arms race can be stopped. It does seem that there is no way to stop an almost certain nuclear war, but nuclear war will definitely happen if people don't get involved. Hope seems to be the only thing holding together the people already working for peace. Stopping the nuclear arms race is something that every human being in the world should make their number one priority. Otherwise, we face annihilation. I'm involved because I don't want to die.

Mr. President, I shall ask that Nikki Salk's essay be printed in the RECORD following my remarks.

Mr. President, in connection with the introduction of this resolution, I would like also to share some information on our nuclear programs prepared by the Congressional Research Service. The CRS researchers drew upon unclassified sources to tally selected nuclear armed missiles for which the administration is requesting funding for fiscal 1983, the number of warheads each missile is expected to carry, and the total number of warheads these warheads could deliver. The CRS then contrasted the warhead figures for selected U.S. systems with the total number of weapons estimated to be in the arsenals of Britain, France, and China, based on calculations by the International Institute for Strategic Studies in London. For reasons of classification, the CRS was able to tally only selected systems. They did not deal with sea-launched cruise missiles, bombs, artillery shells, and other nuclear munitions. I shall ask that these CRS charts be printed in the RECORD following my remarks.

The figures show that the United States is planning to fund systems in fiscal 1983 alone which will carry more nuclear warheads than France, Britain, and China have deployed. In fact the total for selected missile systems—1,317 to 1,461 warheads—is greater than the total deployments of France, Britain, and China combined.

The fiscal year 1983 figures show only the beginning of a massive new nuclear buildup, which, if unchecked, will lead to the deployment of thousands of new nuclear weapons. While some will replace existing systems, many—such as the thousands of air-, ground-, and sea-launched cruise missiles now in prospect—are new systems and will dramatically increase the totals.

The Department of Energy's budget presentation shows that fiscal 1983 funds are to be used for the produc-

tion of eight weapons systems—warheads for the Lance, Trident I, Minuteman III, Pershing II, air-launched and ground-launched cruise missiles, an atomic artillery shell, and bombs. There is to be long-lead production effort on the warheads for the sea-launched cruise missile, the Standard Missile-2, and the 115mm artillery shell, and the MX, as well as another strategic bomb.

Budget outlays of \$5.2 billion are being asked for atomic energy defense activities in fiscal 1983—an increase of more than half in 2 years. This will pay only for the warheads. The missile systems and aircraft to carry those warheads will cost tens of billions more.

The administration's program would have us building warheads at the rate of at least several a day—with no certain end in sight.

The strategic warheads now in our inventory—and there are more than 9,000 of them—range from several times to hundreds of times the explosive force of the primitive bombs which devastated Hiroshima and Nagasaki. The new warheads will be on improved and more advanced missiles and aircraft. The resulting force, if we proceed with current plans, will be vastly more deadly than our current force.

It should be clear that the future holds only continued insecurity at spiraling costs if we simply go along with current trends. We must not allow this opportunity to change the terrible present course pass us by.

The material follows:

[From the Providence (R.I.) Journal, Mar. 4, 1982]

**A 10TH-GRADER'S ARGUMENT FOR HALTING THE NUCLEAR ARMS RACE**  
(By Nikki Salk)

People must call a halt to the nuclear arms race. The present climate of the world accelerates the arms race, and by doing so, brings the world closer to total annihilation. The governments of the world seem almost unaware of the most urgent problem facing people—the possibility of totally destroying all life on the planet. People, therefore, at a grass-roots level must mobilize to prevent this terrible apocalypse from occurring. Youth must realize that their futures are at stake and organize friends, relatives, and teachers to join an already-growing movement against this nuclear madness. Disarmament must come in four stages: a realization of the problem, a solution, the movement to combat the problem, and the implementation of the solution.

The nuclear arms race is not just between the U.S. and the Soviet Union, for over 35 nations currently possess nuclear-arms capabilities. This means that the problem of disarmament is even harder now than it was 30 years ago. A comprehensive nuclear arms negotiation would have to involve a large percentage of the world. Disarmament can and should be started unilaterally. However, since most governments refuse to perceive disarmament as a sole responsibility, multilateral negotiations on disarmament will probably need to be the long-run plan.

Current tensions in the world are bringing us closer and closer to a nuclear confrontation.

Talk of "counterforce" strategy and the concept of a limited nuclear war make the chances for a nuclear war even more possible. It is very unlikely that a nuclear war could be kept limited, because once a bomb is in the air, a whole retaliatory force might be sent by the other side.

Given that a nuclear war can't be won, the whole nuclear armaments industry is a waste of human and natural resources. For every billion dollars spent on the military, 20,000 more jobs could be created in the civilian sector.

Once the problem is realized, what is there to do about it?

The United States and the Soviet Union, the two largest producers of arms in the world, could effectively call a halt to the nuclear arms race.

Since governments obviously don't have the motivation to stop the arms race, there must be widespread public support for such a plan. Education is the key to making people aware of the real threat of nuclear war and its effects.

Creating nuclear-free zones, petitioning for a bilateral nuclear weapons freeze, and demonstrating in large numbers are some of the best ways to organize for disarmament on a grass-roots level. Youth also have a powerful stand to make for their very right to exist.

Nuclear-free zones can be brought about by legislative action. In a nuclear-free zone, there would be a banning of all testing, production, and planning for nuclear weapons. Existing stockpiles would also be eliminated. The proposal for such a nuclear-free zone could be put on a state referendum and, thereby, eliminate all nuclear weapons from that state. If even one state in the U.S. were to pass this referendum, other states might follow suit and eventually create a disarmed nation. It would be advantageous for the Soviet Union, because of the huge expense of arms, to create the same kind of nuclear-free zones in their own country. A nuclear-free zone is not some wild idea but, in fact, possibly the only first step to complete disarmament.

A bilateral freeze on nuclear weapons would halt all testing and production of nuclear weapons.

A petition calling for such a freeze has already been signed by many people across the country, but it is not being widely enough distributed.

The students and young people of the world are going to be the ones to stand up for their future. Radical action by students brought a new consciousness in the sixties—a consciousness which may sometimes seem to be dead but is actually just hidden in depressed minds. Wasted time and energy are spent on appearance, ego and drugs. This same energy could be used to fight for a better future or for any future at all. It can take just a few people to start a trend. A trend toward peace seems a very easy thing to bring into action. We can wear buttons, put on arm bands, and dye our hair for peace (growing it takes too long).

Just as we seek a way out through artificial substances, we can seek a way out by means of hope and mobilization for peace. Groups should be started in high schools and communities to make youth more aware. Films, books, and other educational materials should be passed around at meetings. Education of friends in school, brothers and sisters, parents, and teachers could be a key way to awareness.

Education and awareness are, therefore, the main way to get the public to be against nuclear war, thereby stopping nuclear war.

Stopping the nuclear arms race and preventing nuclear war is an extremely difficult thing to do. Many people don't wish to get involved, because they don't believe the nuclear arms race can be stopped. It does seem that there is no way to stop an almost certain nuclear war, but nuclear war will definitely happen if people don't get involved. Hope seems to be the only thing holding together the people already working for peace. Stopping the nuclear arms race is something that every human being in the world should make their number one priority. Otherwise, we face annihilation. I'm involved because I don't want to die.

**ADMINISTRATION REQUESTS FOR SELECTED WEAPONS SYSTEMS**

Weapon system	Number of missiles requested	Number of warheads per system	Number of deliverable warheads
ALCM	440	1	440
GLCM	120	1	120
M-X	9	10	90
Pershing II	91	1	91
Trident I	72	8-10	576-720
Total			1317-1461

<sup>1</sup> The M-X could carry 11 Advanced Ballistic Reentry Vehicles or 12 Mk 12A reentry vehicles, but is to be deployed with 10 reentry vehicles as long as both the United States and the Soviet Union honor the SALT II limit of 10 reentry vehicles per MIRVed ICBM.

**NUCLEAR WEAPONS DEPLOYED BY FRANCE, GREAT BRITAIN, AND CHINA**

Weapon system	Number of systems deployed <sup>1</sup>	Number of warheads per system	Total number of deliverable warheads
<b>France:</b>			
SSBS S-2/-3	18	1	18
MSBS M-20	80	1	80
Mirage IVA	33	1	33
Mirage IIIE	15	1	15
Super Standard	12	2	24
France and Great Britain: Jaguar	40	1	40
<b>Great Britain:</b>			
Buccaneer	30	2	60
Vulcan B-2	57	2	114
Polaris	64	1	64
<b>China:<sup>2</sup></b>			
B-6/Tu-16	90	2	180
CSS-1	50	1	50
CSS-2	65-85	1	65-85
CSS-3	4	1	4

<sup>1</sup> Based on IISS estimated utilization rates—i.e., number deployed for nuclear mission.

<sup>2</sup> Great Britain's Polaris missile is armed with 3 MRV's, which are conventionally counted as one warhead.

<sup>3</sup> Information on China is not definitive. The IISS estimates that China now has a stockpile of several hundred nuclear weapons. It is not known whether China has warheads for every airplane. Excluded from these figures are fighter aircraft which might be used for tactical delivery of nuclear weapons.

<sup>4</sup> The Soviet Tu-16, after which the Chinese bomber is designed, can carry two nuclear bombs internally.

<sup>5</sup> IISS states that "some 50" CSS-1 are deployed, although they eventually be superseded by the new CSS-2 IRBM which are now operational.

**THE NUCLEAR FREEZE INITIATIVE**

Mr. CRANSTON. Mr. President, I am joining today with a number of my colleagues to cosponsor the Senate joint resolution calling for a negotiated bilateral freeze on nuclear weapons. I endorsed this approach to the immense nuclear dangers facing us all during San Francisco hearings of the Senate Foreign Relations Committee last January 20, and addressed the Senate on this issue last February 9. I wish to provide for the RECORD today the text of my opening statement from the January 20 hearing which

endorses this important citizen-initiated proposal.

#### OPENING STATEMENT

I have long believed that there can be no more important issue for any of us than the question of how to achieve balanced, verifiable reductions in the superpowers' nuclear arsenals—and how ultimately to eliminate these terribly destructive forces altogether.

Arms control issues raise troubling questions of ethics. Is our theory of how to deter nuclear war—by assuring mutual assured destruction in the event of a nuclear attack—an ethical means of defense? Do we have any realistic alternatives under present circumstances?

Is it ethical—and necessary—to perfect and produce “enhanced radiation warheads”—“neutron bombs”—which kill more people but destroy less property than other nuclear weapons?

These are legitimate and troubling questions about which serious people disagree.

And serious people disagree, too, as to whether it would serve our national interests to seek to negotiate a fair, verifiable freeze on nuclear weapons production by the two superpowers, the United States and the Soviet Union—to be followed by mutual and sizeable reduction of present U.S. and U.S.S.R. nuclear stockpiles.

Many feel we must modernize and add to our nuclear arsenal to ensure that we have comparable capabilities with the Soviet Union before such a freeze and reduction can and should occur.

Others believe deeply that while some imbalances may exist, the sum total of our respective nuclear arsenals is so enormous—even obscene—that minor differences are of negligible importance to our security and that an immediate freeze and an early reduction would best serve our long term interests.

We are privileged to have in California some of the most thoughtful, skilled thinkers in our nation on the subject of nuclear arms control.

And I believe it is a tribute to our diversity as a state that these people come from such diverse professions as medicine, physics, academia and the clergy.

We will welcome speakers from each of these professions today.

It is my personal belief that it is a civic obligation of all thoughtful citizens to familiarize themselves with the details of the nuclear arms race.

We need to know how and why we got where we are today if we are to escape our current dilemma and halt what many fear is a drift towards nuclear confrontation.

The Soviet Union has 7,000 strategic nuclear weapons which it could launch within hours, most of them within minutes, and utterly destroy every American city and town with over 5,000 people.

The Soviets have 240 cities with populations greater than 100,000. Two American submarines could utterly destroy each and every one of these Soviet cities—and thus destroy the Soviet Union as a functioning society, within minutes. We have fifteen such subs on patrol at any given time. We also have 1,053 intercontinental nuclear missiles based in the United States which can reach Soviet targets. And hundreds of bomber aircraft. Plus thousands of nuclear weapons in Europe.

Of course, the Soviets have their overkill, too. And they are aggressively adding to their arsenal as we.

The question is how do we stop this spiraling overkill arms race while protecting our

national security and the security of our fragile planet.

I went to Moscow last September with a fellow committee member, Senator Charles Mathias of Maryland, to discuss arms control with Soviet leaders. We met with the Soviet military chief of staff, the foreign minister and other key advisors to Leonid Brezhnev.

We told the Soviets of the shock and dismay that certain of their actions cause in the West—their invasion of sovereign Afghanistan, their part in the harsh military repression in Poland, their support for aggression in Southeast Asia, their mistreatment of Soviet Jews, and their unrelenting military build-up. But we also shared with the Soviets our personal view that nothing can be more important than arms control, that we need to reach agreements in this vital area despite the many disagreements we have in other areas. It is because of these differences—which will persist—that we need arms control agreements with the Soviets.

And we heard from the Soviets too. They asserted that they do not seek nuclear superiority. They said they do not believe in a successful nuclear “first strike”. They told us that they do not believe that nuclear war can be limited. They declared no one can “win” a nuclear war.

How then can we move forward?

I worked for three years in the Senate as the leader of a bipartisan group trying to inform key senators and produce a majority in support of the SALT II Treaty. But events made Senate ratification unattainable.

President Reagan, after many months of contradictory and sometimes belligerent statements on the subject of nuclear weapons and arms control, has responded to public outcry in Europe and rising concern at home by making new initiatives in the arms control area in so far as nuclear weapons stationed in Europe are concerned. He has not yet made clear his position on negotiations regarding U.S.-U.S.S.R. strategic weaponry.

The initiative taken by thousands of Californians to place a nuclear freeze referendum on the 1982 state ballot represents to me a desire to express the public will that this effort be hastened and intensified—to get a freeze in place from which to achieve reductions.

I do not usually become involved in state referenda.

But I feel compelled by the importance of this issue to say “Yes, I too believe we need to negotiate a balanced, verifiable freeze—and indeed reductions on U.S. and Soviet nuclear arsenals”.

I understand that one can reasonably argue over the details. Will the U.S. be able to remedy perceived imbalances in the European theater? Will replacement of aging and dangerous nuclear systems with more modern, secure systems be permitted? These and other questions spring to mind.

But these are issues for U.S. and Soviet negotiators to resolve.

On the fundamental principle of negotiating a balanced, verifiable nuclear freeze my own view is clear: we need it and we need it soon. So I personally will vote for the freeze referendum.

Mr. MITCHELL. Mr. President, I am pleased to join with Senator HATFIELD and Senator KENNEDY in proposing this important nuclear arms control resolution.

The resolution states succinctly what I believe should be U.S. policy: That as an immediate strategic arms control objective, the United States and U.S.S.R. should pursue a halt to the arms race; should get on with the job of achieving a mutual and verifiable freeze on the testing, production, and deployment of strategic nuclear weapons; and should subsequently reduce their respective nuclear arsenals.

Over the past few months, several nuclear freeze resolutions have been offered and discussed, in town meetings throughout Maine and in the legislature. I have, until now, refused to support any of those resolutions because none of them met the three conditions I deem indispensable to any such resolution. Those conditions are:

First. The freeze must be mutual between the United States and the U.S.S.R.;

Second. It must be verifiable; and

Third. It cannot freeze the United States into a position of inferiority.

