HOUSE OF REPRESENTATIVES—*Thursday, February 24, 1983*

The House met at 11 a.m.

Rev. Philip A. Tammaru, Estonian Lutheran Church, Seabrook, N.J., offered the following prayer:

O Lord, Author of Liberty, You have endowed us, Your children, with certain unalienable human rights. Help us to secure them to ourselves and to our neighbors in the world.

We see these rights curtailed in many nations. Today we remember especially Estonia, declared independent on this day 65 years ago. Now Estonia is in the clutches of a totalitarian Communist power.

Help us to preserve Your world through human works of civil righteousness. Restore the dignity of man.

Endow with the spirit of wisdom those to whom the authority of government is entrusted that there may be justice and peace at home and abroad.

Help us to eliminate terror and oppression, that peace may prevail with righteousness and justice with order; and that men and women from various cultures and with differing talents may find with one another the fulfillment of their humanity. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

REV. PHILIP A. TAMMARU

(Mr. HUGHES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HUGHES. Mr. Speaker, I am pleased to acknowledge the presence of my constituent, the Reverend Philip A. Tammaru. Reverend Tammaru is pastor of the Estonian Evangelical Lutheran Church of Seabrook, N.J.

Reverend Tammaru offered the prayer in the House of Representatives this morning, which is the 65th anniversary of the declaration of independence of the Republic of Estonia.

Reverend Tammaru was born of Estonian parents in St. Petersburg, now Leningrad, Russia. He attended school in Estonia and graduated from the School of Theology of the University of Tartu in 1934. In 1935 he was ordained by the archbishop of the Estonian Lutheran Church in Tallinn, the capital of Estonia.

After immigrating to the United States in 1950 Reverend Tammaru served parishes in Ohio for more than 20 years before coming to New Jersey in 1973 where he presently conducts services in Estonian and German as well as in English at the Estonian Evangelical Lutheran Church of Seabrook.

Pastor Tammaru has been awarded the Crusade for Freedom Award for outstanding assistance against aggression. He has served two terms as a member of the Estonian-American National Council.

In addition to his service in the Estonian Evangelical Luthern Church of Seabrook, he has contributed articles and sermons on religion to magazines in the United States and Sweden and he has conducted devotions on radio.

It is with great pride and pleasure that I welcome him here today.

REQUEST FOR PERMISSION FOR COMMITTEE ON SCIENCE AND TECHNOLOGY TO HAVE UNTIL MIDNIGHT TOMORROW TO FILE REPORT ON H.R. 1310, EMERGENCY MATHEMATICS AND SCIENCE EDUCATION AND THE NATIONAL ENGINEERING AND SCIENCE PERSONNEL ACT OF 1983

Mr. FUQUA. Mr. Speaker, I ask unanimous consent that the Committee on Science and Technology may have until midnight Friday, February 25, 1983, to file a report to accompany the bill (H.R. 1310) to provide assistance to improve elementary, secondary, and postsecondary education in mathematics and science; to provide a national policy for engineering, technical, and scientific personnel; to provide for costsharing by the private sector in training such personnel; and for other purposes.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

Mr. CHANDLER. Mr. Speaker, reserving the right to object, I would ask the gentleman if this has been cleared with the ranking minority member of the Committee on Science and Technology.

Mr. FUQUA. Mr. Speaker, will the gentleman yield?

Mr. CHANDLER. I yield to the gentleman from Washington.

Mr. FUQUA. The gentleman is a member of the committee and the bill was reported by the committee. In order to accommodate a request by the minority to file minority views by the close of business today, under the rules of the House the bill cannot be filed unless the House is in session, and this gives us until tomorrow to file the bill which was reported by the committee.

Mr. CHANDLER. I would ask the gentleman if he would just allow us to reach the ranking minority member of the committee and withhold his request until we have heard from him.

Mr. FUQUA. Mr. Speaker, I withdraw my request.

The SPEAKER. The gentleman withdraws his request.

DEMISE OF A GREAT AMERICAN MYTH

(Mr. MOLLOHAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MOLLOHAN. Mr. Speaker, yesterday the newspapers reported a story that signals the demise of a great American myth. Yesterday Atari, one of the major American high-tech companies, announced that it was abandoning this country in pursuit of lower production costs in Taiwan. As a result, 1,700 American workers will be without a job.

For too long, Mr. Speaker, this myth has gone unchallenged. The people of this country have been encouraged to foresake the industrial backbone of this country in favor of the high-tech diety. This newcomer promised a cure for our economic and environmental ills. We were told that jobs would be plentiful and the air cleaner without our smokestack industries such as steel.

I do not question the need, Mr. Speaker, for high technology. It is woven into the fabric of our daily lives and provides necessary diversity.

I submit, however, that the rhetoric surrounding this new industry has succeeded primarily in shrouding the real issue—unfair foreign trade practices.

What has happened to Atari has and will continue to cripple every major American industry as long as we continue to compete against other nations that heavily subsidize their national corporations, dump their products, and receive foreign aid from us to bolster their own foreign trade markets.

It is time, Mr. Speaker, to lay the myth of high technology to rest and protect all our industries against these unfair trade practices.

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

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

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

HARSH CRIMES DESERVE HARSH PENALTIES

(Mr. BIAGGI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BIAGGI. Mr. Speaker, today I am introducing a package of major anticrime bills aimed at slowing the revolving door of our Nation's criminal justice system.

Specifically, my bills would:

Impose a mandatory 2- to 25-year prison sentence for persons convicted of using a firearm to commit a crime;

Prescribe the death penalty for certain Federal crimes that result in death, including terrorist acts, treason, kidnaping, and attacks against the President of the United States, the President-elect, a foreign head of state—while in the United States—a Federal judge or a Federal law enforcement officer;

Eliminate the insanity defense for persons charged with assassinating or attempting to assassinate the President of the United States;

Make it a Federal crime to willfully damage a mass transportation system and sentence those convicted to a maximum $10,000 fine and/or up to 25 years in prison;

Lower the age persons can be tried as adults from 18 to 15; and

Require the fingerprinting of juvenile criminals and allow the courts to obtain information about a person's juvenile crime record.

These tough anticrime measures are more than justified. Violent crime has risen 58 percent from 1972 to 1981—an average increase of 5.8 percent a year. Property crime has gone up 61 percent from 1972 to 1981—an average increase of 6.1 percent a year.

The 1981 Uniform Crime Report, issued by the Federal Bureau of Investigation, shows that in 1981 there were a total of 13.3 million crimes committed in the United States—1,321,900 violent crimes, and 11,968,400 property crimes.

In the violent crime category, there were 22,520 murders, 81,540 forcible rapes, 574,130 robberies, and 643,720 aggravated assaults.

In the property crime category, there were 3,739,800 burglaries, 7,154,500 larceny-thefts, and 1,074,000 motor vehicle thefts.

In my home city of New York, the figures are equally disturbing. In 1981, there were 1,826 murders, 3,862 forcible rapes, 107,495 robberies, 43,783 aggravated assaults, 205,825 burglaries, 258,369 larceny thefts, and 104,706 motor vehicle thefts.

This means that in New York City, there are approximately 1,988 total crimes committed per day, over 430 violent crimes per day, and over 1,558 property crimes per day. More specifically, there are over 5 murders per day, over 10 rapes per day, over 294 robberies per day, over 119 aggravated assaults per day, over 563 burglaries per day, over 707 larcency-thefts per day, and over 286 motor vehicle thefts per day.

As a former law enforcement officer, I am proud to say that more and more arrests are being made. But, all too often, the thugs and hoodlums terrorizing our streets are given little more than a slap on the wrist by our overly lenient judicial system. My bills would take some of the discretionary sentencing powers away from the courts and insure that harsh penalties are imposed for harsh crimes.

Mr. Speaker, I would urge that these bills and other similar anticrime measures, including my bills (H.R. 473) to impose tough new penalties for antireligious acts of violence and (H.R. 474) to establish increased mandatory penalties for terrorist attacks on Federal buildings, receive prompt and favorable consideration.

PERMISSION FOR COMMITTEE ON SCIENCE AND TECHNOLOGY TO HAVE UNTIL MIDNIGHT TOMORROW TO FILE A REPORT ON H.R. 1310, EMERGENCY MATHEMATICS AND SCIENCE EDUCATION AND THE NATIONAL ENGINEERING AND SCIENCE PERSONNEL ACT OF 1983

Mr. FUQUA. Mr. Speaker, renewing my earlier request, I ask unanimous consent that the Committee on Science and Technology may have until midnight Friday, February 25, 1983, to file a report to accompany the bill (H.R. 1310) to provide assistance to improve elementary, secondary and postsecondary education in mathematics and science; to provide a national policy for engineering, technical, and scientific personnel; to provide for cost-sharing by the private sector in training such personnel; and for other purposes.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

There was no objection.

EQUAL PROTECTION IN EMPLOYMENT TO THE HANDICAPPED

(Mr. MOAKLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. MOAKLEY. Mr. Speaker, I have recently reintroduced legislation that will bring equal protection in employment to the handicapped under the Civil Rights Act of 1964.

Under existing law there is no generally applicable prohibition against employment discrimination on the basis of handicap. Title VII of the Civil Rights Act of 1964 prohibits employment discrimination on the basis of race, color, religion, sex, or national origin: But it provides no protection for disabled workers.

The widespread exclusion of handicapped workers from employment exacts an enormous toll in terms of human dignity and the quality of life for countless Americans. Over 16 million people age 18 to 64 years reported some level of work disability in the 1976 census. Of this handicapped population, there were only 7.1 million persons working.

It is vital to realize that most of these people desire employment but do not work because of unjust and discriminatory hiring policies.

The handicapped face the dilemma of being discriminated against in employment opportunities because they are evaluated on the basis of false generalizations, misconceptions, and misinformation about their handicaps, not on the basis of their job skills, productivity or performance.

Qualified individuals, time and again, are denied employment because of their disability when the disability would in no way interfere with their job performance. Our handicapped deserve the opportunity to be evaluated and hired on the basis of their ability and not their handicap.

The need for this legislation is obvious. There are too many employers who still will not hire an otherwise qualified individual for the sole reason of their disability. Some employers cling to the myths related to hiring the handicapped. Fears of increased insurance rates, lower job performances and job stability, poor attendance and the required physical adjustment turn employers away from hiring the handicapped.

This unnecessary situation weighs a heavy cost on society. In 1980, it was estimated that the Federal Government spent approximately $1 out of every $13 in the Federal budget—$40 billion—to support our disabled population. State, local, and private support for disabled citizens amounts to approximately an additional $60 billion. Surely by eliminating employment discrimination of the handicapped we can help reduce this economic burden on taxpayers.

Additionally, and more important, by enacting this legislation we can help reduce the loss in human terms that is caused by discrimination against handicapped individuals. Too many deserving people are excluded from society's mainstream; left to lose their dignity and self-worth.

The time has come to include the handicapped individuals as a protected element in our population under title VII of the Civil Rights Act of 1964; protecting handicapped persons

against all forms of employment discrimination under that title.

We must demonstrate our Nation's firm commitment to ending discrimination against the handicapped by enacting this legislation. I hope my colleagues will support me in my effort to give the handicapped an equal opportunity in employment.

Text of the bill follows:

H.R. 1200

A BILL To amend title VII of the Civil Rights Act of 1964 to make discrimination against handicapped individuals an unlawful employment practice

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That a reference in section 2, 3, 4, 5, or 6 of this Act to a section or other provision is a reference to a section or other provision of the Civil Rights Act of 1964.

SEC. 2. Section 701 is amended by adding at the end thereof the following:

"(l)(1) The term 'handicap' means the status of any individual—

"(A) who has a physical or mental impairment which substantially limits any of such individual's major life activities;

"(B) who has a record of such an impairment; or

"(C) who is regarded as having such an impairment.

"(2) Such term does not include the status of an individual who is an alcoholic or a drug abuser—

"(A) whose current use of alcohol or drugs prevents such individual from performing the job involved; or

"(B) whose employment, because of such current use of alcohol or drugs, would constitute a direct threat to property or safety of other individuals.".

SEC. 3. (a) Sections 703(a)(1), 703(a)(2), 703(b), 703(c)(1), 703(c)(2), 703(d), and 703(e)(1) are each amended by striking out "or national origin" each place it appears and inserting in lieu thereof "national origin, or handicap".

(b) The sentence beginning "Notwithstanding any" in section 703(h) is amended—

(1) by striking out "or national origin" the first place it appears and inserting in lieu thereof "national origin, or handicap"; and

(2) by striking out "sex or national origin" and inserting in lieu thereof "sex, national origin, or handicap".

(c) Section 703(j) is amended—

(1) by striking out "or national origin" the first place it appears and inserting in lieu thereof "national origin, or handicap";

(2) by inserting after "national origin" the second place it appears the following: ", or persons with any handicap,"; and

(3) by inserting after "national origin" the third place it appears the following: ", or person with such handicap,".

(d) The center heading of section 703 is amended by striking out "OR NATIONAL ORIGIN" and inserting in lieu thereof "NATIONAL ORIGIN, OR HANDICAP".

SEC. 4. Section 704(b) is amended by striking out "or national origin" each place it appears and inserting in lieu thereof "national origin, or handicap".

SEC. 5. The sentence beginning "No order of the court" in section 706(g) is amended by striking out "or national origin" and inserting in lieu thereof "national origin, or handicap".

SEC. 6. (a) Section 717(a) is amended by striking out "or national origin" and inserting in lieu thereof "national origin, or handicap".

(b) Section 717(c) is amended by striking out "sex or national origin" and inserting in lieu thereof "sex, national origin, or handicap".

SEC. 7. The amendments made by this Act do not affect any right, remedy, obligation, or responsibility under the Rehabilitation Act of 1973.

SEC. 8. this Act and the amendments made by this Act shall take effect at the beginning of the sixth month after the month in which this Act is enacted.

THE 98TH CONGRESS SHOULD REEXAMINE FOREIGN POLICY PRIORITIES

(Mr. EDGAR asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EDGAR. Mr. Speaker, this week the Defense Minister of the Republic of the Philippines, Juan Ponce Enrile, is in Washington to consult with Pentagon officials. This visit signifies our Government's continuing support for a repressive regime in the Philippines.

The administration has fully supported the Marcos government, despite the latter's well-documented record of human rights violations. Since President Marcos' trip to the United States last September, suppression of dissent in the Philippines has increased—it includes the arrest of church leaders and the establishment of a strategic hamlet program in contested areas.

With the visit of Minister Enrile, the Philippine Government will ask for more military aid. This event, as well as the upcoming renegotiation of the Philippine bases agreement, should motivate all Members to reconsider our current policy of unqualified support for an undemocratic government. Are our national security interests served by propping up an unpopular dictator? Are our interests advanced by backing isolated regimes whose domestic programs thwart their people's desire for justice, self-determination, and equality?

I hope that my colleagues will join me in taking this opportunity to reexamine our foreign policy priorities for the 98th Congress.

SWEETWATER JAYCEES 25TH ANNUAL RATTLESNAKE ROUNDUP

(Mr. STENHOLM asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STENHOLM. Mr. Speaker, I am proud to have this opportunity to salute the Sweetwater, Tex., Jaycees on the very special occasion of the 25th anniversary of their annual rattlesnake Roundup. Each year since 1958, the Sweetwater Jaycees have sponsored what has become the largest event of its kind in the United States. The Jaycees Rattlesnake Roundup brings thousands of visitors to Nolan County in west Texas, where they participate in a variety of activities associated with this unique community event.

