SENATE—*Thursday, March 11, 1982*

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

PRAYER

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

Almighty God of justice and truth, gracious Father of love and mercy, we invoke Thy presence and blessing upon the Senate as it confronts the heavy issue of this day. Grant to each Senator special grace to accept the resolution of a matter which will be painful and sorrowful however it ends. Thank Thee, Lord, for faithful men and women who are prepared to do the hard thing, the right thing, in the assurance that truth and justice are their own reward and guarantee equity to all.

Help them to see that history will record this as one of the great hours in the annals of the Senate: that the word of God clearly promises that "God works in everything for good to those who love Him, who are called according to His purpose." As they faithfully discharge their solemn duty, distasteful though it be, may they find in the sanctuary of their souls the peace and love of God. We pray this in the name of Him who is the way, the truth, and the life. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

Mr. BAKER. I thank the Chair.

THE JOURNAL

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

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

ORDER OF PROCEDURE

Mr. BAKER. Mr. President, there are two special orders for this morning. I have no need of my time under the standing order, except to say that it is my sincere hope, it is my desire and determination, to finish the Senate debate on Senate Resolution 204 during this day.

As I indicated on yesterday, Thursday is the regularly scheduled late evening of the Senate. Senators should be on notice that, if necessary, the Senate will be in late today.

Mr. President, I ask unanimous consent that I may reserve the remainder of my time under the standing order until the expiration of the time allocated to Senators under the special orders heretofore entered.

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

Mr. BAKER. I thank the Chair.

RECOGNITION OF THE ACTING MINORITY LEADER

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

Mr. PROXMIRE. Mr. President, I ask that the time of the minority leader be added to my special order. I have been told that that is acceptable to the minority leader.

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

(Mr. WARNER assumed the chair.)

THE THREAT OF NUCLEAR DESTRUCTION AND WHAT WE CAN DO ABOUT IT

Mr. PROXMIRE. Mr. President, Jonathan Schell has written a remarkable series of articles in the New Yorker magazine entitled, "The Fate of the Earth." Mr. Schell discusses the terrible prospect that mankind may destroy himself. Too few of us have faced the fact that life on Earth has changed since the first nuclear explosion destroyed human life in 1945. In the ensuing 37 years we have accumulated a nuclear arsenal that can destroy all life, all life on this planet.

Jonathan Schell puts it this way:

> Since July 16, 1945, when the first atomic bomb was detonated, at the Trinity test site, near Alamogorda, New Mexico, mankind has lived with nuclear weapons in its midst. Each year, the number of bombs has grown until now there are 50,000 warheads in the world, possessing the explosive yield of roughly 20 billion tons of TNT, or 1,600,000 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.

That nuclear arsenal lies in the possession of the world's great superpowers—the United States of America and the Soviet Union. Our arsenal has grown so immensely in power that we could literally destroy, end, finish, forever all mankind and very possibly all forms of life on the planet. It could happen next year or next week or tomorrow or at 5 o'clock this afternoon. Every living thing on Earth could perish.

The threat is very real. Of nuclear weapons Schell writes:

> Our species is caught in the same tightening net of technical success that has already strangled so many other species. The peril of human extinction, which exists not because every single person in the world would be killed by the immediate explosive and radioactive effects of a holocaust—something that is exceedingly unlikely, even at present levels of armaments—but because a holocaust might render the biosphere unfit for human survival, is, in a word an ecological peril.

And yet the prospects for our survival are not so bleak that we cannot take action, in time, to determine our fate—our own destiny.

A few days ago, Carl Sagan, the renowned scientist, came to my office to discuss the space program. He left with me a paper he had written on this same subject. In that paper, he said this:

> And on our planet what has evolved is not just life, not just grass or mice or beetles or microbes, but beings with a great, soaring, passionate intelligence, with a capacity to anticipate the future consequences of present actions, with the ability even to leave their home world and seek out life elsewhere. What a waste it would be if, after four billion years of tortuous biological evolution, after the deaths of trillions of slightly maladapted organisms so a few, like us, could be superbly adapted, if after all this the dominant organism on the planet contrived its own annihilation. I look at the fossil record and I see that after flourishing for 180 million years, the dinosaurs were extinguished. Every last one. There are none left. No species is guaranteed its tenure on this planet. And we've been here for only about a million years, we, the first species that has devised the means for its self-destruction. I look at those other worlds, cratered, airless, cold, here and there coated with a hopeful stain of organic matter, and I remind myself that an astonishing thing has happened here. The Earth is an anomaly; in all the solar system, it is, apparently, the only inhabited planet. We are rare and precious because we are alive, because we can think. How privileged we are to live, to influence and control our future. I believe we have an obligation to fight for that life, to struggle not just for ourselves, but for all those creatures who came before us, and to whom we are beholden, and for all those who, if we are wise enough, will come after us. There is no cause more urgent, no dedication more fitting for us than to strive to eliminate the threat of nuclear war. No social convention, no political system, no economic hypothesis, no religious dogma is more important.

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

The administration has announced that it will seek the approval this year of this Congress—us—for the production of thousands and thousands more nuclear warheads. We could blast not only the Soviet Union but everything on Earth right now into eternity. Why the additional power of death and destruction at a cost of billions of dollars? Those who advocate the additional nuclear production sincerely believe that additional nuclear force points the way to greater military strength and such an awesome power that our great adversary with all their power would recognize that even if they hit us first with wave after wave of nuclear bombs and destroyed every living American on the surface of the Earth we could strike back from silos beneath the Earth, or from the skies in planes that carry immense nuclear destruction at all times, or from beneath the oceans from our fleet of submarines—each one of which could destroy many major cities in the U.S.S.R.—and we have 39 of such submarines.

They contend—sincerely that if we pile up sufficient nuclear power we can intimidate the U.S.S.R. in the certain knowledge that an attack on the United States from the Soviet Union would only result in mutual suicide. Now does the construction of this colossal arsenal of death and destruction really give us more security?

Put yourself in the position of the U.S.S.R., they face a country that has more nuclear weapons than they have. So what would you do in that position when you see us race ahead to produce thousands of additional warheads? Would you feel driven to the bargaining table to negotiate on our terms from a perceived position of weakness? Of course not, you would do what the Soviet Union certainly will do, you would produce your own additional arsenal, 17,000 nuclear warheads, or maybe 30,000 or 40,000.

Mr. President, this arms race has become absolutely insane. We have to find a way to stop it. We have to negotiate a verifiable end to this insanity. Every year additional nations beyond the U.S.S.R. and the United States join the nuclear club and can boast of a capacity to wage nuclear war. Today seven nations have that capacity. Within 10 years that number will double. If nuclear war does not break out to destroy all of mankind by 10 years from now, we can expect the nuclear club to continue to grow. By the year 2000 at least 20—maybe 25—nations may have this terrible power—if, of course, mankind still dwells on this planet in the year 2000, and do not bet on it.

Hear Schell discuss the consequences of our folly:

> Our modest role is not to create but only to preserve ourselves. The alternative is to surrender ourselves to absolute and eternal darkness: a darkness in which no nation, no society, no ideology, no civilization will remain; in which never again will a child be born, in which never again will human beings appear on the Earth, and there will be no one to remember that they ever did.

If Jimmy the Greek or Lloyds of London were giving odds on our survival, the chances might be 50-50 that we would have a nuclear war that would destroy life on Earth. No one would make that kind of bet, of course, because if you bet on nuclear war, and won, you would not be here to collect your winnings. But think of it—year after year—the odds on human life continuing on this planet become shorter. And what are we doing about it? Almost nothing, Mr. President.

I think some people somewhere may have the impression that the executive branch or the U.S. Senate or some kind of a commission with some real power has gone to work on this terrible problem. The grim news is that we have a commission at work on the gold standard; we have commissions at work on how to solve our social security problem; but no one today really is working with the Soviet Union and other nuclear nations on ending this suicidal arms race.

As Jonathan Schell points, out, it makes us sick to think about it or talk about or listen to others who talk about it. So we forget it. We feel we can do nothing about it. We feel embarrassed that we would be viewed as misguided idealists, impractical dreamers, maybe even "rather be red than dead" traitors to our country if we discuss this most urgent and terrible and vital of problems. Listen to Schell:

> 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 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 * * *

Mr. President, it is time we stopped this grim and terrible fact of life and death on Earth and faced it squarely.

It is true we have ongoing discussions over force levels—nuclear force levels—in Europe, strategic arms reduction talks. The President did make a sincere effort in that direction, for which he deserves credit. Those talks seem to be going nowhere fast. And with each passing week, new technological developments make arms control more and more difficult to achieve. And now, now we must think about arms control in space as well as on Earth. The arms race is about to jump from its earthbound shackles and devour a new environment.

So, Mr. President, I have written the Foreign Relations Committee of the U.S. Senate; I have written the Armed Services Committee of the Senate; I have written the Secretary of State and the Secretary of Defense, and I have asked them to specify in detail what they have done to make progress to end this nightmare and to begin the painful steps toward stopping nuclear proliferation and the suicidal arms race between the United States and the Soviet Union.

We have a thousand excuses for not taking any action: we must catch up with the Russians first; we must protect U.S. business interests overseas; if we do not sell nuclear products someone else will; now is not the time; this is not the place; wait until international conditions are better; wait for someone else to make the first move; we cannot interfere in the internal affairs of another country; wait until after the elections; if only there had been no invasion of Afghanistan. It goes on and on.

Mr. President, we will be making these same excuses the hour before nuclear war breaks out—unless we put aside our politics, our concerns over prestige, our war gaming calculations, and, in concert make a determined effort to find a solution to the nuclear menace.

Without such a worldwide effort soon, we may well test out the theory that the human race is but one rather unsuccessful form of life.

Jonathan Schell concludes by laying out the alternatives for us:

> Two paths lie before us. One leads to death, the other to life. If we choose the first path—if we numbly refuse to acknowledge the nearness of extinction, all the while increasing our preparations to bring it about—then we in effect become the allies of death, and in everything we do our attachment to life will weaken: our vision, blinded to the abyss that has opened at our feet, will dim and grow confused; our will, discouraged by the thought of trying to build on such a precarious foundation anything that is meant to last, will slacken; and we will sink to stupefaction, as though we were gradually weaning ourselves from life in preparation for the end. On the other hand, if we reject our doom, and bend our efforts toward survival—if we arouse ourselves to the peril and act to forestall it, making ourselves the allies of life—then the anesthetic fog will lift: our vision, no longer straining not to see the obvious, will sharpen; our will, finding secure ground to build on, will be restored; and we will take full and clear possession of life again.

Let me quote from Carl Sagan, who agrees by saying:

> There is no issue more important than the avoidance of nuclear war. Whatever your interests, passions or goals, they and you are threatened fundamentally by the prospect of nuclear war. We have achieved the capability for the certain destruction of our civi-

lization and perhaps of our species as well. I find it incredible that any thinking person would not be concerned in the deepest way about this issue.

Mr. President, those are the issues. The threat is clear. The solutions are clear. The need is clear. But it is not clear that we have the will to take the necessary action to safeguard humanity from extinction. We have the intelligence, the logic, the technology, and the justification to solve this problem. Let us use these resources before it is too late.

Mr. President, when I say "let us" I mean let the U.S. Senate, let this body. This is the great legislative body of this country. This is the legislative body that has the prime jurisdiction over treaties, the principal responsibility in foreign policy, the major responsibility along with the House for our military posture. This is the body that will entertain the request of the President for additional nuclear warheads.

I am not saying, and I do not think any sane, reasonable, realistic person would argue, that we should engage in unilateral disarmament or a unilateral freeze; of course not. We should work and work with all our might and all our main toward persuading the Soviet Union to work with us for a mutual, verifiable end to nuclear arms production. It is extremely hard to do, but there is no evidence we are making any effort in that direction.

Mr. President, a few days ago, one of the preeminent military officers to have served this Nation, Admiral Rickover, made his valedictory appearance before a congressional committee. I had the great honor of chairing the subcommittee of the Joint Economic Committee before which he appeared. Admiral Rickover has done more to provide a nuclear deterrent and nuclear power than perhaps any other man. He is the father of our nuclear navy. I think we all recognize that the one truly invulnerable deterrent that we have are our great nuclear submarines. Admiral Rickover, with his great intelligence and his knowledge of the capability of nuclear power, said that: "We will probably blow ourselves"—meaning all mankind—"up"; we will probably destroy mankind. Probably, not certainly. We can, if we use our intelligence and work with all our might, survive, but it will take that kind of determination.

Mr. President, there has been no greater test of a species. It is our decision, our destiny, our children's world to preserve.

Mr. SPECTER subsequently said: Mr. President, I compliment the distinguished Senator from Wisconsin on his very timely remarks about the nuclear issue. It is unfortunate that such extraordinary remarks are given to an empty Senate Chamber, but it is necessary because our colleagues are engaged in other business. Senator PROXMIRE speaks obviously only for the RECORD because of the absence of listeners. If he is correct, there will be no one to read the RECORD, and even as I make these complimentary remarks, he has departed to other pressing business.

RATIFICATION OF HOUSE JOINT RESOLUTION 373 IS NOT ENOUGH

Mr. PROXMIRE. Mr. President, on March 4 the Senate passed House Joint Resolution 373, which expresses the sense of Congress that the Government of the Soviet Union should respect the rights of its citizens to practice their religion and to emigrate. The resolution further stated that these issues should be among those raised at the 38th meeting of the United Nations Commission on Human Rights.

This is a most timely resolution. As Senator PELL pointed out, over the past few years, the persecution of Soviet Jews has increased on a number of fronts. The number of Jews permitted to emigrate has substantially diminished. Dissident Jews have been harassed, and arrested on trumped-up charges. Those attempting merely to engage in religious worship are also harassed.

At the time, Senator BOSCHWITZ noted that passage of this resolution would:

> Send a signal to the Soviet Government that the U.S. Congress is deeply concerned about its continued persecution of its Jewish citizens.

Mr. President, I certainly agree that passage of a joint resolution will send a signal to the Soviet Government. However, the U.S. Senate is also sending a signal to the Soviet Government and the world by failing to ratify the Genocide Treaty, which declares genocide of a national, ethnical, racial, or religious group an international crime.

The Soviet Union ratified this treaty in 1954. Since that time, on numerous occasions, the Soviets have laughed in our faces when we have brought up their human rights abuses. They argue that if we were sincerely concerned and committed to human rights, we would ratify this treaty. We must ratify the Genocide Treaty, and thus prevent the Soviets from accusing us of disregarding human rights.

Mr. President, I am happy to yield such time as I have available to the Senator from South Carolina.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. I thank the distinguished Senator from Wisconsin. I shall be a moment here.

SENATOR HOLLINGS ALTERNATIVE BUDGET PROPOSAL

Mr. HOLLINGS. Mr. President, the President has, just this week, invited Members of Congress to submit alternative budget proposals. I accepted that invitation nearly a month before it was made. Now, however, I have sent the President a copy of that plan with an explanation and the details. I ask unanimous consent that my letter to the President, together with supporting attachments be printed in the RECORD.

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

U.S. SENATE,
Washington, D.C., March 10, 1982.

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: On your visit to Capitol Hill yesterday, you invited members of Congress to submit any alternative budget plan that could be considered comprehensive and a serious proposal. I herewith submit such a plan in detail. It has received serious consideration by the Republican leadership and the banking, business and financial communities have commented with approval. Our tragic situation is that the business community is refusing to take advantage of the supply-side business tax cuts of last year until it can be assured that deficits are reduced and the government will not be elbowing it out of the capital market. The Federal Reserve will not permit the money growth necessary for an expanded economy until Congress adopts a more restrictive fiscal policy. There is no intimation that either authority has approved this plan. But when asked what would happen to interest rates if this approach were adopted, the noted economist Alan Greenspan said that interest rates would drop "immediately" and the Chairman of the Federal Reserve Board said they would drop "substantially."

All of our economic experts have stated that the problem for Congress is not the recession but chronic high interest rates which will persist as long as projected deficits loom large. This demands dramatic and immediate action on the high interest rate front. This can be obtained by deferring the individual 1982 tax cut, providing for a 5% tax cut in 1983; and if interest rates permit, increasing this to 10% in 1983 or 1984. The business tax cuts—the supply-side of Reaganomics—are left undisturbed. Defense received a $37 billion increase in fiscal year 1981 and a $33 billion increase is projected for fiscal year 1982. The plan calls for phasing in this $70 billion add-on through 1983 and provides that the O & M accounts for readiness be held harmless to inflation in fiscal year 1983. If the B-1 is rescinded, no massive contract terminations are required. This alternate budget plan calls for an annual real growth in the defense budget of about 5.5% for 1980 through 1985, and a 12% real growth in procurement for 1981, 1982 and 1983. Finally, entitlement benefits are not cut. It is the cost of living adjustment increases that are frozen for fiscal 1983 with a Social Security reform plan that will resume COLA's in the ensuing years and at the same time reestablish the fiscal integrity of the fund.

This plan puts us on the glide-path towards government in the black by 1985. Deficits will be eliminated, interest rates will fall, industry will invest, employment and productivity will increase and the economy will grow and compete. But the sacrifice and tough decisions necessary to adopting a package of this kind cannot happen without your approval. Most members feel that they now have good voting records for defense, Social Security and tax cuts. Certain it is that they will not be maneuvered into a posture of anti-defense, anti-tax cut and anti-Social Security knowing that such an approach as I have outlined will be voted by you. In short, unless you note your approval in the next two weeks, the necessary climate for fiscal discipline will never jell. The authorizing committees are now signaling budget increases rather than budget cuts and if the President is telling the people that his plan is working, it just needs more time, then the Congress will opt for patience rather than sacrifice. A bipartisan coalition necessary to solve the problem will never form. This will indicate to the American people that not only is the economy out of control but its government in Washington has reached a paralysis.

Sincerely,

ERNEST F. HOLLINGS.

HOLLINGS PLAN

[By fiscal year; in billions of dollars]

	Outlays 1982	1983	1984	1985
Baseline revenues	631	652	701	763
Baseline outlays	740	809	889	971
Baseline deficits	−109	−157	−188	−208
Deficit reduction measures:				
Revenue changes:				
Forgo July 1982 10-percent tax cut				
Reduce July 1983 10-percent tax cut to 5-percent	8	35	49	64
Repeal indexing				
Repeal leasing	1	3	4	6
Total revenue changes	9	38	53	70
Spending changes:				
Cost-of-living adjustment (COLA) freeze July 1982, reform beginning Oct. 1983	4	19	28	37
Forgo Oct. 1982 Government employee pay raise—provide 5-percent raise in 1983 and 1984		6	8	11
Defense—freeze budget authority in fiscal year 1983, 5-percent real growth in purchases in fiscal year 1984, fiscal year 1985		7	19	23
Management savings—half of administration proposals		10	12	12
Interest savings from lower deficits and interest rates	1	10	33	55
Total spending changes	5	52	100	138
Total deficit reduction	14	90	153	208
Deficit/surplus	−95	−67	−35	0

SPENDING UNDER THE HOLLINGS PLAN

[By fiscal year; in billions of dollars]

	Outlays 1982	1983
Function:		
Defense	190	203
International	11	12
Science and space	7	7
Energy	6	5
Environment	13	12
Agriculture	14	8
Community development	5	3
Transportation	21	21
Regional development	9	8
Education and training	27	27
Health	77	88
Income security	249	250
Veterans	24	24
Justice	5	5
General government	5	5
Fiscal assistance	6	7
Interest	102	118
Allowances		−4
Offsetting receipts	−34	−43
Total	736	756

HOLLINGS FISCAL YEAR 1983 DEFENSE FREEZE PROPOSAL

The Hollings fiscal year 1983 plan freezes budget authority at fiscal year 1982 levels. Outlays increase in fiscal year 1983 because no prior year rescissions are required other than $2.1 billion (BA) for B-1. This means no massive contract terminations.

The plan takes the enormous real growth (22%) given defense in fiscal year 1981-82 and stretches it out over 36 months rather than 24—reducing real growth to 17% over the three years or an average annual growth of 5.7% per year.

O. & M.

Hollings 1982:	
Budget authority	61.5
Outlays	60.8
Hollings 1983:	
Budget authority	65.0
Outlays	63.8
Reagan 1983:[1]	
Budget authority	69.4
Outlays	68.0
Difference (Hollings-Reagan):	
Budget authority	−4.4
Outlays	−4.2

[1] Reagan's fiscal year 1983 request levels assume no fiscal year 1982 program supplemental and are based on CBO reestimates.

NOTE.—Hollings' fiscal year 1982 totals assume no program supplemental and rescission of B-1 funds.

O&M readiness is held harmless to inflation. This provides for O&M real growth of over 13% or 4% per year since fiscal year 1980.

Reductions from the President's request would be primarily in non-readiness areas such as real property and base maintenance, central supply and maintenance activities, and personnel support and administrative functions.

President's increases in O&M were across-the-board. The Hollings plan would realign these by requiring the establishment of priorities.

Procurement

Hollings 1982:	
Budget authority	63.0
Outlays	44.3
Hollings 1983:	
Budget authority	59.6
Outlays	51.9
Reagan 1983:[1]	
Budget authority	89.5
Outlays	56.5
Difference Hollings-Reagan:	
Budget authority	−29.9
Outlays	−4.6

[1] Reagan's fiscal year 1983 request levels assume no fiscal year 1982 program supplemental and are based on CBO reestimates.

NOTE.—Hollings' fiscal year 1982 totals assume no program supplemental and rescission of B-1 funds.

The plan provides for over 35 percent real growth in procurement for fiscal year 1983 over fiscal year 1980 or an average of nearly 12 percent real growth per year.

The reductions from the President's procurement request would come from the B-1 and MX basing money and from an assortment of programs depending upon DoD and Congressionally-set priorities regarding carriers, number of Trident subs, MX missile, AH-64, numbers of CG-47s, attack subs, frigates, and the mix and buy levels for planes such as F-14 and F-18, F-15 and F-16.

R. & D.

Hollings 1982:	
Budget authority	19.7
Outlays	18.4
Hollings 1983:	
Budget authority	20.0
Outlays	19.3
Reagan 1983:[1]	
Budget authority	24.3
Outlays	21.9
Difference Hollings-Reagan:	
Budget authority	−4.3
Outlays	−2.6

[1] Reagan's fiscal year 1983 request levels assume no fiscal year 1982 program supplemental and are based on CBO reestimates.

NOTE.—Hollings' fiscal year 1982 totals assume no program supplemental and rescission of B-1 funds.

The plan provides for over 17 percent real growth in R&D for fiscal year 1983 over fiscal year 1980 or an average of nearly 6 percent real growth per year.

The reduction in R&D could come from systems such as the B-1, MX, and by holding basic technology and advanced development to their fiscal year 1982 levels.

Military retired pay

Hollings 1982:	
Budget authority	15.0
Outlays	15.0
Hollings 1983:	
Budget authority	15.8
Outlays	15.8
Reagan 1983:[1]	
Budget authority	16.5
Outlays	16.3
Difference (Hollings-Reagan):	
Budget authority	−0.7
Outlays	−0.5

[1] Reagan's fiscal year 1983 request levels assume no fiscal year 1982 program supplemental and are based on CBO reestimates.

NOTE.—Hollings' fiscal year 1982 totals assume no programs supplemental and rescission of B-1 funds.

A freeze is placed on military retired pay COLA. The COLA resumes in fiscal year 1984 at the lower of the CPI minus 3% or the level of the government pay raise.

Military/DOD civilian pay raise

Hollings 1982:	
Budget authority	5.6
Outlays	5.5
Hollings 1983:	
Budget authority	
Outlays	0.1
Reagan 1983:[1]	
Budget authority	4.1
Outlays	4.1
Difference (Hollings-Reagan):	
Budget authority	−4.1
Outlays	−4.0

[1] Reagan's fiscal year 1983 request levels assume no fiscal year 1982 program supplemental and are based on CBO reestimates.

NOTE.—Hollings' fiscal year 1982 totals assume no program supplemental and rescission of B-1 funds.

A one-year freeze assumed for military and civilian pay raises. The pay raise resumes in fiscal year 1984.

Other

Hollings 1982:	
Budget authority	49.6
Outlays	46.2
Hollings 1983:	
Budget authority	54.0
Outlays	52.3
Reagan 1983: [1]	
Budget authority	59.2
Outlays	56.2
Difference (Hollings-Reagan):	
Budget authority	−5.2
Outlays	−3.9

[1] Reagan's fiscal year 1983 request levels assume no fiscal year 1982 program supplemental and are based on CBO reestimates.

NOTE.—Hollings' fiscal year 1982 totals assume no program supplemental and rescission of B-1 funds.

Includes military personnel, military construction, family housing, defense-energy efforts, revolving and management funds and other miscellaneous items.

The reductions mostly come from military construction and Energy-Defense activities. They would still have real growth fiscal year 1983 over fiscal year 1980 of 75% and 8% respectively.

The reductions would require a one year, across-the-board slowdown in construction projects and nuclear weapons production activities.

Total national defense

Hollings 1982:	
Budget authority	214.4
Outlays	190.1
Hollings 1983:	
Budget authority	214.4
Outlays	203.2
Reagan 1983: [1]	
Budget authority	263.0
Outlays	222.9
Difference (Hollings-Reagan):	
Budget authority	−48.6
Outlays	−19.8

[1] Reagan's fiscal year 1983 request levels assume no fiscal year 1982 program supplemental and are based on CBO reestimates.

NOTE.—Hollings' fiscal year 1982 totals assume no program supplemental and rescission of B-1 funds.

HOLLINGS PLAN FOR FISCAL YEAR 1984-85

Hollings provides for a minimum of 5% real growth in defense purchases and readiness for each year.

Mr. HOLLINGS. In my letter, I told the President of my deepest concern that the business community is deferring the investment we need because of the enormous deficits now predicted. I reminded him that many of our best economic experts are saying it is not the recession that is causing our worst economic problems. It is the high interest rates growing out of the terrible budget deficits.

Then I described to him the elements of the alternative plan I have described to my colleagues today. It is a plan that can eliminate deficits, reduce interest rates, spawn industrial investment, and help to expand our economy and the job market. It is a program that would still provide $88 billion for health programs, $24 billion for veterans programs, $250 billion for income security and $27 billion for education and training. All that could be done and more under my budget plan while still spending $203 billion for defense in fiscal 1983. The plan can put us on the glidepath toward Government in the black by 1985.

But no matter how well my proposal might work, no matter how much other budget proposals might improve the one we were offered in February, none of it can be done without the President's help.

He is the most visible figure of the Government. He has great strengths as a communicator, and now has the opportunity to demonstrate the statesmanship we expect of Presidents. The Congress needs his cooperation and I ask it today.

Samplings of public opinion are showing a growing lack of faith in the February budget, but it is a faith we can reclaim if we make changes now. This is not the time to stand on theory. This is the time to talk and be practical.

So I ask the President for that, in the honest belief that, without joint White House/congressional efforts, we cannot get the job done. That would be a tragedy and together, we can avoid it.

Mr. President, on February 10, I introduced an alternative budget. Within days, at least three Republican members of the Senate Budget Committee developed separate proposals. These are all realistic, good-faith efforts to reduce the $157 billion deficit more effectively and more equitably than the administration's budget does.

Unfortunately, the President's reaction so far has been to travel the country accusing the Congress of trying to wreck his budget. The fact is, Congress is trying to pick up the pieces and produce a bipartisan package to demonstrate equity to the taxpayer, restore business confidence, and sharpen the competitive edge of the American economy.

Each of the alternate Senate budget proposals includes changes in at least three major areas: taxes, entitlements, and national defense. I want to go over my plan briefly today to show exactly what it is intended to do.

If the plan is approved, it could cut the deficit to $67 billion in fiscal 1983, reduce it to $35 billion in fiscal 1984, and balance the budget by 1985. I view it as a practical attempt to rescue the Reagan program from its own excesses. My plan is not painless. But it is fair, containing neither special preference nor inflicting extreme burdens on anyone.

First, it would defer the increase in defense spending proposed for fiscal 1983 by the President, and permit 5 percent real growth in fiscal 1984-85. This will provide for needed improvements in national defense, but it does it without bursting the seams of the budget we are trying to mend.

Second, the plan defers the cost-of-living (COLA) adjustments in entitlement programs. There is no doubt that social security, for example, faces a troubled future. But we serve neither the system nor the beneficiaries if we let an inflated economy trigger automatic increases that further threaten the well-being of both. Automatic adjustments of social security were not even a regular feature of social security until 1975. Before that, there was no automatic-pilot approach to cost-of-living increases. If we freeze the COLA for 1 year while developing reforms under social security and other entitlements, we can save $88 billion. And I want to make it clear that AFDC, food stamps, medicare, and medicaid are not—not—included in this proposed freeze.

Third, we need to forgo the July 1982 tax cut and reduce the July 1983 tax cut from 10 percent down to 5 percent. If that is done, we could save $8 billion in fiscal year 1982, $35 billion in fiscal year 1983, $49 billion in fiscal year 1984, and $64 billion in fiscal year 1985. It is the Kemp-Roth notion of massive tax cuts that has dried up the revenues and caused the Mount Everest deficits the President had pledged to erase.

There are additional features of my proposal, including giving up the Federal pay raise and less interest on the national debt. But I would like to say an extra word about the Kemp reaction to the Hollings plan.

Several days ago, the Washington Post ran a story on my plan that suggested that Data Resources, Inc., had cranked the plan through its computer model of the economy and came up with negative results. The fact is Data Resources did not arrive at negative results because DRI did not run my plan through its computer. In fact, when Dr. Eckstein, the head of DRI, was asked at a March 1 budget committee hearing if they had run the Hollings plan through its computer, Dr. Eckstein said, flat out, "No, it has not."

Mr. President, I can tell you what really happened. The staff at the Treasury Department took the DRI model and put into it what they thought was my plan. They were wrong. The Treasury numbers ended up in the hands of the House Republican Conference, chaired by JACK KEMP, which then turned around and took credit for a special report on the disastrous effect of the Hollings proposal. If anyone wants to check out the facts as I have given them, all they have to do is look at the February 23, 1982, CONGRESSIONAL RECORD. The whole special study is right there on page 2194.

Now I expect some good, honest debate on how to repair the 1983 budget. But anyone who would play fast and loose with the facts as was done in this case, is the same type who would blow out the light in Diogenes' lantern, and then rub the ashes in his face.

In contrast to the Kemp study, the Congressional Budget Office has looked at my plan and found that:

A reduction in the Federal budget deficit during the projected economic recovery would lessen the likelihood of a serious clash between monetary and fiscal policy, characterized by higher interest rates, and weaker economic growth than projected by the CBO.

In the long run, easier credit conditions would facilitate more investment and economic growth.

There is a possibility that inflationary expectations would improve dramatically, resulting in substantially lower interest rates and faster economic growth.

If my proposed deficit-reducing policies were to have a favorable impact on expectations, the outcome in both the short run and the long run could be considerably better than is shown by traditional analysis.

We need a bipartisan consensus to get the ox out of the ditch, and that will require not just bold initiatives from the Congress but also bold leadership from the White House. We are nearing decision time in the Senate Budget Committee and a deadlock would compound a serious problem into an actual disaster. I would not expect the President to embrace all the specifics of any of the existing budget alternatives, but I do expect him to become a cooperative partner in developing a reasonable budget.

Mr. President, to help in the effort to devise workable options, I want to discuss in detail today one element of my plan, the subject of national defense.

Neither the authors of other budget alternatives nor I, dispute the need for accelerated defense spending. But the budget deficit imposes a speed limit. We cannot push the accelerator all the way to the floor and not expect to face a stiff fine, payable in ever-increasing deficits and runaway interest rates. We can, instead, restore our defenses at reasonable speed, still arrive at our goal on time, and do so while keeping both hands on the wheel.

The defense portion of my alternative budget underscores my longstanding belief in preserving the peace through a strong defense. My proposal in no way retreats from strength. If anything, it underscores the fact that this country is serious about the quality of our military and equally serious about strengthening our economy to produce what we need in the defense sector. All areas of the economy must sacrifice if the economy is to recover. If defense is immune to budget sacrifice, we risk losing public support for the necessary defense buildup. What we are doing in effect, is preserving the defense program by stretching out its growth.

This defense plan would freeze fiscal year 1983 budget authority at the fiscal year 1982 levels while allowing for 5 percent real growth in defense purchases in fiscal years 1984 and 1985. Outlays are not frozen because no prior year rescissions are required other than the B-1. This means, and this is important, that there will be no massive contract terminations as some have suggested. The plan covers all areas of the defense budget, O. & M.; procurement; R. & D.; military retired pay; the military and DOD civilian pay raises, and other items ranging from military construction and family housing to defense-energy efforts. It overlooks none of the defense essentials and it treats them all fairly when you consider the substantial, but necessary, increases in defense spending since 1980.

To get a more complete picture of the elements of my plan, I will go through each of them in more detail.

OPERATIONS AND MAINTENANCE

My plan would provide $65 billion in budget authority and $63.8 billion in outlays for fiscal year 1983. This compares with the Reagan fiscal year 1983 proposal of $69.4 billion in budget authority and $68 billion in outlays. The Hollings plan represents a savings of $4.4 billion in budget authority and $4.2 billion in outlays from the Reagan budget.

Under my alternative, O. & M. readiness is held harmless to inflation in fiscal year 1983. This level would still provide real growth of 13 percent over fiscal year 1980 or an average of 4 percent per year. Reductions from the President's request would come from nonreadiness areas such as real property and base maintenance, recruiting and advertising, central supply and maintenance activities, and personal support and administrative functions. While the President's request increases O. & M. across the board, my plan would require setting priorities.

The key here is readiness, and, like the President, I am vitally concerned that readiness be maintained. My alternative does that while deferring noncritical increases.

PROCUREMENT

The Hollings plan provides $59.6 billion in budget authority and $51.9 billion in outlays for fiscal 1983. The Reagan fiscal 1983 program calls for budget authority of $89.5 billion and $56.5 billion in outlays. My plan results in budget authority savings of $29.9 billion and outlay savings of $4.6 billion.

Under my plan, we would forego the purchase of the B-1 and give serious consideration to cancellation or delay of the MX since no basing mode has been selected for this missile. The reductions from the President's request would not come from only these items but from a range of defense programs depending upon the priorities set by the DOD and the Congress. These include the size and numbers of carriers in the budget, numbers of Trident subs, AH-64, numbers of Aegis cruisers, patrol frigates, and attack subs, and the mix and buy levels for planes such as the F-14 and F-18, and F-15 and F-16.

Overall, this defense procurement package provides 35 percent real growth for fiscal 1983 over fiscal 1980, or an average of nearly 12 percent real growth per year.

This is a more select package than the White House proposal. The President's defense package opts for a scattergun approach to procurement in the hope that, by aiming high and broad, we will end up hitting the target. I think we must take better aim.

There is a job to do and it will require some sacrifice. If we can temporarily slow the growth in retirement programs while helping to produce a healthy economy, these sacrifices will be well made.

MILITARY/CIVILIAN PAY RAISES

By forgoing the pay raise, we can save $4.1 billion in budget authority and $4 billion in outlays from the Reagan plan for fiscal year 1983. The pay raise would be resumed in fiscal year 1984.

Mr. President, I am not singling out military personnel or DOD civilians in asking them to give up a pay raise. All Government employees would forgo a pay raise this year. It is a very direct step Government employees can and must take to help push down the deficit.

OTHER DEFENSE ACTIVITIES

Included under this heading are military construction, military personnel, family housing, defense-energy efforts, revolving management funds, and other miscellaneous items. In fiscal 1983, my proposal allows budget authority of $54 billion and outlays of $52.3 billion. This compares with the Reagan plan of $59.2 billion in budget authority and $56.2 billion in outlays. And this results in savings of $5.2 billion in budget authority and $3.9 billion in outlays.

These reductions are primarily derived by keeping the listed activities at 1982 levels except for the military personnel account which would be held harmless to inflation.

This program would freeze the defense budget at fiscal year 1982 levels, yielding $214.4 billion in budget authority. Outlays in fiscal year 1983 will be $203.2 billion, up from the fiscal year 1982 total of $190.1 billion. For fiscal years 1984-85, the plan allows a minimum of 5 percent real growth for defense purchases. In short, we would stretch out the substantial increases given defense in fiscal year 1981-82—

22 percent real growth—to fiscal year 1983. Thus, they will occur over 36 months rather than 24 months. And we still provide for real growth of 6 percent per year—fiscal year 1983 over fiscal year 1980.

What I have proposed is not a Democratic alternative to a Republican budget. It is, instead, a fairly robust matching of what we must do with what we can afford.

Defense spending must be prudently managed. That is a fact acknowledged in the plan offered by Senator DOMENICI. But the need for prudence in defense has support outside the Congress, as well.

On February 26, Jack L. Rivkin, president of Paine Weber Mitchell Hutchins, Inc., was quoted in the Washington Post. Here, from a letter he wrote to the President, is part of what he had to say:

* * * While I agree with the policy of increased defense expenditures, the level of defense spending proposed in the fiscal year 1983 through 1987 budget is beyond the capacity of the defense industry to absorb and will ultimately lead to a failure by this administration to achieve a lower inflation rate, renewed capital investment in the private sector and its other economic goals.

You are now proposing to substitute the defense industry for basic industry as the engine to fuel inflation.

The Business Roundtable, representing the Nation's largest corporations has also taken a dim view of the projected Reagan defense budget. According to news reports, the Roundtable has adopted a position that, "the deficits cannot be addressed adequately without major permanent spending cuts, including cuts in the indexed entitlement programs and a slowing of the defense buildup".

Mr. President, the budget alternatives originating in the Senate do not arbitrarily single out defense to bear the sacrifice of restoring the economy. Far from it.

The budget alternatives seek to make revisions in the proposed personal tax cut on the theory that we cannot balance the budget by cutting off adequate revenues.

The budget alternatives deal with entitlement programs, asking beneficiaries to give up an automatic cost-of-living increase on the theory that increases triggered by an inflated economy are a present threat to the entitlement programs themselves.

And these budget alternatives stretch out and rationalize defense spending on the theory that no matter how much you might be willing to spend, you can only buy so much in a given year. As evidence of that, I would point to the $33.8 billion in unobligated balances for defense at the end of fiscal 1982 which grows to $43.1 billion under the projected Reagan defense budget for fiscal year 1983.

It is not easy to say to a general that we cannot give him the thousand planes he wants. It is hard to tell an admiral we cannot give him a thousand ships. Yet, I cannot help but recall the stories about Lincoln's generals who constantly complained because they never had enough troops or equipment. If current requests are based on the ultimate worst-case assessment of Soviet intentions, they may be no more valid than defense requests based on a benign view of Soviet policy.

What we need is precise defense planning, based on the aims of the United States and based on what we actually need to defend ourselves.

I thank the distinguished Senator from Wisconsin.

RECOGNITION OF SENATOR SPECTER

The PRESIDING OFFICER. Under the previous order, the Senator from Pennsylvania (Mr. SPECTER) is now recognized for a period not to exceed 15 minutes.

S. 2190—VOLUNTEERING IN GOVERNMENT ACT OF 1982

(Introduced by Mr. SPECTER for himself and Mr. DURENBERGER.)

Mr. SPECTER. Mr. President, this morning I wish to introduce a bill relating to voluntarism.

Mr. President, the Independent Sector, a national forum to encourage giving, volunteering, and not-for-profit initiatives, estimates that the dollar value of time volunteered by Americans is now at a record high of over $64 billion a year.

On January 26, President Reagan, in his state of the Union address, noted the administration's efforts "to mobilize the private sector—to bring thousands of Americans into a volunteer effort to help solve many of America's social problems." In fact, last year the President appointed a blue-ribbon President's Task Force on Private Initiatives. On December 2, 1981, he called on that task force "to help rediscover America—the America where rich tradition of generosity began with simple acts of neighbor caring for neighbor."

There is widespread interest in volunteering for public service. Nation's Cities Weekly on February 1 published a special supplement, "Voluntarism in the Cities." The Wall Street Journal recently carried a lead editorial on the subject.

I propose that we enlist a part of our enormous resource of talented American volunteer services in the Federal Government and its departments and agencies to supplement the services of paid employees.

Already, several such volunteer programs now exist in Federal agencies. A recent business newspaper headlined that "SBA May Rely More on Retired Executives." This Service Corps of Retired Executives, better known as SCORE, has proved to be a highly successful program of management assistance by retired executives.

The National Park Service, since 1968, has operated a successful volunteer program of park guides "to help visitors understand both the national and human history of an area." In fact, one need go no farther than Great Falls National Park to see these unpaid volunteers hard at work on weekends leading walks for park visitors on a variety of subjects ranging from nature study to geology. A single one-page application is all that is required to enroll. Even teenagers help at Great Falls.

The U.S. Forest Service was authorized to operate a similar program by Congress in 1972. The Service also seeks our retirees, professionals, housewives, students, and teenagers as volunteers. The Forest Service, in 1980, used volunteers in 10 major activities, whose service, converted to monetary value, amounted to over $8 million. Forest Service officials advise that this program is now of growing importance to the Service, having increased in volunteers from 12,000 in 1979 to over 16,000 in 1981. These volunteers supplement and aid paid Federal employees; they do not replace them. They serve as hosts at campgrounds, provide mounted patrols in the back country, and help agency staffs in a variety of ways.

A British observer recently observed that "Americans are asking more and more of a Government they trust less and less." Increased volunteering in Government ranging from services in health clinics, prisons, and Federal hospitals to cutting and maintaining fire breaks in the forest would not only supplement existing public services, but would be enriching to the volunteers and the organizations participating. A better understanding of the problems of conducting public affairs would also be learned.

It is intended that the volunteers assisting under this act may supplement rather than replace the work of paid Government employees. The only cost would be for incidental expenses.

The Volunteering in Government Act of 1982 would authorize and encourage Federal and civilian agencies to seek out volunteers as individuals and through nonprofit organizations to supplement a variety of Government services.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

The PRESIDING OFFICER (Mr. STEVENS). The bill will be received and appropriately referred; and, without objection, the bill will be printed in the RECORD.

The bill is as follows:

S. 2190

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Volunteering in Government Act of 1982".

SEC. 2. The Congress finds that—

(1) many citizens with a wide range of expert abilities, both as individuals and as members of service organizations, are anxious to assist the Government help other citizens in many ways; and

(2) many citizens desiring to provide such assistance are frustrated because of uncertainty on how to assist.

SEC. 3. (a)(1) Notwithstanding section 3679(b) of the Revised Statutes, the head of each department or agency of the United States is authorized, without regard to the civil service classification laws, rules, or regulations and without compensation, to recruit, train, and accept the services of volunteers for or in aid of any activity of the respective department or agency which such department or agency head determines is appropriate for volunteer action. In determining activities appropriate for volunteer action under the preceding sentence, a head of a department or agency of the United States shall give priority, where applicable, to any activity relating to health clinics, maintenance of trails and related facilities in national parks and forests, schools, prisons, veterans services, customs or immigration centers, treatment centers, housing, financial counseling, emergency services, or law enforcement.

(2) The head of each department or agency of the United States is authorized to enter into an agreement with any volunteer organization which is a nonprofit corporation for the purpose of obtaining the services of such nonprofit corporation for any activity of the respective department or agency which such department or agency head determines is appropriate for volunteer action. Such agreement may include an agreement to lease a Federal structure at nominal expense if such nonprofit corporation agrees to maintain such structure at its own expense.

(3) No individual employed by a department or agency of the United States immediately before the date of enactment of this Act may be dismissed and no service-type contract in effect immediately before the date of enactment of this Act may be impaired as a result of the exercise of the authorities contained in this subsection.

(b) For purposes of subsection (a), the term "volunteers" includes individuals or corporations described in section 501(c)(3) of the Internal Revenue Code of 1954.

SEC. 4. The head of each department or agency of the United States is authorized to provide for expenses incidental to carrying out the activities described in section 3, including expenses for transportation, uniforms, lodging, and subsistence.

SEC. 5. (a) Except as otherwise provided in this section, a volunteer shall not be deemed a Federal employee and shall not be subject to the provisions of law relating to Federal employment, including those relating to hours of work, rates of compensation, leave, unemployment compensation, and Federal employee benefits.

(b) For purposes of the tort claim provisions of title 28 of the United States Code, a volunteer under this Act shall be considered a Federal employee.

(c) For the purposes of subchapter I of chapter 81 of title 5 of the United States Code, relating to compensation to Federal employees for work injuries, volunteers under this Act shall be deemed civil employees of the United States within the meaning of the term "employee" as defined in section 8101 of title 5, United States Code, and the provisions of that subchapter shall apply.

SEC. 6. Nothing in this Act may be construed as modifying or superseding any other provision of law relating to volunteer programs which is in effect immediately before the date of enactment of this Act.

SEC. 7. In carrying out the provisions of this Act, each head of a department or agency of the United States is authorized to use in any fiscal year not to exceed 1 percent of the funds appropriated for administrative or operating expenses of such department or agency for such fiscal year.

SEC. 8. On January 1 of each odd-numbered year, the Director of the Office of Personnel Management shall prepare and transmit a report to the Congress on the progress achieved in implementation of this Act.

Mr. DURENBERGER. Mr. President, it is a pleasure to join my distinguished colleague from Pennsylvania, Senator ARLEN SPECTER, in introducing legislation to permit and encourage the Federal Government to take advantage of the great resource of volunteer talent that exists in this country today.

Voluntarism has received tremendous attention in recent months, particularly as we have seen government and other institutions face the harsh reality of shrinking budgets and erosion in purchasing power brought on by that vicious thief, inflation.

But while it has become fashionable to recognize and even champion the cause of voluntarism as though it were a new phenomenon, the fact is that voluntarism is a tradition as old as our Nation. Our independence was won by volunteers; our most important social changes have come when volunteers recognized a need and started a reform movement; and during much of this country's history, our most important public services have been provided by volunteers.

Our President has propelled the significance of voluntarism to the top of the national agenda, calling in his state of the Union address for a mobilization of the private sector "to bring thousands of Americans into a volunteer effort to help solve many of America's social problems."

I am proud to be a member of his Task Force on Private Sector Initiatives charged with the task of helping "rediscover America—the America where rich tradition of generosity began with simple acts of neighbor helping neighbor."

The irony of that discussion, however, and the reason why Senator SPECTER and I have cosponsored this bill, is evident: While many of us in and out of the Federal Government have long recognized and promoted the value of volunteers to achieving meaningful and significant social objectives—and have been quite able to document the benefits of voluntarism where it has been encouraged—Federal law, except for a few notable exceptions, has prohibited volunteers from participating in the myriad of worthwhile Federal programs that surely would benefit from the energy, talent, and enthusiasm that dedicated volunteers could apply to these social efforts.

While we increasingly prescribe voluntarism to other institutions as a way of building program strength and expanding services to our citizens, we have been reticent about accepting that prescription on behalf of the Federal Government itself. That, in my view, has been a mistake.

To be sure, the Federal Government in several significant ways has flirted over the years with encouraging voluntarism—and with notable success, I think.

Congress has authorized Federal dollars to support private volunteer efforts. It has, through the creation of Federal programs, seen the great satisfaction and rewards that can come from a Foster Grandparents program, a Peace Corps, a Young Volunteers in ACTION, RSVP, and more. Through legislation, we have sought to encourage voluntarism with tax incentives.

What has been lacking is a willingness on the part of the Federal Government to accept, let alone encourage, the most important dynamic that voluntarism has to offer: The direct exchange between institution and eager, talented, and well-motivated citizens—the exchange of volunteers coming into partnership with government and government workers going out as volunteers in partnership with their communities. This bill addresses part of that exchange.

Many of my friends in the private sector increasingly recognize that the value of their contributions programs lie less in writing a check than in providing a personal exchange between talented members of their businesses and social institutions that benefit from their experience and expertise.

That same principle, in part, applies to what we hope to accomplish with this bill. The opportunity for exchange between talented volunteers and Federal workers in areas where those volunteers—without displacing the efforts of paid Government employees—can instead supplement their efforts for the greater good.

I am aware of only two Federal programs that permit volunteers to compliment the paid efforts of Federal employees. Both programs, which employ volunteers to work in our parks and forests, have been notable successes.

In the words of Adam Smith, we should view those experiments as happy experiences that worked. Having experimented and succeeded we would be foolish not to go on.

This legislation, Mr. President, is one step toward advancing that exchange of human talent. Bringing the volunteer in—we have now only to recognize and encourage the volunteer efforts of our own Federal employees to extend that exchange outward as well.

SENATOR HARRISON A. WILLIAMS, JR.

Mr. SPECTER. Mr. President, late yesterday afternoon, near the close of the business of the Senate, as we were considering the resolution with respect to Senator WILLIAMS, I made a few remarks on behalf of Senator PRESSLER. As I said at that time, Senator PRESSLER asked me to make a statement on his behalf which I had prepared, but then the decision had been made not to present that prepared statement, so as not to interfere with the resolution with respect to Senator WILLIAMS.

However, when other comments were made, Senator PRESSLER asked me to make a few comments, which I did. In reading the RECORD this morning, I think it appropriate that the full text of the statement I had prepared should have been inserted in the RECORD. The statement reads as follows:

STATEMENT ON BEHALF OF SENATOR LARRY PRESSLER

Mr. President, our distinguished colleague, Senator LARRY PRESSLER, has asked me to speak on his behalf concerning his brief contact with the FBI on Abscam, as that incident may relate to the resolution on Senator WILLIAMS; or, more directly, because Senator PRESSLER wants all his Senate colleagues to know the full details of his noninvolvement, and this is the one occasion when so many Senators are focusing intently on Abscam.

His name has been mentioned in the debate on the resolution on Senator WILLIAMS, and many of our colleagues have expressed curiosity over what actually happened with respect to him.

In short, he 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 at that meeting by Senator PRESSLER capsulates his commendable conduct 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.

Just yesterday Senator PRESSLER, Senator BAKER, and I were advised by top Justice Department officials that the FBI will put in writing that there was no reason to believe that Senator PRESSLER was "engaged or would like to engage in crime" which was essentially the FBI's standard for targeting. This response follows more than 2 years of efforts to obtain such a statement from the FBI by Senator PRESSLER with the assistance of Senator BAKER, Senator BOSCHWITZ, Senator STEVENS, and me.

Senator PRESSLER's clean bill of health is documented by the FBI itself, by the judge who presided at Abscam trials and by the Senate Ethics Committee. The letter promised yesterday by the Justice Department to Senator PRESSLER from FBI Director Webster, who was out of town, is to read as follows:

DEAR SENATOR PRESSLER: This is in response to your letter dated October 8, 1981, requesting clarification of my comments broadcast by 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.

Senator PRESSLER was complimented, as well as cleared, by U.S. District Judge George C. Pratt in the opinion of the court upholding the convictions of seven Abscam defendants. Judge Pratt declared:

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 propriety of Senator PRESSLER's conduct is further established by a letter dated August 26, 1980, from Senator HEFLIN and Senator WALLOP, then chairman and vice chairman respectively, of the Ethics Committee, as follows:

U.S. SENATE,
SELECT COMMITTEE ON ETHICS,
Washington, D.C., August 26, 1980.

Hon. LARRY PRESSLER,
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,
Senate Select Committee on Ethics.

The background for Senator PRESSLER's meeting with the FBI Abscam agents arose as a result of his fundraising activities. As disclosed by Senator PRESSLER, his fundraising coordinator was contacted on the morning of November 7, 1979, by an acquaintance who said that there were some businessmen who wanted to make a campaign contribution. A meeting was arranged and Senator PRESSLER was driven that day to a house on W Street NW., in Washington, D.C. They stopped en route to the house to pick up another individual who turned out to be the middleman in setting up the meeting. It is, of course, not unusual to leave Capitol Hill to discuss or accept campaign contributions because of legal restrictions on such activities on Federal property.

The middleman in this case presented Senator PRESSLER to the Abscam agents as someone he had met just a few moments before. The middleman did not represent that Senator PRESSLER had an inclination to commit a crime.

Last week, after numerous requests as disclosed by a sequence of letters which will be made part of this record, Senator PRESSLER finally received a copy of the video tape of that meeting involving him, the FBI agent, and two other individuals. That tape is available for anyone to see. Any review, of the videotape would lead the viewer to concur in the conclusion of the Senate Ethics Committee that Senator PRESSLER's conduct was exemplary. Some of the key phrases used by Senator PRESSLER in responding to the FBI agent's suggestions are very significant:

You know I can't promise anything.

We can't make any promises.

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 a bribe offer or prima facie evidence of other illegal conduct on the part of the FBI Abscam agents when Senator PRESSLER met, there was nothing for Senator PRESSLER to report to anyone.

Senator PRESSLER's meeting with the Abscam agents lasted for 26 minutes, at which time he terminated the meeting by rising and leaving the room.

An evaluation of the FBI's handling of Abscam with respect to Senator PRESSLER may be the subject for inquiry on another occasion under the resolution offered by Senator STEVENS and Senator CRANSTON. Senator PRESSLER wants the entire matter to be open to public scrutiny. So that the public record will be complete, unanimous consent will be asked at the conclusion of this statement for including in the record all correspondence between Senator PRESSLER and the Department of Justice and the FBI as well as the transcript of the video tape.

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. As to whether the FBI's conduct toward Senator PRESSLER raises any support for Senator WILLIAMS' contentions, I think it is important to make a brief comment on the entrapment issue, as I view it, so that there may be no misunderstanding on my position on that subject as it relates to Senator WILLIAMS' defense.

I personally do not believe the entrapment issue is relevant to the pending resolution on Senator WILLIAMS. 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 or 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.

ROUTINE MORNING BUSINESS

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

THE STATE OF THE AGRICULTURAL ECONOMY

Mr. ABDNOR. Mr. President, the Department of Agriculture recently projected a $16 billion net income for agriculture in 1982. In 1967 dollar terms this $16 billion becomes approximately $5.5 billion and therefore represents the lowest farm net income ever recorded in any year, including those of the Great Depression years. And 1982 is not an aberration but consistent with a 10-year trend beginning in 1973. Let me illustrate with the following table:

U.S. real net farm income in 1967 dollars

	Billion
1930-34 (yearly average)	6.9
1973	25.1
1975	15.2
1978	13.5
1980	8.1
1982 (projected)	5.5

For the third year in a row farmers will have to cope with cash-flow problems by rescheduling debt payments, taking on more debt, postponing large capital expenditures, and/or liquidating assets. Farm debt has nearly doubled in the past 5 years and the farm sector's debt to net income ratio has almost tripled over the past 3 years. In 1973 $1 of net income supported only $2 of debt. Today $1 of net income must support over $12 of debt. The real value of farm assets has also declined for 2 consecutive years. On an asset base of $1 trillion, a $16 billion net income yields a rate of return of only 1.6 percent. Again let me illustrate:

[Dollars in billions]

	Farm debt (current dollars)	Farm debt to net income ratio	Value of farm assets (1967 dollars)
1973	65.3	1.96	315.1
1974	74.1	2.84	359.5
1975	81.8	3.34	341.1
1976	90.4	4.83	357.5
1977	102.6	5.58	389.4
1978	119.3	4.50	406.1
1979	136.1	4.16	446.7
1980	157.9	7.93	462.0
1981	174.5	7.62	441.8
1982	194.5	12.16	431.9

There were several other parallel trends in agriculture during the decade of the 1970's: First, the number of farms declined from 2.7 million to 2.3 million; second, the size of farms grew from 390 acres to 450 acres; third, while farm debt more than tripled, the average value of farm assets exploded from $115,000 per farm to $400,000 per farm; fourth, farm productivity went up almost 20 percent, largely attributable to a 24-percent decline in labor and increases of 25 percent in machinery and 40 percent in the use of chemicals; fifth, total farm output climbed 30 percent; sixth, while domestic demand remained relatively constant, exports went from 60 million tons to 162 million tons and the value of those exports rose from $7 billion to $40 billion; and seventh, Government payments to farmers were more than halved. Clearly, the U.S. farm sector has been able to survive the last 3 years due primarily to three factors: productivity gains, expanding exports and, perhaps, unrealistically inflated asset values. Many experts contend that the future holds only relatively marginal gains in both productivity and exports and, as a consequence, a more realistic realinement of the value of farm assets.

Congress must realize that a major restructuring of the U.S. agricultural sector is taking place. The important questions to consider are, first, what kind of Federal actions should be taken, if any, to influence this restructuring process; second, what is agriculture going to look like during and following this restructuring; and, third, what are the implications of agricultural restructuring on the rest of the U.S. economy and world food supplies? The attention of the administration, Congress, and the best professional minds in the country need to be focused on these and other critical issues.

As chairman of the Agriculture and Transportation Subcommittee of the Joint Economic Committee, this past year I initiated a series of hearings on "The Importance of Agriculture to the U.S. Economy." Secretary of Agriculture John Block; Dr. Murray L. Weidenbaum, Chairman of the Council of Economic Advisers; U.S. Trade Representative Bill Brock, and Robert D. Hormats, Assistant Secretary of State; and Frederick Schultz, Vice Chairman of the Federal Reserve Board, all made presentations. During separate appearances before the Joint Economic Committee by Secretary of the Treasury Regan, Secretary of Commerce Baldrige, and Chairman of the Federal Reserve System Paul Volcker, I called attention to the importance of agriculture and its present depressed economic condition. With the assistance and support of other members of the Joint Economic Committee, a chapter on the economic condition of American agriculture was inserted in the committee's annual report. Following my remarks I am inserting the texts of my opening statements as well as the agricultural chapter of the annual report of the Joint Economic Committee.

Much more needs to be done. I am announcing today a comprehensive congressional initiative to develop recommendations for a program for agricultural economic recovery. During the next several weeks five subcommittee hearings will be held.

The first hearing will take place March 29, including several former Secretaries of Agriculture. Secretaries Bergland, Butz, Hardin, and Brannan have agreed to appear. In view of their experiences as Secretary of USDA, these witnesses will be able to provide unique perspectives on the evolution of U.S. agriculture, its contribution and relationship to the United Staetes and world economies, its present economic condition, and its future potential.

Following this hearing with the former Secretaries, Secretary Block will appear to give his reaction to comments made by the former Secretaries and to relate the administration's initiatives contributing to agriculture's economic recovery.

There will be no economic recovery of agriculture as a result of governmental initiatives alone. The direct and continuing involvement of many private interests will be required as well. The subcommittee's third hearing will seek input and guidance from private agriculture commodity promotion organizations. These groups have much to contribute to the enhancement of exports through the provision of technical assistance and market promotion.

For our fourth hearing, several of the most knowledgeable agricultural economists in the country will be invited to testify. These experts on all aspects of agriculture will be asked to address methods and prospects for agricultural economic recovery.

Finally, for the fifth hearing, we plan to invite a panel of farm editors representing different agricultural regions of the country. These journalists are the eyes and ears of rural America and have a special perspective and in-depth knowledge of the current social as well as economic condition of the agricultural community.

While the contributions of these illustrious witnesses will not assure agricultural economic recovery, the Congress and the administration will learn a great deal from their insights, guidance, and suggestions. Following these five hearings the subcommittee will prepare a summary report which will include findings, conclusions, and, most importantly, preliminary recommendations. During the summer the subcommittee will conduct a series of field hearings to receive public input and reaction to these preliminary recommendations. Hopefully, by late summer the subcommittee can publish a report forming a basis for administration and bipartisan congressional support to implement any and all necessary action to insure the continuing economic viability of U.S. agriculture.

Mr. President, I ask unanimous consent that my statements be printed in the RECORD.

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

STATEMENT OF SENATOR JAMES ABDNOR AT THE JOINT ECONOMIC COMMITTEE ANNUAL HEARINGS, JANUARY 26, 1982

I am pleased to join my colleagues in welcoming you to this hearing, Mr. Volcker.

As a spokesman for the agriculture sector of our economy, I realize both the contribution this sector makes to the overall economy, and the particular dependency this sector has on credit conditions.

Assets in agriculture now amount to almost $1 trillion, nearly 90 percent of the value of all manufacturing assets in the U.S. debt amounts to around $2 hundred billion. If that was financed at, say, an average of 10 percent the service on that debt would be $25 billion annually, which is roughly equal to net farm proprietors' income. It alarms me that the cost of credit could be such a high figure relative to income. Over the past 25 years, the agriculture sector has undergone a heavily capital-intensive transition, adding great burden to new entrants to this industry.

Our highly productive and efficient agriculture sector distributes benefits to all other sectors. On the macroeconomic level, our exports result in a $29 billion net trade surplus in agriculture, making it the largest positive net contributor to our balance of payments problem. Needless to say, this contribution has a tremendous impact in terms of direct and indirect spending effects.

While this export business is extremely valuable, our food growers have produced an apparent surplus and prices have plummeted in the past year. As a matter of fact, while the overall producer price index increased slightly last year, the grain index dropped 12 percent, livestock went down 14 percent, and other agriculture commodities fell as well. While wages and salaries increased 10.4 percent and transfer payments were up 13.2 percent in 1981, farm proprietors' income fell almost 6 percent from the previous year's low level. Incidentally, this income category was the only major one to decline in 1981.

A paradox is revealed in noting that the portion of income devoted to food purchases in America is the lowest of all major countries. Where we devote around 16 percent of our income to food, people in Europe typically pay out 25 to 30 percent of their income. In some Communist countries that figure reaches almost 50 percent.

It is obvious that having food available cheaply and in abundance has freed countless economic resources for alternative use in providing for consumers' wants. My intention, Mr. Volcker and members of the committee, is to give agriculture its due recognition. For too long our Nation has taken agriculture for granted. We cannot afford to neglect our most important industry.

Last month, your associate, Frederick Schultz, Vice Chairman of the Federal Reserve, appeared before my JEC Agriculture and Transportation Subcommittee to share his perspective on the role the financial sector plays in the agriculture economy. With so many changes in financial instruments and other innovations to facilitate money and credit transactions, with deregulation of financial services around the corner, with changes in Government lending practices and with the prevailing uncertainty in the financial market place, I ask you, Chairman Volcker, to give your attention to farm issues that often escape public notice.

In closing, I would like to share two quotes which in my opinion describe well the importance of agriculture to our political and economic system:

"Our agriculture system is the most productive in the world and it exhibits one of the highest productivity growth rates of any sector of the U.S. economy. Agriculture output has increased nearly 70 percent since 1950, while total input use has increased by only 2 percent. This stellar performance has provided the consumers of this Nation with a low cost but readily available, high quality food supply . . ." (John R. Block, Secretary of Agriculture, before the House Committee on Agriculture, March 31, 1981)

". . . The greatest economic and political problem facing our nation is the supply of food." (Leonid I. Brezhnev, in a speech before the Communist Party Central Committee as reported by the New York Times, November 17, 1981)

STATEMENT OF SENATOR JAMES ABDNOR AT THE JOINT ECONOMIC COMMITTEE ANNUAL HEARINGS JANUARY 27, 1982

I am pleased to join my colleagues in welcoming you to this hearing, Mr. Regan. Yesterday this committee had the honor of hearing from Mr. Volcker of the Federal Reserve system. I took that opportunity to impress upon Mr. Volcker the potential disastrous consequences to our political as well as economic systems of the continuing economic deterioration of American agriculture. I now take this opportunity to convey that same impression to you, as a representative of the administration.

Visualize, if you will, the following scenarios that could develop if agriculture was not the strong sector that it historically has been.

Suppose agriculture was not providing our economy with a balance of payments net surplus of $29 billion as it did in 1981. Without that surplus, our overall international trade deficit would have been a dismal $60 billion. How would a payments deficit of that magnitude affect the strength of the dollar on the world financial markets? How would that lack of trade affect the demand for other goods and services otherwise purchased by the agriculture sector with trade surplus funds? What other indirect effects would be caused by a trade disruption?

Next, suppose food prices had not stabilized in 1981, caused in part by plummeting prices absorbed by farmers. How would our inflation fight have fared if food costs rose as fast as housing or energy costs?

Along this line of food costs facing consumers, suppose that American consumers did not devote 16 percent of their income to food purchases, as they do, but rather had to devote 20 or 30 percent such as consumers in Western Europe pay. Since food is a necessity, I would guess that families would have to divert the funds used to purchase other goods to the purchase of food. Look at the resources our economy has free to use in the provision of other goods and services because food is a bargain, compared to what those in other nations pay.

To strike a sobering picture, if food purchased comprised 22 percent of income, instead of just 16 percent, and if other purchases remained constant, all of our Nation's personal savings would be eliminated. In that sense, the efficiency of America's farmers is providing the means for America's consumers "to have their cake and eat it, too," to live the style to which they've become accustomed and yet to set aside the savings required for capital investment needed to spark economic recovery.

In another light, just imagine how many millions of jobs would be lost in the growing, storing, transporting, processing, merchandising, and marketing of food alone if the United States wasn't the leading and most efficient food growing Nation in the world.

Finally, with so much talk about enormous deficits, try to imagine a current year deficit $40 billion greater than any estimate you have heard. It has been reported that the Soviet Union provides its farmers $40 billion-per-year in subsidies. Imagine what stress would be placed on our economy and social structure if we had to absorb that kind of government intervention.

Mr. Secretary, I have a responsibility to my State and to our country. I cannot let agriculture's needs pass unrecognized. Last night, our President in the state of Union address, barely mentioned agriculture, and then only in passing. The industry that flourished before the industrial revolution has kept pace with that revolution and has contributed more than its share in providing continuing growth in wealth and well-being. The current recession is not new to our agriculture sector. It never recovered from the one that started in 1980. It is my intention as a member of the Joint Economic Committee to cause my colleagues, in the Congress, the administration, and the American people to recognize that agriculture makes a significant contribution to our economy at large. All people benefit through raised standards of living resulting from the productivity gains in agriculture. I hope that the scenarios just stated help to illustrate the contribution we have come to take for granted. We cannot let the world's finest agriculture system deteriorate, and I am determined to promote sound Government policy to this vital industry to survive, and hopefully, to prosper once again.

STATEMENT OF SENATOR JAMES ABDNOR AT THE JOINT ECONOMIC COMMITTEE, U.S. INTERNATIONAL TRADE POLICY, FEBRUARY 10, 1982

I am pleased to join my colleagues in welcoming you to this hearing, Mr. Baldrige and Mr. Brock.

Over the last several weeks I have asked administration officials to try and visualize the condition of the U.S. economy today without the contributions of the American farmer.

What kind of an inflation rate would there have been in 1981 had farm prices not plummeted?

How many millions of jobs would be lost in the growing, storing, transportation, processing, merchandising, and marketing of food alone if the United States was not the leading and most efficient food growing nation in the world?

What would the impact on savings and investment be if American consumers did not devote 16 percent of their income, as they do, to food purchases, but rather had to devote 20 or 30 percent such as consumer in Western Europe pay?

The topic today is U.S. International Trade Policy. U.S. agricultural exports have climbed from $7.0 billion in 1970 to $43.8 billion in 1981, a 526-percent increase. Agricultural imports during this same period, however, increased by only 202 percent, from $5.7 billion to $17.2 billion. Agricultural exports as a percent of total U.S. exports were 16.8 percent in 1970 and 19.1 percent in 1981. As a further contribution to our economic viability, agricultural imports as a percent of total U.S. imports declined from 14.6 percent in 1970 to 6.7 percent in 1981. Had agricultural exports grown at the same rate as all other U.S. commodity exports we would now be looking at a 1981 trade deficit of over $40 billion rather than $26 billion. I shudder to think of the economic implications of that. For fiscal year 1982 the Department of Agriculture forecasts an export value of $45.5 billion, less than a 4-percent increase over 1981. In order to accomplish this, according to the USDA, America will have to export 10 percent more commodities. This is because prices are expected to decline by 6 percent.

If this agriculture forecast proves correct, what other export sector of our economy can pick up the slack? How will we prevent a further deterioration in our already embarrassing balance of trade? Thank you.

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The economic activity generated by farm products as they flow through our economic system accounts for a full 20 percent of this Nation's gross national product and makes agriculture this Nation's largest industry and émployer. For example a $1 million export sale of wheat generates almost $5.5 million of direct, indirect, and induced business activity. Agriculture's assets today are nearly $1 trillion, almost nine-tenths as large as the combined assets of all manufacturing corporations in this country. The 23-million plus people who are employed in agriculture and related businesses—the growing, storing, transporting, processing, merchandising, and marketing of all farm commodities—make up a fifth of the Nation's labor force. The product of one out of every 3 acres harvested is exported, resulting in farm exports exceeding imports by $28 billion; the largest positive net contributor to our balance of payments.

U.S. families spend only 16.5 percent of their incomes for food, by far the lowest percentage of any country in the world, freeing billions of dollars of income for the purchase of other goods, savings, and investment. Agriculture is also a big consumer, using enough steel to account for 40,000 jobs in the steel industry and enough electricity to power all the homes in New England, Maryland, Kentucky, and Washington, D.C. farmers annually purchase $14 billion of farm machinery and $13 billion of fuel.

The primary risk-takers in agriculture are the owners of America's approximately 2.4 million farms. Perhaps the most striking characteristic of present-day farming is that, in the aggregate, nonfarm income earned by farm families exceeds what they earn from farming. In fact, only 1 in 12 farm families depend entirely on farming for income. Nonfarm sources of income have helped the agricultural sector to adjust to volatile demand and supply situations and wide swings in farm prices and incomes. But, at the same time farming is now, more than ever, influenced by those economic conditions which impact the typical city wage-earner such as social security taxes, unemployment insurance and, of course, unemployment itself.

Agriculture is an inherently unstable business. Natural forces—weather, pests, diseases—coupled with market uncertainty and instability arising from changing economic and political events throughout the world, more often than not, dictate the farmer's fate. This was certainly the case in 1981 when unusually favorable growing conditions, resulting in record production levels for virtually every major product, was coupled with generally unfavorable economic conditions in the United States and in major U.S. trading countries. Net farm income before inventory adjustment is expected to be about $19 billion for 1981, a 13-percent decline from 1980.

Farm income levels for 1982 will depend on the timing and strength of economic recovery in the United States, political, economic, and trade policies of major U.S. trade partners and, of course, the weather, both in the United States and in other countries. Agriculture has already had 2 consecutive years in which net farm income in constant dollar terms has been lower than at any time in more than 40 years. While strong U.S. economic recovery in 1982 will be a significant contributor to reversing this disastrous trend, there is no guarantee that agriculture will fully share in the benefit; farmers were not helped much by the last "recovery" in 1980-81. Actions must be taken to insure that agriculture is a full participant in the next recovery.

The Reagan administration has taken important steps to aid the agricultural economy. The net income position of U.S. farmers will be improved in 1982 as a direct result of several provisions of the Economic Recovery Act of 1981. That act affects farms in three highly important areas: First, a 23-percent reduction during the next 2 years in marginal income tax rates, with tax brackets indexed for inflation starting in 1985; second, a reduction in the maximum capital gains tax rate from 28 percent to 20 percent; and third, limiting the imputed interest on land sales between family members may now be limited to 7 percent for tax purposes. These excellent provisions are in addition to those contained in the recently enacted four year farm bill, which is expected to provide U.S. farmers with an estimated $11 billion of benefits. However these actions will still fall far short of assuring farmers an adequate income. This important sector of our economy requires continued surveillance and possibly further action to assure its viability.

RAILROAD RETIREMENT FUNDS CANNOT BE IMPOUNDED

Mr. SASSER. Mr. President, I rise to discuss a recent opinion sent to me by the General Accounting Office (GAO) on the subject of impoundment of railroad retirement funds.

On December 17, 1981, I requested an advisory opinion of the General Accounting Office about whether dual benefit payments to railroad retirees could be reduced to a level below that authorized in the continuing resolution.

Under the railroad retirement amendments included in the omnibus reconciliation legislation, the Railroad Retirement Board, beginning October 1, 1981, was required by law to limit these dual benefit windfall annuity payments so that they did not exceed actual appropriations.

For this windfall to be fully paid, the appropriation for the separate payment account would have to be $440 million for fiscal year 1982. The Railroad Retirement Board issued checks for October and November 1981 assuming an appropriation of $350 million. This represented a reduction of 21 percent in this component of their retirement check.

Now this is not the first time the administration has tried to make reductions in this account. On November 17 of last year the Board decided to delay the issuance of the windfall component of the retirement checks for December due to the uncertainty of an appropriated level in the continuing resolution. Therefore, the windfall portion of the checks were not mailed until the middle of December.

It was at this time that the Office of Management and Budget maintained that this payment was subject to an additional 12-percent cut per the President's September request of across-the-board reductions in appropriated accounts. This level of appropriations would have assumed monthly annuities based on a level of $308 million, rather than the $379 million actually appropriated by Congress. Thus, recipients would have received a 33-percent reduction in their windfall annuities.

At this point it became readily apparent to me that the administration was preparing to make an administrative reduction in an entitlement program. This clearly would constitute a breach against the Impoundment and Control Act and amount to nothing less than an illegal impoundment.

On December 17 I sent a letter to the Comptroller General asking the Government Accounting Office to look into this matter and issue an advisory opinion on the legality of such an administrative reduction.

If in fact the dual benefit account was an entitlement, the annuities must be paid in accordance with the amount appropriated by Congress. Any attempts to arbitrarily reduce these payments would be illegal.

The GAO opinion was released on Friday, March 5, and substantiated my contentions. The opinion contains three major points:

First. Under the Omnibus Reconciliation Act of 1981, dual payments have to be allocated so that they would not exceed the amount appropriated for them. It is significant to note that none of the changes in the Reconciliation Act changes the basic entitlement provisions concerning persons eligible to be paid benefits, including dual benefits, under the Railroad Retirement Act of 1974.

Second. Dual payment provisions are entitlements for which the Government must make outlays to eligible retirees. These benefits fall squarely within the exception for mandatory obligations and outlays provided in the Impoundment Control Act and neither the President nor anyone else may withhold any portion of these payments.

Third, the Railroad Retirement Board has no authority to issue allocation regulations using any amount less than the full amount appropriated to the dual benefits payments account for a fiscal year.

The reason I have gone into such great detail and taken such an intense interest in this subject is because it reflects a certain attitude on the part of the administration—an attitude which led directly to the passage of the Impoundment and Control Act.

This attitude is worrisome and dangerous—dangerous because of its legal implications, worrisome because we do not know of other programs or instances in which this attitude has manifested itself.

There are other reasons why this decision is significant. First, it sets forth the guidelines under which this account should be considered. In no uncertain terms this account is an entitlement and benefits may only be changed by the Congress.

Second, the current continuing resolution will expire at the end of this month. This is an issue which can be expected to arise again. Let there be no doubt and let this serve as fair warning that any attempts to illegally impound funds by this administration or any other will not be tolerated by this Senator or this Congress.

I would only hope that this particular situation is not indicative of the way in which this Government conducts its business. Such conduct is reprehensible and not conducive to good government. The American people deserve better.

Mr. President, I ask unanimous consent that my December 17 letter to GAO and their advisory opinion of February 5 be printed in the RECORD.

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

U.S. SENATE,
Washington, D.C., December 17, 1981.

Hon. CHARLES A. BOWSHER,
Comptroller General, U.S. General Accounting Office, 441 G Street NW., Washington, D.C.

DEAR MR. COMPTROLLER GENERAL: I hereby request an advisory opinion on the legality of reducing dual benefit payments to railroad retirees to a level below that authorized in the second continuing appropriation resolution, without legislation that directly specifies such a policy. Although the Office of Management and Budget has decided not to implement the proposed reduction in the December payments, such a decision was reached only after considerable Congressional pressure. The purpose of this request is to determine whether this proposed OMB reduction or any similar future action is, in fact, legal.

General revenue appropriations to fund dual benefit payments were authorized by the Railroad Retirement Act of 1974. This Act coordinated railroad retirement and social security benefit payments to eliminate certain duplications considered a so-called "windfall" by the Railroad Retirement Board for dual beneficiaries.

Under the Railroad Retirement amendments included in the Omnibus Budget Reconciliation legislation, the Railroad Retirement Board, beginning October 1 of this year, was required by law to limit these dual benefit annuity portions so that they do not exceed the actual appropriations. The Reconciliation Act also stipulated that these benefits be paid from a special Dual Benefits Payments Account, to be funded from general revenues in an effort to relieve the regular Railroad Retirement Account of these dual benefit costs.

For these "windfall" benefits to be fully paid, the appropriation for the separate account would have to be $440 million for fiscal year 82. The Railroad Retirement Board has been issuing checks for October and November, assuming an appropriation of $350 million. This represents a reduction of 21% in the dual benefit portion of the annuity.

On November 17, the Board decided to delay the issuance of the dual benefit component for December due to uncertainty of the appropriations level in the Continuing Appropriations Resolution. OMB maintained that this payment was subject to an additional 12 percent reduction per the President's September request of across-the-board reductions in appropriated accounts. Following this course the payments would reflect a pro rata monthly share based on an appropriations level of $308 million rather than the $350 million assumed in the continuing resolution.

Yet, it is abundantly clear that Congress has intended that a level of $350 million be considered a bare minimum and not a ceiling for funding. The Senate passed an amendment to the continuing resolution calling for an additional $90 million to this account. Subsequently, the House-Senate conference stipulated an additional $45 million, thus making the appropriated level $395 million. This resolution was vetoed by the President and therefore the previous resolution calling for a funding level of $350 million was assumed until December 15.

This account has always been an entitlement, and, therefore, attempts by the OMB to arbitrarily reduce this account across-the-board by an additional 12 percent would constitute an illegal impoundment. Title X of the Impoundment and Control Act of 1974 31 USC 1401 specifically outlines the procedures through which impoundment can be effected.

I am under the impression that the actions contemplated by the OMB with respect to the Dual Benefit Payments Account were at best highly questionable and suspect and may have been illegal. A clarification of the aspects of this case may prevent similar confusion in the future. As time is of the essence in this matter, I would appreciate a swift response to this inquiry.

In advance, I thank you for your efforts in this matter. Please let me know if I can be of further assistance.

Sincerely,

JIM SASSER, *U.S. Senator.*

COMPTROLLER GENERAL
OF THE UNITED STATES,
Washington, D.C., March 5, 1982.

Hon. JIM SASSER,
U.S. Senate.

DEAR SENATOR SASSER: This is in response to your request for our opinion concerning the legal authority of the Office of Management and Budget (OMB) to reduce dual benefit payments to railroad retirees to a level below that authorized in the Second Continuing Appropriation Resolution, Pub. L. No. 97-85, 95 Stat. 1098, November 23, 1981. In your request you state that OMB originally proposed to impose the President's request of a 12 percent across-the-board spending reduction on the dual payments for December, but later abandoned this effort. While the Second Continuing Resolution has expired, you request our opinion in the event that OMB considers any similar spending reduction of dual benefit payments in the future. We have concluded for the reasons given below that the proposed reductions would not have been authorized had they been attempted.

Prior to 1975 certain individuals could be eligible on a single employment record for both railroad retirement pensions and social security retirement benefits and receive separately calculated benefits under each program. See 45 U.S.C. § 228c (1970). In the Railroad Retirement Act of 1974, the benefits were changed so that social security insurance benefits were to be subtracted from railroad retirement benefits. Railroad Retirement Act, 45 U.S.C. § 231b(a) (1976). However, the Congress preserved dual benefits for certain individuals who met the coverage requirement prior to 1975. See, e.g., 45 U.S.C. § 231b(h) and § 231c (e) and (h) (1976). These dual benefit payments were intended to partially offset the reduction in an effort to place beneficiaries in a position similar to that which existed before the two systems were integrated.

In the Omnibus Budget Reconciliation Act of 1981 (the Reconciliation Act), Pub. L. No. 97-35 § 1122(c) and § 1124, 95 Stat. 638-9, August 13, 1981, Congress further modified the dual benefit provisions by creating a separate Dual Benefits Payments Account from which dual benefits are to be paid and providing that this account be funded by a direct appropriation rather than from the Railroad Retirement Account. Under this arrangement dual payments would have to be allocated so that they would not exceed the amount appropriated for them. It is significant to note for the question presented that none of the changes in the Reconciliation Act changes the basic entitlement provisions concerning persons eligible to be paid benefits, including dual benefits, under the Railroad Retirement Act of 1974. For example, 45 U.S.C. § 231a(a) (1976) provides as follows:

"(1) The following-described individuals, if they shall have completed ten years of service and shall have filed application for annuities, shall, subject to the conditions set forth in subsections (e), (f), and (h) of this section, be entitled to annuities in the amounts provided under section 231b of this title—* * *"

We have studied the dual payment provisions of the Railroad Retirement Act of 1974, 45 U.S.C. §§ 231 et seq. as amended by the Reconciliation Act, id., and have concluded that the payments in question are entitlements for which the Government must make outlays to eligible retirees. Although the Reconciliation Act, id. at 95 Stat. 638, made some changes in the method of funding the dual payments under the Railroad Retirement Act—for example, if the appropriation is less than 100 percent, there must be an equitable division of appropriated funds among those eligible to receive payments—it did not change the essential "entitlement" nature of the payments. The Railroad Retirement Act still requires payment to those eligible for such payment under 45 U.S.C. § 231a(a)(1), as quoted above, and the other sections under which dual benefits arise even though the total amounts paid may be limited to the amount appropriated. Therefore, it seems to us that these benefits fall squarely within the exception for mandatory obligations and outlays provided in the Impoundment Control Act, 31 U.S.C. § 1400 (1976), and neither the President nor anyone else may withhold any portion of these payments.

In response to our request for comments on this opinion, OMB raised two issues. First, OMB sought clarification of our statement that Pub. L. No. 97-35 "* * * did not change the essential 'entitlement' nature of the payments." OMB believes we may have suggested that "a beneficiary has a legitimate claim to a payment in excess of that provided pursuant to the provisions of Section 7(c) of the Railroad Retirement Act (45 U.S.C. § 231(b)), as amended by Section 1122(c) of the Reconciliation Act * * *." OMB asserts that such a view is contrary to the last sentence of Section 7(c) as added by Section 1122(c) of the Reconciliation Act, id. at 638, which provides:

"Notwithstanding any other provision of law, the entitlement of an individual to an annuity amount under section 3(h), 4(e), or 4(h) of this Act or section 204(a)(3), 204(a)(4), 206(3), or 207(3) of Public Law 93-445 for any month in which the amount payable to such individual is allocated under the regulations prescribed by the Board under this subsection shall not exceed the amount so allocated for that month to such individual."

The following provisions were added to Section 7(c) by Section 1122(c) of the Reconciliation Act prior to the last sentence cited by OMB:

"* * * and payments of annuity amounts made under sections 3(h), 4(e), and 4(h) of this Act and under sections 204(a)(3), 204(a)(4), 206(3), and 207(3) of Public Law 93-445 shall be made from the Dual Benefits Payments Account. In any fiscal year, the total amounts paid under such sections shall not exceed the total sums appropriated to the Dual Benefits Payments Account for that fiscal year. The Board shall prescribe regulations for allocation of annuity amounts which would without regard to such regulations be payable under sections 3(h), 4(e), and 4(h) of this Act and sections 204(a)(3), 204(a)(4), 206(3), and 207(3) of Public Law 93-445 so that the sums appropriated to the Dual Benefits Payments Account for a fiscal year so far as practicable, are expended in equal monthly installments throughout such fiscal year, and are distrubuted so that recipients are paid annuity amounts which bear the same ratio to the annuity amounts such recipients would have received but for such regulations as the ratio of the total sums appropriated to pay such annuity amounts bear to the total sums necessary to pay such annuity amounts without regard to such regulations."

In summary, the amendment to section 7(c) provides that (1) dual benefit payments are to be made from the Dual Benefits Payments Account; (2) dual benefit payments are limited to the total amount appropriated to the Dual Benefits Payments Account for any fiscal year, and (3) the Railroad Retirement Board is required to issue regulations to allocate the dual benefits so that the recipient payments are divided equally throughout the year and that they are based on a ratio of the total amount appropriated over the sum which would have been required to pay in total the full benefits had there been a large enough appropriation.

As we read these additions to Section 7(c), the Railroad Retirement Board has no authority to issue allocation regulations using any amount less than the full amount appropriated to the Dual Benefits Payments Account for a fiscal year. It is clear from this provision, including the last sentence, that recipient entitlements are limited by the annual appropriation and the Board's allocation regulations.

As we stated earlier, we do not see these provisions as changing the essential nature of the payments as entitlements. We note in this regard that the Conference Committee in its report, H. Rep. No. 97-208, Book 2 pp. 866-67, July 29, 1981, as well as the language of the Reconciliation Act itself, as quoted above, continue to refer to the dual benefits as "entitlements." That is, beneficiaries are "entitled" to the amounts specified by statute, even though the statutorily mandated amounts might be reduced by the availability of appropriations. Under this arrangement, payments, once appropriated, may not be withheld or reduced as part of a deferral or rescission action since such action is precluded with respect to entitlements by the Impoundment Control Act, supra.

The second issue raised by OMB contains a more fundamental disagreement. The OMB response states:

"* * *[W]e respectfully disagree with the conclusion that the provisions of 31 U.S.C. 1400 establish permanent limitations upon the authority provided by the Impoundment Control Act of 1974, a position which the Comptroller General shared with this Office in 1977, but one from which your office appears to have receded in recent months. (Compare Review of the Impoundment Control Act of 1974. After 2 years, June 3, 1977, pp. 10-11 with B-200685, July 30, 1981, p.2.)."

We recommended repeal of 31 U.S.C. § 1400 in our 1977 report, Review of the Impoundment Control Act of 1974 After 2 years, OGC-77-20, June 3, 1977, because we believed its purpose to be transitional. However, Congress did not adopt our recommendation and the provision remains a part of the law. Accordingly, we have interpreted 31 U.S.C. § 1400(4) (the fourth disclaimer) to give force to its words.

The Impoundment Control Act provides at 31 U.S.C. § 1400 as follows:

"Nothing contained in this Act, or in any amendments made by this Act, shall be construed as—

"(4) superseding any provision of law which requires the obligation of budget authority or the making of outlays thereunder."

In B-198103, February 19, 1981, we applied the fourth disclaimer to an attempt by OMB to reduce a mandate on staff allotment to the Veterans Administration. Also, in B-200685, April 13, 1981, Enclosure II pp. 18-22, we discussed with approval the application of this provision by several United States District Courts that were addressing a post-Impoundment Control Act impoundment of the Federal-Aid Highway Trust Fund. Thus, as noted by OMB, B-200685, July 30, 1981, does represent our view that the fourth disclaimer does not permit withholding of funds prior to Congressional action on a rescission proposal where outlays are mandatory. We conclude that since the dual benefit payments under § 1122(c) of the Reconciliation Act are mandatory entitlement payments to recipients based on an allocation of a fixed appropriation, they are expressly removed by the fourth disclaimer from any authority given the President under the Impoundment Control Act.

Sincerely yours,

MILTON J. SOCOLAR,
(For Comptroller General of the United States).

THE MONTREAL PROTOCOLS NOS. 3 AND 4

Mr. DECONCINI. Mr. President, the Montreal protocols are little more than an attempt to exempt the business of international airline passenger service from the requirement of acting responsibly and within the law of torts. The protocols reflect effort on the part of airlines to limit their own liability for an airline disaster, at the expense of the traveling public. The airlines do not require this limit for their economic survival and are simply asking consumers to insure them against their own negligence.

The protocols would put an absolute limit of $117,000 on the liability an airline could incur for causing the death or injury of a passenger. This would be supplemented by a $200,000 insurance policy paid for by a surcharge to the passenger of $2 per flight. Maximum recovery, therefore, of $317,000 per passenger is provided. This is well below what many passengers could expect to recover in normal civil lawsuits with no limit on liability. Not only would the protocols limit liability where the airline was negligent, the protocols would limit liability where the airline was grossly negligent, and even in cases of willful misconduct.

Our American system of jurisprudence has always held a wrongdoer is responsible for his actions. As a public policy, the law of torts creates incentives to act in a safe and responsible manner. The protocols remove that incentive, and give the airline passenger nothing in return but a $2 charge for insurance to cover the airline. These protocols are designed to benefit a small group of airlines at the expense of the traveling public. They are not in the national interest, and I cannot support them. I urge my colleagues to oppose these protocols when they are brought to the floor.

RAILROAD RETIREMENT BOARD SHOULD NOT BE ABOLISHED

Mr. SASSER. Mr. President, I rise today to offer my wholehearted support for Senate Resolution 334, which I have cosponsored with my distinguished colleague from Ohio (Mr. METZENBAUM). This resolution expresses the Senate's opposition to the administration's proposal to abolish the Railroad Retirement Board and further reduce the dual benefit portion of the retirement annuity.

If enacted, the administration's proposal would have the effect of making all subsequent rail employment directly covered by social security, beginning in October of this year. All remaining benefits, except what is commonly referred to as "windfall" benefits, would be administered by a federally created Private Rail Industry Pension Corporation. This proposal would also effectively eliminate 76 field offices around the country.

Mr. President, I am opposed to this proposal for a number of reasons. First of all, the social security system is currently operating under severe strain. It has problems with its computers, is understaffed, and behind schedule on workload. It appears to me that one thing we do not want to do at this time is burden it with a heavier caseload. Adding another 1.5 million participants to the system would only exacerbate existing problems.

Second, a question which must be addressed is the ability of the rail industry to fully finance the present level of benefits through a payroll tax in light of the diminishing number of railroad employees and the serious problems confronting the Nation's economy. While the administration maintains that individuals would not receive lower private pension benefits, a recent Congressional Research Service report indicates that dismantling the railroad retirement system could lead to cuts in benefit levels for both current and future retirees.