This resolution meets those conditions. Therefore, it has my support.

Mr. President, I believe deeply in a strong America. Plainly, American military strength plays an important role in deterring aggression. But maintaining and improving our strength is not inconsistent with reaching fair, balanced, verifiable agreements with the Soviet Union to first restrain the increase in the quality and quantity of nuclear weapons, and then, ultimately, to bring about a realistic reduction in the numbers of such weapons.

Over a century ago, Baron Von Clausewitz propounded the idea of war as an extension of diplomacy. He wrote:

War is not merely a political act, but also a political instrument, a continuation of political relations, a carrying out of the same by other means.

The truth of that maxim is accepted and acted upon by governments today as it was in Von Clausewitz' time. There has been no decrease in man's willingness to resort to armed force when political means fail.

We need look only to Afghanistan and the Middle East and Poland for recent examples of this unfortunate reality.

Armed conflict between nations—and armed repression of dissent by totalitarian governments—remains, as it ever has, a method of settling international disputes and maintaining domestic calm.

That is a tragic commentary on mankind. It is an indictment of our inability to eliminate war as a method of settling disputes.

But there is a major difference between the environment in which Von Clausewitz wrote and the environment in which we live.

In the 19th century, wars could and did kill, maim, and mutilate human beings. Wars cost nations their treasures. Wars strengthened the hatreds and deepened the divisions between peoples. But in the 19th century, no country, no person had the power to annihilate an entire city, an entire nation, an entire society, even the world as we know it. That is something we have the power to do today. Indeed, in the first hours of an all-out nuclear exchange, more human beings would die than have died in all the wars since the beginning of recorded history.

That makes Von Clausewitz' formulation of war as an arm of diplomacy dangerous.

Nuclear conflict is not and cannot be accepted in that way. Nuclear war would not be just another conflict. It presents for the first time the possibility of the ultimate holocaust. Nuclear war is and must remain unthinkable.

Nuclear weapons have made the notion of "winning" a nuclear war an anachronism. We must recognize that fact and incorporate it into our policies.

But this administration is moving in a different direction.

It seriously entertains the concept of utilizing certain types of nuclear weapons to fight a "limited" nuclear war. But is it likely that any conflict in which nuclear weapons are detonated would remain "limited"? Can there be any doubt that such an exchange would escalate out of control in a very short time? To the contrary, both the weight and accuracy of nuclear arsenals make it unlikely that a party to a low-level nuclear conflict would long remain unwilling to respond with even more destruction.

Our weapons delivery systems are increasingly sophisticated. Fewer and fewer of the judgments surrounding their detonation are in human hands. Targeting and guidance are computer operations. The remaining decision for human minds to make is the very basic one of using the weapons or not.

Not only must we take into account the uncertainty of the human response to a nuclear strike, there are major and growing technological complications as well.

Today, a scientific phenomenon called the "electromagnetic pulse" is raising questions about the effectiveness of our communications systems in responding to a nuclear strike. Transistors are susceptible to being damaged by the effects of a thermonuclear explosion in the air. Resulting electrical impulses may burn out vital metallic conductors. Our entire sophisticated computerized system of response rests on the ability of those communications systems to work and work perfectly. The chaos that could be caused, even at the military level, if communications were effectively disrupted,

would make a mockery of all our elaborate retaliatory strategies.

The difference between conventional war, waged with conventional weapons against conventional targets, and the total destruction of our civilization, the annihilation of life, and the poisoning of the environment that would result from a nuclear war is not a difference of degree. It is a difference of kind. Mankind simply cannot afford a nuclear war.

Ever since the explosion of the first atomic bomb in the air over Hiroshima, man has known that this weapon was not merely an addition to the arsenal of war—it is a radical departure from it. The 36 intervening years have accustomed us to the existence of nuclear weapons. But we have not yet understood the reality and the finality of nuclear war.

Passage of this freeze resolution by Congress will help revive our national interest in true arms control, and will demonstrate to our own citizens and to foreign friends and foes that we perceive a halt to the nuclear arms race to be our most important foreign policy challenge.

The Congress needs to make its position known. Indeed, our constituents are demanding that we demonstrate leadership in this area.

We are today at a crucial decision point. Our technological advances have brought us to the point of developing and deploying a counterforce capability which is essentially identical to a first-strike force.

If we, and the Soviets, step across this technological boundary and fully deploy these weapons—a full-fledged first-strike capability on both sides—the control of nuclear arms will be immeasurably more difficult.

Our nuclear strategy is a strategy of deterrence, not of victory, because we know that in a nuclear holocaust, there can be no winners. There can only be survivors. In the words of President Kennedy, "the living will envy the dead."

But the deployment of a first-strike capability is a movement away from deterrence and toward the goal of nuclear victory. Not only is that goal illusory, each step toward it is fraught with incalculable danger for our world. It is a quantum leap in the nature of the nuclear arsenal, not merely an upgrading of existing weapons. It intensifies the conflict between ourselves and the Soviets, and it returns us to the hairtrigger world of the cold war period at its worst. And by destabilizing the world structure, it impels other nations toward nuclear capacity for what they perceive to be the sake of their own self-survival.

The SALT I treaty has expired. It did so in 1977, but the hope of a followup treaty then meant that the expiration was not a signal to abandon restraint.

Our inability to reach an agreeable SALT II treaty leaves both nations with no legal or agreed limits on their arsenals.

This not only vastly complicates the task of responding to the Soviet threat, it creates an impetus to take advantage of technological advances which are, themselves, destabilizing the existing relationship.

The United States is currently abiding by the terms of the negotiated SALT II agreement, even though it was not ratified and is not binding on either the Soviet Union or the United States. But the difficulty in finding a basing mode for the MX missile has again raised the possibility of pursuing a new ABM system to make the MX less vulnerable. It is unclear how long we can resist the temptation to ignore our informal, self-imposed restraint.

Last January, the Secretary of Defense suggested that extension of the ABM Treaty may not be automatic. He indicated that the administration may seek to build a larger ABM site than the treaty now permits. The Pentagon suggested the reactivation of the closed ABM site at Grand Forks, N. Dak. And the budget numbers bear out this trend: From a 1981 spending level of some \$285 million for ABM research, the new budget for 1983 calls for \$917 million. The ABM limitation was successful only because the technological shortcomings in the ABM's of the early 1970's gave neither side an advantage. But further development may well revive the illusory hope of making our weapons invulnerable, at a cost of billions of dollars and a less safe world. Is this the direction in which we should be going?

The imposition of martial law in Poland has created a particularly difficult climate for arms negotiations. But a difficulty need not become an insurmountable obstacle.

Yet, ironically, this administration has ignored almost every alternative kind of pressure and chosen the one with least effect on the Soviets: a massive and unprecedented military buildup without a serious effort to control the arms race.

Both the U.S.S.R. and the United States must deliberately retreat from the abyss which we now face. The Hatfield-Kennedy resolution begins the effort. We are saying that enough is enough. I applaud the leadership shown by Senator HATFIELD and Senator KENNEDY and I urge my colleagues to study and consider lending their support to this worthwhile declaration of national policy and intent.

The resolution clearly acknowledges the central reason for arms control—to enhance our security.

If, instead of calling for a halt to the arms race, we insist that successful negotiations must wait until we establish clear superiority—beyond equiva-

lence—we will set up a condition under which no agreement can be possible. We should not, and will not, accept an arms agreement that leaves the Soviets with clear superiority. Can we expect them to agree to leave us in possession of clear superiority? If that is a precondition to a successful outcome, then the negotiations are already doomed.

The idea that we ought not negotiate with the Soviets until their behavior improves is illogical. It presumes that only when they accept our definition of good behavior can we talk. But if they accept our definition, there would be no need to talk, for there would be no arms race to control. It is precisely the fact of our disagreement that makes mutual and verifiable arms control imperative.

● Mr. CHAFEE. Today, I am pleased to cosponsor a resolution calling for efforts to bring about a mutual and bilateral freeze on nuclear weapons between the United States and the Soviet Union.

I have long favored endeavors to negotiate agreements limiting or reducing nuclear weapons because I believe that such agreements are in the national interest of the United States. While I am not wedded to the bilateral freeze as the only potentially successful approach to arms control, I do think it is an approach which has great promise and deserves to be explored through negotiations.

Support for an effort to pursue a bilateral freeze is in no way intended to undermine or call into question our efforts in Geneva to negotiate limits on intermediate-range nuclear forces. Neither should it be interpreted as calling into question our resolve to fulfill commitments to our NATO allies and to complete whatever modernizations of our own forces are necessary in the light of unconstrained Soviet developments. Still, this cycle of developing and deploying new systems and spending ever-increasing amounts of money on nuclear weapons must come to an end. We should strive for stability and equality in the forces of the two sides, at the lowest levels possible. A freeze may be a useful way to bring this about, and it is certainly worth pursuing at the negotiating table.

Therefore, we should move as rapidly as possible to the beginning of the START talks. It would be most appropriate if the possibility of a mutual and bilateral freeze was on the agenda for discussion. I hope our efforts here today will encourage such a development.●

#### ADDITIONAL COSPONSORS

S. 417

At the request of Mr. CRANSTON, the Senator from Maine (Mr. MITCHELL) was added as a cosponsor of S. 417, a bill to amend title 38, United States

Code, to provide a new educational assistance program for persons who enter the Armed Forces after June 30, 1981, to modify the December 31, 1989, termination date for the Vietnam-era GI bill, and for other purposes.

S. 635

At the request of Mr. HEINZ, the Senator from New Jersey (Mr. BRADLEY) was added as a cosponsor of S. 635, a bill to effect certain reorganization of the Federal Government to strengthen Federal programs and policies for combating international and domestic terrorism.

S. 1342

At the request of Mr. MELCHER, the Senator from North Dakota (Mr. BURDICK), and the Senator from Montana (Mr. BAUCUS) were added as cosponsors of S. 1342, a bill to define the circumstances under which construction workers may deduct travel and transportation expenses in computing their taxable incomes for purposes of the Federal income tax.

S. 1629

At the request of Mr. CANNON, the Senator from Maine (Mr. MITCHELL) was added as a cosponsor of S. 1629, a bill to amend the Communications Act of 1934 in order to encourage and develop marketplace competition in the provision of certain broadcast services and to provide certain deregulation of such broadcast services, and for other purposes.

S. 1698

At the request of Mr. DENTON, the Senator from Georgia (Mr. NUNN) was added as a cosponsor of S. 1698, a bill to amend the Immigration and Nationality Act to provide preferential treatment in the admission of certain children of U.S. Armed Forces personnel.

S. 1711

At the request of Mr. MELCHER, the Senator from Montana (Mr. BAUCUS) was added as a cosponsor of S. 1711, a bill to authorize the Secretary of the Interior to engage in feasibility studies of various potential hydroelectric power projects, and to authorize the Muddy Creek Basin erosion control project in Montana subject to a finding of economic, financial and environmental feasibility.

S. 1758

At the request of Mr. DeCONCINI, the Senator from Minnesota (Mr. DURENBERGER) was added as a cosponsor of S. 1758, a bill to amend title 17 of the United States Code to exempt the private noncommercial recording of copyrighted works on video recorders from copyright infringement.

S. 1903

At the request of Mr. BENTSEN, the Senator from Florida (Mrs. HAWKINS) was added as a cosponsor of S. 1903, a bill to require the President to determine what activities now performed by the Federal Government could more efficiently be conducted by small busi-

ness, and to prepare a schedule for transferring those activities to the private sector.

S. 1947

At the request of Mr. WEICKER, the Senator from Florida (Mrs. HAWKINS) was added as a cosponsor of S. 1947, a bill to improve small business access to Federal procurement information.

S. 2056

At the request of Mr. TSONGAS, the Senator from Montana (Mr. MELCHER) was added as a cosponsor of S. 2056, a bill to amend the Fair Labor Standards Act of 1938 to provide that blind persons may not be employed at less than the applicable minimum wage under that act.

S. 2160

At the request of Mr. MITCHELL, the Senator from Maine (Mr. COHEN) was added as a cosponsor of S. 2160, a bill to amend title 38, United States code, to require the Secretary of Labor to make funds available to certain private nonprofit organizations to administer the disabled veterans' outreach program in certain States, and for other purposes.

#### SENATE JOINT RESOLUTION 133

At the request of Mr. DeCONCINI, the Senator from Hawaii (Mr. INOUYE), the Senator from Maine (Mr. COHEN), the Senator from Illinois (Mr. DIXON), and the Senator from Indiana (Mr. LUGAR) were added as cosponsors of Senate Joint Resolution 133, a joint resolution to authorize and request the President to designate August 14, 1982, as "National Navajo Code Talkers Day."

#### SENATE JOINT RESOLUTION 138

At the request of Mr. ROBERT C. BYRD, the Senator from Louisiana (Mr. LONG) was added as a cosponsor of Senate Joint Resolution 138, a joint resolution to authorize and request the President to designate the week of April 18, 1982, through April 24, 1982, as "National Coin Week."

#### SENATE JOINT RESOLUTION 144

At the request of Mr. DODD, the Senator from Maine (Mr. MITCHELL), the Senator from Ohio (Mr. METZENBAUM), and the Senator from North Dakota (Mr. BURDICK) were added as cosponsors of Senate Joint Resolution 144, a joint resolution declaring that it should be the policy of the U.S. Government to encourage unconditional negotiations for the purpose of achieving a cease-fire and a political settlement to the conflict in El Salvador.

#### SENATE JOINT RESOLUTION 145

At the request of Mr. HEINZ, the Senator from Kentucky (Mr. FORD), the Senator from Michigan (Mr. LEVIN), the Senator from Kentucky (Mr. HUDDLESTON), and the Senator from Georgia (Mr. MATTINGLY) were added as cosponsors of Senate Joint Resolution 145, a joint resolution authorizing and requesting the President

to proclaim "National Orchestra Week."

## SENATE JOINT RESOLUTION 149

At the request of Mr. THURMOND, his name was added as a cosponsor of Senate Joint Resolution 149, a joint resolution to designate the week of June 6, 1982, through June 12, 1982, as "National Child Abuse Prevention Week."

At the request of Mr. METZENBAUM, the Senator from Maine (Mr. MITCHELL), and the Senator from Florida (Mrs. HAWKINS) were added as cosponsors of Senate Joint Resolution 149, supra.

## SENATE JOINT RESOLUTION 158

At the request of Mr. SYMMS, the Senator from Virginia (Mr. WARNER), the Senator from Idaho (Mr. McCLURE), the Senator from North Carolina (Mr. HELMS), the Senator from Alabama (Mr. DENTON), the Senator from Georgia (Mr. MATTINGLY), the Senator from California (Mr. HAYAKAWA), the Senator from South Carolina (Mr. THURMOND), the Senator from North Carolina (Mr. EAST), the Senator from Arizona (Mr. GOLDWATER), and the Senator from Tennessee (Mr. BAKER) were added as cosponsors of Senate Joint Resolution 158, a joint resolution expressing the policy of the Government of the United States of America with respect to the Government of Cuba.

## SENATE JOINT RESOLUTION 159

At the request of Mr. ROTH, the Senator from South Carolina (Mr. THURMOND) was added as a cosponsor of Senate Joint Resolution 159, a joint resolution entitled the "White House Conference on Productivity Act."