This year, in celebration of their 25th anniversary, the roundup has been expanded to 4 days, March 10 to 13, and planned activities include snakehandling and snake-milking demonstrations, a rattlesnake meat eating contest, and a parade featuring the Miss Snake Charmer Queen contestants.

The Sweetwater Rattlesnake Roundup not only provides fun and entertainment, but important benefits as well. Proceeds from the roundup go to the Sunshine Inn in Sweetwater, a facility for handicapped and disadvantaged citizens of Nolan County. The venom is made available for public and private research by reputable groups and individuals. Venom extracted from the snakes has proven to be quite useful in medical research. Treatment of certain ailments in unborn children, treatment of certain mental disorders, medical applications for snake bite and other medical benefits have come from the venom extracted at this Sweetwater event. Most recently, significant discoveries have been made in cancer research through tests with the venom coming from the Sweetwater Rattlesnake Roundup.

The Sweetwater Jaycees are effectively informing countless thousands of people from all across the United States about the rattlesnake, and have been since this event began. Their year-round efforts are impressive. I congratulate them on their past successes, and extend my personal wish that this year's roundup be the very best ever.

□ 1115

REPORT ON RESOLUTION PROVIDING FOR PERMANENT PROFESSIONAL AND CLERICAL STAFF OF THE PERMANENT SELECT COMMITTEE ON INTELLIGENCE

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 98-8) on the resolution (H. Res. 58) providing for permanent professional and clerical staff of the Permanent Select Committee on Intelligence, which was referred to the House Calendar and ordered to be printed.

GROUND DISPOSAL OF TOXIC HAZARDOUS WASTES

(Mr. BREAUX asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BREAUX. Mr. Speaker, if there is any one thing that is absolutely essential that we learn coming out of our experiences with the Environmental Protection Agency and all the problems that we have been having, it is simply that as long as we continue to dispose of toxic hazardous waste in the ground or on the ground, we are going to continue to have problems with any administration and with any agency in trying to delicately balance all the interests that are concerned.

I will be introducing legislation this morning which will, within 5 years, completely eliminate all land disposal of toxic hazardous waste. The legislation would also immediately after its enactment eliminate the use of landfill disposal of hazardous wastes if the administration can certify that there are other means of treating these toxic hazardous wastes such as incineration, such as neutralization, such as chemical destruction, such as thermal destruction.

There are numerous other ways that we should be handling toxic chemical wastes other than sticking them in the ground or on the ground.

I would urge my colleagues to look at this legislation and consider cosponsoring it.

PERMISSION FOR COMMITTEE ON THE JUDICIARY TO FILE REPORT ON H.R. 3, PROVIDING FOR APPOINTMENT OF UNITED STATES BANKRUPTCY JUDGES

Mr. SCHUMER. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary may have until midnight tonight, February 24, 1983, to file a report on the bill (H.R. 3) to provide for the appointment of United States bankruptcy judges under article III of the Constitution, and for other purposes.

The SPEAKER pro tempore (Mr. PENNY). Is there objection to the request of the gentleman from New York?

There was no objection.

INDUSTRIAL DEVELOPMENT BOND LIMITATION ACT

(Mr. PICKLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PICKLE. Mr. Speaker, the purpose of my asking for a special order today is to discuss with this body a bill that I have introduced today, H.R. 1635, which is called the Industrial Development Bond Limitation Act.

This bill places meaningful restrictions on the use of tax exempt, private purpose industrial development bonds and is intended to help prevent further erosions of the value of public purpose municipal bonds used to finance the traditional functions of State and local governments.

This is a very serious matter which affects the American people, and I hope that the Members will be privileged to hear my remarks and to notice in the RECORD also a copy of the bill which is being requested for publication.

MUGGING LOW-INCOME WORKERS

(Mr. PETRI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PETRI. Mr. Speaker, the President's opponents claim they are for the little guy. But look at what some of them want to do—they want to eliminate tax indexing, which is the best protection low-income workers have against higher taxes.

Without tax indexing, inflation causes taxes to go up by pushing people into higher tax brackets. The tax-and-spend crew in Congress likes this because it means higher taxes without the embarrassment of having to vote for them.

Because of the bracket creep, for every 1 percent of inflation, the Federal Government's income tax collections go up 1.6 percent; 1 percent of that figure keeps the Government even with inflation, but the extra 0.6 percent is a windfall for the Government—a windfall at the expense of the taxpayers who lose purchasing power even though their pretax wages are only keeping pace with price increases.

The indexing law which is scheduled to go into effect in 1985 is designed to stop this mugging of the taxpayers.

Who benefits from indexing? It is the guy with a low income, not the rich. The tax brackets are narrowest at the low end of the scale, and the rich are already in the highest bracket, so it is those who are hurting the most who find themselves paying more as a result of bracket creep.

Why, then, do the "friends of the poor" in this Congress want to do away with indexing? Such legislators are addicted to high spending policies. For them, raising taxes takes precedence over most everything else.

TO REPEAL SECTION 311 OF THE FEDERAL PUBLIC TRANSPORTATION ACT OF 1982

Mr. LEVITAS. Mr. Speaker, I ask unanimous consent that the Committee on Public Works and Transportation be discharged from further consideration of the bill (H.R. 1572) to repeal section 311 of the Federal Public Transportation Act of 1982, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

Mr. GINGRICH. Mr. Speaker, I reserve the right to object.

Mr. LEVITAS. Mr. Speaker, will the gentleman yield?

Mr. GINGRICH. I yield to my colleague from Georgia.

Mr. LEVITAS. I thank the gentleman for yielding.

Mr. Speaker, the purpose of this legislation, which is cosponsored by myself, the gentleman from Georgia, and the other gentleman from Georgia, is to repeal a provision that was written into the Surface Transportation Act passed in December of last year, which provision likewise was put into that legislation by the two gentlemen from Georgia dealing with the matter of the Metropolitan Atlanta Rapid Transit Authority to assure that the State government and local officials could make some decisions concerning the direction of the rapid transit line.

That action has been effected now. The purpose of the amendment has been very well served and we are seeking by this action to repeal that provision so that the compromise reached in the Georgia Legislature may go forward.

Mr. GINGRICH. Further reserving the right to object, Mr. Speaker, would the gentleman agree that this lays the base for the successful completion of a complete rail system from the airport to downtown and the opportunity for both De Kalb County, which has more than amply paid its fair share, and the airport, which is the economic center of our region, to be adequately served?

Mr. LEVITAS. Mr. Speaker, if the gentleman will yield further, the gentleman is absolutely correct. The arrangements which have now been harmoniously reached will serve the best interests not only of those citizens in De Kalb County, Ga., whom I represent, by getting the rapid transit line further out into that area at a much earlier time, but also serve the needs of the entire State of Georgia and the Metropolitan Atlanta area by insuring adequate rapid rail transportation from the magnificent, beautiful, large Atlanta Airport serving not only Atlanta, Ga., the South, but the Nation and the world.

● Mr. HOWARD. Mr. Speaker, I rise to commend the gentlemen from Georgia for taking the leadership role insuring that the Atlanta metropolitan area will continue to have and develop one of the Nation's model rapid rail systems. I am pleased to have played a role in this endeavor because as chairman of the Public Works and Transportation Committee which authorizes funding for the Nation's transportation systems, as well as oversees the development of the Na-

tion's transportation systems infrastructures, it is good to see the positive results of this hard work, and the Metropolitan Atlanta Rapid Transit Authority (MARTA) is an excellent example. It is important to note that MARTA is supported by a local sales tax and that the gentlemen from Georgia have diligently worked to protect the large investment made not only by the local people and governments but by the Federal Government.●

Mr. GINGRICH. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

The Clerk read the bill, as follows:

H.R. 1572

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 311 of the Federal Public Transportation Act of 1982 is repealed.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. LEVITAS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

WELCOMING HER MAJESTY QUEEN ELIZABETH II AND HIS ROYAL HIGHNESS THE PRINCE PHILIP, DUKE OF EDINBURGH, ON THEIR OFFICIAL VISIT TO THE UNITED STATES

Mr. ZABLOCKI. Mr. Speaker, I ask unanimous consent that the Committee on Foreign Affairs be discharged from further consideration of the concurrent resolution (H. Con. Res. 65) welcoming Her Majesty Queen Elizabeth II and His Royal Highness The Prince Philip, Duke of Edinburgh, on their official visit to the United States, and ask for its immediate consideration in the House.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

Mr. BROOMFIELD. Mr. Speaker, reserving the right to object, I do so for the purpose of giving the committee chairman an opportunity to discuss the resolution.

Mr. ZABLOCKI. Mr. Speaker, will the gentleman yield?

Mr. BROOMFIELD. I am happy to yield to the gentleman from Wisconsin.

Mr. ZABLOCKI. I thank my friend, the gentleman from Michigan, for yielding.

Mr. Speaker, House Concurrent Resolution 65 is a simple, straight-forward and very brief expression of welcome on behalf of the Congress to Her Majesty Queen Elizabeth II and His Royal Highness The Prince Philip, Duke of Edinburgh, on the occasion of their forthcoming visit to the United States.

The gentleman from California (Mr. LAGOMARSINO) had introduced and cosponsored this resolution, and I do want to pay tribute to him as well as to the ranking minority member of the Committee on Foreign Affairs, the gentleman from Michigan (Mr. BROOMFIELD).

As noted in the text of the resolution, the royal couple will be visiting a number of cities and regions of the west coast, exclusively, between February 26 and March 7 and will meet on two occasions with President and Mrs. Reagan. House Concurrent Resolution 65 specifically welcomes them on their goodwill visit to this country and in so doing, accords special recognition to the ties of the friendship between the peoples of the United States and the United Kingdom and the important political, economic, and cultural relationship existing between the two countries.

Mr. Speaker, this resolution was approved by unanimous voice vote by the Committee on Foreign Affairs. I urge its immediate adoption as a gesture of courtesy and respect, which this body traditionally accords to the chief of state of a friendly country and important NATO ally.

Mr. BROOMFIELD. Mr. Speaker, I am delighted to rise in support of this resolution. I am pleased to know that Her Majesty Queen Elizabeth II and His Royal Highness The Prince Philip, Duke of Edinburgh, are again planning to visit America. I trust that the royal couple will find their all-too-brief visit to several American cities, naval facilities, national parks, and universities both informative and pleasant. I am certain that all of us in Congress wish the royal couple a memorable stay in our country.

After many visits to England, I have always been impressed by the hospitality and the sincere friendliness of the English people. Milton once said that England set a precedent in teaching the nations of the world how to live. I see in the English people a high level of personal integrity, a sense of fair play, and a respect for others. These qualities are a testimony to England's invaluable contributions to mankind in the area of human rights.

As all of my colleagues well know, the English people and England have played a special role in America's history. The English occupy a special place in the hearts of all Americans. Although G. B. Shaw once said that England and America were two countries separated by the same language, cooperation and trust have typified the relationship between our peoples.

We have marched together in good times and in bad ones. We have shared the joy of victory and the agony of failed hopes. As a child of the Old World, America carried the culture of England, its European mother, to the New World. Our language and our political and judicial systems are rooted in England. Our close cultural bonds have long enriched our two societies. The great accomplishments of America are, in a sense, England's accomplishments. I believe that I can say that all of us in Congress and all Americans look forward to working with the English people in the future in this unique and rewarding relationship between our two free nations.

I eagerly support this fine resolution. I extend a personal welcome to our special visitors to a land which cherishes so much the values of freedom and liberty. During this period when the forces of suppression, who would gladly deprive all of us of our freedom, are increasingly active in the world at large, we relish this all-too-frequent opportunity to have the royal couple visit America. I extend a warm and hearty welcome to Her Majesty and His Royal Highness The Prince Philip.

Mr. Speaker, I withdraw my reservation of objection, and I wish to commend the chairman of our committee for his explanation of this resolution. I join him in his sponsorship.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 65

Whereas Her Majesty Queen Elizabeth II and His Royal Highness The Prince Philip, Duke of Edinburgh, will pay an official visit to the United States from February 26 to March 7, 1983;

Whereas the royal couple will travel on board the H.M.Y. Britannia, visiting several cities on the west coast of the United States, including San Diego, Los Angeles, Palm Springs, Santa Barbara, San Francisco, Sacramento, and Seattle;

Whereas they will visit important United States naval facilities, institutions of higher learning, business and cultural organizations, and hospitals, and will spend a weekend at Yosemite National Park; and

Whereas they will be received by President and Mrs. Reagan at the President's ranch and, in return, will host a dinner for the President and First Lady aboard the H.M.Y. Britannia: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That in special recognition to the historical ties of friendship

between the peoples of the United States and the United Kingdom, the highly valued political and economic relationship which exists between our two countries, and the cultural bonds which have long enriched our two societies, the Congress hereby extends a warm welcome to Her Majesty Queen Elizabeth II and His Royal Highness The Prince Philip, Duke of Edinburgh, on the occasion of their official visit to the United States.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ZABLOCKI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the concurrent resolution just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

TIGHTER SUPERVISION NEEDED ON FOREIGN LOANS

(Mr. WYLIE asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. WYLIE. Mr. Speaker, one of the issues we will be considering on the House floor soon will be the international debt problem and the role of the IMF. The administration has negotiated a reasonable increase in the IMF quota. The subject is very controversial and not one which is easily understood. Ted English, a friend of mine and the business editor of the Columbus Citizen-Journal, has done an excellent job in summing up the difficulty of understanding the problem which I commend to my colleagues for their attention.

TIGHTER SUPERVISION NEEDED ON FOREIGN LOANS

(By Ted English)

With world attention focusing on the meetings of the International Monetary Fund, publication of a knowledgeable new book about the worldwide banking crisis comes at just the right time.

The "Money Lenders," written by Anthony Sampson, comes out Thursday. Sampson also authored "The Sovereign State of ITT," "The Arms Bazaar" and "The Seven Sisters."

His new book maintains that the worldwide banking crisis has resulted from huge loans to unstable, low-growth countries by a few private money lenders who are not answerable to anyone.

It is imperative, says Sampson, that international organizations, "including the IMF and the World Bank and groups of central banks like the BIS in Basel—take over more responsibility for lending to developing countries."

Sampson, a British journalist, is editorial adviser to the Brandt Commission which met in Ottawa in December. His book reflects the knowledge gained from that position and also throws a light into the labyrinthine corridors of international finance.

But we live in Central Ohio. Who cares if Citibank, Chase Manhattan, Bank of American or Manufacturers Hanover get into trouble because they advanced too much money to foreign firms and governments?

It would be great if we didn't have to care. But in the 1980s, what happens in another part of the country, or another part of the world, cannot be avoided or ignored in Columbus.

Corn and soybeans grown in Ohio cannot be sold to Russia, Poland, India or China if those countries don't have the money to pay their international bills. The whole system suffers if they can't pay their bank loans.

That lesson was driven home last year as prices of U.S. bank stocks plunged, pulling other stock prices down, when it appeared Mexico might default on loan payments because of lower oil prices.