By defederalizing the railroad retirement system, an agreement between rail management and labor to reduce benefits could lead to a cut in current benefits and not just the future benefits of as yet unretired workers. It is important that we in Congress realize the need to fulfill the obligations made to those who have planned their retirement around benefits earned after many years of hard work. It is simply unfair for us to pull the rug out from under any group of retirees. The director of the Railroad Board Office in Nashville, Mr. Lawrence J. Larocque, recently made a statement that most clearly sums up this sentiment:

> One thing elderly people are concerned about is knowing how much money they can depend on.

I have talked with many elderly citizens in my State and this is one of their principal worries.

A final consideration must be given to the nature of the various railroad retirement offices around the country. These offices provide specialized services to rail retirees and it would be most difficult to replace the services these people have come to rely upon. In my State alone, there are 3 offices providing information and service to almost 21,000 retirees.

Mr. President, the President's fiscal year 1983 budget also contains a recommendation which would reduce the dual benefit payment account of the railroad retirement annuity by $29 million, reducing these benefits by 6 percent in addition to the 15-percent reduction made in last year's budget cuts. This recommendation is made despite repeated efforts by many in this body to maintain a level of full funding for this entitlement program at $440 million.

I do not know what the President has against railroad retirees, but it appears as though the administration will go to great lengths to see that their benefits are reduced. I would like to ask the administration if this is any way to run a railroad.

Mr. President, let me just add a word about this so-called "windfall" benefit. This benefit was created in 1974 to avoid penalizing retired railroaders whose benefits were cut by the amount of their monthly social security checks. Prior to the Railroad Retirement Act of 1974, entitlement to benefits from social security and railroad retirement resulted in unintended benefit advantages for some beneficiaries.

The social security benefit formula favors lower career-average earnings. Many employees with eligibility for benefits under both railroad retirement and social security received some of the favorable advantages from social security intended for workers with lower career average wages.

The total benefits these employees received from both systems was higher as a result of the enhancement of the social security benefit even though these employees did not actually have the low career-average wages for which that enhancement was intended. Had their total earnings been combined, calculated, and paid under either system, their total benefits would have been lower. This difference is currently referred to as a "windfall."

Under the railroad retirement amendments included in the omnibus budget reconciliation legislation, the Railroad Retirement Board, beginning October 1, 1981, was required by law to limit these dual benefit "windfall" benefits to amounts that are actually appropriated by the Congress. Presently, we have appropriated $379 million for that account. This has meant a cut of some 16 percent in these payments to railroad retirees. Certainly these retirees have suffered significant reductions in these duly earned benefits and should not be cut any further.

Mr. President, I urge expeditious action on Senate Resolution 334.

DEATH OF FORMER SENATOR CLIFFORD CASE

Mr. WEICKER. Mr. President, I was very much saddened by the death of my former colleague, the distinguished Senator from New Jersey, Clifford Case. Like the man he helped draft for the Presidency in 1952, Cliff Case stood for fairness and moderation in the Republican Party.

During his 34 years in Congress, he steadfastly opposed the ideologues of the far right. In 1954, he risked losing his first campaign for the Senate by calling for Joe McCarthy's ouster. In retrospect, his position was undoubtedly the right one. At the time, however, it did not win him any popularity contests in the party.

The fact is that Cliff Case was always more concerned with being right than with being popular. Popular he was, though, with the people of New Jersey. Five terms in the House and four in the Senate attest to that.

In Clifford Case, the voters of his State knew they had a man of high moral principle who would speak his mind. As the ranking Republican on the Foreign Relations Committee, Senator Case fought for a balanced and bipartisan foreign policy, shaped as much by the Congress as by the President. His opposition to CIA covert activities and U.S. involvement in Indochina, his support of the Panama Canal treaties, and his push to curb Presidential war powers drew fire from some conservative critics. So did his prolabor positions. Nor was it a simple matter for him to urge party leaders to live up to their heritage as the party of Lincoln and embrace the civil rights movement. He did though, and did it willingly.

Despite pressures to conform, Clifford Case refused to fit any mold other than the one he carved out for himself. When accused of acting more like a Democrat than a Republican, Cliff Case had a ready answer. "I am a Republican, and I believe in the Republican Party," he said. "But I have my own convictions as to what the Republican Party should stand for, and I intend to fight for them as hard as I can. And I will not be driven away from my republicanism simply because some Democrats happen to agree with me on certain issues—and some Republicans do not."

Fortunately for the Republican Party as well as the country, Cliff Case was not driven away. His courageous example will long serve as an inspiration to us all.

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.

Mr. WALLOP. Mr. President, I suggest the absence of a quorum, with the time to be charged equally to both sides.

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

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. WALLOP. In the course of this debate, I have emphasized my strong conviction that the substitute resolution for censure is inappropriate. I have done so because I believe that there can be no compromise with bribery, with influence peddling, and with conflict of interest. In fact, when one reads and listens to the strong words of criticism of Senator WILLIAMS' conduct embodied within the substitute resolution the only appropriate sanction is that of expulsion.

After listening to the debate over the last several days where my colleagues have expressed their views on this matter, it is even clearer to me, as it must be to all of us, that expulsion is the only appropriate remedy. To vote for expulsion is not to bend to the political winds, it is not to curry favor with the press, and it is not to enhance our own political positions at the expense of a colleague. To vote for expulsion is to do the right and ethical thing.

It would be damaging to this institution if the signal that we give to the Nation is that the conduct of which Senator WILLIAMS is so clearly guilty is only deserving of his censure. Is there any one of you who would want to set such a precedent—and make no mistake about it, this is a precedent setting matter before this body? If this is done, the American people will believe, and rightly so, that we have breached our trust and commitment to them; and, equally important, we would have done a great disservice to this institution—to those who served in this body in the past, to those who will serve in this body in the future, and to each of us, who knows in his or her heart of hearts that the right and ethically just thing to do is to vote for expulsion.

There have been many comments critical of law enforcement agents, but that is an issue for another day. It is totally illogical to allow Senator WILLIAMS to become the beneficiary of any such wrongdoing. I would hope that judgments as to others will be made only after a fair and thorough investigation, when those who have been criticized have the same opportunity as Senator WILLIAMS to confront the allegations against them.

For these reasons, my colleagues, I am sad to say that we must defeat the resolution that proposes censure as the appropriate sanction. Based upon the evidence which has been presented in this forum, based on the careful and time-consuming investigation of your Ethics Committee, which did conduct its own independent investigation, there is no other choice but to support the resolution of expulsion.

Mr. President, I suggest the absence of a quorum, with the time to be charged equally to both sides.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

STATEMENT REGARDING THE REMARKS OF MR. CRANSTON

Mr. WALLOP. Mr. President, while I do not intend to reiterate at any length the reasons for which the Ethics Committee rejected the measure now being recommended by the distinguished Senator from California, I do feel obliged, as chairman of that committee, to clarify a number of points for the record.

First, the Senator from California suggested that there are transcripts of tapes which the Ethics Committee did not publish which bear upon the matter before us. Let me assure every Member of this body that your committee made available to Senator WILLIAMS' counsel all tapes and transcripts in its possession, and permitted Senator WILLIAMS every opportunity to introduce any tapes or transcripts he desired at the hearing we held in this matter. Senator WILLIAMS, through his counsel at the time, Kenneth Feinberg, availed himself fully of that opportunity.

It is my understanding that the transcripts cited by Senator CRANSTON were available to Senator WILLIAMS from the time of his criminal trial. They evidently were not introduced in his defense—either in court or at the Ethics Committee's proceedings—because of the inferences adverse to Senator WILLIAMS which can be drawn from them. Those inferences are, in my opinion, more plausible than the hypotheses now asserted to neutralize their literal content. Also, the transcripts in question, even accepting Senator WILLIAMS' view of them, go to the issue of targeting, not the issue of Senator WILLIAMS' misconduct. I have already stated my views on both the relevance and the merits of Senator WILLIAMS' contentions that he was targeted and will not reiterate them here.

Second, I also must take issue with Senator CRANSTON's assertion that the impetus for expulsion of the Senator from New Jersey is his criminal conviction rather than his ethically repugnant conduct. It is simply not true that the Ethics Committee was driven to its recommendation of expulsion by the conviction of Senator WILLIAMS. In fact, while a jury verdict had been returned in Senator WILLIAMS' criminal case at the time of the Ethics Committee's deliberations in this matter, his post-trial motions—for a new trial based on prosecutorial error, and for dismissal on due process grounds—were still pending before Judge Pratt, and no judgment of conviction or sentence had yet been entered.

Ironically, it was Senator WILLIAMS who at that time urged the committee to wait for Judge Pratt to rule, on the theory that the jury verdict might be dismissed and no judgment of conviction entered against him. Because your committee believed, then as now, that the Senate must act in this matter independently of the judiciary, we proceeded with our deliberations regarding Senator WILLIAMS' conduct; and our recommendation of expulsion was, and is, intended to stand irrespective of the outcome of Senator WILLIAMS' criminal case, at any stage of the judicial proceedings.

Third, Senator CRANSTON's statement of the undisputed facts of this case viewed in the light most favorable to Senator WILLIAMS strikes me as a compelling case for expulsion. Even by Senator CRANSTON's account, Senator WILLIAMS engaged in a conflict of interest by knowingly and willfully permitting an outside business activity with which he was associated, and in which he had or expected to have a financial interest, to use his name and office in a manner inconsistent with the conscientious and proper performance of the official duties of a U.S. Senator. As I stated on the floor on Monday, the Congress has already spoken as to the proper sanction for this kind of gross misconduct when committed by an official of the executive branch: such an official is by statute rendered incapable of holding any office of honor, trust, or profit under the United States. [18 U.S.C. §203(b)] I share Senator EAGLETON's conclusion that it would discredit the Senate were we to adopt a double standard and invite a Member clearly guilty of such improprieties to continue to serve in this body.

Moreover, Senator CRANSTON would have us find, by his substitute resolution, that Senator WILLIAMS knowingly and willfully permitted others to believe he was willing to corrupt his office by obtaining Government contracts for a venture in which he had an interest which he intended to conceal. While the substitute resolution is silent on the question whether Senator WILLIAMS actually intended to use his influence to obtain Government contracts—a question which your committee answered in the affirmative—even if you conclude he did not, you still must conclude at a minimum that Senator WILLIAMS was a willing participant in a scam to con the sheik. Given the universal contempt in which Mel Weinberg has been held for precisely such conduct, it would hardly pass muster for the Senate to condone such conduct in one of its own Members.

Finally, let us look briefly at the implications of the particular conflict of interest in which Senator WILLIAMS engaged in this case, which falls not on the sometimes undefined perimeters of the prohibition against conflicts in both our own rules and Federal law, but rather squarely within their bounds. When asked at the hearing whether he intended to help get Government contracts, the Senator responded, evasively, that there was "no possibility of Government contracts out of Piney River, no possibility at all . . . The Government is not going to in any way contract for the product of Piney River." [Hearing Transcript at 143.] This response is at odds with the reality that the U.S. Government is a substantial purchaser of titanium, a strategic metal, stockpiles of which were critically low during the time of the events in question. As the Stockpile Report to Congress for that period reveals, the Office of Plans and Preparedness had greatly increased the goal for stockpiling titanium sponge. [Hearing Exhibit HAW-53.] And as Senator HART stated in floor debate on December 19, 1979—while the events in question were unfolding—with respect to the Strategic and Critical Materials Transaction Authorization Act of 1979:

> We do not need silver for the National Defense Stockpile. We will not use silver bullets in the next war. We should sell the silver and use the proceeds to buy critically needed materials such as cobalt and titanium. [125 CONGRESSIONAL RECORD S 19141 (daily ed.) December 19, 1979.]

I submit to you that Senator WILLIAMS' misconduct strikes at the very heart of his public trust, and at the honor of this institution. Censure, while not a mere slap on the wrist, is an insufficient sanction in the face of such misconduct. I must respectfully oppose the substitute measure offered by my distinguished colleague from California, which in my view represents a wholly inadequate half-measure for dealing with an extreme abuse of the high public office to which Senator WILLIAMS was elected.

Mr. WALLOP. Mr. President, I suggest the absence of a quorum, the time to be charged equally to both sides.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. BAKER. Mr. President, in a moment, I intend to try to announce the schedule of the Senate for the remainder of this morning and this afternoon. I must contact the minority leader and advise him of this arrangement before I move the request, but may I describe it now, as I understand it.

Assuming that the minority leader has no objection, I will shortly ask the Senate to recess until 12:45 p.m. When the Senate reconvenes at 12:45, all Senators are urged to be in attendance. The first order of business will be the suggestion of the absence of a quorum. At approximately 1 o'clock, or as soon as a quorum is assembled, in any event, it is hoped that the Chair will recognize either the Senator from California (Mr. CRANSTON) or the Senator from Hawaii (Mr. INOUYE) as they may prefer.

It is my understanding that, thereafter, the Senator from New Jersey (Mr. WILLIAMS) will seek recognition.

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

Mr. BAKER. Yes, Mr. President.

Mr. INOUYE. That is satisfactory to me.

Mr. BAKER. Mr. President, that is as far as I can go at the moment, but I think that, based on implications of that statement, I am sure all Senators must now understand the importance of their attendance here.

Mr. President, I am advised now that the minority leader has heard this proposal and has no objection to it.

RECESS UNTIL 12:45 P.M.

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate now stand in recess until the hour of 12:45 p.m.

There being no objection, the Senate, at 11:13 a.m., recessed until 12:45 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 the State of Alaska, suggests 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. 27 Leg.]

Dodd	Mathias	Stevens
Gorton	Matsunaga	
Inouye	Pryor	

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

The legislative clerk resumed the call of the roll.

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

The result was announced—yeas 97, nays 3, as follows:

[Rollcall Vote No. 52 Leg.]

YEAS—97

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

NAYS—3

Goldwater	Proxmire	Quayle

So the motion was agreed to.

The VICE PRESIDENT. With the addition of Senators voting who did not answer the quorum call, a quorum is present.

Mr. BAKER addressed the Chair.

The VICE PRESIDENT. The majority leader.

Mr. BAKER. Mr. President, if I may have the attention of the Senate for a moment—may we have order, Mr. President?

The VICE PRESIDENT. The Senate will be in order.

Mr. BAKER. I suggest this procedure, Mr. President: My remarks in respect to the schedule will be very brief, at which time, I hope that the Chair may recognize either the Senator from Hawaii or the Senator from California, as they may prefer; that they may control the time, then, or control the matter of yielding the floor to other Senators.

I hope that remarks at this point will be kept at an absolute minimum. It is my anticipation that the Senator from New Jersey will have a statement to make, after perhaps a colloquy between the Senator from California and the Senator from Hawaii. I urge that Members consider that he is entitled to do that in his time and in his way and that remarks, to the extent that they can, should be done after the remarks of the Senator from New Jersey.

There will be ample time this afternoon, Mr. President, for any additional remarks that Members may wish to make.

Mr. President, I yield the floor.

Mr. McCLURE. Mr. President, before the Senator yields the floor, will he yield for a question?

Mr. BAKER. Yes, Mr. President.

Mr. McCLURE. I wonder if it might be appropriate that Senators who wish to do so may be permitted to file a statement as if given in full rather than stating it. There may be some of us who would like to do so.

Mr. BAKER. Yes, Mr. President. I make that request.

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

(Statements submitted in accordance with the foregoing order follow:)

Mr. SYMMS. Mr. President, in one's life there arises many difficult and demanding decisions.

Certainly, in our position as U.S. Senators we are called upon, as a matter of course, to weigh many factors and make decisions that will affect our fellow citizens and country for years to come.

The matter of Senator WILLIAMS adds a dimension to the problem of decisionmaking with which we in the Senate are not often concerned—the conduct of a fellow Senator and his fitness to continue to sit in this body.

The decision of whether to vote for expulsion of Senator WILLIAMS has been difficult. But after many hours of viewing videotapes of the Abscam investigation, poring over transcripts and proceedings of the Senate Ethics Committee investigation of the matter, considering the information supplied me by Senator WILLIAMS himself, and finally the Senate floor debate on the motion to expel, I have concluded that Senator WILLIAMS' conduct is not in keeping with the public trust which the office of U.S. Senator demands.

For that reason I support the resolution for expulsion and will so vote.

Mr. LEVIN. Mr. President, HARRISON WILLIAMS was tempted by the FBI. But HARRISON WILLIAMS too readily gave in to that temptation. He was not drugged or overwhelmed.

Abscam has the stench of FBI and prosecutorial abuse we should investigate in great depth and with great determination. But HARRISON WILLIAMS' activities also have an odor because he never lost his free will and he willingly entered into a scheme, offered to use his office and did use his office for personal future gain. In doing so, he was disloyal to the institutions of this country perhaps even more surely than Senators who were earlier expelled for their disloyalty to the institutions of our Government.

PETE WILLIAMS probably would have acted for his friends and constituents without personal benefit, without stock being placed in his name, hidden or otherwise. Indeed he probably set out to do it that way. But he did not end up doing it that way because of his own weakness and his own friendships. He was prevailed upon to accept stock and secrete it. That the stock had no present value is irrelevant. It had potential value and HARRISON WILLIAMS set out to help achieve that value. He actively attempted to obtain a loan to a company in which he held a hidden interest, as a major part of which efforts he repeatedly expressed a willingness to use his influence to obtain Government contracts for that company and, in fact, he used his office and his influence in his efforts to obtain a loan for that company.

PETE WILLIAMS set out to accomplish two goals in this debate, first to avoid expulsion and second to alert us to executive branch misdeeds.

While he is not achieving the first goal, we should all be indebted to him for taking on the second task. He has achieved that goal and this Senate is alerted as never before to the dangers to a free people of FBI wrongdoing. But again, unhappily, the issue is not the FBI agents' conduct. That would make our task easier. Hopefully, their day of judgment will come. It is PETE WILLIAMS' conduct which we must ultimately judge.

Discerning PETE WILLIAMS' motives is not the only difficult challenge we face. Our own motives must be challenged as well. God forbid any of us should consider the political benefits and detriments, conveniences, and inconveniences to ourselves in judging this matter.

As much as I would like personally to find a way for PETE WILLIAMS to continue with us, I cannot in good conscience do so. I will vote for expulsion because of his lack of fidelity to, his disloyalty to, this noble institution of democratic government to which we are sworn to protect.

While PETE WILLIAMS will not be our colleague any longer, he will continue to be our friend. And his contribution to a better life for millions of Americans will be cherished long after this sad episode is behind us. And so will DANNY INOUYE's brave and brilliant defense be remembered whenever any of us present here look back upon these wretched and wrenching days in March of 1982.

Mr. President, while I agree with the conclusion of the Ethics Committee and with its recommendation that Senator WILLIAMS be expelled from this body, I am, however, concerned enough with the precedential nature of their reasoning to offer an amendment designed to make it clear that we are expelling Senator WILLIAMS be-

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cause his actions violated our rules and code of conduct. This amendment makes clear that we are not judging the legal issues involved in the Williams matter. In the expulsion resolution before us, there is language which holds that we find Senator WILLIAMS violated the rules and code of conduct of the Senate. So far, so good. But the resolution also states that we find that he violated the laws of the United States. I do not believe this latter finding is appropriate.

For much of this debate we have been told repeatedly that we are engaged in a legislative act here and not a judicial one. In his opening comments, for example, Senator BAKER made it clear that "what the Senate is doing is considering a resolution, not conducting a trial." He also went on to explain some of the differences between such a legislative act as opposed to a legal one. For example, he indicated that ex parte communication would be allowed here and, most significantly he indicated that "debate will occur without hindrance of the restrictive evidentiary and procedural rules that apply in a judicial contest."

The same procedural point was made by Senator HEFLIN in his opening statement. He argued then that—

> What appeals court judges * * * or even the U.S. Supreme Court say regarding technical legal issues is of no consequence to us. It does not bind us nor is it relevant to the ultimate issue before us: Does the conduct of Senator WILLIAMS fall so short of the standards we would want to impose as to warrant disciplinary action?

Senator HEFLIN expanded on this point in later sections of his opening statement. In dealing with the propriety of using evidence which may have been formed, to one degree or another, by illegal and improper entrapment tactics employed by the FBI, he examined the legal precedents and found that "the U.S. Supreme Court has ruled that in noncriminal cases you do not apply the exclusionary rule. * * *" On the basis of that finding, Senator HEFLIN concluded that—

> Even assuming the Government's investigation of Senator Williams violated his due process rights, it is submitted that in light of the foregoing review of the purposes and limitations of the exclusionary rule in the judicial setting, the adoption of a similar rule by this committee in this proceeding would be unwarranted and unwise.

These statements lead me to draw two conclusions: First, this is a legislative and not a judicial proceeding, and second, as a result, we have been asked to look at the tactics of the FBI only in an effort to discover what impact those tactics had on Senator WILLIAMS' state of mind and not in an effort to discover if the tactics had tainted the evidence gathered to such a degree that it ought not be a factor in our decisionmaking.

This last point, a critical one I believe, is substantiated by the arguments made before the committee by Senator WILLIAMS' counsel, Kenneth Feinberg who said that "Abscam per se, is not an issue before this committee, and that allegations of Government misconduct . . . are not issues for this committee." The same point was made by the committee's special counsel who indicated at the hearings that "while issues regarding the conduct of these other people—that is, the Government investigators and prosecutors—may be appropriately decided by the courts, they are not relevant before the Ethics Committee."

Thus, Mr. President, we are asked not to consider or reach a judgment about potential legal arguments raised by the investigation of this case.

Yet I would submit that when this resolution compels us to find that Senator WILLIAMS violated the laws of the United States we are being asked to make a legal finding rather than a legislative one. And we are being asked to make that legal determination at the same time that we are being asked not to consider all the available legal evidence.

In that context, I would call the attention of my colleagues to the report of the Ethics Committee. In that report, there is a section describing the legal criteria which must be met prior to finding the defendant guilty of violating the laws of the United States. And in each of those legal criteria you will find, on pages 29 through 33 of the report, that one of the criteria is that "the accused was not the victim of entrapment."

In a legal sense, then, the question of whether Senator WILLIAMS violated the laws of the land hinge on the question of whether his actions were the result of improper governmental behavior. That is the question in the courts. We should not intrude ourselves there. And it is precisely that question which we are told is irrelevant to our determinations, again except to the extent that those tactics impact on Senator WILLIAMS' state of mind.

I have concluded on an ethical level that entrapment cannot be used to minimize or rationalize the impropriety of Senator WILLIAMS' behavior. But on a legal level, I am convinced that this body has not—and ought not—place our blessing on the process by which the evidence was gathered. We have not made a judgment—in fact we have been asked not to make a judgment—about the issue of entrapment.

Again that entrapment issue must be resolved before one can conclude that Senator WILLIAMS is guilty, in a legal sense, of the crimes with which he is charged.

My question, then, is how can we conclude—as this resolution compels us to—that Senator WILLIAMS violated the "laws of the United States" when we have specifically precluded, in the context of this debate, a complete, a legal examination of the entrapment issue?

While we should not include the finding that Senator WILLIAMS violated the laws of the United States, we should conclude that he violated our code of conduct and our rules, and on the basis of that finding we can and should apply the ultimate sanction of expulsion. That sanction is the proper one for us to apply. But this amendment makes it clear why we have taken that course.

The inclusion of the words that we find HARRISON WILLIAMS violated the "laws of the United States" in this resolution makes our decision to expel Senator WILLIAMS less than clear and less than sound. We really cannot make that finding until the appeals process has run its course and unless we made a determination of the entrapment issue—something, again, which we have properly been asked not to do in the context of this resolution.

Mr. President, I happen to be an attorney. I believe in the logic of the law. I am concerned that we are reaching a legal judgment in this resolution. Accordingly, the Senate ought to strike the words "violated the laws of the United States" from this resolution and then vote to expell Senator WILLIAMS for what he really stands charged with and what has really been proven against him—violating the rules and code of conduct of the Senate and bringing the Senate into disrepute.

My amendment strikes the legal finding in the resolution. It retains the rest. And with the rest retained we have more than ample ground to adopt this expulsion resolution. As Senator HEFLIN said "had Senator WILLIAMS been found not guilty or were his conviction to be overturned on an appeal, it would still be possible for him to have violated the Senate's code of conduct."

That is precisely what he did and that is precisely why he ought to be expelled. But, let us not adopt a resolution finding that he has violated the laws of the United States when that is still a live issue before the courts and while that is an issue which we have been asked not to examine here in the Senate.

I ask that the text of my amendment be printed in the RECORD at this time.

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

> Page 1, line 5, strike the words "the laws of the United States and".

Mr. McCLURE. Mr. President, each of us, by our vote, will publicly state our conclusion but I believe we should also state our reason for that vote.

None of us can fail to have compassion for a person whose own judgment has led to conduct which so obviously transgresses the standards which our individual and collective judgment requires.

There are those who seek to use this occasion to condemn our law enforcement agencies. They have already pronounced judgment. They, like the hanging judge who wants to have a fair trial before the hanging want to have a hearing. But make no mistake, they seek not an inquiry to discern the facts; they want an inquisition to punish the guilty.

Others would excuse Senator WILLIAMS, and seek censure rather than expulsion. Perhaps there are some who would excuse him completely as they would have the court dismiss the criminal case. At least the latter would be consistent—but wrong.

If he is to be censured, for what wrong is he to be censured? If his conduct demands censure what is that conduct? It cannot be because he accepted money; because he specifically refused in the one instance it was offered. It cannot be because he sought to help constituents, because each of us does that daily. No, if he is to be censured it is because he sought to use his office not to help others but to help himself. Some essential facts are beyond dispute, and indeed, are not disputed. Senator WILLIAMS offered to use his office to further an enterprise in which he held an interest. He intended to conceal that fact and took steps to do so. He clearly hoped that enterprise would succeed and that his interest would have value. In short, he violated the statutes of the land and the rules of the Senate. Censure is not an appropriate response.

I viewed the tapes and reviewed the transcripts of the hearing and I reserved judgment pending our debate on this resolution. But, Mr. President, I have heard nothing that removes these facts and therefore must conclude that I must vote for expulsion.

SENATE RESOLUTION 204

Mr. MATHIAS. Mr. President, the Williams resolution requires that each Senator make not only an objective study of the hard facts, but a subjective reconstruction of events as they unfolded and were perceived by Senator WILLIAMS in a sequential perspective. The fact that much of the case is fictional complicates the process, but does not totally obstruct it. The sheik is only a character in a cheap drama, but the emotions he evoked and the temptations he dangled were very real. The shares of stock that were discussed so earnestly may have been worthless, but the response they motivated was clearly substantial.

It is a scene in which reality is distorted by wisps of mist and fog generated by the stagehands. In short, it is the usual situation in which facts are fiction and thoughts are material.

There is a mine at Piney River in Virginia and core borings do confirm the presence of titanium ore and other minerals. Its owners had actually asked Senator WILLIAMS to help them develop this resource, but their combined efforts had not been crowned with success. While these efforts were being made, the theatrical enterprise known as Abscam was being organized by some amateur actors in the Federal Bureau of Investigation in New York.

That two such different enterprises should intersect with such tragic consequences seems to be a stroke of fate that rivals the plots in classical Greek drama. Surely, none of the principals in either activity anticipated the ultimate results of their actions nor even expected to meet each other along the way.

In every great marine disaster there is an atmosphere of inevitability that is horrifying, but we know that every collision of ships at sea could actually have been avoided by a change of course of 1° or a change of speed of 1 knot. There is a similar air of predestination about the encounter of the Piney River Mine and Abscam, but rationally, we are aware that there were many opportunities to avoid the joining of these plots and to escape the fatal consequences of the joinder.

Without any volition on either side, Piney River and Abscam met in Camden, N.J., and that is where the story begins. The mayor of Camden was aware of the lure being trolled by Abscam and told Senator WILLIAMS about it. The prospect of abundant capital for investment was just what the Piney River Mine needed and Senator WILLIAMS immediately recognized its potential as the solution to a constituent's problem.

Had events been maintained at the level of constituent casework, there would be no grounds for the adoption of a resolution of expulsion. But there was soon an escalation that changed the character of the scene.

The catalyst was the renewal of the suggestion, dormant since 1976, that an interest in the Piney River Mine should be given to Senator WILLIAMS to secure his interest and to reward his efforts. This was one of the obvious points at which a different reaction would have produced a far different evolution of the story. The suggestion could have been rejected and the subject dropped. If the interest in the mine was genuinely believed to be worthless, then such a gesture would have been an exercise in virtue without cost or sacrifice. The gesture was not made.

The agreement to accept an interest in the mine generated further decisions. The first was the need to discuss registration of the stock so as to assure Senator WILLIAMS' ownership, but without publishing to the world the fact that the role of the Piney River Mine had been altered from a constituent case to a personal proprietary project. The discussions of this delicate dilemma provided another opportunity to change course and avoid the dangers that were clearly apparent to the parties, as their conversation makes clear.

The agreement was made to deliver to Senator WILLIAMS stock certificates endorsed in blank by the owner of record. There then arose the necessity to actually produce the stock and physically place it in the hands of Senator WILLIAMS. This arrangement was sufficiently unorthodox to raise further questions about how such an undisclosed interest could be jeopardized by sales of other stock interests and how it could be voted in corporate meetings. That was another moment at which the nature of the deal was an automatic alarm that signaled deepening danger.

It is perhaps useful to recall that these transactions took place between Senator WILLIAMS and his associates on the one hand, who apparently accepted everything at face value, and the Abscam actors on the other hand, who clearly believed nothing. But it is essential to an understanding of the case to realize that, at this stage, Senator WILLIAMS thought he was conducting a serious negotiation and his reactions have to be assessed in the light of that judgment and not with the hindsight of knowing that it was all sham.

It is hard to credit the later assertions that the stock was without value and that the deal should be ignored because it was without consideration. The long and detailed discussions about the treatment of the stock tend to rebut such statements and the failure to refuse a share implies that it must have been worth taking so much trouble.

The stage was thus set for the crucial scenes. In order to induce the phony sheik to invest in the Piney River Mine, there was a series of offers by Senator WILLIAMS to exert his personal and official influence to obtain Government contracts and to voluntarily assist in the enactment of private immigration legislation. There was a refusal to accept a money bribe for the private bill, but its mitigating effect is somewhat diluted by the glittering prospect of millions of dollars of profit contrasted with a probable paltry payment of cash to the tune of several thousand dollars. The elements of the act were thus all present: A personal pecuniary interest, an official with the ability to intervene, and an offer by that official to do so in a way that may generate personal gain for him.

It is advanced as a defense that the Abscam caper was foolish, wasteful, reprehensible, and dangerous. These and other criticisms of Abscam can be accepted as valid without affecting the validity of the charges upon which the resolution is based. The creation of an organization such as Abscam does indeed demand some thoughtful review of the purposes it was designed to achieve and the manner in which it was expected to operate and the persons against whom it was intended to be targeted. But as the transaction was thought to be bona fide on one side, the fact that it was not does not invalidate the reaction of that side. The fact that the other side was not bona fide makes it seem hard to base a conclusion on such a sorry story, but simply to forget the whole thing is harder.

The inescapable conclusion is that we are here dealing with two separate sets of errors, mistakes, and delinquencies, and that neither of them can or should be forgotten. Some facts and some characters are common to both, but each situation is independent of the other and each requires an individual assessment and judgment. Resolution 204 addresses one of them. The other case should be addressed in a new and different proceeding and I hope that it will be.

Mr. BAUCUS. Mr. President, for 6 days the Senate has heard the debate on this motion. We have heard the arguments of the Ethics Committee, and we have heard Senator WILLIAMS' side of the case.

Now, as we near the point when all of us must vote, I would like to express my thoughts on this tragic episode.

There are two issues before us: The conduct of the FBI and the conduct of Senator WILLIAMS. Both are legitimate areas for Senate inquiry.

Was the FBI's conduct in the Abscam investigation responsible? Do Abscam and the activities of the executive branch raise questions about the separation of powers between Congress and the executive branch?

In my view, these are questions that deserve a complete and thorough investigation by Congress.

But, I do not think this is the time or the place for that discussion. The important question I believe we must address is whether Senator WILLIAMS' conduct was appropriate.

I have viewed the tapes, and I have listened to hours of debate on the Senate floor. I can only conclude that Senator WILLIAMS' conduct is not fitting for a Member of the U.S. Senate. Therefore, I intend to vote for the motion to expel Senator WILLIAMS.

It is never easy to make this kind of decision. PETE WILLIAMS is a friend and a fellow Democrat. His legislative record is an outstanding tribute to his compassion and commitment to building a just society for all Americans.

Nor do I stand here to be "holier than thou." All of us are human. All of us make mistakes.

But, public officials, officeseekers, and the public must be assured that the U.S. Senate will continue to set the highest standard for the conduct of its Members.

I do not believe we can ignore the evidence that has been presented here. We cannot walk away from the fact that our responsibility is to uphold the integrity of the U.S. Senate. I do not believe that anything short of a vote for expulsion will satisfy that duty.

Mr. SIMPSON. Mr. President, I want to, at this moment, thank deeply my fine colleague from Wyoming, MALCOLM WALLOP. Never have I seen him perform more masterfully than he has on this critical issue. I have known him for many years. We served together in the Wyoming legislature in Cheyenne. Never has he been more impressive, fair, and forthright. His powerful presentation of the facts along with his colleague, HOWELL HEFLIN of Alabama, a man who was elected to the Senate when I was, and a fine personal friend also, was an extraordinary example of careful preparation and an extraordinary attention to due process.

I wish to make only one comment on the final remarks of PETE WILLIAMS which were completed with great grace and extraordinary poignancy. I listened in a most fascinated manner to the comment that it was this Senate that should feel guilt and this Senate that was under indictment. I thought to myself as I listened to that that I had no feeling of communal guilt. I had no sense that all of us were under indictment in any form. I had no sense that each of us were on trial. I do not say that in any pompous way or with any expression that I am above the fray or that I have not erred and strayed. I have missed the mark many a time in fact, I can assure you that I can tell you a great deal more about the imperfections in my life but I have a bit of difficulty expressing all of my perfections.

But the real issue should be kept in mind. The issue was not really whether the FBI did wrong or whether the FBI did right, or whether the court heard the proper evidence or did not hear the proper evidence, or whether the judgment on appeal will be overturned or whether it will stand. The issue is: Did this man bring discredit upon the U.S. Senate by his conduct and his actions? I personally have spent many hours reviewing the tapes, the transcripts, and the testimony and have made the decision very clearly in my own mind that he did, indeed, violate that standard of ethics of the U.S. Senate. I have not enjoyed the position of being a judge, but I did not choose to shirk my duty either. It was a tough one and I must admit that I was puzzled throughout as to why he perhaps did not resign prior to this time—but he is a scrapper and he is a man who believes deeply in his cause.

So the issue to me is not one of entrapment, or abuses, or a system of government "run amuck" and all of those things—which we should indeed conscientiously pursue and examine—the issue is very clear as to how to resolve that in the future. Through the reams of testimony and the hours of video taping, the extraordinary course of criminal and civil hearings and trials and depositions, and through all the endless tonnage of verbiage on all sides, there was one word that would have solved it all—one word that would have prevented all of the embarrassment and the anguish. That one word was "No." The utterance of it at any point in the entire tawdry proceedings would have assured that the last 6 days of anguish would not have been before us.

Here is a man who has enjoyed every shred of due process that this remarkable Government of ours can provide and that process is still continuing. This persistent return to the issue if investigatory activities, to methods, to procedures, are but diversions and distractions. There is not one of us in this Chamber who should feel any sense that the Senate is somehow lessened through this activity of this one man. Indeed, in my mind this has been the Senate's finest hour in the 3 years I have set in this body. To listen to my colleagues on both sides of the aisle, to hear the sincerity and intensity and the depth of their remarks, to hear the powerful statement of TOM EAGLETON—whose remarks sucked all of the air out of this Chamber the other evening. Powerful stuff, indeed. To hear the authentic and sincere statements of BILL BRADLEY, DAVE PRYOR, MALCOLM WALLOP, HOWELL HEFLIN, and so many more. The objective we were seeking gave me no sense of pleasure. But the guidance of the process by our most extraordinary majority leader, HOWARD BAKER, and the masterful presentation of "the defense" by DAN INOUYE and AL CRANSTON, gave me a very good feeling about this entire system. Because through all of the differences there was this courtesy, and this desire to avoid the final pain by this extraordinary adherence to due process and "letting the Senate run its course."

In resigning, PETE WILLIAMS did the right thing. Each of us, with our own innertracking systems, know that is correct. Each of us with our downdeep sense of our inner gyroscopes and our internal guidance systems know in our heads and hearts and guts that that was the best result.

So the tough decision made by PETE WILLIAMS removed us all from the final anguishing decision—and that is well—but let it be recorded that no one should believe that we as a Senate were ready not to make that decision—and make it correctly, cleanly, and clearly.

I am very proud to be a Member of this body—to serve in this place—with these people. It is indeed bigger than all of us—and our egos. This Senate—"working its will"—gives me good feelings about the future of this land. In the same moment it has been a solemn and sorrowful occasion marked—as are all of the great tragedies and dramas of the world's previous history—with nearly equal portions of triumph and disaster. I was pleased that I was able to be here to see it played out. My deep feeling is that I will be a better Senator because of it.

Thank you, Mr. President.

Mr. SASSER. Mr. President, it has been my intention up to this point to support Senate Resolution 204, recommending the expulsion of Senator HARRISON WILLIAMS from the U.S. Senate.

I understand now that it is Senator WILLIAMS's intention to resign from his Senate seat in order to spare the Senate the difficulty of voting for his expulsion.

We have been involved in a long and painful process during the past few months. I commend the members of the Senate Ethics Committee and my Senate colleagues for pursuing this matter in such a fair and painstaking manner.

This issue has been particularly difficult because of the questionable actions of the Federal Bureau of Investigation in carrying out their investigation of Senator WILLIAMS. No one can countenance or support the nature of the activities entered into by the FBI in conducting this very important and sensitive investigation.

The incident raises important constitutional questions regarding the relationship of the executive branch to the legislative branch. The concerns of this body have rightly been aroused over the very questionable tactics used in the Williams investigation.

I have appreciated my association with Senator WILLIAMS during my term in the Senate. I have found him an articulate spokesman. He is an effective and hard-working legislator, and his commitment to his beliefs is heartfelt and sincere.

It is certainly not easy to go through the process of investigating, trying, and judging a fellow Member of Congress. However, Congress is granted the power by the U.S. Constitution to govern the activities and the conduct of its Members, and we have voted for ourselves a code of conduct which we are each responsible for upholding.

None of us are above the Senate and the laws that govern it. Despite the long and impressive legislative record of Senator WILLIAMS it is against these laws that he must be judged.

Arduous and careful deliberation, a complete examination of the evidence and the allegations, led the Senate Ethics Committee to recommend unanimously the expulsion of Senator WILLIAMS. I believe that the evidence supports this decision.

Therefore, should Senate Resolution 204 come to vote, I will support expulsion.

Mr. THURMOND. Mr. President, the serious matter that has been before the Senate these last 6 days derived from one of the most difficult, but also most important, responsibilities bestowed on the Senate by our Nation's Founding Fathers in the U.S. Constitution: Judging the fitness of its Members.

Article 1, section 5, clause 2 of the Constitution provides that:

> Each House [of Congress] may determine the Rules of its Proceedings, punish its Members for disorderly Behavior, and, with the Concurrence of two thirds, expel a Member.

Pursuant to this constitutional responsibility, the Senate has prescribed rules for its proceedings and to guide the conduct of its Members. It has agreed to a Senate Code of Official Conduct, drafted by a select committee which I was privileged to cochair. It has created the Permanent Select Committee on Ethics and charged that committee with the task of receiving and investigating "allegations of improper conduct which may reflect upon the Senate, violations of law, and violations of the Senate Code of Official Conduct * * * relating to the conduct of individuals in the performance of their duties as Members of the Senate. * * *."

With regard to the charges of misconduct, violations of Federal law, and violations of Senate rules by Senator HARRISON A. WILLIAMS, JR., of New Jersey, the Ethics Committee has thoroughly investigated and considered the matter. The committee reported the disciplinary resolution which has been before the Senate since March 3 and concluded that the egregious nature of the violations warranted expulsion of Senator WILLIAMS from the Senate. Thus, it then became the grave and painful task of the full Senate to judge the conduct of one of its Members against the necessarily high standards expected of elected public officials who are given the privilege and honor of serving in this body.

Mr. President, the Ethics Committee based its recommendation of expulsion—the most severe sanction available—on its finding that Senator WILLIAMS knowingly and willfully used his official position to further a business venture in which he and close friends had a financial interest in violation of Federal law and the Senate rules. The committee also found that Senator WILLIAMS endeavored to conceal his financial interest in violation of the financial disclosure provisions in the Senate rules.

Although he has appealed, Senator WILLIAMS now stands convicted by a jury of all nine counts of Federal law violations on which he was indicted, including the serious offenses of bribery, conspiracy, receiving an illegal gratuity, conflict of interest, and interstate fraud in aid of racketeering. He has been sentenced to 3 years imprisonment and the payment of a $50,000 fine. Moreover, the trial judge has denied Senator WILLIAMS' motions to set aside the verdict and dismiss the indictment, which Senator WILLIAMS based on questions of due process and related violations.

Mr. President, as I understand the thrust of his defense, Senator WILLIAMS maintains that, at most, he is guilty of errors in judgment and that he never intentionally engaged in any illegal conduct. He maintains that his statements and promises, which were recorded by the FBI on audio and video tape, were nothing more than excessive boasting and posturing designed to help his constituent friends pursue legitimate interests, and that he never actually intended to use his office to influence the granting of Government contracts, or to keep a foreign citizen in this country, or for any other illegal purpose. However, as the committee pointed out, to accept these contentions either strains the credulity of reasonable persons, or it necessarily leads to the conclusion that the Senator willingly participated in a scheme to defraud a foreign citizen into investing funds based on a false belief that the Senator would use his position to help the venture succeed. In either event, a fundamental violation of ethical standards would have occurred.

Senator WILLIAMS has also focused on the alleged over-zealous actions of FBI agents, FBI informants, and other Justice Department employees. I first addressed this concern in a speech on the Senate floor on February 20, 1980, shortly after the Abscam investigation became public. At that time, I expressed sharp disagreement with those who were attempting "to make the FBI and the Justice Department the villains in this scenario," and further stated that the Federal law enforcement authorities were right in vigorously pursuing the investigation wherever the evidence led, even if it led to Members of Congress.

Senator WILLIAMS and the other congressional Members caught in Abscam have had an adequate opportunity to raise before trial courts the issues of due process violations, entrapment, and related questions. Although the trial judge has disagreed with the Williams' claims, the Senator will have an opportunity to further pursue these questions in his appeal.

Moreover, Mr. President, in my view, whether the FBI and the Justice Department acted improperly in this and other Abscam cases—and there may have been some improprieties—is only tangentially relevant to the central question that has been before the Senate. Senators can weigh these concerns about the propriety of Abscam as a factor if they wish, but the paramount concern was whether Senator WILLIAMS acted in accordance with the public trust reposed in him.

The public office bestowed on each Member of Congress is a high honor, a special privilege, and a precious trust that demands a high standard of diligence and the utmost integrity. The Senate as an institution cannot function effectively with the confidence and respect of the American people unless Senators are willing to respect and, as required by the Constitution, enforce these necessarily high standards.

Mr. President, after very carefully considering the relevant evidence touching on this matter, it is my view that the Ethics Committee conclusion is warranted and that expulsion from the Senate would have been an appropriate disciplinary action. In this Senator's opinion, this case would have required a much more severe disciplinary action than did two previous cases before the Senate in which I participated. In 1967, I voted against censuring Senator Thomas Dodd of Connecticut, who was accused of converting campaign funds to personal use. As I probed the evidence in that case, my judgment was that there was insufficient evidence that Senator Dodd intentionally deceived or defrauded any of those who had given money to help alleviate his difficult financial situation. The evidence in that case also showed that Senator Dodd contributed more of his own funds to his campaign than he later received back in contributions, so that there was no net personal gain to him.

Similarly, in the 1979 Talmadge matter, I opposed the "denunciation" of the then Senator from Georgia because the Ethics Committee had not found any intentional or willful wrongdoing. Rather, the committee based its disciplinary recommendation on a finding that Senator Talmadge carelessly intermingled campaign contributions with other funds and negligently violated other recordkeeping and reporting requirements.

In the present case, unfortunately, the accused Senator appears to have knowingly and intentionally engaged in a far more serious pattern of illegal conduct that involved the use of his office, position, and influence to enrich himself and his friends. Not only are the improprieties more serious in the Williams case, but in this instance, the Senator has been the subject of a Federal criminal prosecution, has been found guilty of multiple felony counts, and has been given a prison sentence.

The precedents of Senate disciplinary actions make clear that neither a prosecutable offense nor a finding of guilt are prerequisites to an expulsion action. Additionally, precedent and a rational consideration of the matter supports expulsion as an appropriate Senate response in cases involving bribery or blatant conflict of interest, such as the jury and the Ethics Committee found to have occurred here.

Mr. President, this has been neither a pleasant nor an easy task, considering that Senator WILLIAMS has been my colleague and friend in the Senate for 23 years. While we have had our philosophical differences, I have known him to be an able Senator who has undoubtedly made numerous contributions to his State and the Nation. It is my conclusion, however, that there is sufficient basis for the Ethics Committee finding that he has engaged in illegal and ethically repugnant conduct that tends to bring the Senate into dishonor and disrepute.

When the Senate finds serious misconduct by one of its Members, such as has occurred in this case, it has the power and responsibility to withdraw from that Member the privilege of serving in this body. It is my carefully considered judgment that the facts in this case would have warranted withdrawal of that privilege from Senator WILLIAMS. Thus, I was prepared to concur in the recommendation by the Ethics Committee that he be expelled from the U.S. Senate and to so vote had it been necessary for that question to be put before the Senate.

Under the circumstances, I believe the Senator from New Jersey made the correct decision to resign from the Senate, and I wish him well in his personal life in the future.

The VICE PRESIDENT. The Senator from Hawaii.

Mr. INOUYE. Mr. President, I yield 4 minutes to the Senator from New York.

Mr. MOYNIHAN. Mr. President, it was my intention yesterday to seek the floor following the statement by the distinguished Senator from Arkansas (Mr. PRYOR). However, others wished to speak directly to the specifics of this statement and I judged it best not to interrupt, even though I had hoped, in effect, to extend his remarks.

I do so now, briefly.

I should have voted for expulsion, and for the reasons set forth by the Committee on Ethics.

However, I wish to record my judgment that that is the lesser of the two matters before us; the most easily disposed of, a matter of equal salience among the public as within the Senate.

The great harm that has come to Senator WILLIAMS, howsoever without precedent, is nonetheless harm to an individual.

Senator PRYOR, preceded by Senator CRANSTON, Senator LEAHY, and others have raised the issue of the far greater injury which may have been done to the Senate by the conduct of the Department of Justice. This concerns the fate not of an individual, but of an institution, of a constitution.

In his opening statement, the very distinguished Senator for Hawaii, Mr. INOUYE, took note that there was an attempt—to be sure an abortive attempt, and an attempt withal—by the Department of Justice to involve me and Senator Javits in this "sleazy" enterprise, as it has been called by more than one Senator in the course of this debate.

Specifically, on September 10, 1979, Melvin Weinberg told a convicted swindler, one William Rosenberg:

> Javits we would definitely like and we'd like Moynihan.

Rosenberg was lying when he said he had been in touch with us. He later confessed to all this, and also pleaded guilty to conspiracy to bribe a Member of the House of Representatives. He was attempting to scam the scammers. He explained to Weinberg that Senator Javits had only a short time remaining in his term. Weinberg responded:

> Well, we'll buy him for 2 years then.

The video tape of this exchange was shown at the trial of Representative Kelly, here in the District of Columbia, on December 12, 1980. As I understand it, this was done at the behest of the defense attorneys, who having been informed by the Government that Rosenberg had confessed that he was lying, sought to show that some of these matters had been conducted with a high irresponsibility. As I reported to the Senate early in this debate, Mr. Rosenberg had also represented himself as being able to reach retired Senator Kerr, of Oklahoma, then nearly 17 years dead.

Reporters at the Kelly trial promptly went to their telephones to call my office. Immediately on hearing of the Weinberg-Rosenberg exchange, I called Judge Webster, Director of the FBI, to ask what on Earth was going on. Someone I had never heard of, much less ever met, had been told by Weinberg to offer me $50,000 and Senator Javits $25,000 for some unknown purpose. Judge Webster's first words to me in reply were: "Were you complimented?"

Surely, Mr. President, there can be no condoning such levity in a matter so grave. I made this clear to Judge Webster. I asked—I insisted—that he come to see me in my Senate office, and bring with him Philip B. Heymann, then Assistant Attorney General in charge of the Criminal Division.

This meeting took place 1 week later, on December 19. At the time I stated to Judge Webster and Professor Heymann that it seemed to me that they had embarked on an enterprise of the gravest constitutional import, that they had introduced into the practice of the American Government police behavior which the world associates with corruption, tyranny, dictatorship, and worse. I stated that I understood that they had behaved from the best of motives, but I added that I did not sense from their responses to my questions that they had any sense of the constitutional regions they had invaded. What, I repeatedly asked, did they think Madison would have thought of their behavior?

Subsequently, on January 5, and again on January 19, I wrote to Mr. Heymann setting forth my concerns. Copies of my letters were sent to Senators WALLOP and HEFLIN, and also to Mr. Civiletti and Judge Webster. As I reported to the Senate on Thursday, I received from Charles B. Renfrew, Deputy Attorney General, on January 27, 1981, a letter stating that all of Mr. Rosenberg's allegations about having been in touch with Senator Javits and I were lies, and that he had so confessed. Judge Renfrew regretted "any inconvenience Mr. Rosenberg's remarks may have caused. * * *" However, much as I respect them as individuals, none of the persons in the Department of Justice with whom I spoke or corresponded, appeared to me to have any real understanding of the matters I was trying to raise. So far as memory serves, I never even received a reply to my letters to Professor Heymann. It may be that letters came and got lost in my office maze; this does happen. But not often.

The more then, Mr. President, do I wish to declare my intense support for the inquiry which is proposed by Senator STEVENS and Senator CRANSTON.

If we do not protect the Senate from abuse of power by the executive branch, we cannot protect the citizenry from the same abuse. No greater responsibility confronts us.

Mr. INOUYE. Mr. President, I yield what time is necessary to the Senator from California.

Mr. CRANSTON. I thank my friend and colleague very much.

Mr. President, as the matter of Senator HARRISON WILLIAMS draws to a close, I think it would be well to step back for a moment and see what has been a direct consequence of the ordeal that each Senator and particularly the Senator from New Jersey has gone through over the past 10 days.

Many Senators—indeed, perhaps most Senators—strongly believed at the outset, and may continue to believe, that Senator WILLIAMS should, in the words of our colleague from Missouri (Mr. EAGLETON), have "had the good grace and good judgment to withdraw from this body. * * *" I can understand that viewpoint and the desire of all Senators to have avoided this most unpleasant task of having to sit in judgment on a fellow Member so many of us have known well and worked with closely over so many years.

Senator WILLIAMS' persistence has forced this body to confront this matter head on. We have had to deal with the conduct of Senator WILLIAMS and the conduct of the executive branch. Senator WILLIAMS has had his fair chance to try to convince us that he was free from wrongdoing and had not dishonored his office.

He was entitled to his day—his days—in the Senate to seek vindication, and he has had that opportunity.

But something else, of the greatest importance, has been accomplished due to Senator WILLIAMS' insistence on pursuing this matter as he has.

And that is that the Senate has come face to face with the enormity of misconduct and impropriety by the Department of Justice and the FBI in the entire Abscam operation.

Had this matter not been brought to the floor and pursued with vigor and steadfastness by Senator WILLIAMS and Senator INOUYE, the scope of executive branch misconduct might never have been brought to the attention of the Senate as a whole and to the attention of the American people.

That clearly has happened now, and last night's revelations regarding the outrageous targeting of Senator LARRY PRESSLER in Abscam have placed the capstone on the horror story of pervasive Government misconduct throughout all phases of this dangerous and unguided undercover operation.

It is now incumbent on the Senate to proceed with a full Senate investigation as is provided for by the resolution I and others will introduce shortly.

I am confident that the Senate will adopt such a resolution swiftly and that Senator WILLIAMS' lonely fight against overwhelming odds, over these 6 days, will have been the reason a full investigation will be undertaken, as I am confident it will be undertaken.

Thus, after disposition of the Williams matter, there will remain before the Senate another task. That matter is the question of executive branch misconduct in connection with the Abscam operation.

In my statement Tuesday and my statement last week, I detailed events which demonstrate that Abscam was an undercover operation totally out of control of the Department of Justice. I do not think our constitutional democracy can tolerate an out-of-control undercover operation.

I say that not only because of the separation of powers concerns which many of us share but because of the impact of lawless Government action on the average citizen against whom it might be directed.

At the same time, it is important to stress that undercover operations are necessary for effective law enforcement. Undercover operations can be, and normally are, carried out successfully with due regard for the rights of the innocent as well as for the guilty. And there is nothing about an undercover operation that necessarily leads to the use of wrongful means to achieve desirable ends.

The resolution we are proposing is not an attack on undercover operations.

The resolution we are proposing is not an attack on the Department of Justice.

The resolution we are proposing is not an attack upon the FBI.

As I said Tuesday, the Department of Justice and the FBI perform a crucial and generally praiseworthy role in our Government and in the lives of our people. But no institution is perfect, and no institution avoids error.

The resolution we are proposing provides for a Senate investigation of what went wrong in Abscam and how it went wrong.

If there were ever any doubts that Abscam went wrong and how badly it went wrong, they were removed by yesterday's revelation by the Senator from Arkansas (Mr. PRYOR) that the attempt to bribe our colleague Senator LARRY PRESSLER was done on the spur of the moment with the express approval of the Director of the Federal Bureau of Investigation, William H. Webster, and that it was done without the slightest evidence of—of apparent concern about whether there was any evidence of—prior conduct by Senator PRESSLER that would even suggest a predisposition on his part to engage in criminal activity.

As the Senator from Hawaii (Mr. INOUYE) said about the matter: "Shame, shame, shame."

This shocking disclosure alone fully justifies the investigation we are calling for.

But, as all Senators know, there is much more—much, much more—to justify this probe.

My questions about the Government's performance include:

The extent to which the Justice Department itself was being deluded—not by any means in the Williams case only—by Mel Weinberg, the con man who was masterminding the entire undercover operations, and the extent to which adverse statements by others about Senator WILLIAMS and other Government targets may have been manufactured by Weinberg and relied on by the Government.

The extent to which the U.S. Government was itself compromised by Weinberg.

The extent to which there were gaps in tape transcriptions, what might be found when the gaps are filled in, if possible, and what can be learned of untaped and undocumented conversations.

The extent to which allegations of misconduct were and were not fully investigated by the Justice Department.

The extent to which there was a failure of supervision over Weinberg with respect to his taping activities and his other activities.

The extent to which Weinberg was led to believe that any of his compensation depended upon convictions.

The extent to which there was any effort to cover up improper or illegal Government activities in connection with Abscam.

The extent to which other Senators and Members of Congress were targets of Abscam and, if so, the circumstances and the criteria under which the decisions that they be targeted were made and on whose recommendations and with whose approval, including instances where no reasonable basis existed for suspecting prior improper activity by the target of such activities or predisposition on the part of the target.

The extent to which the full scope of executive branch misconduct—from chief Abscam perpetrator Mel Weinberg, the field FBI agents and their supervisor in the field, through the field office supervisor, to the Justice Department's strike force and the responsible officials at Justice Department headquarters—may have compromised the investigation and prosecution of Senator Williams and other Abscam defendants.

The extent to which executive branch misconduct that is found to have occurred was approved by or known to the top officials of the Justice Department and the FBI.

As I stressed Tuesday, when the pervasive nature of the misconduct of the executive branch throughout this process is cited, that is not a partisan concern. The Justice Department's actions in connection with the undercover operation and indictment all occurred under a prior administration, as did any failure to investigate adequately the initial allegations of impropriety in the operation. The actions with regard to the trials themselves occurred only very early on in the present administration. More recent actions are the responsibility of the present leadership of the Justice Department.

In addition, to concerns that any of us would have about Government misconduct directed against any citizen, there are special reasons for concern when those actions are directed by the executive branch against another, coequal branch of Government. The preamble that our resolution carries spells out the concerns that Senator Stevens and I, and Senator Inouye, and Senator Garn who have joined us as original cosponsors, I have about this aspect, as follows:

Whereas the investigation and report of the Select Committee on Ethics of the Senate in the matter of Harrison A. Williams, Jr. have revealed substantial allegations of improprieties in connection with activities by the Executive Branch of Government that were allegedly designed to create improper conduct on the part of Members of Congress of the United States, including instances where no reasonable basis existed for suspecting prior improper activity by the target of such activities or predisposition on the part of such target;

Whereas prosecutions arising out of the so-called Abscam undercover operation by the Department of Justice have also revealed allegations of such substantial improprieties;

Whereas serious allegations have also been made in recent years about improper use of Executive Branch investigative and tax resources to develop information relating to Members of Congress and that could be used in attempts to compromise them;

Whereas the Constitution of the United States establishes the Congress of the United States as a branch of Government coequal with the Executive Branch, and the doctrines of separation of powers and checks and balances that inhere in this Constitutional structure are fundamental to the foundation of the Government of the United States under the Constitution;

Whereas Executive Branch action in connection with investigation and prosecution of Members of Congress may be carried on in such a way as to compromise or impair the Constitutionally-established independence and integrity of Congress itself;

Whereas, if substantiated, the allegations of improprieties in connection with Executive Branch action arising out of the Abscam undercover operation and other Executive Branch activities to develop information which might be used in attempts to compromise Members of Congress may disclose a substantial danger to the maintenance of the separation of powers and checks and balances inherent in the Constitution of the United States;

Whereas unchecked abuse of Executive Branch investigative and prosecutorial power with respect to another Branch of the Government may permit an escalation of such abuses that could lead to despotic action by the Executive Branch in derogation of the Constitution of the United States; and

Whereas a thorough and independent investigation by the Senate of the United States is necessary to determine the facts with respect to the exercise of such Executive Branch power, to determine whether a danger to the independence and integrity of another Branch of the Government exists or has existed as a result of such exercise, and whether, and if so what, protections should be established against such Executive Branch abuse of power.

Whereas unchecked abuse of Executive Branch investigative and prosecutorial power with respect to another Branch of the Government may permit an escalation of such abuses that could lead to despotic action by the Executive Branch in derogation of the Constitution of the United States; and

Whereas a thorough and independent investigation by the Senate of the United States is necessary to determine the facts with respect to the exercise of such Executive Branch power, to determine whether a danger to the independence and integrity of another Branch of the Government exists or has existed as a result of such exercise, and whether, and if so what, protections should be established against such Executive Branch abuse of power.

Specifically, our resolution provides for a Senate committee investigation of the executive branch of the Government with respect to activities conducted by it in connection with the Abscam undercover operation and with any other operation or activities allegedly designed to create improper conduct or corrupt practices on the part of members of another branch of Government or to develop information that might be used in attempts to compromise those members, with a view to determining whether abuses of executive power have occurred that threaten the independence and integrity of another branch of the Government under the Constitution.

The resolution directs that a final report be submitted to the Senate not later than July 1, 1983.

Mr. President, let me note that the crucial point here is to have a thorough and impartial Senate investigation of what really happened in connection with Abscam and related executive branch activities. My view that there clearly were serious errors and serious wrongdoing need not be accepted by the Senate in order for it to adopt the resolution calling for this investigation.

The resolution we propose points to the allegations of seriously improper activities, and I think it is undeniable that these allegations are extensive, credible, and very substantial. Some could prove to be unfounded, however.

We owe it to the Senate as an institution, we owe it to the reputation of the Department of Justice and the FBI, we owe it to the constitutional doctrine of separation of powers and checks and balances, and finally, we owe it to the American people to find the truth and to bring it out.

We need to get the facts and to take action to avoid any repetition of the abuses of executive branch power that occurred in Abscam.

We owe it to the maintenance of our rights and freedoms under the Constitution to uncover the extent to which they have been and are in jeopardy.

We need to resolve the allegations and remove the cloud of doubt and uncertainty.

A thorough, impartial investigation is, I am convinced, the best way, the fairest way, to do that—for all parties concerned.

I urge prompt and favorable action on our resolution.

Mr. JOHNSTON. Mr. President, will the Senator yield for a question?

Mr. CRANSTON. No. We have agreed that in order to expedite matters, we are not going to yield at this time. The floor goes back to Senator INOUYE.

The VICE PRESIDENT. The Senator from Hawaii.

Mr. INOUYE. Mr. President, may I assure my friend from New Jersey that Abscam will be investigated, and to that end I pledge myself.

Dear friend, I bid you farewell and God speed, and to you and Jeanette, God bless you.

I yield to the Senator from Alaska.

Mr. STEVENS. Mr. President, I will take just a few moments to explain the reason I have joined the distinguished minority whip in sponsoring the resolution. It calls for investigation into the allegation of impropriety so far as the executive branch is concerned in the Abscam matters.

As a former U.S. attorney, I was familiar with what I thought were the controls on the use of informers and informants and the use of sting-type operations. As we went through the Williams documents and, parenthetically, I do think that the Williams documents brought these to the forefront, it became apparent that the controls had gone awry.

Senator PRESSLER asked me if I would look at the file the FBI had given to him on the Abscam operation. This was some time ago.

I might say that I urged him not to address the Senate in connection with the pending resolution matter, because I have separated the resolution before us from the future investigation of the executive branch on such operations. I emphasize it is not just the FBI. As far as I am concerned, the whole mechanism of the Department of Justice including the U.S. attorney, is involved.

However, I asked Senator PRESSLER not to address the Senate in connection with the pending matter so that we might save the examination of the Pressler matter to highlight the problem highlighted in our resolution to be considered at a later time.

Since the issue was raised last night, I again want to point out that those of us who looked through the records the FBI delivered, discovered a total absence of any control or monitoring mechanisms to determine whether there was reason to believe that a crime would be committed.

Mr. President, one does not send an undercover agent into a coffee after church to see whether he can sell heroin. This instance demonstrates, above everything else, the necessity for control mechanisms on the use of the very unfortunate type of people we have to use in connection with criminal investigations.

I became convinced, and I joined the distinguished Senator from California on that basis, that something had to be done, not just for the Senate and the Congress; I think it will be misconceived if the public thinks that, having had the unfortunate task of listening to this evidence about Senator WILLIAMS, we have decided we want to investigate the Justice Department.

The whole reason is that the control mechanisms are there for everyone. If they fail in connection with a Member of the Senate, who has the power of his office, the protection of his colleagues, and the advantage of being in a separate branch of Government from the executive branch, then what is happening to the individual citizen?

My motivation came from these concerns. I think the Senate ought to keep that in mind. It is not just for the purpose of protecting the Members of the legislative body. It is for the purpose of protecting all citizens.

Having been the first person to comment on the floor of the Senate about my good friend, PETE WILLIAMS—I remember the day I received word of the Abscam operation; it was here in the well, when our present majority leader was not present—having been close to him and to Jeanette, I can only state my sorrow at what is going to happen now. But I do think that the Senate and Senator WILLIAMS have lived up to the traditions of the Senate and that we are witnessing history today.

Mr. INOUYE. Mr. President, I yield to the Senator from Utah.

Mr. HATCH. I thank my friend and colleague from Hawaii.

Mr. President, I have served with PETE WILLIAMS only 5 years but rather intimately. I think that nobody feels more deeply about this issue than I do. At the outset, I commend both Senators WALLOP and HEFLIN for their capable and fair handling of this matter, this long ordeal that many of the rest of us did not have to go through from their perspective. This has been a wrenching experience.

I compliment Senator INOUYE for the tremendous dignity he has brought to this body's consideration of this matter.

I have, of course, personal feelings for Senator WILLIAMS and his wife, Jeanette.

As we all know, there have been two major parts to this issue.

As to whether Senator WILLIAMS has violated the rules of ethics of the Senate to such an extent as to justify expulsion, the only thing I want to say is that I associate myself with the remarks of the distinguished Senator from Missouri (Mr. EAGLETON). That is the way I feel after considering carefully all the evidence. In my mind, the evidence indicates that Senator WILLIAMS has not met the standards of ethical conduct and that he should be expelled.

The second question is perhaps equally important, and maybe more important, when you consider the needs of a great society like ours—that is, with regard to the criminal case, was the Government conduct so outrageous as to constitute a violation of the due process requirement of this country's Constitution. This is a legal question entirely separate from the ethical question I just discussed.

I have read every aspect of this matter. I have looked at it as carefully as I can. My answer to the first question is "Yes, he should be expelled;" my answer to the second question is "Yes, due process rights have been abridged."

As you know, I have a strong feeling about, and I give strong support to, the Justice Department, the FBI. I think Director Webster is one of the great men of this country. However, there is no question in my mind that what they did in this matter and the way they did it should never happen again to any other citizen in this country.

Whenever, as enunciated in the Sorrells case, the Government participates in "creative activity" or "repeated and persistent solicitations"—and there was a lot of "creative activity" in this case, not to mention "repeated and persistent solicitations" of an illegal nature—especially where there was no initial predisposition to commit crime and, throughout most of the activities, no predisposition to commit crime at all was demonstrated by this evidence but a constant leading by Government agents—then the prospect of a violation of the due process clause arises.

Much as all of us are grieved today, as important as Senator WILLIAMS is as a friend, as a human being, in the Second Circuit Court of Appeals he represents every person in America. This is a landmark case. Senator WILLIAMS can help assure due process for every American by taking his case to the Second Circuit Court of Appeals. I, for one, hope that great circuit, which has long been known as the greatest circuit in this country, will carefully weigh these facts and not let emotions or publicity or editorials or anything else interfere or inhibit its reading of those facts as they affect due process rights.

I think, and I certainly hope, that they reverse the case on that basis, because the due process implications of this case are more important than Senator WILLIAMS, you, or I, or anybody else in this room today.

This concept is vital to our individual freedoms and rights.

Mr. President, for the last several days, we have attended to the weighty duty of judging one of our colleagues. For me personally, this responsibility has been arduous. On the one hand, I recognize that Senator HARRISON A. WILLIAMS, JR. has involved himself in activities that, judged by the loftier standard of ethical conduct required of those who represent the people of the United States in this body, warrant discipline designed to preserve the integrity of the Senate. On the other hand, I am appalled at the outrageous tactics employed by the FBI in pursuit of a conviction at all costs even if those costs were counted in terms of constitutional rights deprived and pressure exerted on the doctrine of the separation of powers.

Throughout this debate, therefore, I have listened in the hope that we could assure the American people that the Senate requires the conduct of its Members to remain beyond reproach and, at the same time, we could send a clear message to Federal law enforcement officials and Federal courts that the Senate requires their conduct to remain clearly within bounds of constitutional propriety. To honor these two important principles, I feel the obligation to vote to expel Senator WILLIAMS. Regardless of my decision to expel on the question of ethical conduct, however, I feel compelled to arise today in defense of the inviolable principles of due process enshrined in the language of the fifth amendment to our Constitution. The law enforcement officials who handled this matter have given little regard to the guarantees of this amendment and the courts who sanctioned that conduct have failed to prove worthy of the trust placed in them to act as the guarantors of individual rights. Therefore, I feel compelled as chairman of the Subcommittee on the Constitution to call the Senate's attention to the question of whether the demands of due process were met by the officials who led the Abscam investigation. A jury has convicted Senator WILLIAMS, but that verdict is suspect and likely to be overturned on appeal if the tests for due process have not been satisfied.

We understand well the principle that certain positions of trust require a higher and unblemished standard of conduct. Indeed that concept is the basis for the resolution under consideration today. In essence, the Constitution imposes the same lofty standard upon those who enforce and uphold the law. Law enforcement officials may not stoop to the level of the criminal in order to apprehend criminals. The revered Justice Louis Brandeis gave us an excellent summary of the consequences of lawless law enforcement in his writings:

> In a government of laws, existence of the government will be imperiled if it fails to observe the law scrupulously. Our government is the potent, the omnipresent teacher. For good or for ill, it teaches the whole people by its example. Crime is contagious. If the Government becomes a lawbreaker, it breeds contempt for law; it invites anarchy. To declare that in the administration of criminal law the end justifies the means—to declare that the government may commit crimes in order to secure the conviction of a private citizen—would bring terrible retribution.
>
> Against this pernicious doctrine this court should resolutely set its face. *Olmstead* v. *U.S.* 277 U.S. 438 (1928).

I would only amend his statement by adding that this body, the Senate, must also resolutely set its face against Government misconduct in the pursuit of lawbreakers.

The wise framers of our constitutional rights understood this principle. They authored language recognizing that law enforcement activities can become themselves illegal if they pose a jeopardy to our cherished national values of liberty.

The First Congress added the Bill of Rights to our foundational document. Those rights clarify that law enforcement is illegal if it compels an individual to "be a witness against himself"—fifth amendment—or if it involves an "unreasonable search or seizure"—fourth amendment. The Bill of Rights further grants every "person" within its purview full protection against any Government conduct, including overzealous law enforcement techniques, that deprives "life, liberty or property without due process of law"—fifth amendment.

Due process is, in short, a term with a rich constitutional and historical background. It clearly includes fair trials, fair hearings, and the like. In addition, fundamental fairness extends to the conduct of a criminal investigation. Due process "inescapably imposes an exercise of judgment upon the whole course of the proceedings—resulting in a conviction—in order to ascertain whether they offend those canons of decency and fairness which express the notions of justice of English-speaking peoples even toward those charged with the most heinous offenses." *Malinski* v. *New York*, 324 U.S. 401, at 416-417.

The historical meaning to be attributed to the general words "due process of law" is best derived from the Highest Court of this land which has been entrusted with the duty of weighing these legal distinctions to protect the individual rights guaranteed by the Constitution. The four Supreme Court cases with a direct bearing on the case of Senator HARRISON A. WILLIAMS, JR., are *Sorrells* v. *United States*, 287 U.S. 435 (1932), *Sherman* v. *United States*, 356 U.S. 369 (1958), *United States* v. *Russell*, 411 U.S. 423 (1973), and *Hampton* v. *United States*, 425 U.S. 484 (1976). These decisions are controlling in this case. As the Court said in the *Russell* case (411 U.S. at 433):

> We decline to overrule these cases. Sorrells is a precedent of long standing that has already been once examined in Sherman and implicitly there reaffirmed.

In other words, these cases are interlocked and represent related statements on the reach of due process when overreaching Government conduct appears to have created or imposed upon the defendant a willingness, not otherwise evident, to commit a crime. This principle is most succinctly summarized by the Court in Sorrells:

> A different question is presented when the criminal design originates with the officials of the Government, and they implant in the mind of an innocent person the disposition to commit the alleged offense and induce its commission in order that they may prosecute.

The continued validity of this legal test is further evinced by its verbatim reiteration in two subsequent Supreme Court holdings, *Sherman*, 356 U.S. at 372 and *Russell*, 411 U.S. 434. Thus, these thrice repeated words capture the essence of the law applicable to every citizen in the courts of the United States.

Mr. President, this judicial standard empowers courts to reject as unconstitutional those investigative procedures that so intolerably intrude upon the conduct of an individual as to exert undue pressure to commit crimes that would otherwise never occur. The proper role of Government enforcement agents is to detect existing or potential criminality, not to foster crime for the purpose of obtaining a conviction. This view is restated as a test of impermissible conduct in other language of the court, condemning Government techniques by which, "The criminal design originates with the officials of the Government and they implant in the mind of an innocent person the disposition to commit the alleged offense and induce its commission in order that they may prosecute," *Sorrells* v. *United States*, 287 U.S. 435, at 442 (1932).

Since Sorrells most clearly captures the controlling law under consideration today, it merits more discussion. In the Sorrells case the defendant was asked three times by a prohibition agent, who posed as a tourist, if he could get some liquor for the "tourist." The defendant refused twice but acceded on the third attempt. He was paid $5 by the agent and later arrested for violating the National Prohibition Act and subsequently convicted of the offense. The Supreme Court reversed the conviction and applied its own legal test as follows:

> It is clear that the evidence was sufficient to warrant a finding that the act for which the defendant was prosecuted was instigated by the prohibition agent, that it was the creature of his purpose, that defendant had no previous disposition to commit it but was an industrious, law abiding citizen, and that the agent lured defendant, otherwise innocent, to its commission by repeated and persistent solicitations. Id. at 441.

Chief Justice Hughes, writing for the majority, stated further that "the predisposition and criminal design of the defendant are relevant" (287 U.S. at 448). However "the controlling question," he maintained, is "whether the defendant is a person otherwise innocent whom the Government is seeking to punish for an alleged offense which is the product of the creative activity of its own officials." Note those words: "creative activity of its own officials" (287 U.S. at 251).

It is already perhaps becoming evident that the jury verdict in the Williams case is not likely to survive a closer scrutiny under the constitutional tests enunciated by the Supreme Court in Sorrells. "Creative activity" and "repeated and persistent solicitations," both forbidden by the Supreme Court, seem to describe precisely the activities of the FBI in the Abscam affair. Moreover, no evidence has been presented to show that Senator WILLIAMS had any predisposition in advance of those creative activities to participate in any form of wrongdoing. I raise these points because this may call into question the sufficiency of due process rulings in this case. The verdict against Senator WILLIAMS may not be able to withstand due process challenges.

With this as our introduction, I propose that we examine some of the other cases relevant to the reliability of the jury verdict in the Williams case, that we compare that case law with the facts before this body, and finally, that we draw an independent conclusion about the evidentiary weight to be afforded that verdict.

In the case of *Sherman* v. *United States*, 356 U.S. 369, (1958), the Supreme Court overruled the defendant's conviction for selling narcotics. From the undisputed testimony of the Government's witness, it appeared that a Government informant had met the defendant at the doctor's office where both were being treated to cure narcotic addictions. The Government informant requested the defendant to obtain illicit drugs which they could share. The defendant was reluctant to do so, but the informant persisted. At length the defendant made several small purchases of narcotics and gave the informant half of the purchased amount. He was immediately apprehended and charged with several grave drug offenses. The Court clarified that the Government could not escape responsibility for its informant's actions even though he was not receiving compensation for his information. The celebrated Judge Learned Hand issued the first major opinion in the Sherman case. *United States* v. *Sherman*, 200 F. 2d 880 (2d Cir. 1952). His ruling, since cited with approval several times by the second circuit (see *U.S.* v. *Viviano*, 437 F. 2d 295, 298 (1971); *U.S.* v. *Anglada*, 542 F. 2d 296, 298 (1975); *U.S.* v. *Swiderski*, 539 F. 2d 854, 857 (1976)), established in clear terms the primary element to be considered in judging this type of case:

> Was the accused ready and willing without persuasion and was he awaiting any propitious opportunity to commit the offense. 200 F. 2d at 882.

The words "without persuasion" deserve special attention.

Thus, the Sorrells and Sherman cases present two basic criteria for evaluating the facts before us. In the first place, the demands of due process as enunciated in these cases require some showing of predisposition on the part of the defendant prior to the Government involvement that justifies its later actions to ensnare the individual in the process of crime that would have been committed anyway in the absence of the Government participation. The second test suggested by these pivotal cases is best articulated by the Sherman case:

> No matter what the defendant's past record and present inclinations to criminality, of the depths to which he has sunk in the estimation of society, certain police conduct to ensnare him into further crime is not to be tolerated by an advanced society. 356 U.S. at 382-2.

This clarifies that at some point the police conduct so clearly overreaches the bounds of propriety that it disqualifies any attempts to acquire a conviction, regardless of evidence of predisposition.

In other words, Government behavior itself, independent of the defendant's predisposition, must accord with our longstanding regard for principles of law and justice.

This brings us to the Russell case. In that case, an undercover narcotics agent offered the defendant an essential ingredient in the manufacture of methamphetamine—speed. The ingredient was difficult to obtain but was legally available. The agent observed the manufacture process and contributed the essential ingredient in return for a share of the illicit drug. The defendant was subsequently arrested and convicted. The Supreme Court affirmed the conviction only because "law enforcement conduct * * * stopped far short of violating that 'fundamental fairness, shocking to the universal sense of justice mandated by the due process clause of the fifth amendment'." Id. at 432, quoting *Kinsella* v. *United States ex rel. Singleton*, 361 U.S. 234, at 246 (1960). Justice Rehnquist explained that the agent's actions neither entitled the defendant to the entrapment defense nor deprived him of due process because he was clearly predisposed to commit crimes. The defendant was engaged in the illegal drug manufacture both before and after the agent's involvement. Although the supplied ingredient was scarce, it could have been obtained legally elsewhere, and subsequently was.

Although the facts of the Russell case did not present a violation of due process, the Supreme Court made it very clear that the Constitution requires the dismissal of any case where "the conduct of law enforcement agents is so outrageous that due process principles would absolutely bar the Government from invoking judicial processes to obtain a conviction * * *" *United States* v. *Russell*, 411 U.S. 423 at 432.

In summary, the pivotal Supreme Court cases in this field of constitutional law suggest two basic tenets for validity of a conviction. The first focuses on the intent of the defendant; that is, was he disposed to commit a crime in the absence of the Government enterprise. The second focuses upon the Government conduct itself; that is, was the Government conduct so "outrageous" as to warrant rejection of any action against the defendant. This test examines such factors as the "creativity" of the Government enterprise and "repeated and persistent solicitations."

Drawing upon this legal outline provided by these court decisions, I propose that we now consider the facts of this case in more detail to determine the likelihood that the jury verdict in the Williams case may run afoul of higher principles of law. While Senator WILLIAMS may be expelled for violations of the Senate's ethical code, the Senate's expulsion must not be construed as indicating the slightest degree of tolerance for due process violations.

The facts in this case relative to predisposition to commit a crime in the absence of Government inducement overwhelmingly rebut the notion that Senator WILLIAMS fit into the Russell situation where the defendant was engaged in crime before and after the Government's meager participation. Instead all available evidence points to the conclusion that the Senator contemplated no wrongdoing in advance of the government's entry into this case, but was trapped like Othello in a web worthy of Iago.

The undertaking of an investigaiton of Senator WILLIAMS and his friends was based on the offhand remark by Errichetti that Alex Feinberg was Senator WILLIAMS' "bagman." (Trial transcript, hereinafter "T," 1230.) The truth of this assertion was never questioned. FBI files contained no evidence to support it. Indeed, we have heard no conclusive evidence in these Senate Chambers, nor was any conclusive evidence presented at trial, to indicate that Senator WILLIAMS was, to use Learned Hand's words, "ready and willing without persuasion" to engage in a scheme of corruption. Undertaking an elaborate undercover plot on the flimsy intuition of law enforcement officers that they might be able to find such corruption if they looked long and hard enough is precisely the kind of police activity deemed improper by Judge Friendly in *United States* v. *Archer*, 486 F. 2d 670, 675 (2d Cir. 1973).

HARRISON A. WILLIAMS, JR., had been a U.S. Senator from New Jersey for 20 years when his name was mentioned by Errichetti. His record was not questioned. The prosecution officer in the trial, who was one of the supervisors of the investigation, admitted that they "had no reason to question the integrity of Senator HARRISON WILLIAMS," (due process hearings, hereinafter "DP" 413) and FBI Special Agent Good acquiesced in the statement that, in the Williams matter, they "were starting with a clean slate." DP 784. The court itself has stated that it presumes that there was no basis in the Senator's past history for the investigation. DP 418. Despite the total absence of any reason to suspect Senator WILLIAMS, the FBI authorized Weinberg to pursue a lengthy investigation, and to expand it into illegal activities.

This already casts considerable doubt on the character of this investigation. Indeed the investigation seemed more intent upon securing a conviction against a Senator than upon avoiding any prospect of tainting the reputation of an innocent man. Perhaps the promise by Weinberg, the chief FBI conman, to secure "four cases" (T 1227) in exchange for probation from an earlier conviction does more to explain the motivations for this enterprise than does any nonexistent suggestion that Senator WILLIAMS was predisposed to commit crime.

Errichetti's offhand remark occurred in the midst of a transaction between Weinberg and Errichetti in an attempt to get the mythical sheik to invest in gambling properties. Later when Senator WILLIAMS was visiting with Mayor Errichetti, the mayor mentioned that he was aware of a group of individuals with plenty of investment capital. The Senator expressed interest in securing funding for a perfectly legitimate business.

When the Government learned of the possible business deal and that Senator WILLIAMS might have some interest in the affair, they requested a meeting the following day. We must understand that at this point the Senator was only referring to his friends a prospect for a legitimate investment arrangement. The Government, however, quickly discarded the legitimate business deal and began laying the groundwork to convert it into a criminal plan. The Government's first undertaking in the meeting with Errichetti and Feinberg, to whom Senator WILLIAMS had relayed the message about possible funding, was to learn if the Senator had an interest in the venture. (Senate Committee Print, Pt. 6, p. 2.)

Rather than pursuing the true nature of this interest, which could have been perfectly legitimate, the Government lured Senator WILLIAMS to come to Florida on March 23, 1979, and meet the sheik, where it could continue to weave this vague interest in a worthless mine into its own criminal plan. Errichetti, obviously at the suggestion of Weinberg, told Feinberg that the sheik—the source of the money—would be on his yacht in Delray Beach, Fla., in the near future, and was going to give a party in Errichetti's honor. Errichetti thought it would be a very nice thing if Feinberg and Senator WILLIAMS would attend and meet the person who could provide the much wanted financing. T 3577.

WILLIAMS did not ask to go to Florida. The trip was instigated by Government initiative. Moreover, as far as WILLIAMS knew at this point, the mining venture was perfectly legitimate—it bore no relation to the Government. He also knew that financing to get it operational was badly needed. While he may have been unwise and unwary in accepting the invitation, he did nothing wrong in seeking further information for his friends.

It was at this point that the first suggestions arose that Senator WILLIAMS would be involved in obtaining financing. That suggestion, however, came from the Government, not from the Senator or even from his friends.

MW. You're not gonna be connected no way with it, right?

AF. Not up—not—no—

HW. Well, only because they're my—so close to Alex, and, and Sandy.

MW. Alright, is there any way that uh, between us, that they can use the Senator's name, uh he endorses it?

AF. You mean on the, the Piney River thing?

MW. Yeah, I'm not talking about endorsing Pine—you know, just that.

HW. Sure.

MW. Use his name.

HW. Sure.

MW. Huh?

HW. Yeah,

AF. Yeah, You can say that he has invest—he has faith—

HW. Yeah, I went down there a couple of times.

AF [continuing]. That he has faith in—

(Senate, Committee Print, Pt. 6, p. 20.)

The Senator's involvement was, from the outset, clearly the Government's idea, not the Senator's. Moreover the Senator's assertion that he has faith in the enterprise suggests no impropriety.

A few days later, April 3, 1979, the Government drastically escalated the stakes in this venture. Weinberg spoke in terms of $70 or $80 million. Still the Senator had said nothing more than that he had faith in the venture. Neither the Senator nor his friends had even mentioned Government contracts in the first 3 months of communications between the Government and businessmen.

The first fatal recommendation that Government contracts should play a role in the negotiations came, of course, from the Government. In other words, as this pattern is developing, every step along the path to criminal activity originates with the Government. This conversation occurred on April 23, 1979:

MW. Alright, now what about uh, let me ask you a question. There's a lot of government contracts that, ya know, on the chemicals.

SW. Right.

MW. Now, can Williams get us the bids on them?

SW. Well, I don't know about that. The main thing is with this Cyanamid thing. . .

MW. Yeah.

SW. They've got customers they've had for twenty, thirty and forty years.

MW. Right.

SW. And if established business and, of course, big big people that buy are paint manufacturers.

MW. Right.

SW. And if we wanna increase our business, we'll have to, we'll have to go into like Sherman-Williams and people like that and try to get their business away from somebody else.

(Senate Committee Print, Pt. 6, p. 375.)

The Government approach is none too subtle. The Government wants to link the deal to Government contracts. As this passage indicates, Sandy Williams forthrightly changed the conversation to the subject of legitimate business competition. Once again, we must query, why did not this response put an end to the investigation? What was the Government intent upon proving? They seemed to have every indication over a period of several months that no wrongdoing was contemplated by Senator WILLIAMS or his friends. Dissatisfied with Sandy Williams response, Weinberg telephoned Feinberg with the same suggestion. And again a day later he raises the subject still again with Feinberg. In fact, twice in the same day the subject is pursued with Feinberg. Finally, Feinberg agrees to check on the chances of getting involved with Government contracts.

Still it was solely the Government's idea to shift the purpose of this funding venture away from a private contract into the Government contracts arena. Moreover the suggestions have to be repeated time and again before they are reluctantly accepted. Neither Feinberg or Sandy Williams had ever anticipated that Government contracts would play any role in their business.

Later in that same conversation, Feinberg mentions that the Senator plans not to put any stock into his own name and disclose the interest. Weinberg's reply is informative:

MW. That's in the mine though. But on the other thing there he, in fact you say we may put the 20 percent in his name even. I don't think he can though.

TD. Well, if he puts . . .

AF. I don't know, we haven't decided yet. We're gonna both examine the law involving his side investments which he . . .

MW. I don't think he can.

AF. He can put it in his wife's name or someone else.

MW. They could chase that too fast.

TD. Yeah.

MW. Come on, your're an attorney, you know that.

AF. I know that.

TD. Any, anything that he puts . . .

AF. I'm not sure that he's forbidden (IA).

MW. Sure he is if he's going to get us open doors. Come on, you know that's a conflict of interest. He'll be sitting with Nixon out in Clements there.

AF. (Laughs)

(Sen. Comm. Print, Pt. 6, p. 55.)

Weinberg, facing the spectre of losing his case if the Senator discloses his interests, intimates that the Senator cannot put the interest in his own name.

Later on the same day, Senator WILLIAMS, Sandy Williams, and George Katz joined Feinberg, Weinberg and DeVito in the Hotel Pierre dining room. This is the first time that Senator WILLIAMS appears in the picture since the meeting on the yacht in Florida on March 23. Senator WILLIAMS confirmed Feinberg's earlier observations about his proposed course of action.

HW. I've got a—my situation in this. I've got to uh I'm under a law that make me disclose an interest when I have an interest. But up until now there's been no defined interest. In what? An idea basically. Because there's no corporate stock.

AF. But when and if you do——

(Sen. Comm. Print, Pt. 6, p. 57)

Remember that the Senator knows nothing of any talk about Government contracts. He is treating this as a private business deal and disclosing it in accordance with proper procedures. Where, I ask you, is the predisposition to commit crime? The investigation has been underway for months and the only suggestions of wrongdoing have come from the Government.

That evening, the Government takes the next step in its scheme. Weinberg increased the pressure on the Senator to get involved by encouraging the issuance of stock in a new corporation in which the Senator would have a hidden interest.

MW. You got to give me a name to put the Senator's shares in.

AF. I'll take care of that.

MW. Yeah, but you gotta get it to me, what name we're gonna put it in because I gotta put it in in front of the board.

AF. I understand that before you go back, I'll have it all worked out.

MW. Alright. So you gotta think of a name. Cause you can't put it in his name. Forget it.

(Sen. Comm. Print, Pt. 6, pp. 59-60.)

Note once again that this is all Weinberg's scheme, not the Senator's or even Feinberg's. Left to their own devices, we can only assume that the Senator and his friends would have pursued the legitimate business deal they had in mind. Without regard for their own intent, however, Weinberg forged ahead with his plot to involve Senator WILLIAMS. This much evidence would already discredit the jury finding in the WILLIAMS case due to a lack of predisposition to engage in illicit activities, but there is more to follow.

At this point, Weinberg resorted to one of his most prevalent tactics: exploitation of the Senator's friendships to pressure him into Weinberg's chosen course. On June 7, 1979, Weinberg secures an agreement from Feinberg to apply pressure on the Senator to make a commitment to help get Government contracts. The following day, Weinberg urges Errichetti to "straighten out" Senator WILLIAMS. (Sen. Comm. Print, pp. 406, 408.) On the same day, George Katz is also employed to work a commitment out of the Senator. In the process of this conversation, Weinberg reveals his real reasons for the WILLIAMS investigation:

GK: He's not a guy, he's not a doer, you know, quietly behind the scenes, you know, he, uh, may move a little bit, uh (IA) got a lot of confidence in him and Sandy gots lots and lots of confidence, but let me tell you this here between you and me, he's in a very, very powerful position here, the committees that he heads, you understand?

MW: Yeah.

GW: But he doesn't use that power for any advantages.

MW: Oh, how can we make him use it?

Feinberg, Ex. E, June 10, 1979, p. —; emphasis supplied. (Not reproduced in Sen. Com. Print.)

Weinberg wants to make the Senator abuse his office whether the Senator has a preformed intent to engage in corruption or not.

Following this conversation, Weinberg has several other discussions with the Senator's friends. These talks all have the same theme: The friends must convince the Senator to follow the Government's illicit plan. Pause a moment and consider this scenario to date. The protracted efforts required to get the Senator into a compromising position suggest the difficulty of enticing the Senator into wrongdoing. If he were inclined to commit the crime in advance of the Government involvement, the Government undercover workers would have undoubtedly needed to do nothing more than hint about opportunities to secure profits. This was not the case. The evidence tends to confirm that the Senator was not a predisposed criminal.

The next step was the suggestion by Tony Amoroso, appearing as Tony DeVito, that the Senator should meet personally with the sheik. (Senate Committee Print, Pt. 6 pp. 73-75). In advance of that coaching incident, however, it is important to remember that Weinberg held a meeting with Errichetti, Katz, and Feinberg to be sure that the Senator's friends would exert the proper kind of pressure on Senator WILLIAMS. Each step of this plan was carried out carefully by the Government agents who are supposed to apprehend criminals, not create them.