## SENATE JOINT RESOLUTION 160

At the request of Mr. HAYAKAWA, the Senator from Washington (Mr. JACKSON), the Senator from Georgia (Mr. NUNN), the Senator from Alaska (Mr. MURKOWSKI) and the Senator from Florida (Mr. CHILES) were added as cosponsors of Senate Joint Resolution 160, a joint resolution to designate July 9, 1982, as "National P.O.W.-M.I.A. Recognition Day."

## SENATE CONCURRENT RESOLUTION 62

At the request of Mr. THURMOND, his name was added as a cosponsor of Senate Concurrent Resolution 62, a concurrent resolution to congratulate Hadassah, the Women's Zionist Organization of America on the celebration of its 70th anniversary.

## SENATE CONCURRENT RESOLUTION 63

At the request of Mr. ROTH, the Senator from Florida (Mrs. HAWKINS) was added as a cosponsor of Senate Concurrent Resolution 63, a concurrent resolution entitled "The All Taxpayers Assistance Resolution."

## SENATE RESOLUTION 262

At the request of Mr. LEAHY, the Senator from Ohio (Mr. METZENBAUM), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Illinois

(Mr. DIXON), the Senator from South Carolina (Mr. HOLLINGS), the Senator from New Jersey (Mr. WILLIAMS), the Senator from Wisconsin (Mr. PROXMIERE), the Senator from Ohio (Mr. GLENN), the Senator from Pennsylvania (Mr. SPECTER), the Senator from West Virginia (Mr. ROBERT C. BYRD), the Senator from Arizona (Mr. DECONCINI), and the Senator from Tennessee (Mr. SASSER) were added as cosponsors of Senate Resolution 262, a resolution to express the sense of the U.S. Senate support for energy conservation programs.

## SENATE RESOLUTION 318

At the request of Mr. TSONGAS, the Senator from Colorado (Mr. HART) was added as a cosponsor of Senate Resolution 318, a resolution expressing the sense of the Senate concerning guaranteed student loans for graduate and professional students.

## SENATE RESOLUTION 334

At the request of Mr. METZENBAUM, the Senator from Maine (Mr. MITCHELL) was added as a cosponsor of Senate Resolution 334, a resolution to express the sense of the Senate disapproving the policy of the administration with respect to railroad retirement for fiscal year 1983.

## SENATE RESOLUTION 335

At the request of Mr. PERCY, his name was added as a cosponsor of Senate Resolution 335, a resolution relative to the death of the Honorable Clifford P. Case, formerly the Senator from the State of New Jersey.

## AMENDMENT NO. 1267

At the request of Mr. DECONCINI, the Senator from Arizona (Mr. GOLDWATER), the Senator from Florida (Mrs. HAWKINS), and the Senator from Mississippi (Mr. COCHRAN) were added as cosponsors of Amendment No. 1267 intended to be proposed to S. 1080, a bill to amend the Administrative Procedures Act to require Federal agencies to analyze the effects of rules to improve their effectiveness and to decrease their compliance costs; to provide for a periodic review of regulations; and for other purposes.

## AMENDMENT NO. 1334

At the request of Mr. SYMMS, the Senator from Virginia (Mr. WARNER), the Senator from Idaho (Mr. McCLURE) and the Senator from Tennessee (Mr. BAKER) were added as cosponsors of Amendment No. 1334 intended to be proposed to S. 2179, a bill to amend the War Powers Resolution to require specific authorization before the introduction of any U.S. Armed Forces into hostilities in El Salvador, and for other purposes.

## NOTICES OF HEARINGS

## SUBCOMMITTEE ON ENERGY AND MINERAL RESOURCES

Mr. WARNER. Mr. President, I would like to announce for the infor-

mation of the Senate and the public the scheduling of a public hearing before the Subcommittee on Energy and Mineral Resources to review the capacity, distribution, and status of the strategic petroleum reserve. This oversight hearing will be held on Thursday, March 25, beginning at 10 a.m. in room 3110 of the Dirksen Senate Office Building.

Those wishing to testify or who wish to submit written statements for the hearing record should write to the Committee on Energy and Natural Resources, Subcommittee on Energy and Mineral Resources, room 3104, Dirksen Senate Office Building, Washington, D.C. 20510.

For further information regarding this hearing you may wish to contact Mr. Roger Sindelar of the subcommittee staff at 224-4236.

## ADDITIONAL STATEMENTS

## THE MANAGEMENT OF OUR PUBLIC LANDS

● Mr. McCLURE. Mr. President, management of our public lands has long been a controversial issue which has spurred lengthy debates by my colleagues. In particular, Congress has spent a great deal of time on wilderness issues. The greatest debate spanned a decade when Congress began its work on a national wilderness preservation bill. Passed in 1964, the National Wilderness Preservation Act established a system by which lands would be protected permanently.

During consideration of the wilderness legislation, the House Interior and Insular Affairs Committee was reluctant to prohibit exploration and development for hardrock minerals and oil and gas. Therefore, the committee suggested controlled and supervised mineral development which ultimately was a compromise allowing mineral leasing and entry under the general mining laws to continue in wilderness areas until December 31, 1983. Until this deadline, the right to entry and development was guaranteed by statute and any valid existing rights, again by statute, are to be maintained even beyond that deadline.

Since enactment of the Wilderness Act and additional wilderness designations, 18 leases have been issued. Four of these leases were issued in 1972, one in 1973, one in 1974, three in 1978, four in 1979, and five in 1981. All but one of these leases straddle wilderness boundaries and represent a very small percent of total applications filed.

Mr. President, while I support preservation of selected lands, I believe it is in the best interest of this Nation to know, to the extent possible, what resources lie below the surface. It is essential for us to have this knowledge

in order for us to be able to make informed judgments concerning resource values that might exist within these areas and the desire to preserve them.

I am troubled by a mineral crisis which is real, and even more concerned about the current movement to mask this reality. We are no longer living solely within our own borders, but we are continuing to build walls around us which will make us a vulnerable nation. We have before us today a real problem which is complicated by emotion. We cannot ignore public concerns and demands, just as we cannot ignore our own demands for national security. A vital part of our national security needs is a supply of strategic and critical materials. Access to these resources is a necessity and any decision by the people of this country and the Congress must not ignore this need.

For a long time I have been speaking about this issue and in February I reiterated my concerns to the Society of Professional Engineers and the Federation of Materials Societies. I ask that the article written by the Journal of Commerce on my comments be printed in the RECORD.

The article follows:

[From the Journal of Commerce, Feb. 3, 1982]

**UNITED STATES URGED TO STOCKPILE  
STRATEGIC MATERIALS**  
(By Denise Lamot)

WASHINGTON.—Senate Energy Committee Chairman James McClure, R-Idaho, is convinced the United States must develop strategic stockpiles of materials and metals necessary for the country's economic and defense security.

The senator warned a colloquium sponsored by the Federation of Materials Societies and the Society of Professional Engineers Tuesday that the United States "has become an island nation" and has fallen prey to the same problems that led to empire building in the past to gain access to resources.

The country, he said, now depends on others for many of its most important resources. "We are no longer living within our own borders," he contended.

Chairman McClure likened the oil crisis that the United States underwent to what could occur if the country were faced with shortages in any number of strategic materials. And, he told the group, "we could much better get by without oil than with some of those materials."

He maintained in the new term to build a stockpile the country should purchase strategic materials from wherever it could in the near-term, but agreed "that will be a balancing act." If not, he cautioned, the country will continue to "build a vulnerability much like what we built for ourselves" with oil.

The chairman asked the group "whether we have looked at why we're building up military capability" and whether the nation was examining "what really is required for the security of this country."

He said foreign markets now provide "25 percent of U.S. industrial output," noting that much of the nation's gross national product is centered on service industries.

But, he warned, "we have to have some basic industries (if we want to maintain our standard of living)."

Commenting on Interior Secretary James Watt's decision last month to postpone consideration of any oil or natural gas leasing in congressionally designated wilderness areas—despite a law on the books that permits such leasing through 1982—Sen. McClure argued the secretary's decision was politically based.

"The law says you can, but the people say you can't," he said, maintaining there was "paranoia" about what both Secretary Watt and the Reagan administration planned to do in regard to the environment.

"I still don't understand how slant drilling will affect wilderness areas," he said. Sen. McClure charged the Interior Department "has denied access to great areas of the United States where great amounts of strategic minerals may be found."

Although he acknowledged if the country were to be successful in creating a strategic materials policy, saying "we can't ignore public concern and demands," he added any program "can't simply be an emotional policy."

The chairman noted past attempts to build a strategic materials policy were "abortive" since other problems confronting Congress "had primacy." But he said he was a "cautious optimist" about what he called the halting progress Congress and the nation have made toward creating a strategic materials policy.

"I think things will get better in terms of discussion" of the problem, he said. Sen. McClure added he was not "wed" to his own proposal to develop strategic materials stockpiles. He told the group other, similar proposals warranted consideration, and that, combined, they may permit the creation of a strategic materials policy the country could follow.

### YOU MAKE THE DIFFERENCE

● Mr. GRASSLEY. Mr. President, it is with great honor that I would like to share with my colleagues a speech written by Steve Kruse, a senior at Ogdan High School in Ogdan, Iowa. In his speech written for a district speech contest, Steve extolls the powers and principles of a single vote. He received an "I" rating for his work and I believe his words are worthy of our attention.

The speech follows:

#### YOU MAKE THE DIFFERENCE

In a "Winnie the Pooh" comic strip, two characters are assessing Poo's chances of winning an election. "You never know what will happen in an election year," says one. "The voters may do something completely unexpected . . . like vote." Another person once jokingly said, "What this country really needs is to get out the voters the way it gets out the candidates." These stories are not very far from the truth. The stay-at-home rate in off-year Congressional elections is disturbing; some 54.68 million—only 35.1 percent of those eligible—voted for Congress last time. Over 100 million watched the last Super Bowl game.

While it is true that a large voter percentage does not necessarily produce good government, it is also true that both individual citizens and the country as a whole have a great deal at stake in the election process. By not voting, individuals forfeit one of

their most valuable opportunities to take part in and influence government, to make their voices heard. When a voter stays home, he or she increases the value of someone else's vote. Often the gainers are well-organized special—and single—interest groups, while the losers are those most in need of political representations—the poor, the uneducated, the racial minorities.

Life has become complicated. Good gets mixed up with evil, and mountains of laws and regulations and numbers and systems get in our way when we wish to make everything work as it should. When things go wrong, it becomes easy to give up, to blame other people and to do nothing. But still you have to be optimistic; your influence is much wider than you might imagine.

Occasionally, a few votes decide an election and determine public policy. A few years ago, the Democratic and Republican candidates running for state representative from Adams County in southern Pennsylvania wound up with 8551 votes each. Until the tie was broken by 14 votes in a recount, control of the entire Pennsylvania House of Representatives hung in balance, since each party had won 101 seats, not counting the deadlocked district. In Minnesota in 1962, the governorship was decided by just 91 votes.

You're just one person. Why should you vote when your vote will be just one of millions? You might just as well ask, when thousands of workers are required to assemble the rockets that blasted our men to the moon, what difference it would make if one of them shirked his or her responsibilities?

If you're one of the millions of no-shows on Election Day, then don't complain when government of the people, by the people and for the people becomes government of the few, by the few and for the few.

There are a number of practical ways in which you make your sincere effort count to the utmost. To begin with, keep yourself well informed about what is happening in Washington. Make yourself an authority on what new national laws and programs are being planned and promoted. Settle for nothing less.

Let your friends and associates know your views on present-day developments and on individual freedom. Your views are respected.

Become active in politics. Work through the political party of your choice to select, nominate and elect intelligent, sound-thinking men and women to public office . . . local, state, and national.

Keep in close touch with your elected representatives in Washington. Let them know where you stand on important legislative proposals, and why.

In a word, the practice of freedom—the preservation of freedom—is not a mere academic process, it is a doing process.

To preserve freedom, then, be up and doing. Exercise your leadership.

Let me take this moment to pass on to you a verse which fits into what is being discussed. It reads:

Look to the sea—  
It is but one drop, multiplied.  
Look to the land—  
But one grain, repeated.  
Look to the people—  
It is but one person.  
And that person—?  
You and I—and others  
We are one, and yet we are all.  
We are enough.

Enough to accomplish what might be, what must be.

For our strength, if it be pure, commands ten, and many more—

Know yourself, Individual, and glory in your strength.

For truly: It can conquer all!

Yes, America will be different because of you—and because of your sincere effort.

As President Ronald Reagan once said, "The decisions made in Government today are not just for today. The decisions made today will profoundly affect the future. Today's young people will live with the decisions made by people in Government today, which is exactly why young people should participate in elections and vote for the candidates who care about them. The men and women in office today will decide whether young people will be at war, whether they will be able to afford houses, whether there will be enough jobs and whether they will have the same opportunities for success which their parents and grandparents had. Elected officials will listen and will respond if they know that young people can elect them to or remove them from office. But it is up to young people and all people to do so at the ballot boxes. All people should vote—they must vote—they have too much at stake not to. ●

#### 10 YEARS AFTER THE VISIT TO CHINA

● Mr. TOWER. Mr. President, on February 28, 1982, former President Richard Nixon authored a column in the New York Times entitled "10 Years After the Visit to China." His views are especially interesting as he scans a decade of evolving United States-China-Taiwan relations. His viewpoint is worth reading not only by U.S. citizens but also by our friends in Taiwan and officials on the mainland.

The column follows:

[From the New York Times, Feb. 28, 1982]

#### 10 YEARS AFTER THE VISIT TO CHINA

(By Richard M. Nixon)

Exactly 10 years ago, the Shanghai communiqué capped what I called, in a banquet toast after it was issued, "the week that changed the world."

At that time, many saw our opening to China through a haze of gauzy sentimentality, portraying it either as a belated recognition that the People's Republic of China existed or in pious homilies about the brotherhood of man. Not so. Nations act on the basis of hard-headed interests, not mushy sentiment. We entered into this new relationship with open eyes, and for calculated reasons of national self-interest. So did the Chinese. They needed us. We needed them.

The People's Republic of China had been our bitter enemy. But by 1972, Peking saw that it needed a strategic counterbalance to its threat from the north. This made us useful to the Chinese—if, taking our measure, they judged us to be strong and reliable over the long haul.

In China, we saw nearly a billion of the world's potentially most able people—a quarter of the world's population—strategically located, with a wealth of natural resources. The Sino-Soviet split had been a seismic event. The Chinese both hated and feared the Russians. If we could capitalize on this to build a new relationship with China, we might forge a new balance of

forces that could better preserve peace and ensure both our and China's survival.

As we look at what brought us together 10 years ago, we see that what was important then is indispensable today.

In these 10 years, through an enormous arms buildup, the Soviet Union has moved from a position of inferiority to one of superiority to the United States in overall military strength. The relentless advance of Soviet-sponsored aggression has made ominous inroads in Asia, Africa, and Latin America. We need all the friends and allies we can get in order to check Soviet imperialism. So do the Chinese.

In 1972, the Taiwan issue was one of our principal obstacles. Because both sides recognized that other questions were of transcendent importance, we found a way around it by, in effect, agreeing to disagree.