The Mexican crisis came on the heels of the Penn Square Bank collapse. Penn Square failed partly because of its "aggressive loan policy" which led to too many loans based on ever increasing oil prices. In plain English, they loaned money to poor risks. Penn Square's demise was even felt in Columbus (fortunately not very strongly).

With huge loans out to Mexico, Brazil, Argentina and Poland, it's easy to see why the debate in Congress over the U.S. contribution to IMF has sometimes been labeled an effort to "bail out" the big, international banks.

Sampson's book does not provide any concrete solutions, but it does help one understand how tightly interwoven the world's economies have become in the last decade.

In today's world, more than ever before, neither governments nor bankers can operate in isolation. The bankers' huge foreign loans and the political decisions by American administrations can have grave consequences for the entire world.

Sampson makes this clear as he walks the reader through the Iranian hostage crisis. He details the maneuvering by bankers, lawyers and diplomats on three continents when the Carter administration froze Iran's assets because it made prisoners of 42 Americans.

That crisis was worked out. But it gave new urgency to demands for more international safeguards. As the Brandt Commission said in Ottawa, "In this crisis the fate of the rich and the poor countries, the industrial and the agricultural communities, is inextricably linked."

In its first report, "A Program for Survival," Sampson said, the commission noted that richer countries have so many mutual interests with developing countries that it's dangerous to ignore their economic plight.

The book indicates loan considerations will have to be made on a different basis. It will no longer suffice that a loan makes the bank a lot of money, but banks will have to consider the consequences—whether or not the loan will help the country and its people.

On Friday in Washington, the finance ministers of 22 countries called on nations around the world to add another $32 billion to the IMF. Now it is up to the various governments.

In hearings, before the House Banking committee, ranking Republican Chalmers P. Wylie, R-Columbus, urged a bipartisan approach to the issue. He predicted Congress would act to avert an international financial crisis, which also would threaten the U.S. economic recovery.

Earlier, Federal Reserve Chairman Paul A. Volcker had asked the committee and Congress to approve a $10 billion increase in the U.S. quota to the IMF.

Wylie said that, although Congress has no choice but to back an IMF quota increase, members on both sides of the aisle want tighter foreign loan supervision by the bank regulatory agencies.

"Today, ironically, bank regulators, the Fed and the Treasury are all in the position of having to encourage U.S. Banks—often the smaller and medium-sized banks—to actually increase their exposure to countries already deeply in debt," said Wylie, "to give those countries some breathing space in which to bring their accounts into balance."

He called for "permanent reforms of the system so that we are not soon confronted with another crisis."

THE INDUSTRIAL DEVELOPMENT BOND LIMITATION ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. PICKLE) is recognized for 30 minutes.

Mr. PICKLE. Mr. Speaker, today I am introducing H.R. 1635, the Industrial Development Bond Limitation Act. This bill places meaningful restrictions on the use of tax-exempt, private-purpose industrial development bonds and is intended to help prevent further erosion of the value of public purpose municipal bonds used to finance the traditional functions of State and local government.

The need for this legislation, Mr. Speaker, is urgent. Historically, the Congress has preserved for public entities, and public entities alone, the right to raise the moneys needed to finance their activities, free of Federal income tax.

Yet, Mr. Speaker, for the first time, in 1982, the dollar volume of private purpose, tax-exempt bonds, which has grown dramatically since 1975, actually surpassed the volume of public purpose tax-exempt issues.

This development was little noted in the headlines of the Nation's newspapers; but, rest assured, it's impact will be felt by every community and every pocketbook in this country for many years to come.

As the use of private purpose industrial development bonds skyrocketed from $4.9 billion in 1975 to $41.6 billion in 1982, the cost of local government has increased. The fact that local tax and local user fees must be raised to pay for the resulting increase in interest rates has become increasingly clear.

In the process of providing cheaper financing for private businesses, industrial development bonds have increased the cost of public projects and services, reduced Federal tax revenues, and put our cities and counties in the position of serving as financial intermediaries for private sector developers and speculators.

The use of industrial development bonds has become popular with some Members of Congress and has been endorsed and used by many of our cities and counties and other public entities. This is understandable because in some instances these kinds of bonds can be very useful and can help a community. But the use of industrial development bonds (IDB's) nationwide has increased in such an alarming manner that we, the Congress, must take direct and immediate action to prevent further deterioration in the value of traditional "public purpose" bonds.

Mr. Speaker, our local officials have been placed in the position of approving and promoting the sale of private purpose tax exempts. In many instances, they have done it without public hearings and without the approval of the local electorate or its representative government. Our TEFRA legislation last summer change that and made a few other cosmetic corrections, but we did not go far enough. The temptation for local officials to parcel out tax subsidies to private enterprise is still too strong. Many have recognized that there is virtually no accountability in the present system and that by "sprinkling holy water" on an IDB project, the city council or county government can take credit for the construction of a new plant facility, shopping center, or hotel/motel. Rarely are economic feasibility studies or cost analyses required. Seldom is an independent assessment of need requested. IDB financing is cheap and it is easy. And, unfortunately, little thought is given to the fact that in approving a project for IDB financing, local officials are helping dry up sources of revenue for traditional municipal tax-exempt bond programs. The inevitable result of IDB financing, as attractive as it may seem, is that local political subdivisions will have to raise taxes or user fees in order to pay for the increased cost of interest on public purpose bonds.

There are times and places where IDB's can and should be used. But, Mr. Speaker, if we do not control them, if we do not reduce their overall attractiveness, we may very well destroy the traditional tax-exempt program. As much as a community wants to have an IDB project in its area, as appealing as it is to build a new shopping center or a hotel or apartments, the cold and honest truth is that we are allowing private business to reap a tax benefit amounting to some 2 to 3 percent interest on the bonds—$200,000 to $300,000 per year in tax subsidy on a typical $10 million "small issue" deal. The revenue loss to the Federal Government exceeds the interest savings to the beneficiary of the tax-exempt financing. We have to ask ourselves what business does the Federal Government have in allowing DuPont or any other large corporation the right to ask Uncle Sam to finance their projects. The Federal Government has many serious problems of its own, and we ought to avoid trying to help any major corporation or real estate developer in making the Federal Treasury foot the bill for their projects.

For the record, Mr. Speaker, let me give you a bit of background on these IDB programs:

Tax-exempt, private purpose bonds are corporate bonds issued by a government entity and are similar to municipal bonds. They differ, however, from municipal bonds which are used to fund public works projects sponsored by a municipal, State or public authority in that they are issued by governments to raise funds for private development.

In the past 6 or 7 years, the use of these bonds to subsidize the borrowing costs of private business has increased dramatically. In 1975, the issuance of bonds for private business activities amounted to $4.9 billion or 16 percent of all tax-exempt bonds. By 1982, the figure had jumped to a total of $41.6 billion or 48 percent of all tax-exempt bonds issued. At the present time—because of the flood of IDB applications throughout the United States—IDB's probably constitute some 60 percent of the tax-exempt bonds issued. Given another year or two, this could easily climb to 75 percent.

The cost of all this private purpose bond activity has been high. Five years ago, the ratio of interest rates on tax-exempt bonds to the interest rates on taxable bonds averaged about 65 percent. Last year, the interest rate ratio of tax-exempt bonds to taxable bonds jumped to 80 percent and above. As more tax-exempt bonds are issued, this ratio can be expected to increase, driving up the cost of traditional public projects.

If the increase amounts to just 1 percentage point of added interest local governments must pay to finance public projects, then the private purpose, tax-exempt bonds issued in 1983 alone could cost taxpayers well over $1 billion in extra interest, and that will continue for each year the bond issue remains outstanding. Many finance experts believe the impact could be even greater than that.

The ingenuity of bond attorneys and investment bankers should never be underestimated. These bond attorneys peddle IDB's like hotcakes. It is a downright embarrassment to witness this selling procedure. Recently, a new issuance technique has been developed which combines FDIC or FSLIC deposit insurance with tax-exempt financing. Here is how it works. Bonds are issued with an understanding that no bondholders will purchase more than $100,000 of the bonds—FDIC and FSLIC insurance is limited to deposits of $100,000 or less. A trustee then deposits the proceeds of the issue on behalf of each bondholder in special certificates of deposit in a cooperating savings and loan association or commercial bank. The funds are then lent by the financial institution to the beneficiary at an interest rate reflecting the rate on the tax-exempt bonds. The bondholders not only enjoy tax-exempt interest income, but bear no risk because of the Federal deposit insurance. The banks essentially sell the deposit insurance provided by the Federal Government by charging the beneficiary of the tax-exempt borrowing a few extra points.

Incidentally, Mr. Speaker, commercial banks and wealthy individuals gobble up these IDB issues to shelter their income from Federal taxes. The banks claim the tax-free exemption—a 100-percent exemption—and bank portfolios are stuffed with all the IDB's the law will allow. One result is that the effective tax rate on bank movers around 5 percent while all the rest of us pay four, five, and six times that amount.

For many years, the Federal Government has had the policy of not insuring or guaranteeing tax-exempt bonds because, by doing so, debt instruments are created that are superior to those issued by the Federal Government. This new practice violates that policy. By eliminating bondholder risk, it will lead to the further proliferation of IDB's. By tying FDIC and FSLIC insurance to particular real estate projects rather than bona fide deposits, the FDIC and FSLIC are being exposed to new and unintended risks. This practice must be stopped.

Mr. Speaker, I know there are some valid, worthwhile multifamily bonds in the pipeline, and I do not want to hurt a project which is nearing completion. But, we must set an early effective date for this measure so that the industry and public officials will know that we are going to sharply control the issuance of these kinds of bonds.

Accordingly, the effective date of my bill with repect to the FSLIC/FDIC provision is April 15 or date of enactment, whichever is sooner.

With this exception, the remainder of the bill will become effective on date of enactment.

I think it is entirely appropriate, Mr. Speaker, that lucrative tax loopholes like the FSLIC-backed bonds, be shut down effective April 15, the filing date when most of the rest of us pay our fair share of Federal income taxes.

Beyond doubt, the issuance of private purpose bonds will continue to grow explosively in the absence of additional limits. Meaningful restrictions on these tax-exempt bonds will help restore the benefit of tax-exempt financing for traditional Government purposes and will reduce the growing

Federal revenue loss attributable to the increasing volume of private purpose, tax-exempt obligations.

H.R. 1635, the Industrial Development Bond Limitation Act will meet this need. Major provisions of the bill are as follows:

(1) Restrictions on "private purpose" tax-exempt IDB's.

(a) Requires recovery of the costs of depreciable assets financed with tax-exempt bonds using straight line depreciation over extended recovery periods: 5 years for 3-year property; 8 years for 5-year property; 15 years for 10-year property; 22 years for 15-year public utility property; and 25 years for 15-year residential and non-residential real property.

Full ACRS deductions are still allowed for low or moderate income multifamily housing, but extended lives are required for all other properties financed with industrial development bonds.

(b) Prohibits tax-exempt IDB financing where obligation is directly or indirectly guaranteed or insured by the FSLIC or FDIC.

(2) Additional limitations on "small issue" IDB's.

(a) Restricts the use of the small issue exemption to businesses and their subsidiaries:

(i) With total capital expenditures not exceeding $20 million worldwide during the period beginning 3 years prior to issuance of the bonds; and

(ii) With no more than $20 million of tax-exempt IDB's outstanding after issuance of the bonds.

(b) Eliminates the use of the small issue exemption for the purchase of land.

(3) These provisions would become effective on date of enactment.

For your convenience, a copy of H.R. 1635, The Industrial Development Bond Limitation Act, is herewith reprinted.

H.R. 1635

A bill to amend the Internal Revenue Code of 1954 with respect to the tax treatment of industrial development bonds

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Industrial Development Bond Limitation Act of 1983".

SEC. 2. COST RECOVERY FOR PROPERTY FINANCED WITH TAX-EXEMPT BONDS.

(a) GENERAL RULE.—Paragraph (12) of section 168(f) of the Internal Revenue Code of 1954 (relating to limitations on property financed with tax-exempt bonds) is amended by striking out subparagraphs (B), (C), and (D) and inserting in lieu thereof the following:

"(B) RECOVERY METHOD.—

"(i) IN GENERAL.—Except as provided in clause (ii), the amount of the deduction allowed with respect to property described in subparagraph (A) shall be determined by using the straight-line method (with a half-year convention and without regard to salvage value) and a recovery period determined in accordance with the following table:

"In the case of:	The recovery period is:
3-year property	5 years.
5-year property	8 years.
10-year property	15 years.
15-year public utility property	22 years.

"(ii) 15-YEAR REAL PROPERTY.—In the case of 15-year real property, the amount of the deduction allowed shall be determined by using the straight-line method (determined on the basis of the number of months in the year in which such property was in service and without regard to salvage value) and a recovery period of 25 years.

"(C) EXCEPTIONS.—Subparagraph (A) shall not apply to any recovery property which is placed in service in connection with projects for residential rental property financed by the proceeds of obligations described in section 103(b)(4)(A)."

(b) TECHNICAL AMENDMENT.—Paragraph (12) of section 168(f) of such Code is amended by redesignating subparagraph (E) as subparagraph (D).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to property placed in service after the date of the enactment of this Act to the extent such property is financed by the proceeds of an obligation issued after such date of enactment.

SEC. 2. TAX EXEMPTION DENIED WHERE PROCEEDS INVESTED IN FEDERALLY-INSURED DEPOSITS.

(a) GENERAL RULE.—Subsection (b) of section 103 of the Internal Revenue Code of 1954 (relating to industrial development bonds) is amended by adding at the end thereof the following new paragraph:

"(15) PROCEEDS MAY NOT BE INVESTED IN FEDERALLY-INSURED DEPOSITS.—

"(A) IN GENERAL.—Paragraphs (4), (5), (6), and (7) shall not apply to any obligation issued as part of an issue if a significant portion of the proceeds of the issue are to be invested (directly or indirectly) in deposits or accounts in a federally-insured financial institution.

"(B) EXCEPTIONS.—Subparagraph (A) shall not apply to—

"(i) proceeds of the issue invested for an initial temporary period until such proceeds are needed for the purpose for which such issue was issued,

"(ii) investments related to debt service, or

"(iii) investments of a reserve which meet the requirements of subsection (c)(4)(B).

"(C) FEDERALLY-INSURED FINANCIAL INSTITUTION.—For purposes of this paragraph, the term 'federally-insured financial institution' means—

"(i) a bank (as defined in section 581),

"(ii) a mutual savings bank, cooperative bank, domestic building and loan association, or other savings institution, or

"(iii) a credit union,

the deposits or accounts in which are insured under Federal law."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to obligations issued after April 14, 1983 or, if sooner, the date of the enactment of this Act.

SEC. 3. LIMITATIONS ON SMALL ISSUE EXEMPTION.

(a) GENERAL RULE.—Section 103 of the Internal Revenue Code of 1954 (relating to interest on certain governmental obligations) is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (1) the following new subsection:

"(m) LIMITATIONS ON SMALL ISSUE INDUSTRIAL DEVELOPMENT BONDS.—

"(1) SMALL ISSUE EXEMPTION LIMITED TO SMALL BUSINESSES.—

"(A) IN GENERAL.—Paragraph (6) of subsection (b) shall not apply to any issue if the principal user of any facilities being financed with such issuer is a large business.

"(B) LARGE BUSINESS.—For purposes of subparagraph (A), the term 'large business' means any person if the aggregate amount of capital expenditures incurred by such person in connection with a trade or business during the 3-year period ending on the date of the issuance of the issue exceeds $20,000,000.