This brings us to the June 28, 1979, audio tape. On this tape, we hear 31 propositions instructing Senator WILLIAMS to blow his own horn and tell how influential he is. Twenty-eight of these propositions are made by Mel Weinberg and 7 by Angelo Errichetti. For example:

MW. How high are you in the Senate. He's interested in your.

AE. Wants your background.

HW. Um hum.

MW: He's interested in you, how high are you in the Senate, you're fifth in position.

HW. Um hum.

AE. Chairman of Whatever.

MW. Who you know in the Senate can do you favors.

HW. Um hum.

MW. Uh, how important you are.

MW. Without, without you there is no deal. You are the deal. You put this together. You worked on this and you can get, you got the government contracts. Without me there is no government contracts. You know the names to mention. (IA) tell him (IA) He aint' gonna say a word to you. His secretary, ah his secretary, his interpreter is gonna be there to introduce us.

MW. But you gotta stress upon how important you are. You're positioned in the Senate.

AE. Utilizing, utilizing—

MW. The influence—

AE. as going—

MW. influence that you have to use to get the contracts.

HW. Um hum.

MW. Alright? That you're the important man.

HW. Um hum.

MW: That's all he's interested in.

(Sen. Comm. Print, Pt. 6, p. 96.)

Apparently due to his fears that the Senator might not perform according to his plan, Weinberg essentially told the Senator exactly what he expected him to say to the sheik. Weinberg essentially tried to put damaging words in the Senator's mouth by convincing him that this was all insignificant "puff" talk and that the Senator must talk because the sheik is ashamed of his English:

MW: Now when it comes to your shares, you tell him you own 18%. You're puttin' 'em in Alex name. Alex is gonna endorse the back and give you a certificate back.

HW: Um hum.

AE: That's a true.

MW: When you're ready—when you leave the Senate, whatever time you leave, you put your name, you're the owner.

HW: Um hum.

MW: O.K.?

HW: O.K.

MW: And that's it, it goes no further, its all talk, all [e.d.]. That's all he wants to hear.

HW: Right.

MW: He's not gonna open his mouth. He speaks bad English and he's, he's ashamed of how he speaks believe it or not.

HW: But he understands.

MW: Oh, he understands perfectly. He has been primed and double primed. It's a walk-through. You should be out of there in twenty minutes.

HW: What does he know about the properties? Does he——

MW: Don't—not even mention it. He's not inter—he's not—let me tell you he's interested in you. We're getting the money because of you. (Sen. C.P. 6, p. 97.)

It is interesting to note that the Senator only introduces three topics in this entire discussion. Each of those are questions: "Is the metal the big thing?" "What's the deal with Yassir going to be, just loans?" Senator WILLIAMS is clearly the least informed party in all of these meetings. This lack of understanding is exploited by the Government agents as they coach him in appropriate responses without answering his questions.

Immediately after this coaching session and before its impact had subsided, the Senator is ushered into the meeting with the sheik. Senator WILLIAMS states in his trial that Weinberg had convinced him:

That it might well be important for this man from the Middle East to exaggerate and make an impression of importance. T 4305.

The fact that Senator WILLIAMS was influenced by Weinberg's demands in the coaching session is most clearly illustrated by two passages:

I went part way on this. And I looked at it this way. And from—a man from another land, meaning a person who has an office as I have, I would have imagined it would be impressive to him to know whom I—who I associate with.

I went into the next meeting upstairs and did tell him some of the people I know, who I associate with in the government. Quite frankly, it's not bragging; it's just a fact of life. It might sound that way, that I was boasting of my associations. T 4314.

Even a cursory reading of the transcript of the Senator's meeting with the sheik reveals that he did indeed follow Weinberg's instructions to impress the sheik with his position. Even in this session, however, it is important to realize that the Government did not relinquish its leadership. Thirteen of the twenty-two topics discussed are introduced by DeVito: "Your strength," "Sheik is impressed," "You move things," "How to conceal it best," "No environmental problems," "How your share is distributed," and so forth. Five topics, nearly all of the "horn-blowing" variety are introduced by Errichetti. Only two topics are actually raised by the Senator. In both of these instances, the Senator tried to recap some of the history of their relationship.

In short, an analysis of this conversation suggests that the agendas of the Government agents were the aspects of the discussion to which most time was devoted.

A linguistic analysis of this conversation performed by Dr. Roger Shuy of Georgetown University traces extensively the development of this discussion, noting that DeVito raises Government contracts, seniority, and influence. Errichetti elaborates on the position theme. When DeVito tries, however, to insinuate that his influence might be used to manipulate, the Senator cuts it off with a terse "That's all I want to tell you now." In conclusion, Dr. Shuy states:

From this tracing of suggestions of influence by DeVito and Errichetti, it is possible to see how otherwise admirable characteristics such as strength and position are first transformed into connections and influence (including government contracts) and later into manipulation and control (including a hint of covert behavior) by DeVito. Linguistically this is important, for conversation requires an agreement on the meanings of words. When they are redefined in this way, the discourse meaning is subject to question.

In short, the meeting with the sheik was carefully orchestrated, directed, and carried out by the Government and its agents. The conversation which is described as the "heart of the government's case" T. 5199, was clearly the product of coaching by the Government agents. Even at that, the results are somewhat ambiguous. Although the Senator does talk about his relationships with the President and the Vice President and so forth, he never unequivocally states that he will peddle his influence. In its court brief the Government relies heavily on the following exchange:

TD: Well, then, there—in that respect, then, with you being in that position and the contracts, and, uh, the like would not be a problem.

HW: No problem. No. In a situation where we can just sit around and describe, they'll see, it will come to pass. Sen. Comm. Print Pt. 6, pg. 112.

In the first place, DeVito's comment cannot be read to refer to Government contracts; he says only "contracts." Moreover the Senator appears to be talking in a different context. This could be because he heard DeVito to say "contacts." The "r" sound, according to Dr. Shuy, is among the hardest in the English language to distinguish. If the Senator heard "contacts" not "contracts," this could explain his unrelated discussion about the ease with which he can "bring to pass" conversations with top national leaders.

The other exchange upon which the Government relies heavily proceeds as follows:

TD: And he feels that with you behind this thing, with the people you know, the ah government contracts, available you know, this whole—thing

HW: Right through

TD: — is that you can move all these things . . .

In the first place, we should note that it is disputable that the Senator said "right through" at all. The camera is not on the Senator or Errichetti at that point and both have deep voices. Even conceding that the Senator uttered those two words, however, the meaning is still ambiguous at best. Once again, he could have understood "government contracts" as Government "contacts." This would have been a natural progression from DeVito's reference to the "people you know." Even beyond that, we have to note that the Senator utters his two words before DeVito completes his sentence. At the moment the Senator utters "right through", DeVito has not yet produced the predicate with the meaning of "moving contracts right through." The verb "move" does not appear until after the Senator speaks.

What else could he have meant, you ask? Perhaps it is plausible that he was speaking of the people he knows and Government contacts, from the ones he knows "right through" Government contacts.

In any event, this entire event was staged by the Government. In that case, we should, and a court would be required to, construe any ambiguities in the favor of the Senator. From that vantage point, I think we have to wonder if the "heart of the Government's case" really convicts Senator WILLIAMS beyond a reasonable doubt. With all these uncertainties piled on top of each other, I must seriously doubt it.

After the June 28 meeting Feinberg took all the steps to set up the three corporations. We must recall that these corporations were still, however, empty shells with no assets. Thus, the shares of stock were worthless until financing was really obtained. Weinberg insisted that the Senator be given his stock in person. They were not content to have certificates issued in the name of Feinberg and endorsed in blank. They clearly were still trying to build an air-tight case and must have felt that they were far from that objective. They insisted upon putting something tangible directly into the Senator's hands. This resulted in the August 5, 1979, airport meeting. This was the Government's plan, not Senator WILLIAMS' plan. In fact, I must ask again: What in this case has been planned by the Senator? We have seen nothing that indicates the Senator was playing an active part in carrying out a well-devised criminal scheme. Instead I get the picture of a man harried by the impossible schedule of a Senator simply allowing himself to be swept along in this plot by Government planning and some corrupt friends. Ask yourself once more—have

I seen any evidence of predisposition? How is this case going to stand up under the scrutiny of the Sorrells-Sherman-Russell predisposition test? On the other hand, ask yourself if you have seen evidence of "creative activity" and other forms of "outrageous" Government conduct which might satisfy the alternative test? Any Senator who perceives the legal problems I foresee for the jury verdict in this case must surely join me in an effort to distinguish our vote based on ethics from the due process questions which are not yet finally resolved by the courts.

At this juncture in the development of this affair, the Government devised a further plan to concoct a second group of Arabs who would buy the stock at a large profit. This, however, was not communicated to the Senator until after his stock was delivered to him. We could well accept his account of acceptance of that worthless stock as simply an acceptance of worthless stock. Any value that the stock might have acquired was manufactured by the Government after the Senator had accepted it.

The next meeting was held at the Hilton Hotel at the Kennedy Airport on September 11, 1979. It was attended by nearly all the players in this drama, Feinberg, Errichetti, Sandy Williams, Katz, and five Government agents. Senator WILLIAMS does not enter the meeting until it has been underway for a considerable period of time. In the 18 topics raised before the Senator's arrival, the major theme is to get the Senator's approval for their plan. They all seem to realize the difficulty at this late date in the scheme of getting the Senator to consent to help acquire Government contracts. This suggests that he has not yet made that commitment at any earlier stage. Moreover their best efforts to get a clear-cut commitment in this 11th hour meeting fall short. Once again, the Government agents led the meeting prior to the Senator's arrival and tried to set the stage in such a manner as to leave the Senator no graceful escape.

At the outset of the meeting with the Senator, Errichetti announces that this is simply an unofficial meeting; he used the term "hypothetical" three times. In reality, this aspect of the meeting seems designed simply to get the Senator to relax his guard. Although the Senator is more active in this conversation than all the rest—he introduces 23 topics, 15 of the topics he introduces are in questions. Senator WILLIAMS is still the least informed member of the group.

This meeting is too long to cover word for word, but I think we can isolate some of the exchanges in this meeting to discover that Senator WILLIAMS is still unwilling to compromise himself. Repeated attempts are made by various parties to get the Senator to agree to help acquire Government contracts even after the sale. Weinberg's agenda is clarified by his introduction of this key topic:

". . . the new owners want to keep you on and keep ya, give ya the 18 shares ya had to hold."

He is obviously hinting that the Senator would remain with the new owners of the firm. The Senator objects:

There are lots of problems . . . with what you're suggesting for me. This looks as though I'm getting into an employment situation and I can't do that.

While the Senator continues to ask questions about what his friends expect him to do, Weinberg seeks another opportunity to pressure the Senator for his "OK." He states:

The whole thing depends on you and the government getting the contracts for us cause the whole thing depends on it. You're the one that's gotta give the ok to do it.

This is craftily worded to insinuate that the Senator will be the one who destroys his friend's dreams if he does not acquiesce. This is pressure of the worst kind. Nonetheless the Senator does not answer and room service interrupts.

Several minutes later, Weinberg relentlessly returns to his agenda: "If you don't feel easy with it, Pete, let us know." By this time the men are eating and the topic wanders to the food. Once again the Senator ducks the pressure by remaining silent.

The next time the Senator's approval is broached, DeVito is trying his hand at getting a commitment. He asks if the Senator has talked to any one in the Government about titanium. The Senator affirms that he has and that there is a shortage and then he changes the topic to a discussion of the continuing relationship problem: "The only thing is the big owners won't be us, they'll be the big owners but we'll have a continuing interest." Thus the Senator diverts his perspective, of a continuing interest that he does not want to support with his commitment to help with contracts.

Suddenly Feinberg interrupts the discussion and proposes a motion: "Unofficially, that is the motion, all those in favor." At this point the transcript reports that Sandy Williams, the Senator, Errichetti, and Katz voted aye. Dr. Shuy contends, to the contrary, that his trained ear does not hear Senator WILLIAMS' vote. The group clearly did not think it had received the Senator's approval either because Weinberg feels compelled to reintroduce the topic.

"We are not going any further until we get your OK." The Senator's terse response is: "right." This answer cannot fairly be construed as agreement with the group's proposal. In fact, all the Senator has said is that he agrees with Weinberg's proposition, namely that they will go no further without the Senator's OK. Despite the relentless pressure, the Senator is essentially affirming that he will not agree to something that endangers his honor. If the Senator had meant to communicate his approval for the group's plan, he would have said instead "I give the OK" or "alright, you have it." His response is a clear indication that the Senator does not give his approval at that time.

This exchange is very revelatory. Although Weinberg tried five times, and DeVito once to get Senator WILLIAMS to accede to the plan designed to benefit his friends, they utterly fail. This not only completely refutes the notion that the Senator was predisposed to commit crime, it suggests that he was actively avoiding it despite the best efforts of the Government team of entrapping agents.

Once again we should remember that the Government is making elaborate preparations to induce the Senator to make commitments. Moreover the Senator comes into these meetings unsuspecting. With regard to the question of whether Senator WILLIAMS agreed to the sale, I think we can agree that some ambiguity remains. There is talk of how the profits will be treated which later elicit the Senator's comments about paying taxes. This seems to indicate that the group felt a sale was possible. On the other hand, the confused record is far from clear. One aspect of the matter, however, is eminently clear: Senator WILLIAMS did not consent to arrange Government contracts at this meeting for those present or for the potential buyers. Everything from his concern about an "employment situation" to his fears about a "continuing interest" indicate that he very deliberately avoided that commitment, despite the enormous pressures exerted to get this clear approval.

Another segment of this meeting is important to understand the intentions of Senator WILLIAMS:

M.W. That's your problem. I'll get you money that you have no taxes on, alright?

G.K. Well, then ya can't front it, then ya can't use it.

M.W. Well, sure ya can ya go over there—you wanna take it and ship it to another bank in the islands or anyway you wanna do it. You don't need—

G.K. How ya gonna bring it into this country so that you can invest it?

A.F. There's another way—

A.E. But you pay taxes on it.

G.K. Let me ask you this.

T.D. Just bring it in and pay taxes on it.

U.V. Pay taxes—

A.F. Whatever you take in—If you brought it all in at once, the tax would kill ya.

H.W. When you wanna get greedy and make more money with the money you got (IA).

A.F. That's right.

H.W. Yeah.

A.F. Pete—

H.W. If you want to be that greedy.

A.F. As I understand it, listen to me a minute.

H.W. I think its the smart way for a guy like me to go by the way—

G.K. Yeah.

M.W. That's the only way to go—

H.W. For me to—

M.W. That's the only way—

H.W. And its useful—

A.F. Yeah.

H.W. Yeah.

M.W. This way, any any—

H.W. You know out in the open, I mean ya—

A.F. Right.

H.W. Yeah—something useful—

A.E. And, and what he said its up to each person as individuals.

G.K. You mean the smart way for you to have it over here is what you said.

(Sen. Comm. Print, Pt. 6, pp. 268-270.)

But Senator Williams responded that the thing to do was:

H.W. Right, pay the taxes.

(Sen. Comm. Print, Pt. 6 p. 270.)

The notable point is that Senator WILLIAMS announced his intention to pay taxes on any gain. This is far from the criminal's natural instinct to hide the fruits of his crime. The Senator expressed that he would handle this business venture "out in the open." It is hard to conceive of a wrongdoer who would want to announce, particularly from the very visible pulpit afforded any senator, that he had earned several million dollars in exchange for an agreement to acquire Government contracts. This statement completely contradicts the Government's plan to pervert his intentions. Once again, I inquire: Where is the predisposition?

This flaw in their case apparently did not escape the notice of the team of Government agents conspiring against the Senator. Every time an element of their case was weakened, they took great pains to manufacture some ploy to rehabilitate their suit. The sole intent of the October 11, 1979, meeting. The Senator expressed his intention to "go public with something or other." Senate Committee Print, Pt. 6, p. 329. The agents explain, however, that the whole deal "probably will not go through" if he handles it that way. Rather than give direct approval to their, note I say, their plans to hide his interest, the Senator merely leaves it up to them to deal with the matter. As you might expect, the Government proceeded to deal with the Senator in the worst possible light.

A corollary effort to rehabilitate their case brought about an embarrassing problem for the Government. Weinberg delegated Errichetti to get a letter from WILLIAMS stating that he would secure Government contracts for the new owners. On September 14, 1979, Errichetti delivered a forged letter and boasted about his ability to accomplish this mission. Senate Committee Print, Part 6, pages 434-7. DeVito praised Errichetti saying that he had "missed his calling in life." Senate Committee Print, Part 6, pages 440-1. This was a clear forgery; I do not question the Government's reasons for acquiring it. I do wonder, however, why the Government does not reach the obvious conclusion that anyone who would commit forgery simply to advance his own scurrilous reputation might have set up the Senator from the outset.

The final chapter in this pathetic tale is the fabled "asylum scenario." On January 7, 1980, Weinberg called Feinberg and said the shiek had a small favor to ask the Senator. Nothing more was described. The Senator had no reason to believe that this favor entailed anything unlawful. In fact, well into the discussion about immigration legislation, the Senator need not have suspected any foul play. On the contrary, his reaction to the sheik's overtures was to explain the legislative process, the need for a showing of good cause, and the role of both Houses in the decision. Moreover, in striking contrast to the other Congressmen indicted in Abscam, the surprised Senator emphatically refused the bribe:

R.F. I, I will for, for your help, er, assistance and assistance—I would like to give you, er, you know, some money for, for permanent——

H.W. No.

R.F. —residence

H.W. No, no, no. This, this is when I work in that area, that kind of activity, it is purely a public not er, no.

Id. at 8-9. (Sen. Comm. Print, Pt. 6, pp. 355-56.)

Four times he repeats his impassioned denial. This is a remarkable incident. We have learned from this review of the evidence that Senator HARRISON A. WILLIAMS, JR., is a gentleman, if nothing else. Perhaps sometimes he is too much of a gentleman. Rather than offend other friends or Government agents who might seem to be making illicit offers, the Senator prefers to avoid confrontation. He skirts the issue in the hope that the assailant will get the message that the Senator is not interested. On this occasion, however, he is not afforded the luxury of a graceful evasive exit; without warning, he is confronted with the green of thousands of dollars of cash. No other Abscam defendant resists that blatant temptation. Moreover, he rejects the offer forthrightly at the risk of offending the sheik who is indispensable to the business venture his friends are relying upon. I might add that this is the only case in which the fictitious sheik himself proffered the bribe. Ask yourself: Is this act by Senator WILLIAMS the conduct you would expect from a predisposed criminal? Is this what you would expect from an individual concerned about garnering the favor of the sheik in order to obtain his approval for an illicit investment? Remember that all this is happening just between the Senator and the sheik in a room the Senator presumed to be occupied only by a foreigner who spoke broken English. If ever there was an alluring temptation, this could be it. Yet the Senator reflected great honor on the Senate and dishonor on those Government officials who had contrived to test his veracity by rejecting the offer.

This meeting as you know, however, raises other fundamental questions. This is the only meeting personally monitored by the future prosecuting attorney, Thomas Puccio. In conjunction with others, he apparently devised an error-free system to cast the Senator in a bad light. If the Senator agreed to arrange for permanent residency, the sheik was to offer the cash. If the Senator refused, then all talk of cash was to cease and instead the sheik would link the overall titanium deal to the introduction of a private bill.

Within seconds of the Senator's refusal to accept the bribe and just as the Senator was offering an exonerating explanation, the video tape was cut off. The reason the tape was cut off was that the sheik was taking a phone call from an agent who was monitoring the meeting from an adjoining room. He wanted the Senator to be more specific about his intentions on the immigration bill. Still another call came later when the sheik was unsuccessful in eliciting an incriminating comment from the Senator. Despite these repeated attempts, the Senator continued to discuss the legislative process in a legitimate manner by pointing out that he could not personally dictate the outcome of the legislation, but that he would see that the sheik got consideration. In the context of the surprise bribe offer, the Senator's comments are most plausibly construed as only a commitment to pursue the normal legislative process:

You can leave with my assurance that I will do these things that will, will bring you on for 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. (S.C.P. 6 P. 360.)

To fault the Senator for this exchange is to overlook the context of this discussion. The Senator was anxious to leave the tainted atmosphere and realized that the easiest way to make a quick escape was to offer the sheik some hope of a favorable outcome. After some time, he accomplished this purpose without compromising his honor. It makes no sense to contend that the Senator somehow sullied his public trust by making an illicit commitment to the sheik. If the Senator had been disposed to exchange his legislative prowess for some kind of gain, he would have taken the cash he was offered moments earlier. Instead he simply agreed to see that the sheik got proper consideration.

Viewed from another vantage point, however, this entire incident is very disturbing. The Government had complete control of the most convincing evidence in the case, the video tapes. This control becomes most evident when the tape is abruptly cut seconds after the Senator firmly refuses to accept money from the sheik. Taken in conjunction with the overall pattern of intervention and manipulation in this case, this could indicate an effort to eliminate exculpatory evidence. To the extent the interruption was purely coincidental, it is not likely to raise constitutional concerns; but if it indicates a further instance of Government manipulating facts to acquire a conviction at all costs, due process will not tolerate such abuses.

I am sure my colleagues understand, Mr. President, that my arguments here do not represent any particular affinity for the general views and votes of the Senator from New Jersey. The times we have agreed on vital legislative issues, either in the Labor Committee or on the Senate floor, could almost be numbered on one hand. Nor do my legal judgments on the application of the Constitution to the facts of this case offer any excuse for some of the Senator's indiscretions in this matter. Senator WILLIAMS was clearly indiscreet in not learning of the full implications of his dealings with the "Arabs" in this case and in not severing relations with his "friends" who induced him to pay a role in this matter. Nonetheless he did not embark on any questionable activity without the prior instigation of Government agents who set the operation in motion. Further, the length of the investigation, the persistence of the Government in its solicitations of Senator WILLIAMS and the enormous sums of money discussed as an enticement evince that the Government's conduct may have transgressed the permissible bounds of law enforcement drawn by the due process clause.

As I mentioned earlier, Mr. President, the length of this investigation also suggests potential impropriety. If an individual is inclined to commit a crime, the officers would probably need do nothing more than offer an opportunity. Yet in this instance, the meetings and phone calls span months. Moreover the size of the supposed bait is adjusted upward to astronomical figures during this period. The criminal suggestions are repeated and repeated from different sources. Such an effort is only required when the target of the investigation resists the suggestions and offers. This constant probing is further colored by the recognition that the Senator thought he was merely helping constituents who were dealing with Arabs whose way of doing business does not match the ethical standards of the Western World. The first time he met the sheik, for instance, the Senator thought he was attending a party honoring Mayor Errichetti. For another example, the Senator suggested a convenient place to pick up the stock only after the Government insisted that he must receive it personally. He may never have requested or accepted stock without the Government insistence.

Finally, it was even the Government that suggested that the stock be put in another's name when they learned directly from the Senator that he intended to fully disclose the transaction and to pay the taxes on it. At every crucial juncture, when every element of criminality was at stake, the Government's recommendations, directions, suggestions, or requirements provided the missing links to barely satisfy the literal reading of the law for a violation.

We should keep in mind that the Senator took no money. He made no improper contacts, filed no false reports, and in no way profitted personally from his participation in this matter. Although he may have bragged to some degree under Government coaching, he forcibly stated that he would not take a monetary bribe, the he would disclose any earnings, and that he would pay taxes on the business deal—hardly the conduct of an official trying to hide illegal dealings.

In this case, the Government has clearly posed an inordinate risk of instigating crimes which would not otherwise have been committed. This is called into question by a whole succession of facts in this case. For instance, the Government hired a convicted felon to run its investigation and promised him greater compensation for success. The fourth circuit spoke directly to this issue in 1961:

> Nothing is more oppressive and shocking to the conscience than a prosecution promoted by agents provocateurs whose victim, innocent of criminal purpose, has been lured and corrupted into a course of crime as a pretext to subject him to penalties * * *
>
> Clearly the two decisions of the Supreme Court do not hold that the Government may not use ingenuity and disguise to secure evidence of crime, rather, what is prohibited is Government instigation of criminal conduct which would otherwise not occur. *U.S.* v. *Sizer,* 292 F. 2d 596, 599 (1961).

My reading of the evidence in this case finds nothing that suggests the criminal conduct would have occurred in the absence of Mel Weinberg's infiltration. Ask yourselves: Do you really think Senator WILLIAMS would have committed any wrongdoing without instigation from Weinberg? Thus, on the Government conduct theory, uniquely linked as it is to the presence of an agent provocateur as well as on the predisposition theory, the jury verdict in this case is suspect on due process grounds.

The important due process claim stemming from outrageous Government conduct warrants the consideration of a few other precedential cases. First, we should weigh the factors involved in the case of *U.S.* v. *Twigg,* 588 F. 2d 373 (1978). In Twigg, a convicted felon was engaged by the Government as an agent provocateur to infiltrate drug distribution networks. The Government agent in Twigg, like Weinberg in the immediate case, pursued his assignment with relish. He went beyond locating existing crime to instigating it by funding and founding a laboratory to manufacture illicit drugs. When his partners then attempted to market the product of their joint venture, they were reported and apprehended. The Court condemned this conduct on the basis:

> The nature and extent of police involvement in this crime was so overreaching as to bar prosecution of the defendants as a matter of due process of law. (Id. at 377.)

Is this Williams case really unlike the Twigg case? In Twigg, the product of the Government's fabrication was a drug laboratory; in Williams, the product of the Government's fabrications was a sophisticated financial transfer scheme. Beyond that superficial distinction, the cases are substantially similar.

In *United States* v. *West,* 511 F, 2d 1083 (1975) the third circuit enunciated a similar doctrine:

> When the government's own agent has set the accused up in illicit activity by supplying him with narcotics and then introducing him to another government agent as a prospective buyer, the role of government has passed the point of toleration. (Id. at 1085.)

Pardon my rhetorical question again, Mr. President, but are there many differences in that fact pattern and the present Williams case except that the product bought and sold was a stock option, not an illicit drug? Otherwise they are strikingly similar: The Government agent in both sets up the enterprise and then introduces him to the prospective buyer who just happens to be another Government agent.

The ninth circuit has established a similar precedent. In *Greene* v. *U.S.* 454 F. 2d 783 (1971), that court overturned a conviction stemming from the illegal manufacture of alcohol. The ruling stated:

> We do not believe the Government may involve itself so directly and continuously over such a long period of time in the creation and maintenance of criminal operations, and yet prosecute its collaborators * * * when the Government permits itself to become enmeshed in criminal activity, from beginning to end, to the extent that appears here, the same underlying objections which render entrapment repugnant to American criminal justice are operative. (Id. at 787.)

Since the Williams case will be tried in the second circuit, however, we would profit to examine any precedents in that circuit, in *United States* v. *Archer* 486 F. 2d 670 (1973), the Government set out to uncover corruption in New York City's criminal justice system by employing a Federal agent to pose as a potential consumer of corruption. The simple plan called for the arrest of the agent, after which he would make overtures to judicial officials that he was willing to pay to escape trial. The second circuit was able to decide this case on other grounds but went to great lengths to explain the Supreme Court rulings discussed earlier in this speech relative to due process and to state:

We are not sure how we would decide this question if a decision were required * * * there is certainly a limit to allowing governmental involvement in crime * * * Our intuition inclines us to the belief that this case would call for application of Brandeis' observation in Olmstead. Id. at 676.

Although the court managed to find narrower grounds to dismiss the verdict, it did acknowledge the applicability of due process in a case less protracted and elaborate than WILLIAMS presents. The court also alludes to another complicating factor which it would be willing to consider:

Yet the Government agents displayed an arrogant disregard for the sanctity of the State judicial and police processes. Id. at 677.

This is a hint that the court would take a dim view of a law enforcement body trying to subject a separate branch of Goverment, the judiciary, to scrutiny. This is directly applicable to the Williams case where the law enforcement conduct is again directed at another branch of Government, which has the responsibility to police itself.

In light of Archer's favorable disposition toward the due process cases that have formed the basis for the Greene, West, and Twigg rulings, it is safe to expect the due process issues in this case to receive favorable consideration in the second circuit.

Perhaps in cursory fashion, I could also comment on the rulings made on some of these issues by the trial court judge. Judge Pratt did not really consider the issue of predisposition as an element of the fundamental rights to be protected by legal determinations of the court. He simply stated that the jury had found against the Senator on this issue. While the jury may have convicted the Senator without regard to the predisposition issue, the court has the responsibility to determine if that verdict is appropriate and the standard for that determination involves questions of predisposition. Accordingly, the second circuit will no doubt examine anew the evidence to ascertain if it shows that the Senator was sufficiently predisposed to justify the elaborate law enforcement scheme that elicited his misbehavior.

With regard to the outrageous conduct due process defense, Judge Pratt also may have overlooked some of the most basic considerations. For instance, he dismissed any implication that the coaching might have had an influence over Senator WILLIAMS' conduct because the Senator mentioned during the trial that the coaching did not override his own will. Despite the Senator's perception on the witness stand that the coaching was ineffective, the fundamental point involved is that the Senator was not aware that he had been influenced to make statements he would not otherwise have made. The transcripts of the coaching tape and the Senator's meeting with sheik show that he repeated, many times almost verbatim, what he was coached to say. That the Senator did not feel his will was overborne is only testimony as to the effectiveness of the coaching, not a final legal determination that the coaching was appropriate law enforcement conduct.

The coaching incident must be weighed independent of Senator WILLIAMS' comments about its effectiveness to determine if it is constitutionally permissible law enforcement conduct. The second circuit, with an eye to Archer, Russell, and the other precedents, will make that determination.

Judge Pratt also saw no impropriety in the sudden cutoff of the video tape when the Senator was declining the bribe. In Judge Pratt's eyes, the denial was on the tape and still the jury convicted. The missing explanations, potentially exculpatory conversations, did not override the jury determination in his view. Again, Judge Pratt seems to rely on the jury's judgment when his responsibility is to weigh the constitutional validity of the Government's conduct and its effect on the Senator's disposition to commit a crime. This determination must be made independent of any considerations other than the overreaching principles of our Nation's foundational document. The second circuit will undoubtedly undertake to do what Judge Pratt did not.

In conclusion, Mr. President, I would like to emphasize again that two principles are at stake today—two principles that must be considered and decided separately on different grounds. I do not question the authority of the Senate to expel one of its own for failure to live up to the high standards of senatorial conduct. Moreover, I hope that no other Senator will question our obligation to insure that law enforcement conduct meets the high standards set by the Constitution.

The decision on the first of these matters will be decided when we vote to discipline Senator WILLIAMS. I will cast my vote to expel only after the deepest soul searching and reconsideration of all the facts we have heard.

The decision on the constitutional matter will undoubtedly be construed by some as a part of that same vote. That would be an error. I hope that no one here today will fail to distinguish between the Senator's judgment on ethical grounds and the Senate's insistence that the due process clause be honored. I hope that we can, by our speeches and other signals, convey that we will not look with the least degree of tolerance upon law enforcement conduct that shows little respect for our constitutional due process guarantees. If we can accomplish both of our objectives today, then the hours spent in this debate will be well spent and we will be able to speak proudly of our role in this historic process.

Mr. INOUYE. Now, I yield to the senior Senator from the State of New Jersey, the Honorable HARRISON ARLINGTON WILLIAMS, JR.

Mr. WILLIAMS. I thank my dear friend, the Senator from Hawaii, for so much. I would not be here, feeling as I do, without his volunteering to associate with me in the task that I undertook some time ago. That task was to reveal to the Members of this great institution just what Abscam was all about. I am so grateful to know that he will pursue the problems we have all seen in the handling of an operation that was, in truth, Government run amok.

To my colleagues, I will say a few words, maybe a few more words, to reflect how I feel. I have appreciated your attention as I have addressed myself to this over the days that we have been in session.

In this Chamber I must say that the chairman and the vice chairman of the Select Committee on Ethics, and some others who have urged me to resign, indicating that I would otherwise be expelled, have brought me to a position where I must say that if I had believed for a moment that my resignation would prevent this distinguished body from becoming involved in the vile history of Abscam, I would have resigned long ago and spared all of this pain that we feel. I would have bid farewell to this peerless institution, which I have served to the best of my ability, with selfless devotion and for a long period of time—23 years. But I could not acquiesce in this matter.

My resignation would not have prevented the U.S. Senate from being touched by Abscam; not only because one of its Members was involved, but because the Senate itself was on trial. I wanted this body to stand and to be heard in objecting to the excessive zeal of law enforcement agencies and, thereby, protect the rights of individual Senators and, indeed, Senator STEVENS, all Americans.

Will we be indignant over the unprecedented assault on the legislature by another branch of Government? Or will we remain silent, unable or unwilling to respond to the likes of a Mel Weinberg, con man extraordinaire, and the threat that Abscam poses to the balance that our founders built into our form of government?

Mr. President, I sought not only my own personal vindication but also the reaffirmation of a fundamental principle of our Nation—that individual citizens, whether they be laborers, businessmen, or, yes, U.S. Senators, shall not be given criminality tests by law enforcement officials.

As an individual I will be tireless in defending my innocence from such heinous conduct as the FBI has practiced against me; I shall continue to pursue my remedies through the system of justice, with full confidence that my innocence will be proved and my integrity restored.

But this is not a court of law. The U.S. Senate is a different forum, and we, as Senators, have a far more important purpose today. As U.S. Senators, we hold positions which confer upon us special obligations and responsibilities which originate from the Contitution.

It is because I am a Senator that I did not surrender easily to convenience and resign. As Senators, I am sure you understand the gravity of this decision and how it would bind those who will serve in this Chamber long after Abscam is forgotten.

Considering this matter, I did not wish to see the Senate bring dishonor to itself by expelling me. We who have been privileged enough to serve in the Senate are guardians of the fundamental freedons and institutions, so basic to our democracy, through which those freedoms are secured.

As Members of the U.S. Senate, we have each taken a solemn oath to protect the sovereign integrity of this body as an independent institution of Government.

Mr. President, from this institutional perspective it is not only PETE WILLIAMS who stands accused or indicted; it is all of us, the entire Senate. In Abscam, it is the Senate that stands accused and intimidated by another branch of Government to whom we may be forever subordinated and subjugated unless we are successful in our resistance.

The chairman of the Select Committee on Ethics has stood before this body and, to a degree, sheltered the FBI and its malcontents from criticism in his prosecution of me. In so doing, I believe he makes the next Abscam easier and more legitimate. By deflecting the attention of my colleagues away from that agency's invasion of our collective rights and privileges, I believe further undercover investigations, using extralegal techniques, are invited and encouraged.

After all, if I could be targeted for observation, investigation, and prosecution by the questionable and outrageous law enforcement techniques which have been documented in this case, then what is to prevent any Senator or any public official, for that matter, from becoming victimized by ruthless con artists bearing hunting licenses conferred by law enforcement officials? These tactics must be investigated and evaluated, and the Senate must fully understand Abscam and its implications before it can weigh my actions and question my innocence. Not to do so condones what has happened in this sordid case and erodes our responsibilities as U.S. Senators.

I wrote these words before I heard the words of Senator CRANSTON, before I heard the words of Senator INOUYE. Having heard these leaders whom we respect so completely and admire so much, and who have been joined by Senator STEVENS, Senator HATCH, and Senator GARN, some of the words that I have written here again were put on this paper before I heard what I have just heard now.

Having heard that, and knowing that the Senate of the United States understands the major problem that was brought before us by Abscam, and apart from personalities, having now indelibly made these statements of commitment to pursue, to discover, to examine, and then commit our Nation to the protections that will insure that this does not happen again—and again I must say it is not just the U.S. Senate these protections must be built for, they must be built for the Nation—this kind of action, proceeding without predicate, reaching out to try to tempt innocent people with no background of crime into criminal activity, has indeed, I fear, become nearly epidemic. I have observed it in some law enforcement in the State of New Jersey, a State that I have had the honor to represent here in the Senate for better than 23 years. And I have observed it in the House for some time, too. It is the most chilling thing that we could observe, and you have observed, through this case.

So I come to a decision, knowing of your commitment. I come to a decision to now pursue my personal situation with full resolve that I will be exonerated of any wrongdoing, vindicated of the charges and the verdict, because I know I violated no laws.

Certainly, I know, as you know, mistakes were made; still, they were not venal at all, pursued only in the customary activity of a member of a political organization in an effort to reach out and be helpful to others.

In that process, I exercised poor judgment; I know it was minor indeed: What was major was the fact that an appearance was created that brought me before the criminal courts. A trial was conducted that was incomplete because it excluded and withheld from me the evidence I later discovered which corroborated my innocence.

Now I have brought the battle here. It was a vow I made when I first discovered that I was a target in Abscam; that I would fight the wretchedness, the rottenness of this kind of operation whenever I had an opportunity. This was an opportunity. It has been hard—an ordeal for me; but I confronted it with resolve and without embarrassment. I brought it to you knowing that before it was through, the major problem presented by this kind of activity would be understood and this body would do what I knew and felt so deeply it must do; and that is to conduct an investigation that will eliminate this kind of activity in this great free land of ours.

A little bit more, my friends. Carrying this message over 2 years has been long, hard, and difficult for me, for my wife, for my family, and for my staff. I would be incomplete if I did not say that to us came hosts of people who understood and gave us their support.

I would like to include in the RECORD not all of the communications I have received but some that will be symbolic of the thousands upon thousands of communications of understanding and support that we have received. I ask unanimous consent, Mr. President, that they be gathered and printed in the RECORD at this point.

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

WASHINGTON, D.C.,
December 1, 1981.

Hon. HARRISON WILLIAMS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR WILLIAMS: Yesterday, as you know, Congressman Florio conceded the gubernatorial contest to Mr. Kean, and, as a direct consequence, the United States Senate postponed any action on your situation until after Mr. Kean takes office.

Although I am currently working in Washington, I am still a registered voter in New Jersey and my family and I have always supported you. Therefore, it greatly saddens me to ask you to consider stepping aside before Mr. Kean's inauguration to insure that the Democrats keep the seat.

I am sorry because you are, and have been, a fine Senator and I have always been proud of New Jersey's Senatorial delegation. Many times when our State was the subject of derision, I could point with pride to our Senators. Your treatment by the so-called "powers-that-be" has, in my opinion, been exceedingly shabby and you have my sympathy.

Unfortunately for you and for us, the Republican Senate appears to be determined to wrest the seat. Of course, I do hope you will be exonerated—but judging from the Senate's action yesterday—does this seem likely? As a staunch Democrat, I would not enjoy giving Mr. Kean the opportunity to appoint one of his Republican cronies.

I understand that the decision is ultimately yours and that it is extraordinarily complicated and difficult. Again, my heart is with you and I wish you the strength you will need.

Sincerely,

PATRICIA W. FISHER.

[Telegram]

NEWARK, N.J.,
March 5, 1982.

Hon. HARRISON A. WILLIAMS,
U.S. Senate,
Washington, D.C.

This AFL–CIO Council representing over 40,000 members respectfully request that you oppose any vote to expel Senator Harrison A. Williams from the U.S. Senate. The outrages deceptive scheme entrapment perpetuated against this dedicated public servant is indelibly stamped as a blight upon our American standards of justice.

ALFRED A. FONTANA,
President, Union County AFL–CIO.

NORFOLK, MASS.,
August 26, 1981.

Hon. HARRISON A. WILLIAMS,
U.S. Senate,
Washington, D.C.

DEAR SIR: I read with great heartache of your travail with the Abscam situation. I sit in prison for a crime that I did not do, but I have experienced how evidence can be created to convict an innocent person.

All I can offer to you is my best wishes and hopes are with you. I know for you and your entire family that it must be so disheartening and energy robbing. Please do not let it destroy you and your family. It is a tragic fact that if the situation were to change even as I write it will never undo the lasting damage done to you and yours.

There is something very evil about a system of Government that stoops to a practice more blatantly evil than those it seeks to capture. When we must fear our Government more than our neighbor then we all are in deep danger. Though we have a Constitution, it is only as good as those who enforce it. I fear there is an evil hungry lion loose among the herd of American zebras.

So please keep your strength up, fight the good fight and remember there are those out here who have gone through such agonies as you are suffering now.

Best wishes, sincerely,

HENRY R. BASCH.

DAIRY QUEEN-BRAZIER NO. 2,
Roswell, N. Mex., September 7, 1981.

Senator HARRISON WILLIAMS,
U.S. Congress,
Washington, D.C.

DEAR SENATOR WILLIAMS: Have been reading about your problems with the Abscam investigations. I don't usually write to anyone, but felt you could use all the support you could get at this time. Seems like they were out to get you at any cost and I hope you have the energy and ability to prove your innocence. Just don't let them get you down!

I am not of the same political party as you, but right is right and it appears that someone has overstepped normal investigative procedures.

Keep on fighting & good luck.

Yours very truly,

JOHN D. CUMMINGS.

WASHINGTON STREET,
Malone, N.Y., March 1982.

Hon. HARRISON WILLIAMS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR WILLIAMS: The enclosed letter to you is written by my 97 year old sister. She has followed your case and she is very much disturbed about the unjustness you have received.

I also enclose a clipping which I sent to the Malone Telegram four or five weeks ago.

My sister likens the Abscam to her raccoon story.

My husband was a great supporter of you and I am sorry he is not alive to be writing.

Sincerely,

MARJORIE LADD SAXE.

[Mailgram]

WATSONVILLE, CALIF.,
February 17, 1982.

Hon. HARRISON WILLIAMS,
U.S. Senate,
Washington, D.C.

On your behalf and appreciation the following mailgram has been sent to Senator Cranston.

Someone must defend Senator Harrison Williams against false charges and conviction. If not you, who? As a former farm worker he did more for improving my lot than the Senate and House combined in the 1970's. Am convinced that Williams is a scapegoat for governmental intrusion and secret activity. You could be next in line.

Strongly suggest that your office and that of Jack Anderson combine to throw the covert operators for a loop by defending Senator Williams. May prove to be good politics.

Sincerely,

JOE CLARAHAN.

TALLADEGA, ALA.

Hon. HARRISON WILLIAMS,
Senate Office Building,
Washington, D.C.

DEAR MR. WILLIAMS: I have followed you for years and I'm pleased with your many years of service to our great country. Rest assured we still trust you and we are sorry for such treatment from people that should have known better.

We have two daughters living and working in Washington, D.C. So we are very interested in your welfare.

Praying for you.

Sincerely,

DAISY W. HAMBY.

SEATTLE, WASH.,
February 10, 1982.

DEAR SENATOR WILLIAMS: I do not know an awful lot about the Abscam case but I do feel you are being unjustly treated and I do hope you are cleared of all charges.

It is very disheartening to do a good job for one's country through the years and then have friends and associates turn their backs. It is at times like this that the comfort and knowledge of God's love can really help.

Incidently, my husband had surgery for a double hernia today so I hope you both recover quickly!

Sincerely,

BARBARA BARMUTA.

[Telegram]

CLIFTON, N.J.,
March 5, 1982.

Hon. HARRISON A. WILLIAMS, Jr.,
Senate Office Building,
Washington, D.C.

District Council Northern N.J. UFCW, AFL-CIO, representing 130,000 members request that you act to refrain the Senate from acting on Senator Williams matter until the Senator is allowed to exercise his right of appeal within our court system.

JOHN T. NICCOLLAI,
Secretary Treasurer.

SOMERVILLE, N.J.,
March 4, 1982.

Senator HARRISON A. WILLIAMS, Jr.,
U.S. Senate,
Washington, D.C.

DEAR SENATOR WILLIAMS: Your letter of April 28, 1981, in reply to my concern as to the tentative legislation about the money market mutual funds, is gratefully appreciated.

You have my vote of confidence, despite the hearings of the Senate Ethics Committee and your Abscam conviction, and I wish to commend you for your courage against expulsion from the United States Senate.

As one of your constituents, I deeply regret these proceedings; I deplore the hardness of heart of those who have perpetrated greater crimes. I know that you do not deserve to be subjected to greater indignities and notoriety, especially since you have suffered more than anyone can imagine. In any case, it is my firm conviction "that the punishment does not fit the crime." This is especially so, when we realize (at least I do!) the paramount importance of the Scribes and Pharisees against Jesus of Nazareth. You have it!

I am, therefore, reminded of how His enemies failed numerous times to ensnare Him in His speech with captious questions. On this particular occasion, they presented to Him a woman taken in adultery and exposed her publicly. They knew the penalty for such was stoning to death. If the Law of Revenge (Talion) were to be followed to the letter, the outcome is clear. Therefore, Jesus wrote with His finger in the sand, to wit: "He that is without sin among you, let him cast the first stone." As a result, the accusers of the notorious woman sinner, penitent and saint, left the scene to their own greater embarrassment. I hope that this can be said of any of your accusers for any "Political Adultery" which you may be (in effect) responsible. As it was said of this great Woman Saint "many sins are forgiven her because she has loved much"—may it also be said of your 26 years of service to your constituents in the State of New Jersey.

Lastly, although this letter may have no value or importance in this matter, nevertheless you are still "the good and faithful servant" whom we admire. It is indeed most regrettable that yours is being a test case for all those who were never apprehended for far greater crimes of disloyalty and treason. May my own experiences console you in this hour of great trials: "A man's own enemies are those of his own household." All the best, Senator!

Very respectfully yours,

Rev. JOHN J. TOMALONIS.

FEBRUARY 17, 1982.

DEAR SENATOR WILLIAMS, PETE: Today I just wanted to say to you, "I love you" because you are the nicest man I have ever met on this Earth. When I first started working for you I was very cynical about my first marriage and it was only through watching your goodness and kindness to the lowest that I started to believe again in humanity. I use to say to myself, "This is the best man I have ever known next to Jesus."

My New Year's Resolution was to tell someone every day that I love them; my quest is the wisdom of happiness; and my motto is, "If you have Love in your Heart, you always have something to give."

It has changed my life. I have made so many friends and even if I lose my case and end up with nothing, I know I will survive. I will fight with my last breath for what I think is right, though.

I know you have love in your heart and you have always had something to give a lot of us, whom you have given so much, are fighting for you in our own way, and we won't give up.

I'm so sorry you have been ill. I hope you and Jeanette are better by now. If you need me, I will come there.

I would be honored to do anything I can to help. I am as close as your phone.

Love you,

NINA.

[Telegram]

MIDLAND PARK, N.J.,
March 10, 1982.

Senator HARRISON WILLIAMS,
Capitol One D.C.

Don't give up, our prayers and hopes are with you, public opinion messages sent by us to Senators involved.

MIMI and PETER SARTHOU.

[Mailgram]

(Copy of telegram sent to Senator Malcolm Wallop, Washington, D.C.)

HOWELL TOWNSHIP, N.J.,
May 4, 1981.

Senator HARRISON WILLIAMS,
Washington, D.C.

DEAR SENATOR: I feel that an injustice has been done to our Senator Harrison Williams and I hope you will remember his past performance as a Senator. He was a great man.

Mr. and Mrs. MICHAEL ARDITO.

[Mailgram]

(Copy of telegram sent to Senator Howell Heflin, Washington, D.C.)

HOWELL TOWNSHIP, N.J.,
May 4, 1981.

Senator HARRISON WILLIAMS,
Washington, D.C.

DEAR SENATOR: I feel that an injustice has been done to our Senator Harrison Williams and I hope you will remember his past performance as a Senator. He was a great man.

Mr. and Mrs. MICHAEL ARDITO.

LETTERS AND PETITIONS IN SUPPORT OF SENATOR WILLIAMS

Following is a list of names of some of those individuals from across this nation who have signed letters and petitions on behalf of myself during the Abscam ordeal.

NEW JERSEY

Richard Lynch; vice president emeritus, New Jersey State AFL-CIO.

Orlando Abbruzzese; Somerset County Democratic Chairman.

Joseph Davenport; Salem County Democratic Chairman.

Vincent Rigolosi; Bergen County Democratic Chairman.

George Host; president, Warren-Hunterdon Central Labor Council.

Harry Pappas; Union County Former Democratic Chairman.

Alfred Fontana; president, Union County Central Labor Council.

Henry Hill; president, Cumberland County Central Labor Council.

John Rose; Cumberland County Democratic Chairman.

Steve Hornik; Monmouth-Ocean Central Labor Council, president.

Chris Jackman; Speaker of the Assembly; Executive Board, New Jersey AFL-CIO.

John Sudia; Democratic Chairman, Carteret.

Tom Farrell; business manager, Bricklayers Local No. 8, Neptune.

Vincent Yuliano; president, Laborers Local No. 54, Madison.

Sal Sadano; vice president, Laborers Local No. 54, Madison.

Henry Helstoski; former Congressman.

Alphonse Stanzione; Ocean County Democratic Chairman.

Anthony Amalfe, Union County Democratic Chairman.

Nicholas Venezia; Middlesex County Chairman.

John Fiorino; Monmouth Democratic Chairman.

Roy Hyman; Atlantic County Democratic Chairman.

Tom Dunn; Mayor, Elizabeth.

Francis Witt; Gloucester County Democratic Chairman.

CALIFORNIA

Bill Thom; Orange County Democratic Alliance, Chairman.

Mike Horn; Imperial County, California Democratic Party Chairman.

Haden Crites; 3rd Assembly District Democratic Party Chairman.

Vertus Smith; Butte County Democratic Party Chairman.

Victory Schaub; Humboldt County Democratic Party Chairman.

Phyllis Nelson; Merced County Council, Democratic State Central Committee.

Robert Ash; California Democratic State Central Committee.

Eva Harryman; Glen County Democratic Chairman, 1st Assembly District Chair.

Jack Rooney; Lake County Democratic Vice Chairman, State Central Committee.

Lee Torr; Democratic State Central Committee.

Carl Valencia; California Democratic Party State Central Committee.

Elizabeth Bombert; Democratic State Central Committee.

Angelo Pazello; Democratic State Central Committee.

Moran Carr; Democratic State Central Committee.

Philip Nelson; State Democratic Central Committee.

John Wever; Tarzana Board of Directors, B'nai B'rith.

Sal Lopez; Chairman, Kings County Democratic Party.

Corbett Bagley; field representative, Laborers Local #1184.

Clyde Cable; financial secretary, Carpenters Local #1752.

Muriel Thomas; 1st Assembly District Chairman.

Bruce Hotchkiss; Madera County Chairman.

Cleesta Delaney; Democratic State Central Committee.

Gerald Hill; Democratic Party State Central Committee.

VERMONT

Norman Dupre; President, Vermont State Building Trades and business agent, Plumbers Local #693, Burlington.

WASHINGTON

Steve Franks; branch agent, Marine Engineers Union, District 1, Pacific Coast District, Seattle.

Dick Taylor; business representative, International Molders and Allied Workers Union, AFL-CIO/Central Labor Council, Washington State Local #158, Seattle.

Keith E. Brown; president, Puget Sound Council of Lumber Workers, Seattle.

Larry Weldon; IBT Local #741, Seattle.

Gery Clune; assistant business manager; Street Pavers and Tunnel Workers Local #440, Seattle.

George J. Lucker; financial secretary and businesss manager, Bricklayers and Allied Craftsmen, Local #2, Seattle.

Senator William S. Day; former Speaker of the House of Representatives, and former State Senator, state of Washington; president, International Association of Chiropractors, Spokane.

Charles Kilbury; Chairman, Franklin County Democratic Central Committee; former Washington State representative, PASCO.

Senator Gordon Walgren; former State Senator and Majority Leader of the Senate, state of Washington, Bremerton.

John M. Fischer; former Washington State Representative, Edmonds.

Rita Cleary; chairman, Lewis County Democratic Central Committee, Centralia.

Lorraine Maris; Publisher, Forks Forum-Peninsula Herald, Forks.

Jim Schindler; Secretary-Treasurer, IBT Local #227, Seattle.

NEW JERSEY

Marshall Smith, District President, Paperworkers Union, Philadelphia and South Jersey.

Donald Kennedy, President, Mercer County Building Trades Council, N.J.

Al Wurf, President, New Jersey AFSCME.

Jim Gratten, President, Building Trades Council, Monmouth-Ocean Counties, N.J.

Howard J. Williams, PAC, United Food and Commercial Workers #56, Camden.

Edward McQuaid, Intl. Rep., UDCW #56, Camden, New Jersey.

ALABAMA

Barney Weeks, President, State AFL-CIO, Alabama.

Mr. Albright, President, Alabama State Building Trades Council.

ARKANSAS

Raymond Weeks, President, Little Rock Building Trades Council, Arkansas.

Joe Woodson, President, State Building Trades Council, Arkansas.

CALIFORNIA

Butch Gilmore, Business Agent, Laborers #506.

Ken Scott, Financial Secretary, Carpenters #25, Los Angeles.

Bill French, Financial Secretary, Carpenters #1052, Los Angeles.

Gordon Franco, Business Representative, Millmen #262, San Jose.

Gray Spallone, Business Manager, Carpet & Linoleum Workers #1288, San Jose, California.

K. L. Holmes, Business Representative, Millmen #1495.

Frank Kopachy, Secretary-Treasurer, Carpenters #1497, Los Angeles.

K. L. Holme, Business Representative, Millmen #1495.

Vince Aloise, IBT #315, Contra Costa, California.

Al Costa, IBT #853, Oakland, California.

Jim Woodbury, Hodcarriers #234, San Jose.

Jerry Payne, Laborers #371, Santa Rosa.

Bill Dorsey, Secretary, San Joaquin Building Trades, Stockton.

George Brown, Business Manager, Carpet and Linoleum Workers, San Francisco.

COLORADO

Charles Griffin, Director, District 3, United Rubber Workers, Denver.

KENTUCKY

Ray Crider, President, State AFL-CIO, COPE, Kentucky.

LOUISIANA

Nat LeCour, International Vice-President, AFT, New Orleans.

John Bourg, President, Baton Rouge Central Labor Council.

Johnny L. Hodges, President, Building Trades Council, Baton Rouge.

Mitchell LeDet, Secretary-Treasurer, Teamster Joint Council #93, New Orleans.

MARYLAND

Edward Hays, Chairman, Wicomico County Democratic Committee, Maryland.

Phil Reid, Democratic State Central Committee, Caroline County, Maryland.

John Wolfgang, Delegate, General Assembly District 28, Maryland.

James Agnew, State Chairman, American Agricultural Movement, Md.

Lee Ison, President, 23rd Dist. Democratic Club, Prince George's.

David A. Sweeny, Rockville, Maryland.

MINNESOTA

Richard Anderson, President, Minnesota Society of Professional Engineers.

Francis C. Lyon, Treasurer, USWA #2127, St. Paul, Minnesota.

MISSISSIPPI

Thomas Knight, Secretary Treasurer, State AFL-CIO, Mississippi.

Stanley Byrd, Secretary-Treasurer, Mississippi Gulf Coast Building Trades Council.

MISSOURI

John Weller, President, State AFL-CIO, COPE, Missouri.

MONTANA

Mitch Mihailovitch, President, State Building Trades Council, Montana.

NEW MEXICO

Neil Gonzalez, Executive Secretary, AFL-CIO of New Mexico.

NEW YORK

Frank Conklin, Vice President, Alexander & Alexander, New York.

Fernando Oliver, Executive Director, Small Business, Bronx Community College, New York City.

Rev. James Cokley, National Chaplain, Scottish Rite, 33rd Degree Mason.

Henry Kaltun, Area Representative, Human Resources Development Institute, AFL-CIO, New York, New York.

Michael J. Marino, Executive Board, Member, Phillips Regular Democratic Association, Queens, New York.

Richard Lowicki, President, Petroleum Trades Employees Union, ILA local 419, New York.

Jose Torres, President, Puerto Rican Civic Rights Assn., Immediate Past Senior National Vice President, LULAC, New York.

Bill Slattery, President, USWA # 12457, Syracuse, New York.

Stephen Bracken, President, IBEW # 854, Tonawanda, New York.

James Wallace, Chief Steward, Upstate Division, IBEW # 313, Albany.

Lou Gaeta, Business Manager, Laborers International Union # 20, New York City.

Pete Pavlisak, Business Manager, Laborers # 7, Binghamton.

George McDonald, Vice President, TWU # 100, New York City.

Dr. Benjamin Watkins, Mayor of Harlem, New York City.

OHIO

Amos Jackson, President, Laborers International Union #265, Cincinnati.

Robert Farrington, Executive Secretary, Building Trades Council, Columbus.

Charles Pinzone, Executive Secretary, Building Trades Council, Cleveland.

PENNSYLVANIA

Charles Adamese, Painters #997, Philadelphia.

Gerry Taylor, President, Paperworkers #35, Jenkintown.

Richard Knott, President, Paperworkers #326, Lebanon.

Robert Good, USWA #3733, Grievance Committee, Berks County.

George Dietrich, Legislative and Education Ctte., USWA 3733.

Louis Zohner, Legislative and Education Ctte., USWA 3733.

Norman Rickert, Legislative and Education Ctte., USWA 3733.

Eugene Deysher, Legislative and Education Ctte., USWA 3733.

Richard Steffy, Legislative and Education Ctte., USWA 3733.

Robert Meredith, Sr., Legis. and Education Ctte., USWA 3733.

Anthony LaScala, Legislative and Education Ctte., USWA 3733.

Raymond Lutz, Legislative and Education Ctte., USWA 3733.

Robert L. Lascamd, Jr., USWA 5655, Berks County.

Chris Weiner, USWA 5655, Berks County.

Richard Nelson, USWA #6996.

Donald Glass, Legislative & Education Committee, USWA 5655.

Blair J. Shingle, USWA 5996.

Joe Naser, USWA 5996.

William Straub, USWA #5996, Berks County.

Darlene Woll, USWA 5996, Berks County.

Art Baver, USWA 5996.

Robert Leindach, USWA 5996.

Joseph Tinari, USWA 5996, Berks County.

Gary E. Hagy, President, North Berks County Democratic Club.

USWA Local 2599, as a body, by Nicholas Kiak, President, Bethlehem, Pennsylvania.

PENNSYLVANIA

Loretta Hoffmann, Allied Democratic Clubs of Berks County, Pa.

Charlotte Eyrich, Allied Democratic Clubs of Berks County, Pa.

Catherine Willman, Allied Democratic Clubs of Berks County, Pa.

Charles Husson, Allied Democratic Clubs of Berks County, Pa.

Bernadette Gardecki, Allied Democratic Clubs of Berks County, Pa.

Naomi Moyer, Allied Democratic Clubs of Berks County, Pa.

John Gricoskie, Allied Democratic Clubs of Berks County, Pa.

Dorothy Korn, Allied Democratic Clubs of Berks County, Pa.

Ann E. Klopp, Allied Democratic Clubs of Berks County, Pa.

Richard and Stella Kramer, Allied Democratic Clubs of Berks County, Pa.

Emma McGowan, Allied Democratic Clubs of Berks County, Pa.

JoAnn Rahauser, Allied Democratic Clubs of Berks County, Pa.

TEXAS

Robert Banks, International vice president, Roofers, Houston.

WASHINGTON, D.C.

Juanita Kennedy Morgan, Exec. Secy., National Black Women's Political Caucus.

WASHINGTON

Dean Hendricks, Business Agent, Sheet Metal Workers No. 99, Bremerton, Washington.

WEST VIRGINIA

Allen Fisher, President, State Building Trades Council, West Virginia.

VIRGINIA

Chester Carter, Virginia Representative, American Agriculture Movement, Stony Creek, Virginia.

SOUTH CAROLINA

Ray Stepp, President, Western Carolina Central Labor Council and Financial Secretary, Tennessee-North and South Carolina Pipe Trades Council.

Harry Childs, Business Agent, Plumbers and Pipefitters #391, Greenville, S.C.

TENNESSEE

C. W. Russell, President, Nashville Building Trades Council.

John Riddle, Jr., Business Agent, IBEW Local #934, Blountville.

NEBRASKA

Earl Oliver, President, Omaha Building Trades Council.

(Organizational Affiliations for Identification Purposes Only).

NORTH CAROLINA

James Eades, Member, Executive Committee, Iredell Co. Young Democrats.

TO THE UNITED STATES SENATE

We, the undersigned, condemn the entrapment and harassment methods of Abscam. If a constitutional democracy is to continue to function in this country, these sorts of operations must be rooted out. In that light, we call on the United States Senate to conduct a real investigation of this sordid affair until such an investigation is concluded.

ALABAMA

O. G. Bradford, Business Agent, Aluminum, Brick and Clay Workers Union Local 200, Muscle Shoals, Alabama; President, Tri-Cities Labor Council, Alabama.

Henry Jenkins, International Vice President and Southern Regional Director, Retail, Wholesale and Department Store Workers Union, AFL-CIO, Birmingham, Alabama.

ALASKA

Eric Worthington, Vice President, International Brotherhood of Electrical Workers Local 1547, Anchorage, Alaska.

CALIFORNIA

Lee Kearney, Secretary-Treasurer, Intl. Brotherhood of Teamsters Local 952, California.

Al Green, Democratic State Central Committee, Stockton, California.

Executive Committee, Imperial County Democratic Party, California.

Walt Kallinen, Carpenters Local 25, Los Angeles, California.

Fred Taylor, Financial Secy., Carpenters Local 710, Long Beach.

COLORADO

Lou Florez, Business Representative, Intl. Union of Operating Engineers #1, Denver, Colorado.

ILLINOIS

Ron Thelin, President, Illinois State Conference of Plasterers and Cement Masons, Chicago, Illinois.

Dean Turner, Secretary, Illinois State Conference of Plasterers and Cement Masons, Troy, Illinois.

Mike Derrico, President, Chicago and Vicinity Council of Plasterers and Cement Masons.

Bill Coffey, Secretary-Treasurer, Laborers International Union Local 32, Rockford, Illinois.

INDIANA

Bill Eyre, Business Manager, Laborers International Union Local 204, Terre Haute, Indiana.

Howard Ludwig, Business Agent, Plasterers and Cement Masons Local 92, Anderson, Indiana; President, United East Central Indiana Building and Construction Trades Council.

Vince Panepinto, President, Northern Indiana Building and Construction Trades Council.

IOWA

Miguel Teran, State Chairman, League of United Latin American Citizens (LULAC), Iowa.

Don Lewis, Business Representative, Laborers Local 1140; Executive Board, Iowa State Building and Construction Trades Council, Council Bluffs, Iowa.

Earl McGrane, Former Chickashaw County Democratic Executive Committee, Ionia, Iowa.

MICHIGAN

Robert "Buddy" Battle III, Director, Region 1A, United Auto Workers, Detroit, Michigan.

Tom Turner, President, Metropolitan Detroit AFL-CIO.

NEW HAMPSHIRE

Ray Moran, President, Plumbers and Pipefitters Local 3, Manchester, New Hampshire.

NEW JERSEY

Hon. Francis J. McManimon, State Assemblyman, Mercer County, New Jersey.

Hon. Buddy Fortunato, State Assemblyman, Essex County, New Jersey.

Fred Stecher, President, Essex-West Hudson Central Labor Council, New Jersey.

NEW YORK

Jan Pecora, Alfred E. Smith Democratic Club, Democratic District Leader, 62nd Assembly District, Part A, New York City.

Charles Martelli, Secretary-Treasurer, Intl. Brotherhood of Teamsters Local 814, New York City.

Hon. George Begany, Mayor, Buchanan, New York.

Eugene Bennett, Secretary-Treasurer, Intl. Brotherhood of Teamsters Local 272, New York City.

J. R. McGovern, General Manager, Brotherhood of Railway Carmen, Local 886, New York City.

John Fratta, Democratic District Leader, District No. 62-B, New York, New York.

Warren Selvaggi, Business Manager, Intl. Brotherhood of Teamsters Local 20, Bronx, New York.

Jim DeRosa, Business Manager, Roofers Local 8, Brooklyn, New York.

George Babcock, President, Nassau and Suffolk Counties Building Trades Council; President, Suffolk County District Council of Carpenters.

Ken Mulheisen, American Federation of Grainmillers, Local 36, Buffalo, New York.

NEBRASKA

Diana Schimek, Chairwoman, Nebraska Democratic Party.

Arlie F. Heald, President, Lincoln Building Trades Council; President, Nebraska Conference of Electrical Workers; Executive Board, Nebraska AFL-CIO.

OHIO

Ed Devol, President, Crawford County Central Labor Council.

Miles Priest, President, Wayne Holmes Labor Council, Ohio.

William Kelly, President, Sandusky Labor Council, Ohio.

PENNSYLVANIA

Dmitri Sweekuk, President, Montgomery County Central Labor Council, Pennsylvania.

Guy Mahoney, President, Fayette County Central Labor Council.

John Bryan, President, Clinton County Central Labor Council.

Local 289, Bakery and Confectionery Workers, Reading, Pennsylvania, as a body.

Linsen Bigler, President, Bakery and Confectionery Workers 289, Reading, Pennsylvania.

Ronald Diehl, President, Westmoreland County Central Labor Council, Pennsylvania.

John Clinemeyer, President, Blair and Bedford Counties Central Labor Council, Pennsylvania.

Gary Duckett, President, District 4, United Food and Commercial Workers, Pennsylvania.

Jim Kenney, President, District 5, United Food and Commercial Workers, Pennsylvania.

SOUTH CAROLINA

Rev. Ralph W. Canby, President, Progressive Baptist Convention, Sumter, South Carolina.

TEXAS

Sandra Esparza, National Youth President, League of United Latin American Citizens, (LULAC), Houston, Texas.

WASHINGTON

Don Liddle, National President, Inland Boatman's Union of the Pacific, Seattle.

Brian Dougherty, Financial Secy. and Business Agent, Roofers and Waterproofers Local 54, Seattle.

Robert Kahl, Financial Secy. and Business Agent, Roofers and Waterproofers Local 54, Seattle.

John Battles, Port Agent, Sailors Union of the Pacific, Seattle.

Edgar W. Phipps, Business Agent, IBT Local 130, Seattle.

Marc Earls, President, Service Employees Intl. Union 6, Seattle.

Archie Swift, Business Agent, Intl. Brotherhood of Teamsters, 741, Seattle.

Lynn Larsen, Business Agent and Political Action Coordinator, Intl. Union of Operating Engineers, Local 286, Renton.

Herb Loedell, Business Manager, Washington and Idaho District Council of Laborers, Seattle.

Malcolm McCormick, Business Manager, Boilermakers Union Local 10, Seattle.

Thomas T. Soules, Executive Committee, International Association of Port Authorities; Former President, American Association of Port Authorities; Former Port Director of Boston and San Francisco, Seattle.

R. E. Johnson, Chairman, Reagan Campaign Committee, Benton County (Richland).

WYOMING

Wanda Hitchcock, Chairwoman, Wyoming Democratic State Central Committee.

MASSACHUSETTS

Jim Daley, President, Fitchburg Building Trades Council; Business Manager, Laborers International Union Local 39, Fitchburg.

Bob Vachon, Business Agent, International Brotherhood of Electrical Workers Local 256, Fitchburg.

Paul Madden, Business Manager, Plumbers and Pipefitters Local 12, Boston.

VERMONT

Robert Lancetoto, Chairman, Civil Rights Committee, United Steelworkers of America Local 5518, St. Johnsbury, Vermont.

CONNECTICUT

Anthony Inorio, Business Manager, Laborers International Union Local #455, New Haven, Connecticut.

James Clementi, President, Laborers International Union Local 455, New Haven, Connecticut.

Hon. William Riley Dyson, State Representative, 94th District; President, Connecticut Legislative Black Caucus, New Haven, Ct.

Frank Perrelli, President, New Haven Building Trades Council; President, Painters Local 186, New Haven.

John Landolfi, Business Agent, Plumbers and Steamfitters Local 349, New Haven, Connecticut.

James L. Acampora, Recording Secy., National Assn. of Letter Carriers, Br. #19, New Haven, Connecticut.

Mario F. Ferrara, National Association of Letter Carriers, Br. #19, New Haven, Connecticut.

Stephen Castracane, Business Agent, Bricklayers Local 6, New Haven, Connecticut.

Anthony Limisani, Business Agent, Carpenters Local #24, New Haven, Connecticut.

Richard Apozda, Organizer, Intl. Brotherhood of Electrical Workers, Local #90, New Haven, Connecticut.

KANSAS

Robert Tilton, Chairman, Kansas Democratic Central Committee, Topeka, Kansas.

Mr. WILLIAMS. And to us came a man that I knew of although I had never been in his church. I heard him as he preached to his audience through the medium of radio. He is a man who has not agreed with all of my, we will use the word, "liberal" approaches to some of the social and economic issues facing the country, but who has an abiding, deep conviction that what happened to me was wrong. Rev. Carl McIntyre lives with the messages of God each day. He has been following us and has talked to us. In the words of Proverbs, "It is an abomination for the kings to do wickedness, for the throne is created in righteousness." And from the Bible he has found messages from God directed to the evils that were created here.

He worked on a statement last night that was prompted by something that was said by the junior Senator from California, my dear friend, Senator

HAYAKAWA. Yesterday the esteemed Senator from California, Senator HAYAKAWA, brought us a quotation from the Lord's Prayer found in the Sermon on the Mount, Gospel of Matthew, chapter 6. It was, "Lead us not into temptation."

Mr. President, the time has come I believe for me to open up an important question that we are faced with today. It has not thus far been discussed or even so much as mentioned on the floor, but it has been very much in my heart and on my mind.

Maybe some of you in this institution saw the full page ad in the New York Times on February 25, which was endorsed by clergymen around our country. This ad raised the question of the place of the state under God and what He requires of the state. It was endorsed by ministers from many States. At that time, it said on its banner head, "Don't Expel Senator WILLIAMS."

We have talked about many things here. Especially have we discussed the very structure of our Government and the sacred division of the three branches and the responsibility we have to maintain this without fracture. But the concern which these clergymen have raised is a matter that is deep in the hearts and affections of people throughout our country. The text under the title of the ad is, "It is an abomination to kings to commit wickedness." And this, again, is taken from Proverbs, chapter 16, verse 12.

We are dealing here with an abomination on the part of the Government and these preachers have risen to let their voices be heard in this land on the issue in which we are involved at this very hour.

After coming now to the close of the debate, I would like to introduce for inclusion in the RECORD this ad that I have mentioned.

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

[From the New York Times, Feb. 25, 1982]

[An advertisement]

DON'T EXPEL SENATOR WILLIAMS!

BEWARE WHEN YOUR GOVERNMENT BECOMES A CRIMINAL AND SETS OUT TO MAKE OTHER CRIMINALS

"It is an abomination to kings to commit wickedness."—Proverbs 16: 12.

The United States Senate, March 3, 1982, will consider expelling Senator Harrison A. Williams of New Jersey who for 23 years has served as an honored member. February 16, Judge George C. Pratt, U.S. District Court, Uniondale, L.I., sentenced the Senator to three years in prison and $50,000 fine for his conviction in the ABSCAM entrapment.

Abscam, an action of the FBI of the Justice Department, in a premeditated sophisticated plot and conspiracy enticed the senator into a chamber of hidden cameras, offered him a bribe, told him lies, created a phantom sheik and various falsehoods to get him to commit a crime.

Proverbs 17:23: "A wicked man taketh a gift out of the bosom to pervert the ways of judgment." Abscam did this. For the government to undertake such criminal conduct presents to the American people the most serious challenge they have faced as a free people. The purpose of government is to protect its people, not to ensnare, deceive, and entrap them.

SOLOMON QUOTED

Again Solomon said, "He that deviseth to do evil shall be called a mischievous person." This characterizes Abscam. Again, "There shall be no reward to the evil man." The court is now rewarding Abscam for their evil deeds.

It is the duty of the government to apprehend and punish criminals in their own crime. But for the government to move into the area of creating criminals and generating crime places it under the severest condemnation of Almighty God. In this area there are the plain teachings of the Bible, which apply both in the Old and the New Testament. And the Confession of Faith in the Protestant churches describes the duty we know of the civil magistrate to do good.

"If a ruler hearken to lies, all his servants are wicked" (Proverbs 29:12) and, "Whoso causeth the righteous to go astray in an evil way, he shall fall himself into his own pit" (28: 10). This action of the government now involves the three branches under the Constitution. It was the executive that initiated the abomination. Abscam has taken its self-contrived evidence into the Federal Court—the judicial branch—where the judges are now divided on the whole operation. Now the legislative branch is confronted with a frightful decision. To have such evidence conceived in fraud and deception accepted in Federal Court as a basis of denying men their liberty and sending them to prison enters the realm where the most repressive of dictators have enticed, entrapped their opponents and had their judges dispose of them.

ROMANS CHAPTER 13

In the New Testament, Romans, chapter 12: 3, 4, the Apostle declares that "rulers are not a terror to good works, but to the evil." But when the rulers create the evil, they become the servants of Satan. The Apostle said that the state is "the minister of God to thee for good." He is a "minister of God, a revenger to execute wrath upon him that doeth evil." For the rulers to create evil and then execute their wrath leaves every citizen without security.

This whole development is aggravated by virtue of its direction against the representatives of the people. It is also further dignified and made more heinous when the FBI, which is supposed to deal with criminals, is the agent that created criminals. This in itself aggravates the evil. The American people are not paying their taxes to support the entrapment of their duly elected representatives.

The Westminister Confession of Faith in its chapter on the Civil Magistrates says: "God, the Supreme Lord and King of all the world, hath ordained civil magistrates to be under him over the people, for his own glory and the public good: and, to this end, hath armed them with the power of the sword, for the defense and encouragement of them that are good, and for the punishment of evil doers."

GENERAL SYNOD

The 45th General Synod of the Bible Presbyterian Church meeting in Cape May, N.J., October, 1981, unanimously adopted a lengthy statement saying: "To use the powers of government to expose criminals and evildoers who have initiated their own evil works is one thing which must be done for the protection of the life, liberty and good order, but to build a kingdom on ABSCAM principles and actions is to destroy decency, order, and instead, honor lying, tempting, stealing, fraud and wickedness itself."

The American Christian Action Council in its fall meeting in Annapolis, October 13, 1981, by resolution declared, "Abscam constitutes an action on the part of the United States government which uses the power of government in unlawful and sinful ways."

The American people have never given any authority to any branch of government to use any power to destroy our citizens.

The Justice Department even sought a favorable court and shifted jurisdiction to New York where the judge refused to admit certain evidence favorable to Williams.

Now a member of that jury has made an affidavit that he would not have voted to convict Williams if that evidence had been admitted.

ABSCAM REJECTED

Abscam and everything that it has produced should be rejected, and forever prohibited.

Who now would bring the FBI to justice for all the mischief of this conspiracy? Williams would never be before his fellow Senators except for this Abscam trickey.

The offense against our founding fathers with the enshrinement of these high ideals in our Constitution and, most of all, the repudiation of the standards of God Almighty for the people must not be permitted to stand. Abscam must go; the Senator must stand and be freed.

The entanglements are so deep that corruption by the government can seem to be an ingredient of justice. The crime of Abscam under God is overarching, and the whole structure of deceit should fall.

This crime is not just against Senator Williams. It is against every senator serving the American people and the people who elected them. There is not a senator who has ever sat in Congress who has not sought to help people who came to him with all manner of requests, favors which are innumerable. They involve visas, promotions, contracts, appointments, dinners, and constituents who in recent years have been getting large sums of money for civil rights groups, union organizations, colleges and universities, foreign governments and even churches. Can there then be a clear conscience on the part of the Senators who are now called upon to vindicate Abscam? To attempt to separate senatorial ethics from this conspiracy validates the conspiracy and in the truest sense of the words of Jesus Christ, this is a matter of heart and conscience before God in the soul of every Senator. May they search their memories. "He that is without sin among you, let him first cast a stone" (John 8: 7). Should not Senator Williams whom Abscam sought to fool, and disgrace, be offered every consideration and compassion? He is declaring with all his might that he is defending "truth and justice." All should do this.

SENATORS ON NOTICE

Each Senator is hereby placed on notice that the same thing could happen to him. For in the high realm where they move with their kindness, graciousness, friendliness, openness and their responsibility to help the people, their actions can be misjudged and their motives misconstrued. The benefit must always be given to such superiors as men who are serving their country rather than to an unsuspecting government conspiracy to create crime with which to injure the entire Senate. They do favors, even reciprocal and numerous actions which involve their re-election for the satisfaction of the people they serve.

In Watergate there was a break-in by the government to find some papers, a president had to resign. Now the Justice Department entraps men in high places to make them criminals and it goes scot-free and is even honored for this "abomination." The Justice Department has inverted its obligation to society.

Every judge in every court is accountable to God, who is the Supreme Judge of men and nations. God has said, "Righteousness exalteth a nation: but sin is a reproach to any people" (Proverbs 14: 34). How can a nation expect any reduction of crime when the highest administrators of justice scheme to corrupt their highest leaders?

PROPHET OF ISRAEL

The prophet of Israel, Hosea, reported the words of God against the "iniquity of Ephraim" and "wickedness of Samaria: for they commit falsehood . . . And they consider not in their hearts that I remember all their wickedness: now their own doings have beset them about; they are before my face. They make the king glad with their wickedness, and the princes with their lies" (Hosea 7: 1-3).

May the Senators not make Abscam glad. May there be no fear or hiding in the vote. "When the wicked rise, men hide themselves: but when they perish, the righteous increase" (Proverbs 28: 28).

Above the presiding Vice-President in the Senate chamber are the words carved in stone, "In God we trust."

"The righteous man wisely considereth the house of the wicked: but God overthroweth the wicked for their wickedness" (Proverbs 21: 12).

BIBLE TEXTS APPLICABLE TO ABSCAM

"Draw me not away with the wicked, and with the workers of iniquity, which speak peace to their neighbors, but mischief is in their hearts" (Psalm 28: 3).

"When the righteous are in authority, the people rejoice: but when the wicked beareth rule, the people mourn" (Proverbs 29: 2).

"They that forsake the law praise the wicked: but such as keep the law contend with them" (Proverbs 28: 4).

"A froward man soweth strife: and a whisper separateth chief friends. A violent man enticeth his neighbour, and leadeth him into the way that is not good. He shutteth his eyes to devise froward things: moving his lips he bringeth evil to pass" (Proverbs 16: 28-30).

"Shall the throne of iniquity have fellowship with thee, which frameth mischief by a law?" (Psalm 94: 20).

"An ungodly witness scorneth judgment: and the mouth of the wicked devoureth iniquity" (Proverbs 19: 28).

"A wise king scattereth the wicked, and bringeth the wheel over them" (Proverbs 20: 26).

"He that saith unto the wicked, Thou art righteous; him shall the people curse, nations shall abhor him: But to them that rebuke him shall be delight, and a good blessing shall come upon them" (Proverbs 24:24, 25).

"The prince that wanteth understanding is also a great oppressor: but he that hateth covetousness shall prolong his days" (Proverbs 28: 16).

"In the transgression of an evil man there is a snare: but the righteous doth sing and rejoice" (Proverbs 29: 6).

"Treasures of wickedness profit nothing: but righteousness delivereth from death" (Proverbs 10: 2).

"As a roaring lion, and a ranging bear; so is a wicked ruler over the poor people" (Proverbs 28: 15).

"When the wicked are multiplied, transgression increaseth: but the righteous shall see their fall" (Proverbs 29: 16).

"The wicked desireth the net of evil men: but the root of the righteous yieldeth fruit" (Proverbs 12:12).

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Mr. WILLIAMS. I know that it is felt by many that I am a sacrificial lamb for political purposes. I do not know. I describe myself differently—as a person driven, driven by a conscience that said it had to be done.

With all that has been said before I spoke, I recognize that there is an understanding, an awakening. There will be in the future, for all of the people of our 50 States, a promise that there will be a protection offered to them for their security and liberty.

My personal situation, let me say to you, my friends, I believe time, history and Almighty God will vindicate me and the principles for which I fight and have fought here in the Senate. And I will be vindicated before the people of our land.

I would like to include some other materials that I think for the historical record should illuminate the debate that has come to us and the activities, the actions, the parts of Abscam that deal with me, and so I ask unanimous consent.

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

REBUTTAL OF SENATOR HEFLIN'S CRITIQUE OF DR. SHUY'S LINGUISTIC ANALYSIS OF THE TAPES

Mr. Heflin's cursory review of Dr. Shuy's analysis errs in so many points that it is difficult to know where to begin. One can have great sympathy with Senator Heflin's problem, however, since he had so little time to think about the issue.

Senator Heflin asks, "if you do not accept that I was attempting to say 'I will get Government contracts,' then what was all that talk about the Secretary of State, etc." Had Senator Heflin been able to understand Dr. Shuy's report he could have seen that Dr. Shuy describes and makes a significant difference between bringing up a topic and responding to a question. Rules of conversational politeness require a person who is asked who he knows in the executive branch to respond to the question. This is exactly what I did.

ROLE OF LINGUIST

Senator Heflin observes that he does not think a linguist can change the actions that go to the heart of an issue. I agree. Dr. Shuy agrees also. His task was to analyze the tapes, not change them.

STOCKS

Senator Heflin also says that no linguist can refute the fact that I accepted shares of stock to Europe and brought them back. No linguist would want to do this, since the tapes which he analyzed did not contain such information.

LEGISLATION

Senator Heflin also says that no linguist can refute the words pertaining to permanent residency. "I give you my pledge I will do everything in my power to advance your permanency." There is no need to refute these words. Dr. Shuy's analysis points out that these words, when seen in the entire context from which Senator Heflin wrenches them, that the meaning of these words is to indicate to the sheik that I was willing to help the sheik put together the information necessary for the sheik to make the application necessary for such consideration. No linguist would refute a handshake, if one exists. But it is the linguist's job to analyze, from context, what the handshake really means, what it is a handshake for.

BOASTING

Senator Heflin suggests that if one is to believe Dr. Shuy's analysis of the tapes, that I am "conning" the sheik. Senator Heflin conveniently overlooks the reason for all these greetings in the first place: To obtain a loan for the proposed business venture. If every effort made by every business man to obtain a legitimate loan is considered "conning", then "conning" this is. I am certain that even Senator Heflin would not agree to this conclusion.

Senator Heflin points out there is, in these tapes, a great deal of talk and that the sheik was impressed. Senator Heflin's statement belies a failure in understanding of surreptitious taping done by the FBI. Whether or not the sheik was impressed, two things must be understood.

(1) The sheik was in on this. No matter what was said, the sheik's ability to be impressed is irrelevant. Even if he were impressed, it was fake.

(2) Even if the fake sheik were impressed in a fake situation, one must carefully observe who was making the statements that were impressing him.

LINGUISTIC METHODOLOGY

Senator Heflin raises the issue of facial expression. It is true, as Dr. Shuy himself observes, that facial expression is critical for complete analysis. This gets at the issue of ambiguity once again, where there is ambiguity, neither the prosecution nor the defense has access to all the information necessary. A linguist makes his analysis with whatever information the FBI provides. But this lack of the best possible information also works against Senator Heflin's analysis or counter-analysis as well, and makes his objection irrelevant.

Senator Heflin makes the accusation that Dr. Shuy's analysis contains unsupported conclusions and selective methodology—"playing up exculpatory statements while totally ignoring inculpatory ones." Senator Heflin criticizes Dr. Shuy's analysis for being about language rather than about conduct. An analysis of conduct or behavior would not be linguistic analysis but something else.

Why would Senator Heflin criticize a linguistic analysis for not being some other kind of analysis? Dr. Shuy's analysis did not "play up" the taking of stock certificates at the JFK Airport because there was no reason for a linguistic analysis to believe that there is anything illegal or unusual in accepting worthless stock certificates in a worthless corporation, especially since I was on my way to Europe, I had other things on my mind, I did not acknowledge receipt of the certificates and I did not thank the agents for the certificates. Since this 11 minute and 50 second meeting was audio taped, we must rely on the agents' own words about my non-verbal behavior. What did they say? "Be sure not to lose it, Pete." What can one infer about my attitude toward these certificates? That I was totally unimpressed.

Dr. Shuy's analysis does not note, as Senator Heflin would have it, that I "took something of value" simply because there is no evidence here that the stocks were of any value. Wouldn't a person who had received stock certificates ask something about their value? Request information about their nature? Say thank you? Mention their monetary value?

TOPIC INTRODUCTION

Senator Heflin argues that Dr. Shuy places undue emphasis on who introduces a topic. Yet it is the topics a person introduces which reveal his agenda. Senator Heflin stretches logic beyond tolerance when he misstates Dr. Shuy's position as, "Few topics: no guilt." This is not what the analysis shows. Senator Heflin has misstated the report entirely. Then Senator Heflin constructs a straw man, pseudo-analogy about Speaker A and Speaker B which presumably disproves Dr. Shuy's point.

What is particularly interesting is that Senator Heflin does not find an example of his position in the tapes themselves but, instead, is forced to construct one entirely out of his imagination. Then Senator Heflin attempts to discredit Dr. Shuy's careful linguistic analysis by attaching it to his own fictional caricature.

OUTSIDER

Senator Heflin also confuses the meaning of "outsider" at great lengths. He attempts to discredit Dr. Shuy's evidence from the tapes that I was an "outsider" to the events going on in the 50 tapes in which I did not participate. Senator Heflin cites as counter-evidence to Dr. Shuy's analysis, that I spoke knowingly about titanium. It is true that I had studied up on titanium and mining. But that is not what I was an outsider to. I was an "outsider" to the illegal schemes going on behind my back, not to a knowledge of titanium.

In fact, Senator Heflin's point works against his own position. The topic of titanium is one which I could talk about. It was perfectly legal, perfectly honest. Why not bring it up?

GOVERNMENT CONTRACTS

Senator Heflin admits that I did not introduce the topic of getting Government contracts but that I am accountable for my responses when the topic was raised. Dr. Shuy's report gives accounts to all of the charges made by the Ethics Committee in this area. My responses are, indeed, important. Senator Heflin argues that the fact that 60% of my responses are requests for information "neither excuses nor disproves one's willingness to engage in it." He says, "uninformed does not mean disinterested." Senator Heflin observes that Dr. Shuy "ignores questions which are textually incriminatory." He cites my question:

"How are we doing on owning (the plant)?" Yet Senator Heflin fails to show how such a question is even remotely incriminating. The whole purpose was to get a loan to own a plant. Nothing was happening. What is more natural than to ask "What is happening" to those who are insiders to that information?

To state that such a question is inculpatory is stretched to such an extent that Humpty Dumpty was undoubtedly right: "Words mean what you want them to mean: nothing more, nothing less."

The second presumably incriminatory question cited by Senator Heflin was: "We're selling out on our investment?" It is difficult to imagine why a request for clarification made by me, can be considered incriminating. This sentence is, essentially, "Do you mean to say that we are now planning to sell our investment before we even get it?"

CONTAMINATION

Senator Heflin likewise misunderstands the linguistic principle of contamination. It is not Dr. Shuy's position that it is the video tape evidence which produces such contamination, as Senator Heflin alleges. What listeners and viewers must be very careful about is being contaminated when watching it. Senator Heflin's misperception of Dr. Shuy's analysis is that the professor is against video tapes. Nothing could be further from the truth.

Senator Heflin notes that all the Senators have had the opportunity to view the tapes and transcripts have been provided. Transcripts, however, are unable to represent features of spoken language, such as (1) intonation (which carries anger, sarcasm, flippancy, disbelief, etc.) (2) pauses (different pause length carries different meaning) (3) overlap (people talking at the same time, an important indication of whether or not one person has even or could even hear the other person.)

Senator Heflin is unaware of the many kinds of contamination which these tapes contain. For example, the danger that the contamination of the agents repeating the words hidden and secret when I was saying blind trust and declare has to the listener, to the jury, to the Senate itself. Senator Heflin's argument that the analogy of the contamination principle is that it is limited to one event.

POOR TAPE QUALITY

Senator Heflin says that nowhere is it demonstrated other than by assertion that I was prejudiced by the poor tape quality. Again, the point is missed. The prejudice of poor quality tape, by Senator Heflin's own concession, is that the later viewer who, because he must view tapes of poor quality, cannot get a true picture of the meeting.

SELECTIVE TREATMENT

Senator Heflin makes much of Dr. Shuy's omission of my saying "I would work my arrangement, my situation, with Alex Feinberg," and "I'm not gonna be in this situation forever." Senator Heflin claims that this is incriminating yet fails to say how. It is not true, as Senator Heflin maintains, that a "clear incriminating inference can be drawn from this statement." Dr. Shuy did not address this issue because it is not a relevant issue to be addressed.

Senator Heflin also errs in claiming that Dr. Shuy's analysis omitted the Sheik's garbled effort to link the presumed (but wrongly presumed) agreement to sponsor legislation with achieving the loan. Senator Heflin is in error in saying that Dr. Shuy's analysis did not treat it. It did so, on pages 106–107. It was addressed again in his open letter to the Senators which was read on the Senate floor. This issue was also directly addressed by Senator Inouye on the floor yesterday afternoon. It was concluded both by the linguistic analysis and by Senator Inouye, that no link was made, no agreement to sponsor legislation was made by me, and, of course, I then did not agree to link sponsorship of the legislation with the loan. After the embarrassment of the bribe offer, I did what anyone of you would do. I rejected it. Then there is the telephone interruption. After the sheik returns, I retreat to a safe harbour as a topic of conversation—why I was there in the first place: (1) to get the loan, and (2) to discover what the favor was that I was going to be asked. Now I know this, so I repeat both of these topics. There can be no quid pro quo on these two topics since the agreement on the loan was made before the favor of legislation was even brought up (on page 350) while the passage which Senator Heflin says links these two topics is on page 356, six pages later.