The Taiwan issue is again causing rumblings of discord, particularly with regard to United States arms sales. Once again, it is vital that both sides avoid extremes. Some in this country insist that we can go as far as we wish in arming Taiwan—that Peking has no choice except to swallow its objections and stay with us. This is a dangerous delusion. Peking does have a choice, however unpalatable. China, like Russia, is still Communist. If it lost confidence in us, China could move back toward accommodation with Russia. This would be a tragedy, but tragedy, even self-inflicted, is no stranger to history.

Ironically, those who would thus jeopardize our relations with Peking do Taiwan no favor. Just as Israel's best interests are served if the United States has good relations with Israel's Arab neighbors, Taiwan is more secure if the United States rather than Russia has influence in Peking.

It would be the height of folly to try to "save" Taiwan at the cost of losing China. If China slipped back into the Soviet orbit, the balance of power in the world would be overwhelmingly shifted against us.

We must recognize that Taiwan is an extremely neuralgic issue for the Chinese. However, the Chinese must recognize that an American President cannot let himself be put in the position of being dictated to on a matter of United States policy. China must recognize our need for a policy that will respect our commitment to a peaceful resolution of the Taiwan issue.

The bottom line is that both sides must recognize the paramount importance of preserving the new relationship between the United States and the People's Republic of China. Neither of us must allow anything, including differences on Taiwan, to jeopardize this.

A weak China invites aggression. A strong, economically healthy China, playing a responsible role, is vital to the future of peace in the world. China today seems to be making some progress in becoming more Chinese and less Marxist, embracing capitalist-style incentives rather than continuing to wear an ideological straitjacket. If they continue on this course, they could become the major economic power in the world in the 21st century.

The Chinese are supple diplomats. Their leaders have a more sophisticated understanding of the Soviet threat than do many Europeans. Both we and they must ensure that we continue and expand what, together, we have begun during these 10 years. ●

#### WHY ARE WE TRYING TO MAKE NICARAGUA A MINI-CUBA?

● Mr. PELL. Mr. President, today's press is full of reports on the administration's public revelation of its evidence that Nicaragua is engaged in a massive military buildup that allegedly threatens all of Central America. The senior administration spokesman is quoted as saying that the Nicaraguan military buildup is "vastly beyond any defensive need."

Yet, juxtaposed with this story in the Washington Post is a report that President Reagan has approved a \$19 million covert action program to destabilize Nicaragua in an effort to bring down the Sandinista government. There are also reports in today's Post that Honduras is harboring several anti-Sandinista guerrilla groups and that Argentina has sent advisers or paramilitary squads to Central America to work against the Sandinista government of Nicaragua. These reports would seem to indicate that Nicaragua has some legitimate grounds for concern about an external threat.

Last month, I visited Nicaragua and came away deeply concerned that the United States may be making the same mistake in dealing with Nicaragua that it made in dealing with Cuba two decades ago. By isolating Cuba and acting to subvert the Castro regime, we contributed greatly to making Cuba an exporter of a particularly virulent brand of communism and driving that country into the arms of the Soviet Union. In short, we helped create a monster.

The administration, apparently having written off the Sandinistas as lost to communism, is now engaged in a fiery campaign to brand Nicaragua as a hemispheric renegade, a stooge of Cuba and the Soviet Union, and as a military threat to all of Central America. The administration's attempts to isolate Nicaragua and possibly to lay the groundwork, through intelligence releases like yesterday's, for action to topple the Sandinista government are ominously reminiscent of our earlier attitude toward Cuba.

Trends in Nicaragua are certainly bleak, but many basic freedoms persist, as does the possibility of redirecting Nicaragua toward becoming a more pluralistic society. But, even if Nicaragua becomes a Marxist state, all is not necessarily lost. Nicaragua could become a mini-Yugoslavia instead of a mini-Cuba, and it is largely in the United States' power to determine which course Nicaragua will follow.

Nicaraguan Government officials told me during my visit that they would like good relations with the United States. As evidence of their good faith, they said they would be willing to permit the creation of some kind of border patrol to insure that no weapons leave Nicaragua bound for El

Salvador. That offer should be accepted.

More importantly, the administration should open a diplomatic dialog with Nicaragua as part of a sincere effort to resolve differences. In this connection, a high-level Nicaraguan delegation is now in Washington with the express purpose of trying to improve relations with the United States. Yet Secretary of State Haig has refused to see the delegation. It is as if the administration is spoiling for a fight and is turning its back on any peaceful alternative.

In my view, the administration is embarked on a course which, if not reversed soon, will produce the very result that the administration wants to avert; namely, a Nicaragua actively engaged in subversion throughout Central America and solidly tied to Cuba and the Soviet Union. I left Nicaragua a month ago with a belief that the Sandinistas had not closed the door to reconciliation with the United States. But we are now perilously close to forcing the Sandinistas to conclude that they have no choice but to turn to Cuba and the Soviets for massive assistance.

Winston Churchill once said that "it is better to jaw, jaw than to war, war." It is time to start jawing and to stop the kind of talk that is perceived in Nicaragua as threats of war.●

#### SUPPORTING CRIME PREVENTION ORGANIZATIONS

● Mr. BIDEN. Mr. President, today I would like to pay tribute to a large segment of the American population that recognize we all have a responsibility to help make our homes and communities safe from crime. I have a great deal of respect for those Americans who are taking the initiative and asking "what can we do to help police respond to this Nation's crime problem," instead of the pessimistic and apathetic attitude that it is government's sole responsibility to protect the community.

Mr. President, I want to make it clear that I am not talking about vigilante groups or those that want to step outside the law in the name of crime control. I am talking about those people who look after their neighbor's home when they are away or are educating themselves and others about crime prevention.

During the week of February 7, 1981, I cosponsored with many of my colleagues National Crime Prevention Week. This year's observance was an appropriate time to reflect on the contributions that crime prevention can make in fighting crime when government, business, and civic groups join together in this effort. During this ceremony, Chief William L. Hart of Detroit received the first annual award from the National Crime Pre-

vention Coalition for the outstanding work he has done to help neighborhoods in his city reduce crime through organizing and supporting neighborhood crime prevention programs.

The National Sheriff's Association estimates that from 6 to 8 million Americans are today participating in neighborhood watch programs. These are grassroots programs where citizens in their communities volunteer their time to help police curb crime in their neighborhoods.

An example of citizen involvement against crime is the crime reduction involvement means education (CRIME) program in Houston, Tex., which has the support of key criminal justice and political leaders in Texas. This group under the executive direction of Bob Kendrick, has in short order, been successful in educating citizens of all ages about the realities of crime and raising the conscience level of public officials to become publicly responsible and accountable on the crime issue.

An example of the business communities efforts in this area would be Burger King. Every Member of the Senate has received a letter from Ronald L. Pratt, senior vice president of Burger King supporting revisions to the criminal code that would reform bail and sentencing laws and improve the changes of our Federal law enforcement officers and prosecutors in arresting and convicting organized crime and drug trafficking criminals. The board of directors of Burger King and its chairman, Louis P. Neeb are demonstrating in Miami how interested corporations can work with government and civic groups such as the Miami Citizens Against Crime to take corrective action against a very serious and growing problem.

Finally, I would like to congratulate the National Citizens' Crime Prevention Campaign which has shown over the last 2 years that business, labor, government, and citizen organizations can unite and start to deal with the national crime problem. The campaign has the support of 50 national non-profit organizations and Federal agencies that cover a wide spectrum of interests from the FBI to the AFL-CIO. It is this campaign that fostered the "McGruff" crime dog ads that are now recognized by millions of Americans as the symbol for doing something positive about crime. This symbol has been used by thousands of State and local government agencies and businesses to educate Americans how they can help prevent crime through cooperation with law enforcement and constructive individual and collective action.

These groups that I have mentioned are only a small segment of the thousands of organized groups that are working to reaffirm the traditional values of respect for law, individual re-

sponsibility, and concern for others. Mr. President, I take my hat off to these Americans.●

#### OSHA STATEMENT— ELIMINATION OF OFFICES

● Mr. MOYNIHAN. Mr. President, the administration's plan to close one-third of New York State's OSHA area offices on April 23 is an invitation to disaster. The area offices of Rochester, White Plains, and Brooklyn, scheduled for elimination, are responsible for the well-being of over 1.4 million workers. These closings renew my concern that New York State has been made to shoulder a disproportionate amount of this agency's budget reductions since more offices will be closed in the New York region than in any other. This is surely an unfair, and more important, unsafe burden that the workers in my State are being asked to bear.

Let me be very clear, these office shutdowns jeopardize the safety, health, indeed the very lives of thousands of workers in the New York region. As Chris Farrell, president of the Rochester Allied Building Trades Council recently said:

OSHA has saved untold numbers of lives by its preventive measures in Rochester and elsewhere. [The closing of the Rochester office] is a direct threat on the lives of our working people by depriving them of the protection they all deserve.

Like any organization, OSHA is not flawless. Yet, as the facts clearly illustrate, tremendous strides have been made in creating safer workplaces for over 90 million American workers since the agency's creation in 1970. OSHA's programs and inspections helped reduce job-related injuries, illnesses, and deaths by over 15 percent between 1972 and 1979. The U.S. chemical industry, for example, generated 88,000 fewer workplace injuries during this period. Similarly, the Bureau of Labor and Statistics reports that the fatality rate in the construction industry declined by 22 percent between 1977-79.

Perhaps most important is OSHA's success in improving safety-consciousness through such programs as periodic workplace inspections and employer-employee training programs. In cutting OSHA's financial resources so severely, we crippled OSHA's effectiveness, and risk a return to the unsafe conditions that existed before its creation. In 1970, for example, 14,000 worker deaths and 2½ million disabilities resulted from job-related accidents, 300,000 new cases of occupational diseases developed, and 10 times as many person-days were lost from job-related disabilities as strikes. All of which have significantly decreased over the past decade. Worker deaths, for example, fell to below 4,400 in 1980.

During this period of fiscal austerity certain sacrifices surely must be made. But will these closings really result in savings. Workplace injuries and illnesses are expensive. According to the National Safety Council, workplace accidents last year cost our Nation \$30.2 billion. That is 157 times the cost of OSHA's current budget.

And, surely, these figures ignore the most devastating cost of all: the incalculable cost of human suffering. Last week the President introduced a budget which slightly increases OSHA's overall budget. With that I am pleased. Yet the cutbacks and ensuing safety hazards still exist in fiscal year 1982. And the nationwide elimination of 9 area OSHA offices, 9 district offices, and 20 field offices is still scheduled for April of this year—leaving us with but 12,000 inspectors to cover over 3 million workplaces.

When Congress created OSHA 11 years ago, it created an agency with the worthiest of goals—the "appearance of safe and healthful workplaces nationwide." As we consider the rest of next year's budget, we must not lose sight of this goal—we must continue our struggle for safer workplaces for the workers of America.●

#### EXPORT-IMPORT BANK MAKES ECONOMIC SENSE

● Mr. HEINZ. Mr. President, a recent article in the Los Angeles Times, brought to my attention by Paul Hoboy of Hunter Engineering Co., says all that needs to be said about the need for a strong Eximbank and the erroneous economic assumptions upon which the administration is basing its bank policies. I ask that the text of the article be printed in the RECORD.

The article follows:

[From the Los Angeles Times, Feb. 1, 1982]  
ECONOMIC ILLITERACY AT THE TOP—CRIPPLING EXPORT-IMPORT BANK AS BENEFIT FOR RICH HURTS UNITED STATES

(By Ernest Conine)

If advance word is correct, the budget that President Reagan sends to Capitol Hill next week will again seek a sharp reduction in funding for the U.S. Export-Import Bank.

It would be hard to find a clearer case of being penny-wise and pound-foolish.

Most Americans have probably never heard of the Export-Import Bank. That's a pity, because the Ex-Im could be of great help in preserving American jobs in the face of rising unemployment.

The bank is owned and operated by the U.S. government. Its function is to make or guarantee loans to foreign buyers of American-made goods on terms reasonably close to those offered by heavily subsidized European and Japanese competitors.

All the money is spent in this country. And, far from being a monstrous burden on taxpayers, the Ex-Im over the years has actually returned more than \$1 billion in dividends to the U.S. Treasury.

Recently, the bank has been caught between the high interest rates at which it must borrow and the lower rates at which it must lend to compete with this country's

trading rivals. It is now losing money for the first time in its history—an estimated \$200 million in the current fiscal year.

Last year, when budget director David A. Stockman was drawing up lists of proposed cuts in social programs that benefit the poor, he shopped around for cuts in programs that benefit the "rich" to prove the Administration's evenhandedness.

Ex-Im was elected. At Stockman's urging, Reagan proposed massive cuts in the bank's lending authority for fiscal 1981 and 1982—proposals that fortunately were blunted by Congress. Even so, the Ex-Im has had to drastically curtail its operations.

Now the Administration is said to have decided on still another proposal for a \$700 million cut in the bank's direct-lending authority and a \$1.2 billion reduction in its loan-guarantee activities.

The idea the Ex-Im credits are a form of welfare for the rich at the expense of the poor is an extraordinary example of economic illiteracy.

Keep in mind that lending authority isn't the same as an appropriation. Ex-Im loans come out of taxpayers' pockets only to the extent that the bank's cost exceed loan repayments. The relatively small losses now being experienced are more than offset by the economic activity and the tax revenues generated by Ex-Im loans.

One of every nine manufacturing jobs in the United States is created and maintained by export sales. Government experts figure that every \$1 billion worth of additional exports creates 50,000 taxpaying jobs; it follows that every \$1 billion worth of lost sales translates into 50,000 fewer jobs.

Wharton Econometric Forecasting Associates, after studying the economic effect of a proposed Ex-Im loan to support the sale of U.S.-made equipment for a Buenos Aires subway, concluded that the project would result in a net gain to the U.S. government of \$762 million over a 10-year period.

Critics point out that a disproportionate share of Ex-Im loans go to foreign customers of a relative handful of large U.S. companies. But that is because the sort of big-ticket items involved—commercial aircraft, nuclear power plants, steam turbines and the like—are made only by large companies.

Even so, a substantial portion of the loan money ends up in the pockets of smaller companies and their workers. More than 1,000 suppliers, for example, are involved in the manufacture of every nuclear power plant exported by Westinghouse.

Yes, the critics say, but these sales would be made anyway; these huge multinational corporations can take care of themselves.

This overlooks the realities of today's global marketplace.

While the United States has been squeezing its Export-Import Bank, foreign governments have been plunging ever more deeply into the business of subsidizing export interest rates substantially below those that can be offered by U.S. exporters.

In times past, U.S. companies enjoyed such a huge technological advantage that they could do quite well despite predatory financing by foreign competitors. Those days are over.

More often than not, the quality of U.S. and foreign equipment is about the same. The nod goes to the seller who can offer the best credit terms. (A 1% interest-rate differential can amount to tens of millions of dollars on the sale of a nuclear power plant or a fleet of airliners.)

U.S. exporters cite chapter and verse. A French manufacturer won a \$1.4 billion order for two nuclear plants in Korea when

American companies were unable to match French government lending terms. That one order would have meant 33,000 man-years of employment for U.S. workers.

Egypt was ready to sign a \$1.8 billion contract with an American consortium for the modernization of its telecommunications system when a European group offered more attractive financing terms. The Europeans got the contract.

Boeing Vertol appears on the verge of losing a \$56 million helicopter sale to Norway because Aerospatiale of France offers financing at three percentage points lower.

The list goes on and on.

The Reagan Administration recognizes these realities, but is putting its faith in diplomatic efforts to persuade Japan and West European countries to abstain from predatory financing.