"(C) CERTAIN CAPITAL EXPENDITURES NOT TAKEN INTO ACCOUNT.—For purposes of subparagraph (B), any capital expenditure described in clause (i) or (iv) of subsection (b)(6)(F) shall not be taken into account.

"(D) RELATED PERSONS.—For purposes of this paragraph, all persons who are related (within the meaning of subsection (b)(6)(C)) to each other shall be treated as 1 person.

"(2) AGGREGATE LIMIT PER TAXPAYER FOR ALL ISSUERS.—

"(A) IN GENERAL.—Paragraph (6) of subsection (b) shall not apply to any issue if the aggregate authorized face amount of such issue (when increased by the outstanding small issue obligations of any principal user of any facilities being financed with such issue) exceeds $20,000,000.

"(B) OUTSTANDING SMALL ISSUE OBLIGATIONS OF ANY PERSON.—For purposes of applying subparagraph (A) with respect to any issue, the outstanding small issue obligations of any person who is a principal user of any facilities being financed with such issue is the aggregate face amount of all small issue obligations—

"(i) which financed any facilities a principal user of which was such person, and

"(ii) which are outstanding at the time of such later issue (not including as outstanding any obligation which is to be redeemed from the proceeds of the later issue).

"(C) DEFINITIONS.—For purposes of this paragraph—

"(i) SMALL ISSUE OBLIGATION.—The term 'small issue obligation' means any industrial development bond (as defined in subsection (b)(2)) to which paragraph (1) of subsection (b) does not apply solely by reason of paragraph (6) thereof.

"(ii) RELATED PERSONS.—All persons who are related (within the meaning of subsection (b)(6)(c)) to each other shall be treated as one person."

(b) SMALL ISSUE EXEMPTION NOT AVAILABLE FOR FINANCING LAND.—Subparagraph (A) of section 106(b)(6) of such Code is amended by striking out "land or".

(c) EFFECTIVE DATE.—

(1) Except as provided in paragraph (2), the amendments made by this section shall apply to obligations issued after the date of the enactment of this Act.

(2) For purposes of determining the outstanding small issue obligations of any person under section 103(m)(2)(B) of such Code (as added by this section), all obligations whether issued before, on, or after such date of enactment shall be taken into account.

□ 1145

HAZARDOUS WASTE DISPOSAL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Tennessee (Mr. SUNDQUIST) is recognized for 5 minutes.

Mr. SUNDQUIST. Mr. Speaker, today I am introducing two bills, which together can turn what appears to be an unresolvable problem into industrial and employment opportunities.

It is clear that the problem of hazardous wastes has become a monumental one. We continue to produce over 60 million metric tons of hazardous wastes each year, yet negative public reaction to landfills has virtually brought the location of new landfills to a complete standfill.

Health and potential future problems from these landfills continually fill our media with horror stories. Just this week the Federal Government has offered to buy out all 2,400 residents of a community in Missouri because it was confirmed that the town is too contaminated to be safe for human habitation. But the amazing thing to me is that despite all the disasters we have witnessed associated with chemical pollution in the ground, EPA continues to license trash companies to bury toxic wastes. The EPA officials tell me that the current state of the art techniques for dumping chemical wastes are sufficient. The problem with that is that state of the art techniques change every year—hazardous wastes are supposed to stay in the ground forever. We only have to look back to the infamous Love Canal and remember that it was state of the art technology when the chemical wastes were first dumped there.

So, my review of the problem suggests that EPA does not have the comprehensive authority necessary to make national environmental policy. Even the basic data to make such a policy is not available at the Federal level. Recently, I went to EPA with what I consider to be fundamental questions. How many acres of land have been licensed for the purpose of dumping hazardous wastes? How much of that acreage has been filled to date? And what volume remains? Believe it or not, this data is not available at EPA and officials there told me that even if the data were available from State sources there would be no way to assure its accuracy.

We must look at an entirely new approach to the problem of what to do with continuing production of these wastes in this country.

So what the alternative? Obviously more regulation at EPA is not the answer. The population of this country has spoken clearly on that subject. Government can take a role but it should be to provide an incentive to the private sector to solve this problem. My proposal does this.

First, I propose a moratorium on any additional EPA licensed permits for hazardous waste landfills. It is very likely that we now have decades, indeed hundreds of years of existing landfill capacity, and until we know for sure, we cannot continue granting these permits and dumping these chemicals all over this country.

After establishing that we will no longer license those potentially unsafe landfills, we must then address the major issue of what do we do with the 60 million mertic tons of hazardous wastes produced here each year.

My second legislative proposal addresses this issue by providing to the generators of hazardous wastes a tax credit of 2 cents a pound, if that generator chooses to dispose of that waste through recycling procedures as opposed to dumping. This amount would be sufficient to make existing and new recycling facilities competitive with firms that dump hazardous wastes underground.

I feel this is a realistic approach with a modest goal of recycling 25 percent of this 60 million metric tons of waste in 5 years, or in simple terms 33 billion pounds. The revenue impact woud be $660 million over these 5 years, however, there is a substantial amount of revenue and savings that certainly will offset this entire revenue loss. This is no pie-in-the-sky proposition—100 percent of all hazardous wastes can be dealt with in ways besides digging a hole and dumping them into the ground. In fact, 70 percent can be recycled in an economically feasible way. This technology exists and the companies exist to recycle these wastes.

Let us look at a hypothetical model for example. If you were to establish a relatively small recycling facility capable of transporting, processing, and recycling 30 million pounds of hazardous waste, that firm or plant would employ about 45 persons, with an average payroll of $900,000 or $20,000 per employee. These 45 employees would in turn generate $130,000 in taxes annually while the corporation that employs them would pay $250,000 in taxes. Also, there would be a significant capital investment in new plant equipment.

If we were successful in recycling this 25 percent of hazardous wastes in 5 years we could generate an estimated 40,000 jobs in the recycling industry alone. And this does not even include the impact of a multiplier effect in the economy. We could also expect a reduction in the current administration and structure at EPA by an equivalent 25 percent, and in the long term we can look forward to the reduction in the Superfund account because we will be reducing the threat of cleanup costs for hazardious wastes dumps. Also, this tax credit for recycling will assist in developing energy resources, thus our dependence on foreign energy sources is reduced.

In conclusion, Mr. Speaker, I urge the Congress to study and analyze these revenue losses and gains carefully, I am confident that the benefit to the Treasury far outweighs the costs from this tax credit I am proposing.

Since coming into office I have heard much talk about the nationwide chemical waste dilemma, but little talk about long-range solutions. After considerable study by myself and my staff, I am convinced that these two bills are at least the beginning of the answer to the fundamental problems surrounding hazardous waste disposal.

LEGISLATION AMENDING SOCIAL SECURITY ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maine (Mr. McKERNAN) is recognized for 5 minutes.

● Mr. McKERNAN. Mr. Speaker, in recent months, matters concerning social security have been foremost on the minds of many Americans. Today, I am pleased to be introducing a bill on behalf of myself and several of my colleagues, to amend title II of the Social Security Act and chapter 21 of the Internal Revenue Code of 1954 to provide for two changes to move us toward the goal of insuring social security trust fund solvency and toward restoring the confidence of social security program participants.

Title I of this bill provides for coverage of Members of Congress under the social security system. It is often argued by critics of the social security system that if social security is such a good program, and in fact if the program is sound, than why are Members of Congress exempted from participation? This provision answers that concern. Those who pay into social security, and who depend upon it, deserve the reassurance that their elected representatives who create the laws are subject to them. This action will both demonstrate our faith that Congress will resolve the problems of social security and it will allay the fears of citizens who are concerned about the future of social security. The provision to cover Members of Congress under the social security system would be effective on January 1, 1984.

Title II of this bill mandates changes in the handling of uncashed social security checks. Money paid by citizens in good faith for social security should not be used by the Government for other purposes. Under the current procedures, the Social Security Administration estimated that more than $30 million in uncashed checks will go into the Treasury's general fund this year, rather than being credited back to the social security trust funds from which they were originally drawn. As Members of the 98th Congress, we have the responsibility of facing the long-term problem of social security solvency; procedures such as this are a slow drain on the system and clearly must be corrected. In fact, the Nation-

al Commission on Social Security Reform addressed this problem specifically in its proposal, recommending that the amount of uncashed Old Age, Survivors and Disability Insurance checks in the past be credited back to the social security trust funds. This proposal enjoyed bipartisan support among members of the Commission. I am happy to say that this bill, too, enjoys bipartisan support here in the House.

The two changes proposed in this bill, while small in nature, will help to demonstrate that the 98th Congress believes in the long-term solvency of the social security system, and will be taking steps to insure it.●

U.S. INVOLVEMENT IN MIDDLE EAST

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. PAUL) is recognized for 5 minutes.

Mr. PAUL. Mr. Speaker, this week President Reagan pledged U.S. border protection for Israel if Israel removes its troops from Lebanon. As Commander in Chief the President certainly can respond militarily in an emergency, if our Nation is attacked or our security threatened. But by no stretch of the imagination can it be said that such an elaborate arrangement in the Middle East is required for America's security. Moreover, the President has no authorization to make any such agreement.

This assumption of power is, nevertheless, the logical outgrowth of a decades-old foreign policy based on our extended commitments overseas. An interventionist foreign policy creates problems, the so-called solutions to which can only be found in further commitments and intervention. I do not believe the American people are happy with the ever-growing number of obligations we have assumed over the last several decades, but they feel helpless to change this policy.

Israel has not and will not benefit from our persistent involvement in the Mideast. Since our dollars flow to both Arabs and Israelis, we will not be inclined to allow either side to decide for itself what is in its own best interest.

Israel under today's circumstances cannot retain its sovereignty for we will always feel compelled to criticize their actions if in our opinion these actions destabilize the area. This is true whether it involves their borders with Gaza in the south or the settlement on the West Bank. I think what they do in these areas is their business, not ours. How would we feel if a country halfway around the world told us how we should act in the face of what we believed to be a threat to our borders?

Committing unlimited troops and Americans dollars to secure a border betweeen two warring factions who have fought for thousands of years does not make much sense. Our presence in the Middle East helps neither the Arabs nor the Israelis and it does little to increase the probability of peace in the long run. Although the proponents of these policies are sincere in their intent to bring peace, their actions in fact jeopardize America's interests. They increase the likelihood of our being engulfed in a regional conflict in which we need not and should not become entangled. In our attempt to befriend both Arab and Isreali, we inevitably will alienate both. Giving military support to two sides of a conflict and then proclaiming neutrality is not a tenable policy.

It is like buying two tomcats, putting them in a cage and then insisting they should not fight since they belong to the same owner. Obviously, putting your hand between the two to stop the fighting while pleading for reason will not work either.

But even if it did work, which it will not, where is the moral and constitutional authority for such a grandiose assumption of responsibility? Quite frankly, there is none. The responsibility of the administration and the Congress is to promote security for our Nation and to seek peace and harmony with all nations. Pursuing a policy of free trade with all and not giving aid to allies or potential adversaries would do more to enhance peace and prosperity than any attempt to guarantee borders in the Middle East or anywhere else. Such a policy cannot achieve peace between enemies halfway around the world. There is neither authority nor a popular mandate for it. There is no money for this kind of intervention either. We are broke, with $1 trillion debt staring us in the face. Expenditures of this sort will only hasten the day of our collapse.

We have already pumped a billion dollars into the Mideast in the name of peace, yet the powderkeg is as hot and dangerous as ever. This policy has been costly beyond words. There are many more dollars hidden in our Pentagon budget over and above the direct foreign aid expenditures we all know about. But the real threat lies ahead.

Continued intervention in the Middle East will only guarantee greater problems for us in the future. It cannot enhance our security. It can only jeopardize peace and weaken our own defenses.

TENANT RENTAL CONTRIBUTION ACT OF 1983

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. FRANK) is recognized for 5 minutes.

● Mr. FRANK. Mr. Speaker, today I am introducing the Tenant Rental Contribution Act of 1983. I am pleased to be joined by 39 of my colleagues, including the chairman of the Committee on Banking, Finance and Urban Affairs, Mr. ST GERMAIN; the chairman of the Housing Subcommittee, Mr. GONZALEZ; and my colleague on the Housing Subcommittee, Mr. SCHUMER.

As part of the Omnibus Budget Reconciliation Act of 1981, Congress, the President, made a very unfair decision. It raised the percentage of income to be paid by tenants in the various assisted housing programs from 25 percent of adjusted income, the level which had existed for a number of years, to 30 percent. With the multitude of budget cuts in domestic programs implemented by this administration already placing tremendous strain on our poorest citizens, increasing rents was a particularly unfortunate and untimely action.

The bill I am introducing today would return the proportion of income to the 25 percent level in the section 8, public housing, section 236, and rent supplement programs. In addition, it would standardize for the first time in statute the definitions of "income" and "adjusted income" for these programs. In these and other respects, this legislation does not change past or proposed regulatory policy by the Department of Housing and Urban Development. However, in order to insure continued fair treatment of low income tenants by the administration, I am proposing to put these policies into statute.

Likewise, the term "adjusted income," which serves as the base from which the 25-percent amount is calculated, is specifically defined in this legislation. Adjusted income is defined as the income remaining after deducting; $400 for each family member residing in the household who is under 18 (other than the head of household or his or her spouse), who is handicapped, disabled, a student, or is elderly; any unreimbursed medical expenses over 3 percent of income; or amounts paid for care of children, handicapped or disabled family members if such care is necessary to enable another family member to be employed; and any unreimbursed and unusual occupational expenses.

The act is made effective in the first month following enactment.

Mr. Speaker, those who reside in assisted housing are often those most directly affected by this administration's assault on domestic programs critical to the poor, elderly and disabled. Yet they are being asked at the same time to contribute a greater portion of their already strained budgets to housing costs. I believe this Congress has a responsibility to correct its action in the 97th Congress and to return the rental contribution to the much fairer 25-percent level.●

ESTONIAN INDEPENDENCE DAY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

● Mr. ANNUNZIO. Mr. Speaker, 65 years ago on February 24, 1918, the people of Estonia established an independent nation of their own, free of the domination imposed on them for centuries by the Russians. Today, I am privileged to commemorate the 65th anniversary of Estonian Independence Day and to focus attention on the heroism and courage of the Estonian people who continue to struggle, to pray, and to work for the day when Estonia can once again enjoy liberty.

The Estonian American National Council has issued a statement concerning the current situation in Estonia, and that statement follows as well as a memorandum from the Relief Centre for Estonian Prisoners of Conscience in the U.S.S.R.:

STATEMENT ON THE SITUATION IN ESTONIA

As the Estonian people all over the free world commemorate the 65th anniversary of their Declaration of Independence, the Estonians in Estonia are facing very serious threats to their language, culture, and their very existence as a nation.

One of the declared policies of the Soviet Union is the creation of the "new Soviet man". Schooled to believe in the tenets of Soviet communism, the "new Soviet man" would reject the culture of his ancestors, and embrace that of the Soviet Union. In reality, this is a policy aimed at crushing the individuality of the scores of nationalities encompassed by the Soviet Union, and subjugating them completely to the dominance of the Russian majority. It is an attempt to russianize them out of exestence.