LAX TOKEN AGREEMENTS

Senator Heflin takes issue with established linguistic knowledge that uh-huh does not signify agreement. He also prefers the transcript rendition of um-hum (phonetically in error, as the transcript often is) with the accurate uh-huh. He also cites my uh-huh to Weinberg's "we want to keep it a secret." Senator Heflin, or his aide, errs in reading the text at this point. Weinberg has made two consecutive statements: "We want to keep it a secret" is followed by second statement: "And nobody's going to buy unless they know who the other partner is." At this point, I said uh-huh. The recency principle, cited in Dr. Shuy's analysis, makes clear the fact. That when one speaker makes two or more statements, the other speaker's response is invariably to the last, or most recent, one. Senator Heflin, then is in error when he claims that I am responding to Weinberg's "we want to keep it a secret." All other reference which Senator Heflin makes to lax-token uh-huh responses are equally in error. Senator Heflin does not show evidence of knowledge of how English discourse works in such situations.

OMISSIONS IN SHUY ANALYSIS

Senator Heflin also errs in saying that Dr. Shuy omitted a significant agreement in the brief August 5 meeting at the airport. Careful analysis of P. 186, cited by Senator Heflin, will show that I am not agreeing that "blank stock certificates are the way to go." The text of the passage clearly shows not that I am agreeing to this. In fact the words cited by Senator Heflin do not even appear on this page. Senator Heflin believes the words say that I agreed to the blank certificates. Careful listening (or reading) of this passage shows that I am acknowledging what DeVito and Weinberg are telling me and not agreeing to the proposition that "blank certificates are the way to go."

HIDDEN INTEREST

Senator Heflin also falls into the contamination problem when he describes the October 7 meeting as one in which I am discussing a blind trust "to conceal my interest." Senator Heflin refers to my statement, "nobody knows nothing", by wrenching it from context and distorting my meaning, and creating an illusion of criminality. What I said was: "Now if its a blind trust er, uhh that's the way for my purpose. I, I will find a way to . . . make that kind and nobody knows nothing." (P. 337) It is perfectly clear to those who know about blind trusts that the person who "knows nothing" about what happens with the stock is the person who holds It. I may not have said this eloquently but there is no other meaning which makes any sense in the context in which the statement was made.

GOVERNMENT CONTRACTS

Senator Heflin observes that the June 28 meetings with the sheik is "replete with discrete and unmistakable references to Government contracts." Senator Heflin's statement carefully disguises the fact that there are a total of two discrete references to Government contracts (one by DeVito and the other by Errichetti). As for "unmistakable references, Senator Heflin is forced to infer any such references (including references to Government, Federal and other such terms wrenched from context).

A careful analysis of all such uses of these terms, when seen in their context, makes it abundantly clear, as Dr. Shuy's analysis shows, that there is no connection to the concept of Government contracts in any of these. It appears that Senator Heflin would have you believe that any reference to Government or Federal is an act of illegality.

Likewise even in the coaching tape just prior to this conversation, which I admitted to have heard in my testimony at trial, a total of two (2) mentions of Government contracts occur, both made by Weinberg. Weinberg also used the word contracts once.

COACHING

If it is unclear to Senator Heflin what Dr. Shuy's analysis concludes about coaching, let it be clear now. 28 coaching directions were made by Mel Weinberg. 27 of these directions were introduced by the agent and the agent provocateur. My five statements, which have sometimes been taken to indicate boasting, are all responses to questions asked me. This is an important distinction. None of the scripted coaching statements were uttered by me.

Senator Heflin argues that Dr. Shuy does not successfully demonstrate that absence of topic introduction equates with innocence. It was never intended to. Discourse analysis does not have as its purpose to declare innocence or guilt. It is simply a descriptive, analytical tool to aid in determining exactly what the agenda of the speaker is. The topics a person introduces in a conversation are the clearest indications of what they want to talk about, their agendas. Such topics are the clearest indications of a person's intentions. Senator Heflin's objection that Dr. Shuy's analysis shifts in interpretation (once, for example, I introduce 26 of the 72 topics—in the September 11 tape) from an "outsider's" and "uninformed" is inherently illogical.

Dr. Shuy clearly points out that 60 percent of the topics introduced by me were requests for information about what I did not know. This fact is entirely consistent with my role as an "outsider" and not, as Senator Heflin suggests, a change in interpretation.

RESPONSE ANALYSIS

Senator Heflin asserts that Dr. Shuy's analysis of my responses is inaccurate. Senator Heflin, or his assistant who claims linguistic ability but who is not even a member of the Linguistic Society of America and is an unknown name among linguists, pretends to have expertise in an area in which he has none. Senator Heflin's or his assistant's opinions on what my topics really are, are naive, in error and self-serving in every case.

SUMMARY

Senator Heflin attacks the linguistic analysis of Dr. Shuy as an invalid intellectual exercise. The one person on the Senate floor who is academically qualified to make such a judgment is Senator Hayakawa. Senator Hayakawa said on this very Senate floor, after the reading Dr. Shuy's summary letter to the Senators, that he was impressed with the analysis and that he thought it was exhaustive, and accurate and correct.

Senator Heflin complains that Dr. Shuy's analysis is to "micro" and not "macro" enough. In this he demonstrates a lack of ability to distinguish between "micro" and "macro" analysis. Topic analysis and response analysis are "macro" analyses. They deal with the larger context. Dr. Shuy's analysis was "micro" on the major points which were raised in the court trial and in the report of the Senate Ethics Committee.

Senator Heflin's opinions about Dr. Shuy's linguistic analysis of these tapes lacks credibility and authority. Senator Heflin bends and warps my statements by insisting, without evidence and without the support of the context in which the words were uttered, that they mean something different from what they say. Such opinions are wrong. They are dangerous to the future of all of us. They bespeak, very clearly, the danger that it is already 1984, that thought control is already with us. That people can be found guilty when their intentions and actions speak clearly that they are innocent. I argue that our country cannot afford to let this happen. Dr. Shuy's analysis of these conversations is a new approach to determining the truth of what video and audio tape evidence can reveal.

January 6, 1981.

Subject: Abscam—Production of Supplemental Information to Defense Counsel.

To: Philip B. Heymann, Assistant Attorney General, Criminal Division.

From: Irvin B. Nathan, Deputy Assistant Attorney General, Criminal Division.

Within the last two weeks, two Assistant United States Attorneys in New Jersey, Edward Plaza and Robert Weir, have reported their recollections of certain statements that were made approximately a year and one-half ago by government officials and FBI undercover operations, Plaza and Weir claim that these statements would be considered inconsistent with testimony given in pre-trial proceedings in Philadelphia and in the Myers trial in Brooklyn. The statements relate to Mel Weinberg, with whom Plaza and Weir have had a longstanding antagonistic relationship.

Plaza and Weir are the two Assistants, who along with their then superior USA Robert Del Tufo, complained bitterly in the early summer of 1979 that they were not assuming a greater role in the Abscam operation. At that time they argued repeatedly that the past successes of USA's Lacey, Stern, and Goldstein in their district required that their office take over major parts of this public corruption investigation; otherwise, they argued, the public would see the investigation as a vote of no confidence by the Department in the New Jersey office. Efforts to accommodate their concerns proved unworkable, in large part because of strong personality conflicts between Plaza and Weir, on the one hand, and John Good, Tony Amoroso, and Mel Weinberg on the other. Weinberg, in particular, was suspicious of the motivations of the New Jersey prosecutors. We, of course, have no evidence of any basis for these suspicions. However, Weinberg's subjective belief did color his relationship with representatives of the New Jersey office.

In December 1979 Plaza was the principal author of the so-called Del Tufo memorandum. The memorandum severely criticized certain of Weinberg's actions in connection with the Senator Harrison Williams investigation, and it reproached the FBI's Long Island office for its purported lack of control over Weinberg. The Del Tufo memorandum was produced in camera for several of the judges who presided over Abscam cases.

Plaza and Weir were also the Assistants to whom in the fall of 1979 primary responsibility was assigned for preparing the matters involving New Jersey Commissioner Kenneth McDonald and New Jersey State Senator Joseph Maressa so that a decision on whether to charge either could be reached. By June 1980, it was apparent that very little, if any, work had been done on those cases. It was therefore decided to take the cases away from Plaza and Weir and to assign them to two attorneys in the Department's Public Integrity Section. Of course, these attorneys have continued to report all of their activities to the current United States Attorney, William Robertson. The decision to reassign was not made because of Plaza and Weir's past criticisms, but because of their apparent inability to move the cases. Plaza and Weir have attributed their inability to move the cases to the unwillingness of Weinberg and the FBI to assist them.

Notwithstanding this background, we must consider Plaza and Weir's latest allegations fully on the merits.

TAPES AND REPORTS

Plaza and Weir say that the government should turn over to defendants' counsel six tape recordings and two FBI 302 reports. They state that the conduct exhibited by Weinberg in these materials is relevant to various defenses that the defendants have raised. A list of these items is attached as an appendix to this memorandum. Three of the six tapes record Mayor Errichetti; they were provided to his counsel last August in advance of the Myers trial. As a result of a ruling by Judge Pratt, these three tapes were also made available to the other defendants' counsel in that case. Counsel can use the tapes in the upcoming due process hearing, which is scheduled to begin at the completion of the Lederer trial.

The remaining three tapes were made in early March 1979 and do not record anyone indicted in the Abscam cases. The Brooklyn Strike Force has reviewed these tapes again, in light of the Plaza and Weir assertions. The tapes relate primarily to allegations against Senator Williams that are not part of the indictment in his case, and I am informed that they contain nothing remotely exculpatory. However, in an excess of caution, I recommend that these three tapes be provided to Senator Williams' counsel and to counsel for the other defendants in the Williams case. The tapes do not relate to any other proceeding, and I therefore see no basis for producing them to other counsel. I am also informed by the Brooklyn Strike Force that the two 302 reports also do not contain exculpatory material, and that the substance of them has already been made known to defense counsel in the Williams case. They should be treated like all other 302's: not producible, except as 3500 material when the author has or is about to testify.

CONVERSATIONS

The conversations which Plaza and Weir recall relate to three subjects: (1) meetings at which comments were made to the undercover operatives regarding their conduct; (2) meetings at which the monetary compensation of informant Weinberg was considered; and (3) meetings at which gifts allegedly received by Weinberg from Abscam targets were discussed. In many instances, the recollections of Plaza and Weir concerning these conversations are not the same as those of other participants. Following receipt of the substance of Plaza and Weir's recollections, Tom Puccio debriefed all of those allegedly quoted by Plaza and Weir. All of the contrary recollections reported in this memo are the result of Puccio's debriefing and report to me. While these matters are clearly peripheral to any of the critical matters in the Abscam litigation, I recommend, again out of an abundance of caution, that at the earliest opportunity the substance of the differing recollections of the participants be provided to defense counsel in all of the Abscam cases.

A. Discussions with undercover operatives:

I am informed by Puccio that on August 9, 1979, government lawyers and undercover operatives met at the suburban Atlantic City home of Lawrence Schneider, Special Agent-in-Charge of the FBI's Atlantic City office. At the meeting were: Plaza, Weir, Amoroso, Special Agent Ernie Haridopolous, Special Agent Martin Houlihan, Special Agent Bruce Bradley, Special Agent Schneider and Weinberg. The group discussed, among other things, Weinberg's conduct during his June 28, 1979 meeting with Senator Williams.

1. It is undisputed that at the meeting Weinberg defended his conduct as necessary to the success of the investigation. Plaza and Weir suggest that Weinberg said something to the effect that unless he put words in other peoples' mouths, the government would have no case. Weinberg and others present deny this. They say that Weinberg said that he knew how to talk to people, that he knew how to draw them out, and that his knowledge was essential to the investigation.

2. Plaza and Weir recall that Weinberg, Amoroso and Haridopolous stated that in their view it was unwise to tape-record preliminary conversations, such as that between Weinberg and Senator Williams. Weinberg, Amoroso, Haridopolous deny that they made this statement. Special Agent Schneider, a long-time friend of Plaza, says that he does not recall Weinberg, Amoroso and Haridopolous making such a statement. However, he does recall that in jest he (Schneider) told Plaza that if Plaza did not like the tapes, there was a proper solution: "We can simply stop tape recording." All present do remember Plaza and Weir recommending that, if possible, the operatives should tape every conversation. All present also recall that Plaza told Weinberg and Amoroso that any conversations that were not recorded should be documented in 302 reports. Plaza and Weir recall that Amoroso said that he would attempt to do so, but that he noted that the press of many meetings made this difficult.

3. Plaza and Weir recall Weinberg, Amoroso, and Haridopolous saying that they had taped the Weinberg-Williams meeting on the instruction of Strike Force Attorney Lawrence Sharf. They also recall that the three said that Sharf had instructed Weinberg as to what he should tell Senator Williams on that occasion. Weir and Plaza further recall that at a later date Tom Puccio denied that Sharf had given directions as to what Weinberg should say at the meeting. Weinberg, Amoroso, and Haridopolous deny ever stating that Sharf had instructed Weinberg on what to say at the Williams meeting. In defending his conduct at the meeting with Williams, Weinberg undoubtedly related to Plaza and Weir that he had consulted with Sharf. But most importantly, Sharf, Good, Amoroso and Weinberg all emphatically deny that Sharf ever told Weinberg what to say at the Williams meetings; they also deny that Sharf gave any special instructions to tape the meeting. They claim that the meeting was taped in accordance with usual procedures and that Sharf and confirmed prior to the meeting that it would be taped. Sharf and fellow Strike Force lawyer John Jacobs further recall at some later date cautioning Weinberg and Amoroso against the kind of conversation had with Senator Williams on the 28th.

4. Plaza and Weir recall that on October 4, 1979, at a meeting with agents in Newark, New Jersey, John Good told Plaza that his remarks to Weinberg were "jeopardizing" the investigation. Good confirms that he made such a statement because Plaza's constant abrasive and personally abusive remarks were impeding Weinberg's ability to function effectively.

5. Plaza and Weir recall that during the fall of 1979, they told Weinberg on a number of occasions that he should refrain from repeating conduct such as occurred at the Williams meeting. Even if these statements were made, I am informed that Weinberg would not have considered Plaza and Weir his supervisors with authority to instruct him on how to carry out his work for the FBI.

B. Weinberg's compensation

1. Plaza and Weir recall that at a meeting on May 14, 1980, in the Department of Justice in Washington, Agent John Good said that Weinberg had been paid $15,000 for his work in the McDonald-Errichetti case. They also recall that Good said that Weinberg would be paid a lump sum at the end of Abscam, contingent upon the success of the prosecution. Good recalls saying that he told Weinberg that at the end of all of the cases he (Good) would make a recommendation for a final bonus payment; that the bonus would be based on a variety of factors; but that he could not promise Weinberg either a specific amount or that the Bureau would authorize a bonus. Weinberg has testified publicly concerning his expectations of a bonus. As to the $15,000 payment, while Good may have made the statement attributed to him, FBI records indicate that the payment was made for several reasons, including Weinberg's work in the McDonald-Errichetti case, the substantial risks he had undertaken in unrelated organized crime investigations, and the recovery of large amounts of property, including stolen certificates of deposit and similar items.

2. Weir recalls that at a May 29, 1980, meeting at the Department of Justice, I stated that Weinberg would receive a lump sum payment for his Abscam work. Weir recalls my saying that the payment would be based upon the number and the status of indicted officials and would not be conditioned upon the success of the prosecution. Because the Criminal Division does not control the method or amount that the FBI pays its operatives, I never stated what the Bureau would do with regard to Weinberg's compensation. I do recall making known my recommendation that Weinberg's total compensation should be determined prior to the commencement of any of the Abscam trials. I never indicated to the Bureau what criteria should be used in determining Weinberg's compensation.

C. Alleged gifts to Weinberg

Plaza and Weir's assertions about alleged gifts to Weinberg by Abscam targets come from three sources: George Katz, a defendant in the Williams case; Joseph DiLorenzo, Errichetti's nephew and a witness for the defense in the Myers case; and Martin F. McKernan, the Camden City Attorney who works for Mayor Errichetti. Because these individuals are either defendants or closely allied with defendants, it is difficult to understand how the information that these individuals possess imposes any reporting obligation on the government. Nevertheless, I set out below what they allege that government officials said in response to this information.

1. Plaza and Weir say that in a June 10, 1980 interview, DiLorenzo told them that he gave Weinberg the following gifts: a videotape recorder ($900), a stereo ($1200), a microwave oven, and three color television sets. DiLorenzo said that Errichetti told him that these gifts were for the sheik. DiLorenzo also stated that on April 1, 1979, he and Errichetti delivered an attache case to Weinberg at a rest area on a Long Island expressway. Apparently these statements are consistent with DiLorenzo's testimony on behalf of Errichetti at the Myers trial.

2. At Weir and Plaza's direction, Special Agent Houlihan corroborated that DiLorenzo had purchased the appliances on the dates and at the locations that he had specified.

3. Camden City Attorney Martin F. McKernan told Houlihan that he had written a letter for Errichetti to be included with the gifts to the sheik.

4. At a June 12, 1980, meeting at the Justice Department, Weir recalls reporting DiLorenzo's statement. Weir recalls that Puccio said in response that he knew that Weinberg had received a microwave oven and that he would have the oven removed from Weinberg's home. Puccio denies making that statement. Puccio recalls that at some point he indicated his awareness that Weinberg had a microwave oven in his home and that he requested an inquiry into the circumstances of Weinberg's acquisition of the oven. Puccio reports that he subsequently learned that Weinberg purchased the microwave from J.C. Penney's and that Weinberg had a payment book showing his installment payments for the oven.

5. Weir recalls that at a meeting subsequent to June 12, 1980, I said that Weinberg had produced a receipt evidencing his purchase of the microwave oven. I recall no such conversation. I have never seen, nor reported on, any documentation regarding any property purchased by Weinberg or allegedly given him by Abscam targets. Weir may be confusing Puccio and me on this matter.

6. Weir and Plaza also report that in a May 20, 1980, interview Anthony Torcascio, a proposed casino manager for the Atlantic City Penthouse Hotel and Casino, told FBI agents that Weinberg had asked him for a remote controlled television set and for gold watches for the sheik. Torcascio refused to provide such gifts.

CONCLUSION

As stated earlier, it is not immediately apparent that Plaza and Weir's recollections have any significance for Abscam defense counsel. However, Plaza and Weir obviously believe that their recollections are of significance, or they would not have brought them to our attention. In order to prevent future claims that we withheld from defense counsel even remotely pertinent information, I recommend that we provide the substance of this memorandum to all defense counsel.

Mr. WILLIAMS. I would say that my wife, almost daily, refers me to St. Paul's letter to Timothy and his description of his fight. My wife has described it in terms of a description of "our fight."

"I have fought a good fight, I have finished my course, I have kept the faith."

So it is with sorrow I leave friends here in the Senate that I have enjoyed so much. But we know I go out in good health and good spirit and do not leave the friends that I have here who meant so much to me.

I have given the best I had to the U.S. Senate. I leave with sorrow, yes, but resolve, too, to be with you, with all of you, as we continue our mission, public or private, to strengthen this land of ours and make it better—make it better for the people that we are elected to serve.

I thank the Senate as I announce my intention to resign. I have made that decision. I leave in good spirit, good heart, and strong resolve to continue the things that I believe in and feel deeply about, worked all my life with, and enjoy. I feel no stain. I have been strengthened. I thank you, all of you.

The VICE PRESIDENT. The majority leader is recognized.

Mr. BAKER. Mr. President, we have witnessed a very courageous act by a man who has lived through a difficult time. It would not serve a good purpose for me to elaborate now on my feelings on this subject, my sympathy for Senator WILLIAMS and his family, nor to go beyond these simple remarks.

We wish you well.

I wish to express my appreciation to the distinguished chairman of the Ethics Committee and the equally distinguished vice chairman of the committee, to every member of the Ethics Committee, and, indeed, every Member of the Senate, for undertaking something personally difficult, institutionally difficult, and ultimately difficult, which has now culminated in the statement of intention by the Senator from New Jersey.

Mr. President, I believe Senators on both sides of the aisle have conducted themselves with honor and with dignity, as has the Senator from New Jersey.

Mr. President, I yield to the distinguished minority leader.

Mr. ROBERT C. BYRD. Mr. President, for months we have known that this moment was coming. We have watched with compassion, with hope, disappointment, and finally sorrow, as Senator WILLIAMS wrestled to free himself from his dilemma.

As we watched the Abscam trials, as we reviewed the evidence, as we listened to the arguments offered here over several days, we knew that we were not a dispassionate audience. By oath of duty and constitutional responsibility, we are charged with protecting and preserving the Senate's reputation and its character from defamation and disrepute.

None of us was elected to this body because he or she is an angel or a saint. It is incumbent upon each of us, upon whom has been imposed the highest public trust, to strive to the utmost to be faithful to that public trust. We must set the example of a higher standard than that which is required of the average citizen. To do more would require us to be angels. To do less would be unfaithful to the trust. It would erode the confidence of the American people and our Constitution.

The Roman Empire fell largely because the citizens of Rome lost faith in the Roman Senate. The citizens of Rome lost faith in the Roman Senate largely because they lost faith in the men who bore the title of Senator.

After years of cynicism, after Watergate, after rumors and whispers of wrongdoing in high places, the American people have been watching intently to see how we would deal with the charges of misconduct in our own midst.

Frankly, some of our fellow citizens scoffed that we demand of others a pound of flesh but punish ourselves only with the stroke of a feather duster.

During these past several days the Senate has been on trial in a tragedy that has no heroes. Certainly, the Justice Department can claim no heroics in plotting the events that would not have occurred without the Justice Department's and the FBI's creation. Nevertheless, as reprehensible as the FBI's conduct and the Justice Department's conduct appears to have been, the fact remains that the Senate, fulfilling its responsibilities under the Constitution, was rapidly coming to what, in my judgment, was to be the most severe punishment set forth under the Constitution.

By any objective standard, HARRISON WILLIAMS has made contributions to my work as the leader of the majority and as the leader of the minority. He has made contributions to the work of his other colleagues, to the Senate, to New Jersey, and to the United States that are worthy of the appreciation of all.

Yet, the Senate was fast coming to that inevitable decision. The decision that Senator WILLIAMS has reached is the right decision. Sorrowful though it is, he has chosen to take a course that we all respect.

This is a sad moment for the Senate, for his friends, for his wife Jeanette, for his colleagues, and, most of all, for PETE WILLIAMS.

These days have been trying days for all Members, and again, most of all, for PETE WILLIAMS, but not least of all for those six members of the Ethics Committee who have, for so many months, shown a special dedication and faithfulness to duty which is incumbent upon all who serve this body.

I commend them. I commend the distinguished majority leader (Mr. BAKER), and I commend the very distinguished Senator from Hawaii (Mr. INOUYE).

As my colleague PETE WILLIAMS prepares to depart from the Senate today, I want to say to him that the future is not without hope. Sometimes the ways of providence are inscrutable. He, referring to scriptural passages, has touched us all. One day we should be able to see and know what today we can only behold. If there is a wideness in God's mercy like the wideness of the sea, then we shall discover the heart of the Eternal is wonderfully kind and understanding and forgiving.

The VICE PRESIDENT. The majority leader.

Mr. BAKER. Mr. President, I yield to the Senator from Hawaii.

Mr. INOUYE. Mr. President, I send a communication to you as President of the Senate.

The VICE PRESIDENT. The Chair has examined the communication from the Senator from New Jersey. It appears to be a letter of resignation. The clerk will read the letter and have it entered into the Journal.

The legislative clerk read as follows:

U.S. SENATE,
Washington, D.C., March 11, 1982.

Hon. GEORGE H. W. BUSH,
President of the Senate,
U.S. Capitol, Washington, D.C.

MY DEAR MR. PRESIDENT: I herewith tender my resignation as a Member of the United States Senate from New Jersey, to become effective at the close of business on Thursday, March 11, 1982, and request that the Governor of New Jersey be so notified.

Respectfully yours,
HARRISON A. WILLIAMS, Jr.,
U.S. Senator.

The VICE PRESIDENT. The letter will lie upon the table and the Governor of New Jersey will, accordingly, be notified.

The majority leader is recognized.

Mr. BAKER. I thank the Chair.

Mr. President, I yield now to the distinguished chairman of the Committee on Ethics.

Mr. WALLOP. Mr. President, I thank the majority leader and the Senate. With the resignation of Senator WILLIAMS on the floor of the Senate this afternoon, there is neither victory nor defeat. This afternoon, the Senate has passed through yet another of the innumerable gates of history. It passed through with compassion, courage, and a sense of honor.

Nothing any Senator can now say will increase the Senate's outrage nor decrease its anguish. We have dealt as only we are entitled to deal with the standards of service in this body.

We have witnessed through the debate, personal courage, putting our honor above friendship, our institution above politics.

No one sought the role of defender of our reputation, or accuser of Senator WILLIAMS, but the Senate collectively has risen to the demand thrust upon it. There is no doubt what the Senate was prepared to do. There is no doubt that it would have done it.

It behooves us now to get back to the inexhaustible interests of the public we serve, secure that its thrust in us and our institutional integrity have been served with honor and courage.

I thank the majority leader.

The VICE PRESIDENT. The majority leader is recognized.

Mr. BAKER. Mr. President, I should like to yield the floor in the anticipation that the minority leader may seek recognition in order to yield to the distinguished vice chairman.

I yield the floor.

Mr. ROBERT C. BYRD. Mr. President, I yield to the distinguished Senator from Alabama (Mr. HEFLIN).

Mr. HEFLIN. Mr. President, I thank the Senator.

Mr. President, as we all know, by the act of resignation, Senator WILLIAMS has spared us a painful and distasteful vote; not, however, before requiring that in this proceeding we engage in lengthy—and sometimes painful and distasteful—debate.

There may be those who say, "Why didn't PETE WILLIAMS resign earlier, and spare the Senate 5 days of debate and countless hours of study, which could have been better devoted to more constructive matters"? To those critics, I would respond in two ways:

First, Senator WILLIAMS' decision to resign was for him alone to make, at a time of his choosing, and for reasons of his choosing. I can imagine no decision more excruciatingly painful, more agonizing, more emotionally wrenching, especially in light of his love for this institution, a love nurtured over the course of 23 years. Moreover, I genuinely think, as I said when we began last Wednesday, that Senator WILLIAMS believes he has been wronged, been victimized by the Government, and has fought long and hard for what he believes in. For that fight, based on conviction, I believe he deserves our respect, irrespective of what we may think about his conduct on tape in this sordid matter called Abscam.

Second, I also truly believe this institution and the American people are stronger because we have had this debate. As a boy, my Methodist minister father taught me that strength comes from adversity, from challenge, from being put to the test. This is true of individuals, and it is true of institutions.

So I believe that we are all the stronger, that by discussing and debating standards of ethical conduct, do's and don'ts, rights and wrongs, constitutional obligations, and procedural due process, we as Members of the Senate, and we as the American people, are the beneficiaries of this process.

To you, Senator WILLIAMS, may our good Lord bless and keep you.

Mr. WILLIAMS. Thank you.

RECESS UNTIL 3:00 P.M.

The VICE PRESIDENT. The majority leader is recognized.

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate now stand in recess until the hour of 3 p.m.

There being no objection, the Senate, at 2:16 p.m., recessed until 3 p.m.; whereupon, the Senate reconvened when called to order by the presiding officer (Mr. GORTON).

ORDER TO INDEFINITELY POSTPONE S. RES. 204

The PRESIDING OFFICER. The majority leader is recognized.

Mr. BAKER. Mr. President, I ask unanimous consent that Senate Resolution 204 be indefinitely postponed.

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

Mr. BAKER. Now, Mr. President, I yield to the distinguished chairman of the Ethics Committee, the Senator from Wyoming.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. WALLOP. Mr. President, I thank the majority leader. I will take but a few minutes of the Senate's time.

I wish to state, in closing the debate on Senate Resolution 204, there was no victory and no defeat. I reaffirm that. I must take a moment to pay my utmost respects to the following members of the staff of the Select Committee on Ethics and the Office of Special Counsel, Mr. Bennett, without whose diligence, discretion, concern, assistance, and counsel the efforts of our committee would have been more difficult, more painful, and more time consuming than they already were.

They labored, each of them, without regard to hours spent or personal time passed by.

From the Office of the Special Counsel: Robert Bennett, Alan Kriegel, David Schlitz, Judy Hubbard, and Lynn Shamp.

From the Office of the Select Committee: Brack Valentine, Bonnie Parker, Donald Sanders, Paul Colborn, John Saxon, Margaret Blackston, Susan Krakower, Emily Williams, Wilson Abney, William Canfield, Clendon Lee, Mary Hudon, Mary Lucke, Annette Gillis, Anne Miskovsky, Marie Mullis, Eileen Oberman, and Lindsay Hooper.

In particular, Mr. President, I wish to pay tribute to Robert Bennett, special counsel of the committee. When we hired him, as we knew we must, the vice chairman and I laid a very strong charge on him. We did not want somebody making a reputation at the expense of the Senate. We did not want somebody who had another agenda but the one we sought to assign him. We wanted somebody who would promise devotion to the task, discretion with the press, a sense of fairness to Senator WILLIAMS and whatever counsel he may have had, and his total effort to seek justice and truth.

Mr. President, Mr. Bennett kept that promise. On behalf of the Senate and the committee, I thank him.

To the vice chairman, Senator HEFLIN, to Senators EAGLETON, PRYOR, HELMS, and MATTINGLY: I salute you all for hours of intellectual and emotional attendance to the issue we faced. The Senate owes each of you a debt of gratitude for your courage and your ability to withstand anguish and pressure from within and without.

It was obvious to those who witnessed this debate on the floor how much of a struggle it was to each member of that committee to fulfill his obligations to the Senate and his obligations to a friend and colleague, Senator WILLIAMS.

To Senator INOUYE goes my deep respect for a job well done.

You picked up the obligation of the Senate to provide our own with no less privilege of the right to counsel than all Americans possess, and you did it well and with eloquence. The task was accomplished and the Senate has witnessed justice done with fairness because of your commitment.

Mr. President, no victors, no vanquished, but the Senate stands proud, and it should, in its own eyes and in the eyes of the public in dealing with the trust thrust upon it by the Constitution, a trust which could not and ought not to have been passed to any other entity.

Nobody has enjoyed it, nobody sought it, but they confronted it. They confronted it and came out, perhaps, if there was a winner in all of this, a winner as an institution because the Senate measured up to what the American public ought to expect.

Mr. President, I yield the floor.

Mr. HEFLIN. Mr. President, my colleagues, I want, before closing this chapter in Senate history, to praise a man who I have come to respect deeply as a man of conviction, fairness, intelligence, and professionalism. That man is MALCOLM WALLOP.

As you all know, this matter is extremely complicated, with many complex factual, legal, and constitutional issues. Senator WALLOP, as many of you may also know, is not a lawyer. While we have joked about this—my colleague from Wyoming views it as an advantage—I must say I have been impressed with his ability over the period of 2 years to digest, analyze, and interpret the mass of evidence and myriad of issues.

I have already praised his handling of this matter in a nonpartisan and fair way. I must simply state at this juncture that he has demonstrated remarkable mental agility and a capacity for hard work, in a thankless task as our chairman.

Most importantly, he has—as much as anyone on the committee and, I dare say, as much as anyone in this body—championed the notion of a higher standard of conduct.

While we sit on different sides of the aisle, while we do not agree on all issues, and, in fact, while we have, at times, disagreed on questions which have arisen in the current matter, I must sincerely say that I have only the deepest respect and affection for my distinguished colleague and chairman.

Mr. President, a respected former Member of this body, John F. Kennedy, wrote a Pulitzer prize-winning book entitled "Profiles in Courage." Were the late President in this Chamber yesterday, I believe he would have concluded, as did I, that we witnessed a remarkable profile in courage not seen in this Chamber in many years. I am referring to my distingushed colleague, the junior Senator from New Jersey, BILL BRADLEY.

Senator BRADLEY and I are both members of the same class, that of 1979. In the 3 short years we have served together, I daresay he has become the most active, the most studious, the most respected member of that class, especially in his work on the Finance Committee. He has played a key legislative role which belies his freshman status. So, separate and apart from the Williams matter, I have nothing but the highest regard for him.

His courageous and statesman-like conduct in consideration of Senate Resolution 204, however, is a story which has not been told. Many months ago, I told Senator BRADLEY that there were ample precedents for recusal in such disciplinary matters. For example, when charges were made in the press—which later proved untrue—about my colleague from Alabama, Senator Stewart, I recused myself from consideration in Ethics Committee deliberations. Likewise, in a similar instance, Senator HELMS recused himself when charges which later proved groundless were brought against his colleague from North Carolina, Senator Morgan. Moreover, in the vote resulting in denunciation of Senator Talmadge, his colleague, Senator NUNN, voted "present." So recusal is an accepted, legitimate, understandable course of action under such circumstances.

Senator BRADLEY informed me, though, that his constituents were entitled to know where he stood on this issue, so he would not follow that course.

Yesterday afternoon, Mr. President, prior to the speech by Senator BRADLEY, I was informed by my distinguished colleague from Hawaii—and I trust Senator INOUYE will not mind my repeating this—that there was a 99-percent chance Senator WILLIAMS would follow the course of resignation. Knowing the difficult burden weighing on Senator BRADLEY's mind and heart, I pulled him aside and informed him of what Senator INOUYE had told me.

What he told me I will never forget. He said:

> No, Howell. This matter has been with me for 25 months. The folks back home deserve to know where I stand. I have made up my mind, and I could never live with myself if I did not go through with what I have to do.

Mr. President, we have, indeed, received mail from New Jersey criticizing PETE WILLIAMS to a high degree, saying "Throw him out." But I cannot tell you how many countless telegrams and letters we have received from New Jersey citizens and voters—labor union heads, party officials, lawyers, average citizens, even members of the clergy—saying "Don't expel Senator WILLIAMS" and citing his long record of compassionate service, telling us of the millions of people whose lives are personally enriched because of PETE WILLIAMS.

In case it is not obvious to my colleagues, BILL BRADLEY did not stand to gain, politically, with many, many voters in New Jersey by supporting expulsion. Moreover, he gave a speech which, for the reasons cited, he did not have to give. He could have sat quietly, refusing to commit himself, and let his colleague gracefully resign. But he did not, and I submit no more courageous speech has been given, no more courageous stand taken, in this Chamber in many, many years.

We all know BILL BRADLEY stands tall. But now, Mr. President, in my eyes, he stands 10 feet tall.

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

Mr. HEFLIN. I yield.

Mr. WALLOP. May I add my wholehearted agreement to what the Senator from Alabama has just said. That was indeed a courageous and an admirable event that we witnessed here yesterday afternoon. It could not possibly have been easy for any reason, whether it had been politically popular or not, to have done what he did in the presence of all and in the presence of his colleague. I certainly agree with the Senator from Alabama.

Mr. President, while I have his courtesy in having yielded to me, may I say to him that, while I have indeed tested and jested with him about lawyers and nonlawyers, without his legal expertise, our committee certainly could not have functioned as fairly and as decently, as intelligently, and gracefully as it did and I salute him for it.

Mr. HEFLIN. Mr. President, I would be remiss if, at some point before termination of these proceedings, I did not say a few words about the job done by the staff of the Ethics Committee. As in any endeavor in the Senate, staff members have played a significant role in preparing us, not only for debate on Senate Resolution 204, but at every stage of this proceeding.

I have already singled out our special counsel, Bob Bennett, and his associate, Alan Kriegel, for a professional, fair, and thorough job. I wish at this point to acknowledge and thank all the members of the staff of the Ethics Committee who have, at one time or another, pitched in to help in this protracted matter.

I want to pay special recognition to two of the counsel to the committee: Don Sanders, who supervised the Williams investigation and Paul Colborn, who worked closely with him, who have spent literally hundreds of hours reading trial testimony, interviewing witnesses, reviewing documents and exhibits, and doing legal research and drafting. Likewise, Wilson Abney, another counsel to the committee, has worked a considerable amount of time on this matter, and Anne Miskovsky, our press secretary, has done a most competent job in dealing with the press.

The entire operation has been under the supervision of our able staff director, Braxton Valentine.

Mr. President, I want to pay particular recognition to a fellow Alabamian, John Saxon also counsel to the committee. I have worked very closely with him, even on weekends and at night. He has, indeed, some rare skills. He has the ability to relate ideas to words and express language in a rare, superb manner. He has an incisive mind that can quickly go to the root of a matter, and he has a retentive mind that can recall isolated facts and nonisolated matter quickly. His help has been immeasurable to me and to all of the members of the Ethics Committee during this entire period of time that we have spent on this matter.

To all of these individuals, and the entire staff, I want to say for the Record that the committee owes them a debt of gratitude for their capable and dedicated service, as, perhaps, does the entire Senate.

Mr. President, I should like merely to mention two final things and to do that briefly. One pertains to what was printed by the Ethics Committee. In the debate, there was some indication that there were certain films that were not printed by the Ethics Committee. I think it might be fair to recite that when the Ethics Committee began to organize for its hearings, our special counsel got with counsel for Senator WILLIAMS and they agreed on a method of testimony, a method of presentation, in which each had the right to introduce whatever he desired to introduce.

They agreed that all of the due process hearings before Judge Pratt should be introduced, all of the testimony in the exhibits, including the tapes, that were at the trial, and that either side had the right to introduce any other tapes or any other matters that they wanted to. The decision as to whether or not they became a part of the record at the Ethics Committee hearing was made by the counsel for Senator WILLIAMS. He had the right to put anything in the record that he wanted to. It would have been printed if it had been so selected.

Mr. President, in addition to that, the opportunity to present any witness was given to Senator WILLIAMS in this instance and he had the right to call any witness that he wanted to.

One other matter I want to mention is the matter pertaining to the Government contracts and whether competitive bidding was in order. There were some statements indicating that some of this was not in testimony. However, there were witnesses called by the defendant in regard to this: A Prof. Harold Petrowitz, who is a professor of law at American University; also, there were some members of Senator WILLIAMS' staff who were called. While there was no question that competitive bidding would have been the normal course of events, there were exceptions given as to whether or not negotiation as to contracts was to take place.

There was testimony to the fact that the strategic stockpiling of certain metals had some different language pertaining to competitive bidding in that there were only one or two suppliers of titanium sponge in the United States. So there was a lot of testimony, pro and con, in regard to that issue.

Mr. President, I would be remiss if I did not, at some point, mention the issue of Government misconduct.

I need not, and will not, recite the litany of supposed abuses. Many of these allegations do suggest, at least on their face, that the Department of Justice and the FBI engaged in misconduct—maybe even more than a little misconduct.

But while we have tried to be careful not to rush to judgment regarding the conduct of Senator WILLIAMS, neither should we rush to judgment regarding conduct of the Government. The Government is entitled to due process, to be heard on all these issues. Yes, it deserves investigation, and I support a full, vigorous oversight investigation by this body, into all elements involved in Abscam. But let us not in our haste to condemn them throw the baby out with the bath water.

In this regard, I wish to associate myself with the powerful and eloquent remarks of my colleague from Missouri, Senator EAGLETON. Law enforcement authorities do have, with great frequency, to resort to the use of informants, of sources—many of whom are not lily-pure, many of whom subscribe to the Angelo Errichetti school of "How To Win Friends and Influence People."

So while I support the effort to detect Government misconduct where it existed, and establish guidelines for its prevention in the future, let us likewise recognize the validity of this type of investigation as necessary in our ever vigilant fight against the forces of crime.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

THE FOREIGN MINISTER OF PAKISTAN

Mr. MATHIAS. Mr. President, the Constitution of the United States may vest authority in the Congress to confer citizenship, but in 1977 three brave men made themselves our fellow citizens for all time by an ordeal of courage, conscience, and compassion. They are Ardeshir Zahedi, then Ambassador of Iran; Ashraf Ghorbal, Ambassador of Egypt, and Sahabzada Yaqub Khan, then Ambassador of Pakistan. These three, themselves devout Moslems, walked alone into the national headquarters of B'nai B'rith where a group of Hannafi Moslems were holding a number of hostages and threatening them with bodily injury and death. By quiet persuasion and by the force and dignity of their own personalities the three Moslem Ambassadors brought an end to these dangerous troubles. Since that day, they have been our brothers.

It is, therefore, with more than casual interest that we have learned that Ambassador Khan, now the representative of Pakistan in France, has been recalled from Paris to assume the office of Foreign Minister. His service as Ambassador to the Soviet Union and to France since he left Washington has further expanded his personal knowledge of the world and his personal acquaintance with the principal actors on the world stage. His continued success has been a source of pleasure to his friends, but his elevation to the office of Foreign Minister should give us both hope and confidence as well.

Yaqub Khan has taken part in great affairs since he was a very young man. He was aide-de-camp to Lord Mountbatten, last Viceroy of India, and subsequently to Mohammed Ali Jinnah, first Governor General of Pakistan. Thus he was present at the moment of his country's birth and a close observer of the forces that brought it about. Americans, who hope to maintain a friendship with both Pakistan and India and to see them friendly to each other, may take heart from the fact that he has worked constructively with his Indian neighbors in the past and may do so in the future.

But the real basis for confidence in Yaqub Khan's ability to fulfill the office of Foreign Minister is not so much in his experience, wide as that has been, or whom he knows, impressive as the roster of his friends may be, but rather in his own quality as a human being.

Unlike many public men, he has not let the pressure of daily events prevent him from philosophic reflection on why things are as they are and how things may change.

As a result of this rare capacity to think in comprehensive terms about human affairs, he is likely to be able to suggest creative solutions to problems that have resisted solution by mechanical methods.

In a recent conversation, he was describing for me the history of a nation that spanned many centuries. He reflected on the fact that this nation had always embodied an ideal that transcended its physical boundaries, that the idea of nationality was larger than the geography of the nation. Thus, he could explain otherwise inexplicable events, but, more importantly, he is able to speculate with intelligence on the course that the Nation's peculiar character may lead it to adopt in the future and so he is able to propose action that is anticipatory and responsive.

About a year before the fall of the Shah of Iran, he sat with me on a hillside in the rolling Maryland countryside and shared his vision of what could happen in Iran and why he thought so. In fact, what did occur was so exactly what he had foreseen that his might have been the voice of a genuine oracle. While no human can always be right, it is encouraging to know that some among us can at least be right at times.

His interests are, however, not all consumed by affairs of State. His wife, Tuba, is his match in wit and intelligence and they take great pride in their children, one of whom, Sahabzada Samad, is a student in the United States at Brown University. He has been a gifted horseman throughout his life like many of his countrymen. When he has come to Maryland to observe the progress in the improvement of the breed, he has been able to predict which steeplechasers would be first over the bars with the same accuracy that he forecasts the ebb and flow of the tides of history.

In many ways, Sahabzada Yaqub Khan is the man who has proved Rudyard Kipling to be wrong when he said "East is East and West is West and never the twain shall meet."

Yaqub Khan is a citizen of the world who knows both, is comfortable in both, can contribute to both and is aware of his obligation to both. In him the twain have met and we can be glad of it.

The friends of Yaqub Khan will wish him satisfaction and fulfillment in his new duties as Foreign Minister of Pakistan and success in his efforts to preserve the peace of the world.

ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I ask unanimous consent that there now be a brief period for the transaction of routine morning business, not to extend past 3:45 p.m., in which Senators may speak.

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

CLIFFORD P. CASE

Mr. MATHIAS. Mr. President, Cliff Case once said that he thought Beethoven's Hymn to Joy from the Ninth Symphony was so near perfection that he wished no one would sing Schiller's words. At one level, the remark expressed Cliff Case's devotion to pure music. More basically, perhaps, it revealed a facet of his character which made words unnecessary when he knew the tune. His convictions did not require renewal or reminder.

Senator Case was not reluctant to speak and he was certainly not unable to speak. He was, instead, economical with speech and therefore what he said had added weight and credibility. He did not confuse eloquence with endurance.

Independence was another strong element of his personality, and he preserved it carefully. Once, when progressive Republicans were considering a slate of candidates for party office within the Republican caucus in the Senate, he declined to be nominated despite his seniority and his popularity. The grounds for declining any party preferment to which he might have been entitled were that it might impair his independence and he was convinced that his independent judgment was worth more than any prestige that could flow from entering the party leadership.

His legislative activity, his foreign policy positions, his brilliant victories and his honorable defeats are too well known to need repetition today. A special word about his devotion to the ideal of the State of Israel as the ultimate refuge of justice is always appropriate.

There was no sham or pretense about Clifford Case. He would not even bother to embellish his voting score by casting votes that he considered unnecessary and foolish. During late night sessions of the Senate, he was always present while the business was serious. But, when fatigue and confusion took over and the procedure became redundant and unprofitable, he would not hesitate to walk out. He rejected cant and empty rhetoric even though the rejection cost him a point or two on his attendance record. When that time came, usually close to midnight, he would tilt his head and say "Good night, Sonny, I am going home to Ruth!"

It is a good thing to remember that even the U.S. Senate needs to be objectively observed and assessed from time to time. When it is found wanting, each of us cannot only make a judgment, but also can take personal and individual action to register that judgment. It is an example to be noted and followed.

And now Clifford Case has once more said in his jaunty way "Good night, Sonny!" But it is only at the end of a long and fruitful day and when a record that enhances the honor of the Senate is written in full.

Mr. President, I ask unanimous consent that a poem by Archibald MacLeish, which was read at Senator Case's funeral, be printed in the RECORD.

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

[From the New York Times, Oct. 9, 1971]

ON A PUBLIC OCCASION

(By Archibald MacLeish)

Rinsing our mouths with praise . . .
Tin cup,
limestone spring in the cool of the mintbed
Earlier generations knew this place,
made their way through the fern. We have forgotten it:
we have kept to the streets too long, tongues
stale, hearts thirsty.
Listen to me!
God's will in the world if we could learn it,
test it on our lips, would taste of priase.
Why else should the world be beautiful? Why should the
leaves look as they do, the light, the water?
Rinsing our mouths with praise of a good man . . .
I say what I mean. I do not say
a good man in a bad time.
All times are bad when the man fails them.
I say:
A good man in a time when men are
scarce, when the intelligent foregather,
follow each other around in the fog like
sheep, bleat in the rain, complain
because Godot never comes, because
all life is a tragic absurdity—Sisyphus
sweating away at his rock, and the rock
won't—because freedom and dignity . . .
Oh, weep, they say, for freedom and dignity!
You're not free: it's your grandfather's itch you're scratching.
You have no dignity: you're not a man,
you're a rat in a vat of rewards and punishments,
you think you've chosen the rewards: you haven't:
the rewards have chosen you.

Aye! Weep!
Rinsing our mouths with praise of a good man
in a time when men are scarce, when the Word
chirps like a cricket on the cellar floor
on the stone—when the mind maunders . . .
A good man! Look at him there against the time!
He saunters along to his place in the world's weather,
lights his pipe, hitches his pants,
talks back to accepted opinion.
Congressional Committees hear him say:
"Not what you think: what you haven't thought of."
He addresses Presidents. He says:
"Governments even now still have to govern:
no one is going to invent a self-governing holocaust."
The Pentagon receives his views:
"science," he says, "is no substitute for thought.
Miracle drugs perhaps; not miracle wars."
Adviser to Presidents, the papers call him,
Adviser, I say, to the young.
It's the young who need competent friends, bold companions
honest men who won't run out,
won't write off mankind, sell up the country,
quit the venture, jibe the ship.
I love this man.
I rinse my mouth with his praise in a frightened time.
The taste in the cup is of mint,
of spring water.

NORTHERN KENTUCKY FIGHTS A SLUGGISH ECONOMY

Mr. FORD. Mr. President, less than 2 years ago, a major steel plant closed in northern Kentucky, leaving more than 1,000 people unemployed and severely depressing an already sluggish local economy.

But this area did not take the news sitting down. Instead, it came out fighting to put the plant back to work.

Local business and labor community leaders met the challenge head on and developed a proposal to start anew with the manufacturing of pipe tubular steel. With a little encouragement, Federal and State government agencies rallied in support of the plan to reopen the plant under the new name of Newport Steel.

The various elements of the plan fell in place and now, after the initial reopening, the company is expanding its operation.

This kind of perseverance provides another stirring example of how hard work and good ideas can bring about success. I commend the Newport Steel Co. and everyone involved for what they have done to bring about this success story. The real beneficiaries here are the local people who can now enjoy steady employment and plan for a better future.

I agree with a recent editorial in the Cincinnati Enquirer that said the story of Newport Steel is the kind that should be told often and with enthusiasm in Washington. I ask unanimous consent that this editorial be printed in the RECORD.

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

[From the Cincinnati Enquirer, Feb. 28, 1982]

NEWPORT STEEL: NEW COMPANY IS CONSTANT SOURCE OF GOOD NEWS

Newport Steel Corp. seems just to keep rolling right along, and that's good news indeed for Northern Kentucky's work force and economy.

The firm, which emerged from the ruins of Interlake Steel less than a year ago, has announced that it will stick by its plans to open a second mill despite a pronounced downturn in the industry. The cost of the new mill, targeted for opening in the second quarter of this year, has been pegged at $28 million.

Spokesmen for Newport Steel have been optimistic in their outlook for the U.S. steel industry in general and their own operation in particular. They feel the downturn will prove a temporary, short-lived interruption, and that business will begin to pick up again in the spring.

Meanwhile, Newport Steel plans to make the most of the lull by using the slack time to build its own inventory, something the company has not been able to do during the recent period of high demand. A fuller inventory will put the firm in a better position to fill orders for large customers.

So the story continues, happy and with no end in sight. The new plant will benefit the local economy and employment picture by adding about 120 new jobs to the nearly 600 that have been created since startup.

Newport Steel's is the kind of story that should be told often and with enthusiasm in Washington, Frankfort and anywhere there are doubts about the efficacy of planning, good management and American business.

BUDGETARY TACTICS

Mr. FORD. Mr. President, an editorial in the Washington Post for Saturday, March 6, 1982, was entitled, "Budgetary Tactics." While its contents do not deal directly with the subject of a 2-year budget cycle, I believe there is an inescapable implied relationship.

The editorial notes that on March 31 the continuing resolution expires; that still to be passed is the final 1982 budget resolution, which was due to be passed last September; that soon the first 1983 budget resolution must be adopted, and finally, lurking in the uncertain future, is the related necessity of further raising the statutory debt limit.

The editorial further notes, "That does not leave much time for a great deal of work, if Congress is to come up with a specific proposal that differs substantially from Mr. Reagan's." That is the connecting link which I believe makes this editorial significantly relevant to those of us who believe we will soon have to deal with the question whether time constraints, among other considerations, dictate that we should, if not must, go to a 2-year budget cycle.

Clearly, S. 1683, which would establish a 2-year period for budget and appropriation activity, does not pretend to solve all of our budget and fiscal problems. Certainly it would not directly deal with the principal concerns highlighted in the Post editorial. But the plain fact remains that the shortage of time contributes to some of these problems, and lengthening the time we have to budget and appropriate will ease many of these problems.

I ask unanimous consent that the Post editorial be printed in the RECORD.

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

[From the Washington Post, Mar. 6, 1982]

BUDGETARY TACTICS

You can hardly be expected to follow the budget game without a program. The following paragraphs attempt to outline the stages that are likely to be important in the next several months, and the tactical positions that seem to be developing.

On March 31, the continuing resolution expires. You may recall that Congress was never able to agree on several of the 1982 appropriations bills and, in the final convulsion last fall, kept the money flowing with a compromise that extends only through the first half of the fiscal year. It's likely that both houses will vote for a simple extension, but the measure covers the controversial areas of health, education and welfare, and it's possible that enough deficit-fearing senators will balk to block passage.

A more likely source of trouble is the matter of the final budget resolution setting spending limits for the current fiscal year. In passing it last fall, Congress simply ignored the fact that actual spending is running at least $40 billion above its legally binding limit. Now, if the budget process is to be kept intact, Congress must adopt a revision that approves an uncomfortably large deficit for 1982.

Congress, however, also needs to approve a first budget resolution for the next fiscal year—the one that's the subject of the current quarrel with the president. In the Senate, the target date for this event is March 3; in the House it's April 15. That doesn't leave much time for a great deal of work, if Congress is to come up with a specific proposal that differs substantially from Mr. Reagan's.

Last year, as the result of close negotiations between Reagan administration officials and Republican senators starting right after the election, the budget process got off to a fast start. This year, the administration went its own way and congressional support for the Reagan budget is currently nil.

If all goes as planned—and much may not—the congressional alternatives will face their first tests in the April votes on the budget resolution. If there is strong bipartisan support for the alternatives—and if the administration is still sitting on the sidelines—the next play may well come when, sometime in May, federal spending pushes the federal debt over the limit currently set by law.

Failure to raise the debt ceiling would cause a chaotic shutdown of many government operations and possible panic in the financial markets. House and Senate leaders see the debt ceiling bill as an opportunity to turn the tables on the administration, forcing it to accept the budget and tax changes that Congress wants—just as the administration forced Congress to accept further budget cuts by closing down the government last fall. One possible danger here is the temptation to overload the debt ceiling bill with too many conditions to be passable. Another is a simple collapse of support for any budget, between the people who won't vote for the spending cuts and those who won't vote for the deficit.

Despite the acknowledged perils, momentum behind a congressional alternative is currently strong. Voters are genuinely worried, and many Republicans—who worked diligently to advance the administration's program last year—are stung by the president's current strategy of lobbing brickbats at them from the safe distance of his western tour. More important, responsible people in both parties realize, as the administration apparently does not, that the alternative is a stalemate over the budget—and, for the country, that is the greatest danger of all.

ORDER OF PROCEDURE

The PRESIDING OFFICER. Is there further morning business?

Mr. BAKER. Mr. President, it is my intention to ask the Senate to proceed to the consideration next of Senate Resolution 333, the resolution providing funding for committees for the year 1982.

I do not wish to do that until the minority leader is on the floor. I understand he is perhaps on his way to the floor. So before we go out of morning business and so that I can consult further on that subject, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. 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.

(The remarks of Mr. STEVENS at this point relating to the introduction of legislation are printed under Statements on Introduced Bills and Joint Resolutions.)

The PRESIDING OFFICER. The hour of 3:45 p.m. having arrived, the time for morning business has expired.

EXTENSION OF ROUTINE MORNING BUSINESS

Mr. McCLURE. Mr. President, I ask unanimous consent that morning business be extended for an additional 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Idaho.

THE HANDLING OF ABSCAM BY THE DEPARTMENT OF JUSTICE AND THE FBI

Mr. McCLURE. Mr. President, perhaps this is not the time to open the debate which will ensue with respect to the activities of the Department of Justice and the agents of the FBI in handling the Abscam matter but, as a matter of fact, that debate was already opened before we had disposed of the Williams matter.

As a matter of fact, if I understood correctly, one of the major arguments with respect to the substitution of a censure for that of expulsion was based upon the wrongdoing of the FBI, and most of the argument that I heard in support of the resolution of censure was not in support of Senator WILLIAMS but in condemnation of the actions of the FBI.

Mr. President, I am concerned about that idea because it seems to me that we again are falling into the trap of making judgments before having heard the evidence.

Throughout the entire proceedings we were asked to withhold judgment of Senator WILLIAMS until we had viewed the tapes, until we had reviewed the transcripts, until we had heard the arguments, until we had heard the judgments on the floor of the Senate by the various people who were involved in the discussion of the various aspects of the Williams case. I did so. I viewed the tapes, I looked at the transcripts, I heard the arguments, I reserved my judgment until it became very clear to me that there was no other fact than the fact that Senator WILLIAMS had involved himself in promoting a private enterprise, using his office to do so, in the hope or expectation that that enterprise in which he held an interest would prosper and that his interest would grow in value. That, Mr. President, was undisputed.

Now to say that we should, without having heard the evidence, come to the conclusion that the FBI is somehow at fault, that Senator WILLIAMS was not at fault, that indeed the Government, the Senate, the courts, and the jury had been somehow misled by a super con man scamming everybody in sight is to say also that the Senate itself has been wronged, either fallen error to being misled by Mel Weinberg or that indeed we acted without appropriate evidence for the action that was being taken and that was so obviously going to be taken in the expulsion of a Member of the Senate.

And it would also demean the committee that, after having spent months and months of time reviewing the evidence, hearing the witnesses, and listening to the arguments, had concluded, based upon the same evidence that there was wrongdoing that led them to unanimously recommend expulsion.

So there was something more in this case than just wrongdoing of the FBI. And let us not allow ourselves to be postured before this country as being fearful of disclosure of wrongdoing by people in high places. Let us not indulge ourselves in sympathetic extensions of some kind of exculpatory notion toward Senator WILLIAMS that leads people to conclude that it is not the investigation of wrongdoing that so much concerns us as the fear that it might be found among some of us.

This cannot be and shall not be viewed as an exercise on the part of the Senate to shield ourselves from inquiry. And some of those unguarded comments that were made earlier today lead me to make these statements at this time.

The FBI certainly may have made mistakes. There may have been procedural safeguards that could have been installed or that should have been installed or that were there and were not followed. But that does not say that the wrong was not committed or that we are beyond investigation or that the FBI cannot use tactics of that kind in the investigation of undercover crime, because every one of us knows that at times that is the only way they catch the drug dealer, the pusher, the organized criminal, the person who is involved in peddling influence who certainly is not going to do that openly and who certainly is going to conceal that activity as best he can.

The committee of inquiry, the Ethics Committee in this case, deserves better than that kind of condemnation. The FBI deserves a more careful inquiry into what it is it has done right or wrong before we rush to a judgment that indeed they have been wrong.

I think, Mr. President, without posing as an expert in what happened in Abscam but with some experience in law enforcement, having been a prosecutor for 6 years, a city attorney for 13 years, and I have also been on the other side of the table in criminal actions defending those who were accused of crime and exerting every lawful right that I could exert on their behalf, sometimes successfully and sometimes unsuccessfully arguing the merits of the shadow of a doubt that we must apply in criminal cases, I must remind the Senate that based upon what I have heard and what little I know about the Abscam cases, Senator WILLIAMS was not the target. Senator WILLIAMS was brought in because he was implicated by a man who was targeted for investigation. What would you have the Department of Justice do if a Member of the U.S. Senate is implicated by someone else who is under investigation? Have them rush away from them saying, "Oh, no; you cannot touch him. That is too high. That fellow is too important; he is too strong to touch. We should stop the investigation now, lest we find something wrong."

Senator PRESSLER was not targeted. There was another who was and the informant, a middleman, who was doing the work in that case, substituted Senator PRESSLER for someone who was targeted for investigation. And perhaps there was wrong in not having stopped the proceedings and scrubbed that operation immediately. But I listened yesterday as Senator PRYOR made the comment about the notation by Mr. Webster on the foot of that decision sheet, that he said, "We are out to get Senator PRESSLER. Let's make sure we nail him," when, as a matter of fact, that was a procedural safeguard designed to protect those who might be subject of investigation by saying, "Be sure that you do not get that kind of an offer from somebody who is not involved in any wrongdoing."

And so we have somehow, in the emotions of the "Good Ole Boy" club to which we all belong, the emotions of trying to be kind to somebody who obviously has transgressed and is going to be punished by expulsion to be nice in the face of that very unpleasant situation that we had. We are turning the evidence on its head to make it appear to be something that it is not. And we are even in danger not of protecting the innocent, not of helping Senator WILLIAMS, not of protecting the institution of which we are a part, we are in danger of having the American public conclude that we are on a witch hunt now to destroy the effectiveness of the FBI and to make certain the FBI never again investigates one of us.

Mr. President, that would be more damaging to us than any of the wrongs that have been done by Senator WILLIAMS and for which he paid the high price of resignation today.

Thank you, Mr. President.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the ACTING PRESIDENT pro tempore laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

ANNUAL REPORT ON BUILDING ENERGY CONSERVATION STANDARDS—MESSAGE FROM THE PRESIDENT—PM 117

The PRESIDING OFFICER laid before the Senate the following message from the President, together with an accompanying report; which was referred to the Committee on Energy and Natural Resources:

To the Congress of the United States:

In accordance with the requirements of Subtitle H of Title V of the Energy Security Act (42 U.S.C. 8286b), I hereby transmit the first annual report covering calendar year 1980 prepared by the Department of Energy on the federal coordination of factors and data used in the development of building energy conservation standards. The period covered by the report precedes my term of office.

RONALD REAGAN.

THE WHITE HOUSE, *March 11, 1982.*

REPORT ON NUCLEAR NONPROLIFERATION FOR 1981—MESSAGE FROM THE PRESIDENT—PM 118

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report, which was referred to the Committee on Foreign Relations.

To the Congress of the United States:

My policy statement on nonproliferation and peaceful nuclear cooperation last July highlighted the key elements of continuity in United States policy to prevent the spread of nuclear explosives and those areas where we need to adopt new directions or different approaches. We will continue our efforts to strengthen the nonproliferation regime and the framework for peaceful nuclear cooperation, and we look forward to working closely with Congress toward these shared objectives.

I am pleased to submit the fourth annual report called for by Section 601(a) of the Nuclear Non-Proliferation Act of 1978 (Public Law 95-242). This report which covers calendar year 1981 has been prepared by the Department of State in collaboration with other concerned departments and agencies.

RONALD REAGAN.

THE WHITE HOUSE, *March 11, 1982.*

PRESIDENTIAL APPROVAL

A message from the President of the United States reported that on March 10, 1982, he had approved and signed the following enrolled joint resolution:

S.J. Res. 142. Joint resolution to authorize and request the President to issue a proclamation designating March 21, 1982, as Afghanistan Day, a day to commemorate the struggle of the people of Afghanistan against the occupation of their country by Soviet forces.

ENROLLED JOINT RESOLUTIONS SIGNED

The VICE PRESIDENT announced that on today, March 11, 1982, he signed the following enrolled joint resolutions, which had previously been signed by the Speaker of the House of Representatives:

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.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-2923. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, an annual report on Federal alcohol-related activities for fiscal year 1980; to the Committee on Labor and Human Resources.

EC-2924. A communication from the Secretary of Education, transmitting, pursuant to law, copies of the executive summary report of the study, "Projections of Non-English Language Background and Limited English Proficient Person in the United States to the Year 2000"; to the Committee on Labor and Human Resources.

EC-2925. A communication from the Director of the Congressional Budget Office, transmitting, pursuant to law, a report on programs affecting the youth labor market; to the Committee on Labor and Human Resources.

EC-2926. A communication from the Secretary of Education, transmitting a draft of proposed legislation to amend title IV, part B of the Higher Education Act of 1965; to the Committee on Labor and Human Resources.

EC-2927. A communication from the Chairman of the Federal Election Commission, transmitting, pursuant to law, a request for a supplemental appropriation for fiscal year 1982 that was transmitted to the Office of Management and Budget, Executive Office of the President; to the Committee on Rules and Administration.

EC-2928. A communication from the Acting Executive Secretary to the Secretary of Defense, transmitting, pursuant to law, the report on Department of Defense procurement from small and other business firms for October through December 1981; to the Committee on Small Business.

EC-2929. A communication from the Secretary of the Interior, transmitting, a draft of proposed legislation to amend the Land and Water Conservation Fund Act, to provide for the administration and utilization of recreation fees, and other purposes; to the Committee on Energy and Natural Resources.

EC-2930. A communication from the Director of the Defense Security Assistance Agency, transmitting, pursuant to law, a report on the Department of Army's proposed letter of offer to Israel for defense articles estimated to cost in excess of $25 million; to the Committee on Armed Service.

EC-2931. A communication from the Acting Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics), transmitting, pursuant to law, the annual report on special pay for duty subject to hostile fire for calendar year 1981; to the Committee on Armed Services.

EC-2932. A communication from the Secretary of the Army, transmitting, pursuant to law, a report stating that five Army weapons systems had exceeded a baseline unit cost by more than 25 percent; to the Committee on Armed Services.

EC-2933. A communication from the Secretary of the Air Force, transmitting, pursuant to law, a report stating that six Air Force weapons systems had exceeded their baseline unit cost by more than 15 percent; to the Committee on Armed Services.

EC-2934. A communication from the Director of the Defense Security Assistance Agency, transmitting, pursuant to law, a report on the Department of the Navy's proposed letter of offer to Saudi Arabia for defense articles estimated to cost in excess of $25 million; to the Committee on Armed Services.

EC-2935. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Mission Effectiveness of the AV-8B Harrier II Could Be Improved If Actions Are Taken Now"; to the Committee on Armed Services.

EC-2936. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Navy's F/A-18 Expected To Be an Effective Performer But Problems Still Face the Program"; to the Committee on Armed Services.

EC-2937. A communication from the Principal Deputy Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics), transmitting, pursuant to law, the defense manpower requirements report for fiscal year 1983; to the Committee on Armed Services.

EC-2938. A communication from the Secretary of Commerce transmitting a draft of proposed legislation relative to management and operation of a civil land remote sensing satellite system; to the Committee on Commerce, Science, and Transportation.

EC-2939. A communication from the Secretary of Energy, transmitting, pursuant to law, the annual report under the Electric and Hybrid Vehicle Research, Development, and Demonstration Act; to the Committee on Commerce, Science, and Transportation.

EC-2940. A communication from the Acting Assistant Secretary of the Interior, transmitting, pursuant to law, a report on and request to execute a drainage and minor construction contract for the Gila project, Arizona; to the Committee on Energy and Natural Resources.

EC-2941. A communication from the Chairman of the Advisory Council on Historic Preservation transmitting, pursuant to law, comments of the Council on the proposed construction of Interstate Highway 90 through Wallace, Idaho; to the Committee on Energy and Natural Resources.

EC-2942. A communication from the Acting Secretary of the Interior transmitting, pursuant to law, the second biennial report relative to the Outer Continental Shelf lands; to the Committee on Energy and Natural Resources.

EC-2943. A communication from the Administrator of the Environmental Protection Agency transmitting a draft of proposed legislation to extend the Safe Drinking Water Act for 2 years; to the Committee on Environment and Public Works.

EC-2944. A communication from the Fiscal Assistant Secretary of the Treasury transmitting, pursuant to law, the report on inventory of nonpurchased foreign currencies as of September 30, 1981; to the Committee on Foreign Relations.

EC-2945. A communication from the Railroad Retirement Board transmitting, pursuant to law, its report on a proposed new Privacy Act system of records; to the Committee on Governmental Affairs.

EC-2946. A communication from the Director of the Central Intelligence Agency transmitting a draft of proposed legislation to authorize appropriations for the Agency for fiscal year 1983; to the Select Committee on Intelligence.

EC-2947. A communication from the Director of the International Communication Agency transmitting, pursuant to law, the annual report of the Agency under the Freedom of Information Act; to the Committee on the Judiciary.

EC-2948. A communication from the Secretary of the Federal Trade Commission transmitting, pursuant to law, the report for calendar year 1981 on the Commission's activities under the Freedom of Information Act; to the Committee on the Judiciary.

EC-2949. A communication from the Administrator of the Veterans' Administration transmitting, pursuant to law, a report on the Administration's administration of the Freedom of Information Act for calendar year 1981; to the Committee on the Judiciary.

EC-2950. A communication from the Chairman of the National Capital Planning Commission transmitting, pursuant to law, the report of the Commission on Freedom of Information activities for calendar year 1981; to the Committee on the Judiciary.

EC-2951. A communication from the Assistant Attorney General for Legislative Affairs transmitting a draft of proposed legislation to facilitate the forfeiture of property utilized in, and obtained as a result of, racketeering and major drug related crimes; to the Committee on the Judiciary.

EC-2952. A communication from the Secretary of Education transmitting, pursuant to law, the annual report on progress being made toward the provision of a free appropriate public education to all handicapped children; to the Committee on Labor and Human Resources.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. McClure, from the Committee on Energy and Natural Resources, without amendment:

S. 901. A bill to preserve and protect the Georgetown waterfront for the recreational use of the public (Rept. No. 97-321).

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. SPECTER (for himself and Mr. Durenberger):

S. 2190. A bill to authorize each head of a department or agency of the United States to establish a program to use the services of volunteers within his department or agency; to the Committee on Governmental Affairs.

By Mr. HAYAKAWA:

S. 2191. A bill for the relief of In Hong Song, and Spouse, Sung J. Park; to the Committee on the Judiciary.

By Mr. COHEN:

S. 2192. A bill to restore unemployment compensation for ex-members of the armed services; to the Committee on Finance.

By Mr. MITCHELL:

S. 2193. A bill to amend the Tariff Act of 1930 to provide greater access to antidumping and countervailing duty proceedings, and for other purposes; to the Committee on Finance.

By Mr. RIEGLE (for himself and Mr. Levin):

S. 2194. A bill to impose quotas on the importation of automobiles from Japan during 1982, 1983, 1984, and 1985; to the Committee on Finance.

By Mr. MOYNIHAN:

S. 2195. A bill to authorize the Secretary of the Army, acting through the Chief of Engineers, to construct the project for flood control, Mamaroneck and Sheldrake River basins, New York, and Byram River, Conn.; to the Committee on Environment and Public Works.

By Mr. HUMPHREY:

S. 2196. A bill to allow the criminal and civil forfeiture of real property under the Comprehensive Drug Abuse Prevention and Control Act of 1970; to the Committee on the Judiciary.

By Mr. MATSUNAGA (for himself, Mr. Roth, Mr. Moynihan and Mr. Durenberger):

S. 2197. A bill to amend the Internal Revenue Code of 1954 to make certain sales of fuel for use in a taxicab exempt from tax, to make permanent the provision for refund of taxes paid on the sale of fuel for use in a taxicab, and for other purposes; to the Committee on Finance.

By Mr. DOLE (for himself, Mr. Grassley and Mr. Chafee):

S. 2198. A bill to amend the Internal Revenue Code of 1954 to improve taxpayer compliance, and for other purposes; to the Committee on Finance.

By Mr. HAYAKAWA (for himself, and Mr. Cranston):

S. 2199. A bill to amend the Internal Revenue Code of 1954 relating to the treatment under the DISC rules of fungible products marketed through peeling arrangements of cooperative associations; to the Committee on Finance.

By Mr. STEVENS:

S.J. Res. 164. A joint resolution proposing an amendment to the Constitution of the United States to provide that the compensation and allowances of Members of Congress shall be established biennially by the Supreme Court of the United States; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. CRANSTON (for himself, Mr. Stevens, Mr. Inouye, Mr. Garn, Mr. Hatch, Mr. DeConcini, Mr. Melcher, Mr. Hayakawa and Mr. Johnston):

S. Res. 337. A resolution providing for an investigation and report by the Committee on Rules and Administration regarding the propriety of executive branch activities allegedly designed to create improper conduct on the part of, or to develop information that might be used in attempts to compromise, Members of Congress of the United States; to the Committee on Rules and Administration.

By Mr. CRANSTON (for himself, Mr. STEVENS, Mr. INOUYE, Mr. GARN, Mr. HATCH, Mr. DECONCINI, Mr. MELCHER, Mr. HAYAKAWA and Mr. JOHNSTON):

S. Res. 338. A resolution providing for an investigation and report by a standing or select Senate Committee regarding the propriety of executive branch activities allegedly designed to create improper conduct on the part of, or to develop information that might be used in attempts to compromise, Members of the Congress of the United States; to the Committee on Rules and Administration.

By Mr. MOYNIHAN (for himself, Mr. ROBERT C. BYRD, Mr. MATHIAS, Mr. DECONCINI, Mr. PROXMIRE, Mr. BRADLEY, Mr. CANNON, Mr. FORD, Mr. INOUYE, Mr. BURDICK, Mr. PRYOR, Mr. PRESSLER, Mr. BOREN, Mr. COHEN, Mr. JOHNSTON, Mr. DIXON, Mr. SARBANES, Mr. LEVIN, Mr. HATCH, Mr. HART, Mr. WARNER, Mr. HARRY F. BYRD, JR., and Mr. MURKOWSKI):

S. Con. Res. 68. A concurrent resolution regarding membership in the United Nations General Assembly; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. SPECTER (for himself and Mr. DURENBERGER):

S. 2190. A bill to authorize each head of a department or agency of the United States to establish a program to use the services of volunteers within his department or agency; to the Committee on Governmental Affairs.

(The remarks of Mr. SPECTER on this legislation appear earlier in today's RECORD.)

By Mr. COHEN:

S. 2192. A bill to restore unemployment compensation for ex-members of the armed services; to the Committee on Finance.

UNEMPLOYMENT COMPENSATION FOR EX-MEMBERS OF THE ARMED FORCES

● Mr. COHEN. Mr. President, I am pleased to introduce legislation that would restore unemployment compensation benefits for veterans who have honorably served their country. This bill would correct inequities enacted last year as part of the Omnibus Budget Reconciliation Act.

To effect savings in the federally financed unemployment compensation for ex-servicemen (UCX) program, Congress approved several changes in the eligibility of former service members to collect unemployment compensation. Unfortunately, while the law needed to be tightened, Congress went too far and created unfairness in its attempt at reform. The reconciliation act establishes new requirements that prevent honorably discharged veterans with excellent records from receiving unemployment benefits simply because they chose not to reenlist. An individual receiving a general discharge who did not measure up to reenlistment criteria is, however, permitted to collect unemployment. In effect, the new law penalizes those veterans who have served their country honorably and effectively but who are unable to immediately find new civilian jobs. More than 110,000 veterans are expected to be denied benefits in fiscal 1982 under the new criteria.

When the results of the new law became apparent, veterans' organizations, several Members of Congress, and the General Accounting Office all criticized the unfairness of the new restrictions. I heard from many Maine veterans who had not been informed of the change in the law and suffered financial hardship because they were ineligible to receive benefits, despite being unable to find employment.

Military service managers interviewed by the General Accounting Office pointed out several differences between civilian and military employment which cause the new law to be unfair to former service members. Unlike most civilian jobs, enlistment in the service is a contract for a specified period, and it is not desirable for all who enlist to make careers of the military. Second, it is difficult for service members to have access to the civilian job market near their place of residence as they are often stationed far from their homes. A veteran returning to his hometown may be unable to find new work immediately.

The legislation that I am proposing would eliminate the inequities in the existing law, while strengthening the eligibility requirements that existed prior to passage of the reconciliation act.

My bill would require an individual to have a full 2 years of active, continuous military service and to be discharged or released under honorable conditions in order to qualify for UCX benefits. Also, a former service member could not begin to receive unemployment compensation until the fifth week following his separation from the military. This 4-week waiting period provides an incentive for veterans to seek employment immediately and answers the concern that some former service members might apply for unemployment compensation and not really seek employment until their benefits expire. Finally, veterans would be permitted to receive no more than 13 weeks of benefits. These provisions are modeled on language included in legislation approved by the House last December, the Miscellaneous Revenue Act of 1981, and introduced by several Members of the House of Representatives. I hope that my bill's similarity to the House-passed bill will enable the Senate to quickly rectify the problems in current law.

Mr. President, I believe that the restrictions imposed by my bill would meet the concerns of those who feel that the UCX program was too lax prior to the passage of the reconciliation bill last year. At the same time, it would insure that our veterans, to whom we owe so much, are given some assistance in their transition to the civilian work force.

The present rate of unemployment means that it will be even more difficult for former service members to find suitable civilian employment upon leaving the military. That is why it is imperative that we act quickly to implement more equitable eligibility requirements for the UCX program.●

By Mr. MITCHELL:

S. 2193. A bill to amend the Tariff Act of 1930 to provide greater access to antidumping and countervailing duty proceedings, and for other purposes; to the Committee on Finance.

ACCESS TO UNFAIR TRADE PRACTICE PROCEDURES ACT

● Mr. MITCHELL. Mr. President, the legislation that I am introducing today will provide much needed reform in our laws governing relief from unfair trade practices. The changes proposed in this bill will greatly reduce the costs for industries using the existing antidumping and countervailing duties statutes.

Current law imposes substantial costs, particularly legal fees, on firms seeking relief from subsidized import competition or from dumped imports. For many small firms, those costs have become prohibitive, effectively putting statutory relief from unfair trade practices out of their reach. Therefore, my bill is designed to improve the access of small and financially strained domestic firms to the antidumping and countervailing duty statutes.

It is necessary to understand the important role played by the laws governing antidumping and countervailing duty actions, which are contained in title VII of the Tariff Act of 1930. The general goal of U.S. trade policy is to promote free trade. An open trading system will tend to produce the greatest economic benefits for all concerned. Trade patterns will largely be determined by the comparative advantages each country enjoys.

Certain actions by foreign governments and producers can substantially alter such trade patterns, however. Provision of subsidies by foreign governments or the sale of imports below their fair market value can give foreign products an unfair competitive advantage in U.S. markets. These trade-distorting actions not only result in lost sales and employment in the United States, but they undermine support for free trade.

Congress clearly recognizes the problems posed by subsidized and unfairly priced imports. According to the Senate report on the Trade Agreements Act of 1979, "Subsidies and dumping are two of the most pernicious practices which distort international trade to the disadvantage of United States commerce." To remedy these practices, title VII of the Tariff Act of 1930, with substantial amendments by the 1979 act, allows for the imposition of countervailing duties, to offset the value of foreign subsidies, and antidumping duties to offset the difference between the fair market value and the U.S. price.

The amendments made by the 1979 act largely made U.S. laws conform to codes negotiated under the multilateral trade negotiations. In addition, specific changes in the handling of title VII cases were enacted. While many improvements were made, problems have become apparent that were not foreseen when Congress considered the act.

One of the most serious of these problems is the added cost to domestic petitioners in title VII cases. Much of this added cost is due to excessive litigation that is not required to fulfill the intent of Congress when the 1979 Trade Act was passed.

Industries in my home State of Maine have confronted this problem directly as they have sought relief from unfair trade practices. The potato, fishing, and wood products industries are all feeling the effects of subsidized imports.

The New England fishing industry has a history of frustration in getting relief from subsidized Canadian imports. The nature and magnitude of Canadian subsidies to its fishing industry are well documented in several published reports. Thus, it is not surprising that the U.S. industry was successful in three separate petitions in convincing the Federal Government that it had to compete with subsidized imports. Unfortunately, on each of those occasions, the countervailing duty was waived.

As a result of many changes made by the 1979 act, including elimination of the discretionary waiver of countervailing duties, the current countervailing duty statute is much better suited to the concerns of the fishing industry. However, as a result of a continued high level of Canadian imports and the costs of the three unsuccessful efforts in seeking relief, the industry's financial resources are depleted. Even though the Canadian Government continues to subsidize its fishermen, our domestic industry does not know if it can bear the costs of what has become a very expensive procedure to obtain relief.

The potato industry has had similar problems. Imports of seed potatoes from Canada have more than tripled in recent years, seriously impairing the health of Maine's potato growers. Reports of government subsidies available to Canadian growers have been widely publicized, but the Maine industry has delayed seeking relief because of the cost and complexity of title VII cases.

The industry is currently benefiting from a factfinding investigation by the International Trade Commission. While this will be useful and will relieve the growers of part of the costs of seeking import relief, the industry still faces substantial costs once it files an antidumping or countervailing duty petition.

The purpose of the antidumping and countervailing duty laws is not served if small firms in industries that are not well organized and do not have substantial financial resources to draw on are effectively denied import relief. In fact, in many cases the weak financial condition of the industry is directly related to the level of subsidized or dumped imports.

I believe that this problem can be solved by modifying the current antidumping and countervailing duty laws without changing the underlying policies adopted in the 1979 act.

Perhaps the most important reason for the increased costs is that, as a result of the 1979 act, antidumping and countervailing duty proceedings have become more litigious. This is largely a byproduct of desirable changes that have increased opportunities for domestic petitioners to participate in the proceedings and to seek judicial review of agency decisions. My legislation would preserve these advantages and yet reduce the overall costs of the process.

The first section of my bill would change the standard for the ITC preliminary determination of injury. This determination is an important step in title VII cases. If the injury determination is negative, the entire investigation stops. On the other hand, positive determination is a necessary step in getting interim relief prior to the conclusion of the case.

The current standard requires the ITC to determine whether there is a "reasonable indication" of injury from imports. This bill would change the standard to one of "sufficient indication" of injury. Although this may appear to be a minor change in the wording of the statute, it would have a significant effect on this stage in the process.

The reason for the change is that the "reasonable indication" standard has resulted in exceedingly expensive preliminary determinations by the ITC. Often at this stage the ITC requires information from the domestic industry that is actually sufficient for making a final determination. Providing this information is an expensive burden on domestic firms. Also, substantial legal resources must be devoted to this stage of the proceedings.

I do not believe that Congress intended that the ITC preliminary determination be such a crucial stage, nor do I believe that our international agreements require it. In the 1979 act, Congress contemplated a more modest threshhold, not the active investigation that it has now become. The language of the antidumping code and the subsidies code refers to "sufficient evidence" of injury. This phrase is intentially broad, and the proposed change should be consistent with the intent of the code language.

Under the "sufficient indication" standard, the ITC could make preliminary determinations of injury if the petition from the domestic industry contained information that, if proven, would demonstrate injury in accordance with statutory standards, and that the agency was at the time not aware of any conflicting information of sufficient force to demonstrate that those allegations were frivolous, fabricated, or plainly inaccurate.

The second section of the bill addresses the costs imposed by judicial review of agency determinations in title VII cases. As I stated earlier, one of the benefits of the recent changes is the greater access to the courts by domestic petitioners. Unfortunately, this has also increased the prospective costs of seeking import relief, thus discouraging some firms or industries from filing petitions. Over half of all final determinations are appealed to the courts, so the petitioner can expect significant costs after the agency proceedings are finished.

My bill would assign responsibility of review to the Court of Customs and Appeals. Currently, this responsibility rests with the U.S. Court of International Trade. This latter court is a trial court, so foreign parties are tempted to exploit the costly procedures available in courts of original jurisdiction, even though the only purpose of judicial review is to judge the lawfulness of agency action. However, since U.S. Court of International Trade decisions are appealable, a domestic industry that won in the agency may have to defend the favorable decision twice under present law.

This change would make judicial review of title VII cases similar to review of other administrative proceedings. Most importantly, it would provide for more efficient judicial review at a lower cost.

The final section of my bill would create within the administering authority, which is now the Commerce Department, an independent office to advise and, in some cases, to argue at the agency level on behalf of domestic petitioners who, because of their financial condition, are unable to prosecute fully antidumping or countervailing duty cases.

Under current law both the Commerce Department and the ITC assist domestic petitioners by providing information that may be helpful to their cases. The Government may also self-initiate cases on behalf of domestic interests.

However, title VII cases involve substantial litigation in which advocacy as well as information is essential. Also, the self-initiation action has not been used significantly to assist small, financially pressed firms. Under the bill, an internal ombudsman would be available in certain cases to provide both counsel and advocacy at critical points in administrative proceedings.

I believe that these recommended changes are a responsible solution to the problem of excessive costs of seeking relief from unfair trade practices. I welcome further recommendations on other solutions to this problem.●

By Mr. RIEGLE (for himself and Mr. LEVIN):

S. 2194. A bill to impose quotas on the importation of automobiles from Japan during 1982, 1983, 1984, and 1985; to the Committee on Finance.

IMPORT QUOTAS FOR JAPANESE CARS

● Mr. RIEGLE. Mr. President, I am introducing today a bill that would reduce the level of Japanese auto imports to 14 percent of U.S. sales, the market share that Japanese manufacturers achieved in 1978 and 1979. These temporary limits would remain in effect through 1985, the period needed to allow American manufacturers to complete their investment in new products and machinery.

I believe that Congress should enact this bill promptly as part of a broad national strategy to return the U.S. auto industry to health.

Senator LEVIN has joined me as an original cosponsor of the bill.

Mr. President, this bill would require the Secretary of Commerce each calendar quarter to prepare an estimate of U.S. auto sales for the subsequent 6 quarters and for the calendar year during which the estimate is being made.

The bill would then limit the number of Japanese cars entering the U.S. market during calendar years 1982 through 1985 to 14 percent of the Commerce Department's forecasts of total domestic sales. The import limitations would be adjusted each quarter to reflect changes in projected U.S. sales.

Mr. President, this legislation is needed first, because the voluntary export agreement of the Japanese manufacturers clearly has failed to hold Japanese auto sales to 16.8 percent of U.S. sales, as promised. In fact the Japanese captured 22 percent of the American market during 1981 and, in the first 2 months of 1982, the Japanese share rose to 24.1 percent.

If this legislation had been in effect during 1981, sales of U.S.-built automobiles would have risen by 600,000 units, over 140,000 Americans would have been working rather than on the unemployment rolls, and our huge trade deficit with Japan would have been reduced by $3 billion. That would have brought significant relief to States and communities across the country that are experiencing extreme hardship as a result of the depression in the automobile industry.

Second, the bill is needed for the United States to take control of decisions that are vital to our long-term economic and strategic strength. For over 3 years now, the U.S. Government has remained essentially passive while America's most basic industry has been reeling under ominous pressures. The administration has issued words of warning to the Japanese, but they have relied on the 1981 voluntary agreement which permits the Japanese unilaterally to decide the share of our market that they will take. The procedures for calculating the second year import ceiling under the agreement are still under discussion. Unconfirmed reports indicate that the Japanese have decided to ship 1.68 million cars into this country during the second year of their agreement, a level that would let them retain a huge 24-percent market share. The Japanese have yet to agree to any limitation for a third year.

Third, the bill is needed to reduce the damage that is being done to the U.S. economy. Auto worker unemployment has been rising steadily for over 6 months and is now back to the 250,000 peak reached in August 1980. As a direct result, another 375,000 are jobless in related industries. The financial impact of the auto slump is daily forcing thousands of supplier firms, including major steelmakers, closer and closer toward the brink of bankruptcy.

In November 1980, the International Trade Commission found that increased imports were causing the severe injury to the domestic auto industry, which the escape clause of the General Agreement on Tariffs and Trade requires for import restrictions. However, a majority of the ITC found that the restrictiveness of U.S. law did not permit them to take remedial action. I strongly objected at the time to the failure of ITC to take firm action against the Japanese trade invasion.

No other country would permit its government to stand idly by in the face of such an important economic threat. Other auto producing countries have taken firm action to cut Japanese imports long before their domestic industries suffered injury to the extent that the U.S. industry has. The United States will delay similar action only at our great peril.

Mr. President, this legislation is by no means the only step Congress should take to bring the domestic auto industry back to health. I have introduced other legislation to provide targeted tax incentives for the purchase of new fuel efficient cars. Also, it is essential that the high interest rates be brought down and the economic policy that is producing those high rates must be changed in order to bring auto sales back to normal levels. Congress must also ease unnecessary regulatory burdens.

The temporary but effective import limitations which this bill would enact must be part of any national strategy to help the auto industry. The bill would insure that a sufficient share of the benefits of any economic recovery will go to produce jobs in the United States and not just to increase America's huge auto trade deficit with Japan.●

By Mr. MOYNIHAN:

S. 2195. A bill to authorize the Secretary of the Army, acting through the Chief of Engineers, to construct the project for flood control, Mamaroneck and Sheldrake River Basins, N.Y. and Byram River, Conn.; to the Committee on Environment and Public Works.

CONSTRUCTION OF CERTAIN FLOOD CONTROL PROJECT

● Mr. MOYNIHAN. Mr. President, I rise to introduce a bill to authorize the Army Corps of Engineers to construct a flood protection project along the Mamaroneck and Sheldrake Rivers in Westchester County, N.Y. The corps has studied the project extensively. It is technically and economically feasible. The responsibility is with the Congress to authorize the project. The residents of the area have been extremely patient in the face of constant danger of flooding.

This project is long overdue. In September of 1980, while I was the chairman of the Water Resources Subcommittee, I offered the Mamaroneck and Sheldrake Rivers project as an amendment to S. 3170, the rivers and harbors omnibus bill of the 96th Congress. Although the subcommittee accepted the amendment, the full Committee on Environment and Public Works never considered S. 3170. In the absence of administration guidance and support for water legislation, S. 3170 was never enacted by Congress.

The Chief of the Corps of Engineers in his April 4, 1979, report to the Secretary of the Army recommended construction of this project. With regard to the town of Mamaroneck, the Chief stated that the Board of Engineers, his technical advisory committee, found that the proposed project for the town of Mamaroneck portion of the larger project could not be part of the Federal project and instead must be carried out by the local interests. I do not agree with this judgment and have therefore included in the authorization language the town of Mamaroneck project segment.

The prospect of passage of this bill is at best uncertain at this time. It has been 6 years now since the last Corps of Engineers' water project was authorized. Our Federal water program has come to a complete halt. Nothing happens. This is in part because the Northeast has been systematically excluded from the program. There no longer is the necessary political consensus to support new construction work.

I have joined Senator PETE V. DOMENICI of New Mexico in advocating a new approach to the selection and funding of water projects. Under our bill, the National Water Resources Policy and Development Act (S. 621), projects such as the Mamaroneck flood control project could be funded directly by New York State with Federal assistance. We would not have to wait for Congress to authorize individual water projects. Instead, funds would be allotted to States. States would in turn determine their most pressing water needs and apply a percentage share of their own funds to construct the project.

Mr. President, I ask unanimous consent that the legislation I introduce today be printed in the RECORD along with an excerpt from the Chief of Engineers report of April 4, 1979, describing the project and recommending project construction.

EXCERPT FROM THE REPORT OF THE CHIEF OF ENGINEERS, APRIL 4, 1979

Subject: Mamaroneck and Sheldrake Rivers Basin and Byram River Basin, New York and Connecticut.

The District and Division Engineers recommend authorization for construction of local protection projects at the Village and Town of Mamaroneck, New York along the Mamaroneck and Sheldrake Rivers, and in the Town of Greenwich, Connecticut and Village of Port Chester, New York along the Byram River.

The proposed plan to protect the Village of Mamaroneck consists of tunnel diversion of the Sheldrake River and channel modification with levees along the Sheldrake and Mamaroneck Rivers. The proposed project would protect portions of the village from the standard project flood. Other areas would be protected from the 100-year and 200-year flood events.