Progress was made in talks last October, but not enough. Negotiations will resume this month, but the United States, having unilaterally moved to cripple Ex-Im, is working from a weak negotiating position.

Some worried members of Congress are pushing a "war-chest" bill to strengthen the American hand by putting Japan and the Europeans on notice, in effect, that we are prepared to fight and win an interest-rate subsidy war if the negotiations fail to produce real results. But the Administration won't go along.

It's odd that Ronald Reagan, who understands that genuine arms reduction is more likely if the Russians know that the alternative is an arms race that Moscow can't win, is willing to practice unilateral disarmament in the vitally important export field.●

#### COMPETITION, NOT CARTELS—RECOMMENDATION OF THE JOINT ECONOMIC COMMITTEE IN ITS 1982 REPORT

● Mr. KENNEDY. Mr. President, at the end of last month, the Joint Economic Committee released its 1982 annual report on the economy, as required by the Employment Act of 1946. In this report, the Democratic members of the committee made 36 recommendations to improve the economy and put it on the track of noninflationary growth and full employment. Among the issues we tackled was the Reagan administration's retreat from deregulation and competition in the transportation industries and its moves to reimpose the cartel arrangements that existed in these industries until the late 1970's.

As even the current Chairman of the Council of Economic Advisers, Murray Weidenbaum, demonstrated during his career as an economist and professor at Washington University in St. Louis, economic regulation by the Federal Government of prices and entry conditions in our Nation's vital transportation industries is inflationary. By eliminating the natural forces of competition in these industries, such regulatory agencies as the Interstate Commerce Commission and the Civil Aeronautics Board prevented consumers from enjoying the competitive prices, good service, and innovative products

available in industries guided by the free market.

As Professor Weidenbaum pointed out before taking office as CEA Chairman, deregulation of these industries and elimination of the cartel arrangements could provide a major contribution to the fight against inflation, while making new and better services available to those who use their products.

During the past administration, we made great strides toward achieving the kind of deregulation advocated by Professor Weidenbaum. President Carter did his part by appointing regulatory commissioners who believed in deregulation and who actively sought to reduce regulation of prices and entry conditions in the transportation industries. Congress contributed by enacting important deregulation statutes on airlines and trucking.

In his campaign speeches, President Reagan pledged to continue and even accelerate this progress toward free markets in regulated industries. Once in office, however, the President and his administration have moved to reimpose regulation.

In the trucking industry, the Reagan retreat from free market principles will have a serious impact on consumers. As in the 1982 report:

In the area of transportation, ... the administration has reversed the progress toward free competition which had been made in previous years. The reversal is most egregious in the case of Interstate Commerce Commission regulation of the interstate trucking industry, as the committee was told by a bipartisan panel of witnesses at a hearing on November 13, 1981. The ICC, under President Reagan's newly appointed Chairman, Reese Taylor, has turned back the clock, back to the days when the Commission served the price-fixing and entry-retarding interests of the large truckers rather than that of the public at large.

Certain aspects of the airline industry are also being brought back under the protection of Federal regulation with grave consequences, as we point out:

In the case of international air transport, particularly with respect to the North Atlantic traffic, the administration appears to have retreated from the determination of the previous administration to bring about an era of free and competitive pricing. On June 9, 1978, the Carter administration canceled the antitrust immunity for air carriers which had previously permitted them to fix prices under the auspices of the International Air Transport Association (IATA). The effect was to unleash a wave of competitive pricing behavior so that North Atlantic air travel prices today are lower in nominal dollars than they were in 1975, with enormous benefits to Americans seeking to travel overseas and to the national efforts against inflation.

The Reagan administration has repeatedly refused to enforce the Carter administration's anti-price-fixing efforts, with the result that U.S. air carriers have now returned to IATA price-fixing forum. The

effect will be higher prices and less scope for free competition.

This effort to reimpose price and entry regulation on our transportation industries not only violates campaign promises by President Reagan, it is also bad economics. It prevents competition, it permits cartel pricing, it contributes to inflation, and it hurts consumers. As the Democratic members of the JEC clearly state in the 1982 report, "This reassertion of special interest against the general welfare should be reversed at once."

In our report, we urge that President Reagan press the ICC to "return to a policy of free entry, free price setting, and free competition in the trucking industry" and that he appoint a pro-market majority to the ICC. We also urge that "the administration should move promptly to reassert the rule of the market in air transport." Only by doing so will this administration remain true to its free market principles. ●

#### LAWS COMBATING UNFAIR TRADE PRACTICES BY NON-MARKET ECONOMIES NEED REFORM

● Mr. HEINZ, Mr. President, on January 29 the Subcommittee on International Trade of the Finance Committee held a hearing on my legislation, S. 958, to change the way our trade laws deal with unfair trading practices by nonmarket economies, primarily those in Eastern Europe and China.

In preparation for that hearing Ted Kassinger of the Finance Committee staff prepared an excellent memo explaining the problem, current law, and the provisions of my bill. Since this is a tremendously complex issue, anything that sheds light on the important questions inherent in it is most welcome. Mr. Kassinger's memorandum is clear and concise, and I commend it to my colleagues who want to better understand the intricacies of trade with nonmarket economies. I ask that the text of the memorandum be printed in the RECORD.

The memorandum follows:

U.S. SENATE,  
COMMITTEE ON FINANCE,  
Washington, D.C., January 26, 1982.  
MEMORANDUM

To: Finance Committee Members.

From: Finance Committee trade staff.

Subject: Hearing on Friday, January 29, on S. 958, a bill relating to pricing of imports from nonmarket economy countries.

S. 958 addresses the concern that U.S. trade laws do not adequately provide a mechanism for domestic industries to gain relief from injurious import competition involving nonmarket economy countries. It would repeal a section of the antidumping law that provides an alternative method of calculating the value of nonmarket economy products. Further, it would replace section 406 of the Trade Act of 1974, which authorizes relief from material injury caused

in significant part by rapidly increasing imports from Communist countries. (Section 201, which provides for similar action for import surges of any source, will remain unaffected.) In a new section 406, S. 958 would create an "artificial pricing" remedy that would be used when insufficient information exists to determine reliably whether dumping or subsidization has occurred. "Artificial prices" would be prices below the lowest average adjusted price of free-market producers. The Administration is expected to testify generally in support of the bill.

#### BACKGROUND

The United States' commitment to an open world trading system, by adherence to the General Agreement on Tariffs and Trade and various bilateral agreements, traditionally has not discriminated between market and nonmarket economy countries. Indeed, the latter only have assumed important roles as U.S. trading partners in the last three decades. Between 1974 and 1980, for example, total trade tripled between this country and its principal nonmarket economy trading partners; U.S. merchandise trade ran a significant surplus (\$5.43 billion in 1980). (See Tab E for detailed trade information.) Besides the trade benefits, this increased economic interaction is thought to provide political benefits through greater economic interdependence, particularly with Eastern European nations. Thus, the United States has encouraged participation by the latter in international trade and financial organizations.

Nevertheless, U.S. law takes cognizance of the special political and economic considerations resulting from such trading relations. "Nonmarket economy", "Communist", and "state-controlled economy" are variously employed in the trade statutes to differentiate certain nations in their status under domestic law. Most-favored-nation (MFN) tariff treatment, for example, is denied designated Communist countries. The Jackson-Vanik Amendment ties the granting of MFN treatment to certain Communist countries to their emigration policies. Section 406 of the Trade Act provides special safeguard relief from nonmarket economy imports. As these examples suggest, for either economic or noneconomic reasons U.S. law is specially structured to provide incentives or disincentives to trade with these fundamentally different economic regimes.

A particularly nettlesome problem of nonmarket economy trade is protection from unfairly priced imports. Imposition of dumping or countervailing duties is premised on the ability to determine home market prices and subsidies reflecting free market values; central planning (which may incorporate many noneconomic criteria) and lack of competition undermine that premise. As described in more detail below, U.S. countervailing duty law prescribes no special determinants for the amount of subsidization enjoyed by any particular nonmarket economy producer. An alternative calculus of foreign market value is provided in U.S. antidumping law for purposes of comparison with U.S. prices, but it has not proven widely acceptable administratively or substantively. In both cases, the normal investigative process becomes immersed in debates over comparative and constructive values that quickly lead to proposed determinations based on hypothetical rather than real transactions.

S. 958 (Tab A) proposes an alternative, simplified method of calculating the values necessary to apply the countervailing and

antidumping duty laws to nonmarket transactions. It would repeal section 406 of the 1974 Trade Act, so that injury from import surges from these nations would be treated no differently than all other such cases (i.e., under section 201 of the Trade Act). The following sections describe pertinent existing law applicable to nonmarket economy imports, and how S. 958 would alter them.

#### EXISTING LAW

U.S. industries adversely affected by nonmarket economy imports may seek relief under Title VII of the Tariff Act of 1930 if the imports are unfairly priced (dumped or subsidized), or if fairly priced imports are increasing in a way requiring a sheltered adjustment period (sections 201 and 406 of the Trade Act of 1974). For easy visualization, included in Tab C are schematic representations of these remedies. Tab D outlines the remedy afforded by S. 958.

A. Dumping.—Antidumping duties may be imposed on imported products that are sold in the United States at less-than-fair value (LTFV) and threaten or cause material injury to a domestic industry or materially retard its establishment. The foreign market (fair) value of the merchandise is calculated normally according to a methodological hierarchy:

- (1) home market prices reasonably adjusted for such differences as sales level, physical characteristics, etc.,
- (2) prices of exports to third countries, similarly adjusted; or
- (3) constructed value, based on adjusted material costs plus general expenses and profits.

Beginning in 1960, the Treasury Department (then vested with the administering authority) determined that none of these three methods were valid for goods produced in planned economies where the government, not the market, set prices to an extent fatally distorting the first three methods. Treasury thus applied a fourth test, the home market or export price of similar merchandise produced in a surrogate market economy country, or the constructed value in such a surrogate. The Congress codified this approach essentially in section 205(c) of the 1974 Trade Act, and carried it forward in current law by including section 773(c) in Title VII of the Tariff Act of 1930, added by the 1979 Trade Agreements Act. (See Tab B for the text of these and other pertinent provisions.)

Commerce Department implementing regulations do not illuminate what criteria are used to decide whether "the economy of the country from which the merchandise is exported is state-controlled to an extent that sales . . . do not permit a determination of foreign market value" under the first three tests. In practice, these countries have been the traditional Communist-dominated U.S. trading partners—Albania, Bulgaria, Czechoslovakia, East Germany, Hungary, People's Republic of China, Poland, Romania, the Soviet Union, and Yugoslavia. The fourth test is not automatically applied; if a producing enterprise within a nonmarket economy can demonstrate that market forces sufficiently control its operations (as through a joint venture, for example), use of a normal calculus of value is preferred. On the other hand, state enterprises in market economies are not subject to the fourth test at all.

Electric Golf Carts from Poland, a 4-year antidumping proceeding in the 1970's, perhaps best demonstrates the vicissitudes of the value calculations as they developed into current practice. A year after a com-

plaint was filed in 1974, Treasury determined that Polish golf carts indeed were being dumped in the United States—sold at less than their fair value. Because there existed no home market for the carts, nor any significant third country market, and because to construct home market value did not seem feasible, Treasury adopted the export prices of a small Canadian golf cart manufacturer. Both the U.S. complainant and the Polish exporter disputed the methodology: The complainant argued U.S. manufacturers' prices should be used, while the exporter advocated adoption of studies showing that the constructed value of their carts produced under Canadian conditions precluded a finding of dumping. In any case, argued the Poles, the method failed to account for claimed advantages of its modern, efficient facility.

After an affirmative injury by the International Trade Commission (ITC), Treasury in 1977 proposed dumping duties based on the Canadian company's prices—but by this time, their production was too low to serve as a basis for determining foreign market value as a reference for the continuing stream of Polish imports. Treasury then proposed adoption of U.S. domestic prices as the standard. Because that standard effectively denied competitive access to the U.S. market (the C.I.F. costs of the imports, when added to the duties, put the Polish prices substantially above those of their U.S. competitors), in 1978 Treasury adopted still more regulations that serve as the basis for current practice. The regulations required that use of third country prices or constructed values was limited to free-market countries in a stage of comparable economic development.

Under this method, because there were no longer free-market producers outside the United States, Treasury constructed the value of the Polish golf carts as if they had been made in a market economy country at a stage of comparable economic development—in this case, Spain. The discrete inputs comprising the Polish production process were identified, then valued in the Spanish economic milieu. The resulting constructed value became the foreign market value upon which dumping duties were assessed.

In 1979, when incorporating existing statutory authority for these regulations into the Tariff Act, the Finance Committee expressly refused to approve or disapprove this valuation procedure. The Treasury practice was carried forward into Commerce regulations. Despite continued usage, however, the regulations continue to be criticized. For example, it is arguable whether per capita GNP is a proper criterion of comparability (even if reliable GNP figures for nonmarket economy countries can be obtained), or whether one should assume that comparable development as a macroeconomic judgment allows the conclusion of comparable sectoral development, the essential basis of value construction. These and other considerations induced the GAO to conclude recently that "the combined effect of difficulties in the surrogate selection process, data verification, and the need for subjective adjustments makes the outcome of dumping cases involving a surrogate producer's product highly unpredictable and of limited economic validity."

B. Subsidies.—As a result of the Trade Agreements Act of 1979, two different sections of the Tariff Act of 1930 govern U.S. countervailing duty law. Section 701 provides for duties upon imported merchandise

the manufacture, production, or exportation of which has been subsidized by a signatory of the Subsidies Code if a competing U.S. industry is materially injured or threatened with material injury, or is materially retarded in its establishment. For non-signatories, section 303 applies in essentially the same manner, except that dutiable merchandise may be subject to countervailing duties under this provision without a finding of injury to a U.S. industry.

Neither section of the countervailing duty law specially addresses the question of calculating subsidies associated with products manufactured or produced in or exported from nonmarket economy countries. Nor has any case been brought to test how the law would be administered in that situation. Under article 15 of the Subsidies Code, however, allegedly subsidized imports may be investigated under either the Dumping or Subsidies Codes. Thus, absence of sufficient data to establish the existence of a subsidy allows substitution of a LTFV determination, as if dumping were alleged. Although Commerce failed ultimately to promulgate proposed regulations that would have adopted this approach in U.S. practice, it remains an alternative. The parties, of course, would face the same administrative and substantive objections outlined above with regard to the dumping law if subsidies were calculated on LTFV basis.

C. Section 201.—Regardless whether imports are fairly priced, the GATT in article XIX recognizes that domestic industries may require temporary assistance to adjust to injurious competition caused by increasing import levels. Sections 201 and 406 of the Trade Act of 1974 embody this principle in domestic law. For a domestic industry to gain relief under section 201, the ITC must determine that imports are increasing in such quantities as to be a substantial cause of serious injury or the threat thereof. Upon an affirmative determination, the Commission recommends to the President appropriate relief, which may consist of increased tariffs, a tariff-rate quota, quantitative restrictions, or an orderly marketing arrangement. By majority vote the Congress may override a Presidential decision to deny relief.

D. Section 406.—Similar in concept and incorporating the same procedures as section 201, section 406 offers relief for "market disruption" caused by imports from Communist countries. Market disruption occurs when such imports are rapidly increasing so as to be a cause of material injury, or threat thereof. Thus, although the petitioner must demonstrate a rapid increase in imports rather than a mere increase, section 406 apparently offers a somewhat lesser injury standard, and it focuses on imports from specific countries.