In Estonia, this policy has already had many frightening consequences. The status of the Estonian language, and the right of the Estonians to use their mother tongue in their everyday lives has been sharply attacked. The ILTA-SANOMAT, Helsinki's evening newspaper, recently published photocopies of a secret directive ordering the Russian language to be granted preferential status at all official and educational levels in Estonia, in all cultural areas and, especially, in teacher's training. Addressed to the Estonian Communist Party, the directive was issued by its First Secretary, Karl Vaino, himself a russianized Estonian, born in Siberia.

The demographic situation of Estonia is also causing grave concern. A recent appeal to the West from 15 Estonian human rights activist expresses the fear that Tallinn, the Estonian capital, will be turned into a Russian city upon the completion of the new harbor. At present, Estonians constitute only 51.5% of the city's population, and the new harbor could bring an additional 100,000 to 200,000 non-Estonian immigrants to Tallinn. Over-industrialization of Estonia as a whole, with its resulting immigration of non-Estonians to fill the labor shortage, had, by 1979, already resulted in the number of Estonians falling to 64.7% of their country's total population (down from 92.5% in 1934).

1982 has brought tremendous changes in the leadership of the entire Soviet Union. The prospect of a future under Yuri Andropov cannot, however, be a very hopeful one for the Estonian people. Andropov is the only Russian leader, to date, who has personally visited Estonia. He came, after the student demonstrations of 1980, in his role as chief of the KGB, to chastise the local KGB for not effectively controlling and suppressing the nationalist sentiments of the population, as expressed by the thousands of school children marching through the streets of Tallinn and shouting anti-Soviet as well as anti-Russian protests. Considering also the ruthless suppression of the Ukrainian national movement executed by the KGB under Andropov's leadership, the Estonian national movement—inded, all national movements in the Soviet Union—must view the future with apprehension.

The beginning of 1983, has, however, brought some hopeful indications for the future. On January 13th, the European Parliament passed a resolution reiterating the right of the Baltic States of Estonia, Latvia and Lithuania, to self-determination. The resolution called for their case to be brought up at the follow-up meetings for the Helsinki Accords, and to be submitted to the UN Subcommittee on Decolonization, inasmuch as these countries are, in effect, Soviet colonies.

Happily, the United States government, as stated in a Voice of America editorial, has heartily endorsed this proposal:

". . . Bringing their colonial status before the United Nations would emphasize that time has not legitimized the Soviet claims to Estonia, Latvia and Lithuania. It would also remind the Kremlin leaders that the outside world is aware of their treatment of the Baltic populations—and of the harassment and imprisonment of the Baltic patriots who even today continue to defy the imperial Soviet state."

The resolute refusal by the United States to legitimize the Soviet seizure of the Baltic States is a fact which gives moral strength to those struggling within the Soviet Union. The Soviet authorities continually attempt to demoralize any opposition by constantly convincing them that they are alone, and abandoned by the rest of the world.

Dissident sources confirm that every scrap of evidence assuring them of the continued policy of non-recognition of the Soviet incorporation of the Baltic States, by the United States and other Western governments, serves as a boost to their morale. It means that they have not been forgotten after all!

NEW YORK, N.Y., *February 15, 1983.*

MEMORANDUM

STOCKHOLM,
December 8, 1982.

To: The Delegations at the Conference on Security and Cooperation in Europe at the Follow-up Meeting in Madrid.

From: Relief Centre for Estonian Prisoners of Conscience in the USSR.

The signing of the Final Act of the Conference on Security and Cooperation in Europe provided the guidelines for promoting peace, prosperity and security in Europe. The Final Act recognized that respect for human rights is an essential factor for the peace, justice and well-being necessary to insure the development of friendly relations and co-operation among individuals as among all States.

In flagrant violation of the Final Act the Soviet Union continues to deny the Estonian people basic human rights. Human rights activists and nationalists who dare to speak out against the oppressive Soviet regime are jailed, confined to psychiatric institutions and physically abused. In 1980-1982 about 40 national and human rights activists were arrested and sentenced to forced labour camps, compared with 60 during the whole decade of 1970-1979. In addition, more people had their homes searched, were questioned, forced out of employment, expelled from schools etc.

The most illuminating example of the many breaches of the Helsinki Agreement is the case of Mart Niklus, sentenced on January 8, 1981, to 10 years in special regime labour camp plus five years internal exile for "anti-Soviet agitation and propaganda", already referred in our memorandum of April 7, 1981. As appears from the attached description of his case (Appendix I) Mart Niklus is at present being held in a cell for solitary confinement in Perm forced labour camp No. 389/36. That means less food, ban on meetings with relatives and more restricted right to send and receive mail until April 8, 1983. Another example is the case of Tiit Madisson, sentenced on May 15, 1981 to four years in strict regime labour camp plus two years internal exile for "anti-Soviet agitation and propaganda" (Appendix II). On November 9, 1982, he started in Perm forced labour camp No. 389/37 a hunger strike in connection with the Follow-up Meeting in Madrid, lasting until the end of the Madrid Conference. He wants to leave the USSR and is seeking an emigration permit for himself and for his family.

We appeal to the signatories of the Helsinki Agreement to seek the implementation of the Final Act by requesting that:

1. The Soviet Union release Mart Niklus, Tiit Madisson and all other Estonian political prisoners from prisons, labour camps, psychiatric institutions and other places of detention and facilitate their return home.

2. The Soviet Union allow Mart Niklus and Tiit Madisson, who are seriously ill and have applied for emigration permits to leave the USSR.

3. The Soviet Union put an end to the deliberate violation of the human rights in Estonia.

Respectfully submitted.

ANTS KIPPAR,
Chairman.

Mr. Speaker, since 1917, when the Communists seized power in Russia, they have worked unceasingly to expand Russia's colonial empire, and even worse than the czars, they kill, torture, or imprison all those, Russian and non-Russian alike, who believe in the value and strength of religion. In 1940, Estonia was one of the victims of these brazen attempts to impose the Russian language and Russian Government on non-Russian peoples, just as in 1980 Afghanistan became the most recent victim in the Communist program of mass murder and slavery of subject peoples.

I am honored to join with Americans of Estonian descent in my own 11th District, which I am honored to represent, in the city of Chicago, and all over this country as they share with Estonians everywhere the prayers, the hopes and the determination that the Estonian people will have a free nation once again, and that the American people will remain alert to the fe-

rocious nature of the Communist tyrant.●

NOW IS THE TIME FOR A NEW GI BILL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Mississippi (Mr. MONTGOMERY) is recognized for 5 minutes.

● Mr. MONTGOMERY. Mr. Speaker, on February 10, I introduced H.R. 1400, to establish a new educational assistance program for veterans and members of the Armed Forces.

It will be recalled that at the beginning of the 97th Congress I introduced H.R. 1400, to establish a peacetime GI bill for persons who enter on active duty in the Armed Forces as a measure to enhance the recruitment and retention of quality military personnel. Subsequently, the Committee on Veterans' Affairs reported H.R. 1400 on May 19, 1981. Since my bill was jointly referred to the Committee on Armed Services, further hearings were held by its Subcommittee on Military Personnel and Compensation, following which H.R. 1400 was reported with amendments on May 17, 1982.

The bill I introduced has all the provisions of the legislation reported by the Armed Services Committee in the 97th Congress, except for the deletion of a cash-out provision which authorized the cashing out of earned educational benefits as provided in that legislation.

It is my view that it continues to be absolutely essential that we have an educational assistance program for the All Volunteer Force that will attract quality people and retain key personnel that are vital to the Armed Forces. Until the present economic downturn, the military was having extreme difficulty meeting its recruitment goals. Key mid-level noncommissioned and commissioned officers were leaving the service.

The decline in the economy, and particulary the increase in the unemployment rate, have been major factors in helping the Armed Forces meet their recruitment goals during this past year and have dramatically improved the retention rates. However, despite these statistics, it is pretty well agreed that for the long haul we must have a GI bill if the military is to effectively carry out its mission. We know that as the rate of unemployment begins to fall and the economy straightens out, the military will again have serious difficulties in recruiting and retaining quality personnel. In addition, the manpower pool is shrinking. The number of 17- to 21-year-old males will drop by more than 2 million by 1989, a time when military manpower needs will be increasing.

During the 97th Congress, 19 separate hearings were held in the House on this legislation by both committees. We received excellent testimony in support of H.R. 1400. For example, Lt. Gen. Maxwell R. Thurman, Deputy Chief of Staff for Personnel, U.S. Army, and former chief recruiter for the U.S. Army, stated:

> One of the things that is essential is that we get a long-term educational incentive program that is not subject to the vagaries of year-by-year determination. . . . We need a GI bill, and many of the features of H.R. 1400 are similar to the features that we perceive.

The President has indicated his support for an All Volunteer Force GI bill, However, the Department of Defense has taken the position that a GI bill is not needed at this time. I believe that this is a shortsighted view on the part of the Department of Defense policymakers, and it is totally inconsistant with the views of the military service chiefs.

The Department of Defense talks about H.R. 1400 being too costly. H.R. 1400 would end enrollments for new recruits in the veterans' educational assistance program (VEAP) with the Government's cost of VEAP offset against the estimated cost of H.R. 1400. It is estimated that in 1995, the military services will be spending $98.1 million for tuition and reimbursement programs. Most of this cost could be eliminated with the approval of H.R. 1400. The Congressional Budget Office has stated that this new proposed program has a cost projection range from $1 million in outlays for the first fiscal year to $187 million for the fifth fiscal year.

While H.R. 1400 is called a peacetime GI bill, it does not provide a level of benefits anywhere near comparable to previous GI bills. The bill attempts to accomplish the goal of providing recruitment and retention enhancement for members of the Armed Forces, including educational assistance for service in the National Guard and Reserves, but at the same time the provisions of the bill have been modified to give the Armed Forces more flexibility to recruit higher quality personnel and to retain key midlevel noncommissioned officers. The result is a bill with a very modest cost which will be paid back many times by the beneficiaries of the bill.

Mr. Speaker, we have a GI bill without the GI. The administration has requested over $5 billion for higher education assistance for fiscal year 1984.

My question is: Why cannot some of this money be made available to enhance the recruitment and retention ability for our military to have some money for education available for those who agree to serve a tour of duty in the military service.

During the 97th Congress, H.R. 1400 had 128 cosponsors. I hope that there will be an increase in the number of Members who will join me as cosponsors of H.R. 1400, 98th Congress. Therefore, any Members desiring to have their name added as a cosponsor should contact Beth Kilker at 225-9166.●

INTRODUCTION OF THE NEIGHBORHOOD DEVELOPMENT DEMONSTRATION ACT OF 1983

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. COYNE) is recognized for 5 minutes.

● Mr. COYNE. Mr. Speaker, I am today introducing, along with Mr. GARCIA of New York and 27 of our colleagues, the Neighborhood Development Demonstration Act of 1983.

Most Members of this body know, as I do, that the strength of a Nation is often rooted in the neighborhoods of its towns and cities. The cooperative and innovative activities undertaken there by largely volunteer groups accomplish tasks beyond the capability of other institutions in our society.

The Neighborhood Development Demonstration Act would stretch the Federal dollar while enabling neighborhood groups to go forward with projects that might otherwise be stillborn for lack of funds. Depending in part on the economic condition of the neighborhood involved, the Secretary of the Department of Housing and Urban Development could match the amount of private funds raised by a neighborhood group by ratios ranging from 3 Federal dollars to every voluntarily contributed dollar to 10 Federal dollars for each private one. Neighborhood groups could be funded for initiating projects in such areas as job training, housing rehabilitation, new enterprise development, and service delivery.

My city of Pittsburgh was the birthplace of the very successful neighborhood housing services, a program which encourages cooperation between neighborhood groups, lenders, and local governments. The vitality of the neighborhood groups in my city, and of those in the towns and cities elsewhere in the Nation where people have joined together for the common good, convinces me that this approach to development makes as much good sense as the NHS model.

A similar bill is today being introduced in the other body by Senator HEINZ of Pennsylvania. I urge my colleagues to consider sponsoring this House bill, and to join in working to make sure this measure becomes law this year.

At this point, I would like to insert into the RECORD a letter of support for this bill from the United States Conference of Mayors and a legislative summary of the bill's provisions.

Here follows that material:

U.S. CONFERENCE OF MAYORS,
Washington, D.C., February 23, 1983.

Hon. WILLIAM J. COYNE,
House of Representatives,
Cannon House Office Building,
Washington, D.C.

DEAR REPRESENTATIVE COYNE: On behalf of the membership of the U.S. Conference of Mayors, it is my pleasure to lend our support to the Neighborhood Development Demonstration Act of 1983.

The demonstration program authorized by your bill is a sensible way to continue federal support of neighborhood-based development efforts which are designed to stimulate employment and housing in distressed cities. Strong neighborhoods are the backbone of healthy cities. Continued federal support as envisioned by your legislation will ensure that the efforts which have been growing in recent years do not wither now for lack of support.

We are especially pleased by the bill's provision for a certification from the chief elected official of the locality in which the neighborhood group is located, that the activities are consistent with the city's own development efforts. This guarantee of close cooperation between City Hall and neighborhood development groups is an important feature of the bill.

We look forward to participating further in the development of this legislation as it moves through the legislative process, and hope you will feel free to call on our staff for assistance or comment as the bill moves along.

Thank you for this opportunity to share our views on your legislative initiative.

Sincerely,

JOHN J. GUNTHER,
Executive Director.

LEGISLATIVE SUMMARY—NEIGHBORHOOD DEVELOPMENT DEMONSTRATION ACT OF 1983

PURPOSE

The objective of the act is to demonstrate the feasibility of a new mechanism for encouraging neighborhood development activities such as housing rehabilitation, job training, service delivery, new enterprise development, and other endeavors. Federal matching funds—up to $50,000 in one year—would be provided to eligible neighborhood organizations which raise voluntary charitable contributions from individuals, businesses and religious organizations in their neighborhoods.

METHOD

The Act would authorize the Secretary of Housing and Urban Development to establish a three-year demonstration program to determine the practicality of this new mechanism. Participation in the demonstration program would be limited to 100 eligible neighborhood organizations in the first year, 200 in the second year, and 300 in the third year. The Secretary would establish a 15-member neighborhood development advisory council, composed of representatives of eligible neighborhood development organizations. This council would review and evaluate applications for funds, making recommendations to the Secretary for selection. The Secretary and council would attempt to balance population size, economic condition and geographic location of neighborhoods to provide a fair demonstration of the effectiveness of the assistance.

OPERATION

For each participating organization, the Secretary would establish a ratio by which voluntary charitable contributions made by individuals and businesses would be matched by federal funds. Depending on the economic conditions and the number of households and businesses in the neighborhoods involved, this ratio would be set no lower than 3 Federal dollars for every dollar of voluntary contribution, nor higher than 10 Federal dollars for every dollar of voluntary contributions. The local government must certify that the financial assistance is consistent with the neighborhood revitalization objectives of that unit.

ELIGIBILITY

Neighborhood development organizations would be eligible to participate in the program if they (1) are organized as a nonprofit corporation under laws of the state in which they operate (2) have a representative governing board (3) have conducted business for at least three years (4) operate within neighborhoods that meet the "pockets of poverty" criteria of the Housing and Community Development Act of 1974 (5) conduct one or more activities that mainly benefit persons of low or moderate income.