A rectangular concrete channel is proposed on the Sheldrake River to protect the Town of Mamaroneck from the 100-year flood. The proposed project includes a stilling basin, a drop structure, and tie back levees at the upstream limit. The proposed plan for the Byram River consists of channel modification and levees. Two pumping stations with associated ponding areas and drainage facilities would be necessary to handle interior runoff. The plan would provide protection against a 100-year flood.

The District Engineer estimates the total costs for the Village of Mamaroneck project at $32,669,000; the Town of Mamaroneck project at $1,737,000; and the Byram River project at $4,475,000. The costs are based on December 1976 price levels.

Average annual charges, based on an interest rate of 6⅝ percent and a 100-year period for economic analysis, are estimated at $2,117,000, $114,000, and $309,000 for the Village of Mamaroneck, Town of Mamaroneck, and Byram River projects, respectively.

The District Engineer estimates average annual benefits for these projects at $2,850,000, $213,000 and $488,000, respectively. The resultant benefit-cost ratios are 1.3, 1.9, and 1.6, respectively.●

By Mr. HUMPHREY:

S. 2196. A bill to allow the criminal and civil forfeiture of real property under the Comprehensive Drug Abuse Prevention and Control Act of 1970; to the Committee on the Judiciary.

FORFEITURE OF REAL PROPERTY

● Mr. HUMPHREY. Mr. President, today I am introducing legislation which will give this country's law enforcement agencies a vital weapon in the war against drugs. I wholeheartedly commend the efforts of this administration to tighten up law enforcement, to include the use of military resources to assist in the effort, and to authorize the spraying of paraquat for eradication of the domestic marihuana crop. The legislation I am introducing today will permit the forfeiture of real property when it is used in the furtherance of drug trafficking. The most important aspect of this legislation is that it will place the large growers of marihuana in this country on notice that they are subjecting their fields to forfeiture.

I would like to insert in the RECORD newspaper articles which painfully exhibit the dimensions of domestic marihuana production. According to the Drug Enforcement Administration (DEA), in 1980 domestic production of marihuana was between 700 and 1,000 metric tons. Of this number, only approximately 187 metric tons of marihuana were destroyed through joint State and Federal efforts. U.S. suppliers provide 7 percent of the marihuana consumed domestically with an approximate value of between $1 and $2 billion. Indeed, in several States marihuana is among the State's leading cash crops.

Unless we take action immediately, through legislation at both the Federal and State level, to eliminate the enormous profits and relatively minor risks of these growers, we cannot hope to reduce marihuana production in this country. It is my fervent hope in pursuing this legislation that the threat of forfeiture will induce domestic growers to produce crops other than marihuana.

In addition to providing a disincentive to growers in the United States, it is imperative that this country send a signal to its neighbors. We are asking other nations to spray their domestic marihuana fields with paraquat, to pursue vigorous eradication and enforcement techniques, and to halt their export of controlled substances. We cannot ask this of our neighbors with any credibility unless we are willing to address the reality of the magnitude of our own domestic production.

The recent statement by the DEA that they have approved the use of paraquat for eradicating domestic marihuana crops was a most welcome one. This position, and more importantly its implementation, will be a strong indication to our neighbors that we are serious about eliminating the production of illicit marihuana in the United States.

Law enforcement needs the weapons to fight the drug war on three fronts: Through people, drugs, and profits. Although the Comprehensive Drug Abuse Prevention and Control Act currently provides the means to arrest drug traffickers and confiscate their illicit drugs, the forfeiture provisions contain a serious omission in neglecting to include land used in drug trafficking and production. The bill I am introducing will rectify this omission by providing law enforcement agents the vital ability to seize the land used for marihuana production, as well as its warehousing and related activities.

In addition to providing for the forfeiture of land used for growing, processing, or distributing illicit drugs, the bill clarifies current law by insuring that real property may be seized when it is being used in a continuing criminal enterprise in the pursuit of profits from drug trafficking. This provision will provide another means to attack large-scale, profitmaking enterprises engaged in the illegal manufacture and distribution of marihuana.

Naturally, there are instances when an owner of land is unaware of activities taking place on land he has rented or otherwise conveyed. The legislation provides that in this event, the owner of the land is protected from forfeiture.

This country has always placed the highest value on preserving an individual's rights to property from governmental intrusion and I fully support these protections. However, when land is openly and flagrantly being used to produce illegal substances, protections for an individual responsible for such illegal activities must necessarily be diminished. I urge my colleagues to support me in this critical effort.

Mr. President, I ask unamimous consent to insert in the RECORD the articles mentioned earlier in my remarks.

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

[From the New York Times, July 13, 1980]

CALIFORNIA MARIJUANA FARMS YIELD A BILLION-DOLLAR HIGH

(By Pamela G. Hollie)

LOS ANGELES.—On tracts hidden away in the mountains and forests of the northern coastal counties and in containers arranged boldly on big-city backyard patios, California seems abloom with marijuana these days. Though cultivating marijuana is a felony, the weed is plentiful and profitable. Indeed, except for cattle, milk and cotton, marijuana earns more than any agribusiness, more than $1 billion annually. In no other state is more marijuana smoked and produced, authorities say.

In part because the stakes are so high, cultivating marijuana is becoming an increasingly violent way of making a living. In the last three years, two persons have been killed and a number of gunfights and kidnappings have been attributed to disputes among growers. Not long ago, an observation plane carrying four sheriff's deputies was fired on by a sniper, presumably an angry grower. One of the deputies, who were being trained to spot marijuana from the air, was wounded in the attack.

Law enforcement agencies have staged a number of raids. Last fall, in one suburban county southeast of Los Angeles, more than 40 tons of marijuana were cut down or burned. This year, California Attorney General George Deukmejian has promised an even tougher crackdown. With a Federal grant, helicopters and specially trained deputies, a task force will concentrate on several counties, including Humboldt and Mendocino in the north, which are recognized as the state's principal growing areas.

NECESSITY MOTHERS AN INVENTION

The trade in marijuana is unregulated and untaxed, and there appear to be few counties that do not produce at least $1 million worth of marijuana annually. Estimates of the size of the state crop vary widely, and only one county reports marijuana in its agricultural statistics. Mendocino County conservatively estimated the street value of its 1979 crop at $1.2 million. The business has become so profitable that the Internal Revenue Service has decided to start trying to collect some of the unreported income from growers. Agents already have started files on some of those allegedly in the business.

California owes much of the growth of its marijuana industry to Mexico's efforts, begun in 1976, to stop the trade there by spraying marijuana fields with the poison paraquat. Mexican marijuana continued to flow north, but an increasing number of California users feared lung disease from paraquat-tainted pot and turned to the domestically grown product. California growers—who typically harvest and sell leaves to dealers who then peddle one-ounce bags on the street—now supply about 30 percent of the marijuana smoked in the state. There is not enough to export.

In the last five years, California growers have developed their own potent weed called California sinsemilla—Spanish for "without seed." Growers found that when pollination occurs, the female plant uses some of its tetrahydrocannabinol—the active ingredient in marijuana—to produce seeds. By preventing pollination, the growers force the plants to store the surplus THC in superpotent buds. California sinsemilla is recognized by users as superior to the old Mexican marijuana and sells for up to $200 an ounce, compared with about $40 an ounce for regular marijuana. When raids reduce the supply, the price goes even higher.

Some northern California communities have come to depend on the crop. In Gaberville, a little town in Humboldt County where new businesses have opened and the growers have made political allies and gained financial clout, the townsfolk don't talk to strangers about the area's crop. "Don't need no publicity," said Ted Kogan, a nine-year resident of the area.

The more firmly entrenched the industry becomes, the more state law enforcement officials doubt that their eradication efforts will succeed. Last year, officials estimated that they destroyed less than 10 percent of the estimated crop. What is more, marijuana cultivation simply does not have a high priority with most local law enforcement officials. The Humboldt County District Attorney, Bernie DePaoli, says that the stiffest penalty he will seek for a large grower—one in the $300,000 cash drop bracket—is a year in the county jail.

Except for the state's raids on growers, little has been done to rid California of the crop. Prosecutions are rare and difficult, since the fields are seldom owned by the grower and, unless a grower is caught during harvesting in the fall, possession is often hard to prove. The marijuana isn't easy to find. Many fields are tucked away in rugged state parks. Some growers cultivate as many as 50 small plots.

In addition, marijuana growers have become a new sort of folk hero in California. Hiding out in the mountains and the deserts, they are often romanticized as refugees from the cities who have eked out a life in the wilderness fighting poachers, lawmen and the elements. Of course, many growers are nothing of the sort, but rather practical businessmen and blue collar workers.

Growing even one marijuana plant is a felony in California, even though possession of an ounce is but a misdemeanor, an offense about as serious as a traffic ticket. Pro-marijuana groups are trying to change the law. They would like to see cultivation for personal use legalized. Alaska is the only state which has such a law.

The California legislature, however, has resisted any change. Although an estimated 7 million people—about 42 percent of the state's adult population—have smoked marijuana, legislation introduced by Assemblyman Willie Brown, Jr., a San Francisco Democrat, to allow an adult to grow marijuana for personal use failed in the last session of the legislature. An initiative proposition, supported by the National Organization for the Reform of Marijuana Laws, a group based in Washington, D.C., failed to make the November ballot in California.

Such setbacks, however, do not affect the big growers, who would get no protection from such changes. For them, the battle will be won or lost in the fields.

[From the Chicago Tribune, Oct. 5, 1981]

OKLAHOMA FARMERS UP TO EARS IN POT

MUSKOGEE, OKLA.—Marijuana is growing as high as an elephant's eye in the eastern third of Oklahoma, casting an ever-widening shadow over the heart of the Bible Belt.

Law enforcement officials said the problem is so serious that a state that likes to brag about the height of its corn now has an international reputation as a producer of common and high-grade "sinsemilla" (seedless) marijuana.

In McIntosh County, state and local authorities have destroyed 60 tons of 10- to 15-foot-high marijuana plants so far this year. Federal drug agents who recently borrowed a helicopter to look for crops in rugged northeastern Oklahoma found seven fields in two days.

Walter Zablocki, director of the Tulsa office of the U.S. Drug Enforcement Administration, said the agents happened to spot two of the fields while they were looking for fuel for the helicopter.

The clandestine farming operations and crops that bring several million dollars an acre have infuriated some law-abiding folks in the poorest region of Oklahoma.

"People here tend to be very rural. Religion is important," said John Walton, assistant district attorney in Muskogee County. "We like to think that we're the first people to wave the flag and show up for a 4th of July parade. People are incensed about this."

Two Muskogee County farmers have been convicted of growing marijuana during the last year. A third is awaiting trial.

Fred Means, chief of enforcement for the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, worked for several months as an undercover agent in eastern Oklahoma two years ago in the state's largest investigation of marijuana cultivation. The investigation resulted in 37 indictments.

"Our conclusion is that what we had seen was the tip of the iceberg," Means said.

Farming methods have become increasingly sophisticated during the last five years, Means said. Many growers use in-place irrigation systems. Some are importing exotic seeds from foreign countries.

State agents who arrested one Morris, Okla., grower last month found listening devices in the suspect's marijuana field. Homemade bombs being built in the barn were apparently to be placed as mines in the same field.

Growers connected to large-scale distribution rings, unemployed "dopers," and wheat and corn farmers tempted by the weed's tremendous profit potential have all entered the Oklahoma marijuana cultivation market.

State agents have traced Oklahoma-grown marijuana to Illinois, California, Washington, North Dakota, New Jersey, Mississippi, Florida, Texas, and other states.

Law enforcement officials list Oklahoma and such southern states as Tennessee, Arkansas, and Georgia as chief producers of the country's domestic marijuana.

Eastern Oklahoma is special because of its central location, sparse population, and the climate, soil quality, and availabilty of water in foot hills of the Ozark Mountains.

The same feature that has discouraged legal farmers—remoteness—is the one that attracts marijuana growers. Lush as most of northeastern Oklahoma is, much of the area is, inaccessible except by plane.

[From the Chicago Tribune, Oct. 19, 1981]

OUT-OF-STATERS FLOCKING TO NEBRASKA TO PICK MARIJUANA

OMAHA.—They come in airplanes and four-wheel drive vehicles, bearing special maps and wearing camouflage fatigues. They are marijuana hunters, and their target is the low-grade pot that grows wild along Midwestern fence rows and ditches.

The illegal marijuana harvest in Nebraska is on again and State Patrol officers say the pace this year is "hot and heavy."

Lt. Robert Clinkenbeard, head of the patrol's drug division in eastern Nebraska, said arrest statistics indicate that out-of-staters are doing most of the pot picking and taking the crop with them to be mixed with high-grade imported marijuana before it's sold.

Clinkenbeard said 436 people have been arrested for picking pot in Nebraska since 1975 and only 126 were Nebraskans.

He cited these incidents in the last two months:

Four people from Maine and a Massachusetts man were arrested along Int. Hwy 80 and 33 duffle bags stuffed with 1,455 pounds of "Nebraska ditch" were seized along with $4,000 in cash, two cars, and a van.

Twelve people from New York, Oregon, Hawaii, California, and New Mexico were charged with various drug law violations after several were arrested on a Nebraska farm that authorities suspect was rented solely for pot harvesting.

Near Lincoln, four Georgians were arrested in a field and 150 pounds of freshly picked pot seized. Authorities had been tipped that some people who had harvested in Nebraska before were back for more.

Clinkenbeard said that last year alone, 125 people were arrested for harvesting marijuana and almost two tons of pot worth an estimated $2 million were seized along with a $12,000 airplane and 26 vehicles valued at $64,000.

The harvesters are using ever more sophisticated methods. "For instance, they're using expensive police scanners, 50-channel programmable scanners. You're talking a lot of money here," Clinkenbeard said.

Nebraska road maps with prime marijuana areas marked are being sold around the country, he said. To avoid arousing the suspicions of local residents, some harvesters rent farmhouses.

"We've found these spots where they've had marijuana spread on all the floors of these old farm places to dry. Some use them as a place to store the stuff," Clinkenbeard said.

Authorities have also been finding garbage compactors used to compress wild marijuana into crude bales, he said. "They're kind of innovative in their dealings, so it keeps us on our toes trying to keep up with the latest trends."

Despite the evidence of ever more active domestic pot harvesting, federal officials say they're too busy trying to keep tabs on imports to help Nebraska or other Midwestern states.

"Our 2,000 agents are scattered extremely thin," Horton Heath, a spokesman for the Drug Enforcement Administration, said at the agency's headquarters in Washington. "They are not in a position to be able to aid the states in their domestic programs . . . and I don't see that situation changing.

"We rely on reports from the states. . . . Most of the knowledge and effort that goes on in this building is in connection with the international marijuana traffic. That's serious enough."

Heath said most marijuana available in the United States is grown in Colombia and enters this country most commonly through Florida. Other sources are Jamaica and Mexico. "About 7 per cent of it is grown domestically," Heath said.

Sophisticated smokers of marijuana shy away from wild marijuana, Heath said. Levels of THC—tetrahydrocannabinol, the chemical compound that gives pot its kick—in wild marijuana are just one half of 1 per cent.

"It's rather amateurish just to pick up wild marijuana unless it's being used to adulterate other stuff," Heath said. "Wild marijuana isn't of much interest to marijuana users."

Clinkenbeard says, however, that THC levels are unimportant to the people who travel thousands of miles to harvest Nebraska's wild weed most of which comes from the hemp plants the federal government encouraged farmers to grow in World War II.

[From the New York Times, Sept. 6, 1981]

VIRGINIA BATTLING BUMPER CROPS OF MARIJUANA

RICHMOND, September 5.—Law enforcement officers in Virginia, using informers and aerial reconnaissance, have opened a drive against marijuana growers who the police say have been cultivating larger and larger fields.

In the past six weeks, the Virginia police have seized thousands of marijuana plants, mostly in isolated areas. At the peak of the harvest season, with two weeks left before frost sets in, a race for new fields is on between the growers and the police.

Large-scale marijuana farming is new to Virginia, according to Dennis W. Robertson, special agent in charge of the State Police Narcotics Bureau. Until this year, most marijuana that the police found in Virginia was grown in small quantities for personal use. Now, Mr. Robertson said, "It's taken a turn away from this—they're growing it to sell."

Growing large amounts of marijuana is a felony punishable by a prison term no shorter than five years and no longer than 30 years.

COPTERS AND PLANES SCAN FIELDS

For six weeks, Mr. Robertson said, the state police have had a helicopter or an airplane searching for marijuana fields for about six hours a day, guided often by information supplied, sometimes for a price, by "concerned citizens."

Since mid-July, narcotics agents and sheriff's officers have raided at least "one good" field of marijuana a week, Mr. Robertson said. It takes 18 to 22 weeks for a marijuana crop to mature.

A harvested crop of home-grown marihuana, he said, brings a street price of $200 a pound; Colombian marijuana sells for $450, and a variety called sinsemilla sells for $2,000 a pound. It was sinsemilla that the police say they believe they found growing on a rented, 30-acre farm in Scott County, southwestern Virginia.

More than 15,000 plants were seized in Scott County Tuesday, and a warrant was issued for two men, believed to be from Pennsylvania or Rhode Island, who rented the farm. Mr. Robertson says a majority of the marijuana farmers arrested have been from outside the state. A Scott Sheriff's Department deputy said the men rented the farm in January for $7,000, adding, "You could have bought the farm for that."

The state police and local sheriff's deputies raided fields in the last two months in Craig, Nelson, Warren, Floyd and Gloucester Counties. On Aug. 24, the authorities said they found a field with 500 marijuana plants in Craig, in the southwest. In a barn nearby, they said they also found 20 pounds of marijuana being processed, and arrested two persons. In Gloucester in the Tidewater area, the police destroyed 8,500 marijuana plants in July. On Aug. 15 in Nelson near Charlottesville, sheriff's deputies swept four acres of marijuana plants. The landowner was arrested later.

NOT JUST IN THE BACK COUNTRY

In Floyd County in the southwest, 800 plants were uprooted by the police. On Aug. 17 and 19, in King George County near Fredericksburg, the police seized 2,000 plants. In Warren County in the southwest, on Aug. 22, the police recovered more than 1,000 pounds after raiding a field.

The raids have not been confined to the back country. In Virginia Beach, on Aug. 23, the police spent a weekend arresting 180 people for growing marijuana in apartment complexes, apparently for personal use.

The out-of-state marijuana growers, Mr. Robertson said, seek largely inaccessible areas.

AGENT SCENTS MOONSHINERS

The narcotics agent said that in Floyd County, it appeared that moonshiners were tending marijuana fields, although none have been arrested. "Some old moonshine money is going into pot growing," he said.

Marijuana growers' efforts, he said, have "just kind of steamrolled."

"The more we looked," he said, "the more we found. We realized we were finding so much we changed our priorities enough to start finding more. We're geared up for it."●

By Mr. MATSUNAGA (for himself, Mr. ROTH, Mr. MOYNIHAN, and Mr. DURENBERGER):

S. 2197. A bill to amend the Internal Revenue Code of 1954 to make certain sales of fuel for use in a taxicab exempt from tax, to make permanent provision for refund of taxes paid on the sale of fuel for use in a taxicab; to the Committee on Finance.

EXEMPTION OF CERTAIN TAXICABS FROM EXCISE TAX ON FUEL

Mr. MATSUNAGA. Mr. President, on November 9, 1981, Senators ROTH, MOYNIHAN, AND DURENBERGER, joined me in introducing S. 1830. That bill would exempt qualified taxicabs from the Federal excise tax on fuels and obviate the payment-refund mechanism.

Today we are introducing an improved bill to achieve the same administrative simplification. The new bill, like S. 1830, would extend this benefit to taxicabs operating in jurisdictions which prohibit ride-sharing, provided the taxicab company policy itself did not forbid shared transportation. The new bill would also make permanent the taxicab fuel tax exemption. The current refund mechanism would otherwise terminate at the end of this year.

Our bill has a House counterpart, H.R. 5166, which was introduced on December 10, 1981. The House bill would take effect after December 31, 1981. To move in parallel with the House sponsors, we have provided for the same effective date in our bill.

I ask unanimous consent that the text of the bill be printed in the RECORD immediately following my statement.

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

S. 2197

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXEMPTION OF TAXICABS FROM TAX ON SALE OF FUEL.

(a) EXEMPTION FROM TAX ON GASOLINE.—

(1) IN GENERAL.—Subpart A of part III of subchapter A of chapter 32 of Internal Revenue Code of 1954 (relating to manufacturer's excise tax on gasoline) is amended by redesignating section 4084 as section 4085 and by inserting after section 4083 the following new section:

"SEC. 4084. EXEMPTION OF SALES FOR TAXICAB USE.

"(a) IN GENERAL.—Under regulations prescribed by the Secretary, the tax imposed by section 4081 shall not apply in the case of gasoline sold for—

"(1) use by the purchaser—

"(A) in a qualified taxicab (as defined in section 6427(e)(2)(B)), and

"(B) while such taxicab is engaged exclusively in furnishing qualified taxicab services (as defined in section 6427(e)(2)(A)), or

"(2) resale by the purchaser for use—

"(A) in a qualified taxicab (as defined in section 6427(e)(2)(B)), and

"(B) while such taxicab is engaged exclusively in furnishing qualified taxicab services (as defined in section 6427(e)(2)(A)).

"(b) REGISTRATION REQUIREMENT.—If any gasoline is sold by any person for use as a fuel in a taxicab, it shall be presumed for purposes of this section that a tax imposed by section 4081 applies to such sale unless the purchaser is registered is such manner (and furnishes such information with respect to the use of the gasoline) as the Secretary shall by regulations provide."

(2) CLERICAL AMENDMENTS.—The table of sections for subpart A of part III of subchapter A of chapter 32 of such Code is amended by striking out the item relating to section 4084 and inserting in lieu thereof the following:

"Sec. 4084. Exemption of sales for taxicab use.

"Sec. 4085. Cross references."

(b) EXEMPTION FROM TAX ON DIESEL FUEL AND SPECIAL MOTOR FUELS.—

(1) IN GENERAL.—Subsection (g) of section 4041 of such Code (relating to exemptions from tax on diesel fuel and special motor fuels) is amended by inserting after paragraph (4) the following new paragraph:

"(5) with respect to the sale of any liquid for—

"(A) use by the purchaser—

"(i) in a qualified taxicab (as defined in section 6427(e)(2)(B)), and

"(ii) while such taxicab is engaged exclusively in furnishing qualified taxicab services (as defined in section 6427(e)(2)(A)), or

"(B) resale by the purchaser for use—

"(i) in a qualified taxicab (as defined in section 6427(e)(2)(B)), and

"(ii) while such taxicab is engaged exclusively in furnishing qualified taxicab services (as defined in section 6427(e)(2)(A))."

(2) Registration requirement for tax exemption.—Subsection (i) of section 4041 of such Code (relating to registration requirement for fuel tax exemption) is amended by inserting "or a taxicab" after "aircraft".

(3) Technical and conforming amendments.—Subsection (g) of section 4041 of such Code is amended—

(A) by striking out "and" at the end of paragraph (3), and

(B) by striking out the period at the end of paragraph (4) and inserting in lieu thereof "; and".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to sales of fuel after December 31, 1981.

SEC. 2. MAKING PERMANENT THE PROVISIONS FOR REFUND OF TAXES PAID ON SALE OF FUEL FOR TAXICABS: AMENDING THE DEFINITIONS OF QUALIFIED TAXICAB SERVICES AND QUALIFIED TAXICAB.

(a) MAKING PERMANENT THE PROVISION FOR REFUND OF TAXES PAID ON SALE OF FUEL FOR TAXICABS.—Subsection (e) of section 6427 of the Internal Revenue Code of 1954 (relating to refund of taxes paid on sale of fuel for taxicabs) is amended by striking out paragraph (3).

(b) AMENDING THE DEFINITIONS OF QUALIFIED TAXICAB SERVICES AND QUALIFIED TAXICAB.—

(1) IN GENERAL.—

(A) QUALIFIED TAXICAB SERVICES.—Clause (ii) of section 6427(e)(2)(A) of such Code (defining qualified taxicab services) is amended to read as follows:

"(ii) is not prohibited by company policy from furnishing (with consent of the passengers) shared transportation."

(B) QUALIFIED TAXICAB.—Clause (iii) of section 6427(e)(2)(C) of such Code (defining qualified taxicab) is amended by striking out "or equal to" and inserting in lieu thereof "75 percent of".

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to sales of fuel after December 31, 1981.

By Mr. DOLE (for himself, Mr. GRASSLEY, and Mr. CHAFEE):

S. 2198. A bill to amend the Internal Revenue Code of 1954 to improve taxpayer compliance, and for other purposes; to the Committee on Finance.

TAXPAYER COMPLIANCE IMPROVEMENT ACT OF 1982

Mr. DOLE. Today, Senator GRASSLEY and I, along with cosponsors, including the distinguished Presiding Officer (Mr. CHAFEE), are introducing the Taxpayer Compliance Improvement Act of 1982. Mr. CONABLE, the distinguished ranking minority member on the Ways and Means Committee, is introducing the bill in the House next week. Coupled with additional IRS funding, this bill will raise over $20 billion during the next 3 years by improving the ability of the IRS to collect taxes already owed under present law. This measure will be the first comprehensive reform of our voluntary compliance system since 1954. By avoiding a broad extension of mandatory withholding, it also represents a fundamental redirection of our tax administration system and philosophy of tax collection.

Hearings on the bill are already scheduled for March 22 before the Finance Subcommittee on IRS Oversight.

Although America's taxpayers have a record of compliance unequalled anywhere else in the world, compliance rates have been falling. Under the administration's budget, if there were perfect compliance with the Federal income tax laws, the 1983 deficit would be only $7 billion and by 1984 there would be a $10 billion surplus. Perfect compliance is only a theoretical ideal, however, because the cost of securing such compliance would be unacceptably high.

Our bill generates $20 billion of additional revenue between 1983 and 1985 without imposing new taxes or creating excessive paperwork burdens. Improved compliance is not achieved under our bill through the controversial interest and dividend withholding proposal. Instead, our bill improves information reporting and levies stricter penalties on those who violate the Federal tax laws.

In addition to raising needed revenue, improved compliance will help restore public confidence in our Federal Government and our tax system. At a time when all of our citizens are being asked to share the sacrifice of substantial budget cuts, we cannot tolerate the current levels of tax fraud.

THE EXPANDING COMPLIANCE GAP

There has been enormous growth in the income tax compliance gap—the difference between what the Federal Government was owed and what it collected. That gap grew from $21 billion in 1973 to $76 billion in 1981. If unchecked, the compliance gap would increase to $102 billion by 1985. Moreover, that growth reflects increasing percentages of unpaid tax.

THE THREE PRINCIPAL COMPONENTS

The compliance gap has three principal components: Individuals' unreported and underreported legal income, unreported and underreported corporate income, and illegal income. Approximately 84 percent of the compliance gap, according to the IRS' most recent figures, is attributable to underreporting of individuals' legal income. Only 11 percent is due to underreporting of illegal income and only 5 percent is attributable to the corporate sector. The bulk of the noncompliance is thus by individuals, according to the IRS, and with respect to legal source income.

Compliance is highest for wages—in excess of 99 percent according to the IRS. Farm income has the second highest compliance rate—92 percent. Capital gains has an estimated compliance rate of only 56 percent. Entirely off the chart are tips and illegal source income with average compliance rates of less than 20 percent.

The measures we propose today fall into three principal categories. First are measures which improve the operation of our information reporting system. Second, the bill provides a new system of penalties when taxpayers refuse to comply with the information reporting system or the general tax laws. Third, a progressive voluntary withholding system is applied to pensions.

I would like to note at the outset that these proposals generally do not substitute a mandatory withholding system for a working information reporting system and do not do so in particular with respect to interest and dividend payments. I believe such proposals may be premature until we have seriously tried to improve our information reporting system.

IMPROVED INFORMATION REPORTING

The information reporting system now suffers from three principal flaws.

NEW INFORMATION

First, important and necessary information is not made available to the IRS and to taxpayers filing returns. Information reporting on interest and dividends, for example not only apprises the IRS of the income a taxpayer receives but also reminds the taxpayer during the crucial tax filing season of these amounts. Four principal areas would be dealt with by this bill. First, information reporting would be extended to all interest bearing instruments—including Federal obligations and bearer bonds. Second, low-cost information reporting on capital gains in commodities and securities transactions would be required from the highly computerized securities and commodities brokerage industry. Third, State income tax refunds would be reported to taxpayers—reducing the $330 million revenue loss associated with such payments. Fourth, tips paid over by large employers based upon credit card invoices would be subject to information reporting.

MORE ACCURATE INFORMATION

The key to the IRS information reporting system is the matching of third party reports—like form 1099's on interest and dividends—with the returns filed by taxpayers. This system is important because it allows the IRS to monitor taxpayer compliance without imposing unnecessary burdens on taxpayers' time and money through involved office and audits. Such matching virtually requires that the taxpayer's own return and the information return contain accurate social security numbers. Yet in 1979, the last year for which the information is available, 7.8 percent of form 1099's—a total of 5,668,416 returns—had no social security numbers at all. Over 13 million information reports on interest had no social security numbers—5.9 percent. Approximately 10 percent more of each category of returns had incorrect social security numbers. Tracking down the correct social security number is either very expensive or, in many instances, simply impossible. A combination of new penalties and withholding for taxpayers who do not comply will substantially reduce this serious problem.

USING THE INFORMATION RECEIVED

The third problem that the IRS faces is an inability to handle the information it receives. This problem, too, has several components. One dimension of the problem is resources. Budget cutbacks at the IRS have reduced its ability to process the information it receives. Although the administration's proposal to increase compliance funding for the IRS is important, none of that money will be allocated to data processing. We urge the administration to include in its 1984 and 1985 budgets higher funding to process the information this bill would make available. Even without such additional funding, however the new and more accurate information will boost compliance significantly. Equally important are the regulatory reform changes made by this bill. Under our bill, the IRS would be required to issue promptly regulations interpreting new statutory provisions, thus better enabling taxpayers to comply voluntarily with the Federal tax laws.

A related problem is information returns filed on paper. The bill would give the IRS express authority to require persons filing large numbers of returns to file on magnetic tape and related formats. Such requirements would accelerate and increase the efficiency of processing such returns.

Finally, because of concerns that the IRS has all too often collected information without being able to process it, this bill would require the IRS to make a comprehensive examination of its information returns and their processing and report back to the Congress the results of that study by next spring.

II. PENALTIES AND INTEREST

The second principal type of remedy proposed by the bill would be a comprehensive revision of the penalty and interest system. In addition to imposing meaningful penalties on taxpayers who do not comply with the requirements of our information reporting system, the bill would make six major changes to that system.

COMPUTATION OF INTEREST

Current law offers taxpayers unintended and unwarranted interest bonanzas. Recently, the opportunity to receive interest at 20 percent on net operating losses for up to a full year has received special attention. Taxpayers entitled to a refund can adopt a similar strategy and receive interest at up to 20 percent on their money for up to 3 years. The Federal Government ought not pay 20 percent interest in such instances, and these loopholes will be closed.

COMPOUNDING OF INTEREST

Currently, only simple interest accrues on refunds and deficiencies. Despite the 1981 increase in the rate of interest, the failure to compound interest provides taxpayers with a strong incentive to delay settlement of controversies. Beginning in 1983, interest will be compounded semiannually.

INTEREST RATES

A matter that has deeply concerned Senator GRASSLEY is the failure to provide a realistic measure of the interest rate under the formula of the 1981 Act. This bill reflects those concerns. If enacted, it will insure that interest rates conform to economic reality. Beginning in 1983, interest rates will be adjusted semiannually to the average prime rate over the prior 6 months.

MINIMUM PENALTY FOR FAILURE TO FILE

Currently, a taxpayer must pay a penalty for the late filing of a tax return only if he owes tax. Of the 6 million late filers, many are owed refunds. Thus, they will pay no penalty at all. Nevertheless, it costs the IRS on average almost $100 to identify and secure a return from a nonfiler. Our bill will reimburse the Federal Government for the cost of securing a return from a nonfiler by imposing a minimum penalty of $100.

TAX SHELTER PENALTY

A problem that has long concerned the IRS and the bar is the need to restrict the ability of well-advised taxpayers to take unsupportable positions on their returns while gambling that their tax return will not be audited. Even if audited, such taxpayers can generally rely on the advice of their adviser to defeat a penalty. Our bill would change the sophisticated calculations of such high-income, well-advised taxpayers. In the case of a very substantial underpayment of tax arising out of an item that had not been fully disclosed on the tax return, a 10-percent penalty would be imposed. A substantial underpayment of tax must exceed $5,000 for individuals and $10,000 for corporations. No showing of negligence or fraud would be required.

CORPORATE OFFICER FRAUD PENALTY

The bill would adopt a proposal made last year by the tax section of the New York State Bar Association and permit the civil fraud penalty to be assessed against a responsible manager, lawyer, or accountant of a corporation who commits tax fraud on behalf of his corporate employer. Although current law allows the Government to send such an individual to prison, a civil fraud penalty may operate as a more efficient deterrent.

III. VOLUNTARY WITHHOLDING ON ANNUITIES

Currently, taxpayers receiving annuity distributions from pensions may elect voluntary withholding. The substantive tax law is complex, and many taxpayers mistakenly believe that all amounts received are nontaxable. Because no progressive withholding rate charts are available, taxpayers cannot compute the amount that ought to be withheld to avoid either overwithholding or the need to make estimated tax payments. Not surprisingly, few taxpayers elect in. The compliance gap for pension distributions is already approximately $3 billion, and projected to grow very sharply.

We believe that taxpayers ought not to be required to be subject to withholding on annuity distributions if they do not so choose. On the other hand, annuities are generally taxable, and, as for wages, taxpayers ought to be allowed to avoid making estimated tax payments. Thus, a progressive withholding table will be provided. Withholding will apply unless the taxpayer elects out.

Lump sum distributions are subject to special fixed tax rates. In the case of taxable lump sum distributions, it therefore appears entirely appropriate to apply a mandatory withholding system unless the taxpayer makes a qualified tax-free rollover of the proceeds.

INDEPENDENT CONTRACTORS

Earlier this Congress I introduced S. 8, a bill that provides a broad safe harbor for the definition of independent contractors. I continue to work toward a solution to the fundamental problems of equity and of compliance for independent contractors. We are close to agreeing on a bill and I hope to introduce a bill with safe harbors and information reporting—and without general withholding very soon.

PROCEDURAL AND OTHER MATTERS

A number of other issues have been suggested for our careful study in the course of our efforts to improve taxpayer compliance. I am, frankly, disappointed that we have been unable to address the small but corrosive problem of noncompliance with respect to criminal source income. I do not rule out the possibility that we may agree on such proposals as part of this bill. I also do not rule out the possibility that we will address the problem of partnership audits—after the changes made by this bill in the creation of a penalty for substantial underpayment of tax and the compounding of interest, probably the most important tax shelter strategy that we may adopt. And there are other technical procedural matters that ought perhaps to be addressed as well.

CONCLUSION

The bill represents a dramatic departure from prior strategies to deal with the rapidly growing compliance gap. Without imposing broad-based withholding and without a massive increase in audit coverage, the bill will substantially increase compliance with the Federal tax laws. The bill offers a balanced package, weighing taxpayers' interest in a limited paperwork burden and in privacy with the clear need to collect revenues. Our efforts to narrow the projected budget deficits and maintain confidence in the integrity and the equity of our Federal tax laws should insure that these proposals receive careful attention.

Mr. President, I just suggest, while we all search for ways to find more revenues, or at least ways to lower the deficit so we might lower interest rates, areas we should not overlook are those areas where people with income do not report that income and pay no tax at all. This is what this bill will address.

We hope that if, in fact, the bill stays intact and passes the Congress this year, hopefully by midyear; that is, by 1984, we could raise as much as $9 billion per year. That revenue would come from some individuals, partnerships, corporations, who have not paid the taxes they owed because they did not report their interest income, did not report their dividend income, did not report their capital gains, in some cases, did not report large tips. In other cases people overdeduct and overestimate their expenses and they, too, will be dealt with by this bill. I believe that this proposal has a great deal of merit.

I also wish to thank the distinguished Commissioner of the Internal Revenue Service, Roscoe Egger, for his help in addressing this problem and to thank the Assistant Secretary of the Treasury, John E. Chopoton, as well as Senator GRASSLEY's staff, the committee staff and the joint committee staff and all others who I think will have an interest in this legislation.

It is my hope that there will be a number of other cosponsors. It is a totally nonpartisan or a bipartisan effort.

I ask unanimous consent that the bill be printed in the RECORD and that a technical explanation prepared by the staffs of the Joint Committee on Taxation and the Committee or Finance follow the text of the bill.

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

S. 2198

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; AMENDMENT OF 1954 CODE.

(a) SHORT TITLE.—This Act may be cited as the "Taxpayer Compliance Improvement Act of 1982".

(b) AMENDMENT OF 1954 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

TITLE I—ADMINISTRATIVE PROVISIONS

SUBTITLE A—REPORTING REQUIREMENTS

SEC. 101. TRANSACTIONS INVOLVING CERTAIN OBLIGATIONS.

(a) REPORTING OF INTEREST ON UNITED STATES AND CORPORATE BEARER OBLIGATIONS.—

(1) INTEREST.—Subparagraph (A) of section 6049(b)(1) (defining interest) is amended to read as follows:

"(A) interest on evidences of indebtedness (including bonds, debentures, notes, and certificates) issued by the United States or any agency or instrumentality thereof or a corporation;".

(2) ORIGINAL ISSUE DISCOUNT.—Subparagraph (C) of section 6049(a)(1) (relating to requirements of returns) is amended to read as follows:

"(C) which is a corporation (or the United States or any agency or instrumentality thereof) that has outstanding any bond, debenture, note, or certificate or other evidence of indebtedness as to which there is during any calendar year an amount of original issue discount (within the meaning of section 1232(b)) aggregating $10 or more includible in the gross income of any holder,".

(3) CONFORMING AMENDMENT.—Section 6049 is amended by adding at the end thereof the following new subsection:

"(d) SPECIAL RULES RELATING TO UNITED STATES.—

"(1) UNITED STATES TREATED AS PERSON.—For purposes of subsection (a), the term 'person' shall include the United States or any agency or instrumentality thereof.

"(2) PAYMENTS BY THE UNITED STATES.—In the case of payments made by the United States or any agency or instrumentality thereof, officers and employees of the United States or any agency or instrumentality thereof having information with respect to such payments shall, under regulations prescribed by the Secretary, make the returns and statements required by this section.".

(b) RETURNS OF BROKERS.—

(1) REGULATIONS TO BE PRESCRIBED.—Not later than 6 months after the date of the enactment of this Act, the Secretary of the Treasury or his delegate shall prescribe regulations under section 6045 of the Internal Revenue Code of 1954 which require commodities and securities brokers to make the returns described in such section with respect to transactions in their capacity as such brokers.

(2) REPORTING WITH RESPECT TO CERTAIN SALES AND TRANSFERS.—In the regulations prescribed in accordance with paragraph (1), the Secretary of the Treasury or his delegate shall require that in any return required to be filed under such regulations there shall be included information with respect to any sale or transfer before maturity of any bond or other evidence of indebtedness other than any sale or transfer by a corporation of any—

(A) Treasury bill with a maturity of not more than 1 year, or

(B) bond or other evidence of indebtedness of a corporation which—

(i) is not required to be registered with the Securities and Exchange Commission, and

(ii) has a maturity of not more than 1 year.

(c) PENALTY FOR FAILURE TO FILE SECTION 6045 RETURNS.—Paragraph (2) of section 6652(a) (relating to returns relating to information at source, etc.) is amended by inserting "required by section 6045 (relating to returns of brokers) or" before "required".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to returns the due date for filing of which (including extensions) is after December 31, 1982.

SEC. 102. STATE AND LOCAL INCOME TAX REFUNDS.

(a) IN GENERAL.—Subpart B of part III of subchapter A of chapter 61 (relating to information concerning transactions with other persons) is amended by adding at the end thereof the following new section:

"SEC. 6050E. STATE AND LOCAL INCOME TAX REFUNDS.

"(a) REQUIREMENT OF REPORTING.—Each individual who—

"(1) is charged under the laws of any State or political subdivision thereof with refunding State or local income taxes (within the meaning of section 164(a)(3)); and

"(2) with respect to any person during any calendar year makes payments of, or credits or offsets, refunds of such taxes aggregating $10 or more,

shall make a return according to the forms or regulations prescribed by the Secretary, setting forth the aggregate amount of such payments, credits, or offsets, and the name and address of the person with respect to whom such payment, credit, or offset was made.

"(b) STATEMENTS TO BE FURNISHED TO PERSONS WITH RESPECT TO WHOM INFORMATION IS FURNISHED.—Every person making a return under subsection (a) shall furnish to each person whose name is set forth in such return a written statement showing—

"(1) the name of the State or political subdivision thereof, and

"(2) the aggregate amount of refunds, credits, and offsets to the person shown on the return.

The written statement required under the preceding sentence shall be furnished to the person during January of the calendar year following the calendar year for which the return under subsection (a) was made.".

(b) CONFORMING AMENDMENT.—The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by adding at the end thereof the following new item:

"Sec. 6050E. State and local income tax refunds.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to payments of refunds, and credits and offsets made, after December 31, 1982.

SEC. 103. REPORTING OF CHARGED TIPS.

(a) IN GENERAL.—Subsection (e) of section 6041 (relating to section not applying to certain tips) is amended to read as follows:

"(e) SECTION DOES NOT APPLY TO CERTAIN TIPS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), this section shall not apply to tips with respect to which section 6053(a) (relating to reporting of tips) applies.

"(2) CHARGED TIPS.—

"(A) IN GENERAL.—In the case of an employer other than a small employer, paragraph (1) shall not apply to charged tips which are paid over by such employer to an employee.

"(B) SMALL EMPLOYER.—For purposes of this paragraph—

"(i) IN GENERAL.—The term 'small employer' means with respect to any calendar year an employer who normally employed 5 or fewer employees during the preceding calendar year.

"(ii) AGGREGATION OF EMPLOYEES.—Under regulations prescribed by the Secretary, rules similar to the rules of subsections (a) and (b) of section 52 shall apply.".

(b) CONFORMING AMENDMENT.—The last sentence of section 6001 (relating to notice or regulations requiring records, statements, and special returns) is amended by inserting ", records necessary to comply with section 6041 by reason of section 6041 (e)," after "charge receipts".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to tips paid over by an employer to an employee after December 31, 1982.

SEC. 104. INFORMATION RETURNS.

(a) METHOD OF REPORTING BY LARGE PAYORS.—Section 6011 (relating to general requirement of return, statement, or list) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) FORM OF REPORTING MUST BE MACHINE PROCESSABLE IN CERTAIN CASES.—The Secretary may by regulations require any person required to file a return under this title to file such return in such form (including magnetic media in the case of any person required to file multiple returns) as the Secretary determines necessary to make such return capable of being processed by such equipment as will be used by the Secretary.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to returns the due date for filing of which (including extensions) is after December 31, 1982.

SUBTITLE B—MODIFICATION OF INTEREST PROVISIONS

SEC. 111. INTEREST COMPOUNDED SEMIANNUALLY.

(a) IN GENERAL.—Subchapter C of chapter 67 (relating to determination of rate of interest) is amended by adding at the end thereof the following new section:

"SEC. 6622. INTEREST COMPOUNDED SEMIANNUALLY.

"In computing the amount of any interest required to be paid under this title or section 2411(a) of title 28, United States Code, by the Secretary or by the taxpayer, such interest shall be compounded semiannually.".

(b) CONFORMING AMENDMENTS.—

(1) Section 6601(e) (relating to applicable rules) is amended by striking out paragraph (2) and redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively.

(2) The table of sections for subchapter C of chapter 67 is amended by inserting after section 6621 the following new item:

"Sec. 6622. Interest compounded semiannually.".

(3)(A) The heading for subchapter C of chapter 67 is amended by inserting "; Compounding of Interest" after "Rate".

(B) The item relating to subchapter C in the table of subchapters for chapter 67 is amended by inserting "; compounding of interest" after "rate".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to interest accruing after December 31, 1982.

SEC. 112. DETERMINATION OF RATE OF INTEREST TO BE MADE SEMIANNUALLY.

(a) IN GENERAL.—Subsection (b) of section 6621 (relating to determination of rate of interest) is amended to read as follows:

"(b) ADJUSTMENT OF INTEREST RATE.—

"(1) ESTABLISHMENT OF ADJUSTED RATE.—If the adjusted prime rate charged by banks (rounded to the nearest full percent)—

"(A) during the 6-month period ending on September 30 of any calendar year, or

"(B) during the 6-month period ending on March 31 of any calendar year,

is at least 1 percentage point more or less than the interest rate in effect under this section on either such date, respectively, then the Secretary shall establish, within 15 days after the close of the applicable 6-month period, an adjusted rate of interest equal to such adjusted prime rate.

"(2) EFFECTIVE DATE OF ADJUSTMENT.—Any adjusted rate of interest established under paragraph (1) shall become effective—

"(A) on January 1 of the succeeding year in the case of an adjustment attributable to paragraph (1)(A), and

"(B) on July 1 of the same year in the case of an adjustment attributable to paragraph (1)(B).".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to adjustments taking effect after December 31, 1982.

SEC. 113. RESTRICTIONS ON PAYMENT OF INTEREST FOR CERTAIN PERIODS.

(a) INTEREST WITH RESPECT TO DELINQUENT RETURNS.—Section 6611(b) (relating to period for which interest on refunds is paid) is amended by adding at the end thereof the following new paragraph:

"(3) LATE RETURNS.—Notwithstanding paragraph (1) or (2), in the case of a return of tax which is filed after the last date prescribed for filing such return (determined with regard to extensions), no interest shall be allowed or paid for any day before the date on which the return is filed.".

(b) NO INTEREST IF RETURN NOT IN PROCESSABLE FORM.—Section 6611 (relating to interest on overpayments) is amended by redesignating subsection (i) as subsection (j) and by adding after subsection (h) the following new subsection:

"(i) NO INTEREST UNTIL RETURN IN PROCESSABLE FORM.—For purposes of subsections (b)(3)(B), (e), and (h), a return shall not be treated as filed until it is filed in such form as may be processed by the Secretary.".

(c) NO INTEREST ON REFUNDS CAUSED BY CERTAIN CARRYBACKS UNTIL CLAIMS FILED BY TAXPAYER.—

(1) NET OPERATING LOSS AND CAPITAL LOSS CARRYBACKS.—Paragraph (1) of section 6611(f) (relating to refund of income tax caused by carryback or adjustment for certain unused deductions) is amended by striking out "prior to the close of the taxable year in which such net operating loss or net capital loss arises" and inserting in lieu thereof "before an application under section 6411 or a claim for credit or refund is filed with respect to such overpayment".

(2) CREDIT CARRYBACKS.—Paragraph (2) of section 6611(f) is amended by striking out "before the close of such subsequent taxable year" and inserting in lieu thereof "before an application under section 6411 or a claim for credit or refund is filed with respect to such overpayment".

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by subsections (a) and (b) shall apply to returns filed after the 30th day after the date of the enactment of this Act.

(2) SUBSECTION (C).—The amendments made by subsection (c) shall apply to payments of interest made after the date of the enactment of this Act with respect to interest accruing after March 11, 1982.

SUBTITLE C—PENALTY PROVISIONS

SEC. 121. FRAUD PENALTY ON CORPORATE DIRECTORS, OFFICERS, EMPLOYEES, AND AGENTS.

(a) IN GENERAL.—Section 6653 (relating to failure to pay tax) is amended by inserting after subsection (e) the following new subsection:

"(f) FRAUD PENALTY IMPOSED ON CORPORATE DIRECTORS, OFFICERS, EMPLOYEES, AND AGENTS.—

"(1) IN GENERAL.—If 1 or more directors, officers, employees, or agents of a corporation knowingly participated in any fraud which resulted in a part of any underpayment of tax by such corporation, then there is hereby imposed on all such individuals an aggregate penalty equal to 50 percent of the amount of such part. Except as provided in paragraph (2), each individual described in the preceding sentence shall be jointly and severally liable for any penalty imposed under this paragraph.

"(2) $100,000 LIMITATION PER INDIVIDUAL PER RETURN.—The amount of the penalty imposed under paragraph (1) with respect to any individual with respect to any return shall not exceed $100,000.

"(3) KNOWING PARTICIPATION.—For purposes of this subsection—

"(A) IN GENERAL.—Knowing participation in fraud includes only participation with respect to which such individual knew, or should have known, that such participation would result in an underpayment of tax.

"(B) CERTAIN ACTIVITIES INCLUDED.—Participation in fraud by an individual includes—

"(i) ordering a subordinate (whether or not an officer or employee of the corporation by which the individual is employed) to participate in such fraud, or

"(ii) knowing of, and not attempting to prevent, participation by such a subordinate in such fraud.".

(b) STATUTE OF LIMITATIONS.—Subsection (c) of section 6501 (relating to limitations on assessment and collection) is amended by adding at the end thereof the following new paragraph:

"(8) FRAUDULENT CONDUCT OF CORPORATE DIRECTORS, OFFICERS, EMPLOYEES, AND AGENTS.—In the case of a penalty imposed under section 6653(c), the penalty may be assessed, or a proceeding in court for collection of such penalty may be begun without assessment, before the later of—

"(A) 6 years after the last day prescribed by law (determined with regard to extensions) for filing the return of the corporation to which such penalty relates, or

"(B) in the case of any such return with respect to which an agreement is in effect under paragraph (4), 1 year after the last day on which the tax may be assessed, or a proceeding in court may be begun without assessment, under such agreement.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to returns the due date for filing of which (including extensions) is after December 31, 1982.

SEC. 122. MINIMUM PENALTY FOR EXTENDED FAILURE TO FILE.

(a) IN GENERAL.—Subsection (a) of section 6651 (relating to failure to file tax return or to pay tax) is amended by adding at the end thereof the following new sentence: "In the case of a failure to file a return of tax imposed by chapter 1 within 60 days of the date prescribed for filing of such return (determined with regard to any extensions of time for filing), unless it is shown that such failure is due to reasonable cause and not due to willful neglect, the addition to tax under paragraph (1) shall not be less than $100.".

(b) CONFORMING AMENDMENTS.—Section 6651(c)(1) (relating to additions under more than one paragraph) is amended—

(1) by inserting "(but not below $100 in any case in which the last sentence of subsection (a) applies)" after "reduced" in subparagraph (A), and

(2) by inserting "(determined without regard to the last sentence of such subsection)" after "paragraph (1) of subsection (a)" in subparagraph (B).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to returns the due date for filing of which (including extensions) is after December 31, 1982.

SEC. 123. RELIEF FROM CRIMINAL PENALTY FOR FAILURE TO FILE ESTIMATED TAX WHERE TAXPAYER FALLS WITHIN STATUTORY EXCEPTIONS.

Section 7203 (relating to willful failure to file return, supply information, or pay tax) is amended by adding at the end thereof the following new sentence: "In the case of any person with respect to whom there is a failure to pay any estimated tax, this section shall not apply to such person with respect to such failure if, by reason of section 6654(d), there is no addition to tax under section 6654 with respect to such failure.".

SEC. 124. FAILURE TO FILE INFORMATION RETURNS OR SUPPLY IDENTIFYING NUMBERS.

(a) MINIMUM PENALTY FOR FAILURE TO FILE INFORMATION RETURNS.—Subsection (a) of section 6652 (relating to failure to file certain information returns, etc.), as amended by section 101(c), is amended to read as follows:

"(a) RETURNS RELATING TO INFORMATION AT SOURCE, PAYMENTS OF DIVIDENDS, ETC., AND CERTAIN TRANSFERS OF STOCK.—

"(1) IN GENERAL.—In the case of each failure—

"(A) to file a statement of the aggregate amount of payments to another person required by—

"(i) section 6041(a) or (b) (relating to certain information at source),

"(ii) section 6042(a)(1) (relating to payments of dividends aggregating $10 or more),

"(iii) section 6044(a)(1) (relating to payments of patronage dividends aggregating $10 or more),

"(iv) section 6049(a)(1) (relating to payments of interest aggregating $10 or more),

"(v) section 6050A(a) (relating to reporting requirements of certain fishing boat operators), or

"(vi) section 6051(d) (relating to information returns with respect to income tax withheld), or

"(B) to make a return required by section 6045 (relating to returns of brokers) or required by section 6052(a) (relating to reporting payment of wages in the form of group-term life insurance),

on the date prescribed therefor (determined with regard to any extension of time for filing), unless it is shown that such failure is due to reasonable cause, there shall be paid (upon notice and demand by the Secretary and in the same manner as tax), by the person failing to file a statement referred to in subparagraph (A) or failing to make a return referred to in subparagraph (B), $50 for each such failure, but the total amount imposed on the delinquent person for all such failures during any calendar year shall not exceed $50,000.

"(2) PENALTY IN CASE OF INTENTIONAL DISREGARD.—If one or more failures to which paragraph (1) applies are due to intentional disregard of the filing requirement, then with respect to such failures—

"(A) the penalty imposed under paragraph (1) shall not be less than an amount equal to—

"(i) in the case of a return not described in subparagraph (B), 10 percent of the aggregate amount of the items required to be reported, and

"(ii) in the case of a return required to be filed by section 6045, 5 percent of the gross proceeds required to be reported, and

"(B) the $50,000 limitation under paragraph (1) shall not apply.".

(b) INCREASE IN CIVIL PENALTY ON FAILURE TO SUPPLY IDENTIFYING NUMBERS.—Subsection (a) of section 6676 (relating to failure to supply identifying numbers) is amended to read as follows:

"(a) CIVIL PENALTIES.—

"(1) IN GENERAL.—If any person who is required by regulations prescribed under section 6109—

"(A) to include his identifying number in any return, statement, or other document,

"(B) to furnish his identifying number to another person, or

"(C) to include in any return, statement, or other document made with respect to another person the identifying number of such other person,

fails to comply with such requirement at the time prescribed by such regulations, such person shall, unless it is shown that such failure is due to reasonable cause, pay a penalty of $50 for each such failure, except that the total amount imposed on such person for all such failures during any calendar year shall not exceed $50,000.

"(2) PENALTY FOR INTENTIONAL DISREGARD.—If one or more failures to which paragraph (1)(C) applies are due to intentional disregard of the inclusion requirement, then paragraph (1) shall be applied with respect to such failures—

"(A) by substituting '$100' for '$50', and

"(B) without regard to the $50,000 limitation.".

(c) WITHHOLDING OF TAX IN CERTAIN CASES.—Section 3402 (relating to withholding at source) is amended by adding at the end thereof the following new subsection:

"(s) EXTENSION OF WITHHOLDING TO CERTAIN INDIVIDUALS WHERE IDENTIFYING NUMBER MISSING OR INCORRECT.—

"(1) IN GENERAL.—If, in the case of a return described in subparagraph (A) (other than clause (vi)) or subparagraph (B) of section 6652(a)(1), a qualified payee with respect to such return—

"(A) fails to provide a required identification number, or

"(B) provides an incorrect required identification number,

then the person required to file such return shall deduct and withhold from the amount of any payment required to be included in such return a tax equal to 15 percent of such amount.

"(2) AMOUNTS AND PERIODS OF WITHHOLDING.—

"(A) FAILURE TO SUPPLY NUMBER.—In the case of a failure described in paragraph (1)(A), the tax under paragraph (1) shall be deducted and withheld on any amount which is paid during any period during which a required identification number has not been provided (or during the 7-day period following such period).

"(B) INCORRECT IDENTIFICATION NUMBER.—In the case of an incorrect required identification number described in paragraph (1)(B), the Secretary shall notify the qualified payee that the qualified payee has 60 days to correct such number. If the qualified payee fails to correct within such 60-day period, the tax under paragraph (1) shall be deducted and withheld on any amount which is paid during the period—

"(i) beginning on the 8th day after the date the Secretary notifies the payor that the payee has an incorrect required identification number, and

"(ii) ending on the 8th day after the date the Secretary notifies the payor that such number has been corrected.

"(C) MINIMUM AMOUNT REQUIRED BEFORE WITHHOLDING.—No amount shall be deducted and withheld with respect to any payment required to be included in any return described in paragraph (1) unless the aggregate amount of such payment and all previous payments during the period for which such return covers exceeds the minimum amount which must be paid before such return is required to be filed.

"(3) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

"(A) QUALIFIED PAYEE.—The term 'qualified payee' means any person with respect to whom a payment is made if such payment is required to be included in any return described in paragraph (1), other than—

"(i) the United States or any agency or instrumentality thereof,

"(ii) any State or political subdivision thereof,

"(iii) an organization which is exempt from taxation under section 501(a), or

"(iv) any foreign government or international organization.

"(B) REQUIRED IDENTIFICATION NUMBER.—The term 'required identification number' means an identifying number which is required to be furnished under section 6109.

"(C) PAYMENTS.—The term 'payments' includes amounts other than payments which are required to be included in any return described in paragraph (1).

"(D) AMOUNTS FOR WHICH WITHHOLDING OTHERWISE REQUIRED.—No tax shall be deducted or withheld under this subsection with respect to any amount for which withholding is otherwise required by this title.

"(E) APPLICATION FOR NUMBERS.—The Secretary shall prescribe regulations for exemptions from the tax imposed by paragraph (1) during periods during which a person is waiting for receipt of a required identification number.

"(F) AMOUNTS REQUIRED TO BE INCLUDED IN RETURNS.—The determination as to whether a payment is required to be included in any return described in paragraph (1) shall be made without regard to any minimum amount which must be paid before a return is filed.

"(G) COORDINATION WITH OTHER SECTIONS.—For purposes of this chapter (other than subsection (n)), and so much of subtitle F (other than section 7205) as relates to this chapter, payments of amounts to a qualified payee shall be treated as if they were wages paid by an employer to an employee.".

(d) EFFECTIVE DATES.—

(1) The amendments made by subsections (a) and (b) shall apply to returns the due date for the filing of which (including extensions) is after December 31, 1982.

(2) The amendment made by subsection (c) shall apply to amounts paid after December 31, 1983.

SEC. 125. PENALTY FOR SUBSTANTIAL UNDERSTATEMENT.

(a) IN GENERAL.—Subchapter A of chapter 68 (relating to additions to tax and additional amounts) is amended by redesignating section 6660 as section 6661 and by inserting after section 6659 the following new section:

"SEC. 6660. SUBSTANTIAL UNDERSTATEMENT OF LIABILITY.

"(a) PENALTY IMPOSED.—

"(1) IN GENERAL.—If, in the case of a return of tax imposed by chapter 1 for any taxable year, the underpayment of tax with respect to such return exceeds the greater of—

"(A) $5,000, or

"(B) 10 percent of the amount of tax required to be shown on such return,

then there shall be added to the tax shown on such return an amount equal to 10 percent of such underpayment.

"(2) CORPORATIONS.—In the case of a corporation other than an electing small business corporation (as defined in section 1371(b)) or a personal holding company (as defined in section 542), paragraph (1) shall be applied by substituting '$10,000' for '$5,000'.

"(b) UNDERPAYMENT DEFINED.—For purposes of this section—

"(1) IN GENERAL.—The term 'underpayment' has the same meaning given such term by section 6653(c).

"(2) REDUCTION FOR UNDERPAYMENT ATTRIBUTABLE TO DISCLOSED ITEMS.—The amount of any underpayment determined under paragraph (1) shall not be greater than the amount which would be determined if the disclosed items had been properly included in the return.

"(3) REDUCTION FOR UNDERPAYMENT DUE TO VALUATION OVERSTATEMENTS.—The amount of any underpayment under paragraph (1) (determined with regard to paragraph (2)) shall be reduced by that portion of the underpayment attributable to a valuation overstatement to which section 6659 applies and which is not a disclosed item.

"(c) DISCLOSED ITEM DEFINED; APPLICATION WITH FRAUD PENALTY.—For purposes of this section—

"(1) DISCLOSED ITEM.—The term 'disclosed item' means any item which is described in the return, or in a statement attached to the return, in a manner adequate to apprise the Secretary of the nature and amount of such item.

"(2) APPLICATION WITH FRAUD PENALTY.—If any penalty is assessed under section 6653(b) for an underpayment of tax with respect to a return, no penalty shall be assessed under this section with respect to such underpayment.".

(b) CONFORMING AMENDMENT.—The table of sections for subchapter A of chapter 68 is amended by striking out the last item and inserting in lieu thereof the following:

"Sec. 6660. Substantial understatement of liability.

"Sec. 6661. Applicable rules.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to returns the due date for filing of which (including extensions) is after December 31, 1982.

SUBTITLE D—WITHHOLDING ON DEFERRED INCOME

SEC. 131. WITHHOLDING ON CERTAIN DEFERRED INCOME.

(a) IN GENERAL.—Chapter 24 (relating to collection of income tax at source on wages) is amended by adding at the end thereof the following new section:

"SEC. 3405. SPECIAL RULES FOR CERTAIN DEFERRED INCOME.

"(a) GENERAL RULE.—For purposes of this chapter (and so much of subtitle F as relates to this chapter), any payment of a qualified distribution to an individual shall be treated as if it were a payment of wages by an employer to an employee.

"(b) ELECTION NOT TO HAVE SECTION APPLY.—

"(1) NONTOTAL DISTRIBUTIONS.—

"(A) IN GENERAL.—An individual may elect with respect to any calendar year not to have the provisions of subsection (a) apply to any portion of any qualified distribution received by such individual from a payor during such calendar year which is not part of a total distribution.

"(B) TIME AND MANNER OF ELECTION.—

"(i) IN GENERAL.—An election under subparagraph (A) shall be made by notifying the payor of such election at such time and in such manner as the Secretary may prescribe by regulations.

"(ii) NOTICE OF RIGHT TO ELECT.—Notice of the right to make an election under this section shall be given to the recipient at such times as the Secretary shall prescribe by regulations.

"(C) PERIOD OF ELECTION REMAINING IN EFFECT.—An election under subparagraph (A) shall take effect at such time as the Secretary may prescribe by regulations and shall remain in effect for the calendar year for which made unless revoked earlier.

"(2) TOTAL DISTRIBUTIONS.—In the case of a qualified distribution which is part of a total distribution, the provisions of subsection (a) shall not apply to that portion of such qualified distribution with respect to which the individual receiving such distribution notifies the payor, in such form and manner as the Secretary may prescribe, that such portion will not be includible in gross income by reason of a qualified rollover.

"(c) AMOUNT WITHHELD IN THE CASE OF TOTAL DISTRIBUTIONS.—In the case of a qualified distribution which is part of a total distribution—

"(1) IN GENERAL.—Notwithstanding section 3402, the Secretary shall prescribe tables or computational procedures for purposes of computing the amount of tax to be withheld under subsection (a) which are based on the amount of tax which would be imposed on such distribution under section 402(e) if—

"(A) the recipient elected to treat such distribution as a lump sum distribution (within the meaning of section 402(e)(4)(A)), and

"(B) such distribution were attributable solely to active participation after December 31, 1973.

"(2) SPECIAL RULE FOR DISTRIBUTIONS BY REASONS OF DEATH.—In the case of qualified distributions from or under an eligible retirement plan described in subparagraph (A), (B), or (C) of subsection (g)(3) which are made by reason of a participant's death, the Secretary, in prescribing tables or procedures under paragraph (1), shall take into account the exclusion from gross income provided by section 101(b) (whether or not allowable).

"(d) MAXIMUM AMOUNT WITHHELD.—The maximum amount to be withheld under subsection (a) on any qualified distribution shall not exceed the sum of the amount of money and the fair market value of other property (other than employer securities of the employer corporation (within the meaning of section 402(a)(3)) received in the distribution.

"(e) LIABILITY FOR WITHHOLDING.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the payor of a qualified distribution shall deduct and withhold, and be liable for, payment of the tax required to be deducted and withheld under this section.

"(2) PLAN ADMINISTRATOR LIABLE IN CERTAIN CASES.—In the case of an eligible retirement plan described in subparagraph (A), (B), or (H) of subsection (g)(3), paragraph (1) shall not apply and the plan administrator shall deduct and withhold, and be liable for, payment of the tax unless the plan administrator—

"(A) directs the payor to deduct and withhold such tax, and

"(B) provides the payor with such information as the Secretary may require by regulations.

"(f) ROLLOVERS OF AMOUNTS WITHHELD.—

"(1) IN GENERAL.—If—

"(A) any tax is deducted and withheld under subsection (a) on a qualified distribution which is part of a total distribution, and

"(B) the entire amount of such qualified distribution (other than the amount of such tax) is not includible in gross income by reason of a qualified rollover,

then there shall not be includible in gross income that portion of the amount of such tax with respect to which the recipient, before August 15 of the calendar year following the calendar year in which the distribution was made, takes such actions as are necessary (as determined under regulations prescribed by the Secretary) to have such portion treated as a qualified rollover.

"(2) INCLUSION IN INCOME OF AMOUNTS NOT ROLLED OVER.—If a recipient does not take the actions described in paragraph (1) with respect to any portion of the tax described in such paragraph, the amount of such portion shall be includible in gross income in the taxable year in which the qualified distribution of which it was a part was made.

"(g) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED DISTRIBUTION.—The term 'qualified distribution' means any distribution or payment—

"(A) from or under an eligible retirement plan or commercial annuity, and

"(B) which is includible in the gross income of the recipient for the taxable year of the recipient in which it is received or any preceding taxable year.

"(2) TOTAL DISTRIBUTION.—

"(A) IN GENERAL.—The term 'total distribution' means the distribution or payment (within 1 taxable year of the recipient) of the balance to the credit of the individual on whose behalf the recipient is entitled to such distribution or payment.

"(B) SPECIAL RULE FOR ACCUMULATED DEDUCTIBLE EMPLOYEE CONTRIBUTIONS.—For purposes of subparagraph (A), accumulated deductible employee contributions (within the meaning of section 72(o)(5)(B)) shall be treated separately in determining if there has been a total distribution.

"(3) ELIGIBLE RETIREMENT PLAN.—The term 'eligible retirement plan' means—

"(A) an employees' trust described in section 401(a) which is exempt from taxation under section 501(a),

"(B) an annuity described in section 403(a),

"(C) an annuity contract described in section 403(b),

"(D) a plan described in section 405(a),

"(E) an individual retirement account described in section 408(a),

"(F) an individual retirement annuity described in section 408(b),

"(G) a retirement bond described in section 409, or

"(H) a plan described in section 301(d) of the Tax Reduction Act of 1975.

For purposes of this paragraph, a trust, plan, account, annuity, or bond shall be treated as described in a subparagraph of this paragraph if it at any time was, or determined by the Secretary to be, described in any such subparagraph.

"(4) COMMERCIAL ANNUITY.—The term 'commercial annuity' means an insurance or annuity contract issued by an insurance company licensed to do business under the laws of any State.

"(5) PLAN ADMINISTRATOR.—The term 'plan administrator' has the meaning given such term by section 414(g).

"(6) QUALIFIED ROLLOVER.—The term 'qualified rollover' means a rollover described in section 402(a)(5), 402(a)(7), 403(a)(4), 403(b)(8), 405(d)(3), 408(d)(3), or 409(b)(3).".

(b) FILING OF REPORTS.—

(1) IN GENERAL.—Section 6047 (relating to information concerning certain trusts and annuity and bond purchase plans) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) REPORTS BY EMPLOYEES AND PLAN ADMINISTRATORS.—The Secretary may by regulations require that the employer maintaining, or plan administrator (within the meaning of section 414(g)) of, an eligible retirement plan described in subparagraph (A), (B), (D), or (H) of section 3405(g)(3) make returns and reports regarding such plan to the Secretary, to the participants and beneficiaries of such plan, and to such other persons as the Secretary may prescribe by regulations. Such reports shall be in such form, made at such time, and contain such information as the Secretary may prescribe by regulations.".

(2) SECTION 6041.—Section 6041 (relating to information at source) is amended by adding at the end thereof the following new subsection:

"(f) SECTION NOT TO APPLY TO CERTAIN PAYMENTS.—This section shall not apply to payments which are required to be included in returns and reports under section 6047(e).".

(c) CONFORMING AMENDMENTS.—

(1) Section 31(a)(1) (relating to credit for wage withholding for income tax purposes) is amended by inserting "or 3405" after "3402".

(2)(A) Paragraph (1) of section 3402(o) (relating to extension of withholding to certain payments other than wages) is amended—

(i) by inserting "and" at the end of subparagraph (A),

(ii) by striking out subparagraph (B), and

(iii) by redesignating subparagraph (C) as subparagraph (B).

(B) Paragraph (2) of section 3402(o) is amended—

(i) by striking out subparagraph (B), and

(ii) by redesignating subparagraph (C) as subparagraph (B).

(C) Paragraph (3) of section 3402(o) is amended—

(i) by striking out "an annuity or", and

(ii) by striking out "annuity payments or" in the heading.

(D) Paragraph (4) of section 3402(o) is amended—

(i) by striking out "an annuity or" in the matter which precedes subparagraph (A) thereof; and

(ii) by striking out subparagraph (C) and inserting in lieu thereof the following:

"(C) shall take effect with respect to payments made more than 7 days after the date on which such request is furnished to the payor.".

(3)(A) The table of sections of chapter 24 is amended by adding at the end thereof the following new item:

"Sec. 3405. Special rules for certain deferred income.".

(B) The heading for chapter 24 is amended by inserting "And Certain Deferred Income" after "Wages".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to payments made after December 31, 1982.

TITLE II—RULES AND REGULATIONS; PAPERWORK REDUCTION

SEC. 201. TIME FOR PRESCRIBING RULES AND REGULATIONS; REPORT.

(a) REGULATIONS TO BE TIMELY PRESCRIBED.—Section 7805 (relating to rules and regulations) is amended by adding at the end thereof the following new subsection:

"(d) EXPEDITED RULES AND REGULATIONS.—In the case of any rule or regulation required by any amendment of, or addition to, this title made after the date of the enactment of this section, the Secretary shall prescribe such rules and regulations as soon as possible.".

(b) REPORT BY SECRETARY.—The Secretary of the Treasury shall report to the Congress annually with respect to—

(1) any delays in issuing regulations required by changes in the Internal Revenue Code of 1954 and the reasons for such delays, and

(2) any progress made in eliminating such delays.

(c) EFFECTIVE DATE.—The amendment made by this section shall apply to regulations pursuant to amendments of, and additions to, the Internal Revenue Code of 1954 made by this Act or made on or after the date of the enactment of this Act.

SEC. 202. PAPERWORK REDUCTION.

(a) IN GENERAL.—Section 7852 (relating to other applicable rules) is amended by adding at the end thereof the following new subsection:

"(f) PAPERWORK REDUCTION.—Chapter 35 of title 44, United States Code, shall not apply to any collection of information requirement contained in any rule or regulation enforcing any provision of this title or to any information collection request which the Secretary determines to be authorized by any provision of this title or any such rule or regulation.".

(b) EFFECTIVE DATE.—The amendment made by subsection (b) shall be effective as of April 1, 1981.

SEC. 203. REPORT ON FORMS.

Not later than March 31, 1983, the Secretary of the Treasury or his delegate shall study and report to the Congress methods of modifying the design of the forms used by the Internal Revenue Service to achieve greater accuracy in the reporting of income and the matching of information reports and returns with the returns of tax imposed by chapter 1.

TECHNICAL EXPLANATION OF S. 2198, THE TAXPAYER COMPLIANCE IMPROVEMENT ACT OF 1982

Overview

The "Taxpayer Compliance Improvement Act of 1982" will reduce non-compliance through a series of provisions designed to encourage complete and accurate reporting of income and deductions. The bill includes provisions improving information reporting, increasing penalties for non-compliance, adjusting the methods under which interest is computed and substantially revising the withholding rules for pension distributions. Interest on bearer obligations and obligations of the United States, charge tips, transactions involving securities and commodities, and State and local income tax refunds would be subjected to new reporting requirements. The bill's penalty provisions include: a minimum penalty for extended failure to file returns; a substantial increase in the penalty for failure to supply taxpayer identification numbers or to file information returns, and withholding in cases of continuing violations; a 10-percent penalty for any substantial underpayment of tax where the items giving rise to the underpayment were not disclosed on the return; and a penalty on corporate officers who commit fraud with respect to their corporation's tax. The interest proposals include provisions for adjusting interest rate payable by or to the Treasury, and compounding such interest, semiannually.

Interest on bearer instruments and obligations of the United States

Under present law, the definition of interest permits the Secretary to provide that interest includes interest on bearer evidences of indebtedness issued by a corporation. The Secretary has not exercised this authority. Further, interest as presently defined in the statute, does not include interest on obligations of the United States or its agencies or instrumentalities. There is, therefore, no requirement for reporting of interest on bearer obligations or obligations of the United States.

The bill expands the information reporting requirements of present law to include interest (including discount on original issue) on all corporate obligations including bearer obligations and interest (including discount on original issue) on obligations of the United States and its agencies and instrumentalities. The mechanics of such reporting will be prescribed under regulations. These new reporting requirements will apply to interest payments reportable on returns, the due date for filing of which is after December 31, 1982.

Information returns brokers

Present law requires that every person doing business as a broker make a return, when required under regulations by the Secretary, showing customer names such other information as the Secretary may require with respect to business transacted for such customers. There are, currently, no regulations issued under this section.

The bill will direct the Secretary to issue regulations with respect to commodities and securities brokers under the provisions of present law. It is contemplated that the broker will be required to report only information acquired in the course of his business. Thus, if the broker has all information necessary to compute gain and loss, it will be required to include such information. Absent such information, the broker will be required only to report the proceeds of sale. These new regulations will also include reporting on the sale or transfer before maturity of any bond or any corporate evidence of indebtedness in bearer form or any Treasury obligations held by individuals will also be subject to such reporting.

These regulations must be issued within six months of enactment of the bill. The first returns under these new regulations will relate to transactions occurring in 1983.

Information reporting on State and local income tax refunds

Refunds of State or local income taxes that were deducted in a previous taxable year are includable in a taxpayer's gross income to the extent the deduction gave rise to a tax benefit. Under present law, there is no requirement that an information return for such refunds be filed with the United States or that persons receive information statements on those refunds during the tax filing season.

The bill will require information returns for State and local tax refunds of $10 or more be filed, reporting the amount of the payment, credit or offset, the taxpayer's name and the taxpayer's identification number to the Internal Revenue Service. It is anticipated that States may satisfy such obligations through voluntary information exchange agreements. A statement with respect to such return must be furnished to the recipient of the refund during January of the year following the year in which the refund is made. This new requirement will apply to refunds, credits, and offsets after December 31, 1982.

Reporting of charged tips

Under present law, an employee who receives tips in excess of $20 in cash or its equivalent in the course of his employment must report all such tips in a monthly statement furnished to his employer. The employer must generally take these tips (but no others) into account in determining the amount of tax to be withheld from the employee wages. No other reporting requirements are imposed on employers with respect to tips.

Under the bill, any employer (other than a small employer) who pays over to an employee more than $600 of charge tips in any taxable year will be required to report those tips to the Internal Revenue Service. Withholding on these charge tips (to the extent not paid over to other employees under pooling arrangements) will be required, as under present law, when the employee reports them together with other tip income to the employer. The amount reported by an employee on his tax return may be different, of course, from that reported by the employer because of pooling and other tip sharing arrangements. Small employers, who are defined as persons who normally have employed five or fewer employees during the previous calendar year, will be exempt from this reporting requirement. The new rules will apply to charge tips paid over to employees after December 31, 1982.

Form of information returns

In general, returns required by the tax laws must be made according to the forms and regulations prescribed by the Secretary. As a general rule, these returns must be in written form except that in certain cases, the return may be made by filing the required information on magnetic tape or other medium, provided that the prior consent to the Commissioner is obtained. There is no statutory or regulatory requirement that any particular sort of return be filed on magnetic tape or in other machine readable form. Under present law, if a taxpayer submits an incomplete or unprocessable return, the Internal Revenue Service must either reject the return as not properly filed or accept the return and pay interest on any overpayment refunded to the taxpayer if processing requires more than 45 days.

The bill clarifies the authority of the Secretary to require that returns be in a form that will permit their prompt and efficient processing including the filing of information returns in machine readable form or on magnetic media (in the case of persons filing multiple returns). These provisions will apply beginning in 1983.

Interest to be compounded semiannually

Under present law, interest payable to or by the United States under the tax law is not compounded. Instead, interest is computed on a single basis.

Under the bill, all interest payable under the Internal Revenue Code will be compounded semiannually. This provision will apply to interest accruing after 1982. Thus, the interest computation rules of Internal Revenue Code will reflect standard commercial practice.

Determination of rate of interest to be made semiannually

Under present law, the rate of interest to be paid on underpayments, on overpayments, and for other purposes, must be established by the Treasury no later than October 15 of any year, based on the average predominant prime rate; that is, the rate quoted by commercial banks to their preferred customers for short-term loans, during September of that year, effective January 1 of the following year.

Under the bill, interest rates will be determined semiannually and will be based on the average adjusted prime rate charged by commercial banks during the six-month period ending September 30 (effective January 1 of the succeeding calendar year), and March 31 (effective July 1 of the same calendar year). The amendment will be effective for adjustments taking effect after December 31, 1982.

Restrictions on payment of interest on certain refunds, etc.

In general, under present law, interest on refunds, credits and offsets runs from the date of overpayment, which is usually the last date prescribed for filing the particular return. Further, under present law, if an overpayment of income tax is refunded within 45 days after the last date prescribed for filing the return, or if later, within 45 days after the date of the return is filed, no interest is payable on the overpayment.

Under the bill, no interest will be paid on overpayments shown on late returns for any day before the date on which the return is filed. Likewise, an overpayment resulting from a net operating loss carryback or credit carryback will be deemed not to have occurred prior to the date a claim is filed for such overpayment. Under the bill, for purposes of the payment of interest on overpayments, a return will not be treated as filed until it is filed in processable form. The amendments made by this provision will be applicable to interest paid after enactment except that interest accruing prior to March 11, 1982, would not be affected.

Fraud penalty on corporate directors, officer, employees and agents

Under present law, a director, officer, employee or agent of a corporation who knowingly participates in fraud with respect to the corporation's tax liability may be subject to a criminal penalty but is not subject to any civil fraud penalty with respect to the corporation's underpayment of tax.

The bill will impose a new civil fraud penalty on corporate directors, officers, employees or agents, who knowingly participate in fraud that results in an underpayment of tax by the corporation. Such directors, officers, employees, or agents, will be jointly and severally liable for a penalty equal to 50 percent of the part of the corporate underpayment due to fraud, but the amount that can be collected from any one individual will not exceed $100,000. Participation giving rise to this penalty will include ordering a subordinate to participate in a fraud or condoning the participation of a subordinate in fraud. This civil fraud penalty could be asserted at any time before the later of six years after the due date of the corporate return (including extension) or one year after expiration of any extension of the statute of limitations on the corporation tax. The new penalty applies to returns due to be filed after December 31, 1982.

Minimum penalty for extended failure to file

Under present law, if a taxpayer fails to file a tax return on the date prescribed (with extensions of time for filing), a penalty is imposed based on the amount of any underpayment of tax for the year. The penalty is 5 percent of the underpayment per month, or fraction thereof, while the failure continues, but not more than 25 percent in the aggregate. Thus, no penalty is imposed on the taxpayer if there is no underpayment for the year or if a refund is due. Likewise, no penalty is imposed if the failure is due to reasonable cause and not due to willful neglect.

The bill will add a new minimum penalty for the extended failure to file any income tax return. If an income tax return is not filed within 60 days of the date prescribed (with extensions), the penalties for failure to file could not be less than $100. Also, this minimum penalty will not be imposed if the failure to file the return is due to reasonable cause. The penalty will apply to returns due after December 31, 1982.

Criminal penalty for failure to file estimated tax

Present law imposes a criminal penalty for willful failure to pay any estimated tax at the time required by law. A person convicted of such willful failure is guilty of a misdemeanor and may be fined not more than $10,000 or imprisoned not more than one year (or both), together with costs of prosecution. Such penalty may apply even if no civil penalty can be assessed.

The bill provides that any person who fails to make any estimated tax payment will not be subject to the criminal penalty for such failure if the person is not subject to the civil penalty for failure to pay estimated tax.

Failure to file information returns or supply identifying numbers

Present law imposes a penalty on any person who fails to file on the date prescribed (with extensions) information returns relating to certain information at source, payments of dividends of $10 or more, payment of patronage dividends of $10 or more, payments of interest of $10 or more, reporting requirements of certain fishing boat operators, income tax withheld, or payments of wages in the form of group-term life insurance. The penalty is $10 for each such failure, but the total for all such failures during a calendar year can not exceed $25,000. The penalty is not imposed if the failure is due to reasonable cause and not to willful neglect.

Also, present law imposes a penalty of $5 per failure on any person who is required by regulations to include his taxpayer identification number (TIN) in any return, statement or document, to furnish his TIN to another person, or to include in any return or statement made with respect to another person the TIN of such other person, and who fails to comply with such requirement at the time prescribed. The penalty is not imposed if the failure is due to reasonable cause. In practice, this penalty is rarely, if ever, imposed.

The bill will increase the penalty for failure to file the information returns noted above to $50 per failure, the total amount for all such penalties for any calendar year can not exceed $50,000. The bill will also require a minimum penalty for such failures if the failures are due to intentional disregard of the filing requirements. In such circumstances, the penalty could not be less than 10 (5 percent in the case of reports of brokers) of the aggregate amount of the items not properly reported.

In addition, the bill will increase from $5 to $50 (but not to exceed $50,000) the penalty for a person who fails (1) to include his TIN in a return, (2) to furnish his TIN to another person, or (3) to include, in any return or statement filed or made with respect to another person the TIN of such other person. In the case of the third type of failure, the bill will impose an increased penalty on any filer who intentionally disregarded the requirement to include a payee's TIN on a return; such filer will be subject to a penalty of $100 per failure, with no limit.

Also, the bill provides for withholding at source at a tax rate of 15 percent if a taxpayer fails to supply a TIN or supplies an incorrect TIN to another person who must file a return with respect to payments to the taxpayer. If the TIN was not supplied, the payor-filer would start withholding when aggregate payments to the taxpayer for the calendar year exceeds any threshold requiring the reporting of such payments. If the TIN was incorrect, the payor would start withholding upon notice from the Secretary that the taxpayer has failed to supply the correct TIN within 60 days. Such withholding generally would continue as long as the taxpayer failed to supply or correct his TIN.

Finally, the bill will provide that the penalty for failure to include a TIN on a return will not apply, if the penalty for failure to file an information return applies. The penalty provisions apply after December 31, 1982. The withholding rules will apply only for payments made (or other amounts reported) after December 31, 1983.

Penalty for substantial understatement

Under present law, a penalty is imposed for failure to pay tax shown on a return or required to be shown on a return, or for failure to pay tax if any part of any underpayment is due to negligence or civil fraud. These penalties either are not imposed if the failure is due to reasonable cause, or require the Service to carry a positive burden of proof. Reasonable reliance on the advice of tax counsel generally will prevent application of the fraud and negligence penalties.

The bill will add to the Code a new penalty for substantial underpayment of tax arising out of items not disclosed on the taxpayer's return. In the case of an individual, an understatement of tax liability will be substantial only if it exceeds the greater of $5,000 or 10 percent of the amount of tax required to be shown on the return. For corporations, the understatement will be substantial only if it exceeds $10,000 or 10 percent of the tax required to be shown on the return. The new penalty will be 10 percent of that part of any underpayment of tax arising from an undisclosed item. This new penalty may apply to an underpayment in addition to the negligence penalty but will not apply if a fraud penalty is imposed. An item will be considered disclosed only if information in the return, or an attachment to the return, is adequate to appraise the Secretary of the nature and amount of the item. This penalty will apply to returns after December 31, 1982.

Withholding on pension payments

Under present law, income tax generally is not withheld from amounts paid to an employee or beneficiary under a tax-qualified pension, profit-sharing, or stock bonus plan, under a tax-sheltered annuity program or under an IRA (an individual retirement account or annuity or a U.S. retirement bond). Also, payments under a commercial annuity contract are not generally subject to withholding tax. Tax is required to be withheld, however, if a voluntary withholding request by the recipient is in effect with respect to the annuity.

Under the bill, in the case of a qualified plan, tax may generally be withheld on a voluntary basis from taxable benefit payments (typically, annuity payments) as if those payments were wages paid by the plan. In the case of certain total distribution of benefits, however, tax would be withheld under special rules designed to reflect the 10-year forward income averaging and capital gains treatment provided for lump-sum distributions.

In the case of a tax-sheltered annuity program, an IRA, or a commercial annuity contract, the bill provides that tax would be withheld on taxable payments on a voluntary basis, as if those payments were wages.

Under the bill, no tax would be withheld from benefit payments (other than total distributions from qualified plans) if the recipient elects not to have the withholding tax apply. Such election may be made for any reason. In the case of a total distribution from a qualified plan, the withholding tax would not apply if the recipient provides notice that the distribution will be rolled over, tax-free, to another qualified plan or to an IRA.

Regulations and paperwork reduction

Under present law (Paperwork Reduction Act of 1980), information collection requests must be referred to the Office of Management and Budget for approval. The OMB has taken the position that this requirement applies to Treasury Regulations as well as to tax forms.

Under the bill, the Paperwork Reduction Act of 1980 would not apply to any rule or regulation promulgated under the Internal Revenue Code or to any information collection request that the Secretary determines to be authorized by the Code or by any rule or regulation. Furthermore, the bill would require the Secretary to report annually to the Congress concerning any delays in issuing regulations required by changes in the Code, and the reasons therefor.

Report on forms

The final provision of the bill requires the Secretary, no later than March 31, 1983, to study and report to the Congress methods of modifying the design of the forms used by the Internal Revenue Service to achieve greater accuracy in the reporting of income and the matching of information reports and returns with the actual tax returns.

Mr. GRASSLEY. Mr. President, I am proud to introduce this measure with the distinguished chairman of the Senate Finance Committee, Mr. DOLE. The introduction of this measure culminates hours of exhaustive research by the staff of the Senate Finance Committee, my own personal staff and representatives of the Internal Revenue Service, Treasury, and the Joint Committee on Taxation. Without all of their efforts, the introduction of this bill would not have been possible.

This measure is particularly important because it takes a comprehensive look at our revenue collection system and makes dozens of small refinements to make sure that individuals and corporations pay the tax they already owe. If this measure is enacted it will result in a $20 billion revenue increase in 3 years without raising taxes. While the additional Federal revenues are of critical importance in our efforts to balance the budget, the larger issue of fairness must be addressed. Before Congress considers increasing taxes, I think it is imperative that we collect taxes from those who already owe them. Why increase taxes on those already complying with the law?

This measure attacks the problem of noncompliance in a very comprehensive way. Consistent efforts in this direction will improve taxpayer confidence in the system and increase voluntary compliance. These are very real gains which will be discussed in the context of this bill before my Subcommittee on Oversight of the Internal Revenue Service on March 22, 1982.

By Mr. HAYAKAWA (for himself and Mr. CRANSTON):

S. 2199. A bill to amend the Internal Revenue Code of 1954 relating to the treatment under the DISC rules of fungible products marketed through pooling arrangements of cooperative associations; to the Committee on Finance.

LEGISLATION TO ALLOW MEMBERS OF FARM COOPERATIVES TO FORM DISC'S

Mr. HAYAKAWA. Mr. President, I am today introducing legislation, with my senior colleague from California (Mr. CRANSTON) to allow a farmer that markets his produce through a cooperative to form a Domestic International Sales Corporation (DISC).

A DISC is a corporation, formed to promote export sales of goods produced in the United States, that enjoys certain tax advantages if it meets the requirements set forth in the Internal Revenue Code. Among those tax advantages is the deferral of up to 50 percent of its taxable income each year. Such an advantage is intended to encourage American producers to increase their export sales so U.S. goods will be truly competitive in the world market.

Currently, a farmer who exports a portion of his crop is entitled to organize a DISC through which to market those sales. However, a farmer who participates in an agricultural cooperative is not permitted to set up a DISC—even though the same crop is produced and the same percentage of that crop is exported.

Mr. President, this situation constitutes an inequity that is beginning to undermine our export sales of farm produce. As a result, the huge farm conglomerates that are able to export their crops alone, not only maintain an advantage over the smaller farmers who participate in co-ops because of their size, but have the added advantage of forming DISC's. This DISC bias in favor of larger producers, therefore, acts as a disincentive for exports. In this time when the U.S. trade deficit is rising, we need to encourage every size farm to participate in the export market. One way to achieve the goal of additional exports is to expand DISC use to farm cooperatives.

I understand that the IRS maintains that farmers who participate in a cooperative cannot accurately identify exactly what percentage of his crop was included in the export sales of the entire co-op.

However, it is not reasonable to use this argument to forbid all co-op members from forming DISC's. The bill I am introducing allows co-op members to form DISC's and to consider the same percentage of the total crop exported by the co-op as the percentage of his crop that was exported.

In this way, no bias is made against farmers of any size, and all are encouraged to increase export sales.

I ask unanimous consent that the bill be printed in the RECORD.

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

S. 2199

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) paragraph (1) of section 993(c) of the Internal Revenue Code of 1954 (defining export property) is amended by inserting before the last sentence the following new sentence: "In applying subparagraph (B), fungible products which are marketed through pooling arrangements of a cooperative association, as defined in section 15(a) of the Agricultural Marketing Act of 1929 (12 U.S.C. 1141j(a)), shall be deemed export property (if otherwise qualified under this subsection) to the extent that such products are sold in export pursuant to the requirements of subparagraph (B), and each member of such pool shall be considered as a producer of export property (if otherwise qualified under subsection (d) of this section) to the extent of his ratable share of such exported products, based upon his contribution of products to the pool; and a cooperative marketing the products of its patrons shall be deemed, for the purposes of this section, to be acting as the agent of such patrons, regardless of any formal transfer of title to the cooperative."