Listed in Tab F are the few section 406 cases that have been decided thus far. None have resulted in relief, either because of negative determinations or the President's denial of relief. Because the complainant must show particular Communist-sourced imports as the cause of injury, it may in fact be more difficult to gain relief under section 406 than section 201. In any case, the basis of section 406—the feared danger of political manipulation of export surges by Communist governments—does not appear to have materialized, judging from the few cases brought. (Forty-five section 201 cases were brought between April 1975 and July 1981; seven section 406 cases were brought in the same period.)

## S. 958—ARTIFICIAL PRICING

S. 958 would repeal section 406 and the fourth alternative test of foreign market value provided in section 773(c). In a new section 406, an "artificial pricing remedy" would be offered to domestic industries competing with nonmarket economy country imports. (See Tab A).

The bill would encompass imports from countries "the economy of which, as determined by (Commerce), operates on principles other than those of a free market to an extent that sales or offers of sale of merchandise in that country or to countries other than the United States do not reflect the fair value of the merchandise." (Sec. 406(d)(1)). In substance this test is comparable to that in section 773(c); it differs from that of section 406 in that it is an economic, not political, test. Because the existence of a free market is determined without regard to sales of specific merchandise, a nation may be deemed to be a market economy even though trade in the product alleged to be artificially priced is carried on by a state-controlled enterprise. Nationalized steel companies in Europe, for example, thus would appear immune from changes of artificial pricing.

S. 958 provides that artificial pricing exists when the nonmarket economy product is imported "at a price below the lowest free-market price of like articles." (Sec. 406(c)(2)). The "lowest free-market price" is the lowest average price charged for like articles by producers in a market economy. The price is adjusted "to ensure comparability," as under current law, and the market economy must be "appropriate" in terms of its pricing and production. (Secs. 406(d)(3-5)). If Commerce determines that artificial pricing exists, a duty would be imposed "in the amount necessary to offset the amount of such artificial pricing." (Sec. 406(a)). This concept of margin is comparable to the calculation of antidumping or countervailing duties.

By offering relief solely in the form of offsetting duties, S. 958 differs from current section 406 in that under section 406 duties are imposed to temporarily prevent or remedy the injury, and quantitative restrictions may be recommended. Relief under section 406 is available only for an adjustment period not exceeding eight years. On the other hand, the offsetting artificial pricing duties would be effective as long as the unfair pricing practices persisted. Relief under S. 958, unlike section 406, would not be subject to Presidential discretion.

On the other hand, the offsetting artificial pricing duties would be effective as long as the unfair pricing practices persisted. Relief under section 406 is available only for an adjustment period not exceeding eight years. But relief under S. 958 would not be subject to Presidential discretion.

The artificial pricing remedy would be available in the following circumstances. An investigation will be conducted upon petition alleging artificial pricing, unless there already is proceeding an antidumping or countervailing duty case or either of those duties are in effect. However, if in an ongoing antidumping or countervailing duty investigation the respondent country fails to furnish sufficient verifiable information, the proceeding will be converted to an artificial pricing investigation. Conversely, if sufficient verifiable information is provided in an on-going artificial pricing investigation to determine either foreign market value or subsidization, the case will be converted into an antidumping or countervailing duty investigation as appropriate.

Section 406(a) of S. 958 would not require an injury determination as a prerequisite to the imposition of artificial pricing duties. Section 406(b)(3) merely provides that such an investigation will follow the same procedures as a countervailing duty investigation, but it would not require a showing of material injury for countries that have signed the Subsidies Code or made similar commitments. The material injury finding required by the antidumping law would be available only if the artificial pricing investigation were converted into an antidumping investigation as provided in section 406(c)(1)(A), and the respondent country is a party to the Dumping Code.

The GATT provisions on dumping and subsidization, as interpreted by the Codes, contemplate an injury determination before such duties are imposed. In accord with those agreements, U.S. countervailing duty law extends the injury test to parties to the Subsidies Code or countries undertaking similar commitments. The antidumping law extends the injury test unqualifiedly. To the extent artificial pricing is intended merely to provide a special calculus for the same unfair trade practices the antidumping and countervailing duty laws address, then the failure of S. 958 to provide for an injury determination in the same circumstances may place the United States in violation of its international obligations to nonmarket economy countries which otherwise would be entitled to it. This entitlement may derive from adherence to the Codes or other MFN obligations assumed by the United States. In addition, U.S. law offering protection from imports for pricing reasons, and current section 406 which will be replaced by S. 958, traditionally have required a showing of injury as a condition of relief.

By defining artificial pricing as pricing below the lowest adjusted average free-market price, S. 958 provides a benchmark price which may simplify greatly the administration of unfair pricing cases and provide certainty to nonmarket economy producers regarding whether their export prices are subject to challenge. Absent an injury test, however, the benchmark may serve also as a price floor precluding price competition from nonmarket economy sources, regardless of any real comparative advantage they may enjoy. In a concentrated free market tending towards monopoly prices, the preclusion of price competition may be undesirable.

The remaining provisions of S. 958 provide for assessment and collection of artificial pricing duties. By and large, these provisions parallel those found in Title VII of the Tariff Act of 1930.

## AUBREY WHITELAW AND HISTORY

● Mr. DODD. Mr. President, determinists see history as the movement of vast impersonal forces over which individuals have little control. Others know better. They recognize that the decisions of human beings, their deliberate interaction, and coincidental crossings are essential to explaining why our past has unfolded just the way it has.

One person who could testify to the validity of that thesis is Aubrey H. Whitelaw of North Stonington, Conn. "Whitey" Whitelaw has lived more

history than most people ever read about. In a recent interview with Greg Stone of the New London Day, he touched on some of his experiences in a manner that should be interesting to my Senate colleagues and all students of the history of our century. I ask that it be printed in the RECORD.

[From the New London Day, Jan. 31, 1982]

## CONVERSING WITH HISTORY IN THE BACKWOODS

(By Greg Stone)

The voice crackled over the phone, pouring out history faster than the words could be recorded, weaving in and out of the past.

The speaker reached back to the early '30s, when Franklin Roosevelt was charting his political rise. Ronald Reagan was just getting out of college. Financier Joseph P. Kennedy's pride and joy, Joe Jr. was studying at the London School of Economics and sharing an apartment with a student from North Stonington.

America was in the throes of the Depression. Russia was in the midst of a political purge directed by Joseph Stalin. A young economics teacher at Moscow University, Mikhail Suslov, was placed in charge of riding the state of ideological and political impurities in the Ural Mountains region.

This week, 49 years later, we found ourselves observing the 100th anniversary of Roosevelt's birth. Reagan, now the conservative Republican president of the United States, delivered his first state-of-the-union message and numerous comparisons and contrasts were drawn between the 71-year old former actor and FDR. He was imitating Roosevelt's style to undo what the former president did.

Suslov died last Monday. The younger Joe Kennedy, who, his father had planned, would become the first Catholic president of the United States, was long dead, killed while on an air strike mission over the French coast in 1944. (His younger brother, Jack, turned out to be the first Catholic to occupy the White House.) Aubrey H. Whitelaw, the young political science student with whom Joe Kennedy shared quarters in London in the '30s, was back in North Stonington and on the phone.

The call came about as the result of Suslov's death this week. Two years ago, Whitey had written a piece on the Soviet Communist party's chief ideologist. It remained unpublished, and he had asked if the newspaper was interested in it. It described the Russian as "one of the most powerful enemies of the U.S.A."

Whitelaw is 71 and retired. He lives in a house in the North Stonington woods, off Rt. 184, where deer occasionally wander across his property. He is a writer. His favorite subject is politics, of which he has been an avid student for most of his life.

His age tells an interesting story, incidentally, as we note Roosevelt's centenary. The bright, young people who followed FDR into the New Deal in the 1930s are, like Whitelaw, in their 70s today if they still are alive.

Another interesting statistic came up in the conversation. When Whitelaw met Joe Kennedy Jr. in London, Joe's youngest brother, Teddy, was two months old. Today, the only surviving Kennedy son, at the age of 49, is one of the foremost figures in the modern Democratic Party Roosevelt bequeathed us.

Whitelaw and young Joe Kennedy became close friends in London. Kennedy talked

about his one ambition in life with him: To be president. They also played rugby together. Whitey can remember attending parties thrown by European distillers awaiting the end of Prohibition in America. Joseph P. Kennedy, Sr., who was to become Roosevelt's ambassador to the Court of St. James, had invested heavily in Scotch distilleries.

Whitey became interested in political propaganda while a student at the University of Chicago in the '30s under the political scientist Harold Laslow. He later began applying his knowledge of the subject working for an intelligence-gathering, front organization for the government in the early 1940s.

One of his missions in those days was to feed information to the government about Nazi sympathizers in Congress. The information was used by FDR in a widespread attempt that election year to purge Congress of politicians who might be opposed to America's entering the war.

In another part of the world, Suslov, then in his 30s, was instructing guerrilla forces behind enemy lines in the northern Caucasus. When the United States entered the war, Whitey entered the U.S. Army.

Whitey was in his early 30s when Roosevelt died and the war ended. After the war, he turned to politics in Connecticut, serving as, among other things, executive assistant to the late U.S. Sen. Thomas J. Dodd.

In recent years, Whitey claims to have withdrawn from politics, and regularly shuns interviews.

"I've been out of things too long. You won't learn anything from me," is the pat reply.

This is utter nonsense, for Whitey White-law is a walking, living political history book. Some smart historian of the New Deal should sit down with him for a couple months with a tape recorder. The only problem with that is that he'd probably never go for it.

The next best thing is to engage him in a conversation. Ask him, for starters, how he got on Ted Kennedy's mailing list. And ask him how he feels to have outlived Mikhail Suslov, one of the most dangerous men in the world.●

#### EXPORT TRADING COMPANIES ARE NECESSARY—V

● Mr. HEINZ. Mr. President, this final excerpt from Franklin Cole's article, "Establishing American Trading Companies," which appeared in the North-western Journal of International Law and Business, autumn 1980, identifies some shortcomings in the bill. Mr. Cole's shortcomings are those which will inhibit the legislation's effectiveness. By and large I agree with his list and would prefer a stronger bill. The constraints he refers to were included in the bill to reassure skeptics and those less familiar with how world trade works than Mr. Cole.

The material follows:

##### SOME SHORTCOMINGS IN THE ACT

It must be noted, that in addition to regulating a banking organization's relationship as an investor in or creditor of an export trading company, the Export Trading Company Act places restrictions on the operations of the non-banking export trading company itself, independent of its relations with any banking organizations. For exam-

ple, the Act empowers the appropriate federal banking agencies to set standards by which any export trading company in which a banking organization has an ownership interest may take title to goods.<sup>92</sup> In particular, the agencies can establish inventory-to-capital ratios for those circumstances in which the export trading company may bear a market risk on inventory held.<sup>93</sup> Also, an export trading company in which a banking organization has an ownership interest cannot take positions in commodities or commodities contracts in securities, or in foreign exchange, other than as may be necessary in the course of its business operations.<sup>94</sup> Finally, the Act defines an export trading company as a company organized and operated "principally" to export U.S. goods and services and to facilitate their exportation by unaffiliated persons.<sup>95</sup> However, the word "principally" is ambiguous and could be read to restrict activities integral to the operations of a successful export trading company, but which are not specifically related to exporting.

By regulating the operational activities of a banking organization's non-banking affiliates, the Act departs from its previously principled grounds. As discussed above, the public policy of guaranteeing the soundness of banking organizations is already served by limitations on bank financial exposure in export trading companies.<sup>96</sup> The justification for limiting the business discretion of non-financial business corporations is neither as clear nor as persuasive as in the case of regulating financial institutions which are directly entrusted with the public's capital, and which are themselves limited in their dealings with the corporations whose discretion appears to be the cause of concern.

The extra control sought over export trading companies is understandable enough in itself. For example, the limitation on an export trading company's ability to take positions in commodities would prevent traders from engaging in purely speculative activities of which most of their investors would disapprove. However, it is in the province and discretion of the investors to ensure that adequate internal controls in an export trading company block activities that the investors may consider imprudently speculative. The failure of a non-financial business corporation is of principal concern to its shareholders. To the degree that its shareholders may be financial corporations, they are already under regulation. While the financial health of all American businesses is of concern to federal authorities, the federal mandate over banking organizations is properly exercised—as in the remainder of the Act—by limiting bank exposure in non-banking activities and by providing guidelines for the transactions between banking organizations and their affiliates.

The potential for restricting trading company activities under the terms of the Act

<sup>92</sup> § 105(d)(2). The appropriate federal banking agency may not impose standards for the taking of title which "unnecessarily disadvantage, restrict or limit export trading companies in competing in world markets." § 105(d)(3).

<sup>93</sup> § 105(d)(2).

<sup>94</sup> § 105(c)(3).

<sup>95</sup> § 103(a)(5). An export trading company is defined as a company doing business under the laws of the U.S. or any state and which is exclusively engaged in activities related to international trade. § 105(a)(13). This definition does not permit export trading companies to engage in agricultural production, manufacturing, or in underwriting, selling or distributing securities. *Id.*

<sup>96</sup> See text accompanying notes 79-83 *supra*.

"principally" to the exportation of U.S. goods<sup>97</sup> and the provision of export trade services<sup>98</sup> is worrisome. As discussed above, successful export trading companies are often involved in two- and three-way trade, and they both import and export goods in barter transactions.<sup>99</sup> These complex forms of trade have become increasingly important, and to restrict importing operations would cost the trading companies flexibility (including the capacity to arrange transactions so as to relieve currency deficits), would possibly close markets, and would certainly retard the export trading companies' absorption of the commercial experience needed to become competitive in the international marketplace.

Many of the advantages that trading companies would offer U.S. manufacturers in export transactions, including simplification of documentary and financial problems, are equally desirable on the import side. Indeed, experience shows that these advantages can be most fully exploited by traders who engage in both export and import. Trading companies that can confidently engage in export and import would more rapidly acquire the specialized knowledge and skills of international commerce and could be able to achieve better and more profitable use of their assets and their distribution networks. While the legislative history of the Act clearly recognizes that the business of export trading companies "may include some domestic trade, some import trade and some third-party international trade wholly outside U.S. commerce," the meaning of "principally" is clarified nowhere in the Act, nor are standards for the application of the term provided.<sup>100</sup>

#### NUCLEAR FREEZE AND REDUCTIONS

● Mr. HART. Mr. President, the introduction by Senators KENNEDY, HATFIELD, and others, of a Senate joint resolution urging the negotiation of a bilateral, United States-Soviet "freeze" on the testing, production, and deployment of nuclear weapons is

<sup>97</sup> U.S. goods are defined as tangible property manufactured, produced, grown or extracted in the U.S., in which the cost of imported raw materials and components shall not exceed 50% of the sales price. § 103(a)(2). Fifty percent was chosen because it is the existing standard in the Internal Revenue Code for eligible "export receipts" of Domestic International Sales Corporations (DISCs). S. Rep. No. 735, 96th Cong., 2d Sess., 6 (1980).

<sup>98</sup> The term "export trade services" encompasses a wide variety of activities including consulting, international market research, advertising, marketing, insurance, product research and design, legal assistance, transportation, trade documentation, communication and processing of foreign orders, warehousing, foreign exchange, and financing. § 103(a)(4).