AUTHORIZATIONS

The Act would authorize $5 million dollars for fiscal year 1983; $10 million for fiscal 1984 and $15 million for fiscal 1985.●

H.R. 1028, SEMICONDUCTOR CHIP PROTECTION ACT OF 1983

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. EDWARDS) is recognized for 30 minutes.

● Mr. EDWARDS of California. Mr. Speaker, H.R. 1028 is a bill to amend title 17 of the United States Code to protect semiconductor chips and masks against unauthorized duplication, and for other purposes; to the Committee on the Judiciary.

SEMICONDUCTOR CHIP PROTECTION ACT OF 1983

On January 27, 1983, Congressman MINETA and I introduced a bill to extend the copyright law to protect semiconductor chip designs. Integrated circuits, or semiconductor "chips," have revolutionized the electronics industry. These chips are used to operate microwave ovens, cash registers, typewriters, printers, TV sets, refrigerators, hi-fi equipment, automobile engine controls, and many other consumer and industrial products. The chips are typically a quarter-inch square, and yet they may contain over 100,000 transistors photographically etched and deposited on a silicon wafer. Fitting these transistors into that small space, and placing them so that the device operates efficiently and economically, is a fine art and also a costly one. The layout and design process, and the preparation of the photographic "masks" used to etch, deposit layers on, and otherwise process the chips often take the innovating chip firms years, consume thousands of hours of their engineers' and technicians' time, and cost millions of dollars.

Yet, a pirate firm can photograph the chip and its layers, and in several months and for a cost of less than $50,000 duplicate the mask work of the innovator. Because the pirate firm does not have the enormous development costs borne by the innovator, the pirate firm can undersell the innovator and flood the market with cheap copies of the chip.

Continuation of such piracy may make it impossible for the semiconductor industry to continue to invest in development of new chips. Thus, unless this piracy is stopped, the industrial leadership enjoyed in the past by the American semiconductor industry may vanish.

Present law offers American industry only limited protection against this misappropriation of their technology. The current copyright laws give little, if any, protection, to semiconductor chips. Patent law can protect the basic electronic circuitry for new microprocessors or other new such products. But patent law does not protect the particular layouts and art work performed by the different American chip manufacturers in adapting those electronic circuits for a particular industrial purpose. Yet, it is those layouts and art works that consume thousands of staff hours, cost millions of dollars, and are pirated by free riders.

Summary of the bill. The bill addresses two major issues. First, it protects the substantial investments of innovating firms from misappropriation. It does this by granting 10 years of copyright protection to those who develop new integrated circuit mask designs and grants copyright owners exclusive rights to make, distribute, and reproduce images of the mask design and the chips embodying that design. Second, it protects semiconductor chip users from liability for innocent conduct and it also makes compulsory, reasonable royalty licenses available to them when necessary to protect their reasonable interests in their ongoing business activities as users of chips.

The text and the analysis of the bill follows:

H.R. 1028

A bill to amend title 17 of the United States Code to protect semiconductor chips and masks against unauthorized duplication, and for other purposes

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 "Semiconductor Chip Protection Act of 1983".

DEFINITIONS

SEC. 2. Section 101 of title 17 of the United States Code is amended by adding at the end thereof the following:

"A 'semiconductor chip product' is the final or intermediate form of a product—

"(1) having two or more layers of metallic, insulating, or semiconductor material, deposited on or etched away from a piece of semiconductor material in accordance with a predetermined pattern;

"(2) intended to perform electronic circuitry functions; and

"(3) that is a writing or a discovery, or the manufacture, use, or distribution of which is in or affects commerce.

"A 'mask work' is a series of related images—

"(1) having the predetermined, three-dimensional pattern of metallic, insulating, or semiconductor material present or removed from the layers of a semiconductor chip product; and

"(2) in which series the relation of the images to one another is that each image has the pattern of the surface of one form of the semiconductor chip product.

"A 'mask' is a substantially two-dimensional partially transparent and partially opaque sheet. A mask embodies a mask work if the pattern of transparent and opaque portions of the mask is substantially similar to the pattern of one of the images of the mask work. Masks and mask works shall not be deemed pictorial, graphic, or sculptural works.

"As used in sections 109(a), 401, 405, 406, 501(a), 503, 506, 509, and 602 of this title, 'copy' includes a semi-conductor chip product that is subject to the exclusive rights described in section 106.".

SUBJECT MATTER OF COPYRIGHT

SEC. 3. Section 102(a) of title 17 of the United States Code is amended—

(1) by adding after paragraph (5) the following:

"(6) mask works;"; and

(2) by redesignating paragraphs (6) and (7) as paragraphs (7) and (8), respectively.

EXCLUSIVE RIGHTS

SEC. 4. Section 106 of title 17 of the United States Code is amended—

(1) by striking out "and" at the end of paragraph (4);

(2) by striking out the period at the end of paragraph (5) and inserting "; and" in lieu thereof; and

(3) adding at the end thereof the following:

"(6) in the case of mask works—

"(A) to embody the mask work in a mask;

"(B) to distribute a mask embodying the mask work;

"(C) to use a mask embodying the mask work to make a semiconductor chip product;

"(D) in the manufacture of a semiconductor chip product, substanitally to reproduce, by optical, electronic, or other means, images of the mask work on material intended to be part of the semiconductor chip product; and

"(E) to distribute or use a semiconductor chip product made as described in subclause (C) or (D) of clause (6) of this section.".

LIMITATION ON EXCLUSIVE RIGHTS AS TO MASKS

SEC. 5. (a) Chapter 1 of title 17 of the United States Code is amended by adding at the end the following:

"§ 119. Scope of exclusive rights: Compulsory licensing with respect to mask works

"(a) In the case of mask works, the exclusive rights provided by section 106 are subject to compulsory licensing under the conditions specified by this section.

"(b) The owner of a copyright on a mask work shall be required to grant a compulsory license under the copyright, to any applicant therefor, on the following terms and conditions, and in the following circumstances:

"(1) The applicant has purchased a semiconductor chip product made or distributed in violation of the owner's exclusive rights under section 106.

"(2) When the applicant first purchased such semiconductor chip product (hereinafter in this section referred to as the 'infringing product'), the applicant did not have actual knowledge that or reasonable grounds to believe that the infringing product was an infringing product (hereinafter in this section referred to as 'having notice of infringement').

"(3) The applicant, before having notice of infringement, committed substantial funds to the use of the infringing product; the applicant would suffer substantial out-of-pocket losses (other than the difference in price between the infringing product and a noninfringing product) if denied the use of the infringing product; and it would be inequitable in the circumstances not to permit the applicant to continue the use or proposed use of the infringing product.

"(4) The applicant offers, subject to the applicant's rights, if any, under section 501(e) of this title, to pay the copyright owner a reasonable royalty for infringing products.

"(5) The royalty shall be for each unit of the infringing product distributed or used by the applicant after having notice of infringement.

"(6) The license shall be one to make, have made (but only if the copyright owner and the owner's licensees, if any, are unable to supply the applicant at a reasonable price), use, and distribute the infringing product, for substantially the same purposes that gave rise to the applicant's right to a compulsory license, throughout the United States, for the life of the copyright, revocable only for failure to make timely payments of royalties.".

(b) The sectional analysis at the beginning of chapter 1 of title 17 is amended by adding the following:

"119. Scope of exclusive rights: Compulsory licensing with respect to mask works.".

DURATION OF COPYRIGHT

SEC. 6. Section 302 of title 17 of the United States Code is hereby amended by adding at the end thereof the following:

"(f) MASKS.—Copyright in mask works endures for a term of ten years from the first authorized—

"(1) distribution;

"(2) use in a commercial product; or

"(3) manufacture in commercial quantities of semiconductor chip products made as described in subclause (C) or (D) of clause 6 of section 106 of this title.".

INNOCENT INFRINGEMENT

SEC. 7. Section 501 of title 17 of the United States Code is amended by adding at the end thereof the following:

"(e) Notwithstanding the other provisions of this chapter, a purchaser of a semiconductor chip product who purchased it in good faith, without having notice of infringement (as that term is used in section 119 of this title), shall not be liable as an infringer or otherwise be liable or subject to remedies under this chapter with respect to the use or distribution of units of such semiconductor chip product that occurred before such purchaser had notice of infringement.".

IMPOUNDING AND SEIZURE

SEC. 8. Sections 503(a), 503(b), and 509(a) of title 17 of the United States Code are each amended by inserting "masks," after "film negatives," each place it appears.

EFFECTIVE DATE

SEC. 9. The amendments made by this Act shall take effect ninety days after the date of enactment of this Act, but shall not apply to—

(1) semiconductor chip products manufactured in the United State or imported into the United States before the effective date;

(2) masks made in the United States or imported into the United States before the effective date; or

(3) semiconductor chip products manufactured in the United States by means of masks described in paragraph (2) of this section.

SECTION-BY-SECTION ANALYSIS OF SEMICONDUCTOR CHIP PROTECTION ACT OF 1983

SECTION 1. TITLE OF THE BILL

Section 1 of the bill provides that the Act would be cited as the "Semiconductor Chip Protection Act of 1983."

SECTION 2. DEFINITIONS

Section 2 of the bill defines the terms "semiconductor chip products," "mask works," and "mask," and it amends Section 101 of the Copyright Code to include them. The bill also includes semiconductor chip products as "copies" under certain other sections of the Copyright Code. This is more economical of wording than it would be to insert the phrase "semiconductor chip product made as described in Section 106(6) of this title" or equivalent phraseology in each of the listed sections, but the effect is the same.

Semiconductor chips are defined as multilayer products etched into semiconductor material in accordance with a predetermined pattern, which are intended for use as electronic circuits, and which are writings or discoveries, or whose manufacture, use, or distribution is in or affects commerce. Mask works are defined as series of related images embodying the pattern of the surface of the layers of semiconductor chips. Masks are embodiments of the image used to etch a layer of a simiconductor chip.

SECTION 3. SUBJECT MATTER OF COPYRIGHT

Section 3 of the bill amends Section 102(a) of the Copyright Code by adding "mask works" as one of the specifically enumerated categories of copyrightable works.

SECTION 4. EXCLUSIVE RIGHTS

Section 4 of the bill amends Section 106 of the Copyright Code by adding to the present categories of exclusive rights under copyright law a new right as to mask works. The exclusive right of the owner of the copyright in a mask work is to embody the mask work into an individual mask, to distribute such masks, to use such masks to make semiconductor chips, to otherwise reproduce the images of the mask work onto material intended to be part of a semiconductor chip, and to distribute and use semiconductor chips so made.

SECTION 5. COMPULSORY LICENSING

Section 5 of the bill limits the exclusive rights of the owner of a copyright on a mask by requiring reasonable royalty compulsory licenses for bona fide purchasers, when they have already innocently committed substantial funds to the use of the chip and it would be inequitable not to permit them to continue their use of the chip in their product.

SECTION 6. DURATION

Section 6 of the bill limits mask copyrights to ten years.

SECTION 7. INNOCENT INFRINGEMENT

Section 7 of the bill adds, to present Copyright Code provisions as to innocent infringement of copyrights, a provision that innocent bona fide purchasers of semiconductor chip products are not infringers and are not liable to damages or other remedies for their innocent conduct. Innocent conduct is good faith purchase, use, or distribution of the product without knowledge that it is protected by someone else's copyright.

SECTION 8. IMPOUNDING AND SEIZURE

Section 8 of the bill amends the impoundment and seizure provisions of Sections 503(a) and (b), and 509(a), of the Copyright Code by including masks in the same category as plates, molds, film negatives, and other articles used to make infringing copies.

SECTION 9. EFFECTIVE DATE

Section 9 of the bill makes the Act effective in 90 days, but exempts previously manufactured products.

Detailed analysis

The bill amends the present copyright laws and adapts their remedies to protect semiconductor chips. Sections 2 and 3 of the bill add a new category of "work" to those works already protected under the Copyright Act. The existing Act, 17 U.S.C. § 102(a), protects literary works, musical works, dramatic works, choreographic works, pictorial works, motion pictures and other audiovisual works, and sound recordings. The bill lists "mask works" as an additional category of protected work. The bill's definition of "mask works" is generally parallel to the present Copyright Act's definitions of audiovisual works and motion pictures (17 U.S.C. § 101), i.e., as a series of related images. In the case of a mask work, these images are the images having the pattern of the various transitional or final layers of the semiconductor chip.

The bill defines "masks" as sheets respectively embodying one of the individual layer images making up the mask work. For example, one mask of the mask work would be that used to open holes in a silicon dioxide coating in order to admit "dopants" such as boron; another mask would be that used to configure an upper layer of aluminum in the chip for electrical contacts. Thus, a mask is related to a mask work as a single frame of a motion picture is related to the whole motion picture work or as a page or chapter of a book is related to the whole literary work.

Section 4 of the bill defines the exclusive rights accorded the owner of a copyrighted mask work. It does so by adding a further paragraph to present 17 U.S.C. § 106, which sets forth the exclusive rights enjoyed by the owners of the different types of copyrightable works that are presently recognized in the Copyright Act. The exclusive rights accorded the owner of a mask work are:

To make masks embodying the copyrighted work,

To distribute such masks,

To make chips with such masks,

To reproduce images of a mask work onto a layer of a chip; and

To use or distribute such chips.

The fourth of these exclusive rights is inclusive of all means of embodying the images of a mask onto a chip. This includes not only the use of masks to do so, but also the new technological process of impressing the image directly onto the chip with the aid of a computer-driven light beam. It is believed that this provision has sufficient breadth to cover foreseeable advances in chip manufacturing technology, so that pirates will not be encouraged to try to exploit loopholes in the law.

Limitations on these exclusive rights are imposed by sections 5 and 7 of the bill, and existing copyright law. Section 5 provides a compulsory licensing provision for chips, under somewhat different procedures from the compulsory licensing provisions of section 115 of the present Copyright Act. The provisions of new section 119 of the Copyright Act, added by section 5 of this bill, apply to bona fide purchasers of infringing chips, who do not have notice or reason to believe that they are engaging in copyright infringement. Such bona fide purchasers may commit substantial funds to the development of a product built around the infringing chip, and it could work an undue hardship later to compel them to abandon manufacture of the product. An example might be a personal computer innocently designed around an infringing microprocessor chip. If the innocent infringer has the "equities" on his side, he becomes entitled under section 119 to a permanent, reasonable-royalty license as to the chip. In general, the concept of the balance of equities under new section 119 of the Copyright Act would be like that provided in section 252 of the Patent Act (35 U.S.C. § 252), which protects intervening rights of manufacturers of products that are subject to a reissue patent.

The reasonable royalty license applies to chips distributed or used after the bona fide purchaser acquires reasonable notice of copyright infringement. No royalty is required from the bona fide purchaser as to products already sold and gone before the bona fide purchaser had notice, or for other past conduct that is wholly completed before notice.