(b) Paragraph (2) of section 993(d) of such Code (relating to producer's loans) is amended by adding at the end thereof the following new sentence: "For purposes of the preceding sentence, where a borrower markets fungible products through pooling arrangements of a cooperative association, as defined in section 15(a) of the Agricultural Marketing Act of 1929 (12 U.S.C. 1141j(a)), his receipts of sale proceeds from the pool shall be deemed to be derived from the sale of products outside the United States in the same proportion that sales of the pool outside the United States bear to total sales of the pool."

(c) The amendments made by this Act shall apply to sales, exchanges, and other dispositions made after June 30, 1982, in taxable years ending after such date.

By Mr. STEVENS:

S.J. Res. 164. Joint resolution proposing an amendment to the Constitution of the United States to provide that the compensation and allowances of Members of Congress shall be established biennially by the Supreme Court of the United States; to the Committee on the Judiciary.

ESTABLISHMENT OF CONGRESSIONAL SALARIES BY THE SUPREME COURT

Mr. STEVENS. Mr. President, I send to the desk today a constitutional amendment which I hope can resolve a dilemma Congress has faced continuously since 1789. That dilemma is the establishment of the levels of congressional compensation.

Congress has changed its rates of pay 24 times since 1789. Every change or attempted change has been agonizing. The fear of public reaction, press distortion, and personal conscience blows this decision totally out of proportion. In fact, in reality, it is an unfair burden to place on individuals who have dedicated their lives to public service.

Members of Congress are like a board of directors of the world's largest corporation. Yet, we do not seem to be able to determine how to establish congressional pay and deductions. What is reasonable to some is unreasonable to others. It is a no-win proposition. No one votes for a public official because he votes to raise his pay. But, many try to use such a decision against us.

The arguments for and against pay adjustments never change.

For instance, I want to call the Senate's attention to an 1873 debate regarding raising Members' salaries from $5,000 to $7,500:

Mr. WHITTHORNE. I believe that in the present condition of the country, embarrassed with a heavy debt, and that debt increasing the burden resting upon the shoulders of the people, who are now complaining of the weight of that burden, it is our duty to take it off instead of adding to its weight, more especially adding to its weight in the direction of benefiting ourselves.

I opposed this, regarding it as a selfish vote.

Mr. BUTLER of Massachusetts. By no means; I am simply endeavoring to fix the rate of pay at what I know a man economically living here with his family can live upon. My amendment covers nothing more and a little less. I do not believe that a man is bound to come to Congress and get into a back room in the third story of a boarding-house, climbing up two or three flights of stairs at night when his duties for the day are done. I think he ought to live as he does at home and receive enough to pay his family expenses and to educate his children. Now, that cannot be done on less than $7,500. I am certain every man here ought to have his living expenses, and that is my experience of the cost of living here. I am ready to go to my constituents on that, and I know that they get their money in the hardest way.

I know that the people of this country are not half so much troubled about what salaries we get as about what we do. If we can be in a condition so that we can feel easy here to do our duty we can better serve our constituents.

Two hundred years of circuitous debating is enough. We can and must resolve this. It is obvious Congress is totally inept at making such decisions. An independent body with no interests other than good government must be authorized to make these judgments. Yet, simply establishing such a body by legislation has proved inadequate. The Federal Salary Act of 1967, which authorized an independent commission to meet every 4 years and to recommend to the President rates of pay for, among others, Members of Congress, has been unsuccessful. Congress has specifically withdrawn this delegation of authority and continuously denied itself increases that these independent commissions and various Presidents have recommended.

Establishing independent commissions or tying pay adjustments to other formulas has not and will not resolve the pay dilemma. The only feasible way to bringing reason to this whole process is to totally remove Congress from the decision, and a constitutional amendment is the sole vehicle which can approximate a permanent and irreversible delegation of authority.

The one group in the Constitution most isolated and protected from political considerations is the Judiciary. It stands to reason, therefore, that the wisest and most apolitical delegation of such compensation setting authority would be one to the Supreme Court. Agreeably, it will be a unique and rather peculiar function for the Court. But, what better place to transfer this function. Congress will have no control over the Court's decisions affecting congressional compensation. If the Court deems it is the best interest of the Nation to raise congressional salaries, so be it.

If the reverse is true—and I must emphasize, if the reverse is true—and the Court decides not to raise salaries or to reduce them, that would be their authority.

I believe the congressional image is tainted more by the arguing among ourselves over this issue than anything else. We can finally put these issues to rest.

I urge Members of the Senate to review this proposal, to take it seriously, and, I hope, to move it quickly.

Mr. President, I call the attention of the Senate to the fact that my proposal changes the Constitution so as to require the Supreme Court on the first day of December of each even numbered calendar year—to fix the rate of compensation which shall be payable to Members of Congress for the next 2 years, and also to establish a limitation, if any, on the amount of deductions which may be allowed to Members of Congress under Federal income tax laws for expenses incurred by them away from home.

Now, those rates established by the Supreme Court could not be affected by the Members of Congress. Congress would have no authority to enact any law which reduced or increased the rights or amounts or limitations fixed by the Supreme Court under this authority. The amounts that would be necessary to make the payments required by the Supreme Court's decision would be appropriated automatically by the constitutional amendment I propose.

Mr. President, I do hope this will receive early consideration by the Judiciary Committee. It is a matter I think we must get on its way. It will take several years to go through the ratification process.

If Members of Congress agree with me, it would remove from Congress one of the most vexatious issues in which I have been involved in my 14 years' service here in the Senate.

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

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

S.J. Res. 164

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission by the Congress:

"ARTICLE

"SECTION 1. Effective on the first day of December of each calendar year which is equally divisible by two, the Supreme Court shall fix the annual rate of compensation payable to Members of Congress, and shall establish the limitation (if any) on the annual amount of deductions which may be allowed to Members of Congress under the Federal income tax laws for expenses incurred by them while they are away from their homes. The rates, amounts, and limitations so fixed or established shall remain in effect until they are subsequently adjusted by the Supreme Court under this Article. Members of Congress shall be entitled to receive compensation at the rates so fixed, to be reimbursed for expenses up to the amounts so fixed, and to claim such deductions subject to the limitation (if any) so established; and the Congress shall have no authority to enact any law which reduces or increases the rates, amounts, or limitation so fixed or established.

SEC. 2. The Supreme Court, in carrying out its duties under section 1 of this Article, shall consult with and utilize the services of such persons or groups as the Supreme Court determines to be appropriate.

SEC. 3. There are appropriated for each fiscal year such sums as may be necessary to make payment to Members of Congress for expenses within the limits fixed hereunder. There shall be established in the Treasury a special account where amounts so appropriated shall be deposited and from which funds so deposited shall be disbursed.

Mr. STEVENS. I yield to the majority leader.

Mr. BAKER. Mr. President, this will not take long. I commend the assistant majority leader for his statement. I think it is a good approach. It has its faults but I think it is one of the most important things we have to do, to do something of this sort. I think it is the best thing we can do because the Congress is institutionally incapable of setting its own salary, and I think, therefore, we must address it in the fundamental way suggested by the distinguished Senator from Alaska.

Mr. STEVENS. I thank the distinguished majority leader.

ADDITIONAL COSPONSORS

S. 1698

At the request of Mr. DENTON, the Senator from Michigan (Mr. RIEGLE) 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. 1814

At the request of Mr. JEPSEN, the Senator from Indiana (Mr. QUAYLE) was added as a cosponsor of S. 1814, a bill to amend title 10, United States Code, to require the Secretary concerned to comply with the terms of certain court orders in connection with the divorce, dissolution, annulment, or legal separation of a member or former member of a uniformed service and which affect the retired or retainer pay of such a member or former member, and for other purposes.

S. 1958

At the request of Mr. DOLE, the Senator from Nebraska (Mr. ZORINSKY) was added as a cosponsor of S. 1958, a bill to amend title XVIII of the Social Security Act to provide for coverage of hospice care under the medicare program.

S. 2000

At the request of Mr. DOLE, the Senator from Alabama (Mr. DENTON) was added as a cosponsor of S. 2000, a bill to amend title 11, United States Code, to establish an improved basis for providing relief under chapter 7, and for other purposes.

S. 2107

At the request of Mr. LEVIN, the Senator from Kentucky (Mr. HUDDLESTON), and the Senator from Hawaii (Mr. INOUYE) were added as cosponsors of S. 2107, a bill to extend from May 1982 to October 1982 the month before which children not otherwise entitled to child's insurance benefits under title II of the Social Security

Act by reason of the amendments made by section 2210 of the Omnibus Budget Reconciliation Act of 1981 must attend postsecondary schools in order to qualify under subsection (c) of such section for entitlement to such benefits, to extend from August 1985 to August 1986 the month before which any such entitlement terminates, and to require the Secretary of Health and Human Services to notify all individuals who are entitled to child's benefits under title II of the Social Security Act for the month in which this act is enacted of the changes made in the eligibility for, and the amount of, such benefits by reason of the provisions of section 2210 of the Omnibus Budget Reconciliation Act of 1981 and the provisions of this act.

S. 2150

At the request of Mr. LEVIN, the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 2150, a bill to amend the Social Security Act to provide that the amount of any unnegotiated social security check shall be returned to the trust fund from which the check was issued.

S. 2155

At the request of Mr. KASTEN, the Senator from New Mexico (Mr. SCHMITT) was added as a cosponsor of S. 2155, a bill to require a foreign country be declared to be in default before payments are made by the U.S. Government for loans owed by such country or credits which have been extended to such country which have been guaranteed or assured by agencies of the U.S. Government.

S. 2159

At the request of Mr. DANFORTH, the Senator from Oregon (Mr. PACKWOOD), the Senator from Arizona (Mr. GOLDWATER), and the Senator from South Dakota (Mr. PRESSLER) were added as cosponsors of S. 2159, a bill to amend the Bankruptcy Act to provide that judgment debts resulting from a liability which is based on driving while intoxicated shall not be discharged.

SENATE JOINT RESOLUTION 72

At the request of Mr. HAYAKAWA, the Senator from North Carolina (Mr. EAST), and the Senator from Arizona (Mr. GOLDWATER) were added as cosponsors of Senate Joint Resolution 72, a joint resolution proposing an amendment to the Constitution of the United States with respect to proceedings and documents in the English language.

SENATE JOINT RESOLUTION 159

At the request of Mr. ROTH, the Senator from Indiana (Mr. LUGAR), and the Senator from Maryland (Mr. SARBANES) were added as cosponsors of Senate Joint Resolution 159, a joint resolution entitled the "White House Conference on Productivity Act."

SENATE RESOLUTION 299

At the request of Mr. WEICKER, the Senator from Florida (Mrs. HAWKINS) was added as a cosponsor of Senate Resolution 299, a resolution to designate May 4, 1982, as "International Franchise Day."

SENATE RESOLUTION 325

At the request of Mr. DIXON, the Senator from Maine (Mr. MITCHELL), the Senator from Maine (Mr. COHEN), and the Senator from Kentucky (Mr. FORD) were added as cosponsors of Senate Resolution 325, a resolution expressing the sense of the Senate that a supplemental appropriation should be enacted to restore full funding of the WIN program.

SENATE RESOLUTION 327

At the request of Mr. MOYNIHAN, the Senator from Maryland (Mr. SARBANES), the Senator from Iowa (Mr. GRASSLEY), and the Senator from California (Mr. CRANSTON) were added as cosponsors of Senate Resolution 327, a resolution to designate March 1982 as "National Eye Donor Month."

SENATE CONCURRENT RESOLUTION 68—CONCURRENT RESOLUTION RELATING TO UNITED NATIONS MEMBERSHIP

Mr. MOYNIHAN (for himself, Mr. ROBERT C. BYRD, Mr. MATHIAS, Mr. DECONCINI, Mr. PROXMIRE, Mr. BRADLEY, Mr. CANNON, Mr. FORD, Mr. INOUYE, Mr. BURDICK, Mr. PRYOR, Mr. PRESSLER, Mr. BOREN, Mr. COHEN, Mr. JOHNSTON, Mr. DIXON, Mr. SARBANES, Mr. LEVIN, Mr. HATCH, Mr. HART, and Mr. WARNER) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 68

Whereas the United Nations was founded on the principle of universality of membership; and

Whereas the Charter stipulates that United Nations members may be suspended by the General Assembly only "upon the recommendation of the Security Council": and

Whereas any move by the General Assembly that would illegally deny Israel or any other democratic state its credentials in the Assembly would be a direct violation of these provisions of the Charter: Now, therefore be it

Resolved, by the Senate and House of Representatives of the United States in Congress assembled, that if Israel or any other democratic state is expelled, suspended, denied its credentials, or in any other manner denied its rights and privileges in the General Assembly of the United Nations, the United States will:

(1) suspend its participation in the General Assembly; and

(2) withhold its assessed contribution to the United Nations until this illegal action is reversed; and

Resolved further, that the Secretary of State is directed to communicate to the member states of the General Assembly of the United Nations what the Congress has herein resolved.

RESOLUTIONS RELATING TO INVESTIGATIONS OF ALLEGED IMPROPRIETY IN EXECUTIVE BRANCH ACTIVITIES REGARDING MEMBERS OF CONGRESS

Mr. CRANSTON (for himself, Mr. STEVENS, Mr. INOUYE, Mr. GARN, Mr. HATCH, Mr. DECONCINI, Mr. MELCHER, Mr. HAYAKAWA, and Mr. JOHNSTON) submitted the following resolutions; which were referred to the Committee on Rules and Administration:

S. RES. 337

Whereas the investigation and report of the Select Committee on Ethics of the Senate in the matter of Harrison A. Williams, Junior, have revealed substantial allegations of improprieties in connection with activities by the executive branch of Government that were allegedly designed to create improper conduct on the part of Members of Congress of the United States, including instances where no reasonable basis existed for suspecting prior improper activity by the target of such activities or predisposition on the part of such target;

Whereas prosecutions arising out of the so-called Abscam undercover operation by the Department of Justice have also revealed allegations of such substantial improprieties;

Whereas serious allegations have also been made in recent years about improper use of executive branch investigative and tax resources to develop information relating to Members of Congress and that could be used in attempts to compromise them;

Whereas the Constitution of the United States establishes the Congress of the United States as a branch of Government coequal with the executive branch, and the doctrines of separation of powers and checks and balances that inhere in this constitutional structure are fundamental to the foundation of the Government of the United States under the Constitution;

Whereas executive branch action in connection with investigation and prosecution of Members of Congress may be carried on in such a way as to compromise or impair the constitutionally established independence and integrity of Congress itself;

Whereas, if substantiated, the allegations of improprieties in connection with executive branch action arising out of the Abscam undercover operation and other executive branch activities to develop information which might be used in attempts to compromise Members of Congress may disclose a substantial danger to the maintenance of the separation of powers and checks and balances inherent in the Constitution of the United States;

Whereas unchecked abuse of executive branch investigative and prosecutorial power with respect to another branch of the Government may permit an escalation of such abuses that could lead to despotic action by the executive branch in derogation of the Constitution of the United States; and

Whereas a thorough and independent investigation by the Senate of the United States is necessary to determine the facts with respect to the exercise of such executive branch power, to determine whether a danger to the independence and integrity of another branch of the Government exists or has existed as a result of such exercise, and whether, and if so what, protections should

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be established against such executive branch abuse of power: Now, therefore, be it

Resolved, That (a)(1) it is the purpose of this resolution to provide for the conduct by the Committee on Rules and Administration, as part of its responsibility to make a continuing study of the operation of the Congress, of an investigation of the executive branch of the Government with respect to activities conducted by it in connection with the Abscam and Brilab undercover operations and with any other operation or activities allegedly designed to create improper conduct or corrupt practices on the part of Members of another branch of the Government or another level of Government or to develop information that might be used in attempts to compromise such Members, with a view to determining whether abuses of executive power have occurred that threaten the independence and integrity of another branch of the Government or the sovereignty of another level of Government under the Constitution of the United States, and, if such abuses are found to have occurred, what new congressional legislation or administrative or other remedies are necessary or appropriate to insure that there is no repetition of such abuses.

(2) The Committee on Rules and Administration shall submit to the Senate not later than July 1, 1983, a report on its findings arising out of such investigation along with any recommendations for new congressional legislation (including legislation relating to corrupt practices) or administrative or other action that it considers necessary or proper in light of such findings, may also submit to the Senate such interim reports as it considers appropriate.

(b) Until funds are specifically made available by the Senate for the conduct of the investigation provided for in subsection (a), the Committee on Rules and Administration shall be authorized to make such expenditures out of the contingent fund of the Senate, upon vouchers approved by the chairman of such committee, as it considers necessary to the proper conduct of its responsibilities under this resolution.

S. Res. 338

Whereas the investigation and report of the Select Committee on Ethics of the Senate in the matter of Harrison A. Williams, Junior, have revealed substantial allegations of improprieties in connection with activities by the executive branch of Government that were allegedly designed to create improper conduct on the part of Members of Congress of the United States, including instances where no reasonable basis existed for suspecting prior improper activity by the target of such activities or predisposition on the part of such target;

Whereas prosecutions arising out of the so-called Abscam undercover operation by the Department of Justice have also revealed allegations of such substantial improprieties;

Whereas serious allegations have also been made in recent years about improper use of executive branch investigative and tax resources to develop information relating to Members of Congress and that would be used in attempts to compromise them;

Whereas the Constitution of the United States establishes the Congress of the United States as a branch of Government coequal with the executive branch, and the doctrines of separation of powers and checks and balances that inhere in this Constitutional structure are fundamental to the foundation of the Government of the United States under the Constitution;

Whereas executive branch action in connection with investigation and prosecution of Members of Congress may be carried on in such a way as to compromise or impair the constitutionally established independence and integrity of Congress itself;

Whereas, if substantiated, the allegations of improprieties in connection with executive branch action arising out of the Abscam undercover operation and other executive branch activities to develop information which might be used in attempts to compromise Members of Congress may disclose a substantial danger to the maintenance of the separation of powers and checks and balances inherent in the Constitution of the United States;

Whereas unchecked abuse of executive branch investigative and prosecutorial power with respect to another branch of the Government may permit an escalation of such abuses that could lead to despotic action by the executive branch in derogation of the Constitution of the United States; and

Whereas a thorough and independent investigation by the Senate of the United States is necessary to determine the facts with respect to the exercise of such executive branch power, to determine whether a danger to the independence and integrity of another branch of the Government exists or has existed as a result of such exercise, and whether, and if so what, protections should be established against such executive branch abuse of power: Now, therefore, be it

Resolved, That (a)(1) it is the purpose of this resolution to provide for the conduct by a standing or select committee of the Senate of an investigation of the executive branch of the Government with respect to activities conducted by it in connection with the Abscam and Brilab undercover operations and with any other operation or activities allegedly designed to create improper conduct or corrupt practices on the part of Members of another branch of the Government or another level of Government or to develop information that might be used in attempts to compromise such Members, with a view to determining whether abuses of executive power have occurred that threaten the independence and integrity of another branch of the Government or the sovereignty of another level of Government under the Constitution of the United States, and, if such abuses are found to have occurred, what new congressional legislation or administrative or other remedies are necessary or appropriate to insure that there is no repetition of such abuses.

(2) The standing or select committee conducting the investigation provided for in paragraph (1) shall submit to the Senate not later than July 1, 1983, a report on its findings arising out of such investigation along with any recommendations for new congressional legislation or administrative or other action that it considers necessary or proper in light of such findings, and may also submit to the Senate such interim reports as it considers appropriate.

(b) Within 15 days after this resolution is agreed to, the majority and minority leaders of the Senate shall either (1) jointly designate a standing committee of the Senate to conduct the investigation provided for in subsection (a), or (2) recommend to the President of the Senate members to be appointed to the select committee authorized under section 2. If the majority and minority leaders designate a standing committee of the Senate to conduct such investigation, it shall be the duty of such standing committee to conduct such investigation; and if such leaders recommend to the President of the Senate Members to be appointed to the select committee authorized under section 2, is shall be the duty of such select committee when appointed to conduct such investigation.

(c) Until funds are specifically made available by the Senate for the conduct of the investigation provided for in subsection (a), the standing or select committee conducting such investigation shall be authorized to make such expenditures out of the contingent fund of the Senate, upon vouchers approved by the chairman of such committee, as it considers necessary to the proper conduct of its responsibilities under this resolution.

Sec. 2. (a)(1) That, in the event that the majority and minority leaders of the Senate determine that the investigations provided for in the first section of this resolution should be conducted by a select committee of the Senate established for the purpose of conducting such investigation, there is hereby established a select committee, to be known as the Select Committee on Preservation of Congressional Independence (hereinafter in this section referred to as the "select committee").

(2) The select committee established by this resolution shall consist of seven Members of the Senate, four of whom shall be appointed by the President of the Senate from the majority Members of the Senate upon the recommendation of the majority leader of the Senate, and three of whom shall be appointed by the President of the Senate from the minority Members of the Senate upon the recommendation of the minority leader of the Senate. For the purposes of paragraph 4 of rule XXV of the Standing Rules of the Senate, service of a Senator as a member, chairman, or vice chairman of the select committee shall not be taken into account. Vacancies in the membership of the select committee shall not affect the authority of the remaining members to execute the functions of the select committee and shall be filled in the same manner as original appointments to it are made.

(3) Members of the Senate who are members of the majority party of the Senate shall elect a chairman for the select committee, and the Members of the Senate who are members of the minority party of the Senate shall elect a vice chairman for such committee. The vice chairman shall act in the place and stead of the chairman in the absence of the chairman. Neither the chairman nor the vice chairman of the select committee shall serve at the same time as chairman or ranking minority member of any other committee referred to in paragraph (4)(e)(1) of rule XXV of the Standing Rules of the Senate.

(4) A majority of the members of the select committee shall constitute a quorum for the transaction of business, but the select committee may fix a lesser number as a quorum for the purpose of taking testimony or depositions.

(b) The select committee is authorized and directed to do everything necessary or appropriate for the purpose of conducting the investigation provided for in the first section of this resolution. For such purpose, the select committee is authorized in its discretion (1) to make investigations into any matter within its jurisdiction; (2) to make expenditures from the contingent fund of the Senate as provided for in this section; (3) to employ and fix the compensation of such clerical, investigatory, legal, technical, and other assistants as it deems necessary or appropriate; (4) to sit and act at any time or place during sessions, recesses, and adjournment periods of the Senate; (5) to hold hearings for taking testimony on oath or to receive documentary or physical evidence relating to the matters and questions which it is authorized to investigate; (6) to require by subpena or otherwise the attendance as witnesses of any persons who the select committee believes have knowledge or information concerning any of the matters or questions which it is authorized to investigate; (7) to require by subpena or otherwise the production for its consideration or for use as evidence in its investigation any books, checks, canceled checks, correspondence, communications, documents, papers, physical evidence, records, recordings, tapes, or materials relating to any of the matters or questions which it is authorized to investigate; (8) to make to the Senate any recommendations it deems appropriate in respect to the willful failure or refusal of any person to appear before it in obedience to a subpena or order, or in respect to the willful failure or refusal of any person to answer questions or give testimony in such person's character as a witness during such person's appearance before it, or in respect to the willful failure or refusal of any officer or employee or former officer or employee of the executive branch of the United States Government or any person, firm, or corporation, or any officer or employee or former officer or employee of any such person or entity, to produce before the committee any books, checks, canceled checks, correspondence, communications, documents, papers, physical evidence, records, recordings, tapes, or materials in obedience to any subpena or order; (9) to take depositions and other testimony on oath anywhere within the United States or in any other country; (10) to produce the temporary or intermittent services of individual consultants, or organizations thereof, in the same manner and under the same conditions as a standing committee of the Senate may procure such services under section 202(i) of the Legislative Reorganization Act of 1946; (11) to use on a reimbursable basis, with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, the services of personnel of any such department or agency; (12) to use on a reimbursable basis or otherwise with the prior consent of the chairman of any other Senate committee or the chairman of any subcommittee of any committee of the Senate the facilities or services of any members of the staffs of such other Senate committee or subcommittee whenever the select committee or its chairman deems that such action is necessary or appropriate to enable the select committee to conduct the investigation provided for in the first section of this resolution; and (13) to have access through the agency of any members of the select committee, chief majority counsel, chief minority counsel, or any of its investigatory assistants jointly designated by the chairman and the ranking minority member to any data, evidence, information, reports, analysis, documents, or paper relating to any of the matters or questions which it is authorized to investigate in the custody or under the control of any department, agency, officer, or employee of the executive branch of the United States Government having power under the laws of the United States to investigate alleged criminal activities or to prosecute persons charged with crimes against the United States which will aid the select committee to prepare for or conduct the investigation provided for in the first section of this resolution.

(c)(1) Subpenas may be issued by the select committee acting through the chairman or any other member designated by such chairman, and may be served by any person designated by such chairman or other member anywhere within the borders of the United States. The chairman of the select committee, or any other member thereof, is hereby authorized to administer oaths to any witnesses appearing before the committee.

(2) In preparing for or conducting the investigation provided for in the first section of this resolution, the select committee shall be empowered to exercise the powers conferred upon committees of the Senate by section 6002 of title 18 of the United States Code or any other Act of Congress regulating the granting of immunity to witnesses.

(d) The select committee shall submit to the Senate not later than July 1, 1983, the final report described in subsection (a)(2) of the first section of this resolution. After submission of its final report, the select committee shall have three calendar months to close its affairs, and on the expiration of such three calendar months shall cease to exist.

(e) The expenses of the select committee shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the select committee. The provisions of rule XXVI and XXVII of the Standing Rules of the Senate shall apply to the operation of the select committee except to the extent inconsistent with the provisions of this resolution.

Mr. CRANSTON. Mr. President, on behalf of myself and my distinguished counterpart, the assistant majority leader, Senator STEVENS, and Senators INOUYE, GARN, HATCH, DECONCINI, MELCHER, HAYAKAWA, and JOHNSTON, I submit for appropriate reference two versions of a resolution requiring the conduct of a Senate investigation of executive branch activities in connection with the Abscam operation and related activities.

I want to explain that one of these resolutions would provide for the investigation to be carried on by the Rules Committee. The other version would provide that the two leaders, the majority and minority leaders, would designate a standing committee or make appointments to a select committee—which the resolution would authorize—to carry on this investigation.

I stated in my remarks earlier today all the reasons why we must have such an investigation of abuses of power and allegations of abuses of power by the executive branch, targeted against the Senate, the House, and Members thereof. I will not amplify those reasons at this time.

I would point out, however, one additional matter. That is that the scope of the investigation to be undertaken would extend to Federal executive branch operations targeted against public officials in State and local government, or candidates for such offices, such as the undercover Brilab and Abscam operations. This expanded scope was the result of a suggestion to me this afternoon by the Senator from Louisiana (Mr. JOHNSTON).

I urge very speedy action by the Rules Committee in considering these resolutions. It is very important that we move very, very swiftly to deal with this immense problem.

Mr. STEVENS. Mr. President, I join with the distinguished Senator from California, ALAN CRANSTON, in sponsoring these resolutions. It provides for an investigation of the propriety of activities promoted by the executive branch allegedly designed to compromise members of the coequal branches of government. In addition, it is designed to protect the delicate balance of power between the branches of government. Critical to the existence of democratic government is a strong concept and practice of the separation of powers. These resolutions serve as a mechanism to insure strength and independence of the branches of government.

No branch of government should have the opportunity or power to intimidate another branch. James Madison wrote in No. 48 of the Federalist Papers—

> It is agreed on all sides that the powers properly belonging to one of the departments ought not to be directly and completely administered by either of the other departments. It is equally evident that none of them ought to possess, directly or indirectly, an overruling influence over the others in the administration of their respective powers. It will not be denied that power is of an encroaching nature and that it ought to be effectively restrained from passing the limits assigned to it. After discriminating, therefore, in theory, the several classes of power, as they may in their nature be legislative, executive, or judiciary, the next and most difficult task is to provide some practical security for each, against the invasion of the others. What this security ought to be is the great problem to be solved.

The resolutions we offer today direct a standing committee of the U.S. Senate to investigate alleged abuses of power by the executive branch in the recent Abscam activity. A written report on the findings of the findings of this investigation must be submitted not later than July 1, 1983. There exists, a number of questions associated with the Abscam ordeal including the desirability, legality, and efficacy of one branch of Government attempting to coerce and entice members of another branch into unethical conduct. Such activity is not healthy for it disrupts the balance of power as envisioned by the Founding Fathers of our Nation. The very purpose of creating an independent legislative branch was to create a system of checks and balances. Every effort should and must be made to protect this carefully designed balance of power.

Mr. President, I view the value of these resolutions through the lens of the Constitution. Articles I, II, and III clearly provide for separate, yet equal, branches of Government. I urge you to give serious consideration to these resolutions.

NOTICES OF HEARINGS

SUBCOMMITTEE ON PRODUCTIVITY AND EMPLOYMENT

Mr. QUAYLE. Mr. President, the Senate Subcommittee on Productivity and Employment will hold a hearing on "The Productivity Problem: Implications for International Competitiveness and Future Employment Opportunities," on Friday, March 19, 1982, at 9 a.m. in 4232 Dirksen Senate Office Building. Mr. John J. Sheehan, United Steelworkers of America; Dr. Robert Crandell, the Brookings Institution; Dr. Donald Barnett, the American Iron and Steel Institute; and Dr. Joel Hirschhorn, Office of Technology Assessment, are scheduled to testify first. Mr. David Dallop, Sperry Corp.; Mr. M. Eugene Merchant, Cincinnati Milacron; Dr. Edward Schuh, University of Minnesota College of Agriculture; and Mr. Edgar G. Davis, Eli Lilly & Co., will follow.

For further information contact Ms. Diann Howland of the Senate Subcommittee on Employment and Productivity at 224-6306.

COMMITTEE ON THE BUDGET

Mr. DOMENICI. Mr. President, the Senate Committee on the Budget will hold a hearing to receive the report of the Joint Economic Committee on Monday, March 15, at 1:30 p.m., in 6202 Dirksen Senate Office Building. Congressman HENRY S. REUSS is scheduled to testify.

For further information contact Nancy Moore of the Senate Budget Committee at 224-4129.

Mr. President, the Senate Committee on the Budget will hold a hearing to discuss entitlement programs and controllability of the budget on Tuesday, March 16, at 2 p.m., in 6202 Dirksen Senate Office Building. Dr. Jack Meyer, American Enterprise Institute; the Honorable Richard S. Schweiker, Secretary of Health and Human Services; Dr. Barry Bosworth, Brookings Institution; Dr. Rita Campbell, Hoover Institute; and the Honorable Hastings Keith will testify.

For further information contact Nancy Moore of the Senate Budget Committee at 224-4129.

Mr. President, the Senate Committee on the Budget will hold a hearing to discuss tax expenditures on Wednesday, March 17, at 10 a.m. in 6202 Dirksen Senate Office Building. John Chapoton, Department of the Treasury; Emil Sunley, Deloitte Haskins & Sells; Charls Walker, Charls Walker Associates; and Gerry Kurtz, Paul, Weiss, Rifkind, Wharton & Garrison are scheduled to testify.

For further information contact Nancy Moore of the Senate Budget Committee at 224-4129.

Mr. President, the Senate Committee on the Budget will hold a hearing to discuss defense and the first concurrent resolution and receive testimony of Senator JOHN TOWER on Thursday, March 18, at 9 a.m., in 6202 Dirksen Senate Office Building.

For further information contact Nancy Moore of the Senate Budget Committee at 224-4129.

ADDITIONAL STATEMENTS

THAILAND CELEBRATES A BICENTENNIAL

• Mr. HAYAKAWA. Mr. President, Thailand is celebrating a birthday this year.

Coming so closely after our own bicentennial, we can appreciate the pride the Thais feel commemorating both the establishment of Bangkok as their capital and the founding of their remarkable dynasty—the Chakri—now a constitutional monarchy.

As we wish Thailand a happy birthday, let us pause and recall the crucial role Thailand plays in the world today. Through growing industry, it has become the linchpin for the thriving Association of Southeast Asian Nations (ASEAN). Its strategic location makes it a natural link in the sealanes between the Indian and Pacific basins. However, it is immediately threatened by Vietnamese aggression and challenged by the need to cope with the tragedy of hundreds of thousands of Indochinese refugees within its borders.

Mr. President, the April issue of Asia, the magazine of the Asia Society, joins in wishing Thailand a happy birthday with an article entitled "Thailand Celebrates a Bicentennial." I want to share the article with my colleagues and ask that it be printed in the RECORD.

The article follows:

THAILAND CELEBRATES A BICENTENNIAL

Thailand is throwing itself a yearlong birthday party, and the Thais are again displaying their rarely matched talent for sanuk, the art of having a genuinely good time. Traditional folk plays, modern pop concerts, colorful exhibitions and pageants, boisterous village fairs, and stately city processions dot the calendar. But moments of solemnity and national stock-taking also intrude because 1982 represents a milestone in Thailand's history. Coming close on the heels of the American Bicentennial, this is the year of the Rattanakosin Bicentennial, which commemorates not only the establishment of Bangkok as Thailand's modern capital but, more importantly, the founding of one of the world's most remarkable dynasties—the Chakri.

The grandest celebrations of the year will take place in April, for it was on April 6, 1782 that the illustrious General Chakri, who took the kingly name of Rama I, founded the dynasty. Fifteen days later he made Bangkok—then a small fishing and trading village—his seat of power and began a building program rivaling that of Thailand's earlier capitals.

The move across the Chao Phya River from the short-lived capital of Thonburi was both strategic and symbolic, signifying a fresh start for a land recently devastated. In 1767 a Burmese invasion has left the magnificent capital of Ayutthaya in ruins, the king dead, and thousands of Thais killed or enslaved. An escaped general saved the day, driving the Burmese out and making himself king, but he subsequently went mad. Only with the ascendancy of Chakri did the turmoil end.

Bangkok, "Village of the Wild Plums," was soon transformed into the royal capital Krung Rattanakosin. Though foreigners still call the city Bangkok and Thais now know it as Krungthep ("City of Angels"), the bicentennial emphasizes the name Krung Rattanakosin, which means the residence of the Chakri monarchs and the Emerald Buddha. Rama I had earlier retrieved this much-revered Thai statue from 200 years of exile in Laos. Ensconced in a temple within the Grand Palace grounds, the 23-inch jade image remains a symbol of nationhood and Thai Buddhism and is the object of special veneration during the bicentennial year.

Rama I and the eight chao jivit ("lords of life") that followed him from a spectacular line. They were, variously, gifted composers and poets (one translated Shakespeare into Thai), reformers who abolished slavery not long after it was abolished in the United States, and modernizers who introduced some of the best in Western science and technology. The earlier kings contained the powerful Burmese and expanded the realm through force of arms, while the more recent rulers used deft diplomacy to ward off the great Western powers who were carving up chunks of Asia for themselves. Thanks to the Chakris, Thais today can boast that theirs is one of the few "third world" nations never to have suffered the colonial yoke. Today's dedicated and multitalented monarch, King Bhumibol Adulyadej or Rama IX, is widely regarded as the chief bulwark against threats to Thai society in the last quarter of the 20th century.

This splendid historical record and the great popularity of the current king have encouraged the Thai people to celebrate the Chakri, bicentennial or not. But the government is now trying to channel this spirit into strengthening traditional virtues and combating contemporary ills. Though tourist income will be welcome during 1982, the bicentennial is conceived as primarily inward-turning.

It is hoped that the Rattanakosin emphasis on Buddhism—the bedrock of Thai society—will counter growing lawlessness and the spiritual laxness often accompanying rapid modernization. Buddhist ceremonies of homage and merit-making will play a central role in the year's festivities. National pride and unity, which are necessary to face the internal Communist insurgency and hostilities with neighboring Indochina, are also being fostered. Cultural exhibitions, large-scale restorations of historical landmarks, and a mini-mountain of Rattanakosin literature are all part of this attempt. The government has encouraged the private sector, domestic and foreign, to sponsor various "Rattanakosin projects," many of them designed to aid Thailand's rural poor. Special rallies, parades, and athletic events will bolster public awareness, while numerous construction projects and tree plantings inside of Bangkok and out will provide permanent monuments to the event.●

DISSENTING VIEW ON FOREIGN AID

● Mr. EAST. Mr. President, our neighbor to the north has long been generous, as has the United States, in aiding underdeveloped nations. However, generosity has its limits. People in both nations are increasingly concerned about the waste of billions of dollars in foreign aid.

Two talented young Canadian researchers, Paul Fromm and James P. Hull, have recently written a book entitled "Down the Drain?: A Critical Re-Examination of Canadian Foreign Aid." This book is filled with carefully documented examples of waste and fraud in the Canadian foreign aid program.

A review of this important book appeared in the Cambridge (Canada) Daily Reporter on July 7, 1981. I ask that this book review be printed in the RECORD.

The material follows:

[From the Cambridge Daily Reporter, July 7, 1981]

DISSENTING VIEW ON FOREIGN AID

(By Vincent Egan)

One of the most notable features of the Reagan Administration in Washington, so far, has been its zeal for slowing down, or halting, the growth in government spending.

Unfortunately, Canadians can find no parallel in Ottawa. Although excessive public spending is generally regarded as inflationary, and today's inflation is about as high as anyone can remember, the Trudeau government shows little interest in spending cuts.

On the contrary, Prime Minister Pierre Trudeau has been displaying almost an obsession for spending more and more of the public's money in the highly controversial field of foreign aid.

According to Paul Fromm and James P. Hull, co-authors of Down The Drain? (Griffin House; 159 pages; $5.95), Canada already gives nearly three times more per capita in foreign aid than does the United States.

But is widely expected that Trudeau will be arguing for much larger foreign-aid contributions at the western economic summit conference beginning in Ottawa July 20.

At first glance, the case for more foreign-aid spending may appear to be noble and virtuous, while to dissent may seem to be mean-spirited and stingy.

On closer examination, however, the issue isn't quite that clear-cut.

The foreign-aid lobby is well financed and efficiently organized, with strong backing from the political left.

The potential recipients aren't necessarily the starving children of popular image, but more typically the powerful and wealthy leaders of one-party governments, or astute business promoters in the client countries.

In between is a fairly typical Ottawa bureaucracy, the Canadian International Development Agency (CIDA). A typical charge made against it is that it attempted to give away a ship that wouldn't float.

But without getting into examples of waste—with which the book by Fromm and Hull is over-loaded—it seems apparent that there's a basic flaw in Canada's approach to foreign aid:

Our programs tend to favor poor countries, such as Tanzania, which are poor chiefly because their governments are inefficient. Our aid props up such regimes, without alleviating the inefficiency that's at the root of their poverty.

"The primary responsibility for the problems of the Third World, and for the solving of those problems, lies with the people and the leadership of the Third World," Fromm and Hull contend.

Here are some of their suggestions for foreign-aid reform:

Canada should consider specializing in one facet of foreign assistance, such as quick-response disaster relief.

Priority should go to nations friendly to Canada, such as the new governments that have recently replaced socialist governments in Jamaica and Dominica.

No aid should be considered for nations politically hostile to Canada. (Communist Czechoslovakia received a $300 million Canadian loan to build a sulphate mill, while Cuba—which sends thousands of troops to Africa to fight Africans—received $3.5 million to finance the modernization of three airports.)

Canada should respond positively to Third World complaints about Canadian tariff barriers that prevent access to our markets.

The purpose of foreign aid, the authors say, should be its own abolition—not to "support aid bureaucrats at home, and brutal and corrupt elites abroad."●

EL SALVADOR

● Mr. HAYAKAWA. Mr. President, in a penetrating article appearing in the February 26, 1982, edition of the Washington Post, Stephen Rosenfeld provides clear evidence that the situation in El Salvador is not hopeless.

Mr. Rosenfeld reports that the atmosphere of the capital city of San Salvador is not that of a war-torn nation. Business is operating; civic services are functioning; people are going about their normal tasks. More importantly, despite the war, the ravaged economy, and the admitted shortcomings of the Duarte government, the people appear "determined not to be intimidated by the war."

In interviews with peasants, Rosenfeld found a strong conviction that the land reform must succeed. While he concedes that the program faces "great difficulties of both concept and execution," he was impressed by the peasants' determination to seize their opportunity after centuries of neglect and oppression. Similarly, Rosenfeld found that the new middle class did not identify with the old, discredited oligarchy, and was committed to working for the betterment of the new society. In Rosenfeld's view, this class was "more sober, realistic, and respectful of the need for change in their context than, say, most Israelis and most white South Africans."

Finally, the article points out that the Government, businessmen, and the common man all believe that the elections will be a benchmark in Salvadoran history. They may not stop the fighting, but in the view of one man Rosenfeld interviewed, the elections are "not a solution but a first step to repair the law and our own self-respect."

As Rosenfeld concludes, all is not lost in El Salvador. The people are making a valiant effort to rise above the war. In my view, it is important that the United States maintain its present course in order that El Salvador has the opportunity to determine its own future.

Mr. President, I ask that Mr. Rosenfeld's article, "El Salvador Refuses To Be Intimidated by Its War" be printed in the RECORD.

The article follows:

EL SALVADOR REFUSES TO BE INTIMIDATED BY ITS WAR

(By Stephen S. Rosenfeld)

SAN SALVADOR.—Where is the war, I wondered, driving in from the airport past jeep patrols and kids carrying wood on their heads and finding, on a soft Saturday evening, a certain loneliness in the streets but an unmistakable tranquillity as well. Where is the war that, according to our TV, is crackling hotter daily in El Salvador, reducing the country to death and desperation, numbing the survivors?

And on Sunday: at the altar where Archbishop Rivera y Damas reads a scholarly sermon followed by a prudent homily, and strolls to the rear of his bullet-pocked cathedral for a friendly chat with the foreign press, which is there just in case.

In the afternoon: a walk through the high-rent district of stores and newly walled homes around the Camino Real Hotel; and an eclair at a well-kept shopping center where police with guns at the ready drift through; a raucous go-kart competition in a parking lot.

Evening: dinner in his elegant, guarded home with a government minister, a reformer who says with a shrug that he does not know "whether I will get it from the left or the right." His 17-year-old daughter, to fulfill a new high school requirement, is doing 300 hours of volunteer social work—at a military hospital. Another guest, a Venezuelan, is investing millions in a gasohol plant. The minister's wife runs a small family factory, notwithstanding occasional guerrilla-inflicted power outages. She tells of a recent dance, her circle's first in several years, from which she returned home "exhausted and euphoric."

My first impression is of a country, or at least a city, making do with an almost startling normality. Missing are the tension and decay and the sense of fugitive time evident in, say, a Beirut or Kinshasa. En route I had heard, in Miami, complaints of that city's street lights not being replaced; in San Salvador they are shining. A woman reports she had fled with her children in the worst of the urban terror of 1980 to Boston, but she has now returned: "It's safer here." Repeatedly, people shake their heads in awe at the doggedness of commuters in improvising ways to get to work on time even though the guerrillas have burned 1,200 buses in two years.

The guards, the guns, the soldiers, the walls, the peepholes—and, on the farms, the wire and the patrols—all that I expect of a country at war. What I do not expect are the traffic jams, the early-morning joggers, the fresh billboards, the uneventful 50-kilometer drives in the countryside, the traditional soccer craze, the tennis exhibition.

The chief of the rural police observes proudly that "the subversives," as the guerrillas are called, threatened among other things to prevent the fields from being sown and harvested. But though sugar cane has been burned (tie a burning rag to a cat's tail), two crops a year come in. Most of the 130 power pylons destroyed have been rebuilt, he says. All 600-plus kilometers of railroad track are open—though locomotives are still blown up—except for one bridge whose collapse Lloyds paid off on as an accident.

There is terrible war in this country, or a terrible condition of violence in which perhaps more than 30,000 civilian lives have been lost in two years. The word at the Camino Real bar is that for $20 any cab driver will take you to view a body, bound, at roadside. The press corps murmurs that heads are being cut off again. Never move hastily in the presence of anyone with a gun, a newcomer is warned. A quarter of a million refugees, mostly peasants, are spread through the country.

The economy is bleeding: international reserves gone, most foreign investors scared off, no new national investment, a brain and skill drain, unemployment soaring. Some of this is laid to the world tides—prices of coffee, sugar and cotton are down. Another part, business leaders insist, is due to failings of national economic policy. The cruelest share, still, is that of the guerrillas.

But "the story" is not just the war. The story is the pervasive determination not to be intimidated by the war, and the resourcefulness of all kinds of people in coping. This may be one of those preposterous journalistic impressions, but it is mine.

The peasants, being peasants, endure. I took a small sample in a day visiting newly formed cooperatives in Sonsonate province in the eastern part of this Massachusetts-size country, and in a meeting with responsible officials of the big independent peasants' union. They were people with gnarled rural faces, limited formal education, ready grins and a formidable courage and will to make the fledgling agrarian reform work for them.

One union leader told me threats from right-wing death squads had forced him to send his family to Guatemala. "Never before in the life of the country did anyone care for the peasants. We were parentless, ashamed to say we came from the countryside," another organizer said.

From a dozen interviews with peasants, I concluded that the reform is facing great difficulties of both concept and execution—and these peasants are determined to make it succeed. They do not say, first the war, then the land. They say, the land, now.

The size, vigor and sophistication of the middle class belies the unexamined view I had brought to El Salvador of a sleepy, underdeveloped country. These were not, I was regularly told, members of the "oligarchy," a discredited class and certainly a class whose members are fading from open association with it. The middle class are people of skills and means, given privately to volunteering that they have made grevious mistakes of commission and neglect but hoping not to balance the retention of some privilege against service to a new society.

I have had intense talks with 20 or so of these people. It is not clear, to them or to me, whether their catch-up effort is too little and too late. But they strike me as more sober, realistic and respectful of the need for change in their context than, say, most Israelis and most white South Africans. They will have no truck with "subversives," although some confidentially wonder if they should not, and they are convinced they are a target of "international communism." But at the same time, they concede the existence of the raw social injustice that characterizes their country to this day. A civilian in the junta has one son a captured guerrilla, another apparently still in the mountains.

I write this not having yet met the man, Roberto d'Aubisson, regarded by many Salvadorans as the leader of the incipiently fascist element supporting the death squads. He heads the new law-and-order party formed to contest next month's elections. The idea that an anti-democrat could profit from the country's first reasonable democratic procedure in 50 years strikes many people as ironic.

The elections are the most conspicuous evidence of the aching for normality that impels . . . well, who? The government and the establishment are pushing the elections hard: "Not a solution but a first step to repair the law and our own self-respect," a businessman puts it. To some in the junta, the elections are a ticket for more American aid; to the reconstructed middle class, an atonement; to the military, or so the minister of defense assured me, a fulfillment of the reformist coup of Oct. 15, 1979; and to the peasants and workers . . . no one really knows. Nothing says more of the apparent appeal of the elections to the common people, however, than the ferocity of the left's attempt to spoil them by burning voting documents, threatening voters with death, and so on.

In brief, there is an agony here, and there is an attempt to rise above the agony in many personal and public ways. From many Salvadorans I have heard a complaint, expressed politely at first and then with gathering bitterness, that the American people have been misled by the media to think that only the agony exists and that it exists on account of the rapacity of a ruling elite that blames international communism for its travail. "The foreign press looks only for corpses," a peasant, leader of a cooperative, declared to me. "But we are fighting for the future. We do not want to feel we are fighting alone."●

CUTS IN DEFENSE

● Mr. GOLDWATER. Mr. President, it is shocking and disturbing to hear the many voices around the country being raised calling for drastic cuts in our defense budget. We are now well on the way to completing the tactical warfare hearings before my subcommittee on these tactical programs. I can assure my colleagues, and every interested person in this country, that there is waste in the defense budget, just as there is waste in any budget of any size in this Nation. However, I see no way that sizable cuts can be made in the defense budget without harmful effects to our country.

Many listeners may not want to believe this, but the Soviets are fast getting into a position of military superiority where they can, in effect, blackmail us at any time they care to. At the present time, they outnumber us in tanks at a ratio of about 5 to 1; aircraft, 5 to 1; in manpower, well over 5 to 1, and they are fast approaching superiority on the seas. The Soviet superiority, in almost any category of military weaponry we want to choose, is frightening. And, even more dangerous, is their growing ability in space while we seem to be going the other way. All of these factors have caused me to make the comment I made about blackmail.

The other day, I was dumbfounded to hear that the U.S. Chamber of Commerce had called for extensive cuts in defense. I do not know who does their homework for them nor do I know where they get the ideas that the cuts can be made. I would like to hear from that organization specifically as to just where they would make these cuts. My subcommittee is working on reductions in several areas, but I must be frank and say that any reductions we make will be very, very small.

As an example, when you realize that the United States is buying just enough aircraft in this year's budget to take care of attrition, to put it simply, we only are building enough aircraft to take care of the natural losses in peacetime. In the face of these facts, one can begin to gather the dilemma that our military is placed in. While I have no doubt that these convictions about defense cuts come from honest, sincere people who want cuts made, I also have no reason to doubt that a lot of this stimulus is coming from those people who would do anything to see a weakened United States.

I would ask that my fellow Senators look very carefully at our position in the world and the threats to our Nation before they commit themselves to unspecified, large cuts in the defense budget.●

THE VOLUNTEER FORCE—SETTING THE RECORD STRAIGHT

● Mr. COHEN. Mr. President, in recent weeks, there have been several articles critical of the All-Volunteer-Force.

The Defense Department has prepared rebuttals to the suggestions that the quality of the All-Volunteer-Force is bad and that it is unduly costly. The Pentagon's material provides some information concerning the status of today's force which I believe will be of great interest to my colleagues and all who read the RECORD.

At this point, I include in the RECORD the Defense Department information for the benefit of my colleagues:

GENERAL COMMENTS

Those few who agree that a military draft is needed, must recognize that many past AVF problems have been the result of the lack of commitment to the measures essential to its success. In the mid 1970's that commitment began to decline:

The caps placed on military pay in 1975, 1978 and 1979 caused real military pay to decline about 20 percent from its 1972 level by 1980.

In 1976 the GI Bill was terminated while federally-sponsored scholarship programs expanded rapidly. These scholarship programs, coupled with large-scale increases in CETA job offerings to youth, served to make military service less attractive.

Many of our military members were asked to do the jobs of civilians in addition to their own, when the number of civilians was reduced for economy reasons.

Cuts in operational funds resulted in a force that was less trained and less ready.

A number of in-service benefits programs were reduced and many others were reviewed for reduction or elimination.

Congress imposed substantial reductions in the recruiting budget.

The negative attitude toward military service that had begun during the Vietnam conflict was perpetuated by media articles like Anderson's, which denigrated both the quality of enlistees and the quality of life of service members.

The cumulative effect of these factors led many service members and prospective recruits to believe they should expect the worst from military service. These negative expectations grew into a serious decline in enlistment and retention by the late 1970's.

This Administration has taken definite steps to reverse these trends. However, the neglect of almost a decade cannot be reversed in a single year. With the help of Congress, we have raised compensation levels, enhanced educational benefits, restored recruiting budgets to earlier levels, and initiated major innovations in recruiting and personnel management.

These initiatives, combined with the President's firm commitment to a strong national defense, his leadership in rekindling patriotism and his support for the All Volunteer Force, will greatly enhance its chance of future success. Already, under the President's leadership, the quality of the people enlisting and reenlisting in our Armed Forces is making marked improvement, and in many respects is as good as or better than it has ever been.

More and more the American public is recognizing the valuable contribution to national security being made by our men and women in the military.

[From an article in Parade magazine, Feb. 14, 1982]

POINT AND COUNTERPOINT

[Graphs and charts mentioned, not reproduced in the RECORD.]

POINTS

Too many qualified people are leaving the services.

COUNTERPOINTS

A draft would result in more qualified people (draftees) leaving service after their obligated term of service. First term enlistment rates have been consistently higher under the All Volunteer Force than under the draft, and were the highest ever in fiscal year 1981. Career reenlistment rates for all services were also up in fiscal year 1981, although these rates since 1973 are more comparable to those of the draft era. (Tab A).

As a result, DOD now has the largest percentage of its force in the career category since 1970. Reenlistment successes have allowed the Army to raise recently its eligibility standards for reenlistment.

POINTS

Too few of sufficient quality are volunteering to serve.

COUNTERPOINTS

DOD uses two indicators of personnel quality—educational attainment and achievement on enlistment tests.

POINTS

Our all-volunteer forces are ill-trained and ill-educated.

COUNTERPOINTS

Educational attainment

The education levels of the active duty force compares favorably to those of the civilian labor force. Only 9 percent of the active force do not possess high school diplomas compared to 27 percent for the civilian labor force. This favorable comparison also holds for our new recruits where 85 percent of all 18 to 23 year old enlisted accessions in fiscal year 1981 were high school graduates versus 74 percent for the same aged youth in the civilian sector. In fact, in fiscal year 1981 DOD recruited a higher percentage of high school diploma graduates than ever before, even during conscription. (See Tab B).

Achievement on enlistment tests

All potential recruits take DOD enlistment tests made up of 10 subtests that are linked to success in training. Four of these subtests, called the Armed Forces Qualification Test, or AFQT, have become a key indicator of recruit quality and "trainability."

The statistics provided in Tab C show that fiscal year 1981 was a very good recruiting year; fiscal year 1982 is proving to be even better (especially for the Army); and, the test scores for Army combat arms recruits are showing great improvements.

POINTS

Many of our GI's are functionally illiterate, which means it's almost impossible to teach them to operate the weaponry.

COUNTERPOINTS

The reading level of the force has improved markedly since fiscal year 1977. In fiscal year 1981 the average Army non-prior service accession has a ninth grade reading level with the DOD overall average at 9.7. This is an increase of nearly two reading grade levels since fiscal year 1977.

POINTS

GI Joe can't read. Almost 40 percent of the Army's junior enlisted personnel read below the 5.5 grade level, which is "functionally illiterate" by United Nations' standards. A startling 23 percent can't read as well as kids in the third grade. One soldier in 50 doesn't have sufficient grasp of English to be able to understand orders. More than half can't comprehend manuals that have been rewritten to the seventh grade level.

COUNTERPOINTS

Other Anderson data are also incorrect:

2.5 percent of all Army junior enlisted people read below the 5.5 grade level—not 40 percent.

Less than 0.5 percent of all soldiers read below the third grade level—not 23 percent.

Fewer than one soldier in 500 lacks English enough to understand basic orders—not 1 in 50.

Parade asked the Army in mid-January to check out the numbers. The Army provided the correct information within a few days. the correct information was ignored.

POINTS

Nine out of every ten who operate and maintain the Army's tactical nuclear weapons in Europe flunked basic tests of their military skills. The percentage of incompetents with other functions was almost as high . . .

COUNTERPOINTS

The test results referred to in the article were the initial results of the Army's skill qualification tests in 1977–78. Test scores for those years (the first years the tests were given) were low. Two primary factors were the cause: poorly designed tests and inadequate preparation for the tests. Substantial improvements have been made in test results since 1978. In fiscal year 1981, 89 percent of soldiers taking the tests passed.

POINTS

In NATO competitions, hand-picked American crews finish dead last with dismal regularity.

COUNTERPOINTS

The statement on the Army's performance in tank gunnery competition is outdated and misleading. The Army did do poorly in its first try in international competition in the late 1970's. However, it scored higher than most nations in the most recent tank gunnery competition. The United States Army finished first in a recent NATO competition among armored cavalry units. The Army also finished first in a recent helicopter competition that included Communist as well as NATO nations. in addition, the US Air force has generally done quite well in various NATO competitions.

POINTS

The Army reserves, now 120,000 below wartime strength, are worse off. All but one Army Reserve or National Guard combat unit were found to be unfit for fighting.

COUNTERPOINTS

Army National Guard and Reserve strength is improving dramatically. In fiscal year 1981 alone Army Guard and Reserve strength increased 42,000. By the end of fiscal year 1981 the Army Selected Reserve strength had almost recovered the losses experienced since the beginning of the AVF. As a result, the number of Army National Guard and Reserve combat units whose readiness is limited by personnel shortages has been greatly reduced. We expect these trends to continue.

POINTS

Seventy percent (of the combat officers) also reported problems with discipline and abuse of alcohol and marijuana.

COUNTERPOINTS

This 1979 report may have been taken out of context. For example, combat arms officers were asked if a discipline problem had occurred in their unit in the past six months. As measured by courts martial, desertions and unauthorized absences (AWOL), indiscipline has declined substantially since the Vietnam war and is now roughly similar to the peacetime rates experienced during the 1960's when the draft was in effect.

The use of alcohol and marijuana in the military is a reflection of the use of those substances in the civilian sector. DOD has consistently stressed detection and punishment for drug and alcohol offenses. As a result, the percent of junior enlisted people using drugs, except for those using marijuana, has dropped since 1974. For marijuana the usage rate remains at about the 1974 level.

POINTS

Pentagon projections see blacks, for example, making up 43 percent of the Army's enlisted personnel by 1982.

COUNTERPOINTS

Defense is very proud of its long-standing policy of recruiting the right person regardless of race or creed. The military has long been a leader in providing equal opportunity for all qualified individuals who can do the job. Thus, it is not surprising that minority youth have been attracted to and perform very well in the military.

Although it is impossible to predict accurately the percent of the force that will be black in fiscal year 1983, the statistics provided in Tab D show that the 43 percent projection is incorrect and overstated. In fact, the percent of black enlisted people in the Army has declined from 30 percent in fiscal year 1980 to 27 percent in fiscal year 1981 and the percentage of blacks enlisting in the Army in the first quarter of fiscal year 1982 also shows a decline over fiscal year 1981.

POINTS

Secretary Alexander instituted "unisex" basic training—but lowered the physical fitness requirements to accommodate women recruits.

COUNTERPOINTS

Physical standards for enlistment are identical for men and women and have not changed over the past five years. The reference to lowered physical fitness requirements pertains only to standards the Army expects its recruits to achieve during initial training. This is not to say that the requirements are easier for one group or the other to attain. For example, men have greater upper body strength than do women. To require women to do as many push-ups or pull-ups as men makes no sense and says nothing about the physical fitness of women. The physical activities required of women during recruit training are just as stringent as the activities required of men, and are appropriate for the jobs to which they will be assigned.

POINTS

The American people should know that nine of 16 active divisions are rated unfit for combat.

In six of 11 US-based divisions, the troops are rated as "not combat ready."

COUNTERPOINTS

These statements which allegedly reflect combat readiness of Active Army divisions are totally inaccurate. The current status of Active Army divisions is substantially better than that portrayed. The exact status is classified.

[Enclosure 2]

ACTIVE DUTY REENLISTMENT RATES [1]

	First term		Career		Total	
	Fiscal year—		Fiscal year—		Fiscal year—	
	1981	1980	1981	1980	1981	1980
Army	55.0	50.6	72.6	69.3	66.7	62.2
Navy	41.7	36.7	72.8	67.0	54..6	48.2
Marine Corps	26.6	23.2	73.8	50.4	43.2	35.4
Air Force	42.9	35.8	86.1	81.8	65.8	60.0
Total DOD	43.0	39.1	76.5	70.5	60.6	55.4

[1] Regular reenlistments as a percentage of eligibles.

EDUCATIONAL ATTAINMENT FISCAL YEAR 1981 ACTIVE DUTY MILITARY COMPARED TO U.S. MALE POPULATION

[Percent]

Educational Level	Civilian male population [1]			Military personnel		
	Labor Force [2]	Non labor force [3]	Total	Total	Officers	Enlisted
College graduate	19	8	16	14	92	2
Some college	17	14	16	8	5	9
High school graduate	37	23	36	69	3	79
Nonhigh school graduate	27	55	32	9	0	10
Total	100	100	100	100	100	100

[1] 18 years and older.
[2] Employed or unemployed.
[3] Retired, unable to work because of illness, in school or otherwise not looking for work.

EDUCATIONAL ATTAINMENT

[Male and female—18 to 23 year olds]

Fiscal Year 1981 accessions	Nonhigh school graduate	GED high school equivalency	High school diploma graduate or above
Army	13	2	85
Navy	9	11	80
Marine Corps	11	4	85
Air Force	2	7	91
Total DOD	9	5	85
1981Youth	22	4	74

COMPARISON OF AFQT CAT IV NON PRIOR SERVICE (NPS) ACCESSIONS FOR FIRST QUARTERS OF FISCAL YEAR 1982 AND FISCAL YEAR 1981

AFQT CAT IV [1]	Number in thousands		Percent of NPS accessions	
	1st Quarter 1982	1st Quarter 1981	1st Quarter 1982	1st Quarter 1981
Army	5.2	9.4	18	39
Navy	2.1	2.8	12	14
Marines Corps	.6	1.7	8	20
Air Force	1.1	1.6	6	9
Total DOD	9.0	15.5	13	22

[1] Percentile scores of 10 to 30. All other accessions obtained higher scores.

QUALITY OF NPS ACCESSIONS IN THE ARMY COMBAT ARMS

[Percent]

	Fiscal years	
	1981	1980
High school diploma graduates	72	41
AFQT CAT I–III [2]	70	37
50th percentile or above on AFQT	39	18

[1] Percentages based on total NPS Accessions in Army Combat Arms.
[2] Percentile scores of 31 to 100.

BLACKS IN THE ACTIVE ENLISTED FORCE

[Fiscal year 1981 and 1980]

	Numbers		Percent	
	1981	1980	1981	1980
NPS accessions:				
Army	32.2	47.2	27	30
Navy	11.5	11.8	13	13
Marine Corps	7.3	9.7	18	23
Air Force	10.8	10.8	14	15
Total DOD	61.8	79.6	19	22
Total end strength:				
Army	232.4	229.2	30	30
Navy	57.9	54.2	11	10
Marine Corps	37.9	38.9	20	21
Air Force	73.0	79.5	13	14
Total DOD	401.3	401.8	19	20

BLACK ACTIVE DUTY NPS ACCESSIONS

[First quarter fiscal year 1982 results]

	1st quarter fiscal year 1982		1st quarter fiscal year 1981	
	Number [1]	Percent	Number	Percent
Army	7.4	26	6.9	29
Navy	2.4	13	2.6	13
Marine Corps	1.3	16	1.8	21
Air Force	2.8	16	2.6	15
Total DOD	13.8	19	13.8	20

[1] In thousands.

[Enclosure 3]

MAKING THE VOLUNTEER FORCE WORK—THE MOST IMPORTANT MANPOWER PROBLEMS HAVE LITTLE TO DO WITH THE WAY WE BRING PEOPLE ON BOARD

(By Lawrence J. Korb)

On June 30, 1973, Dwight Elliot Stone assumed an important, if little recognized, role in modern American history. He was the last American to be drafted into the armed forces before the All-Volunteer Force (AVF) became a full-fledged reality. The decision to institute the AVF was not made quickly or lightly. Over several years a presidential commission, a DoD commission, several congressional panels, and many outside experts studied various alternatives to the draft. There was little doubt at that time that the eventual decision reflected a broad national consensus against conscription and in favor of all-volunteer armed forces for the United States. Yet today the future of the now-eight-year-old AVF has become the subject of heated debate.

From a policy point of view, however, the AVF *vs* conscription debate somewhat misses the point. The most important military manpower questions for the 1980s are rather: are we recruiting and retaining enough high-quality people to meet our national security requirements, and what steps must we take to ensure that we will be able to do so throughout the decade? Starting with these two questions, we can focus on problems and solutions. In contrast, in the AVF *vs* conscription debate, each side tends to assume that the other course is fraught with problems and doomed to fail and that its own preferred course is relatively problem-free. The hard reality is, however, that many military manpower problems are not a function of the way in which people are brought into the armed services; switching from one accession system to another may leave some of these critical problems untouched.

Let me make my own predilections clear at the outset. President Reagan, Secretary Weinberger, and I all believe that relying wholly on volunteers is the right way and, if we do it properly, a sound way to structure our armed forces in peacetime. As philosophical conservatives, we are opposed to unnecessary governmental intrusion into the lives of American citizens. As officials sworn to protect America's security, we will do just that. But we would *prefer* to protect America's security without resorting to conscription, which in the past not only has *forced* people against their wishes to spend two years of their lives in the military, but has also unfairly taxed all draftees for this involuntary service by paying them dismal wages. I think we can make the AVF work—if we are willing to pay a fair price for it.

In answering the two key policy questions I cited above, let us look first at the active force and then at the Reserves. For the active force, end-strength, recruitment, and retention are the principal considerations. What is the record so far?

ACTIVE FORCE

End-strength

In every year of its existence, the AVF has either achieved the congressionally authorized end-strength or been no more than one percent short. It is true that during the post-Vietnam era, end-strengths were gradually reduced because of budgetary shortages, congressional restrictions, and changes in force structure. Nonetheless, maintaining our numerical objectives so well without any resort to conscription was no mean achievement. This is the only time in our nation's history that we have built a large peacetime standing force exclusively with volunteers.

Recruiting

Fiscal Year 1979 was the first year in which AVF recruiting did not meet planned goals; in fact, it was 7 percent short. However, because fewer people left the military that year than were expected to, overall end-strength was only 1 percent below authorization. But there is no doubt that FY 79 was the worst recruiting year in the history of the AVF. Fortunately, the picture has brightened since then.

In FY 80, the services not only met their recruiting goals, but were able to make up for the previous year's shortages. This success was attributable largely to three factors: relatively high unemployment rates, particularly among youth; some recruiting innovations; and the Army's willingness to accept large numbers of high school dropouts and people who scored comparatively low on the entrance aptitude tests. As for FY 81, numerical objectives have been met, with significant improvements in the education level and aptitude test scores of recruits: 81 percent high school graduates in FY 81, compared with 68 percent in FY 80; 82 percent in the top three entrance test score categories in FY 81, compared with 69 percent in FY 80.

This latter point usefully leads us away from the *numbers* of recruits to the *quality* of recruits. The issue of quality has become one of the stickiest and most argued in the entire grand debate about the AVF. Quality is difficult to assess and even more difficult to predict, whether one is talking about military personnel, workers in the private sector, or students, for that matter.

It is a product of both individual traits—intelligence, skill, motivation, loyalty, integrity—and situational variables—training, leadership, the work or school environment, group or unit *esprit*. In the civilian sector, some estimate of the quality of the workforce can be inferred from the quality of the product, although other important factors such as design and materials are usually not the responsibility of the workers. In the armed forces, where the ultimate "product" is victory in war, it is almost impossible, short of an actual war, to measure the real and relevant quality of military manpower.

Thus, like any institution which has to screen large numbers of applicants and select those most likely to succeed (as, for example, a college or professional school does), the military uses imperfect, surrogate measures of quality—specifically in this case, education level and aptitude test scores.

While educational standards vary widely from high school to high school and fluctuate over time both nationally and for individual schools, earning a high school diploma does seem to indicate a greater adaptability to military life.

Over time and across services, there has been a fairly consistent relationship between education level and first term attrition: a non-high school graduate is twice as likely as a graduate not to finish the initial term of enlistment in the service.

Only about 20 percent of high school graduates do not complete their first enlistment, whereas about 40 percent of non-graduates do not. Now this does not prove that high school graduates necessarily make better soldiers than non-graduates. Indeed many non-graduates make excellent soldiers, sailors, airmen, and marines. But given the increasingly high cost of training new servicemembers, it is far more efficient to take high school graduates whenever we can.

From 1977 through 1979, DoD had progressively less and less success in recruiting high school graduates. The sharpest decline in high school graduate accessions, in late 1977, coincided with termination of the GI Bill. Beginning in early 1980, the numbers came back up, and the situation continues to improve this year for all the services. Indeed, the percentage of high school graduates among new recruits in FY 1981—81 percent—is the highest in the history of the AVF and is 10 percentage points above the AVF average.

The second measure used to assess potential quality and to predict successful performance in the military is the entrance aptitude test. The use of formal, standardized tests in military service has a long history, going back to World War I. Over the past 65 years, many different psychological and aptitude tests have been used to screen candidates for military service.

Since January 1, 1976, all applicants for enlistment have taken the Armed Services Vocational Aptitude Battery (ASVAB), a set of 13 subtests measuring a variety of abilities. Scores on the various ASVAB subtests serve both to determine overall eligibility for military service and to screen applicants for assignment to particular military job skills. Scores from three subtests (word knowledge, arithmetic reasoning, and space perception) are combined to form the Armed Forces Qualification Test (AFQT), which determines eligibility for enlistment. Various combinations of individual subtest scores are used to assign applicants to different skill training programs. Except for an approximately three-year period in the early to mid-1970s, the AFQT has been used since 1950 to screen applicants and also to track and compare recruits over time.

ARMED FORCES QUALIFICATION TEST (AFQT) CATEGORIES

AFQT category	AFQT percentile score	Level of trainability
I	93–99	Well above average.
II	65–92	Above average.
IIIA	50–64	Average.
IIIB	31–49	Average.
IV[1]	10–30	Below average.
V[1]	1–9	Well below average.

[1] Not eligible for enlistment: Category IV non-high school graduates; all category V.

Despite their long history, standardized tests in the military are not immune to the problems and criticisms of standardized testing in general. One needs only to look at the continuing controversy about the worth, fairness, and efficacy of the Scholastic Aptitude Test (SAT) to realize that disputes about the AFQT are not unique phenomena. Nonetheless, the AFQT has proven to be a useful device for screening and comparing applicants in terms of certain very basic abilities.

AFQT raw scores are calibrated into percentile scores which correspond to the baseline population—all persons who served in World War II. The average score for this base line group is 50; an applicant with a 70 on the AFQT today scores better than 69 percent of all officers and enlisted personnel in uniform during World War II. Percentile scores are grouped into categories.

A recent error in calibrating the AFQT produced higher scores for many individuals than they should have been given. As a result, the services accepted large numbers of people who would not have been eligible to enlist had their scores been calibrated properly. Particularly at the lower end of the scale, the error had significant consequences. Whereas we originally believed that 6 percent of all DoD recruits in FY 80 were in Category IV, in fact 31 percent were; in fact, 50 percent of all Army FY recruits were in Category IV. For sake of reference, if should be noted that 30 percent of all World War II military personnel were in Category IV and Category V, and that 39 percent of all DoD non-prior service enlisted recruits in 1952 (44 percent for the Army) were in Category IV.

Research is not yet complete on the actual job performance of those recent recruits who under proper standards would have been ineligible. We do, however, now have a new, correctly calibrated AFQT. The services have also raised their enlistment standards, and Congress has, unnecessarily and unwisely we think, legislated restrictions on the percentages of Category IV applicants and of non-high school graduates we can accept in future years.

Recent initiatives, such as the October 1980 pay package, innovative recruiting strategies, and a test program of enhanced educational benefits have yielded significant improvements in the quality profile of new recruits. The table below compares recruiting results in FY 81 with FY 80, for DoD overall and for the Army.

Before leaving this issue of quality, I want to emphasize several points. While education level and AFQT scores are helpful (but imperfect) screens for quality among the hundreds of thousands of applicants for military service each year, these two measures tell us very little about the quality of the total force. They provide some estimate of the potential capabilities of new recruits, but they cannot measure the quality of seasoned personnel. Lack of a high school education and low aptitude scores would indicate, for example, that a given recruit is not a promising candidate for a sophisticated radar technician's job. But education level and AFQT score indicate nothing about the practical worth *today* of a career soldier, who has had basic training, several advanced schools, and eight to 10 years of on-the-job experience.

Neither of these measures has absolute meaning. Sadly, American society today contains hundreds of thousands of high school graduates who read at elementary school levels. A standardized test score freezes an individual in time, and, if misused, can judge an individual's career and potential on the basis of what he or she did on a written test one Saturday morning many years ago.

ENLISTED RECRUITING EXPERIENCE—FISCAL YEAR 1980–81

	All services		Army	
	1980	1981	1980	1981
Percent, high school graduates among male recruits	65	79	49	78
Percent category IV	31	18	50	31

Having said all of this, I nonetheless believe that the military should continue to prefer candidates with higher education levels and higher test scores. We know also that we will always have to accept many recruits who rank lower in these measures; with good training, proper leadership, and enough experience, however, they can become highly effective members of the armed forces.

The challenge for the 1980s is to design and implement a set of monetary, educational, and other incentives to attract sufficient numbers of high quality recruits, while providing the amount and the kind of advanced training, leadership, and field exercises to maintain a high degree of readiness and combat effectiveness for the entire force. A return to the draft would be no panacea; no legally or politically feasible system of conscription is going to produce a force consisting exclusively of Category I and II high school graduates. Any plausible system for bringing people into the military—voluntary or compulsory—will inevitably produce a rough cross-secton of American abilities, with the very highest and the very lowest always being underrepresented. If we can keep quality up under the AVF, then I'll place my bet on the willing volunteer, rather than the reluctant draftee.

In FY 81, all services met or exceeded their qualitative and quantitiative recruiting goals. The Army achieved the largest increase in quality, enlisting nearly 20 percent more high school graduate males than it enlisted, FY 80, and enlisting less than half as many non-prior service recruits who scored in the lowest acceptable category on the entrance exams. In FY 82 this momentum is expected to continue as a result of the recent increases in compensation and improvements in enlistment incentives and recruiting resources. In FY 83, the congressional restrictions on recruits' education levels and AFQT scores will become tighter, and we won't have a good estimate of how difficult this will be until the year before.

For the longer term, other problems present themselves. Most importantly, the cohort of 18-year-old males is expected to decline over the rest of the decade. Compared to FY 75 levels, this population, which constitutes our prime recruiting pool, will in FY 85 be 9 percent smaller and in FY 87, 13 percent smaller. This will prove a difficult, but not insurmountable challenge. We can keep end-strength up if we continue to recruit more women into the military, if we use more civilians to do non-military but necessary jobs at our bases and installations, if we keep military pay competitive with civilian pay, if we can provide enhanced educational benefits, and if we can increase retention of training personnel already in the service.

Retention

This is the number one manpower problem we face. The heart and soul of any military organization is the career force—those experienced men and women who train, who lead, who inspire. Here too, the AVF *vs* conscription argument misses the point. The composition of the career force is almost completely independent of the way in which we bring people into the military for their first term. We have a serious problem in retaining careerists, and a draft wouldn't solve that.

The problem is not the size of the career force, that is, those with more than four years of service. In fact, under the AVF we have benefited from consistently high first-term reenlistment rates—averaging about 37 percent since 1975.

The current rate is three times the FY 70 rate. The area of concern is the mid-career force—those with more than 10 years of service—especially in certain critical job skills. Low first-term reenlistment rates during Vietnam (a not surprising phenomenon in itself) coupled with declining second and third reenlistment rates since the mid-1970s has produced a force dangerously short of mid-career, senior enlisted personnel. In contrast with reenlistment rates for first-termers, career reenlistment rates dropped from 81 percent in 1974 to 68 percent in 1979, well below the 1970 figure.

The reasons for this sharp decline are not at all obscure—pay scales increasingly less competitive with the private sector (in stark contrast to the explicit assumptions behind the AVF) and a general deterioration in the living conditions for military personnel and their families. Military pay kept pace with the civilian sector only for the first two years of the AVF. Pay caps in 1975, 1978, and 1979 yielded military pay in 1980 that was 20 percent below what it was in 1972. The gap between military and civilian pay had widened so much that even last year's 11.7 percent raise left military pay still somewhat behind its 1972 relationship to civilian pay. The end result has been a vicious cycle in which mid-career shortages force those mid-career personnel who stay in to work longer hours, serve longer overseas tours of duty, and, in the case of the Navy, have more frequent and longer tours at sea—thus discouraging many of them from reenlisting again.

The 1980 pay raise and other initiatives have tried to interrupt this cycle, and results are now beginning to be realized. Career reenlistment rates climbed to 76.5 percent at the end of FY 81. (At the same time, the reenlistment rates among first-termers have increased to 39 percent in FY 80 and to 43 percent in FY 81.)

We have also paid more attention to quality of life both here and overseas, and this means, among other things: more and better housing, improved medical care, and enhanced recreational facilities. But it will take a long time to repair the cumulative damage of these shortages. You don't produce a seasoned first sergeant overnight, and you can't pick up 20,000 experienced petty officers in a year. We are moving in the right direction, but we must sustain the momentum. The military pay raise for FY 82, an enhanced package of educational incentives (to be designed in light of the results of a comprehensive experimental program we conducted over the past year), renewed attention to living conditions and quality of life—all are necessary, all cost money, and are all worth the price. The only question is, are we willing to pay for it?

Two other issues warrant some consideration here—women in the military and the representativeness of the force.

In 1972, women constituted 1.5 percent of the armed forces; today, 8.5 percent. Dramatic increases in the number of military women are the result of two developments—the women's movement throughout our society and the All-Volunteer Force. This expansion of opportunities for women in the military has been good for women, and it has been good for the military. Ethically, it is right, and pragmatically, if we are to maintain the AVF while the male youth population is shrinking, it is wise.

Our experience so far is that women exhibit the same range of competence as their male counterparts. Military women have proven themselves dedicated, effective, and professional. Nonetheless, largely in response to the serious concerns of combat-seasoned military leaders, we are conducting a comprehensive and systematic review of the role of women in the military. Our experience with, and our commitment to, women in the military is relatively rare among nations, and it has been largely (and during the post-1972 expansion exclusively) a peacetime experience. Yet the ultimate issue regarding women in the military is indeed the ultimate test of a military force—combat. In the interests of national security, we cannot ignore either the perhaps uncomfortable reality that very few nations have had even limited experience with women in combat or the concerns of those who have led, and in the event of war would have to lead, our forces in combat.

Thus, we are reviewing the recruitment, assignment, utilization, readiness, and mission capability aspects of women in the military. I cannot prejudge the results of this review. Our conclusions will be reached on the basis of hard evidence and sound analysis, not biases one way or the other.

MILITARY COMPENSATION INITIATIVES ENACTED FOR FISCAL YEAR 1981

Across-the-board increases:

11.7 percent increase in basic pay, BAS, BAQ.

Additional 10 percent BAS increase.

Equity improvements:

Variable housing allowance (VHA) for CONUS.

Family separation allowances for E-4 and below BAQ for single E-7 and above.

CHAMPUS improvements:

Special and incentive pays:

Increased flight pay by 25 percent.

Increased sea sub-pay rates.

Expanded bonus authority—Higher Ceilings, zone C eligibility.

Expanded sea pay:

Further sub-pay increase.

The second issue is how representative the armed forces are of American society as a whole. The question is raised in two ways—practical and ethical.

I, for one, reject the "practical" concern based on the notion that soldiers, sailors, airmen, and marines from certain socioeconomic backgrounds or of some races or from particular regions of the country will be less willing or able than their comrades in arms to defend America or American interests in any or certain war scenarios. This argument is specious at best, bigoted at worst. Based on our experience in past wars and based on what I know firsthand of those in uniform today, I personally see no grounds for concern along these lines.

The ethical concern is, *in theory,* more well-founded. The burden of defending an entire society should not fall disproportionately on any one group or segment of that society. I say that knowing full well that virtually no army in history has been *fully* representative of the society it defends.

We have conducted numerous surveys and studies of the representatives of the force.

The truth belies the popular myth. In terms of socioeconomic status, the very highest and the very lowest brackets are underrepresented in the enlisted force, but otherwise it is quite representative, Geographically, we are getting a proportionate share of recruits from all regions and all states. Our most recent major study compared 18-21-year-old military personnel with their contemporaries in the civilian workforce. The findings will be surprising to many. Among males:

The percentage of high school graduates is about the same,

The educational and occupational distributions of their parents are virtually the same,

Their marital status distribution is the same,

Their health profiles reveal no differences, and

Their mental abilities are very similar.

For women, the backgrounds and abilities of young servicemembers are *higher* than those of their civilian counterparts.

In terms of race, the minority composition of the armed forces began to grow during the Vietnam War, and it has increased more rapidly under the AVF. It is important to note two facts: first, that since 1973 all recruits were volunteers, not draftees, and, second, higher percentages of black youth meet the standards for enlistment now than before. Improved educational opportunities for blacks have, I think, yielded higher aptitude scores for blacks.

During this same period, however, unemployment rates for black youth have become very high. In my opinion the military offers blacks and other minorities better opportunities for training and advancement than does much of the civilian sector. It is no surprise, therefore, that large numbers of blacks are joining the service and making a career of it.

At the same time, the equity issue persists: no group should have to bear a disproportionate share of the burden of defending, or, in the event of war, a disproportionate share of the casualties. I do not believe we are at the former stage yet, nor do I foresee it in the future. As for the latter, a major war would in all likelihood stimulate a draft, and racial balance among military personnel, including casualties, would be quickly restored.

RESERVE FORCE

During most of the life of the AVF, senior DoD officials focused on the active forces and thought of the Reserves as a mere adjunct. Only recently have we begun to look seriously at our Reserve problems, and only very recently have we begun to do anything about them. The decline and the problems of the Reserves are not a function of the AVF; rather, they are primarily the product of poor management decisions in DoD. In the past couple of years, we have made some real progress in Reserve matters, and, I am convinced, this long overdue corrective action can continue in the AVF environment.

The Selected Reserve constitutes a significant portion of the combat power and support capability of our total force—for example, the Army Reserve components' eight divisions, 20 separate combat brigades, and four armored cavalry regiments. Throughout most of the 1960s and 1970s, Selected Reserve strength decline, from 953,000 in 1964 to 799,000 in 1978. In the past few years, the curve has swung upward, so that today, Selected Reserve strength is over 850,000. Enlistment and recruitment bonuses, educational incentives, increased recruiting resources, full-time professional recruiting staff, and increased Reserve drill pay—all contributed to this growth. Between now and 1987, we plan to add another 136,000 to the Selected Reserve.

The Individual Ready Reserve (IRR) is our principal source of pretrained individuals to fill out active and Reserve units and to replace casualties in the event of a war. Because it consists of former active duty personnel competing their full military obligation, the size of the IRR is a function of the size of the active force and the length of the enlistment obligation. Thus, the IRR suffered a dramatic decline in the post-Vietnam years, from 1,229,000 in 1973 all the way down to 356,000 in 1978—a 70 percent drop in five years! But here too the curve is up; the IRR now stands at 413,000 and we project 456,000 in 1982. Despite this improvement, the Army alone is still short one-quarter of a million trained individual reservists.

We simply have no hope of expanding the IRR sufficiently without spending real money to do it. The cost-free options have been tried, but don't do the job. We expect to work with the Congress over the next year to develop a package of enlistment bonuses, other incentives, and longer service obligations to fill these frustrating and potentially dangerous shortages.

CONCLUSION

As this essay has, I hope, made clear, it is my belief, á la Mark Twain, that the rumors of the death (or even the terminal illness) of the AVF are premature. We have made considerable progress with the active forces under the AVF; notably less progress with the Reserves.

We are, as I said earlier, moving in the right direction, but we cannot ease up on the gas. The military pay raise this year was essential. Educational incentives must be enhanced. Quality of life must be improved and maintained. The Reserves, in particular, must be strengthened.

Last year, the President appointed a Military Manpower Task Force, chaired by Secretary Weinberger. We are hard at work reviewing the adequacy of military compensation and incentives; educational benefits; current manpower readiness; effectiveness of training, leadership, and discipline; enlistment standards; recruiting and retention efforts; and Selective Service registration.

The All-Volunteer Force, in my view, has been successful. The mandate of the Military Manpower Task Force, and my own agenda in DoD, is to identify and solve its problems in order to make it function even better in the future. With the cooperation of everyone in DoD—civilian and military, active and Reserve, men and women—and with support from the senior officials of the Administration and from the Congress, I believe we can and will succeed.

COST OF CONSCRIPTION

Question. What are the costs associated with a return to the draft? Would a return to the draft save any more?

Answer. A return to the draft may not save significant amounts of money. In fact under most reasonable assumptions it could be about $2 billion more expensive. This increase assumes that competitive pay levels would be maintained for draftees and others in the "first-term" of military service because of the fact that we would have to initially induct up to 15 percent of the 18-year-old male population. In addition we would be obliged to provide liberal education benefits comparable to those in the pre-1977 GI Bill. Although some money would be saved by the elimination of enlistment bonuses and by significant reductions in recruiting, these and other savings would be overwhelmed by the additional training costs, increased turnover and lower skill levels than those recently accessed (i.e, FY 1981). Only if Congress determined that first-term pay be drastically reduced, to about three-fourths of the Federal minimum wage, would a return to the draft "break-even" with current AVF costs.

Background. Detailed cost items are in the attached table.

FISCAL YEAR 1982 DOD COST IMPACTS FROM A RETURN TO THE DRAFT

[In millions of dollars]

Major cost item	Current AVF	Draft	Net change
Recruiting/advertising [1]	970	120	−850
Enlistment bonuses	131	0	−131
Reductions in various service programs [2]	90		−90
First-term pay [3]	8,400	8,400	0
Reenlistment bonuses [4]	579	700	+121
Educational benefits/GI bill [5]	14	2,500	+2,486
Increased training and other Army personnel turnover costs [6]		360	+360
Total net change from AVF to draft			+1,896

[1] Reflects reductions to pre-Vietnam levels, the last draft experience without effects from a conflict.

[2] Such as replacing contract and Federal civilians with military recruits in mess hall and grounds maintenance functions.

[3] Basic pays/allowances (cash and in-kind) for grades E–1 through E–4 with 2 or less years of service. No reductions assumed in keeping with DOD policy that competitive pay levels would be maintained in either a draft or an AVF.

[4] Since historical experience shows that draftees are generally not motivated to make the military a career, this increase would be necessary to sustain a career force.

[5] Costs in a draft are those occurring from an obligation to provide benefits comparable to those of the pre-1977 GI bill, and would be funded by VA.

[6] Such as increased PCS costs, increased physical/mental testing, and increased staffing for selective service and military examining/reception stations.●

A CREDIBLE MILITARY DETERRENT

● **Mr. GOLDWATER. Mr. President, in a recent issue of National Defense magazine, the distinguished columnist Holmes Alexander presented some thoughts about warfare, weapons and power which all of us should understand. In spite of our deep-seated desire for peace, the inescapable fact remains that in this less-than-perfect world, the United States must maintain a credible military deterrent. Not only should this be a credible deterrent, but we should not be ashamed of it nor should we be hesitant to admit its ultimate purpose. The reason for our tactical and strategic weapons is to persuade any potential enemy that the result of their misadventures would bring unacceptable risks to them. The weapons systems we build and deploy are there for one purpose—to wage and win a war. As soon as we accept this basic proposition, the better we will understand ourselves and the need for a strong military.**

Mr. President, I ask that this article be printed in the RECORD.

The article follows:

89-059 O-85-43 (Pt. 3)

THE ROUGH RIDER AND THE ATOMIC ADMIRAL

(By Holmes Alexander)

Standing there in Groton, Connecticut on Veterans Day '81 in the chilly bleachers to cover the commissioning of the world's most powerful underwater warship, U.S.S. *Ohio*, Trident Class nuclear supersubmarine, I subdued the mischievous fancy of skidding backwards in time to another dockside, Hoboken in 1915, which I'd read about in terms of sardonic comedy.

Dare I imagine that this sleek, gray, enormous denizen of the deep has been retrofigured into the laughable steamship Oscar II, Henry Ford's "peace ark?" With a passenger list of peaceniks and crackpots, it sailed off to cancel the Great War and, as Ford told reporters, "get the boys out of the trenches by Christmas."

If my imagination indulged such frolic, I would blame it on the ceremonial speakers—all except one, Admiral Hyman G. Rickover. They were peace-mongering in the same spirit sans the sincerity of the Tin Lizzie's inventor who was embarking for The Hague to tell the likes of Hohenzollern, Romanoff, Poincaré, Lloyd George and Churchill to break up their squabble and go home.

Vice President George Bush, a Navy combat pilot of World War II, called the tune by hailing the U.S.S. Ohio as "an instrument not of war, but of . . . peace." He was preceded and followed by military, industrial, ecclesiastical, and political celebrities who stroked their harps on the same theme: that—or so was my impression—this 24 MIRV'd missilehurler, a scientific marvel of maritime warfare, was more than anything else a symbol of *Pax*.

Wishful thinking is fine and dandy, and unless there were a Tass reporter among us, peace on earth was the heart's desire of everyone present. Pretending an untruth is a lot more dangerous in national policy than speaking with dread candor. I felt an immense relief when we heard from Admiral Rickover, the no-nonsense creator of our 137-nuclear ship Navy. My cold-handed notes, which I later checked with his office, caught the guts of his brief address which laid it on the line for friend and foe:

"Once, at a warship launching," said Rickover, "I was asked the purpose of the ship. I replied 'To strike fear and terror in the hearts of the enemy.'

"I was on board the *Ohio* during her first sea trial," he continued. "I observed the skill and dedication of her crew. I can therefore affirm that no enemy can feel other than 'fear and terror' with this ship at sea. . . ."

Our country is long past the time of growth and the necessity which drives nations into wars of conquest, not always for some nefarious reason. We discovered America's mature nature when we expended our genius in the inventions and crafts of civilized progress in this century. We have fought only to preserve our own liberty and that of others in Europe and Asia. We have been, if anything, quixotic rather than aggressive. If we formerly misadventured into imperialism, that was long ago, and we have voluntarily made amends. No country on earth had behaved better than ourselves in bringing Hawaii and Alaska into statehood, received Puerto Rico into the partnership of commonwealth and kept our word by releasing the Philippine archipelago to become a self-governing republic. Recently, and perhaps not altogether wisely, we gave away our valuable possession of the Panama Canal.

There is some jeopardy, however, in this sort of generosity. It can be misunderstood by others. It can be misleading to ourselves. One of our presidents had his oratory twisted out of context when he said "There is such a thing as being too proud to fight." From that time on in the Wilson administration, and not by mere coincidence, American ships and American lives were treated as fair game by German U-boats when this century was in its teens, and as soon as we disarmed after World War I, the idea went abroad that, because we were so enamoured of materialism and talked so fondly of peace, we had become flaccid and decadent.