<sup>99</sup> See notes 28-29 and accompanying text *supra*.  
<sup>100</sup> S. Rep. No. 735, 96th Cong., 2d Sess., 6 (1980). The Senate Committee on Banking Housing and Urban Affairs, in its report on S. 2718 stated that under § 103(5) a "presumption is established that on the average at least one-half of the company's total business . . . will be directly related to U.S. exports which must contain at least 50 per cent value attributable to the U.S." *Id.* Another standard, suggested by witnesses in the hearings for the Act, would measure the percentage of gross or net earnings of an export trading company generated directly in export trade. See, e.g. S. 2718 Hearings, *supra* note 4, at 103 (statement of Robert L. McCormick).

a welcome recognition of the reawakening arms control movement.

A bilateral agreement to "freeze" the nuclear arms race would be a powerful declaration of intent by the two superpowers. It would signal the commitment of the United States and the Soviet Union to bring to an end their mindless competition in nuclear weaponry. Such a commitment is vitally necessary if we are to avoid the greatest catastrophe in human history. The nuclear weapons "freeze" advocates are right when they say "enough is enough."

A negotiated freeze on the testing, production, and deployment of nuclear weapons is a valid objective for arms control. It is not, regrettably, an objective that can be easily attained. For example, opponents of the freeze will point out that a complete ban on the testing and production of nuclear weapons will be difficult to monitor through national technical means of verification, such as photo reconnaissance. Freeze opponents will also stress that a ban on deployment will prevent the procurement of new nuclear weapons systems, such as Trident submarines and Trident I missiles, which are seen to be both essential for deterrence and conducive to strategic stability. Finally, critics of the freeze will argue that a ban on the further development of nuclear weapons arsenals will simply rechannel the arms race into new and more dangerous areas, including accelerated antisubmarine warfare activities, thereby endangering our most secure second strike forces, the ballistic missile submarines.

Many of the technical difficulties posed by a nuclear weapons freeze might be overcome through patient, careful, and prolonged negotiations with the Soviet Union. I am increasingly convinced, however, that our traditional emphasis in arms control on the numbers of nuclear weapons is, by itself, an inadequate answer to the full range of complex problems we confront with respect to the nuclear threat. The imposition of a nuclear weapons ceiling, as welcome as such a step would be, does not address our most fundamental problem—the possibility that nuclear weapons might be used, either intentionally or through miscalculation. In a word, our most solemn obligation—to ourselves, to our children, and to all future generations—is the prevention of the use of nuclear weapons.

We need a fundamentally new agenda for arms control. As we pursue significant, verifiable, and mutual constraints on the numbers of nuclear weapons and their means of delivery, we must also mount a new and concerted effort to insure that not a single nuclear weapon is ever discharged in anger.

To achieve this goal, on February 24, I submitted Senate Resolution 323, which calls upon the United States and the Soviet Union to begin negotiations, without delay, on the prevention of the use of nuclear weapons. United States-Soviet strategic talks on prevention (STOP) would focus on three central objectives:

First, we must prevent the nightmare of nuclear war through accident or miscalculation. We should update and extend the 1973 bilateral agreement on the prevention of nuclear war to provide instantaneous and reliable notification on any accidental launch. And we and the Soviets must insure that our nuclear forces are maintained under tight and continuous control.

Second, we must prevent the use of nuclear weapons by third parties, including new nuclear weapons states and terrorists. In addition to the 5 nations which already possess nuclear weapons, 10 other countries either have the capability to produce such weapons today or will have the capability within 3 years. The number of nuclear weapons states could grow to 20 by 1990. And today, a new nightmare haunts us—the possibility that nuclear weapons may "trickle down" not only to nations but to terrorist groups. The dangers of nuclear proliferation underscore the need for a comprehensive U.S.-Soviet agreement to restrict the export of sensitive nuclear technologies and to safeguard those facilities already in existence.

Third, we must reduce the vulnerability of both sides' nuclear retaliatory forces to preemptive attack. Recent developments in nuclear weaponry have undermined the stability of the nuclear balance of terror. In recent years, both countries have acquired impressive counterforce and counter-silo capabilities, which increase the temptation to strike first in a crisis. We and the Soviets must reverse this dangerous trend through mutual, enforceable agreement.

Finally, of course, we must continue to seek meaningful reductions in the overall numbers of nuclear weapons. As the "freeze" resolution also recognizes, a small force of secure and reliable nuclear weapons systems, tightly controlled, would constitute the best deterrent for both countries.

The limitation and reduction of all nuclear weapons—strategic, theater, and tactical—is a vital and necessary objective for arms control. But without a companion effort to prevent the use of these weapons, numerical constraints alone cannot save us from the holocaust of nuclear war.

The threat of nuclear war is emerging as the foremost problem of our time. We must seize this opportunity to reconstruct our arms control policy by broadening its focus to include not only the pursuit of numerical limits, but also, and more importantly, the

prevention of nuclear blackmail, nuclear terrorism, and nuclear war.

I look forward to working closely with both my Senate colleagues and with arms control advocates of all persuasions on this, the most important problem we face. ●

#### NATIONAL POW-MIA RECOGNITION DAY

● Mr. HUMPHREY. Mr. President, I am very pleased to cosponsor Senate Resolution 160, introduced on last Monday, March 8 by Senator HAYAKAWA, which designates July 9, 1982, as "National POW-MIA Recognition Day." I, like many Americans, am deeply concerned about the nearly 2,500 American citizens, primarily military personnel, who remain unaccounted for in Southeast Asia. I realize that a similar measure was enacted last year, designating July 17, 1981, as "National POW-MIA Recognition Day." However, I believe that continued congressional recognition of this situation is imperative, particularly in light of the fact that yet another year has passed since the signing of the 1973 Paris peace accords.

I would like to insert here a paper provided by the Joint Chiefs of Staff, prepared by USMC Col. L. R. Elwell, dated January 25, 1982, which outlines accurately the facts and figures of this situation's history.

The information follows:

#### CURRENT STATUS ON THE PRISONER OF WAR/ MISSING IN ACTION ISSUE

1. Many Americans are unaware that nearly 2,500 servicemen are still unaccounted for as a result of the Vietnam war. There were 2,553 military and 41 civilian Americans unaccounted for at "Homecoming" in 1973. The military included 96 prisoners of war (POW's), 1,178 killed in action—body not recovered, and 1,279 missing in action (MIA). The civilians included 25 missing and 16 presumed dead. Since then, 78 remains have been returned and most individual cases of those unaccounted for have been administratively reviewed. Cases reviewed have invariably resulted in a presumptive finding of death, based on data accumulated in the file and the additional criteria of a lapse of time without information to indicate the individual is still living. Therefore, as of January 1982, only 10 military personnel, of those unaccounted for, have not been presumed dead. These 10 cases are categorized as 1 POW (USAF) and 9 MIA (8 USAF, and 1 USMC).

2. The fact that only 10 cases remain active does not minimize the need to achieve the fullest possible accounting for the approximately 2,500 men whose fate remains in question. The debt owed to each serviceman who is unaccounted for, as well as to that individual's family is well known. Although this obligation can never be fully satisfied, every effort is and should continue to be made to achieve as extensive an accounting as possible. It should be emphasized that this is not just a humane gesture, but a responsibility due every serviceman, past, present, and future.

3. Since the end of the Vietnam war, there has been an ebb and flow of government and public interest in accounting for Americans missing as a result of the war. The DOD POW Policy Committee, which handled the POW/MIA issue prior to the end of U.S. involvement, became inactive shortly after the U.S. withdrew from Vietnam. However, in January 1980, an interagency group (IAG), which is comprised of representatives of the State Department, Office of the Secretary of Defense/International Security Affairs, Joint Chiefs of Staff, Defense Intelligence Agency (DIA), National Security Council, Subcommittee on Asian and Pacific Affairs/House Foreign Affairs Committee and the National League of POW/MIA Families, was established and has since been active. The main purpose of this group is to ensure that priority is given to the issue and that U.S. efforts are coordinated as we continue to press for resolution of the POW/MIA issue. The IAG is continuing the work started by the JCS to develop an explicit USG policy on the POW/MIA issue.

4. Although the Vietnamese claim to have released all POW's and to have been fully cooperative with the U.S. Government, the facts deny this claim. The SRV has returned 72 remains and has allowed Laos to return four remains, two of which were identified as not being American. However, the Vietnamese have refused to account for Americans who were known POW's. In some cases, they have even acknowledged holding specific individuals at one time or another. These circumstances clearly belie their present claim to have fully cooperated in resolving the status of these individuals.

5. Of greatest concern are the recurring reports of the sightings of caucasians currently held captive in Indochina. As more Indochinese refugees are interviewed, the frequency of live sighting reports has also increased significantly. We now have over 390 firsthand reports of live sightings under investigation. Additionally, over 250 second hand or "hearsay" reports are being investigated. Due to the number of reports of live sightings, the following USG public affairs response to queries about unaccounted Americans has been formulated: "There is an increasing number of reports that Americans may be held against their will in Indochina, but the U.S. government has thus far been unable to substantiate this information and priority effort will continue to be assigned to investigating these reports. The increasing possibility that Americans are still incarcerated in Indochina, nine years after the war has ended, underscores the importance of achieving an expeditious resolution to the entire PW/MIA issue.

6. One source testified that the SRV collected skeletal remains of Americans for many years and possessed, as late as early 1979, over 400 individual remains. This testimony has been substantiated by DIA and the witness has successfully passed polygraph tests. After first denying access to the building where the remains were reportedly stored, the Vietnamese, after several months, allowed reporters to visit the complex. As expected, no remains were found; however, DIA still considers this source valid.

7. Logically, successful resolution of the POW/MIA issue requires a number of specific actions: release of any live Americans presently being held; return of previously collected remains of U.S. personnel; search, recovery, and return of any additional U.S. remains; and a cooperative effort by the USG and Indochinese Governments in

those cases where no remains exist or can be found. Additionally, fullest possible accounting requires priority attention to the issue and concerted interagency coordination of effort of all responsible U.S. Government agencies, as well as the active participation and cooperation of all concerned nations.

8. Although both the USG and the Vietnamese Government have tacitly agreed that the POW/MIA issue is humanitarian in nature and should be resolved regardless of political differences, the Vietnamese continue to link POW/MIA's to other considerations. History shows that the Vietnamese, in dealing with France on the return and accounting for missing French personnel, responded only when it was beneficial to their interests. Humanitarian ideals have had little significance; therefore, a new USG negotiation strategy is required. Although numerous demarches have been made to the Indochinese nations to this date, they have "stonewalled." The standard SRV response cites their inability to cooperate in search or accounting activities because their manpower is being fully utilized to defend against the threat of attack from the People's Republic of China (PRC). Recently, the Vietnamese have also stated that their people are reluctant to assist because of hostility over the "collusion" between the United States and the PRC.

9. The IAG is considering alternatives which may improve the possibility for achieving desired results and has concurred in the advisability of pursuing U.S. government, direct, high level participation in programs of public awareness of PW/MIA's. It is important to maintain the momentum generated during the last several months and to continue unrelenting pressure on the Indochinese nations, especially the SRV, with respect to resolving PW/MIA issues.

Mr. HUMPHREY. I want to emphasize the grief and profound sense of loss felt by the families of these POW's and MIA's. For 444 days, we tied up yellow ribbons for the 52 Iranian hostages, sharing the anxiety of the captives' families. At least we knew where the captives were, that they were alive. The families of the nearly 2,500 personnel in Southeast Asia have no such knowledge. Many of these families have experienced this anxiety for as many as 6,000 days.

A delegation headed by Deputy Assistant Secretary of Defense Richard Armitage recently visited Hanoi to underline the administration's concern with the missing personnel. Prompt passage of Senate Resolution 160 would be an important expression, to the Government of Vietnam as well as the people of this Nation, of this body's abiding concern for these missing Americans. ●

#### WORKING OUR WAY THROUGH COLLEGE

● Mr. HART. Mr. President, today's Washington Post published a column by Mr. Denis Doyle which included very innovative ideas for increasing our Government's investment in human resources. Mr. Doyle has proposed providing Government assist-

ance for education in return for time in service to the Nation.

This proposal to establish a national trust fund for higher education, together with a program of voluntary national service, is creative and thought-provoking, and worthy of national debate. I ask that the article be printed in RECORD at this point.

The article follows:

[From the Washington Post, Mar. 10, 1982]

#### WORKING OUR WAY THROUGH COLLEGE

(By Denis P. Doyle)

The single most important education program of the 20th century was the GI Bill. It underwrote the cost of education for hundreds of thousands of returning service men and women, easing their transition into civilian life and ushering in the greatest period of economic productivity in our history. It is no accident that a period of abundance followed the GI Bill. It was perhaps the largest single example of human capital investment in the history of man.

The terms of the GI Bill were straightforward: education benefits for time in service to the nation.

We are now confronted with a pressing need to revitalize America. The common thread is human capital, the educated men and women, who will make the wheels of post-industrial democracy turn. We face a real crisis in math, science, computer science and foreign language education. On the one hand, we are consuming our seed corn, stripping our high schools, colleges and universities of trained mathematicians, engineers, and scientists. On the other, we are a monolingual nation dealing with a multilingual world. As Rep. Paul Simon, author of "The Tongue-Tied American," points out, there are 10,000 Japanese businessmen in New York—all English speakers—and 1,000 American businessmen in Tokyo—all with translators. He observes wryly that you can buy in any language—but not sell.

The crisis is upon us, and it is being compounded by the administration's decision to further reduce higher education spending, without proposing a workable alternative. This is precisely the time when increases in human capital investment are most needed. It takes 20 years to train the next generation of engineers, scientists and linguists.

When Draconian cuts in student aid occur, the students hardest hit are middle class, the nation's most valuable manpower pool. The institutions hardest hit are the nation's private colleges and universities, an intellectual resource without parallel in the Free World.

Reductions in federal funding, then, will have the bizarre effect of weakening the nation's private higher education institutions, and limiting middle-class student access to higher education.

In post-industrial society, we must recognize that higher education is not conspicuous consumption; it is an investment. It is money in our national human capital bank even more lasting than money spent on physical capital formation.

There is a solution that this administration, the Congress, the public and the schools should examine, one that harnesses private initiative, market forces, and government in a powerful trioka. And that is a GI Bill in reverse, first proposed by John Silber, the controversial president of Boston University. Instead of money for past serv-

ice, funds would be made available prospectively.

The idea has two dimensions. First, long-term government funding would be made available to students for whatever school and program of study they choose, including graduate school.

Repayment would be achieved by one of two devices, or some mix of the two. In areas of national need—rural health care, or innercity teaching, for instance—doctors, nurses, and teachers could “work off” all or part of their obligation by service in designated areas.

For students who pursue careers in non-national-need areas, an income tax surcharge of several percentage points when the student enters the work place would recover costs. The surcharge would remain in effect until the student's obligation was discharged; or, in the interest of even greater human capital investment, students could be expected to repay an amount greater than the original advance.

For the past year, discussion about the federal education role has been so sterile as to invite cynicism. It has been limited to cut, squeeze and trim and an empty debate about the future of the Department of Education. Indeed, does anyone really care whether or not there is a Department of Education? Form should follow function, in government as in architecture, and we should be debating purpose, not process.

A proposal to create a national trust fund for higher education, together with a program of voluntary national service, is an idea worthy of national debate and one that could enlist widespread support.