Similarly, persons further down the distribution chain have equivalent rights if they are bona fide purchasers. While each case must be decided on its own equities, it would appear that an ordinary consumer who was a bona fide purchaser should rarely or never be liable to pay anything, while a commercial user might well be obliged to pay something to continue his economically beneficial use of the infringing product. The question of royalty or no royalty merges into that of what constitutes a "reasonable" royalty for the use of the chip. That is a matter, in part, of the equities of the user, and in part of more objective question—usually posed as what a "willing purchaser" would pay a "willing seller" if they negotiated a license in good faith. This test or standard for "reasonable royalty" is described more fully in such decisions as *Horvath v. McCord Radiator & Mfg. Co.*, 100 F.2d 326 (6th Cir. 1938) ("that which would be accepted by a prudent licensee who wished to obtain a license but was not so compelled and a prudent patentee who wished to grant a license but was not so compelled . . . that amount which a person desiring to use a patented machine and sell its product at a reasonable profit would be willing to pay"), and other decisions construing 35 U.S.C. § 284. That section of the patent law provides that a patentee shall recover as damages "in no event less than a reasonable royalty for the use made of the invention." See also 28 U.S.C. § 1498, which requires the government to pay "reasonable and entire compensation" for the infringement of a patent or copyright, which compensation is generally equated to a "reasonable royalty." *Decca Ltd. v. United States*, 640 F.2d 1156 (Ct. Cl. 1980); *Leesona Corp. v. United States*, 599 F.2d 958 (Ct. Cl.), *cert. denied*, 444 U.S. 991 (1979).

The license under section 119 is to make, use and distribute the chip. Also, if the copyright owner and the copyright owner's licensees, if any, cannot supply the chip at a reasonable price, the licensee is free to purchase the chip from a nonlicensed source, at a reasonable royalty rate to the copyright owner. Again, the term "reasonable" as applied to price has the same meaning as it does with regard to royalty rate in the foregoing case law precedents.

Section 7 provides the further limitation on the copyright owner's exclusive rights that innocent infringers will have no liability at all. This provision is complementary to section 5 of the bill, and confirms that a bona fide purchaser need not pay any royalty or be subject to liability for conduct occurring before the bona fide purchaser had reasonable notice of copyright infringement.

Finally, the existing "fair use" provisions of section 107 of the present Copyright Act apply to the exclusive rights of a chip innovator. Accordingly, in the case of masks and chips, it is not an infringement of copyright to reproduce the pattern on the mask solely for the purpose of teaching, analysis, or evaluation, or to use the concepts or techniques embodied in the mask or chip, such as the circuit schematic or organization of components. That means that legitimate reverse engineering is not prohibited by the bill. Rather, the bill is directed at the appropriation of substantial parts of the drawings embodied in the masks and chips. It is possible, perhaps, that cases could be imagined in which it would be hard to draw the line between legitimate reverse engineering and the misappropriation forbidden by this bill. But as a practical matter, it does not make economic sense for a pirate to appropriate the fruits of a chip innovator's mask design labor unless the appropriation is wholesale. That is, to save the cost of making a set of masks the piratical copyist will want to make a photographic or nearly photographic copy of the original chip. Otherwise, the copyist will not ordinarily get the full benefit of the piracy and "free ride." Hence, it is unlikely that cases will need to be dealt with that are in a gray zone between clear copying and clearly legitimate reverse engineering. The lack of a bright line conceptual distinction between copying ideas (reverse engineering) and copying expression (piracy) is thus of little practical concern when most actual semiconductor chip fact situations are either at one end or else the other end of the spectrum.

It is the intent of this legislation that the Congress exercise its full powers in this field. In this regard, primary reliance is placed on the Congress' enumerated powers under Article I, Section 8, Clause 8 of the Constitution, which authorizes the Congress to regulate "writings." In order to insure full scope for the remedial provisions of the bill, however, reliance is also placed on the "discoveries" aspect of Article I, Section 8, Clause 8, and also on the Congress' broad power to regulate commerce under the Commerce Clause. This approach obviates any possible problems or speculations as to legislative power, such as those found in The Trademark Cases, 100 U.S. 82 (1879) (trademark act held unconstitutional because rested on Art. I, § 8, cl. 8, instead of on commerce power). Accordingly, even though it may be deemed that a chip is not a "writing," chips may be regulated and are regulated under this bill as useful "discoveries,"

or alternatively by the commerce power. As a practical matter, virtually any conduct relating to chip piracy will be in or will affect commerce. There is therefore no need to resolve possible speculation over whether chips should be regarded as writings, discoveries, or articles of commerce.

Cost of the legislation

It is estimated that the cost of the legislation will be insubstantial. The bill does not create budget authority or direct spending.

Regulatory impact statement

No significant additional regulatory impact would be incurred in carrying out the provisions of this legislation; there would not be additional impact on the personal privacy of companies or individuals; and there would be no additional paperwork impact.●

TARGETED EMPLOYMENT ASSISTANCE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. LAFALCE) is recognized for 10 minutes.

● Mr. LAFALCE. Mr. Speaker, today I am introducing a bill to target assistance under the emergency jobs program to high unemployment areas. My bill would provide $1.2 billion in supplementary community development bloc grant (CDBG) assistance to communities with high unemployment.

As early as next week, Congress is going to consider a $4.3 billion emergency jobs package, but we have received no indication that any of these funds will be targeted to areas of high unemployment.

The $4.3 billion package will include $2 billion for transportation and conservation-related jobs, $1.2 billion for supplementary CDBG funds, $765 million for accelerated maintenance and repair of construction of Federal buildings, $50 million for day care facilities, and $250 million for emergency assistance for food and shelter.

The $1.2 billion supplementary CDBG funds will be allocated to all eligible communities through the CDBG entitlement formula.

This means that every city and urban county will get its fair share of the funds on the basis of the bloc grant formula.

My bill would set aside 75 percent of the supplementary CDBG funds for cities and urban counties where unemployment exceeds 9 percent.

This is an emergency program, Mr. Speaker, and the allocation of funds should reflect the unemployment emergency that afflicts communities like Niagara Falls where unemployment hovers around 20 percent and Buffalo where unemployment approximates 15 percent.

The remaining 25 percent would be allocated through the States for other units of general local government where unemployment exceeds 9 percent. This provision sets aside funds for communities like Lockport and Orleans and Niagara Counties, nonentitlement communities where unemployment is having a devastating effect on the local economies.

When the emergency jobs bill comes to the floor, there will be tremendous pressure to pass the bill as reported by the Appropriations Committee. Mr. Speaker, I share sentiments of the leadership—we do not want a large number of amendments that threaten the agreement that has been worked out with the White House on this program. The program is too important and the need too great to jeopardize this emergency bill.

However, the $4.3 billion package agreed to by the Democratic leadership is phase I of our 1983 economic recovery program. Phase II will include additional emergency assistance and I hope to make targeted community development aid part of our phase II package.●

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mr. PICKLE, for 30 minutes, today.

(The following Members (at the request of Mr. CHANDLER) to revise and extend their remarks and include extraneous material:)

Mr. MCKERNAN, for 5 minutes, today.
Mr. SUNDQUIST, for 5 minutes, today.
Mr. PAUL, for 5 minutes, today.

(The following Members (at the request of Mr. PICKLE) to revise and extend their remarks and include extraneous material:)

Mr. FRANK, for 5 minutes, today.
Mr. GONZALEZ, for 30 minutes, today.
Mr. ANNUNZIO, for 5 minutes, today.
Mr. MONTGOMERY, for 5 minutes, today.
Mr. COYNE, for 5 minutes, today.
Mr. EDWARDS of California, for 30 minutes today.
Mr. LAFALCE, for 10 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. CHANDLER), and to include extraneous matter:)

Mr. GUNDERSON.
Mr. YOUNG of Alaska.
Mr. WHITEHURST.
Mr. VANDER JAGT.
Mr. LENT.
Mr. MICHEL in two instances.
Mr. EVANS of Iowa.
Mr. SENSENBRENNER.
Mr. DAUB.
Mr. LEWIS of California in two instances.
Mr. PAUL.
Mr. WOLF.

(The following Members (at the request of Mr. PICKLE) and to include extraneous matter:)

Mr. LANTOS.
Mr. RODINO.
Mr. DINGELL in two instances.
Mr. GAYDOS.
Ms. KAPTUR in two instances.
Mr. STRATTON.
Mr. RATCHFORD.
Mr. HOWARD.
Mr. EDGAR.
Mr. FEIGHAN in two instances.
Mr. CONYERS.
Mr. FORD of Michigan in two instances.

ADJOURNMENT

Mr. SLATTERY. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 12 o'clock noon), the House adjourned until tomorrow, Friday, February 25, 1983, at 11 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

412. A letter from the U.S. Railroad Retirement Board, transmitting a report on a violation of section 3679 of the Revised Statutes, as amended; to the Committee on Appropriations.

413. A letter from the Administrator, U.S. Environmental Protection Agency, transmitting the Agency's annual report on the administration of the Toxic Substances Control Act, covering fiscal year 1982, pursuant to section 30 of the act; to the Committee on Energy and Commerace.

414. A letter from the board members, Railroad Retirement Board, transmitting a report on the Board's determination that it must use 50 percent of its general fund borrowing authority in fiscal year 1983, pursuant to section 22(a) of the Railroad Retirement Act as amended; to the Committee on Energy amd Commerce.

415. A letter from the Director, Office of Legislative Affairs, U.S. International Development Cooperation Agency, transmitting a report on the economic conditions in Egypt during 1982 and the ability of that country to meet its debt service obligations, pursuant to section 723 of Public Law 97-113; to the Committee on Foreign Affairs.

416. A letter from the Director, Peace Corps, transmitting a draft of proposed legislation to further amend the Peace Corps Act; to the Committee on Foreign Affairs.

417. A letter from the Acting Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on Foreign Affairs.

418. A letter from the Special Counsel, U.S. Merit Systems Protection Board, transmitting a report in response to a complaint filed with the Secretary of the Interior, pursuant to 5 U.S.C. 1206(b)(5); to the Committee on Post Office and Civil Service.

419. A letter from the Secretary of Housing and Urban Development, transmitting the Department's report on Federal tax incentives and rental housing, pursuant to the report of the House Committee on Banking, Finance and Urban Affairs which accompanied the Housing and Community Development Act of 1980; jointly, to the Committees on Banking, Finance and Urban Affairs and Ways and Means.

420. A letter from the Secretary of State, transmitting a report of the Department's activities related to recruitment and equal employment for the period October 1, 1981 to September 30, 1982, pursuant to section 105(d)(e) of the Foreign Service Act of 1980; jointly, to the Committees on Foreign Affairs and Post Office and Civil Service.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. MOAKLEY: Committee on Rules. House Resolution 58. Resolution providing for permanent professional and clerical staff of the Permanent Select Committee on Intelligence (Rept. No. 98-8). Referred to the House Calendar.

REPORTED BILLS SEQUENTIALLY REFERRED

Under clause 5 of rule X, bills and reports were delivered to the Clerk for printing, and bills referred as follows:

Mr. RODINO: Committee on the Judiciary. H.R. 3. A bill to provide for the appointment of U.S. bankruptcy judges under article III of the Constitution, and for other purposes; with an amendment; referred to the Committee on Appropriations for a period not to exceed 15 legislative days with instructions to report back to the House as provided in section 401(b) of Public Law 93-344 (Rept. No. 98-9). And ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BREAUX:

H.R. 1632. A bill to prohibit the land disposal of liquid hazardous waste, and for other purposes; to the Committee on Energy and Commerce.

By Mr. BREAUX (for himself, Mr. HUBBARD, Mr. SUNIA, Mr. TAUZIN, Mr. ORTIZ, Mr. MATSUI, Mr. TALLON, and Mr. FIELDS):

H.R. 1633. A bill to revise the law relating to the establishment and administration of marine sanctuaries; jointly, to the Committees on Merchant Marine and Fisheries and Rules.

By Mr. COYNE (for himself, Mr. GARCIA, Mr. SCHUMER, Mr. CONYERS, Mr. STOKES, Mr. EDGAR, Ms. OAKAR, Mr. KOGOVSEK, Mr. FRANK, Mr. SMITH of Florida, Mr. DWYER of New Jersey, Mr. FORD of Tennessee, Mr. WEISS, Mr. BATES, Ms. KAPTUR, Mr. MITCHELL, Mr. CROCKETT, Mr. LOWRY of Washington, Mr. MOLLOHAN, Mr. ADDABBO, Mr. RATCHFORD, Mr. OWENS, Mr. NOWAK, Mr. PRITCHARD, Mr. FOGLIETTA, Mr. RANGEL, Mr. KILDEE, Mrs. KENNELLY, and Mr. BROWN of California):

H.R. 1634. A bill to require the Secretary of Housing and Urban Development to administer a demonstration program to determine the feasibility of assisting neighborhood development activities by providing Federal matching funds to certain private nonprofit neighborhood organizations; to the Committee on Banking, Finance and Urban Affairs.

Mr. PICKLE (for himself, Mr. GIBBONS, Mr. STARK, and Mr. JACOBS):

H.R. 1635. A bill to amend the Internal Revenue Code of 1954 with respect to the tax treatment of industrial revenue bonds; to the Committee on Ways and Means.

By Mr. BIAGGI:

H.R. 1636. A bill to amend section 924 of title 18 to increase the penalties for certain offenses relating to firearms, and to provide mandatory minimum penalties in certain circumstances; to the Committee on the Judiciary.

H.R. 1637. A bill to amend title 18 of the United States Code to provide that persons accused of committing Federal felonies who have attained the age of 15 years shall be tried as adults, and to require the several States, the District of Columbia, and other territories and possessions of the United States to treat all felony offenders alike who have attained the age of 15 years; to the Committee on the Judiciary.

H.R. 1638. A bill to amend title 18 of the United States Code to establish rational criteria for the imposition of the sentence of death, and for other purposes; to the Committee on the Judiciary.

H.R. 1639. A bill to amend section 1751 of title 18 of the United States Code to eliminate the insanity defense to prosecutions for the offense of assassination of the President and related offenses; to the Committee on the Judiciary.

H.R. 1640. A bill to require the fingerprinting of juvenile delinquents upon conviction of or adjudication and to forbid the withholding of information from criminal trials on the grounds such information relates to a juvenile proceeding; to the Committee on the Judiciary.

H.R. 1641. A bill to amend the Urban Mass Transportation Act of 1964 by proscribing certain acts committed against a mass transportation system; to the Committee on Public Works and Transportation.

H.R. 1642. A bill to amend title 38, United States Code, to provide for the payment of service pensions to veterans of World War I and the surviving spouses and children of such veterans; to the Committee on Veterans' Affairs.

By Mr. D'AMOURS (for himself, Mr. JONES of North Carolina, Mr. FORSYTHE, Mr. PRITCHARD, Mr. STUDDS, Mr. BONKER, and Mr. DE LA GARZA):

H.R. 1643. A bill to authorize appropriations to carry out the national sea grant college program for fiscal years 1984 and 1985; to the Committee on Merchant Marines and Fisheries.