It is certainly true that today we arm ourselves with expensive and ultimate weapons for self-defense and the defense of liberty in weaker neighbors. Nevertheless, the constant yammer of love-that-peace cannot be good for American morale. It is an alluring temptation for the jealousy and tyranny that are out there in the Real World.

It happens that while flying to and from the commissioning of the U.S.S. Ohio I used the air time to catch up on reading a book that is no longer new but not obsolete in its capacity of making Americans proud. The Path between the Seas by David McCullough is, of course, the story of how American capitalists, engineers and medical scientists built the Panama Canal which we lately relinquished doubtless to our future regret. Back there at the turn of the century the United States undertook a project at which Europeans had failed and which was widely regarded as impossible. When some alumni of Yale University thought it clever to spoof the Harvard man, President Theodore Roosevelt, about digging himself into a corner, he answered.

"Tell them I intend to make the dirt fly."

The technology of nuclear science is another undertaking which is alarmingly costly in money and manpower. It is likely that no other nation has equal capacity to manage atomic energy for uses in peace and war. How fitting it was that Rickover spoke with much the same earthy realism of Theodore Roosevelt!

The projects to which the Rough Rider and the Atomic Admiral addressed themselves—the sea-to-sea Canal and the U.S. fleet that is nuclear engined-and-armed—are different in kind but much alike in magnitude. The same must be said of these two leaders whose words and actions leave no doubt of their meaning.

T. R. could have been speaking of them both in a letter he once wrote to a correspondent,

"I believe in a strong executive. I believe in power. . . ."●

THE THREAT OF DEMOCRATIC DESPOTISM

● Mr. EAST. Mr. President, in recent weeks we have seen a great deal of controversy over tax exemptions for private schools that allegedly discriminate on the basis of race.

One constructive contribution to the study of this issue has recently come from Russell Kirk, professor, lecturer, author, editor, and distinguished man of letters. For more than 10 years now, the Government has been using a public policy rationale to justify its denial of tax exemptions to some schools. Professor Kirk shows how easy it will be for the Government to expand this rationale into a tool that could force all private institutions to conform to its standards of orthodoxy.

Mr. President, I invite my colleagues to note the comments of Professor Kirk as we proceed to consider legislation affecting private schools. To this end, I ask that his letter to the editor of the Wall Street Journal of February 18, 1982, be printed in the RECORD at the conclusion of my remarks.

The letter follows:

THE THREAT OF "DEMOCRATIC DESPOTISM"

To the EDITOR:

May I offer comments on the Feb. 2 editorial-page article by Chester E. Finn Jr. and Neal E. Devins, "Reagan, Discrimination and Private Schools"?

For the most part I am in agreement with the argument of these Vanderbilt writers. I grow uneasy, nevertheless, when they write, "But there are limits beyond which no institution may go if it seeks the slightest succor or approval by the society. Racial discrimination is beyond those limits. Not many schools engage in it, to be sure, but President Reagan should not have given them even momentary encouragement."

Why is only racial discrimination beyond those limits? Why not sexual, or religious, or economic, or political, or intellectual discrimination? Because, I suppose, in recent years the "civil rights" activists won the political battle against segregation of schools so that racial discrimination now is disapproved by the federal government, and presumably by the majority of Americans.

But a few years from now, society may be persuaded to regard as unworthy of "the slightest succor of approval" certain convictions and practices of independent schools now tolerated. So this question arises: Must independent schools be compelled to comply with whatever policy or prejudice of "society" (that is, practically speaking, the federal government) may happen to prevail in this year or that? In particular, must church-related and religious schools, First Amendment or no First Amendment, expect to trim their sails to catch the moment's wind of political doctrine?

Once it is conceded that "society's approval" must be accorded only to such independent schools as submit to governmental direction, and once "society's approval" is interpreted to mean discriminatory taxation, the power to destroy—why, the way is opened for all sorts of follies and harassment. The ominous tendency of democracies, as Tocqueville remarks, is toward elimination of all intermediate groups and voluntary associations, so that there may remain at last only the huge nation-state and powerless mass of little subordinated individuals. This Tocqueville calls "democratic despotism."

Using the Internal Revenue Service to enforce conformity of independent schools to some vague "social conscience" is a large stride toward democratic despotism. It may be foolish to exclude children from certain private schools on the basis of color. But nobody is compelled to submit himself to such schools. Everywhere there exist public and independent schools open to all comers. No great social mischief is worked by the survival of a few schools, or clubs, or other voluntary and private organizations, that prefer one ethnic strain over another.

There still flourish Protestant colleges where I, as a Catholic, would not be invited to teach. Should those colleges be compelled by IRS, on pain of cancellation of tax-exemptions, to pursue vigorous policies of "affirmative action," recruiting Catholic professors? No, they shouldn't.

Among the schools harassed by IRS is First Presbyterian Church Day School, in Jackson, Mississippi. This school never has adopted a policy of deliberately excluding black pupils; neither has it actively recruited such pupils; its students are children of members of the church's congregation. This case, Green v. Regan, awaits argument in the United States Court of Appeals for the District of Columbia. Anyone who takes the trouble to read the directives and inquiries sent by the IRS to the First Presbyterian Church Day School may find the tone and substance of these communications startling. Here is the inception of an invasion of religious liberty by government officials more ominous than any other church-state conflict in America during this century.

The General argument advanced by IRS in Green v. Regan is grimly interesting. In effect, IRS declares that the first clause of the First Amendment notwithstanding, "federal public policy" demands the ending of all racial discrimination; therefore measures seemingly extraordinary are justified; and religious tenets must make way for this amorphous "federal public policy." Why quibble, then, about the Bill of Rights?

The consequences of this interesting doctrine, or dogma, of the primacy of "federal public policy" may turn out to be unpleasant, a few years from now, for those liberals who today zealously discriminate against discriminatory schools.

So, before the end of the century, we may find gentlemen writing after this fashion: "But there are limits beyond which no institution may go if it seeks the slightest succor or approval by the society. Radical political teaching is beyond those limits."

Or, perhaps alternatively: "Superstitious indoctrination in a 'transcendent' or 'revealed' religion is beyond those limits. Not many schools engage in it, to be sure, but President Goneril should not have given them even momentary encouragement."

RUSSELL KIRK.[1]

THE LAW OF THE SEA TREATY

● Mr. EAST. Mr. President, the United States has resumed its participation in the negotiations for a treaty on the Law of the Sea. Along with many of my colleagues, I have grave reservations about the wisdom of the treaty that has been drafted. As Senators PRESSLER and LONG pointed out last Monday, specific provisions of the draft treaty would compromise both the sovereignty of the United States and its future economic development.

I think it important to emphasize as well, however, the degree to which the entire treaty, as it is presently conceived, runs counter to the American view of government. Our Founding Fathers created a system of checks and balances because they understood how easily even the best of men are moved from the proper course by unlimited power. It was only when they saw that the American Government was to be a limited one that the people of this country ratified the Constitution. This treaty by contrast would invite us to surrender our sovereign rights to an international organization without giving us any firm assurances that that organization will not abuse its power.

Because such important constitutional principles are at stake, I would like to share with my colleagues an article from the November/December 1981 issue of Regulation magazine entitled "Mining the Seas for a Brave New World." In it Dr. Walter Berns, a nationally recognized expert on constitutional law at the American Enterprise Institute, discusses how alien the ideals of those who drafted the Law of the Sea Treaty are to the basic principles of our democratic republic. Mr. President, I ask that this article be inserted in the RECORD:

The article follows:

MINING THE SEAS FOR A BRAVE NEW WORLD

(By Walter Berns)

Under established international law, we are entitled to mine the seas even as we might fish them. Elliot Richardson himself, who was President Carter's special representative for the UN Law of the Sea Conference until October 1, 1980, acknowledges that deep seabed resources may be recovered by any state or its nationals in "an exercise of a traditional high-seas freedom." Thus, as matters now stand, without the Law of the Sea Treaty, "nations can license their own nationals to mine the deep seabed and can reciprocally agree to respect the licenses granted by other nations." Nevertheless, last year the United States came to the very brink of approving the treaty and agreeing to relinquish this right to the international entity the treaty would create.

That poses an obvious question. Why should the United States, possessed of both the legal right to mine the seas and the technological and financial capabilities needed to do so, cede that right to an authority that will be governed by others? What is striking is how Richardson answers this question. He explains that other countries, and especially the so-called developing or third-world countries, are not happy with the current international law on this subject, and that we must therefore acquiesce in their demand that it be superseded by the new treaty. After all, in this one world, they outnumber us.

What is also striking to me is that such one-world sentiment continues to exist among us. At a meeting earlier this year, attended by representatives of various organizations that make it their business to follow United Nations affairs, I found—much to my surprise—people who continue to promote the case of world government. I was surprised not so much by their presence as by the fact of their continued existence. For some reason—with hindsight I now see that it was merely because I had myself long since ceased to pay any attention to the issue—I had assumed that the world government enthusiasts had become discouraged by their evident lack of success and had turned to other good causes (such as saving Planet Earth or Newfoundland's baby seals).

I had done my best to discourage them. Back in the 1950s, I had argued that, whatever its constitution or nominal form and regardless of its organizing principle (fear of atomic annihilation or some statement of the brotherhood of man), any world government would almost certainly be a worldwide tyranny. I said it was folly to assume, as the proponents did, that a world government would be a liberal democracy, a judgment supported by the fact that even then there were relatively few liberal democracies in the world. Free government, I wrote, is difficult to establish even under the most propitious circumstances, and without mutual trust, literate populations and, to cite one other condition, a tradition of obedience to the rule of law, it would be impossible to maintain. This was the argument and I thought it persuasive. But, as an antecedent of subsequent events, it was probably not so persuasive as one episode in the life of what was then the largest of the world-government organizations, the United World Federalists.

According to the published account in the Journal of Politics, the Federalists were indeed united on the need for a "global government able to enforce law (in the sense of 'domestic law') on individual violators," as well as in the opinion that, "given a certain amount of good will and political education," such a global government was possible. They also agreed that the "only practicable form for such a world government was the federal form." Unfortunately (for them at least), they could not agree as to "how such a world federation was to be brought about, which of the present states should be founding members, and what powers should be constitutionally delegated to it." In the course of trying to resolve their differences on these secondary issues, the members became "enraged," accusing each other of "political immaturity" and demanding that the charters of affiliated groups be revoked. The upshot was a series of schisms that left the parent organization with only half its membership.

This ought to have been a sobering experience, especially for those directly involved in it (and it ought to have provided a valuable lesson for anyone involved today in "global negotiations"). Setting out to unite the people of the entire world under a single government, they quickly learned that they could not even unite themselves. Yet, despite the example of the no-longer United World Federalists, there are still people—world federalists, planet-earthers, or whatever—who hope to bring about a genuine government of the world, if only by stages, by establishing regulatory regimes over this or that piece of the world and this or that aspect of international commerce. And all this despite the evidence of what the United Nations has become.

What it has become is "a dangerous place" for the likes of the United States. In 1955, it comprised some fifty nations and, on the whole, its dominant spirit was that of the liberal democracies; now it comprises more than three times fifty nations and the liberal democracies are a beleaguered and, by the standards that govern it, a despised or ridiculed minority. It is to such a league of disparate nations that the proposed Law of the Sea Treaty would have us yield the significant sovereign rights we now possess and are fully capable of exercising. The Seabed Authority would be dominated by nations contemptuous of our institutions and liberties, yet envious of our wealth.

Having nothing to lose and, in theory at least, everything to gain, these ascendant and developing nations began the seabed negotiations by demanding too much, even for our acquiescent negotiators. But the treaty as amended is a compromise, it is said, and one we can accept. It is a compromise between the demands of the developing countries, which look upon the resources of the high seas as part of "the common heritage of mankind" and, as such, to be reserved for an international equivalent of a government monopoly, and the position of the industrialized countries, which seek to guarantee the right of equal access through "a licensing system for all qualified seabed miners, whether private corporations or state entities."

Enough has been written in this journal to enable readers to judge for themselves whether the seabed provisions of the treaty represent a fair compromise between the parties. (See "One OPEC Is Enough" by Northcutt Ely in this issue and "A Global Straitjacket" by Richard Berryman and Richard Schifter in the previous issue.) I wish to address the theoretical assumptions and underpinnings of the treaty. By advocating ratification, Richardson would have us accept the developing nations' understanding of "the common heritage of mankind" as well as the legal consequences that flow from it. That understanding is the principle embodied in the treaty, and even the particular terms of the compromise reflect it. It is a pernicious principle.

My colleague, Robert A. Goldwin, has demonstrated that properly understood a resource that is part of mankind's common heritage is a resource that is owned not by everybody but by nobody ("Locke and the Law of the Sea," Commentary, June 1981). It is nobody's property because nobody has appropriated it, which is to say, nobody has made it his own; and until somebody has made it his own it is worthless, worthless to mankind in general and to men in particular. But, by accepting this so-called compromise, Richardson acknowledges a property right in mankind and, what is more, agrees that mankind has, or should have, a juridical personality through which that right may be exercised. The Seabed Authority would be a kind of mini-world government.

It is puzzling that nobody seems to have understood that by ratifying the Law of the Sea Treaty, we the people of the United States would be doing, formally at least, nothing essentially dissimilar to what we did in 1787-88. On that celebrated occasion we ordained and established the Constitution of the United States, ceding to the United States our individual natural rights to govern ourselves; that is, we relinquished the legislative, executive, and judicial powers each of us possessed in the state of nature and by natural right. We did so because, as we acknowledged in the Declaration of Independence, we knew that the natural rights with which we were equally endowed could not be enjoyed or secured in our natural condition. ("To secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed.") Precisely in order to secure our rights, we yielded them (but not all of them) to the government we constituted in 1787-88 and under which we have lived for almost 200 years.

So, too, it is now proposed that we relinquish our natural and internationally recognized right to appropriate unowned minerals by ceding it to another government that we, in the company of the rest of mankind, are constituting. But who are the "we" constituting the government over seabed mining, and who were the "we" who constituted the government of the United States?

The "we" constituting the International Seabed Authority are (or would be), in principle, all the world's states, comprising, in the words of the Book of Common Prayer, "all sorts and conditions of men" and, more to the point, all sorts and conditions of governments: tyrannies, despotisms (both benign and malign, and most of them unfriendly to the United States), and a pitiful handful of liberal democracies. It was a different sort of "we" who constituted the government of the United States.

In the course of the 1787 constitutional debates when various delegates suggested that we were thirteen peoples, James Wilson of Pennsylvania insisted that, with the meeting of the First Continental Congress, Pennsylvanians were no more, Virginians were no more, et cetera. "We are now," he said, "one nation of brethren." This may have been something of an exaggeration; yet, as Tocqueville was to point out shortly thereafter, the Americans were a homogeneous people on the whole; as he put it, the citizens of Maine and Georgia, separated by a thousand miles, had more in common than those of Normandy and Brittany, "separated only by a brook." Even so, what is significant is that, despite their common language, their common memories, their common heritage, and their common aspirations, the Americans of 1787 constituted a government that is characterized by *distrust*.

Men are not angels, Madison said in Federalist 51, and although popular and regular elections should be the primary control on the government, "experience has taught mankind the necessity of auxiliary precautions." These precautions took the form of the various institutions built into the very structure of government and familiar to everyone who has had so much as a high school civics course: a complex system of representation, checks and balances, separation of powers and, for one more example, an independent judiciary. Together, these institutional devices were designed to prevent government by simple majorities of the people. The Americans of 1787 did not trust even themselves—though they had, in 1776, declared themselves "one people."

Against this background, the willingness of some of their descendants to accept the structure that would be established under the seabed treaty cries out for an explanation. There would be an Assembly in which the United States (along with all signatory countries) would be represented and, if the UN General Assembly can serve as a guide, regularly outvoted. There would be a thirty-six-member Council, similar to the UN's Security Council (but without a veto provision), which would take some decisions by consensus, some by a three-fourths vote, others by a two-thirds vote, and still others by a vote of a simple majority—and on which the United States might or might not be represented. (The Soviet bloc, on the other hand, would be guaranteed at least three seats.) And there would be a Seabed Disputes Chamber consisting of eleven members selected from among the members of the International Tribunal for Law of the Sea—on which, again, the United States might or might not be represented. One provision, however, is very clear: since nations would contribute funds to the Seabed Authority in proportion to their UN assessments, some 25 percent of the money would come from the United States. On that point the world was indeed united.

Speaking before the American Mining Congress in September 1980, Elliot Richardson made much of the fact that the "rules, regulations, and procedures of the Authority will have been developed by the Preparatory Commission before the treaty enters into force. . . ." This would be more reassuring if the views of the United States with respect to the "rules, regulations, and procedures" were guaranteed a fair hearing during the meetings of this commission. Richardson assured the Mining Congress that the commission would proceed carefully and that "experts will have more influence in [it] than in the Law of the Sea Conference itself." That is an interesting admission. But what he does not say, because he cannot honestly say it, is that our "experts" would have an influence commensurate with their expertise or, indeed, that they would be our experts, not only by nationality but by inclination. We cannot know the answers to these questions until after the treaty is ratified. What is even more disquieting is that these "rules, regulations, and procedures" can be changed by consensus in the Council (on which the United States might or might not be represented), and as Northcutt Ely points out, the judicial tribunal of the Seabed Authority would be forbidden to declare such change ultra vires. In short, this quasi-government would have a judiciary, but this judiciary would not have the sort of review power on which we have come to depend for protection from official misconduct.

One can understand why the Soviet Union supports the treaty. One can understand why the third-world countries support it. One can even understand why Canadian Prime Minister Trudeau supports it enthusiastically: There are provisions in it protecting Canadian minerals from having to compete in the world market with those that might be scooped from the seabeds. Besides, Trudeau seems to be eager to become a leader of the third world—what better platform from which to shake an admonitory finger at the United States?—and to do whatever is required, by way of national economic policy, to make Canada eligible for membership in that group. But it passeth all understanding why an American should support it.

As Gary Knight of Louisiana State University has pointed out, the treaty is seen by its friends as the first step in the campaign to implement the New International Economic Order, that "grandiose plan for massive redistribution of political and economic power from the north to the south." With the treaty, the principle for this redistribution would be in place and its implementation would follow as circumstances permit: we are part of one world called mankind; wealth is the "common heritage of mankind"; the United Nations or the Seabed Authority or some other broad international entity speaks for mankind; and, with the cooperation of the Soviet Union, the third world controls these organizations. (In the actual event, of course, the power and wealth would go not to the third-world countries but, rather, to the self-selected third-world elites.)

This brave new world is not what the United World Federalists had in mind. They wanted a government similar to the one they already enjoyed, a government that secured the rights of man even as it guaranteed the peace. They too readily assumed that the rest of mankind shared these goals, but, as anyone familiar with the UN knows, the spokesmen for the rest of mankind—by which I mean the mankind living outside the liberal democracies—have an inflated idea of rights (or, at least, their rights) and a parochial idea of peace (a war of national liberation does not breach the peace).

Fortunately, with the new mood in Washington, there is little danger that the United

States will sign the present treaty and, if the administration does sign it, scarcely any possibility that it will be approved by the constitutionally required two-thirds vote of the Senate. We can thank an earlier and wiser generation of Americans for that auxiliary precaution.●

ADMINISTRATION OPPOSES LEGISLATIVE VETO

● Mr. DANFORTH. Mr. President, when the Senate takes up the regulatory reform bill, S. 1080, an attempt will be made to amend the bill to include a legislative veto provision. I will move to table that amendment.

All Senators should be aware that the administration strongly opposes the inclusion of any legislative veto provision in the regulatory reform bill. Just yesterday I received a letter from the Vice President informing me that the President "believes that the Senate should not consider the legislative veto at this time because of the constitutional issues raised by the veto that are currently near resolution in the courts."

I agree. In my view, the legislative veto is a mistake under any circumstances—but it is particularly unwise for the Senate to attempt to write a legislative veto proposal into law when the Supreme Court is so close to deciding the constitutionality of the veto mechanism. Even though the cases before the courts concern veto schemes different from the proposal which will soon be presented to the Senate, it is simply prudent for us to consider the Court's counsel on the veto concept before we act.

Mr. President, I will have a great deal to say on this matter when the regulatory reform bill is before the Senate. At this time, I simply ask that the Vice President's letter be printed in the RECORD for the information of my colleagues.

The letter follows:

THE VICE PRESIDENT,
Washington, March 10, 1982.

Hon. JOHN C. DANFORTH,
U.S. Senate,
Washington, D.C.

DEAR JACK: The Laxalt-Leahy Regulatory Reform bill, S. 1080, is scheduled to be considered by the Senate in the very near future. As you know, we strongly support Senate passage of this legislation, and we have worked with Senators Laxalt, Leahy and Roth on additional amendments to this legislation which we also support.

We are, however, concerned about an amendment which may be offered to the bill to provide for some form of a legislative veto for agency rulemaking. As the President has recently said to one of the veto's sponsors, the Administration believes that the Senate should not consider the legislative veto at this time because of the Constitutional issues raised by the veto that are currently near resolution in the courts. In view of the recent Court of Appeals decision in the FERC case (which is now on appeal to the Supreme Court), the Court may well provide definitive answers by June to these Constitutional questions in the *Chada* case now pending before it. The Administration therefore believes that further Congressional consideration of the issue should occur only after the Supreme Court has provided more guidance in these cases to Congress and the Executive.

Accordingly, the Administration strongly supports your efforts to defer consideration of any legislative veto provisions.

Sincerely,

GEORGE BUSH.[1]

ENERGY IN PERSPECTIVE

● Mr. HUDDLESTON. Mr. President, I commend to the attention of my colleagues an editorial entitled "Energy in Perspective" from the Washington Post of March 10. The editorial concludes:

> To abandon conservation programs and dismantle research efforts now is to save small amounts of federal dollars at a very large longer-range cost to the economy. And, hopeful talk about the end of the energy crisis ignores the painful lessons of the past decade.

I heartily agree. The current glut of oil notwithstanding, we still are importing over 5 million barrels of oil each day at an annual cost of over $60 billion. This is a serious drain on our economy and leaves us dangerously vulnerable to future oil supply interruptions.

Yet, the Reagan administration is proposing to dismantle the Department of Energy and to drastically cut Federal support of vital energy programs. The administration is proposing an 81-percent reduction in fossil energy research and development, a 95-percent reduction in energy conservation programs, cuts in solar and renewable fuels technologies, and repeal of energy tax credits.

The Reagan administration looks instead to the private sector and the free market system to solve our energy problems.

Unfortunately, however, the energy market no longer operates according to traditional economic rules, and has not since OPEC first used oil as a weapon in the early seventies.

The weapon before was an embargo, but there is a more subtle weapon which OPEC can use. As long as OPEC has the ability to set its oil prices at a level below the alternatives which we would otherwise develop and use, there is no way that the private sector will develop an energy alternative to oil imports without Government sharing or ameliorating the risks.

Further, the free market does not even begin to reflect the extent of inflation, unemployment, and national risks which must be factored into the cost of every barrel of imported oil. These are factors that the private sector is not likely to consider in their corporate decisions, but they are factors which Government cannot ignore.

I ask that the Washington Post editorial, "Energy in Perspective," be printed to the RECORD.

The editorial follows:

ENERGY IN PERSPECTIVE

Ever since 1973, the energy policy pendulum has swung with depressing regularity from crisis to glut and back again. A steady resting point somewhere between has not been reached. That would be a point at which transient fluctuations in oil prices were not jarring and where American policy would accept the reality of a permanent shift from $3-a-barrel oil to $30-a-barrel oil.

Currently, we are in the glut phase. The combined effects of the 1979 oil price doubling and the current recession—themselves related—have cut deeply into demand. Producers are being forced to drop prices sharply. And once again we hear that the energy crisis is over. It isn't. Economic recovery alone would soak up much of the excess in today's oil market. Another war or revolution in the Persian Gulf—which any prudent person would have to consider possible—could swiftly send the oil-importing nations back into crisis.

In the United States, imports have dropped by half in the past couple of years. Domestic production is up, and consumption is down. The administration uses this improved outlook to buttress its case for dissolving the Department of Energy. But the appearance of reduced vulnerability to another oil supply interruption is deceptive and dangerous.

Some important changes in American energy use have occurred. The price of oil has been decontrolled, the strategic petroleum reserve is finally being filled, industry is using energy much more efficiently and the gas guzzler is an endangered species. But on the other hand, the price of natural gas is still artificially low, consumers still have no reliable source of help for reducing energy use in their homes and apartments, mass transit facilities compared with those of any other advanced nation are terrible, and the lack of a substantial gasoline tax helps to keep that from changing.

Nevertheless, the Reagan administration argues that higher energy prices have led to energy conservation and that there is therefore no reason for further federal support of research and other conservation programs. But the real issue is how much of what would be economically beneficial is not happening, and will not happen, under current policies. Do most types of energy use—technologies for supply and distribution, consumer information, manufacturing processes and the rest—reflect the reality of expensive energy or the past history of cheap energy?

The answer varies by sector. Large businesses with access to expertise and capital have adjusted well. Most other sectors have not. In residential and commercial buildings, which consume a quarter of all the energy used in this country, only a tiny fraction of the economically desirable savings is being captured.

In short, a good beginning has been made, but it is only a beginning. To abandon conservation programs and dismantle research efforts now is to save small amounts of federal dollars at a very large longer-range cost to the economy. And hopeful talk about the end of the energy crisis ignores the painful lessons of the past decade.●

THE PRESIDENT'S BUDGET

● Mr. GARN. Mr. President, as we consider this year's budget proposals, to the accompaniment of the agonized cries and handwringing of the born-again budget balancers, I believe it is important that we keep the matter of budget cuts in its proper perspective. James J. Kilpatrick has made a useful contribution to that effort in a recent Washington Post column.

To those who charge that the proposed 1983 budget contains nothing for the poor and elderly, Mr. Kilpatrick suggests simply an examination of the figures. Even accounting for inflation, it is readily apparent that this slashed and heartless budget proposes to spend more on social programs and entitlements than ever before.

For example, over $382 billion will be spent on non-social-security entitlement—more than the entire Federal budget in 1976. The Department of Health and Human Services alone will spend $20 billion more than last year, an increase of 8 percent, making it the third largest budget in the world—after the United States and Soviet Union. Medicare and medicaid spending alone will be up $6 billion. As Mr. Kilpatrick points out, spending for social security, medicare, and other related programs will be more than double the 1978 levels. "If this is cruelty," he says, "it is a curious kind of cruelty." I suggest that honesty should preclude us from referring to these levels as "cuts." Rather, we are simply, and necessarily, trying to control their growth.

Those who refuse to see that we have bought more goverment than we can afford ought to get busy showing us why a return to the irresponsible fiscal policies of the past will produce any different results now than they did before. To simply denounce budget deficits while advocating increases in social spending to be offset by cuts in defense spending is an exercise in political opportunism. Such posturing still fails to address the deficit problem, which can only be solved by controlling the "uncontrollables".

Mr. President, I ask that Mr. Kilpatrick's column be printed in the RECORD, and recommend it to all of my colleagues.

The column follows:

. . . AND QUIT HOWLING ABOUT THE BUDGET

(By James J. Kilpatrick)

Critics of President Reagan's budget for 1983 seem to be voicing two principal complaints—first, that further cuts in social programs are unbearable, and second, that the prospective deficit is intolerable. Neither complaint has merit.

To listen to the agonized cries from the liberal left, one might suppose that the president had no purpose in mind but to grind the faces of the poor—that he advocates starvation, illiteracy, rotting teeth, and the mass eviction of elderly couples from their humble abodes. Mr. Reagan is being depicted as a cruel and heartless monster who delights in slashing, destroying, undermining and hitting hard. A contributor to the editorial page of The Wall Street Journal charges that the president's budget "makes it clear that the needs of our poorest people are his least concern."

Suppose we look at the figures. The food stamp program provides a useful example. The program got off the ground in 1965 with an outlay of $35.6 million. By 1970 the outlay was $577 million. As recently as 1975, which was not so very long ago, food stamps cost the taxpayers $4.7 billion. In 1980, just two fiscal years ago, the program topped $9 billion. For 1983, Mr. Reagan proposes $10.3 billion.

Some of this mind-boggling increase of course is owing to inflation. In constant dollars, the growth is not quite so alarming. But when that factor has been fully discounted, a program of phenomenal dimensions remains. More than 19 million persons will be receiving food stamps under the president's "slashed" and "heartless" recommendation.

Housing subsidies provide another example. In 1977, just five fiscal years ago, federal outlays for housing assistance came to $3 billion. For 1983 Mr. Reagan proposes housing assistance of $8.9 billion. If this is cruelty, it is a curious kind of cruelty.

Are the elderly being tossed to the wolves? In 1978, just four fiscal years ago, Social Security, Medicare and other programs amounted to $103.9 billion. For 1983 these same benefits would amount to $209.6 billion. On the down the road, in 1987, the benefits are fixed at $283.3 billion. The Office of Management and Budget asserts that the average elderly couple, retiring next year, stands to receive $15,700 in tax-free benefits. Would the president's critics provide vastly more?

Look. The most dismaying aspect of this criticism lies in what it tells us about ourselves. We have drifted a long way from the old moorings—from self-reliance, local responsibility, the virtues of can-do and make-do. Whole generations of middle-income Americans used to get their higher education without guaranteed loans and Pell grants. There was a time, and it wasn't so long ago, when our people survived without 95 million subsidized meals every day. To the extent that Reagan's budget nudges us back toward the old initiatives, the budget ought to be praised and not condemned.

The 1983 deficit is estimated at $92 billion. It probably will be higher. Congress has a high obligation to reduce the figure by selective tax increases and by further cuts in spending—including defense spending. But to cry that a $92 billion deficit is "intolerable" is to lose a sense of perspective. The sum represents about 3.1 percent of our gross national product, not greatly beyond the 2.9 percent of 1977 and 1980 and much lower than the 4.5 percent of 1976. As a percentage of total federal spending, the prospective deficit is less than we somehow tolerated in 1975 and 1976.

None of this is to say that Reagan's budget is cast in stone. It is arguable that in some areas, he is attempting to cut too much too soon for local government and the private sector to adjust to the changes. No one is happy about a $92 billion deficit. But neither should we accept the calamity-howling as if catastrophe truly lies ahead. This budget moves in sound directions. Subject to minor course corrections, it ought to be adopted.●

A CHILDREN'S DEFENSE BUDGET

● Mr. BAUCUS. Mr. President, as we evaluate President Reagan's proposed budget for fiscal year 1983, we must not lose sight of our national goals. We must not get lost in the many pages of statutes and legislation and forget what we are trying to achieve.

We are here as Members of this Congress to pursue a sound economy; to promote the well-being of all of our citizens; to legislate responsibly. We are not here to promote the interests of special groups over the interests of the public. We are not here to make only easy, politically expedient decisions to further our personal popularity.

I am disturbed with the legislative agenda proposed by President Reagan in his budget for fiscal year 1983. The hard decisions are not being made; careful analysis and improvement of the infrastructure of government programs are not being carried out; and the public interest is not well served.

The projected deficit is much too high, and will only exacerbate our critically high interest rates. Yet, in this budget we see even more severe cuts in many of the same domestic spending programs that were cut last year, while military spending continues to skyrocket.

The Children's Defense Fund just published an important analysis of how these new budget cuts will affect our Nation's most precious and fragile resource—our children. This study shows how twisted our priorities are if we go along with all of these proposals.

I urge my colleagues to examine this study, to see how many millions of dollars are being misallocated into unnecessary military spending. The Defense Department is spending taxpayers' money to vaccinate the pets of military personnel while 35,000 low-income children go without the most basic childhood immunizations. The taxpayer subsidizes top-level staff at the Pentagon an average of $12.06 per person per lunch, while for each of those lunches 40 low-income children go without midmorning juice and crackers in daycare centers.

Mr. President, I ask that this short excerpt from "A Children's Defense Budget: An Analysis of the President's Budget and Children" be entered into the RECORD.

The excerpt follows:

A CHILDREN'S DEFENSE BUDGET: AN ANALYSIS OF THE PRESIDENT'S BUDGET AND CHILDREN

BOMBS OVER BABIES

The unfair and budget busting favoring of rich over poor had been compunded by the transfer of hardearned dollars and benefits from poor and working families to the military. Since President Reagan asserted in his State of the Union address that "it would be foolish to pretend there is any program that cannot be made more efficient and economical," we challenge him to make good his words across the board.

Major military weapons systems have a tendency to cost a lot more than the Defense Department (DOD) says they will. DOD usually blames this on lack of money which forces them to buy fewer items for which they are charged more. In other words, if the military could spend more, then everything would cost less. Since this is a difficult idea, we will offer a simple example. The Air Force originally planned to buy 7 E-4 Advanced Airborne Command Posts at $69 million apiece. Since they did not have enough money to buy all seven, they had to settle for just six at $206 million each.

The effect of such unit cost increases is awesome. In fiscal year 1980, 54 major military weapons systems had annual cost increases, excluding those due to changes in quantity, engineering requirements, or simple inflation, of more than $12.3 billion dollars. Simple inflation brought the total to over $34.2 bilion dollars in one year. If this problem had been brought under control by fiscal year 1982, none of President Reagan's $35 billion dollars in domestic program cuts might have ben needed. If the Administration and Congress can begin this year to bring unit costs and military procurement practices under control, millions more children will not be denied the essential food, health care, and schooling they need to grow up and be productive citizens.

The following cost overruns for military weapon systems far exceed any documented fraud and abuse in any social programs for the poor. Yet neither the Reagan Administration nor the Congress has taken sufficient steps to examine and curb military inefficiency before hurting the poor or increasing military spending.

[Dollars in millions]

Weapon system	Increase in unit costs (percent)	Current cost each
A-10 aircraft	116	$7.2
EF-111A aircraft	115	32.3
F-15 aircraft	93	19.0
F-16 aircraft	46	13.4
AH-64 helicopter	56	10.7
UH-60A helicopter	161	5.4
IFV personnel carrier	88	1.1
XM-1 tank	19	1.9
F-14 naval aircraft	82	23.0
F/A-18 naval aircraft	36	21.6
FFG-7 frigate (ship)	227	212.3
AIM-54A/C Phoenix missile	112	9.7

The cost overruns just in these dozen systems, (small in the universe of weapon system cost overruns) adds up to a sum which could finance much of the children's survival and human capital development program the nation needs in order to begin to regain our competitive military and economic position in the world.

Who's going to repair the complicated airplanes and weapons systems on which we are spending billions if we are not developing an adequate pool of skilled laborers among our young? How are we going to stay ahead of the Soviets if we do not have the best possible pool of trained military minds and strategists? How are we going to produce the linguists, the scientists, and the mathematicians we need to outstrip our Japanese competitors if we are abnegating all federal responsibility for ensuring equal educational opportunity for our young?

The cost increases in the A-10 strike aircraft alone have already totaled over $3.2 billion, more than enough to restore all of President Reagan's cuts in Medicaid.

The overruns in the EF-111A total more than $700 million, more than enough to replace the remaining cuts in all the child health programs.

F-15 cost increases total over $6.8 billion. That could pay for the whole of AFDC in fiscal year 1983 without any cuts.

The cost increases in the AH-64 Army helicopter total more than $2 billion, enough to restore all the President's cuts in compensatory education, both enacted and proposed.

The XM-1 tank is a special case. In September 1980 it was $1.73 million. By December 1980, the unit cost had risen to $2.55 million, an annual rate of increase of 372 percent. That single 3-month period raised the total cost of the current program by $5.8 billion dollars. Since then the Army has announced that, because of deficiencies in the XM-1 transmission and fuel consumption, the tanks will have to be accompanied to battle by bull-dozers (to dig holes in which the tanks may hide) and military gasoline trucks (to refuel the tanks). Estimates of the cost of these military companions for our youngest tank have ranged upwards of another billion dollars. If President Reagan will merely leave in place the Adoption Assistance and Child Welfare Act of 1980 (which he is trying to repeal) he will save enough money to pay for the XM-1's caretakers.

Like every American, we are committed to a strong national defense and military able to respond firmly and fully to any external threat. But we do not equate loyalty to our nation's security with unquestioning acceptance of every military expenditure. In 1953 Dwight David Eisenhower warned:

"Every gun that is made, every warship launched, every rocket fired signifies . . . a theft from those who hunger and are not fed, those who are cold and are not clothed.

"This world in arms is not spending money alone.

"It is spending the sweat of its laborers, the genius of its scientists, the hopes of its children."[1]

And how blatant was this theft in the fiscal year 1982 budget where money was taken from needy children while military expenditures, even nonessential ones unrelated to national defense, went untouched. Read these examples carefully. They are only the tip of the iceberg.

President Reagan proposed an additional $3 million cut in the childhood immunization program for fiscal year 1982 which would eliminate immunizations for 75,000 children at risk. In fiscal year 1983 he plans to cut $2 million more. The Defense Department spends $1.4 million on shots and other veterinary services for the pets of military personnel. Additional millions are spent on the transportation of military pets when personnel are transferred. If the veterinary benefits for military pets were eliminated. 35,000 low income children could be immunized instead.

For fiscal year 1981 and fiscal year 1982, President Reagan rescinded and proposed cutting a total of $23.9 million from the Preschool Incentive Grants for handicapped children which serves more than a quarter of a million handicapped 3 to 6 years olds. In fiscal year 1983 he is proposing to effectively eliminate the program through a block grant and further cuts. These children are given early instruction in learning and communication skills so that they will be able to benefit from later schooling. The General Accounting Office has estimated that almost half of all messages sent over Defense department teletype nets are routine non-priority messages better sent by mail at a savings which would total $20 million a year. The excess teletype machines could be donated to programs for deaf children, thus further increasing savings.

President Reagan eliminated the Child Nutrition Equipment Assistance program that helped child care centers and schools in low-income areas buy the kitchen equipment needed to serve hot lunches and breakfasts to eligible low-income children and saved $15 million. The Army plans to spend $58 million to give away industrial machines, most of them new (e.g. five 2,000 ton capacity, four-stage mechanical forging presses, 166 power lathes, etc.), to defense contractors free. The $58 million is for the Army to pay to move and install the equipment. If it sold the equipment instead on the open market, and returned the proceeds to the Treasury, perhaps the $58 million dollars and more could be put back into the school lunch program which about 2,000 schools have eliminated because of budget cuts.

The State of Virginia has fewer than 160 full time homemaking aides serving more than 2,500 aged, blind, disabled persons and families with handicapped children at home. The Pentagon has 300 personal servants tending to fewer than 300 senior officers, none of whom reports himself seriously disabled. Virginia's program costs about $1 million a year. The Pentagon's program costs over $5 million a year. President Reagan cut Virginia's program by more than a third; he increased the Pentagon's program by 15 percent.

Secretary of Defense Weinberger has a private dining room at the Pentagon at which only about 100 persons are eligible to dine. It has a staff of 19 and each meal served costs the diner an average of $2.87 and the taxpayers an additional $12.06. President Reagan forced the low-income children of working mothers in child care centers to give up their mid-morning supplement of juice and crackers. Each time Secretary Weinberger or one of his select associates has lunch, 40 of those low-income children must go without orange juice or milk. More than 1 million mid-morning supplements for low-income children now to be lost each year could be restored if Secretary Weinberger and his colleagues ate in other Pentagon dining rooms, or contracted with a private food company to run his private dining roon on a self-sustaining basis. If four other Pentagon executive dining rooms (one each for the Army, Navy, Air Force, and the Joint Chiefs) were also run on a self-sustaining basis, this would provide an additional 3.7 million mid-morning servings of juice to low-income children in Head Start and day care centers.

Presdient Reagan cut the Child Care Food program 29 percent in fiscal year 1982 and is proposing an additional 20 percent cut in fiscal year 1983.

While we do not begrudge the military all morale boosting or recreational outlets, it does seem to us that the amounts and efficiency of nonessential services need to be weighed against the loss of civilian essentials. Americans given presidential sermons on "belt-tightening" want only equity in

[1] Address, "The Chance for Peace" delivered before the American Society of Newspaper Editors, Apr. 16, 1953.

sacrifice. But that is hardly what is occurring. The Memphis Naval Air Station might give up its riding stable; the Albany, Georgia Marine Logistics Base its golf course; and the Mountain Home Air Base its bowling center. Similarly military welfare might be limited to the neediest within their ranks before more cuts are made in welfare programs for needy children. There is no need, for example, for military reservists who are also federal employees to receive full pay from both sources during summer training and their regular vacation besides. Merely limiting payments to the higher of civilian or military pay would save $60 million in fiscal year 1983. This is enough to pay for the entire summer food program for poor children the Administration proposes to eliminate.

THE REAGAN BUDGET ROBS THE FUTURE AND WILL COST RATHER THAN SAVE MONEY

The Reagan Administration has led the American public to believe that social programs for poor children and families are the cause of federal budget deficits and inflation. He has preyed on the fears and resentments of those Americans who want to believe that most welfare recipients cheat (they don't) and implied that if we just end fraud and abuse in these programs, we will solve our economic problems.

What he has not told the American public is that 70 percent of the welfare "cheats" he is ridding us of are children. It is also children who will suffer most from across the board cuts in food stamps and Medicaid. Because the President is philosophically opposed to raising taxes or delaying the enormous tax giveaways in the Economic Recovery Tax Act; to price controls on health or energy costs; is practically committed to price increases on sugar and other foods; and will find it hard to attack Social Security again—at least right away—he has simply boxed himself in so that he has no one else to attack but needy children and families. He is therefore mindlessly undermining the very preventive programs that will yield the nation the greatest long-term savings and productivity: education, preventive health and dental care, child nutrition, job training, child care, and preventive services which help keep families together.

This is the time to invest in rather than turn our backs on children, as the Reagan Administration is doing. Spending billions more on weapons of death at the expense of tools of life for children and families is not the road to peace, stability, growth, and productivity, either within or without.

In 2010—28 years from now when many of us in our late thirties, forties, and fifties, will be moving toward or be of retirement age—there will be more elderly people per worker and fewer children as we become an increasingly aging society. Each worker will become more important as fewer become available to support more older dependents. That potential 2010 worker was recently born or is about to be born.

One in five of them was born poor and one in four will depend on the AFDC we are cutting through the bone at some point in his or her lifetime.

One in two will grow up in a family where all parents work and often face inadequate, even harmful child care arrangements. We are cutting child care.

One in three has never seen a dentist, and one in seven lacks access to preventive health care. Their numbers will grow, along with costly remediative medical costs, as a result of short-sighted cutbacks in medicaid, maternal and child health, and community health centers.

One in four will drop out of school before they graduate and will not be able to read and write and compute well enough to read the want ads or fill out the applications for the rapidly shrinking number of unskilled jobs. Millions more are going though an education system that has not prepared itself to respond to the new demands of an information economy and increasingly competitive world.

One in two will grow up in a single-parent family, one-third of whom will be poor. But these are the families President Reagan is beating into the ground through severe across-the-board cuts in Medicaid, AFDC, food stamps, energy and housing assistance, child care, and jobs.

Almost 600,000 a year are being born to teenaged mothers, many of whom have gone without prenatal care which greatly increases the likelihood of producing babies of low birth weight or with birth defects. Yet we are slashing the family planning funds to avoid more pregnancies, and the support services to help them remedy their mistake and avoid lifelong dependency.

500,000 are going unnecessarily homeless, in costly foster and institutional care, denied the nurturance and family stability that every child deserves. And President Reagan would cut new protections and funds to help them grow up in a family.

These Reagan policies will cost billions in future remediation (medical costs, foster and institutional care, court costs, jails); in services (welfare dependency, social services); and in lost productivity (joblessness, untrained minds and unhealthy bodies). And they will cost us more than we can measure as we stray from our historical path of becoming a decent and disciplined society.

All Americans are going to have to face up to needed changes and sacrifices if we are going to lead in a world in which the United States can no longer exercise effortless superiority. But regaining our competitive economic and political leadership position vis-a-vis the Japanese and others requires our hunkering down and making hard choices in this period of recession. These include adequate education and training for a baby boom generation for which we did not adequately plan. We must strengthen our managerial, industrial, and educational capacities so that we can outthink and outproduce our competitors. In order to do this, we must invest in, not cut, the human "supply side".●

MR. PAUL NITZE: THE RIGHT MAN FOR A TOUGH JOB

● Mr. GARN. Mr. President, in January of this year, the Washington Post printed an article by Mr. Chalmers M. Roberts, entitled, "Nitze: Right Man for Geneva?" All-in-all, it was a good commentary which supported the position that Mr. Nitze is, indeed, the right man for the job.

I was recently contacted, however, by Mr. Charles Burton Marshall, a longtime associate of Mr. Nitze, who asked me to help in clarifying some of the specific points raised in the article of Mr. Roberts. This clarification relates to the views of Messrs. Nitze and Charles E. Bohlen. Since Mr. Nitze, himself, asked Mr. Marshall to provide this clarification, I am happy to be of assistance.

Therefore, Mr. President, I ask that the article, "Nitze: Right Man for Geneva?," and Mr. Marshall's letter of clarification to Mr. Roberts, be printed in the RECORD.

The material follows:

[From the Washington Post, Jan. 12, 1982]

NITZE: RIGHT MAN FOR GENEVA?

(By Chalmers M. Roberts)

The first quotation summarized "the fundamental design of the Kremlin" as it was described in NSC-68, the famous 1950 Truman administration document on American policy in the Cold War era. NSC-68's principal author was Paul H. Nitze. The second quotation is from "Strategy in the 1980s," an article in the fall 1980 issue of Foreign Affairs magazine. Its author also was Nitze.

Now Paul Nitze is the chief American delegate at the negotiations with the Soviet Union on intermediate range nuclear weapons in Europe, which are to be resumed today in Geneva. One question raised about him is whether this consistency of view toward the Soviet Union is that "foolish consistency" that Emerson called "the hobgoblin of little minds" or the rock of principle on which American policy must and should be based. In short, is Nitze the right man for the job?

The Nitze viewpoint, as expressed in the two quotations, has always been disputed. At the time of NSC-68, Charles E. ("Chip") Bohlen, a leading Kremlinologist, felt, as he later put it, that the Soviet Union "was largely motivated by its interests as a national state, and that the idea of spreading communism was secondary to such considerations."

For decades Ronald Reagan's rhetoric has followed the Nitze view, but in putting forward his Nov. 18 negotiating proposals, President Reagan was assuming agreements are possible based on Russian as well as American national interests. Certainly Reagan's rearmament plans are designed to motivate the Kremlin to find virtue in control and reduction of armaments. Nitze argued in his 1980 article that "the United States and the West must play for time in many threatened areas . . . while making a major effort to build up their overall strength" until what the Communists term "the correlation of forces" has "become more favorable than it is today."

A canvass of some of those who worked with Nitze during SALT I and SALT II, the strategic arms talks, produces agreement that he a dogged, insistent, no-nonsense negotiator, that he knows well the interrelationship between theater and strategic nuclear forces, and that he knows both the diplomatic intricacies and the complex military hardware involved in the current negotiations. It is a fact that no American still active has had the broad range of experience in the national security area Nitze has. He has served in high State and Defense department jobs, at innumerable conferences and on many panels in and out of government, as well as at universities and think tanks. He served on the U.S. Strategic Bombing Survey at the end of World War II in both Germany and Japan, and in the latter job saw both Hiroshima and Nagasaki firsthand.

A man of wealth (investment banking), accomplished pianist, active Maryland farmer and outdoorsman, Nitze, who will be 75 this week, is a tough-minded intellectual little given to small talk.

Five years ago, when many were calling nuclear war "unthinkable," Nitze, in a letter to the editor in The Post, wrote: "It could be that war between major powers is 'thinkable'" and "if so, we should think about it, carefully, consistently and with all the foresight and prudence of which we are capable." When Jimmy Carter nominated the non-cold Warrior Paul Warnke to head the Arms Control and Disarmament Agency, Nitze led the assault against him in a fashion many thought downright brutal.

Nitze was the Defense Department representative during the SALT I negotiations, and he spoke for its ratification by the Senate. He resigned from the SALT II delegation in mid-1974, during Watergate, because he didn't like the treaty then apparently about to be consummated. With Eugene Rostow, now his titular boss as head of ACDA, and others, Nitze set up the Committee on the Present Danger, a small group that turned out to be the treaty's most effective opponent. Nitze believed it would give the Soviets the strategic preponderance "on the basis of which," as he once put it, "they can aspire to lay down the direction of events to Soviet advantage and, step by step, to achieve eventual Soviet triumph."

SALT I showed that Nitze would support an admittedly less-than-ideal treaty. SALT II, over which he hemmed and hawed in hopes it might be improved by amendments, showed him to be a tough opponent once he made up his mind. This time he is the man in charge, and anything he wants to come to terms on with the Russians most likely would be hard to beat back in Washington.

And why did he take the job? Aside from that view of the Soviet Union that drives him so relentlessly, Nitze reportedly now feels he has a live negotiation and that there now are good reasons on both sides why it might be possible to reach an agreed conclusion, and even reach it rather expeditiously. That clearly runs against the current conventional wisdom, which foresees long and fractious negotiations. But, if it works out, it would be the crown of Nitze's career.

CHARLES BURTON MARSHALL,
Arlington, Va., February 1, 1982.

Mr. CHALMERS ROBERTS,
Editorial Department, The Washington Post, Washington, D.C.

DEAR CHALMERS: Your January 12 column, which I have just read with great interest and approval in general, prompts this comment on one particular. The matter in mind concerns Nitze's and Bohlen's respective views about the Soviet Union. Your column alleges a basic difference between them and seeks to demonstrate it by selective citations. I think otherwise and rely both on citations and recollections.

My acquaintance with both began soon after my becoming staff consultant to the House Committee on Foreign Affairs in the spring of 1947. I heard them from time to time in executive sessions during the next three years, and occasionally conversed with them. I entered the State Department as a member of the Policy Planning Staff—of which Nitze was then Director—on June 1, 1950. Thenceforth Nitze and I have been in many collaborations. I suppose we know each other's ideas about as thoroughly as any two persons anywhere. Bohlen was called from duties as Minister at Paris for a month's consultation in the Department soon after the outbreak of war in Korea. I was a participant in many interchanges involving Nitze and him during that month. Bohlen returned to State in early 1951 to become counselor and the Department's representative on the NSC senior staff. I was involved in many dozens of interchanges with him in the next two years. I saw him only occasionally—probably no more than ten times in all—following his departure for Moscow as Ambassador in the spring of 1953.

I was given the then classified file on NSC/68 to study on my first day on the Policy Planning Staff and noted especially its words on "the fundamental design of the Kremlin." I quote them as published in "Foreign Relations," 1950, Vol. I, p. 238:

The fundamental design of those who control the Soviet Union and the international communist movement is to retain and solidify their absolute power, first in the Soviet Union and second in the areas now under their control. In the minds of the Soviet leaders, however, achievement of this design requires the dynamic extension of their authority and the ultimate elimination of any effective opposition to their authority.

The design, therefore, calls for the complete subversion or forcible destruction of the machinery of government and structure of society in the countries of the non-Soviet world and their replacement by an apparatus and structure subservient to and controlled from the Kremlim. To that end Soviet efforts are now directed toward the domination of the Eurasian land mass. The United States, as the principal center of power in the non-Soviet world and the bulwark of opposition to Soviet expansion, is the principal enemy whose integrity and vitality must be subverted or destroyed by one means or another if the Kremlin is to achieve its fundamental design.

I read at the same time a parcel of commentaries on NSC/68—among them notably Bohlen's memorandum of April 25, 1950, and especially his remarks on the portion above quoted. I quote those remarks as published in the same volume of "Foreign Relations," p. 222.

It is open to question whether or not, as stated, the fundamental design of the Kremlin is the domination of the world. If by this is meant this is the chief purpose and, as it were, the raison d' etre of the Kremlin, this carries the implication that all other considerations are subordinate to this major purpose and that great risks would be run for the sake of its achievement. It tends, therefore, to over-simplify the problem and, in my opinion, leads inevitably to the conclusion that war is inevitable, which then renders the statement of our objectives, i.e., the frustration of the Soviet design by peaceful means and the possibility of bringing about thereby a reorientation of Soviet policy to an extent which would permit the peaceful coexistence of the two systems [sic]. I think that the thought would be more accurate if it were to the effect that the fundamental design of those who control the U.S.S.R. is (a) the maintenance of their regime in the Soviet Union, and (b) its extension throughout the world to the degree that is possible without serious risk to the internal regime. I do not wish to belabor [sic] this point since it is obviously better to over-simplify in the direction of greater urgency and danger than it is to over-simplify [on] the side of complacency when dealing with Soviet intentions.

It seemed to me then that Bohlen had read into the document things that were not in it and that the language he thought would be "more accurate" was for all practical purposes equivalent to the language he was criticizing. I sought elucidation on the point of difference from my new colleagues and was told that they were as mystified as I was. One of them conjectured that Bohlen had commented on the basis of assumption and without actually having read the draft. I dismissed the conjecture as preposterous at the moment. Bohlen's memoir—"Witness to History," published 23 years later—says, however, on page 290 in reference to NSC/68: ". . . I did not study the paper until I returned in 1951." It appears that my skeptical colleague had a point.

The question of there being a basic difference between Bohlen's approach and the one reflected in NSC/68, in which Nitze had had the preeminent role, bobbed up several times in interchanges during Bohlen's sojourn in Washington following the outbreak of war in Korea. The notion surfaced also during his two years as counselor beginning in early 1951. Again and again the rest of us—I included—insisted to Bohlen that the distinctions, if indeed there really were any, involved nuances so slight as to be virtually indiscernible. Bohlen doggedly insisted that the differences, even if elusive, were substantive and important, as anyone knowledgeable of Soviet arcana—as the rest of us implicitly were not—would understand. Bohlen would also remark from time to time that the pertinent concept in NSC/68 had misled Secretary Acheson into a mistaken belief that the attack on Korea represented the first item on a Soviet schedule for world conquest by force. The rest of us with matching regularity rebutted both the alleged cause and the alleged effect. Bohlen's "Witness to History" preserves the idea for posterity, however.

These recollections would mislead you if they suggested acrimony. Nothing of the sort was ever manifested. The point at issue was marginal to the problems at hand. The prevailing aura was agreement. Bohlen and the formulators of NSC/68 were actually as one in postulating the primacy—as a Soviet goal—of the regime's continuity within the areas under its dominion. Also, Bohlen and the formulators were as one as to Soviet Union's enduring purposes concerning the world in general and as to Soviet hostility toward the United States. On the latter aspects, I do not presume to repeat things that I heard Bohlen say many times in privileged interchanges. I only invite attention to what Bohlen's 1973 memoir says in the last few pages of its chapter 15. A few sentences suffice:

What caused the cold war? My view is quite simple. . . . The cold war can be traced to the seizure of power by the Bolshevik wing of the Russian Social Democratic Party in 1917. . . . Bolsheviks believed in the inherent wickedness of capitalism, which they regarded as merely an instrument for the exploitation of the workers, and in the inevitability of the triumph of Communism over capitalism. Thus any capitalist society was not only an enemy but also an enemy that had overstayed his time on the historical scene. It did not make any difference what the capitalist countries did; the mere fact that they were capitalist made them the object of continuous hostility on the part of the Soviet rulers. . . .

. . . The word "Bolshevism" may sound outdated to some historians; in fact it is still an accurate term to describe the particular political philosophy that has guided Soviet leaders to this day.

The cold war was turned against America as part of the basic and unwavering hostility which the Bolsheviks have always displayed against capitalist countries. The United States was selected as target number one simply because it was the chief source of power left in the non-Communist world after the war.

. . . Any action we have taken . . . is judged on the basic premise that all capitalism is evil and anything good that comes out of it is only apparently so. This is the basis for the cold war.

It seems fashionable to conclude that the cold war is over. I do not see how anyone can reach this conclusion if he takes the trouble to read the Soviet press or speeches of Soviet leaders and to examine the daily drumfire of Soviet propaganda that is directed against the United States.

Too bad that your column did not specifically compare NSC/68 and Bohlen's views concerning the primacy of the regime's continuity as a Soviet goal and did not give the gist of Bohlen's views on Soviet hostility toward other systems in general and toward the United States in particular—but then, alas, it would have been necessary to jettison a good portion of the column.

I am still puzzled as to what impelled Bohlen's enduring insistence on some important, even if inexpressible, distinction between his own approach and that of NSC/68. A possible explanation is that given by Dean Acheson on page 347 of Present at the Creation, citing Paul Y. Hammond's thorough study of the genesis of that policy paper. That explanation postulates a purpose to defend professional turf—that is to say, to uphold Foreign Service ascendancy in the field of policy on the basis of assumed possession of a store of incommunicable wisdom. Maybe so—but I know no way of entering into other people's minds.

Sincerely,

BURT MARSHALL.●

IMMIGRATION AND U.S. UNEMPLOYMENT

● Mr. HUDDLESTON. Mr. President, last week unemployment in the United States reached 8.8 percent and most experts agree that it will increase further before it starts to fall. However, even when it does come down, it probably will not return to the level we considered as full employment a few years ago.

All of those who are concerned about U.S. unemployment in both the short and long run should be aware of the impact immigration has upon domestic unemployment and the cost of that unemployment.

The Federation for American Immigration Reform has recently circulated a factsheet which shows how uncontrolled immigration affects unemployment. I ask that this factsheet be printed in the RECORD.

The material referred to is as follows:

[From the Federation for American Immigration Reform, February 1982]

UNEMPLOYMENT

At times of high unemployment, immigrants and American workers compete directly for scarce jobs; the major impact of high levels of legal and illegal immigration is displacement of American workers. With continuing institutionalization of illegal immigration, illegal as well as legal immigrants advance in the job market, and compete for better jobs at higher pay.

1. U.S. unemployment in January 1982 was 8.5 percent, 9.298 million. Unemployment among Hispanic Americans was 12 percent, .724 million; among Black Americans, 16.8 percent, 1.874 million; and, among teenagers, 21.7 percent, 1.872 million.

2. Well over one million legal and illegal immigrants entered the United States in each year of the late 1970's. Legal immigration rates were: 1977, 462,315; 1978, 601,442; 1979, 526,000; 1980, 808,000. (Source: Immigration and Naturalization Service for 1977-1978; estimates of the Select Commission on Immigration and Refugee Policy for 1979-1980.) It is impossible to determine the exact number of illegal immigrants who entered the United States, but the Reagan Administration Interagency Task Force on Immigration estimated that, conservatively, 500,000 people were permanently added to our population each year through illegal immigration, and hundreds of thousands more illegal immigrants in a circular flow worked part of each year in the U.S.

3. Half of all new jobs created in the late 1970's went to legal and illegal immigrants. About one million legal and illegal immigrants entered the work force each year of the late 1970's (source: Edwin Reubens, City University of New York, testimony before the Select Commission, October 29, 1979), while about 2,000,000 new jobs a year were being created by the economy.

4. "A change of only one percentage point in unemployment can alter a (federal budget) deficit up or down by some $25 billion." Ronald Reagan, State of the Union message, January 26, 1982. The Congressional Budget Office estimates a one point increase in unemployment automatically increases transfer payment outlays by about $7 billion, about $7,000 per unemployed person. (Source: David North, Enforcing the Immigration Law, The New TransCentury Foundation, Washington, D.C., 1980.)

5. "In Chicago, aliens seized in recent months were found to have average earnings of more than $9,000 a year while working for plastics and electronics companies, foundries, meat-packing plants, rubber products manufacturers, snack food and candy producers and the like." John Crewdson, "Illegal Aliens Are Bypassing Farms for Higher Pay of Jobs in the Cities," New York Times, November 10, 1980.

6. "The Immigration and Naturalization Service also compiled yearly statistics on the types of industries which employ illegal aliens and the level of pay. It should be noted that these statistics do not include all of the illegal aliens who were employed when apprehended. It includes only those cases where the INS has positive proof of employment. Almost two thirds of the illegals who were employed were working at wages over $3.25 and many of these held jobs paying over $7.25 an hour." Senator Walter D. Huddleston (D-Ky), Congressional Record, July 9, 1981.

7. In Houston, a recent Rice University study found that one third of all workers in commercial construction were illegal immigrants, making wages between $4 and $9.50 an hour. The study concludes that American workers are inevitably being displaced. (Source: Professor Donald Huddle, Department of Economics, Rice Univ.)

8. "Industry executives and union specialists say that illegal aliens may account for more than half the assembly-line work force in many of the dozen or so plants in and around Los Angeles and south of the city in Riverside and Orange Counties. . . . Mr. Bluto [of the U.A.W.] said assembly-line employees of the recreational vehicle plants in southern California earned an average wage of $4.25 an hour. He also said this was about $2 an hour less than the average wage earned by workers doing the same work in northern California, where there are fewer illegal immigrants." Robert Lindsay, New York Times, May 4, 1980.

9. The majority of illegal immigrants work in cities, in light and heavy industry, construction, and the service sector. Fewer than half of apprehended illegals work in the agricultural sector. (Source: INS apprehension statistics.) Other studies find fewer than a quarter of illegal immigrants work in agriculture. (Source: David North and Marion Houston, The Characteristics and Role of Illegal Aliens in the U.S. Labor Market: An Exploratory Study, Washington, D.C., Linton and Company, 1976; and Maurice D. Van Arsdol, Jr., Joan Moore, David Heer, and Susan Paulvir, Non-Apprehended and Apprehended Undocumented Residents in the Los Angeles Labor Market, U.S. Department of Labor Research Contract No. 20-06-77-16, October 1978.

10. An Ohio University report for the Department of Labor "found that a majority of the young people would be willing to take low-paying jobs in such areas as fast-food restaurants, cleaning establishments, supermarkets as well as dishwashing. A substantial number of the young people surveyed said they would work at below the minimum wage. The survey suggests that the younger the worker the lower the wage and level job he or she is willing to accept. It also indicates that young minority group workers will take lower level work than young white workers." (Source: The New York Times, February 28, 1980.)

11. A Los Angeles Times survey published April 7, 1981, found that "the widely accepted notion that some jobs are so menial only illegal aliens will take them is untrue. . . . Among unemployed people interviewed, 75 percent said they would apply for jobs paying between $3.35 an hour, the legal minimum, and $4.50 an hour. More than 48 percent of unemployed Americans surveyed said they would seek restaurant jobs and 40 percent said they would apply for garment industry jobs. Both industries employ large numbers of illegal aliens. . . . The public's perception of the number of Americans willing to take menial jobs is far different from the reality, the poll showed. Nearly half (48 percent) of those polled said that illegal aliens take only those jobs that Americans won't accept, while 40 percent believe Americans can be found to do the jobs, and 12 percent said they weren't sure. Yet the poll showed a large majority of the unemployed said they would take such jobs—nearly 5 million people."

12. "It is false to say American workers cannot be found for all of the jobs filled by undocumented workers. The truth is that there are millions of American workers in all of these low-paying occupations already. The job market in which they (the illegal aliens) compete is highly competitive, with a surplus of people vying for a shortage of jobs, no matter how undesirable the jobs may be. . . . One of the lowest estimates of the number of illegal workers in the United States is 4 million. If only half, or 2 million, of them are in jobs that would otherwise be

held by U.S. workers, eliminating this displacement would bring unemployment down to 3.7 percent [as of December 1979], below the 4 percent full-employment target set by the Humphrey-Hawkins Act." Ray Marshall, the Los Angeles Times, December 2, 1979.●

TENNESSEE MUNICIPAL LEAGUE AND THE NEW FEDERALISM

● Mr. SASSER. Mr. President, a Committee on Governmental Affairs hearing held today focused attention on local governments and how they would fare under the New Federalism initiatives proposed by President Reagan.

Mayor Randy Tyree of Knoxville, Tenn., testified before the committee on behalf of the Tennessee Municipal League. His analysis of the New Federalism proposals and the underlying principles he endorses will, I believe, be helpful to my Senate colleagues and others in their consideration of these issues.

The 1982 International World's Fair and Energy Exposition, which I am sure most of you are planning to attend, is being held in Mayor Tyree's city of Knoxville. The already successful fair is a tribute to the good planning that the mayor has done at the local level. The exposition is also an example of what intergovernmental cooperation can achieve. The Federal, State and local levels of government contributed to the final product.

In fact, Mayor Tyree reported to me that the world's fair is running "ahead of schedule and under budget" at this time. With a track record like that I would say that we should heed the advice of the mayor in public policy matters of equal importance, such as the New Federalism.

His thoughtful presentation of the point of view of Tennessee city officials on the assumptions and basic principles of President Reagan's New Federalism should be carefully considered by my colleagues as we should continue the debate on the New Federalism.

I ask that Mayor Tyree's testimony on behalf of the Tennessee Muncipal League be printed following the conclusion of my remarks.

The testimony follows:

TESTIMONY OF HON. RANDY TYREE

TENNESSEE MUNICIPAL LEAGUE—10 PRINCIPLES FOR A NEW FEDERALISM REVISING PROPOSALS BY PRESIDENT REAGAN

Summary

A sound New Federalism should:

(1) Turn back control to state or local governments actually administering public service programs.

(2) Earmark a percentage of the federal income tax permanently, subject to "sunset" review in ten to fifteen years, for distribution to state and local governments, on a fair formula, at present (1972) levels of federal aid.

(3) Officials of local government, through their National and State Associations, should be consulted on New Federalism by the President and Congress, and the State Governors and legislators.

Ten principles of sound New Federalism

1. The President's New Federalism proposal should eliminate using it as a device to cut the budget for the 44 programs, to be shifted to state-local governments, by $5 billion from 35.2 billion in 1982 to $30.2 million in 1983.

2. The exchange of programs among the federal, state and local governments should be characterized by functional logic.

3. Federal fiscal assistance should continue to equalize in part the higher and lower tax raising capacity of the 50 states; Tennessee has only 81 percent of the tax capacity of the average state due to low per capita income.

4. Any shift of federal program financing to state-local governments should include a permanent earmarking, subject to "Sunset" review, of a percentage of the federal income tax instead of a temporary trust fund from federal excise and oil taxes.

5. The President's revenue package to compensate state-local governments for the cost of 44 turnback programs is derived 60 percent from the oil profits tax, and 40 percent from excises, and will produce only $250 million annually in Tennessee, and leave the state with a $450 million gap.

6. The President's plan to derive 40 percent of the temporary trust fund and eventual turnback taxes to fund state-local obligations is unacceptable because the federal excise taxes on alcohol, cigarettes, gasoline, etc. are capped on a per unit basis and do not reflect price increases and inflation; from 1978–81, the federal excise taxes rose only 5 percent while the income tax rose 35 percent and inflation 30 percent.

7. Any maintenance of effort under the New Federalism should apply to the federal government as well as the states.

8. City and county governments, through their national and state associations, should be full partners in discussions at the federal and state levels about the local impact of New Federalism.

9. The states should not swap off state financial obligations to the federal government (medicaid, transportation, food stamps, AFDC, etc.—at an annual state saving of some $768 million) by swapping a give-a-way of federal aid for city-county programs amounting to $488 million in 1981.

10. New Federalism should provide that federal funds for city-county programs turned back to the states should be passed through to local units on a formula basis—either a modified general revenue sharing formula, or other consensus formula.

Summary of TML Recommendations: The President's New Federalism proposal should be revised not only to turn back control to state and local governments actually administering public service programs, but to earmark a percentage of the federal income tax permanently, subject to sunset review for distribution to state and local governments, on a fair formula, at present levels of federal aid. Officials of local government, through their state and national associations, should be consulted on New Federalism by the President and Congress, and the States.

There are five major assumptions underlying President Reagan's New Federalism:

(1) The federal government has grown too large, too costly, and too intrusive, and its operations need to be overhauled and streamlined;

(2) "Grass roots" governments are best equipped to diagnose and deal with problems;

(3) The states are willing and able to assume greater responsibility for the administration and financing of needed programs;

(4) State and local officials will have a more cooperative and positive relationship than in the past; and

(5) The appropriate roles of different levels of government can be identified, and functions reassigned, in a reasonably systematic manner.

In February 1981, TML adopted a policy statement endorsing some of the basic principles that the President has now incorporated as assumptions into his New Federalism proposal: shifting decisions on program priorities from the federal level to state and local officials; consolidating categorical aids into shared taxes or block grants; reducing administrative and overhead costs of federal programs; sharply curtailing federal regulatory intrusions; and providing a transition period for adjusting to intergovernmental revenue and program shifts.

In short, the Tennessee Municipal League finds that it has already endorsed some of the New Federalism proposals but opposes others. Realizing further that an intensive round of negotiations has already begun in an effort to reach a consensus on the final form of New Federalism, TML proposes the following basic principles as a guide.

1. The New Federalism should not be utilized as a federal budget-cutting device. We believe that President Reagan's original proposal for turning back 44 federal programs to state and local governments in FY 1984 would not be a fair swap in light of his 1983 budget recommendations. Specifically, the President wants to cut federal spending for these 44 programs from the present level of $35.2 billion to only $30.2 billion in FY 1983—a reduction of $5 billion. When horse trading, it is not fair for one fellow to starve his horse before making the actual exchange. The turnback proposal appears to be an effort by the President to do two things: (a) Get the federal government out of the grant-in-aid business; and (b) Balance the budget, or reduce the budget deficit, on the backs of the states and local governments. We believe that federal funding for local programs should continue indefinitely at a level equal to current federal aid, with substitution of local for federal control through federal shared taxes and block grants without strings. No cuts should be made in these programs in the FY 1983 budget.

2. The New Federalism should be characterized by functional logic. Any exchange of programs, functions, and responsibilities between the federal government on one hand and state and local governments on the other should be well thought out. It doesn't make logical sense for the federal government arbitrarily to take over some basic welfare and income maintenance programs but leave others to the states. All poor and needy persons, especially the elderly and young children, should be assured of a minimum benefit level which would not be dependent upon the wealth of the state. This same sorting out of functions between the federal government and the states should be accompanied by a similar discussion of the appropriate reassignment of state and local government functions and responsibilities.

3. The New Federalism should recognize and make adjustments for the differences in fiscal capacity among states. The federal role in providing fiscal assistance to individuals and the state and local governments evolved, in part, because only the national government is in a position to equalize dif-

ferences among states. Tennessee, which has a tax raising capacity of only 81 percent of the national average due to low per capita income, has traditionally benefited from federal equalizing policies. Our state would be a big loser in any exchange of functions unless our lower fiscal capacity is taken into account. For instance, Tennessee would lose $135 million on the proposed Medicaid for AFDC/Food Stamps swap. This loss would be offset only temporarily by larger authorized drawdowns from the trust fund. The White House has noted the need for an equalizing formula to hold harmless the 24 states that would lose on the swap, but so far no such formula has been forthcoming.

4. Any New Federalism shift of federal program responsibilities to states and local governments should include a permanent funding mechanism subject to sunset review. President Reagan has proposed a permanent turnback of federal programs to the states, but has provided only a temporary trust fund from which to finance those programs. Tennessee municipalities now receive about 16.1 percent of their operating revenues from the federal government. This portion of their budgets would be protected only temporarily by pass-through requirements during the 1984-88 transition period. After 1988, the 44 federal programs (including general revenue sharing) would cease to exist and there would be no more state-to-local pass-through requirements. Under the Administration's present proposal, Tennessee cities and towns would have much of the devolved program responsibilities after 1988, but without any assurance whatsoever of sharing in the revenue sources being turned back to the state.

5. Under the New Federalism, the funding sources for the programs being turned back should be ones from which the state and local governments could reasonably be expected to derive adequate revenues. President Reagan has proposed a trust fund from which to compensate the state and local governments for the cost of the 44 programs being turned back to them. Sixty percent of that trust fund is made up of federal taxes on windfall oil profits. Because the windfall oil profits tax is a federal tax, the revenues derived from it can be shared with all the states. Once that tax source is relinquished, however, only a handful of oil producing states will be able to tap that source of revenue. When the trust fund phases out in 1988, Tennessee will shoulder the burden of some $700 million in costs for the 44 federal programs. If the state reenacts all the federal excise taxes as state taxes at the present rate, Tennessee could generate approximately $250 million in revenues. Not being one of the major oil producing states, we could generate no revenues from windfall oil profits. This would leave Tennessee with an enormous gap of $450 million which would have to be closed by imposing substantial new state taxes or by making unconscionable program cuts.

6. The New Federalism should permanently earmark a percentage of the federal income tax to be returned to states and local governments to fund the 44 turnback programs and to offset state losses from the Medicaid-AFDC/Food Stamps swap. The federal excise taxes on telephones, gasoline, liquor, beer, and tobacco proposed to be turned over to the states are regressive taxes with very slow rates of growth. In the three-year period 1978 to 1981, federal excise tax collections rose about 5% while inflation rose more than 30%, and individual income tax collections rose more than 35%. The excise taxes that the President wants to turn over to the states are the poorest possible source of revenue from which to finance needed programs. They are based on a unit of volume instead of price, and do not respond to inflation which drives costs up for governmental operations. On the other hand, the federal income tax is the fairest, most elastic, and most progressive tax in the nation. The Reagan turnback proposal will result in the shifting of the burden of financing the 44 devolved programs from the high-yield and regressive state and local taxes. In Tennessee this means an increased dependency upon state and local sales and excise taxes and local property taxes. For local governments, trying to raise an amount equal to present federal aid from regressive state and local taxes, based on inability to pay, replacing progressive taxes, based on ability to pay, is totally inequitable.

7. Any maintenance of effort requirements under the New Federalism should apply to the federal government as well as to the states. David Stockman, Director of OMB, has been quoted as saying that states would be required to maintain specified benefit levels for AFDC and Food Stamp recipients after the swap. However, there has been no mention of any required maintenance or hold harmless level for Medicaid benefits. If the federal government, after the swap, cuts Medicaid below existing state levels, there will be tremendous pressure placed on the state to restore those benefits by supplementing the federal payment. Also, publicly-owned hospitals, which usually wind up with the charity patients, will be pushed to assume even more responsibility for indigents. Further, such a tax structure which taxes the poor more, at higher rates, and the rich less, at lower rates, will not produce revenues adequate for the level of services demanded by urban communities. The permanent earmarking of a percentage of the federal income tax to pay the state-local cost of turnback programs would be an ideal solution.

8. Representatives of local governments should be involved, as full partners, in discussions at the federal and state levels about the final form of the New Federalism. Congress, or the President, should set up a commission comprised of representatives of the national associations of local government officials to advise on the local governments aspects of the New Federalism. The National Governors Association, the National Conference of State Legislatures, and other state groups are completely incapable of representing local government interests and needs in the vitally important negotiations that will determine the form of the New Federalism. Similarly, local governments should be fully represented on any state board or commission which advises on the administration of, or makes allocations of funds under, the federal turnback programs. The President has noted in his remarks on the need for the New Federalism that local governments have become the administrative wards of the federal government. It will be defeative of the President's purpose if, under his proposals, local governments become instead the wards of state governments. Municipalities and counties form an integral part of the federal system. The same considerations of equity and consultation that the states are receiving should be applied also to local governments. The very success of the New Federalism hangs upon the willingness of the federal and state governments to extend to local government, as a partner in a new federal system, broad rights of local self government by citizens and elected leaders.

9. Any federal-state transfer of functions or programs under the New Federalism should take into account the local government consequences of that swap. Governor Alexander has suggested a counter-proposal for a swap with the federal government. He would swap federal assumption of the major state financial obligations under federal aid programs (Medicaid, AFDC, and Food Stamps—at a cost of $668 million) in return for a state-local takeover of federal aid programs for local governments (education, sewage disposal, community development and facilities, economic development, public housing, general revenue sharing, etc.). This counter-proposal, if accepted, could be potentially disastrous for Tennessee local governments. The Governor should avoid trying to buy more federal dollars for state budget relief by giving away city and county federal aid dollars. See the attached table which shows that city and county governments received 62% or $488.4 milion of general use federal aid in 1981.

10. Under the New Federalism, federal funds allocated for local government programs being turned back to the state should be passed through to municipalities and counties on a formula basis, utilizing a modified version of the general revenue sharing formula, or some other consensus formula. Local governments are fearful that if funding sources for the 44 programs being turned back are simply given to the state in the form of "super revenue sharing", as proposed, local needs will be addressed only after the state has taken care of its own budgetary priorities. This may result in little or no funding for local needs and priorities. Categorical aids to local government, both direct and state channeled, should be converted to shared taxes distributed on a formula basis among states, and to local governments within states. Only those programs needed to meet problems above the norm should be retained as block grants or categorical aids. This will return maximum control to the citizens and elected officials of local governments that directly administer public services. An alternative would be to return federal turnback funds to states based on their record of actual historical use of categorical grants. In Tennessee, the 335 city and 95 county governments must raise and spend some $5 billion in 1982 to meet their public service responsibilities—the state only $4.25 billion, and this state sum includes some $1 billion in state aid spent by local governments. Budgetwise, these local governments are greater than state government. They urgently need and deserve full protection!

President Reagan's New Federalism is a highly challenging concept which presents a welcome opportunity to develop creative solutions to very complex public sector problems. As a practical matter, however, his original proposal simply creates more problems than solutions for local governments. Tennessee municipal officials hope the President will rethink this proposal, in consultation with state and local government officials, in a good faith effort to eliminate its obvious inequities and to thereby, in the spirit of partnership, work to build a stronger and more efficient federal system.

TENNESSEE ALLOCATIONS FOR STATE AND CITY/COUNTY FEDERAL AID, FISCAL YEAR 1981

[In thousands]

New Federalism: Programs for turnback to the States, cities/counties	Federal aid State	City/county direct	Federal aid State channeled	Total Federal aid State-local
Rehabilitation services	$21,459			$21,459
Vocational and adult education	19,872		$14,599	34,371
State block grant (ECIA, ch. 2)	7,863			7,863
CETA	36,000	$18,000	18,000	72,021
WIN	3,468			3,468
Low-income home energy assistance	25,560			25,560
Emergency assistance	0			0
Child nutrition			96,026	96,026
Child welfare	4,241			4,241
Foster care	2,547			2,547
Runaway youth	199			199
Child abuse	156			156
Social services block grant	28,369		15,000	43,369
Legal services	7,108			7,108
Community services block grant (community action agencies)	7,744			7,744
Prevention block grant (predecessor programs)	1,522			1,522
Alcohol, drug and mental health	7,499			7,499
Primary care block grant (primary care health centers)	9,400			9,400
Maternal and child health	7,805			7,805
Primary care research and development				0
Black lung clinics	421			421
Migrant health clinics	0			0
Family planning	4,679			4,679
Women, infants, and children (WIC)	27,890			27,890
Grants-in-aid for airports		8,892		8,892
Primary highway system	32,961			32,961
Rural and small urban transportation			10,566	10,566
Urbanized area transportation			10,619	10,619
Bridges	9,929		5,346	15,275
Construction safety	6,600		2,200	10,623
Other highways	4,048			4,048
State and community highway safety	2,222		1,000	3,222
Highway related safety grants	528			528
Interstate transfers—highways				0
Appalachian highways	22,218			22,218
Urban mass transit		26,664		26,664
Rural water and waste disposal grants		27,357		27,357
Water and sewer facility loans		26,940		26,940
Community facility loans		8,999		8,999
Community development block grant		62,013		62,013
Urban development action grants		7,224		7,224
Waste water treatment grants		42,092		42,092
OSHA State grants (operational grants)	1,069			1,069
General revenue sharing (local grants)		86,841		86,841
Total	303,375	315,041	173,356	792,340

Note.—Total city/county aid—$488,397. Percentage of total: State—38 percent; local—62 percent.

EMBARGO OF LIBYAN OIL IMPORTS

● Mr. MITCHELL. Mr. President, President Reagan has taken the proper course of action in imposing an embargo on Libyan oil imports, and in discontinuing our exports of high technology to Libya.

I applaud the President's action wholeheartedly. It is high time that the United States take serious action against Libya, whose training and financing of terrorist organizations and activities is well known and well documented. By continuing to purchase over half of the oil produced in Libya, the United States has been helping to finance the schemes and actions of Libya and its leader, Colonel Qadhafi.

The State Department acknowledged yesterday that there has been no change in Libya's behavior. Under Colonel Qadhafi's leadership, Libya continues to make all-out efforts to destabilize countries friendly to the United States. Last year Qadhafi ordered an attack on U.S. aircraft even though they were flying over international waters. Qadhafi is known by U.S. intelligence to have schemed in an attempt to send assassination teams to the United States to murder U.S. Government officials.

Under 12 years of Qadhafi rule Libya has gained world attention as an exporter of two things—terrorism and petroleum. The latter is used to finance the former. By ending our purchases of Libyan oil, the United States has the power to cut deeply into Libya's pocketbook.

Last October I supported an amendment to the foreign assistance authorization bill for fiscal year 1982, which would have resulted in a complete phaseout of Libyan oil, and would have sought similar action by our allies. At the time, the administration was not prepared to support that amendment.

Mr. President, although the United States is economically vital to the prosperity of Qadhafi's regime, and the maintenance of Libya's reputation as the patron saint of terrorists, Libyan crude is not crucial to the United States. In fact, Libya provides the United States with just 2 percent of all the petroleum which we consume, and only 5 percent of the petroleum we import.

Mr. President, the administration has spoken at great length about its commitment to halt terrorism. The embargo against Libya announced yesterday by President Reagan is concrete action, in support of that commitment. I commend the President for his action.●

JORDANIAN ARMS SALE SHOULD NOT PROCEED

● Mr. SASSER. Mr. President, I recently cosigned a letter with a number of my colleagues indicating my extreme concern about the possibility of advanced weapons sales to Jordan. I am increasingly apprehensive about the impact that these particular sales—of advanced F-16 fighter aircraft and Hawk mobile missiles—could have on the strategic and tactical balance of forces in the Middle East.

I am apprehensive for a variety of reasons, not the least of which is Jordanian King Hussein's view of the prospect and desirability of peace in the Middle East. In the March 15 edition of U.S. News & World Report, King Hussein was quoted in an interview. When asked if Jordan would ever join the Camp David peace process, the King replied:

What peace process? I believe the end is in sight for Camp David with the Israeli withdrawal from Sinai. The Palestinian autonomy proposals will never work.

The ominous tone in King Hussein's remarks does not lead me to conclude that Jordan will be a willing and constructive partner in bringing a peaceful resolution to the critical problems of the region.

Furthermore, the official Jordanian attitude about Egypt's phenomenal efforts at peacemaking under Anwar Sadat left much to be desired in terms of Jordanian support for U.S. goals and initiatives. Consider the further comments by King Hussein from the March 15 U.S. News & World Report interview.

Q. Would the return of Egypt to the Arab world strengthen this Arab consensus you say you seek?

A. The fact that the situation developed where Egypt did not play its role in the Arab family has caused me great pain. I hope and pray that before too long this will be rectified and Egypt will once again resume its rightful position and responsibilities. But in the end we have to form a sort of collective cooperation among the overall majority of Arab States.

What "role in the Arab family" did Egypt fail to play in attempting to make peace with Israel? The role of participating in a jihad, or holy war, against Israel? The revelation of the depth and pervasiveness of the idea that Israel must cease to exist as a state, even among Arab States we are now calling moderate, is disturbing in itself, though it is no surprise. The surprise to me, Mr. President, is that the administration seems so eager to pursue arms deal after arms deal with nations committed to the destruction of Israel, it is counter to every tenet of American policy.

I have repeated over and over again in this body my arguments in favor of maintaining our traditional reliance on the strength and stability of Israel as the linchpin of our policies in the Middle East. During the F-15 debate in 1978, the AWACS/F-15 enhancement debate of last year, and in a series of lesser battles over the future of U.S. policies and priorities in the Middle East, I and many of my colleagues have cautioned about the undercutting of Israel in the Middle East—not because of tradition, and not simply for the very real and important moral and political commitments to which we are properly bound; but for the security and stability of the region itself.

These issues have recently been addressed in a letter to President Reagan from 12 American Jewish organizations and 108 local Jewish community relations councils. I would commend their comments to the attention of colleagues, for these remarks go right to the point. I ask that the letter, including all cosignatories, be printed in the RECORD.

The letter follows:

NATIONAL JEWISH COMMUNITY RELATIONS ADVISORY COUNCIL,
New York, N.Y., February 23, 1982.

President RONALD REAGAN,
The White House,
Washington, D.C.

DEAR PRESIDENT REAGAN: We have been gratified by your own deep personal commitment to the security of Israel and, therefore, we were pleased that you reaffirmed America's unique bond with Israel in your letter of February 16, 1982 to Prime Minister Begin, assuring him of your intention to maintain Israel's qualitative technological military edge in the region.

Nevertheless, as the presidents of 12 national American Jewish organizations and 108 local Jewish community relations councils, member agencies of the National Jewish Community Relations Advisory Council, we are as one in our alarm that the United States, rather than acting to stem the massive arms build-up in the Arab world, continues to be a major purveyor of weaponry. Such a policy endangers peace in the region, threatens the security of Israel, and undermines the long-term interests of the United States.

Nor have the 8.5 billion dollar arms sale to Saudi Arabia and the recent approach to Jordan yielded concessions that advance peace in the Middle East. Jordan remains adamant in its rejection of the Camp David framework as does Saudi Arabia. Indeed, Saudi Arabia just rejected assurances you gave to the Senate pertaining to the use of the F-15s and AWACS as well as U.S. proposals seeking to strengthen U.S. strategic capabilities in the region.

Mr. President, it is, indeed, time to "redirect" our policy in the Middle East away from the sale of arms to unstable and uncooperative regimes. Rather, what is called for is a reassertion of unambiguous support for those reliable allies, like Israel, which have demonstrated the sincerity of their desire for peace by negotiating and signing treaties that have entailed great national risk and sacrifice, and which clearly recognize the Soviet-inspired threat to their own and United States' national interests in the region.

Sincerely,

NATIONAL AGENCIES

Maynard I. Wishner, President, American Jewish Committee;

Maxwell E. Greenberg, National Chairman, Anti-Defamation League of B'nai B'rith;

Donald S. Slaiman, President, Jewish Labor Committee;

Shirley I. Leviton, President, National Council of Jewish Women;

Julius Berman, President, Union of Orthodox Jewish Congregations of America;

Goldie Kweller, President, Women's League for Conservative Judaism;

Howard M. Squadron, President, American Jewish Congress;

Jack J. Spitzer, President, B'nai B'rith;

Robert Zweiman, National Commander, Jewish War Veterans of the U.S.A.;

Rabbi Alexander M. Schindler, President, Union of American Hebrew Congregations;

Marshall Wolke, President, United Synagogue of America;

Beverly Minkoff, National President, Women's American ORT; and

Bennett Yanowitz, Chairman, National Jewish Community Relations Advisory Council.