Start-up costs would be significant—as much as \$15 billion in the first five years—but the fund would become self-sustaining and would be simple to administer. In terms of national needs, it would be a bargain. Moreover, it recognizes the appropriate balance between private initiative and public responsibility; it relies on market mechanisms to place students and hold schools accountable, and promises to significantly stimulate human capital investment where and when it is most needed.

The question before us is simple: must we wait for a cataclysmic event like Sputnik before we address national education needs, or do we have the wit to plan for the future? ●

#### SECRETARY WATT ADDRESSES THE IOWA IZAAK WALTON LEAGUE

● Mr. GRASSLEY. Mr. President, last night in Des Moines, Secretary of the Interior James Watt spoke before a house of 600 Izaak Walton League members.

Watt's speech at the Izaak Walton League Clubhouse. His speech received three standing ovations and the question-and-answer period which followed was lively and informative.

Mr. President, I commend the Secretary's speech to my colleagues and ask that excerpts be printed in the RECORD.

The excerpts follow:

##### EXCERPTS OF REMARKS BY SECRETARY WATT

First, is there anyone here who does not consider himself or herself an environmentalist? Anyone who raises a hand at this point is in the wrong meeting.

Now, how many hunters do we have here? How many fishermen—fisher persons?

Now, for a couple more questions.

How many of you hunt because that is the only means you have to put meat on the table? If you don't bag some birds or bring home the venison, the family goes hungry?

How many of you fish because that is the only means you have to put meat on the table? If you don't reel in some bass, catfish, crappie or whatever, the family goes hungry?

One of the major reasons you belong to the Izaak Walton League is that you like to fish and hunt and enjoy the outdoors in your leisure. Perhaps because it satisfies instincts within us all which hark back to times when our ancestors had to hunt and fish for survival. Perhaps it is just an excuse to get out of the hassle of everyday living and to be close to nature.

You are able to hunt and fish and hike in the outdoors for pleasure, for recreation or recreation. You can do so because you have adequate incomes to provide you with the time and the means to pursue these enjoyable, healthful and constructive pastimes.

I, too know something of the lure of field and stream.

My own experiences in hunting and fishing began on the family ranch in the High Plains of Wyoming where I grew up. My parents saw hunting and fishing as an essential part of life. It was a part of learning to appreciate the land, a part of learning that we have to take care of the land, its wildlife and its resources so the land in turn will continue to take care of us, and our children, and generations beyond.

When the time came, I taught my children this same appreciation for nature.

Most of my hunting was done as a youth. The game was not very abundant in Wyoming in those days because of droughts and other calamities. When I reminisce about hunting, it is mostly my youth I talk about. I haven't even had much time for target practice in recent years. I spend too much time dodging the political pot-shots of my critics. That isn't easy since most of them use scatterguns.

But I do go fishing when I get a chance. As a boy I fished with a willow stick and a string, and later I started trout fishing. In addition to fishing the lovely creeks, streams and lakes of Wyoming, I've taken advantage of occasional opportunities to drop a line for bass in Louisiana, for salmon off the coast of the Pacific Northwest and up in Alaska, for flounder in the Chesapeake, marlin in the seas off American Samoa, and even for bottom fish in the Red Sea. As time passes, the number and size of fish caught on these outings grow. That's one of the joys of fishing.

I'm not going to try to tell you that I am in a class with any of your outstanding fly fishing fishermen here in Iowa. But skill is required to love the activity.

Hunters and fishermen were the original conservationists—environmentalists long before that word became fashionable. Organizations such as the Izaak Walton League were established by people who realized that if we are to continue to use our land, we have to do so in ways that will assure that the land and its wildlife renew themselves. J. N. “Ding” Darling—one of your members—was following this philosophy when he launched the Federal Duck Stamp Program almost a half century ago. This is one of the ways we have to give nature a helping hand to assure that these resources are cared for properly.

This certainly sums up my philosophy of stewardship—use the land and water re-

sources as though we love them, harming them as little as possible so that the land and water will continue to help us meet our economic needs, help us to enjoy life more fully, help us to survive on Earth.

The stewardship philosophy of the Reagan Administration—my stewardship philosophy—is in tune with the hunters and fishermen of America. The natural resources of America are here for us to use for our needs—our economic needs, our recreational needs. Wise use will not diminish these values, but will enhance them. We are not destroyers but builders. We do not wantonly harvest the riches of the land. We do not decide resource questions without regard for our future or for the future of generations yet unborn.

Where this Administration differs from our critics is in our belief in the full stewardship equation—

We believe that use is a part of the equation, that you who hunt and fish can contribute to conservation, not undermine it.

We believe in management of natural resources and that hunters and fishermen are part of sound management.

We believe in your right of access to the public lands; your right to responsibly use and enjoy these lands. We don't think that we have to buy up and lock up huge parts of America and post it to keep you out to protect these lands. We trust you, and we believe that you and organizations like yours have been remarkably successful in instilling the environmental ethic in America.

I pledge to you that the Reagan Administration will oppose and fight those forces in Washington who would seek to halt hunting and fishing in our wilderness areas. Some of those purists that oppose my every move don't want explosions, like rifle shots, in the wilderness areas. I'll fight them.

We don't think that Washington, D.C., is the fountain of all wisdom. We don't think the Federal Government need dictate fish and wildlife management for Iowa or Illinois or Missouri or wherever. When you want a program or policy changed, you should be able to take your case down the road to the State Capitol to demand action—not travel hat-in-hand to Washington, D.C.

When I became Secretary of the Interior some 13 months ago, we were not using our natural resources wisely. We were not being good stewards.

There was too much air and water pollution, the national parks had been allowed to deteriorate, our wildlife ranges and refuges had been neglected, and our multiple-use lands had not been managed properly for the taxpayers and consumers of this generation and those yet to come.

Even though our public lands have tremendous potential for meeting our people's energy and strategic minerals needs, we were importing from foreign sources almost 40 percent of our crude oil needs and the majority of the strategic minerals needed for military might and industrial strength.

America was on a starvation diet even though our pantry of natural resources was overflowing. We were rapidly losing the economic vitality needed to sustain the environmental ethic which I believe in, which all of us here believe in.

Poor nations make poor stewards.

We can be a nation of environmentalists only if our citizens have jobs and incomes to support wise conservation. If you suffer economically to the point where you can no longer hunt, fish, hike—or even travel to the forests and streams—then your burning

desire to conserve is going to dim quickly, and understandably so.

So I was determined to make changes at the Department of the Interior that would restore balance, so that we could begin making better use of natural resources in order to maintain the economic strength that is fundamental to sound environmental stewardship.

These changes have been made, and this has brought howls of protest from a few conservation organizations, including your paid staff in Washington. Fewer than a dozen—out of the 220-plus groups which deal with Interior—are trying to nail my pelt to the wall. I call them commercial environmentalists because they make a living off of being what you folks are out of a love for the land and its natural life.

It should not be surprising that some of these commercial environmentalists want a government which dictates from Washington. They become supporters of central government because it is in their self-interest to have power concentrated in Washington. Their prestige is diminished when decisions can be made in Des Moines, or even when we discuss issues with and listen to the states and citizens.

Let me give you a very quick summary of some of the major changes we have made at Interior these past 13 months.

One of the most important changes we have made is to refocus stewardship responsibilities on taking care of what we have.

For example, we have launched a program to repair and restore our National Park System which was neglected to a shameful degree. As the government reached out for more and more land, it did less and less to care for the parks we already had.

I said, let's begin taking care of the parks we have and go slow for a while in acquisition of parkland. While virtually all programs in the Federal Government were being cut back this year, I got a big increase in funding for park repair and maintenance. In the coming fiscal year, I am asking for \$191 million for this effort. That is \$36 million more than Congress gave us last year and more than twice what the Carter Administration asked for in 1982.

I have improved programs for the exploration and production of oil and gas both on land and under the sea, for coal leasing, for oil shale development, for tar sands, and for geothermal resources. In every case, we have been careful to maintain environmental protections.

These improvements are important because the Federal Government controls some 730 million acres—about one-third of America—and well over one billion acres of Outer Continental Shelf. Estimates are that 85% of the crude oil yet to be discovered in America is likely to come from the 540 million acres of public lands open to multiple use, as will 40% of the natural gas, 35% of the coal, 80% of the oil shale, nearly all of the tar sands, and substantial portions of uranium and geothermal energy.

We simply must have an orderly, phased development of these resources not only to meet our current economic needs but to avert crisis development in the future which would be devastating to the environment and to our liberties.

Already we are seeing results. We are cutting back on the drain of American dollars and jobs which occurs when we import huge amounts of energy.

During 1981, oil production on Federal lands rose from 427 million barrels to more than 470 million; natural gas production in-

creased slightly to 5.8 trillion cubic feet, and coal production was up 31 percent to about 94.6 million tons.

We launched a good neighbor policy to work closely with the states and with users of public lands. Bureaucrats who once ran roughshod over state and local officials and over resource users have either changed their ways or have been asked to find other means of earning a livelihood. And when I say users of public lands, I mean hunters and fishermen and hikers and birdwatchers, as well as ranchers, loggers, oilmen and miners.

In addition to the 540 million acres of multiple use public lands, the Secretary of the Interior has responsibility for managing 72 million acres dedicated to national parks, 84 million acres set aside as wildlife refuges and ranges (an area twice the size of the six New England States). The Secretary also has responsibilities for various aspects of the 80 million acres of the Federal lands set aside as wilderness.

Recently I proposed to Congress a new approach for settling the muddled and overly-emotional debate about our wilderness system.

The 1964 law establishing the wilderness system provided for mineral leasing of such areas for 19 years. Under the bargain struck when the law was passed, the economic interests were to have their chance to locate and produce energy and minerals before areas were locked away forever. The Secretary of the Interior was supposed to deliver on this bargain, and over the years only about 50 leases have been granted in wilderness areas—about 10 by my immediate predecessor and five by me.

None of the leases approved since I became Secretary allows access or occupancy of the surface in the wilderness areas. The wilderness values cannot be disturbed.

Because of the furor over wilderness leasing, I imposed two moratoriums to give Congress time to sort out exactly what national policy changes should be adopted. When Congress did not respond, I proposed a solution. A change is needed because under present law, mining and drilling is permitted in the wilderness. There is no legal reason to deny a lease if proper environmental safeguards are in place.

In essence, we are asking that all wilderness areas and wilderness study areas be withdrawn from drilling or mining activity through the remainder of the century.

We are proposing some deadlines on wilderness decisions so that the process on Forest Service lands will be completed. Where Congressional deadlines are not met, areas under consideration for wilderness would be returned to their prior use which might include primitive areas, natural areas, wildlife management areas, or possibly multiple uses. They would not necessarily become available for mining or oil and gas drilling.

Our proposal is an effort at a compromise between two extreme positions—those who want wilderness closed now and forever and those who want another 20 years of exploration. As a compromise, there is the risk it will please no one, but it should.

Until the end of 1983, wilderness areas generally are open for mineral entry. Further, even after closure, any future Congress can decide to reopen. We propose a compromise: close wilderness now and specify a date, January 1, 2000, and leave Congress the choice of what to do thereafter. The date, we believe, would make it harder to reopen wilderness between now and the 21st Century.

Further, it is clear that wilderness areas would continue after the year 2000 with or without Congressional action and entry thereafter, while permissible, would require the Secretary of the Interior to promulgate regulations before that would occur.

The compromise we have proposed is similar to the one hammered out and adopted in December of 1980 in the Alaska Lands Act covering 56 of the 80 million acres in the Wilderness System. We thought it might be fair to apply the basic formula to the 24 million acres in the "Lower 48."

Our proposal calls for a continuous study of wilderness and proposed wilderness provided the means of doing so will not diminish the wilderness characteristics of the areas. By the end of the century our country should have acquired substantial data upon which to make rational decisions about how to better protect the wilderness and at the same time meet our national needs for energy and minerals in the 21st Century.

This proposal also provides an essential safety valve to protect our national security. In the event of "urgent national need," the President could issue an order for the entry into a specific few acres of wilderness areas for the production of specific needed energy or minerals. Congress, of course, could countermand that order and is given time to do so.

This proposal would tone down the rhetoric and give time for emotions to cool so that we can better manage and protect these wilderness areas for the rest of the century. It gives this Nation time to clarify how we are to continue stewardship of these important areas in the 21st Century.

Of course, people who are making hay out of this issue do not want the rhetoric toned down; do not want emotions to cool; and, most of all, they seem to want to forestall the possibility of future deliberations based upon better information and more facts than we now have. They fear they may be proven wrong.

I am willing to trust the future generations of Americans to make wise decisions, especially if we take steps to see that they have better information upon which to make decisions. There's no reason for any of us to think that we are smarter or morally superior to those who will be the decision-makers of the next century.

We are a nation of environmentalists, but we must base our resource management decisions upon facts—upon good and complete information.

A study conducted for the U.S. Fish and Wildlife Service demonstrates that many Americans—despite the good work of organizations such as yours—still do not know much about animals or wildlife conservation issues. For example, only slightly over half the people surveyed knew that veal does *not* come from lamb. Seventy-five percent of the people surveyed did not know that the coyote is *not* an endangered species.

Residents of large cities showed extremely little knowledge of wildlife and conservation issues. People in large cities who knew the least about wildlife were the most opposed to hunting.

Unfortunately, there are those who play to the emotions of people who know little about wildlife. This makes it difficult for your organization and for me to do our work. We have to do a better job of educating people about wildlife and about conservation in general so that there is an understanding that managed use of resources—whether use be hunting, fishing, grazing,

mining or drilling—is an essential part of the equation of stewardship.

My job as Secretary of the Interior requires me to play many roles. I am the chief environmentalist, the chief oil and gas driller, the chief wildlife manager, the chief coal leaser, the chief national park ranger, the chief dam builder, the chief purchaser of wetlands for migratory bird habitat, and even the chief Indian trustee, for America.

In other words, I must try to consider the broad public interest in all decisions I make.

It is my job to ask every time we are faced with a resource management decision: How will this affect the environment? How will this help create jobs? How will this impact on our national security?

In response to these questions, I have brought a year of change to the Department of the Interior, just as President Reagan has brought a year of dynamic change and progress for the entire government.

These changes are crucial so that we can restore America's greatness, so that we can protect our liberties, so that we can maintain our economy and our environment for ourselves and for untold generations to come.●

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ORDER OF PROCEDURE ON  
THURSDAY

Mr. BAKER. Mr. President, I see no Senator seeking recognition. It has been a long day. We have an order for the Senate to convene at 10 o'clock tomorrow. It is the intention of the leadership to ask the Senate to return to Senate Resolution 204 at approximately 10:30. I will not ask for a live quorum to enforce attendance or take other such measures during the first hour or so of the session, since committees will be meeting and there was

no prior notice of this change in our schedule.

I hope that Senators who have statements to make, however, will do so before the hour of noon, or thereabouts, because then we will begin to ask Senators to attend and respond to live quorums and votes to compel their attendance, as necessary.

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RECESS UNTIL 10 A.M.  
TOMORROW

Mr. BAKER. Mr. President, I move, in accordance with the order previously entered, that the Senate stand in recess until the hour of 10 a.m. on tomorrow.

The motion was agreed to; and, at 6:26 p.m., the Senate recessed until Thursday, March 11, 1982, at 10 a.m.