COMMUNITY AGENCIES

Herman Rogovy, President, Akron Jewish Community Federation;

Joan Rosenstein, President, Greater Albany Jewish Federation;

Paula Karmiol, Chair, Community Relations Council of Jewish Community Council of Albuquerque;

Ned Shulman, Chair, Community Relations Council of the Jewish Federation of Allentown;

Ted Fisher, Chair, CRC, Atlanta Jewish Federation;

Paul Gardner, President, Irwin Salmanson, Chair, CRC, Jewish Community Council of Austin;

Rabbi Seymour Essrog, President Baltimore Jewish Council;

Martin Strelzer, Chair, Jewish Community Relations Committee of the United Jewish Community of Bergen County (NJ);

Stanley Bard, Executive Director, Jewish Federation of Broome County (NY);

Warren B. Kohn, President, Jewish Community Council of Metropolitan Boston;

Phyllis Weinstein, Chair, CRC, Jewish Community Council of Birmingham;

Helen Wasserman, Chair, CRC, Jewish Federation of Greater Bridgeport;

Gail C. Kaplan, President, Jewish Federation of Greater Buffalo;

Harriet B. Narens, President, Jewish Federation of Canton;

Marilyn Flanzbaum, Chair, CRC, Jewish Federation of Central New Jersey;

Samuel Steinberg, Chairman, Jewish Community Relations Committee of Charleston;

Robert Schrayer, Chairman, Public Affairs Committee of the Jewish United Fund of Metropolitan Chicago;

Dr. Malcolm Bernstein, President, Jewish Community Relations of Council of Cincinnati;

Lawrence M. Bell, Chairman, CRC, Jewish Community Federation of Cleveland;

Dr. Hilel Salomon, Chair, Community Relations Council of the Columbia Jewish Welfare Federation;

Ira Owen Kane, Chairman, Community Relations Committee of the Columbus Jewish Federation;

Martin Gant, President, Connecticut Jewish Community Relations Council;

Arnold Sweet, Chair, Jewish Community Relations Council of the Jewish Federation of Greater Dallas;

Dr. Peter Romanow, Chair, CRC, Jewish Federation of Greater Danbury;

Lawrence W. Burick, Chair, Community Relations Council of the Jewish Federation of Greater Dayton;

Michael D. Goodman, Chair, CRC, Jewish Federation of Delaware;

Fred Lorber, Chair, Jewish Federation of Greater Des Moines;

Marian Shifman, President, Jewish Community Council of Metropolitan Detroit;

Jule Zimet, Chair, Jewish Community Relations Committee of El Paso;

Richard A. Levick, Chair, Jewish Community Council of Erie (PA);

Mrs. Robert Mitchell, Chair, CRC, Flint Jewish Federation;

Irving R. Friedman, Chair, CRC, Jewish Federation of Greater Ft. Lauderdale;

Hortense Deifik, Chair, Jewish Federation of Ft. Worth and Tarrant County;

Jeffrey Mines, Chair, Community Relations Committee of the Jewish Federation of Greater Hartford;

Elaine Pittell, Chair, CRC, Jewish Federation of South Broward (FL);

Harold Goldstein, Chair, CRC, Jewish Federation of Greater Houston;

Alan Goldstein, President, Indianapolis Jewish Community Relations Council and Indiana Jewish Community Relations Council;

Dr. Ronald Elinoff, President, Jacksonville Jewish Federation;

Dr. Charles Fliegler, Vice President, Community Relations Committee of the Jewish Federation of Greater Kingston (NY);

Stanley V. Goldin, Chair, Jewish Community Federation of Greater Long Beach and West Orange County;

Rabbi Jacob M. Ott, Chairman, Community Relations Committee of the Jewish Federation Council of Los Angeles;

Toni Goldman, President, Jewish Community Federation of Louisville;

Fred Gants, Chair, Madison Jewish Community Council;

Pat Chafetz, President, Memphis Jewish Community Relations Council;

Jacqueline K. Levine, Chair, Jewish Community Federation of Metropolitan New Jersey;

David Fleeman, Chair, Greater Miami Jewish Federation;

Jerome Safer, President, Milwaukee Jewish Council;

Robert Latz, President, Jewish Community Relations Council—Anti-Defamation League (JCRC-ADL) of Minnesota and the Dakotas;

Morris Werthan II, President, Jewish Federation of Nashville and Middle Tennessee;

Lillian Schwartz, Chair, Jewish Federation of Greater New Bedford;

Martin Gant, Co-Chair, CRC, Dr. Gustave Sirot, Co-Chair, CRC, New Haven Jewish Federation;

Lawrence Tisch, President, Jewish Community Relations Council of New York;

Gary Motin, Chair, CRC, Jewish Federation of Eastern Connecticut;

Michael Berenson, Chair, Jewish Federation of Greater New Orleans;

Sheldon Tenenbaum, Chair, Savannah Jewish Council;

E. D. David, Chair, CRC, Jewish Federation of Newport News-Hampton;

Dr. Barry Einhorn, Chair, CRC, United Jewish Federation of Tidewater, Va.;

Marge Bornstein, President, Jewish Federation of North Jersey;

Gerald S. Ogan, President, Jewish Federation of North Shore (Mass.);

Howard and Joan Cohen, Chair, CRC, Jewish Federation of Northern Middlesex County;

Marilyn Kurtz, Chair, CRC, Jewish Federation of Greater Norwalk;

Madeline Cornblum, Chair, Jewish Community Relations Council of the Greater East Bay (Oakland);

Sydney Osten, Chair, ADL/CRC of the Jewish Federation of Omaha;

Audrey Kagel, Chair, CRC, Jewish Federation of Orange County;

Rabbi Larry Halpern, Vice President, Jewish Federation of Greater Orlando;

Elsie Leviton, Chair, CRC, Jewish Federation of Palm Beach;

Larry Griminger, Chair, CRC, Jewish Federation of Peoria;

Joseph Smuckler, President, Jewish Community Relations Council of Greater Philadelphia;

Irwin Harris, Chair, CRC, Greater Phoenix Jewish Federation;

Dr. Gordon Saskin, Chair, CRC, Jewish Federation of Pinellas County;

Frederick Frank, Chair, Community Relations Committee of the United Jewish Federation of Pittsburgh;

Arden Shenker, Chair, CRC, Jewish Federation of Portland, Oreg.;

Harvey Klee, Chair, CRC, Jewish Federation of Raritan Valley;

Robert A. Riesman, Chair, CRC, Jewish Federation of Rhode Island;

Irving Blank, Chair, CRC, Jewish Community Federation of Richmond;

Carolyn Zaroff, Chair, CRC, Jewish Community Federation of Rochester;

Rabbi Amram Prero, Chair, Sarasota Jewish Federation;

Steve Fishbein, President, Sacramento Jewish Community Relations Council;

Isadore Rosenfeld, Chair, CRC, Jewish Federation of St. Joseph Valley;

Harvey Schneider, President, Jewish Community Relations Council of St. Louis;

Malcoln Steinberg, Chair, Jewish Community Relations Council of the Jewish Federation of San Antonio;

Dr. Warren Kessler, Chair, Jewish Community Relations Council of the United Jewish Federation of San Diego;

Neil Golub, President, Jewish Federation of Greater Schenectady;

Jack Plotkin, President, Scranton-Lackawanna Jewish Council;

Dr. Michael Schufler, Chair, CRC, Jewish Federation of Greater Seattle;

Arnold Lincove, President, Shreveport Jewish Federation;

Richard D. Aronson, President, Jewish Federation—Community Council of Southern Maine;

Dr. Jacob Farber, President, Jewish Community Relations Council of the Jewish Federation of Southern New Jersey;

Gloria Schwartz, President, Springfield Jewish Federation (Ill.);

David Schneider, Chair, Jewish Community Council, Oklahoma City;

Alan Curtis, President, Springfield Jewish Federation (Mass.);

Joanne Weisman, Chair, CRC, United Jewish Federation of Stamford;

Henry Leahmann, Vice President, Syracuse Jewish Federation;

John Bloomfield, President, Community Relations Committee of the Jewish Welfare Federation of Toledo;

Joan Keats, Co-Chair, CRC, Rose Levenson, Co-Chair, CRC, Jewish Federation of Greater Trenton;

Carol Karsch, Chair, Anti-Defamation League—Community Relations Committee of the Tucson Jewish Community Council;

Phyllis Fist, Chair, Tulsa Jewish Community Council;

Bert Silver, President, Jewish Community Council of Greater Washington;

William Slumowitz, Chair, CRC, Jewish Federation of Greater Wilkes-Barre;

Harold Cotton, President, Worcester Jewish Federation;

John P. Moyer, Chair, Jewish Community Relations Council of the Youngstown Area Jewish Federation;

Jesse Feldman, Chair, Jewish Community Relations Council of San Francisco;

Alvin Frank, Chairman, Jewish Community Relations Council of Greater San Jose;

William G. Levi, Chair, Jewish Community Relations Bureau of Greater Kansas City;

Michael Barker, Chair, CRC, Federation of Jewish Agencies of Atlantic County (NJ); and

Cecily Eidelhoch, President, Jewish Community Council of Utica.●

IN SUPPORT OF S. 1992, A BILL TO EXTEND THE VOTING RIGHTS ACT OF 1965

● Mr. JEPSEN. Mr. President, I rise today to formally support the extension of the Voting Rights Act of 1965. The Senate has before it a bill which, in my opinion, addresses the central voting rights issues of interest to all directly concerned. Specifically, the bill would preserve the integrity of the key enforcement provisions which over the years have sought to safeguard the constitutional rights of citizens to vote freely and without fear of reprisal or under duress.

Equally important, the bill contains language which would allow those States with no recent practice of discrimination to "bailout" of Federal preclearance requirements if they have fully accepted minority participation in the political process.

Mr. President, this bill is a bill of fairness, of equity, and most importantly, it is a bill which offers justice and hope to the rights of voters—in those jurisdictions with a history of ingenious efforts to limit voter rights—and also to State and local jurisdictions to escape the scrutiny of the Federal Government.

There is the possibility that amendments to the bill will be offered. I will decide upon them if and when they come up for debate and vote. However, the central issue of how to protect the voting rights of American citizens and the rights of State and local governments has been addressed in what I believe to be a fair and equitable manner.

Mr. President, this young Nation of ours has marched the long and winding roads toward freedom. We have crossed great oceans to be free, we have fought a Civil War, and two great World Wars in the pursuit of preserving freedom.

In short this Nation has come too far to turn back its long quest for freedom, or to give the slightest impression to a watching world, that we are fatigued or unconcerned about a fundamental American freedom, the right to vote. We must continue to put forth a strong signal to all Americans, black, white, brown, or yellow, and to the world, that freedom in America is still our strongest source of strength, and that we will not hesitate to insure that every American is guaranteed a right to exercise his or her fundamental freedoms.

Mr. President, I am pleased to be a cosponsor of S. 1992 and I am confident that all freedom-loving citizens of my State will join me in support of this act.●

RUSSIAN AND CUBAN AGGRESSION IN THE WESTERN HEMISPHERE AND ELSEWHERE

● Mr. SYMMS. Mr. President; today Dr. Fred Ikle, Under Secretary of Defense for Policy, appeared before the Subcommittee on Security and Terrorism of the Senate Committee on the Judiciary to testify concerning Russian and Cuban aggression in the Western Hemisphere and elsewhere.

Dr. Ikle's testimony is, I believe, particularly important and ought to be brought to the attention of the Senate and the people.

Accordingly, I ask that Dr. Ikle's testimony of this morning be printed in the RECORD at the conclusion of these remarks. I also submit for the RECORD an excerpt from recent testimony of the Chairman of the Joint Chiefs of Staff, Gen. David Jones, and a quotation by CIA Director William Casey.

The material follows:

TESTIMONY BY THE HONORABLE FRED C. IKLE

CUBA AND THE USE OF TERRORISM

Mr. Chairman, I am pleased that you invited me to appear before your committee. You have asked me to discuss, among other things, the role of Castro's Cuba in promoting violence, terrorism and armed opposition movements. The purpose of such Cuban intervention in other countries is to undermine governments that seek economic and social progress within a democratic framework, or to extend the global reach of the Soviet military establishment, or both.

With its population of less than 10 million and a land area of about 44,000 square miles, Cuba is involved globally—providing military and technical advisors and assistance thousands of miles away in Libya, Iraq, South Yemen, Angola, Ethiopia, the Congo, Mozambique and Vietnam, among others. Castro currently has about 60,000 Cubans serving overseas, including 35,000 military and 25,000 civilian technicians, most involved in construction activities but many involved in subversion. Cuba has about 20,000 troops in Angola alone and about 12,000 troops in Ethiopia.

Given these farflung interventions, Cuba's military capability is obviously far in excess of any defensive needs. Its army of 225,000 includes 9 active and 18 reserve divisions. These figures do not include hundreds of thousands of reserves, militia, and other paramilitary forces which in many instances are better trained and equipped than the regular armed forces of other Caribbean countries. Cuba has 650 tanks, over 200 Mig fighters in its air force, including a recently arrived second squadron of Mig-23's. Cuba's navy includes 50 torpedo and missile attack boats, two attack submarines, and a frigate.

Overall, 2.3 percent of Cuba's population is in the regular armed forces, and about one of every 20 Cubans participates in some kind of security mission. By comparison, Mexico—with seven times Cuba's population—maintains regular defense forces half the size of Cuba's and involving less than two tenths of one percent of its people. We, in the United States, have less than one percent of our people in the Regular Armed Forces.

How does Cuba sustain such large forces on a faltering economy? It relies—as it has for 20 years—on the Soviet Union to keep it afloat. In 1981, the Soviets provided $3 billion in economic assistance, and at least $500 million in military assistance. (Show chart #1) the U.S.S.R. sent three times more military equipment to Cuba in 1981 than in 1980 and more than in any year since 1962. The U.S.S.R. shipped about 66,000 metric tons into Cuba in 1981.

Why is the Soviet Union willing to expend such resources on Cuba? Because the Soviets realize the importance of their position in Cuba as a threat to the Atlantic Alliance more fully than do many Americans and more fully than do most Europeans. Moscow knows that, in time of war, half of NATO's supplies would come through our Gulf ports. They are aware that 44 percent of all foreign tonnage, and 45% of the crude oil for the U.S., pass through the Caribbean. They understand the importance of the Panama Canal and the South Atlantic sea lines of communication that carry about two-thirds of West Europe's petroleum and nearly half of our imports. But perhaps more importantly, the Soviets seek to change our southern borders from the peaceful conditions of the past by building potentially hostile forces in Central America and the Caribbean. They may expect that we will have to divert our attention and forces from other interests elsewhere. It is high time, Mr. Chairman, that our allies overseas begin to recognize this strategy.

The construction of a naval facility, and an airbase capable of accommodating advanced jet aircraft, in Grenada is a highly visible ongoing Cuban project. In December 1981, Grenadian Minister of National Mobilization, Selwyn Strachan, publicly boasted that Cuba will eventually use the new airport in his country to supply troops in Angola. And ominously he added that because of its strategic location, the airport may also be used by the Soviet Union.

By relying on Cuban mercenaries as surrogates, the Soviets are able to carry out their interventionist policies without risking the hostile reaction from the U.S. and the Third World that direct involvement of Soviet troops and personnel would engender.

Latin America provides an excellent microcosm of how the Soviet-Cuba partners operate in tandem. As U.S. advisors with Latin American countries were cut back from 516 in 1970 to 70 in 1981, the Soviet-Cuban team has operated together to keep the communist presence at a high level. In 1981, the Soviets and Cubans had 50 times as many military advisors in Latin America as did the United States; Mr. Chairman, fifty times as many. (Show chart #2) Moreover, from from 1962 to 1981, the Soviets provided more than twice as much security assistance to Latin America as did the U.S.—roughly $4 billion for the U.S.S.R. compared to about $1.5 billion for the U.S.

We need not wonder that totalitarianism is making inroads; it is receiving far more support than democratic pluralism. Not only fifty times as many military advisers, but a far higher level of military assistance. (Show chart #3)

Mr. Chairman, the Castro regime is linked to the Soviet Union, not only through its tools, but also through its methods. Castro has not only been armed with all this weaponry by his Soviet masters, he has also been inspired and tailored in the methods of totalitarianism by the experts in Moscow. I would like to illustrate this for three issues that are of central concern to this committee:

First, the use of terrorism to spread totalitarian control has been practiced in strikingly similar fashion by the Soviet Union and by Fidel Castro.

Second, the use of deception, particularly deception to mislead Western media, has been developed to a fine art both by Castro and by the Soviets.

Third, there is the destruction of the chances for democratic elections by the entrapment of Western democracies into alleged negotiations which become a process for the totalitarians to seize the monopoly of power.

Let me add some more details to describe each of these three practices:

First, on *terrorism*. A great deal of the current debate has been about the question of Soviet control over various terrorist groups. This is of course a question of some importance. However, it is by no means the only important issue in determining Western policy towards terrorist groups of the "left," or the "right." In the first place, terrorism is an assault on the most basic human rights, an attack on civil society. In the second place, terrorism is usually associated with a political program. It is a device for seizing power and maintaining it, foreclosing for the indefinite future any substantial expansion of elementary political liberties. Third, even if terrorist "armies" are not directed from Moscow, their acts may lead to the expansion of Soviet influence and control, and indeed in some cases they aim precisely at destabilizing a government, allied or otherwise associated with the United States, at detaching it from the open Western World and forcing it into the closed Soviet orbit.

For example, one of the most dangerous and most neglected of all the terrorist movements, the Armenian Secret Army for the Liberation of Armenia (ASALA), has formally announced that its strategy is to gain control of the eastern third of Turkey, to "free" it, so called, from the Turkish Government, and to unite it with the Armenian Soviet Socialist Republic. This is an area of the world which is of course critically important for the eastern Mediterranean and the southern region of NATO. It is also critical for Egypt and Israel and the rest of the Middle East.

It does not matter very much whether the Armenian Secret Army is directly commanded by Moscow. It is an efficient and brutal executor of the murder of innocent civilians. It has intimidated governments allied with Turkey and law abiding Armenian communities as well. If it were to be successful in its aims it would lead directly to the expansion of the Soviet Union. Perhaps more than any other terrorist movement it illustrates the irrelevance of some of the issues that have preoccupied the debate in the West on terrorism. Whether the Armenian terrorist movement is acting on its own, or under Moscow's direction, if it succeeds, it will come down to the same thing. Here lies a lesson for our current concerns in Central America.

Let me turn now to the related question of deception. Marxist guerrillas in Latin America have been largely recruited from the upper and middle classes and the student population. They use deception to make it hard for domestic or foreign intelligence agencies and—an important point—even harder for the press to identify and track them. The guerrillas disguise themselves as peasants (Che Guevara has some candid and cynical descriptions of this tactic) and sometimes as government soldiers. Government uniforms serve as cover for an assault on the government, or as cover for terror against the population in their campaign to destabilize the country and have the government forces blamed for terror. It serves to confuse domestic and foreign opinion. And the terrorists disguised as peasants can lead even a carefully controlled government counter attack to be misdirected at the real peasants, or appear to be misdirected to media observers when it hits guerrillas in peasant costume.

Marxist guerrillas using terror to inspire counter terror and to disrupt civil society create a catch 22 situation for any regime attempting to improve civil rights, and specifically to introduce elections. The guerrillas say that fair elections are impossible in a situation of great civil disorder while they do everything they can to create such disorder.

Guerrilla disguises include not only their dress, but also their words. Rebel leaders argue for negotiations and "political solutions," instead of an election. The phrase "political solution" should be understood as a code word for a coalition—sometimes encouraged by friendly as well as hostile outside powers—in which the rebel leaders will dedicate themselves ruthlessly to eliminate all other members of the coalition, and in particular those who favor progress towards a representative government and in civil rights. The "broad based" coalition will then narrow to the rebel leaders themselves.

Guerrilla leaders in Latin America sometimes sound like Democrats when they protest oppression of freedoms in current traditional authoritarian societies, or even in democracies. This should not confuse us. Castro, for example, has been entirely frank in identifying democracy as an "anachronism." Speaking in Chile at the time of Allende, he said that anachronisms such as elections, congress, and freedom of the press, are doomed by history. They "exist as long as the people do not have enough strength to change them.

This leads to my third point, Mr. Chairman, the substitution of alleged negotiations for genuine elections so as to eliminate the possibility of free elections even thereafter. This was the method chosen to cover-up the Stalinization of Eastern Europe; and this is the method now being peddled in this country—including, Mr. Chairman, here on Capitol Hill—to cover up the Stalinization of Central America.

Far too often have the governments of the great democracies used their influence to press moderate leaders into coalitions with Marxists, where they were unlikely to survive since the Marxists were intent on seizing the monopoly of force. Sometimes we trusted Marxist assurances that liberty would be introduced in due time—as Harry Hopkins relied on Stalin's assurances about freedom in Poland. Sometimes, eager to get Soviet cooperation on other matters, we used a coalition as a face saving way of abandoning support for Democracy. So—at the close of World War II, American and British leaders gradually pressed the Polish Government in exile in London, which included Socialists and a wide range of political views, to enter the Soviet controlled Lublin government with the result we see persisting four decades later. Something similar happened in each of the six East European countries.

In Rumania, for example, the allied powers meeting in Moscow in December 1945, agreed that the government should be broadened to include members of the opposition, but the opposition leaders that counted were excluded at the insistence of the Soviet Union. The two opposition parties were "represented" by two carefully selected nobodies. The coalition government then proceeded to exclude them by giving them no ministerial portfolios, and then by excluding them from cabinet meetings. The

United States and the United Kingdom protested to no avail. An election was eventually held under general conditions of intimidation, with the inevitable outcome. Then a mass trial of 91 dissidents modeled on the Moscow trials.

When Somoza was replaced in Nicaragua by the Sandinistas, the OAS was promised there would be elections. Now these elections have been indefinitely postponed and the repression of opposition groups and of freedom in Nicaragua is going on with full force.

Constraints on civil rights, poverty, inequality, and inequities all too frequently exist in developing societies. They are now, however, the cause of Marxist attempts to overthrow the government, and when the Marxist guerrillas succeed, they do not improve civil rights; they worsen them. Nor do they improve the economic situation. Cuba had one of the highest per capita incomes in Latin America before Castro. Castro's economic policies have been an unmitigated disaster. And in Eastern Europe the economic failure of the Communist economic bloc is plainly visible today.

We know that Cuban subversive activities are not confined solely to El Salvador. Cuba has coordinated clandestine support organizations in Honduras, Costa Rica and Guatemala. Cuban subversive activities have surfaced in virtually every Caribbean Basin country. Even Mexico, which has had the most friendly relations with Cuba, has not remained untouched by Cuban subversion.

In South America, Cuba provides advice, safe havens, communications, training, and some financial support to many clandestine organizations that employ violence, including Colombia's M-19, Uruguay's Tupamaros, Argentina's Montoneros, and Chile's Mir.

The Cubans became involved with known arms smugglers in supplying the Nicaraguan revolutionaries prior to the ouster of Somoza in July 1979. Finding that connection to be mutually profitable, the Cubans expanded their ties to include known drug smugglers who had the contacts and equipment necessary to facilitate arms shipments. One of the Colombian drug dealers was involved on behalf of Havana in a clandestine shipment of arms to the Colombian M-19 in an operation that involved hijacking a Colombian cargo plane. Cuba provided the funds used by the dealer to purchase the arms and transport them to Colombia. In return, Cuba facilitated the drug dealer's marijuana traffic to Florida. Just recently, this drug dealer was arrested in Mexico after he had arrived there with $700,000 which the Cubans had given to him to purchase arms for the Colombian M-19.

The Cuban connection with the PLO is well documented. In recent years, there have been dozens of contacts between Cuba and PLO leaders. In fact, on 17 November 1981, PLO leader Yasir Arafat sent a message to Castro reaffirming his support for Cuba.

Before concluding, let me try to dispose of a fallacy about our relations with Castro, that is fairly common in Europe and even has its defenders here. It is sometimes argued that Fidel Castro became a pawn of Moscow out of necessity—that he has been hostile to the United States simply in reaction to our hostility towards his regime. Implicit in this line of thinking is that if we would only be nice to him, and try to understand him, he would moderate his behavior.

The previous administration made a significant effort to improve U.S. relations with the Castro government. If opened an "interest section" in Havana and permitted the Cuban Government to do the same in Washington. It relaxed travel restrictions on Cuban diplomats and lifted the restrictions on vessels which had called at Cuban ports (allowing them subsequently to visit U.S. ports). The Carter administration also encouraged increased cultural exchanges, lifted the ban on travel by U.S. citizens to Cuba, and permitted the resumption of charter flights between Cuba and the United States.

It is worth recalling the response of Fidel Castro to those friendly overtures. During the Carter administration, Castro increased the number of Cuban military personnel in Angola by more than 40 percent—from about 14,000 to 20,000. He introduced the Cuban presence in Ethiopia, reaching a high of 17,000 men in 1978. He initiated a massive effort to subvert non-Communist regimes in Latin America. These actions hardly support the contention that a more conciliatory approach by the U.S. to U.S.-Cuban relations will make Castro our friend.

Mr. Chairman, some of your distinguished colleagues, in both Houses, seem to be suggesting that we should deny help to the Government of El Salvador, a government that is now trying to hold genuine elections and to build and protect a democratic order. Some suggest that instead of elections, there should be "negotiations," a compromise with those who are ideologically opposed to the very idea of elections.

I wonder if those who offer such counsel know what sort of precedent they are suggesting. They are saying President Truman made a mistake in supporting the Government of Greece against the Communist terrorists, and that we should have had "negotiations" to bring the totalitarians into power—like in the rest of Eastern Europe. They are saying that it was a mistake for Presidents Truman, Eisenhower, Kennedy, Johnson, Nixon, Ford, and Carter to support Israel against the terrorist onslaught, and that instead we should have negotiations with the PLO.

This is the large issue of principles, Mr. Chairman, that is at stake.

OPEN HEARING: HOUSE BUDGET COMMITTEE

Congressman Kemp: "You talked about the global threat, General Jones. I wanted to ask you is it not true with those MiG-23 jets on the docks of Cuba and with new helicopters in Cuba and a massive infusion of military equipment by the Soviets into Cuba, that there is a de facto if not a de jure violation by the Soviet Union of understandings that this country has ever had with them and the whole Monroe Doctrine approach to the U.S. foreign policy in that part of our backyard?"

General Jones: "Unfortunately, Mr. Kemp, the agreements that came out of the 1962 missile crisis are so vague that they can be interpreted different ways, and we interpret it as a violation. The Soviets do not interpret it as a violation. In my judgment, they have gone beyond the 1962 Accords and have gone beyond clearly the Monroe Doctrine in Central America. They are now the dominant military power in the Caribbean by a wide margin. They are building up Nicaraguan arms to be the dominant military power in Central America."

Q. Does what is happening now in Cuba violate the 1962 Kennedy-Khrushchev agreement ending the missile crisis?

A. Oh, sure it does because the '62 agreement said the Soviets would send no offensive weapons, and it also said there would be no export of revolution from Cuba. The agreement has been violated for 20 years.—U.S. News & World Report, March 8, 1982.●

CONCLUSION OF MORNING BUSINESS

Mr. BAKER. Mr. President, has the time for morning business expired?

The PRESIDING OFFICER. It has. Morning business is closed.

AUTHORIZATION FOR EXPENDITURES BY COMMITTEES OF THE SENATE

Mr. BAKER. Mr. President, I am advised that this request is cleared on the minority side.

I ask unanimous consent that the Senate now proceed to the consideration of Senate Resolution 333, the omnibus committee funding resolution of 1982.

Mr. FORD. Mr. President, I am authorized to state on behalf of the Democratic leader, who is in a very important meeting in his office as it relates to Weirton Steel, that there is no objection on the minority side as it relates to the consideration of this resolution.

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

The clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 333) authorizing expenditures by committees of the Senate.

The Senate proceeded to consider the resolution.

Mr. BAKER. Mr. President, I observe the distinguished chairman of the Rules Committee is present. I would inquire if he is ready to manage this bill.

Mr. MATHIAS. We are prepared to go forward.

Mr. BAKER. Could I inquire also of the distinguished chairman how much time is anticipated the Senate will require to dispose of this measure?

Mr. MATHIAS. Let me say to the majority leader that if it were up to the chairman of the Rules Committee, I promise him we would dispose of the matter in about 5 minutes. However, I am told that others wish to speak and I am somewhat at a loss to estimate how much time they would take. We anticipate at least one amendment, which may require a rollcall vote. I would think we would all be gratified if we could conclude this matter before the end of the day.

Mr. BAKER. I thank the chairman.

Mr. President, I see the Senator from North Carolina is not only on the floor but has the podium before him. Could I inquire if that signifies he may wish to participate in this debate?

Mr. MATHIAS. That is what I would call an ominous sign.

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

Mr. BAKER. I yield.

Mr. HELMS. I would say I did not place the podium here and its being here is deceptive. I would propose that on the amendment that I intend to offer it be something like 10 minutes or 20 minutes, equally divided.

Mr. MATHIAS. Let us not cross that bridge quite yet.

Mr. FORD. Will the distinguished majority leader yield?

Mr. BAKER. I yield to the distinguished ranking member of the committee.

Mr. FORD. I say to the leader that as far as I know on this side there are no amendments. We were under the impression we could proceed in a very quick manner. Under the circumstances, and having some knowledge of the amendment that is going to be proposed by the distinguished Senator from North Carolina, I think it would take a little longer than 10 or 20 minutes to explain. Therefore, I do not want to agree to any time limit as it relates to that amendment.

I had hoped no amendments would be proposed because the committee, along with several chairmen, deliberated quite some time relating to this amendment. We thought we had exercised the best judgment we could. Obviously, we did not.

Therefore, I would hope that we could ask the Senator from North Carolina to maybe see the light here with us and instead of playing dominoes—because once he triggers something, others are triggered; the minute he makes one change, others are changed. We thought we had the chairman reasonably happy and would be very hopeful that he would talk himself into joining the chairman and I in supporting this piece of legislation.

Mr. BAKER. Mr. President, let me withdraw from this simply by saying it appears that no time agreement is likely at this point. There will perhaps be an amendment to the resolution and I anticipate at least the possibility of a rollcall vote. So Senators who may be listening in their offices and hear this should be on notice that the day is not yet over and there may be at least one rollcall vote before it is.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. I would say, Mr. President, to my able friend from Kentucky that I certainly intend to do no violence to anything that I believe him to be interested in in connection with this resolution. My proposal is to save the taxpayers some money. We will discuss it and there will be no ill feelings on the part of the Senator from North Carolina if the Senate rejects his amendment.

But this Senator is inclined to believe that the Congress of the United States ought to take its lumps in terms of operating expenses.

I say to my able chairman, the distinguished Senator from Maryland, that I am even at this moment doing a little modifying of my amendment, but that will not take long. And I will be glad to proceed as rapidly as possible.

Mr. MATHIAS. If it is agreeable to the Senate, I would propose that the Senator from Kentucky and I discuss the proposal as it has been made by the Rules Committee very briefly and by that time other Members of the Senate may be prepared to join in the discussion.

Mr. President, today we begin consideration of an original resolution which would fund committees of the Senate for the fiscal year beginning March 1, 1982.

Let me first thank the Senator from Kentucky, the ranking minority member of the Rules Committee, for his close attention and his cooperative spirit, without which, of course, it would have been absolutely impossible to bring any resolution to the Senate today.

I also at the very outset should express my appreciation to the staff of the Rules Committee on both sides, because there is a great deal of detail work—work of a kind that very few people enjoy, looking at long lists of figures, adding and subtracting—which the staff undertook.

I personally am very grateful for their investment of time and interest.

This resolution was sent to the Senate by the unanimous vote of the Rules Committee. It reflects the unanimous decision of the Committee on Rules and Administration to recommend to the Senate there be no aggregate increase over last year in overall spending by the Senate committees.

So that is where we started. We started in the first place with a philosophical decision that the aggregate committee budget should not increase for the coming year, zero increase. That is what we were aiming at.

The leadership on the Republican side supported that position. I will leave it to my good friend from Kentucky to state his leadership position, but, certainly, I was not aware of opposition to that.

So the goal upon which there was very general agreement was to hold the line as far as the committee budgets were concerned.

Senators will recall that last year we achieved a remarkable overall reduction of 10 percent in cost in the authorizations for committees. Our attempt this year was to protect those savings, to protect them for the taxpayers of the United States, to protect them as a symbol that Government can go from year to year without growing in cost.

Senators will note that unlike previous years we do not have before the Senate a separate budget resolution for each committee. Once we had committed ourselves to the concept of a zero increase in the aggregate, we consolidated the individual committee resolutions into a single resolution. So what is before us today is a document in which all committee budgets are included section by section. In addition, I would call attention to the accompanying comparative chart in the Rules Committee report which shows committee budget experience since our reductions in spending at the beginning of 1981.

A question will arise, and I am sure it is going to come up during the course of today's debate, why not just repeat the figures of last year? Why not just committee by committee adopt the same budget that we had in the past year? That would give you the committee's goal of a zero increase.

Well, I would hope that the Rules Committee's rationale for increases or decreases would be self-evident to Senators when they study the chart. Briefly, the committee did take a look at increases in committee spending and decreases in committee spending over the past several years so that we could ascertain the trends in each committee. We tried to make realistic estimates for administrative expenses in committee budget submissions.

We looked, very frankly, at unexpended balances in the previous committee fiscal year, and we took into account the plans for oversight, for legislative review activities, in the coming year. It does not require any prophetic vision to know that some committees are going to be extremely busy in this coming year on economic problems, with the current fiscal problems in the country.

On the other hand, we made at least some judgments that some committees will not need to be as busy at this particular time of the year. That is a subjective judgment. We could be wrong in it. At least we made an attempt to see which committees were genuinely likely to have greater burdens imposed upon them in the coming year and which might be able to be slightly less strained in the given social and economic condition of the country.

So what we did was to then make a deliberate, conscientious decision among the committees as to how the aggregate moneys available, which had already been determined, should be divided.

I do not claim that we have it right in every case. Members of the Senate may be able to make suggestions as to how it can be adjusted. I think I can speak for the Senator from Kentucky on this case as well as myself in saying if this can be improved, we are anxious that it be improved. But it is going to be difficult to improve it without abandoning the goal of a zero increase or without going back to the simply mechanical method of doing next year what we did last year. We did not want to simply run the Xerox machine on last year's figures. That takes away all the judgmental quality of the recommendations embodied in the resolution.

I do, Mr. President, want to call attention to the first clause in the resolution because this clause is an adaptation of a budget control technique that has been successfully used in our consideration of the concurrent resolutions on the budget. It sets the aggregate Senate committee funding at the same level that it was last year, because that was the unanimous decision of the Rules Committee, the same level as last year, $41,936,869.

The only request that I make today is that any Senators who wish to propose amendments to the Rules Committee recommendations propose confoming amendments which will preserve the goal of a zero increase in aggregate committee spending. It seems to me that is the primary concern here today. I would respectfully suggest that any amendments that are to be offered should conform to that goal or should be very promptly rejected by the Senate.

I am sure the ranking minority member, the Senator from Kentucky, can comment after this very brief description of the resolution and I hope he will do so.

The PRESIDING OFFICER (Mr. CHAFEE). The Senator from Kentucky.

Mr. FORD. Mr. President, it is very difficult to follow the distinguished and articulate chairman of our Rules Committee. I compliment him on what he has been able to do. I am distraught that after we have worked so hard it appears that our work will be challenged.

Mr. President, today we have before us the task of authorizing the annual funds for our Senate committees. When we deem it necessary, as we did last year, and again this year, to make reductions, or deny increases, in the requests submitted by the individual committees, this is a difficult and painful task.

My colleagues will recall that last year, consistent with a statutory mandate requiring overall reductions of 10 percent in the expenditures of the Senate, the Rules Committee and the Senate approved resolutions for committee expenditures which in the aggregate totaled 10 percent in reductions.

This year our committee determined that economic conditions dictated that we make every effort to hold the line on total Senate committee spending. On top of last year's reductions, and in the face of substantial inflation and 5-percent cost-of-living salary increases, this was not an easy goal to achieve.

However, with the cooperation and understanding of all the committees, and the diligent application of the efforts of all members of the Rules Committee, the Rules Committee accomplished this result. The resolution reported to the Senate, Senate Resolution 333 in the aggregate, equals the amount authorized last year for all committees. Under this resolution some committees will receive a portion of requested increases. Other committees will receive less than they received last year. For all committees, these are extremely tight budgets and we know it.

It may well be that, despite every effort to stay within its budget, a committee will find it cannot meet its responsibilities without additional funds. If this does happen, I, for one, can assure such committee that a request for supplemental funds during the fiscal year will receive the careful consideration of this member of the Rules Committee.

Mr. President, I know that the times we are in do not lessen the volume or importance of the work that must be done by our committees and the Senate. We are asking for real sacrifices by our committees, and it will not be easy for them to do their jobs within the limitations imposed. But I urge my colleagues to make the effort. The public deserves no less from us.

I join the chairman of the Committee on Rules and Administration in urging support for the resolution as reported.

Mr. President, we can play with these figures endlessly. There are obviously countless ways to redistribute the agreed-upon total of funds for committees in 1982. But there is no one perfect way to redistribute. I believe the careful work of the committee should not be upset by hasty action on the floor. I support the chairman in urging the approval of Senate Resolution 333, as has been reported and is now before the Senate for consideration.

I yield the floor, Mr. President.

Mr. HELMS. Mr. President, I have an amendment at the desk which I call up and ask to have stated.

The PRESIDING OFFICER. The clerk will state the amendment.

UP AMENDMENT NO. 827

(Purpose: To provide that expenditures authorized for each committee be the same for the period covered by the resolution as for the preceding year)

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, I have an amendment at the desk which I call up and ask to have stated.

The PRESIDING OFFICER. The clerk will state the amendment.

The assistant legislative clerk read as follows:

The Senator from North Carolina (Mr. HELMS) proposed an unprinted amendment numbered 827.

Mr. HELMS. I ask unanimous consent that further reading be dispensed with.

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

The amendment is as follows:

On page 5, line 7, strike out "$1,607,807" and insert in lieu thereof "$1,554,400".

On page 10, line 8, strike out "$2,102,840" and insert in lieu thereof "$2,029,259".

On page 11, line 13, strike out "$2,213,000" and insert in lieu thereof "$2,166,000".

On page 12, line 21, strike out "$2,118,200" and insert in lieu thereof "$2,063,200".

On page 13, line 25, strike out "$2,404,912" and insert in lieu thereof "$2,333,100".

On page 23, line 20, strike out "$4,046,000" and insert in lieu thereof "$4,004,000".

On page 27, line 6, strike out "$784,438" and insert in lieu thereof "$748,630".

On page 30, line 15, strike out "$597,710" and insert in lieu thereof "$567,324".

Mr. HELMS. Mr. President, I shall be very brief.

As a member of the Committee on Rules, I applaud most of what the committee did. I further confess that I attended as many of those meetings as I could and I certainly agreed with the principle that committees should spend, in the aggregate, no more than they did for fiscal year 1981. But the more I looked at the juggling of the figures within the parameters of that aggregate total, the more I became convinced that, in the first place, the proposal now before us is essentially unfair to those committees which operate prudently and have done so for a period of years.

Second, I see an opportunity to save the taxpayers $408,994 by further reducing the proposal now before us.

The Committee on Rules unanimously proposed cuts for 10 committees, including the Senate Committee on Agriculture, Nutrition, and Forestry, of which I happen to be chairman. I readily agreed to the reduction in funds for my committee, even though I believe it to be demonstrated that the Committee on Agriculture, Nutrition, and Forestry has operated with a high degree of prudence over the years. As a matter of fact, each time that I have appeared before the Committee on Rules in my capacity as chairman of the Agriculture Committee, the Rules Committee has been good enough to compliment my committee for its frugality.

Incidentally, Mr. President, the Committee on Agriculture is one of the major committees, yet I believe it is one of the least expensive to operate.

Mr. President, here is where we are with this resolution, Senate Resolution 333. The Rules Committee unanimously proposed cuts for the Appropriations Committee, the Banking Committee, the Budget Committee, the Commerce Committee, the Governmental Affairs Committee, the Judiciary Committee, the Rules Committee, the Small Business Committee, the Intelligence Committee, and the Agriculture Committee. At the same time, the Rules Committee, through the pending legislation, proposes to increase slightly funds for the Committees on Armed Services, Energy, Environment, Finance, Foreign Relations, Labor, Veterans' Affairs, and Indian Affairs.

What I am proposing, Mr. President, and all I am proposing, is that we accept the Rules Committee recommendation with respect to those committees whose funding has been cut; and as to those committees whose funding has been increased, merely adjust the funding for each of those committees downward to the level of fiscal year 1981.

Mr. President, I hope that no Senator will seriously suggest that any committee will be frustrated by the amount of the proposed cuts under the Helms amendment. Armed Services, for example, would be reduced by $53,407. The Energy Committee would be reduced by $73,581; Environment Committee, $47,000; Finance, $55,000; Foreign Relations, $71,812; Labor, $42,000; Veterans' Affairs, $35,808; and Indian Affairs, $30,386. That comes to a total saving to the taxpayers, Mr. President, of $408,994.

I submit that every committee identified herein can easily save the stipulated amount. We are asking everybody across this country to tighten their belts. We are constantly saying that the times are difficult and that we must reduce Federal spending. So let us do that to the extent suggested in the amendment offered by the Senator from North Carolina.

Mr. MATHIAS. Mr. President.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. MATHIAS. Mr. President, I rise to oppose the amendment of the Senator from North Carolina, but let me say before I oppose it that what it has going for it is its sponsor. The Committee on Rules looked very carefully—I might even say critically—at the operation of the Committee on Agriculture, Nutrition, and Forestry. We scrutinized it. And the conclusion of the members and staff of the Committee on Rules, after that scrutiny, was that the Agriculture Committee was being run so well that we could not find any way to suggest further economies or efficiencies. So, with that kind of record, I think whatever the Senator from North Carolina has to say on this subject deserves to be listened to.

Mr. HELMS. I thank the Senator.

Mr. MATHIAS. Now, Mr. President, the Senator from North Carolina will observe that I said it deserves to be listened to.

Mr. HELMS. Yes.

Mr. MATHIAS. I did not say I think it deserved to be accepted. I hope the Senate will not accept this amendment.

As I said earlier today, Mr. President, the recommendations of the Committee on Rules were predicted on judgments. I do not claim that those judgments are infallible; I do not think the Senator from Kentucky would claim that they are infallible. They were the best estimates we could make of what committees needed. Therefore, we did propose some very modest increases.

Armed services, for example, has been a very frugal committee over the years and we proposed the munificent sum of $53,407—at a time when armed services is going to be faced with a gigantic increase in the defense budget. Even if we do not approve all the President has requested, it is still going to be clear that armed services is going to face a major increase in its activities.

The Committee on Finance has been a frugal committee. We approved the large sum of $55,000. We went overboard for the Finance Committee, we recommended $55,000 additional for them. If any committee of this Congress in the history of the Republic has more to worry about this year than the Finance Committee, I do not know what it would be—looking a budget deficit of about $120 billion right between the eyes, faced with the necessity of raising some additional revenue, and trying to close the budget gap. I do not think $55,000 is a great deal to add to the budget of the Finance Committee.

The chairman of the Committee on Labor made a very eloquent plea for some small additional increase.

The chairman of the Veterans' Committee faces a growing task, one that, perhaps more than any other task of the entire area of government, can be absolutely predicted to grow with no question of being wrong, because the veterans are here, they are alive, they are on the ground, and they are surely growing older and moving into the age areas where they are going to need the services of the Veterans' Administration.

Mr. SIMPSON. Mr. President, will the Senator from Maryland yield for a moment?

Mr. MATHIAS. I am happy to yield to the Senator from Wyoming.

Mr. SIMPSON. Mr. President, the chairman of the Rules Committee treated the Veterans' Affairs Committee in a most extraordinarily fair fashion. The hearings before that committee are always marked by his good grace, and we are most appreciative.

Let me add just one dimension to what he says. What he says is true, but believe this, and this is an amazing statistic: 12.5 million veterans will attain the age of 65 in 2 years and at that time will be eligible for every service of the veterans health care system, regardless of their net worth or their income.

That will keep us alert for a little while, as we now come to issues of new construction, benefits, and compensation for our remarkable veterans.

But we are going to try to turn the major attention of the Senate to our service-connected disabled veterans and then pay more careful attention to the eligibility requirements of those non-service-connected disabled, those who served only 3 or 4 or 5 months and still receive a number of VA benefits.

Those are tough issues. The Senator from Maryland knows well the forces that come to bear and we will do our best to deal with them in a balanced manner.

Mr. MATHIAS. I thank the Senator from Wyoming, the chairman of the Veterans' Committee.

However, I point out the very modest nature of the increase he has received, $35,808. If all of that were to be invested in salary, he might be able to hire one mature responsible professional—might be. So, it is not really a great aggrandizement of the Veterans' Affairs Committee.

What the Senator from North Carolina says is absolutely true. We would save the taxpayers $408,994 if we were to adopt his amendment.

I think what we have to ask the Senate is what it would cost the taxpayers in not being able to deal efficiently and, most important, effectively with the problems of this country.

There have been many complaints that this is a stingy budget. I have felt less popular among my colleagues since this resolution was reported by the committee than at any time since I have been a Member of the Senate. There is practically no one who is happy with it.

I should point out that there are some people who, in effect, are double losers under this budget.

The Appropriations Committee actually requested a decreased budget to start with; and under the resolution, we further cut them by $5,000. The Budget Committee requested a decrease to start with, and we cut them by $40,000.

So, committees of that sort, which already were willing to take a cut, are double losers. We know that.

That was not an easy thing to do. The chairmen of those committees objected very vehemently.

We have the case of the Governmental Affairs Committee, which had requested no increase, which we cut $240,000. I can assure the Senate that that was not a popular recommendation, at least in some quarters.

The chairman of the Judiciary Committee requested an increase of

$350,000. We actually cut his budget by $469.

So, it has not been easy to reach the point that we have reached. It also has not been done blindly. It has been done in an attempt to cut the cloth according to the pattern.

To the extent the Members feel that we have been successful, I hope they will support the committee and reject the amendment.

Mr. FORD addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

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

Mr. FORD. I yield to the Senator from North Carolina.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. HELMS. Mr. President, I see no point in prolonging the discussion on the pending amendment. I believe and hope I have made my point.

I say again for the record that the pending amendment offered by the Senator from North Carolina proposes to accept the cuts recommended in the pending measure—that is to say, the amendment accepts the cuts related to the Agriculture Committee, Appropriations, Banking, Budget, Commerce, Governmental Affairs, Judiciary, Rules, Small Business, and Intelligence. Those come to a total of $357,484.

The pending amendment offered by the Senator from North Carolina goes further than the recommendation of the Rules Committee in regard to the Armed Services Committee, Energy Committee, Environment Committee, Finance, Foreign Relations, Labor, Veterans' Affairs, and Indian Affairs.

So, in sum total, Mr. President, the Senator from North Carolina, by his amendment, is recommending that we save $408,994.

Mr. President, it is late in the afternoon, and I know that a number of Senators have already departed. I do not want to cause them to miss a rollcall vote, so I am willing to have this amendment considered on a voice vote.

Mr. MATHIAS. Mr. President, I appreciate the consideration of the Senator from North Carolina. It is typical of his courtesy toward Senators, typical of the courtesy that he has always exhibited toward me personally.

I sympathize with his objectives in offering this amendment. I should like to see us save $408,000, too. I wish there were some way to do it. But, as the Senator from Kentucky knows, we have been under severe pressure from every committee that has been cut, and even from some who were not cut but did not get all they asked for.

We have looked into the complaints, and we find that, by and large, the complaints are justified; that if we go below the zero increase figure that we have recommended, we can get to a point where we will damage the effectiveness of the committees.

Again, I want to say that I think the Senator from North Carolina is correct in the goal. As I said earlier, he has demonstrated in his own administration of the Agriculture Committee that he knows what he is talking about.

We cannot say that he has not been there because, very clearly, he has been there. However, when we get right down to the final word, it seems to me that we should try to stick with this careful judgment of the Rules Committee.

I believe I should also note, finally, that not only in this amendment but also in several earlier versions of it that the Senator from North Carolina had under consideration, he proposed to exempt the Agriculture Committee from any possible profit, from any possible enhancement of their budget.

So it is a disinterested move on his part. But I hope we can dispose of it on a voice vote without any further discussion, unless the Senator from Kentucky wants to say something.

Mr. FORD addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. I am prepared to move on to a voice vote, and I thank the distinguished Senator from North Carolina for saying that he did not want to prolong it.

I would like to say that we made good savings in this proposal because we held the line for last year, and with inflation and with the increase, modest increase, of 5 percent for your employees—and you must have good employees or you would not be able to run such a good committee—so I think that is squeezing from that budget pretty good.

But I will also say to my colleagues that we have to look at what Senator STROM THURMOND did last year as he related to the reduction of the Judiciary Committee. By giving that large cut, he was allowing some committees the ability not to take the 10-percent cut, and so we will have to look at some committees last year that did not take their 10-percent cut, and now we are giving them the same thing they had last year, and they were not bruised by a 10-percent cut last year.

So as we make this judgment or this judgmental call as to what committees will be living under the the greatest pressure, Armed Services, the largest expenditure of funds ever, and growing, and we need that expertise; in Finance, always, I hear the cries, "Reduce interest rates, reduce the deficit, get us back on the right track, we are off of it." So Finance is going to be charged with that.

As we listen to the distinguished Senator from Wyoming as he talked about how many million veterans will become 65 and that they will need to work with them, and we want to cut them $35,000. Is that not something for 12.5 million veterans, $35,000 off their budget?

I hope my colleagues will not agree to this amendment. I ask them to vote accordingly against it.

I thank the Senator and I thank the Chair

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from North Carolina.

Mr. HELMS' amendment (UP No. 827) was rejected.

The PRESIDING OFFICER. Who seeks the floor? Are there further amendments?

Mr. MATHIAS. Mr. President, I make a point of order that a quorum is not present.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

The question is on agreeing to the resolution.

The resolution (S. Res. 333) was agreed to as follows:

S. RES. 333

Resolved, That this resolution may be cited as the "Omnibus Committee Funding Resolution of 1982".

AGGREGATE AUTHORIZATION

SEC. 2. In carrying out its powers, duties, and functions under the Standing Rules of the Senate, and under the appropriate authorizing resolutions of the Senate, there is authorized in the aggregate $41,936,869, in accordance with the provisions of this resolution, for all Standing Committees of the Senate, the Special Committee on Aging, the Select Committee on Intelligence, and the Select Committee on Indian Affairs.

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

SEC. 3. (a) In carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Agriculture, Nutrition, and Forestry is authorized from March 1, 1982, through February 28, 1983, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

(b) The expenses of the committee under this section shall not exceed $1,309,000, of which amount not to exceed $2,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended).

(c) The committee shall report its findings together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 1983.

(d) Expenses of the committee under this section shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required for the disbursement of salaries of employees paid at an annual rate.

COMMITTEE ON APPROPRIATIONS

SEC. 4. (a) In carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Appropriations is authorized from March 1, 1982, through February 28, 1983, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

(b) The expenses of the committee under this section shall not exceed $3,780,310, of which (1) not to exceed $5,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $5,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of such Act).

(c) The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 1983.

(d) Expenses of the committee under this section shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required for the disbursement of salaries of employees paid at an annual rate.

COMMITTEE ON ARMED SERVICES

SEC. 5. (a) In carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Armed Services is authorized from March 1, 1982, through February 28, 1983, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

(b) The expenses of the committee under this section shall not exceed $1,607,807, of which amount not to exceed $25,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended).

(c) The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 1983.

(d) Expenses of the committee under this section shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required for the disbursement of salaries of employees paid at an annual rate.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

SEC. 6. (a) In carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Banking, Housing, and Urban Affairs is authorized from March 1, 1982, through February 28, 1983, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

(b) The expenses of the committee under this section shall not exceed $1,563,411, of which amount (1) not to exceed $1,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $1,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of such Act).

(c) The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 1983.

(d) Expenses of the committee under this section shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required for the disbursement of salaries of employees paid at an annual rate.

COMMITTEE ON THE BUDGET

SEC. 7. (a) In carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on the Budget is authorized from March 1, 1982, through February 28, 1983, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

(b) The expenses of the committee under this section shall not exceed $2,645,961 of which amount not to exceed $50,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended).

(c) The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 1983.

(d) Expenses of the committee under this section shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required for the disbursement of salaries of employees paid at an annual rate.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

SEC. 8. (a) In carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Commerce, Science, and Transportation is authorized from March 1, 1982, through February 28, 1983, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

(b) The expenses of the committee under this section shall not exceed $3,161,746, of which amount (1) not to exceed $20,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $8,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of such Act).

(c) The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 1983.

(d) Expenses of the committee under this section shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required for the disbursement of salaries of employees paid at an annual rate.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

SEC. 9. (a) In carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Energy and Natural Resources is authorized from March 1, 1982, through February 28, 1983, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

(b) The expenses of the committee under this section shall not exceed $2,102,840, of which amount not to exceed $10,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended).

(c) The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 1983.

(d) Expenses of the committee under this section shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required for the disbursement of salaries of employees paid at an annual rate.

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

SEC. 10. (a) In carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Environment and Public Works is authorized from March 1, 1982, through February 28, 1983, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

(b) The expenses of the committee under this section shall not exceed $2,213,000, of which amount (1) not to exceed $30,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $3,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of such Act).

(c) The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 1983.

(d) Expenses of the committee under this section shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required for the disbursement of salaries of employees paid at an annual rate.

COMMITTEE ON FINANCE

SEC. 11. (a) In carrying out its powers, duties and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Finance is authorized from March 1, 1982, through February 28, 1983, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

(b) The expenses of the committee under this section shall not exceed $2,118,200, of which amount not to exceed $30,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended).

(c) The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 1983.

(d) Expenses of the committee under this section shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required for the disbursement of salaries of employees paid at an annual rate.

COMMITTEE ON FOREIGN RELATIONS

SEC. 12. (a) In carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Foreign Relations is authorized from March 1, 1982, through February 23, 1983, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

(b) The expenses of the committee under this section shall not exceed $2,404,912 of which amount not to exceed $18,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended).

(c) The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 1983.

(d) Expenses of the committee under this section shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required for the disbursement of salaries of employees paid at an annual rate.

COMMITTEE ON GOVERNMENTAL AFFAIRS

SEC. 13. (a) In carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Governmental Affairs is authorized from March 1, 1982, through February 28, 1983, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

(b) The expenses of the committee under this section shall not exceed $4,432,426, of which amount (1) not to exceed $68,725 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $1,500 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of such Act).

(c)(1) The committee, or any duly authorized subcommittee thereof, is authorized to study or investigate—

(A) the efficiency and economy of operations of all branches of the Government including the possible existence of fraud, misfeasance, malfeasance, collusion, mismanagement, incompetence, corruption, or unethical practices, waste, extravagance, conflicts of interest, and the improper expenditure of Government funds in transactions, contracts, and activities of the Government or of Government officials and employees and any and all such improper practices between Government personnel and corporations, individuals, companies, or persons affiliated therewith, doing business with the Government; and the compliance or noncompliance of such corporations, companies, or individuals or other entities with the rules, regulations, and laws governing the various governmental agencies and its relationships with the public;

(B) the extent to which criminal or other improper practices or activities are, or have been, engaged in the field of labor-management relations or in groups or organizations of employees or employers, to the detriment of interests of the public, employers, or employees, and to determine whether any changes are required in the laws of the United States in order to protect such interests against the occurrence of such practices or activities;

(C) syndicated or organized crime which may operate in or otherwise utilize the facilities of interstate or international commerce in furtherance of any transactions which are in violation of the law of the United States or of the State in which the transactions occur, and, if so, the manner and extent to which, and the identity of the persons, firms, or corporations, or other entities by whom such utilization is being made, what facilities, devices, methods, techniques, and technicalities are being used or employed, and whether or not organized crime utilizes such interstate facilities or otherwise operates in interstate commerce for the development of corrupting influences in violation of the law of the United States or the laws of any State, and further, to study and investigate the manner in which and the extent to which persons engaged in organized criminal activities have infiltrated into lawful business enterprise; and to study the adequacy of Federal laws to prevent the operations of organized crime in interstate or international commerce; and to determine whether any changes are required in the laws of the United States in order to protect the public against the occurrences of such practices or activities;

(D) all other aspects of crime and lawlessness within the United States which have an impact upon or affect the national health, welfare, and safety; including but not limited to investment fraud schemes, commodity and security fraud, computer fraud and the use of offshore banking facilities to carry out criminal objectives;

(E) riots, violent disturbances of the peace, vandalism, civil and criminal disorder, insurrection, the commission of crimes in connection therewith, the immediate and longstanding causes, the extent and effects of such occurrences and crimes, and measures necessary for their immediate and long-range prevention and for the preservation of law and order and to insure domestic tranquillity within the United States;

(F) the efficiency and economy of operations of all branches and functions of the Government with particular reference to—

(i) the effectiveness of present national security methods, staffing, and processes as tested against the requirements imposed by the rapidly mounting complexity of national security problems;

(ii) the capacity of present national security staffing, methods, and processes to make full use of the Nation's resources of knowledge, talents;

(iii) the adequacy of present intergovernmental relationships between the United States and international organizations principally concerned with national security of which the United States is a member; and

(iv) legislative and other proposals to improve these methods, processes, and relationships;

(G) the efficiency, economy, and effectiveness of all agencies and departments of the Government involved in the control and management of energy shortages including, but not limited to, their performance with respect to—

(i) the collection and dissemination of accurate statistics on fuel demand and supply;

(ii) the implementation of effective energy conservation measures;

(iii) the pricing of energy in all forms;

(iv) coordination of energy programs with State and local government;

(v) control of exports of scarce fuels;

(vi) the management of tax, import, pricing, and other policies affecting energy supplies;

(vii) maintenance of the independent sector of the petroleum industry as a strong competitive force;

(viii) the allocation of fuels in short supply by public and private entities;

(ix) the management of energy supplies owned or controlled by the Government;

(x) relations with other oil producing and consuming countries;

(xi) the monitoring of compliance by governments, corporations, or individuals with the laws and regulations governing the allocation, conservation, or pricing of energy supplies; and

(xii) research into the discovery and development of alternative energy supplies; and

(H) the efficiency and economy of all branches and functions of government with particular reference to the operations and management of Federal regulatory policies and programs:

Provided, That, in carrying out the duties herein set forth, the inquiries of this committee or any subcommittee thereof shall not be deemed limited to the records, functions, and operations of any particular branch of the Government; but may extend to the records and activities of any persons, corporation, or other entity.

(2) Nothing contained in this subsection shall affect or impair the exercise of any other standing committee of the Senate of any power, or the discharge by such committee of any duty, conferred or imposed upon it by the Standing Rules of the Senate or by the Legislative Reorganization Act of 1946, as amended.

(3) For the purpose of this subsection, the committee, or any duly authorized subcommittee thereof, or its chairman, or any other member of the committee or subcommittee designated by the chairman, from March 1, 1982, through February 28, 1983, is authorized, in its, his, or their discretion (A) to require by subpena or otherwise the attendance of witnesses and production of correspondence, books, papers, and documents, (B) to holding hearings, (C) to sit and act at any time or place during the sessions, recess, and adjournment periods of the Senate, (D) to administer oaths, and (E) to take testimony, either orally or by sworn statement, or, in the case of staff members of the Permanent Subcommittee on Investigations specifically authorized by the chairman, by deposition.

(4) All subpenas, contempt proceedings, and related legal processes of the committee and its subcommittees authorized under S. Res. 361 of the Ninety-sixth Congress, second session, and S. Res. 57 of the Ninety-seventh Congress, first session, including the subpena enforcement and contempt proceeding against William Cammisano, are authorized to continue.

(d) The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 1983.

(e) Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required for the disbursement of salaries of employees paid at an annual rate.

COMMITTEE ON THE JUDICIARY

SEC. 14. (a) In carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on the Judiciary is authorized from March 1, 1982, through February 28, 1983, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration to use on a reimbursable basis the services of personnel of any such department or agency.

(b) The expenses of the committee under this section shall not exceed $4,398,223 of which amount (1) not to exceed $80,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $2,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of such Act).

(c) The committee shall report its findings, together with such recommendations for legislation or other action as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 1983.

(d) Expenses of the committee under this section shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required for the disbursement of salaries of employees paid at an annual rate.

COMMITTEE ON LABOR AND HUMAN RESOURCES

SEC. 15. (a) In carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Labor and Human Resources is authorized from March 1, 1982, through February 28, 1983, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

(b) The expenses of the committee under this section shall not exceed $4,046,000, of which amount not to exceed $45,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended).

(c) The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 1983.

(d) Expenses of the committee under this section shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required for the disbursement of salaries of employees paid at an annual rate.

COMMITTEE ON RULES AND ADMINISTRATION

SEC. 16. (a) In carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Rules and Administration is authorized from March 1, 1982, through February 28, 1983, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

(b) The expenses of the committee under this section shall not exceed $1,243,833, of which amount not to exceed $15,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended).

(c) The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 1983.

(d) Expenses of the committee under this section shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required for the disbursement of salaries of employees paid at an annual rate.

COMMITTEE ON SMALL BUSINESS

SEC. 17. (a) In carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Small Business is authorized from March 1, 1982, through February 28, 1983, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

(b) The expenses of the committee under this section shall not exceed $897,000.

(c) The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 1983.

(d) Expenses of the committee under this section shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required for the disbursement of salaries of employees paid at an annual rate.

COMMITTEE ON VETERANS' AFFAIRS

SEC. 18. (a) In carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Veterans' Affairs is authorized from March 1, 1982, through February 28, 1983, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

(b) The expenses of the committee under this section shall not exceed $784,438.

(c) The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 1983.

(d) Expenses of the committee under this section shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required for the disbursement of salaries of employees paid at an annual rate.

SPECIAL COMMITTEE ON AGING

SEC. 19. (a) In carrying out the duties and functions imposed by section 104 of S. Res. 4, Ninety-fifth Congress, agreed to February 4, 1977, and in exercising the authority conferred on it by such section, the Special Committee on Aging is authorized from March 1, 1982, through February 28, 1983, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

(b) The expenses of the special committee under this section shall not exceed $901,946, of which amount (1) not to exceed $35,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $1,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of such Act).

(c) The special committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 1983.

(d) Expenses of the special committee under this section shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required for the disbursement of salaries of employees paid at an annual rate.

SELECT COMMITTEE ON INTELLIGENCE

SEC. 20. (a) In carrying out its powers, duties, and functions under S. Res. 400, approved May 19, 1976, in accordance with its jurisdiction under section 3(a) of such resolution, including holding hearings, reporting such hearings, and making investigations as authorized by section 5 of such resolution, the Select Committee on Intelligence is authorized from March 1, 1982, through February 28, 1983, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

(b) The expenses of the committee under this section shall not exceed $1,728,106, of which amount (1) not to exceed $10,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended).

(c) The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 1983.

(d) Expenses of the committee under this section shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required for the disbursement of salaries of employees paid at an annual rate.

SELECT COMMITTEE ON INDIAN AFFAIRS

SEC. 21. (a) In carrying out the duties and functions imposed on it by section 105 of S. Res. 4, Ninety-fifth Congress, agreed to February 4 (legislative day, February 1), 1977, as amended, and in exercising the authority conferred on it by such section, the Select Committee on Indian Affairs is authorized from March 1, 1982, through February 28, 1983, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of any such department or agency.

(b) The expenses of the committee under this section shall not exceed $597,710, of which amount not to exceed $20,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended).

(c) The committee shall report its findings, together with such recommendations for legislation as its deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 1983.

(d) Expenses of the committee under this section shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required for the disbursement of salaries paid at annual rate.

REPEALER

SEC. 22. Senate Resolution 289 of the Ninety-seventh Congress, agreed to February 8, 1982, is repealed.

Mr. MATHIAS. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAKER addressed the Chair.

The PRESIDING OFFICER. The majority leader.

ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I ask unanimous consent that there now be a brief period for the transaction of routine morning business to extend not past the hour of 5 p.m. in which Senators may speak for not more than 5 minutes each.

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

ORDER OF BUSINESS

Mr. BAKER. Mr. President, there will be no more rollcall votes today.

ORDERS FOR MONDAY, MARCH 15, 1982

ORDER FOR RECESS UNTIL MONDAY

Mr. BAKER. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 12 noon on Monday.

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

ORDER FOR THE RECOGNITION OF SENATOR RIEGLE

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

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

ORDER OF PROCEDURE

Mr. BAKER. Mr. President, what is the business pending before the Senate at the conclusion of morning business?

The PRESIDING OFFICER. The business pending before the Senate is S. 391 to amend the National Security Act of 1947, the Agent Identities Act.

Mr. BAKER. Which is the unfinished business?

The PRESIDING OFFICER. That is the unfinished business, it is the pending business.

Mr. BAKER. Yes.

Mr. President, on Monday next it is anticipated that debate will proceed on that measure. I do not anticipate at this time that it will be possible to complete debate and consideration of the agent identities bill on Monday, and I expect that it will go over until Tuesday at the earliest. I will have further announcements to make, Mr. President, on Monday as to the future schedule of the Senate.

Mr. President, while we now assess the situation to see whether there is other business that can be transacted on this day, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

ORDER FOR PERIOD FOR TRANSACTION OF ROUTINE MORNING BUSINESS ON MONDAY, MARCH 15, 1982

Mr. BAKER. Mr. President, I have conferred with the distinguished minority leader, who has no further business to transact this afternoon.

I see no Senator seeking recognition. In a moment, I shall ask the Senate to recess, under the order previously entered, until Monday next.

Before I do that, however, I ask unanimous consent that, after the recognition of the two leaders under the standing order and the recognition of any Senators under special order, there be a period for the transaction of routine morning business of not more than 1 hour in length, in which Senators may speak for not more than 5 minutes each.

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

PROGRAM

Mr. BAKER. Mr. President, the Senate will not be in session on Friday. We shall convene at 12 noon on Monday next, according to the order previously entered. After the recognition of the two leaders under the standing order, the Senator from Michigan (Mr. RIEGLE) will be recognized under a special order for not to exceed 15 minutes.

After the execution of the special order, there will be a period for the transaction of routine morning business of not more than 1 hour in length, in which Senators may speak for not more than 5 minutes.

At the close of morning business, Mr. President, the Senate will resume consideration of the agent identities bill, S. 391. It is not anticipated that the Senate will be in a position to complete that bill on Monday.

RECESS UNTIL MONDAY, MARCH 15, 1982

Mr. BAKER. Mr. President, if there is no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in recess until the hour of 12 noon on Monday.

The motion was agreed to and, at 5:18 p.m., the Senate recessed until Monday, March 15, 1982, at 12 noon.

NOMINATIONS

Executive nominations received by the Senate March 11, 1982:

DEPARTMENT OF STATE

James L. Malone, of Virginia, to be Ambassador at Large in connection with his appointment as Special Representative of the President of the United States for the Law of the Sea Conference, and Chief of Delegation.

IN THE NAVY

The following-named rear admirals of the Reserve of the U.S. Navy for permanent promotion to the grade of rear admiral in the line and staff corps, as indicated, pursuant to the provisions of title 10, United States Code, section 5912:

LINE

Lemuel Owings Warfield
Russell William Gorman
Joseph Francis Callo, Jr.
Raymond Roger Couture
James Burnett Reap
John Rodney Grubb
LeRoy Vincent Isaacson
Vincent Joseph Anzilotti, Jr.
Francis Neale Smith
George Clark Sayer

MEDICAL CORPS

John Francis Kurtzke
John Peter Connelly

SUPPLY CORPS

Thomas Gerald Lilly
Delbert Harry Beumer

CHAPLAIN CORPS

Emmett Owen Floyd

CIVIL ENGINEER CORPS

Thomas Smothers Maddock

DENTAL CORPS

William Harris Molle

IN THE NAVY

The following-named commanders of the U.S. Navy for permanent promotion to the grade of captain in the various staff corps, as indicated, pursuant to title 10, United States Code, section 624, subject to qualifications therefor as provided by law:

MEDICAL CORPS

Captain

Blair, Sidney Martin
Bloys, James Arthur
Bobert, Duwayne H.
Coleman, Patrick Bernard
Courington, Frederick W.
Daly, Richard George
Daniels, Robert K., Jr.
Gay, Madison Waller
Gold, Robert Stanley
Harrison, Richard Edward
Hazen, Steven Joel
Hill, George E.
Iacolucci, Joseph Peter
Jacobs, Eugene Gardner
Karols, Kenneth E.
Kingsbury, Robert C.
Kirkorowicz, Gregory B.
Lewis, Paul Elwood, II
Marcom, Rodney Albert
Obrian, John T.
Peters, Norman Eugene
Rao, Bolar Rama
Rasmussen, Eric Allen
Schmidt, Donald William
Walsh, Thomas Emmett, Jr.
Weatherly, Thomas Lee
Wells, Arthur Fred, Jr.
Whitecotten, Glenn L.
Wilcox, Martin Waldo

SUPPLY CORPS

Captain

Abbott, Gerald William
Baker, Charles Edmund, Sr.
Bednar, Edmund Joseph
Beer, Robert Oakley, Jr.
Bondi, Peter Albert
Bratschi, Gilbert Wayne.
Butler, Paul Kyle
Carre, Darwin Beach, Jr.
Casanova, Kenneth Evelio
Chalupsky, Raymond Jerome.
Chappell, Ralph Latham
Conser, Richard Lewis.
Conway, James D
Davidson, James Patrick.
Falconer, Douglas William
Fellows, Fred Yates, III
Fitzgerald, Thomas Patrick
Fleming, James A., Jr.
Grant, Robert David
Harms, Herbert Martin.
Harrington, Phillip Henry
Harshbarger, Eugene Burks.
Hensley, Norman Wesley
Kavanaugh, John Thomas.
Kosch, Charles Arthur
Krehely, Donald Edward.
Lamade, John Steele
Mandel, Allan Lee.
Marshall, William Baker, III
Maxon, Bruce Ethan.
McClure, John Marvin
Mendez, Ramon Eduardo
Morgan, George Parker, Jr.
Moum, Jerry Davis
Nyenhuis, Keith Eugene
Parks, Leonard Cranford
Parrott, Ralph Condron
Perrill, Fredrick Eugene
Phillips, James Donald
Redman, William Ernest, Jr.
Ringberg, David Allen
Ryland, Charles Wayne
Sapera, Leonard Joseph
Scharff, Richard Darrell
Schultz, Robert Arthur
Sherman, Bruce Leslie

Standish, John Alden
Steen, George Samuel, Jr.
Suter, David Floyd
Szalapski, Jeffrey Paul
Trbovich, George Melvin
Treanor, Richard Craig
Tully, Albert Paul, Jr.
Upton, Thomas Hugh, Jr.
Weaver, Edwin Richard, Jr.
Whitman, Carl David
Wooten, John Francis
Young, Robert Reese
Zumbro, Sherrod Branson

CHAPLAIN CORPS

Captain

Clark, Alfred Marion
Cram, Norman Lee, Jr.
Doyle, James Michael
Hall, John Louis
Johnson, Thomas Frederick
Kirk, Alston Shepherd
McNeil, John Roland
O'Donnell, Joseph Francis
Radasky, Robert Michael
Thompson, Joseph James
Westling, Lester Leon, Jr.

CIVIL ENGINEER CORPS

Captain

Black, Dorwin Clay
Buffington, Jack Eugene
Camden, Edward Brydges
Chapla, Paul Anthony
Drennon, Patrick William
Fowler, George Edward, III
Frauenfelder, Henry Roger
Garbe, Warren Murray
Heffernan, Thomas John
Jensen, Allen Halvor
Morrison, Paul Albert
Rugless, James Michael
Schwirtz, Henry John
Street, Clifford Gail
Wells, Donald Raymond

JUDGE ADVOCATE GENERAL'S CORPS

Captain

Adam, Warren H.
Berkley, Robert C.
Brush, James Dillon, II
Carroll, Paul F.
Cassel, Carl J.
Derocher, Frederic George
Horst, Carl Henry
Kjos, Wendell Arthur
McCoy, Dennis Frederick
Powell, George Butts, Jr.
Rapp, Michael Duer
Riddle, Ervin A.
Roach, Joseph Ashley
Watson, Thomas C., Jr.

DENTAL CORPS

Captain

Commette, Joseph P., Jr.
Harper, Richard Huber
Hellman, Larry Frank
Lucas, Michael Stuart
Mansfield, Thomas Wallace
Peru, Charles Blaine

MEDICAL SERVICE CORPS

Captain

Biesiadny, Lawrence Louis
Chatelier, Paul Richard
Dasler, Adolph Richard
Furry, Donald Edward
Harris, George Stanley
Heller, Billy Lee
Morin, Richard Albert
Owens, Norman Kenneth
Palmer, David Deforest
Price, Hudson Bryan
Skelly, Robert Stanley
Warren, Phyllis Imogene

NURSE CORPS

Captain

Agrell, Diane Judith
Barkus, Phyllis Margaret
Carroll, Maria Kathryn
Clinton, Bobbie Kay
Cope, Patricia Ann
Hudak, Geraldine Joyce
Newquist, Alice Moyer
Redo, Anne Marie McCaughey
Reynolds, Ann Darby
Wills, Jacquelyn Sue

THE JUDICIARY

Robert E. Coyle, of California, to be U.S. district judge for the eastern district of California vice Myron D. Crocker, retired.

William T. Hart, of Illinois, to be U.S. district judge for the northern district of Illinois vice John Powers Crowley, resigned.

John A. Nordberg, of Illinois, to be U.S. district judge for the northern district of Illinois vice Bernard M. Decker, retired.

Walter E. Black, Jr., of Maryland, to be U.S. district judge for the district of Maryland vice Edward S. Northrop, retired.

Michael A. Telesca, of New York, to be U.S. district judge for the western district of New York, vice Harold P. Burke, retired.

DEPARTMENT OF JUSTICE

W. Asa Hutchinson, of Arkansas, to be U.S. attorney for the western district of Arkansas for the term of 4 years vice Larry R. McCord, term expired.

Robert W. Merkle, Jr., of Florida, to be U.S. attorney for the middle district of Florida for the term of 4 years, vice Gary Louis Betz.

Richard H. Still, Jr., of Georgia, to be U.S. attorney for the northern district of Georgia for the term of 4 years vice William L. Harper, resigned.

Frederick J. Hess, of Illinois, to be U.S. attorney for the southern district of Illinois for the term of 4 years, vice James R. Burgess, Jr., term expired.

Charles H. Gray, of Arkansas, to be U.S. Marshal for the eastern district of Arkansas for the term of 4 years (reappointment).

IN THE NAVY

The following-named temporary lieutenants of the U.S. Navy for permanent promotion to the grade of lieutenant in the line and various staff corps, as indicated, pursuant to title 10, United States Code, section 5589, subject to qualifications therefor as provided by law:

LINE

Abbruzzese, William C.
Ackerman, John W.
Adams, James P., Jr.
Adams, Orland I.
Addison, Leroy E., II
Adkins, Edward J.
Albury, Merrill C.
Allen, Duke D.
Allensworth, Timothy
Alston, Moses D.
Andersen, Richard E.
Anderson, Kenneth S.
Arnold, Charles D.
Arsta, Charlie L.
Asbury, Virgil W.
Atchison, Laurence J. H.
Attebury, Ervel E.
Atwood, Jack D.
Aultman, William R.
Austell, Theodore, Jr.
Bagley, Raymond C.
Bailey, Bruce
Bailey, Dallam
Baker, Robert D.
Bales, James L.
Barclay, Bruce M.
Barger, David L.
Barger, Edward B., Jr.
Barnett, Donald R.
Barnett, Eben E., II
Barry, Michael J.
Bauder, John T.
Beach, Frank A.
Beane, William L., Jr.
Beatty, Jonathan T.
Beavers, James E.
Bennett, Rex G.
Berkheimer, Thomas E.
Berner, Mark D.
Best, Thomas H., Sr.
Biegler, Loren W.
Bigelow, Jerry B.
Bishop, Emory L.
Bissonnette, John R.
Blackie, John A.
Blackmore, Thomas O.
Blair, Richard
Blausey, Arthur E.
Bocchino, Alfred J.
Bond, David L.
Bonnette, John E.
Book, Roy L.
Borszich, Everett P.
Bottorff, Jerry L.
Bowman, Bruce E.
Boyar, John A.
Boyce, Richard A.
Boycourt, Ivon G., Jr.
Boyle, Robert J.
Bradley, Karl F.
Brandt, Donald E., Jr.
Branson, Jack R.
Braswell, Maccarthur, D.
Brayman, Thomas E.
Bregg, Gerald B. W.
Breland, Don
Breslin, Joseph J., III
Briggs, L. J.
Briggs, Terry G.
Briley, Earl D.
Brink, John H.
Brinkley, George W.
Brissette, Richard J., Jr.
Brittingham, Robert P.
Brobjorg, James C.
Bromaghim, Ward M.
Brosh, Lawrence D.
Browning, Harold D.
Bryce, Francis P.
Budway, Edward J.
Bullard, Bobby J.
Burrows, Gerald E.
Busch, Danny G.
Butler, Dorniece
Cage, Bemjamin L.
Cain, James M.
Calabrese, Geoffrey J.
Callaway, James R.
Calhoun, Michael A.
Campbell, David B.
Caramello, Joseph J.
Carawon, Bruce C.
Carlson, Murl N.
Cart, Harold E.
Cary, John D.
Casper, J. Kip
Cassoutt, James M.
Castle, William R.
Cayse, James F.
Chambers, James D.
Clark, Robert L.
Clayborne, Earl K.
Clayburn, Michael W.
Clements, David L.
Coarsey, John R., Jr.
Cobb, David L.
Coday, Harold G.
Coffman, Bert U.
Coleman, Arthur D.
Coleman, Robert W.
Coley, Anthony A.
Collins, Jerry I.
Colman, Hubert E.
Comfort, Terrence J.
Conahan, Francis C.
Conklin, Kenneth J.
Connell, James L.
Cooper, Charles W.
Cope, James O.
Cordray, David R.
Cornwell, William J.
Couch, William S.
Cox, Travis B.
Crabtree, Richard E.
Craig, Lewis J.
Cranford, James W.
Crawford, Charles H.
Crist, Howard R.
Crossland, Joseph L., Jr.
Crouch, Thomas H.
Culberson, Arthur L.
Curtis, Harold R.
Cutter, Arthur E., Jr.
Dalrymple, John E.
Datson, Dick
Daugherty, Duane L.
Daugherty, Michael A.
Davidson, James E.
Davis, Billy G.
Davis, Clayton R.
Davis, Levi
Davis, Lloyd D.
Davis, Robert E.
Davis, Terry T.
Davis, William H.
Dazelle, Kirk W.
Delorme, John M.
Denam, Harvey E.
Deseve, Darryl D.
Dickerson, Larry G.
Dillingham, John M.
Donnelly, John P.
Dooling, Franklin J.
Downs, Joseph O.
Doyle, David M.
Drewes, Kenneth N.
Duncan, David L.
Dungca, Patricio P.
Dunn, James P., Jr.
Dunn, Robert K.
Duran, Luis M.
Duryea, George W.
Eccleston, John M.
Elliott, Boyce W.
Elliott, James A.
Elrod, Albert W., Jr.
Enos, Russell W., Jr.
Ephraim, Richard
Eubanks, Vernon R.
Evans, James M.
Evans, Thomas L.
Fahrenkrug, Thomas P.
Fairchild, David R.
Farley, David E.
Farr, Craig L.
Fenton, Don J.
Fenton, William C., Jr.
Feuillerat, Robert A.
Fichte, Siegfried
Fitzsimmons, William M.
Flaherty, Gerry A.
Flinner, William W.
Flint, Robert C.
Florida, Frank E.
Fluck, John D.
Foley, Lee M.
Fone, Raymond B.
Forgays, Reginald E.
Fortson, Frank S., III.
Fowler, Gene G.
Fowler, William S.
Fox, Ronald G.
Frazer, Neil S.
Frederick, Herbert E.
Free, James R., Jr.
Freegard, Sidney B., Jr.

Freeman, James B.
Fuller, William J.
Furst, David E.
Galen, Howard E., Jr.
Garon, Norman G.
Gascho, Gerald G.
Gates, Franklin C.
Geithmann, Gary R.
Gentry, Ronald E.
Gilbert, Melvin L.
Glencoe, Thomas M.
Glidden, Eric S.
Glow, Dennis N.
Godwin, Jackie E.
Goins, Donald R.
Gold, William L.
Good, Steve H.
Gosselin, Charles L., Jr.
Gracia, Javier
Granlund, Richard
Green, Robert L.
Greene, Ronald M.
Greer, Arthur W.
Greer, Bernard
Griffin, John L., Jr.
Grissom, James M.
Grosz, Gary D.
Gschwend, David A.
Guidry, Dell J., Jr.
Gunter, Danny O.
Hadel, Paul J., Jr.
Hale, Dudley R.
Hall, Randal R.
Hallman, Lyston L.
Hammerle, Gerald T.
Hammontree, James D.
Hampton, Gary
Hanson, James H.
Harris, Robert R.
Hartman, Thomas T.
Haskell, Charles W., Jr.
Hedgpeth, Lewis F., Jr.
Heller, Richard B.
Henry, James P.
Hessler, Harold R.
Hickson, Dewey W.
Hieber, Raymond A.
Hightshoe, Ronnie L.
Hill, Thomas G.
Hilt, James R.
Hinnefeld, Garrett J.
Hogue, Charles W.
Holik, Manfred J.
Holkum, John V.
Hoover, Daniel L.
Hopkins, Michael R.
Howard, John L.
Howard, William J.
Huckfeldt, Larry W.
Hudgen, Earther L.
Hulse, Reynold N.
Hulsing, Russell D.
Hummel, Robert W., Jr.
Hunt, John H., Jr.
Hunt, Roy L.
Hurdle, Daniel C., Jr.
Hurst, Ernest W.
Hutchins, George R.
Iannetta, John M.
Iles, Douglas M.
Isaacson, Leroy D.
Isbell, Carlton, R.
Jaeh, Roland H.
James, Edwin M., III
James, Joseph D.
James, Robert O.
Johnson, Lester
Johnson, Patrick H.
Johnson, Warren P.
Johnson, William S.
Johnston, Sydney L.
Jolly, Edward G.
Jones, Buck P.
Jones, Howard L.
Jones, Ronald D.
Jones, William J.
Jordan, Austin T.
Jordan, Edwin M.
Joyce, Richard C.
Judd, Michael R.
Justet, Patrick K.
Kaufman, David L.
Kearney, Thomas E.
Kelly, Herbert C., Jr.
Kemp, Alfred D., Jr.
Kennedy, James V.
Kennedy, John P.
Kenyon, Robert J.
Kieffer, John R.
King, Kenneth J.
King, James C.
Kirst, Alfred O.
Kitts, Joseph C.
Kline, Robert S.
Klinehoffer, Larry B.
Knutson, Thomas E.
Koch, Harry G.
Komzelman, Edward E.
Krauss, Donald J.
Kroeger, Daniel R.
Kruse, Lance M.
Kulhanek, Darrell L.
Lake, James R.
Lane, Benjamin C.
Lane, Robert T., Jr.
Lapoint, John T.
Large, Ralph B.
Larson, Glenn K.
Larson, Jerome G.
Laughinghouse, Vernon P.
Law, Roger D.
Layne, Claude R.
Leasure, Rodger M.
Lecompte, Timothy E.
Lewis, Christopher H.
Licciardi, Dominick, Jr.
Lightfoot, Bernard, Sr.
Lindsey, Keith A.
Llewellyn, Ronald A.
Lord, James M.
Lose, Jay D., Sr.
Luce, Loran L.
Ludwig, James W. S.
Lunt, Robert T.
Mackenn, John F.
Mahaffey, Joseph W.
Malone, Henry B.
Malone, Lawrence P.
Maney, Timothy J.
Maples, Gene D.
Mariani, Stephen R.
Marsh, Robert W., Jr.
Marx, Keath L.
Mason, Leo
Maurer, Paul M.
McAllister, Archibald A.
McCarstle, Richard W.
McConville, Brian S.
McDaniel, Eldon L., Jr.
McElhinney, William J.
McGinnis, Daniel C.
McKillips, Lester T.
McKinney, Lawrence A.
McManus, Roger T.
McMullen, John W.
McNeal, Garrel R.
McPherson, Richard G.
Meadows, John R.
Meaker, Michael J.
Meeks, John D.
Mergen, William L.
Merkling, Kurt C.
Milan, Frederick T.
Miller, Charles R.
Miller, Richard E.
Milne, Marion K.
Minnick, Hubert W.
Mixon, James F.
Moon, Edward M., Jr.
Moore, Herman C., Jr.
Moore, Johnnie C., Jr.
Moore, Paul A., Jr.
Moore, Richard A.
Moore, Robert C.
Morris, Charles C.
Morris, Charles J.
Morris, Erwin C., Jr.
Morris, Leland
Morrison, James S.
Morrison, Ronald G.
Morrow, Benedict
Morton, George H.
Morton, George W.
Mosher, Robert D.
Moss, Curtis
Mow, Warren C.
Moyer, John W.
Mueller, John H.
Mundy, Merlin E., Jr.
Mundy, Charles T., Jr.
Nash, David D.
Naylor, James G.
Noha, Joseph P., Jr.
North, Albert L.
Nunnink, Leo A.
Nuss, Jimmie L.
Nuti, Fred T.
Nutting, Dwight P.
Oakes, Robert P.
Oberst, Alan P.
Odell, Joseph M.
Ohara, Vincient B.
Olson, Warren H.
Onken, Charles R.
Opseth, Don E.
Overton, Robert W., Jr.
Owens, Raymond P.
Parker, Kenyon B.
Parsons, Robert M.
Patton, Gary D.
Paulikonis, John F.
Payne, Ronald L.
Pearce, Johnny L.
Pearson, Richard A.
Pehl, Thomas L., Jr.,
Peitzmeyer, Kenneth D.
Perriman, Ronald O.
Perry, Harry M.
Pesses, Thomas M.
Petska, Lyle R.
Phillips, Frankie L.
Phipps, Frank P.
Piepenhagen, Ulrich G.
Pierce, Donald A.
Pimm, Bruce B.
Plimmer, Emmett L.
Poch, Richard R., Sr.
Porter, Phillip V. Jr.,
Porter, Robert L.
Poston, Charles B.
Powell, Bobby K.
Proctor, Danny L.
Pudsey, William E.
Pugh, Ray E.
Putnam, Bruce C., Jr.
Raley, James R.
Randall, Charles R.
Ratliff, Ruben M.
Rea, Jerry F.
Reed, Ralph G.
Reeves, Richard D.
Reinke, Gerald G.
Richards, Daniel R.
Ritchie, Freddie W.
Roach, Frank E., Jr.
Roberts, Richard H.
Robinson, Gerald L.
Rohlf, Dale M., Jr.
Roles, James R.
Romine, Duane L.
Ross, Steven S.
Rossi, Michael A.
Rundgren, Conrad L.
Russell, Robert D.
Rylander, Jon L.
Safford, Russell M.
Sage, William R.
Satterwhite, Lonnie G.
Sawyer, Thomas E.
Saye, William A.
Scalia, August
Scarbrough, Travis E.
Schaefer, Andrew C.
Schlatter, Ronald K.
Schmidt, Stanley L.
Schmidt, William A.
Schoenberg, William D.
Schropp, John T.
Schuhl, Peter C.
Schulmeister, Arnold R. J.
Schultz, William L.
Schumacher, Wayne
Schwartz, Gerald M.
Scott, Daniel D.
Scott, Gordon F., Jr.
Scott, Michael F.
Sewell, William J., Jr.
Sheridan, Dennis D.
Sherman, John A.
Shick, Harold D.
Shoaf, Charles W.
Shriver, John M.
Shuck, Ronald G.
Shull, Kenneth G.
Shutters, William D., II
Shuttlesworth, Jack L.
Siar, Richard K., Jr.
Sidner, William H., Jr.
Singer, Larry
Sisemore, Marion R.
Sitton, William E.
Sizemore, Jack
Skeba, Edward J.
Slack, Robert H.
Slade, George W.
Smeltzer, Lowell L.
Smith, Albert L.
Smith, Carl H.
Smith, Donald J.
Smith, Donald M.
Smith, Glenn L.
Smith, George W.
Smith, Henry B.
Smith, Malcolm E.
Smothers, Curtis J.
Snyder, Robert G.
Sody, Richard A.
Spann, Robert W.
Speer, William W.
Sperlich, James L.
Spillers, Jerry W.
Squier, David W.
Starnes, John H.
Steib, John F., Jr.
Steiner, Michael B.
Stephens, Arnold D.
Stephens, Hugh L.
Stewart, James R.
Stewart, William J.
Stiles, Kenneth R.
St John, Charles W.
Stoddard, Leon B.
Stolarz, Robert M.
Stoneking, Robert H.
Stout, Chester H.
Stuart, Daniel W.
Stuntz, Richard L.
Sturm, John R.
Sulman, Bernard I.
Swanlund, Donald F.
Swartz, Melvin C., Jr.
Swayne, Richard E., Jr.
Swecker, Joseph B., Jr.
Syrovatka, Vladimir
Tanner, marvin M.
Tanner, Richard F.
Taylor, Henry H.
Temple, James M., Jr.
Theobald, Robert L.
Thomas, Richard H.
Thompson, Carl W.
Thompson, Robert A., Jr.
Thornberry, Donald E.
Thornton, Fred D., Jr.
Thorson, Robert C.
Thrift, Henry S., Jr.
Thurman, Curtis W.
Tidd, Thomas J.
Tinney, Thomas G.
Touchon, Andrew
Trimmer, Thomas A.
Turner, Raymond T., Jr.
Ursery, Ronald M.
Vancleave, Jerry M.
Vandermeer, Raymond R.
Vanhook, Keith C.
Vann, Jarvis W.
Vanvleet, Barry L.
Verhage, Lloyd K.
Verhasselt, Ray J.
Viar, Lawrence E.
Vick, Roger L.
Vlcek, Ralph M.
Walker, John M.
Wallace, Robert E.
Walsh, Richard B.
Waltemyer, Clyde L., Jr.
Walter, Mervyn D.
Walthall, James E.
Waterfield, James L.
Weaver, Jimmie D.
Weavil, Richard L.
Webb, John A.
Weckerle, Richard S.
Weidetz, Alvin L., Jr.
Weisinger, Jack P.
Welch, Brian W.
Welch, Lawrence N.
Welsh, Kenneth H.
Werbiskis, James J.
West, Louis F.
West, Spencer T., Jr.
White, Merion D.
White, William R.
Whiting, Daniel E.
Whitted, George W.
Wickham, Larry R.
Wildey, Gary R.
Wilhelm, Wallace W.
Williams, Nathaniel, Jr.
Williams, Stephen P.
Willits, Larry L.
Wise, Carlton J.
Wise, Terry P.
Woodbury, John S.
Woods, Joseph
Woodward, Curtis B.
Woolsey, Ronald T.
Wright, David J.
Wrightson, David J.
Yoneda, Minoru M.
Young, John H.
Young, Leroy
Zakrajsek, Michael J.

SUPPLY CORPS

Adams, Donald E.
Birr, Donald K.
Brown, Robert A.
Burbach, Donald E.
Butler, Louis E.
Candanoza, Jose R.
Carpenter, Robert W.
Crossman, Oliver A.
Devine, Arthur W.
Fernandez, Wilfredo O.
Gore, William L.
Hall, Terry A.
Harris, Leslie A.
Haskins, James H.
Hastings, Robert T.
Kempa, Aloysius F.
Kostich, Michael E.
Kuenzinger, James R.
Litchford, Larry J.
Love, Odell G.
Mack, James E., Jr.
Mallard, Frederick L.
Mixson, Frank L.
Monday, James A., III
Oxford, Russell D.
Pettaway, Henry E.
Pratt, Walter J.
Pulley, Alvin B.
Reitz, Richard D.
Rohrscheib, James V.
Russell, William M.
Sinclair, Charles E.
Thompson, Robert V.
Treziok, Walter C.
Vasta, Alfio J.
Walsworth, Danny L.
Weeder, Courtland C.

CIVIL ENGINEER CORPS

Donado, Paul
Jensen, Albert H.
Williams, Samuel S.