By Mr. EDGAR (for himself and Mr. CONTE):

H.R. 1644. A bill to authorize the Secretary of the Army, acting through the Chief of Engineers, to make loans to operators of certain water supply systems for the rehabilitation, improvement, and expansion of those systems, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. EDGAR (for himself, Mr. MONTGOMERY, Mr. HAMMERSCHMIDT, Mr. CORRADA, Mr. DE LUGO, Mr. SAM B. HALL, JR., Mr. WYLIE, Mr. LEATH of Texas, Mr. HILLIS, Mr. SHELBY, Mr. MICA, Mr. MCEWEN, Mr. DASCHLE, Mr. DOWDY of Mississippi, Mr. SMITH of New Jersey, Mr. MARTINEZ, Ms. KAPTUR, Mr. BURTON of Indiana, Mr. HARRISON, Mr. SUNDQUIST, Mr. PENNY, Mr. BILIRAKIS, Mr. STAGGERS, Mrs. JOHNSON, Mr. SLATTERY, Mr. BRYANT, and Mr. RICHARDSON):

H.R. 1645. A bill to amend title 38, United States Code, to increase the per diem rate payable by the Veterans' Administration to States providing domiciliary, nursing home, and hospital care to veterans to State homes, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. FLORIO:

H.R. 1646. A bill to amend the Railroad Retirement Act of 1974 and the Railroad Retirement Tax Act to assure sufficient resources to pay current and future benefits under the Railroad Retirement Act of 1974, to make technical changes, and for other purposes; jointly, to the Committees on Energy and Commerce and Ways and Means.

By Mr. FOGLIETTA:

H.R. 1647. A bill to require the Secretary of Health and Human Services to make grants to States and to local governments, for the purpose of providing emergency assistance to the homeless; jointly, to the Committees on Agriculture, Banking, Finance and Urban Affairs, and Energy and Commerce.

By Mr. FRANK (for himself, Mr. GONZALEZ, Mr. SCHUMER, Mr. ST GERMAIN, Mr. MITCHELL, Mr. FAUNTROY, Mr. D'AMOURS, Ms. OAKAR, Mr. VENTO, Mr. GARCIA, Mr. LOWRY OF WASHINGTON, Mr. COYNE, Ms. KAPTUR, Mr. MORRISON of Connecticut, Mr. RANGEL, Mr. TORRES, Mr. LEVINE of California, Mr. OWENS, Mr. MOAKLEY, Mr. SAVAGE, Mr. WEISS, Mr. TOWNS, Mr. SMITH of Florida, Mr. FORD of Tennessee, Mr. CONYERS, Mr. GEJDENSON, Mr. OTTINGER, Mr. SCHEUER, Mr. WYDEN, Mr. YATES, Mr. BORSKI, Mr. MOLLOHAN, Mr. STOKES, Mr. CROCKETT, Mr. MINETA, Mr. LEHMAN of Florida, Mr. RODINO, Mr. MAVROULES, Mr. FROST, Mr. MURPHY, and Mr. KILDEE):

H.R. 1648. A bill to provide that the tenant contribution toward rental payments under certain lower income housing assistance programs may not exceed 25 percent of adjusted income, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. GEJDENSON:

H.R. 1649. A bill to provide that certain trusts shall not be treated as private foundations; to the Committee on Ways and Means.

By Mr. SAM B. HALL, JR. (for himself and Mr. ALBOSTA):

H.R. 1650. A bill to extend the authorization of appropriations for the Office of Government Ethics for 5 years; jointly, to the Committees on the Judiciary and Post Office and Civil Service.

By Ms. KAPTUR (for herself, Mr. APPLEGATE, Mr. ECKART, Mr. FEIGHAN, Mr. HALL of Ohio, Mr. LATTA, Mr. LUKEN, Mr. MCEWEN, Ms. OAKAR,

Mr. PEASE, Mr. SEIBERLING, and Mr. STOKES):

H.R. 1651. A bill to authorize the Secretary of the Army to construct a project to provide shoreline protection for Maumee Bay State Park, Ohio; to the Committee on Public Works and Transportation.

By Mr. KAZEN (for himself, Mr. UDALL, Mr. CHENEY, Mr. KOGOVSEK, Mr. MCCAIN, Mr. MCNULTY, Mr. LEHMAN of California, and Mr. SEIBERLING:

H.R. 1652. A bill to amend the Reclamation Safety of Dams Act of 1978, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. LAFALCE:

H.R. 1653. A bill to amend the Housing and Community Development Act of 1974 to provide supplementary community development block grant assistance to communities with high unemployment due to adverse national economic conditions, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. LEATH of Texas (by request):

H.R. 1654. A bill to amend title 38, United States Code, to provide that a person who has not been married previously and marries a veteran who has a permanent and total service-connected disability after the disability is determined to exist shall be afforded educational assistance by the Veterans' Administration comparable to that which would have been afforded had the marriage preceded the determination of such disability; to the Committee on Veterans' Affairs.

H.R. 1655. A bill to amend title 38, United States Code, to repeal the authority for eligible veterans and eligible spouses to pursue correspondence training, and for other purposes; to the Committee on Veterans' Affairs.

H.R. 1656. A bill to amend title 38, United States Code, to terminate the authority of the Administrator of Veterans' Affairs to make advance payments of educational and subsistence allowances, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. LEHMAN of Florida:

H.R. 1657. A bill to amend the Internal Revenue Code of 1954 to allow the deduction for adoption expenses for all adoptions, and for other purposes; to the Committee on Ways and Means.

By Mr. MCKERNAN (for himself, Mrs. VUCANOVICH, Mr. CHANDLER, Mr. DEWINE, Mrs. SNOWE, Mrs. JOHNSON, Mr. ALBOSTA, Mr. CARPER, and Mr. BARTLETT):

H.R. 1658. A bill to amend title II of the Social Security Act and chapter 21 of the Internal Revenue Code of 1954 to provide mandatory social security coverage for Members of Congress, and to provide for the crediting of unnegotiated benefit checks to the OASDI trust funds; to the Committee on Ways and Means.

By Mrs. MARTIN of Illinois (for herself, Mr. BEREUTER, Mr. DAUB, Mr. GUNDERSON, Mr. HARTNETT, Mr. HAMMERSCHMIDT, Mr. MCNULTY, Mr. STENHOLM, Mr. TAUKE, Mr. WEBER, and Mr. WINN):

H.R. 1659. A bill to require the Secretary of Agriculture to establish an export payment-in-kind program to offset the adverse effects of agricultural export subsidies imposed by foreign countries; jointly, to the Committees on Agriculture and Foreign Affairs.

By Mr. MINISH:

H.R. 1660. A bill to amend the Internal Revenue Code of 1954 to provide a Federal income tax credit for tuition; to the Committee on Ways and Means.

By Mr. MURPHY (for himself, Mr. MATSUI, Mr. SUNIA, Mr. BENNETT, Mr. FORSYTHE, Mr. REID, Mr. DAUB, Ms. FIEDLER, Mr. HORTON, Mr. TALLON, Mr. MONTGOMERY, Mr. DWYER of New Jersey, Mr. EDWARDS of Oklahoma, Mr. HOWARD, Mr. EVANS of Iowa, Mr. TOWNS, Mr. SENSENBRENNER, Mr. WILSON, Mr. WILLIAMS of Montana, Mr. NICHOLS, Mr. VANDERGRIFF, Mr. PATMAN, Mr. YATRON and Mr. WINN):

H.R. 1661. A bill to impose a Federal criminal penalty for robbery of controlled substances from a pharmacist; to the Committee on the Judiciary.

By Mr. PAUL (for himself, Mr. MCDONALD, Mr. HANSEN of Idaho, Mr. HANSEN of Utah, Mr. PHILIP M. CRANE, Mr. BROWN of Colorado, Mr. VALENTINE, and Mr. DANIEL B. CRANE):

H.R. 1662. A bill to provide for the minting of American gold eagle coins pursuant to article 1, section 8, of the Constitution of the United States; to the Committee on Banking, Finance and Urban Affairs.

H.R. 1663. A bill to provide for the minting of American gold eagle coins pursuant to article 1, section 8, of the Constitution of the United States; to the Committee on Banking, Finance and Urban Affairs.

By Mr. PAUL:

H.R. 1664. A bill to amend the Internal Revenue Code of 1954 to provide that a 10-percent income tax rate shall apply to all individuals and to increase the deduction for personal exemptions from $1,000 to $2,500; to the Committee on Ways and Means.

By Mr. QUILLEN:

H.R. 1665. A bill to provide for the elective payment of benefits under title II of the Social Security Act in the form of social security savings bonds, and for other purposes; to the Committee on Way and Means.

H.R. 1666. A bill to amend title 5 of the United States Code to provide death benefits to survivors of Federal law enforcement officers and firefighters, and for other purposes; to the Committee on Education and Labor.

By Mr. RUSSO (for himself and Mr. ROSTENKOWSKI):

H.R. 1667. A bill to suspend the duty on MXDA (meta-xylene-diamine and 1,3-BAC (1,3-Bis[aminomethyl]-cyclohexane)) until July 1, 1986; to the Committee on Ways on Means.

By Mr. RUSSO:

H.R. 1668. A bill to repeal the tax on generation-skipping transfer; to the Committee on Ways and Means.

By Mrs. SMITH of Nebraska:

H.R. 1669. A bill to authorize the Secretary of the Interior to engage in a feasibility study of water resource development and for other purposes in the Central Platte Valley, Nebr.; to the Committee on Interior and Insular Affairs.

By Mr. SUNDQUIST:

H.R. 1670. A bill to prohibit the landfill disposal of hazardous waste, and for other purposes; to the Committee on Energy and Commerce.

H.R. 1671. A bill to amend the Internal Revenue Code of 1954 to provide a refundable income tax credit for the recycling of hazardous wastes; to the Committee on Ways and Means.

By Mr. VANDER JAGT:

H.R. 1672. A bill to amend the Internal Revenue Code of 1954 with respect to the treatment of expenses of attending foreign conventions; to the Committee on Ways and Means.

By Mr. VANDER JAGT (for himself, Mr. ARCHER, Mr. PHILIP M. CRANE, and Mr. SCHULZE):

H.R. 1673. A bill to amend the Internal Revenue Code of 1954 with respect to the tax treatment of domestic international sales corporations; to the Committee on Ways and Means.

By Mr. VOLKMER:

H.R. 1674. A bill to amend chapter 1 of title 17, United States Code, to exempt certain performances and displays at small dance studios from copyright infringement; to the Committee on the Judiciary.

By Mrs. VUCANOVICH (for herself, Mr. YOUNG of Alaska, Mr. MARLENEE, Mr. HANSEN of Idaho, Mr. PASHAYAN, Mr. MATSUI, Mr. DENNY SMITH, Mr. LEWIS of California, Mr. BONER of Tennessee, Mr. CHENEY, Mr. LUJAN, and Mr. CRAIG):

H.R. 1675. A bill to require the protection, management, and control of wild free-roaming horses and burros on public lands; jointly, to the Committees on Interior and Insular Affairs and Merchant Marine and Fisheries.

By Mr. WALGREN:

H.R. 1676. A bill to establish a National Commission on Neurofibromatosis; to the Committee on Energy and Commerce.

By Mr. WORTLEY:

H.R. 1677. A bill entitled: "The Agricultural Export Equity Act of 1983"; jointly, to the Committees on Agriculture and Foreign Affairs.

By Mr. PAUL:

H.J. Res. 159. Joint resolution to end the practice of guaranteeing or making available loans to foreign governments; jointly, to the Committees on Foreign Affairs and Banking, Finance and Urban Affairs.

By Mr. PEPPER:

H.J. Res. 160. Joint resolution to provide for the designation of the week beginning on May 15, 1983, as "National Parkinson's Disease Week"; to the Committee on Post Office and Civil Service.

By Mr. YOUNG of Alaska:

H.J. Res. 161. Joint resolution requesting and authorizing the President to issue a proclamation to observe January 3, 1984, as Alaska Statehood Day; to the Committee on Post Office and Civil Service.

By Mr. RATCHFORD, (for himself, Mr. GEJDENSON, Mrs. KENNELLY, Mr. MORRISON of Connecticut, Mr. MCKINNEY, Mrs. JOHNSON, Mr. YATES, Mr. PEPPER, Mr. BONKER, Mr. FRANK, Mr. MOAKLEY, Mr. SWIFT, Mr. OBERSTAR, Mr. MADIGAN, Mr. DELLUMS, and Mr. KILDEE):

H. Con. Res. 69. Concurrent resolution expressing the sense of the Congress with respect to those nations that have filed an objection to the International Whaling Commission ban on commercial whaling; jointly, to the Committees on Foreign Affairs and Merchant Marine and Fisheries.

By Mr. RUSSO:

H. Con. Res. 70. Concurrent resolution disapproving a rule submitted by the Federal Trade Commission relating to funeral industry practices; to the Committee on Energy and Commerce.

By Mr. MITCHELL:

H. Res. 106. Resolution providing amounts from the contingent fund of the House for

expenses of investigations and studies by the Committee on Small Business in the 1st session of the 98th Congress; to the Committee on House Administration.

By Mr. BROOKS:

H. Res. 107. Resolution providing amounts from the contingent fund of the House for expenses of investigations and studies by the Committee on Government Operations in the 1st session of the 98th Congress; to the Committee on House Administration.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BARNES:

H.R. 1678. A bill for the relief of certain Government physicians who were paid basic pay, performance awards, and physicians comparability allowances in aggregate amounts exceeding the limitation set forth in section 5383(b) of title 5, United States Code; to the Committee on the Judiciary.

By Mr. BURTON of California:

H.R. 1679. A bill for the relief of Cheng Hsiang-Lin; to the Committee on the Judiciary.

By Mr. DOWDY:

H.R. 1680. A bill for the relief of the Junior Achievement of Jackson, Miss., the Jackson, Mississippi Symphony Orchestra, and the Mississippi Museum of Art; to the Committee on the Judiciary.

By Mr. NOWAK:

H.R. 1681. A bill for the relief of the estate of John P. Herrmann; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 25: Mr. PAUL.

H.R. 84: Mr. FAZIO, Mr. MITCHELL, Mr. CROCKETT, Mr. MURPHY, Mr. D'AMOURS, and Mr. OTTINGER.

H.R. 297: Mr. GRAY.

H.R. 328: Mr. SEIBERLING.

H.R. 500: Mr. BOUCHER, Ms. FIEDLER, Mr. HERTEL of Michigan, Mr. HILER, Mr. TORRES, Mr. WHITTAKER, and Mr. WOLPE.

H.R. 569: Mr. CONTE, Mr. RICHARDSON, Mr. WEAVER, Mr. JEFFORDS, Mr. CORCORAN, Mr. MATSUI, Mr. BARNES, and Mr. FISH.

H.R. 716: Mr. MURPHY, Mr. STRATTON, Mr. LAFALCE, Mr. FISH, Mr. FRENZEL, and Mr. GILMAN.

H.R. 910: Mr. MAZZOLI.

H.R. 953: Mr. SOLARZ, Mrs. KENNELLY, Mr. PORTER, Mr. JEFFORDS, Mr. ANNUNZIO, Mr. WHITEHURST, Mr. BERMAN, Mrs. BOXER, Mr. REID, Mr. HYDE, Mr. KILDEE, Mr. MORRISON of Connecticut, Mr. MCCOLLUM, Mr. GREEN, Mr. SMITH of Florida, Mr. TAUKE, Mr. MINISH, Mr. LEVINE of California, Mr. RANGEL, and Mr. MINETA.

H.R. 1096: Mr. DYMALLY, Mrs. KENNELLY, Mr. FORD of Tennessee, Mr. DAVIS, Mr. FISH, Mr. CORCORAN, Mrs. COLLINS, Mr. LUKEN, and Mr. SOLARZ.

H.R. 1181: Mr. WASHINGTON.

H.R. 1190: Mr. BROOKS, Mr. DORGAN, Mr. DURBIN, Mr. MCNULTY, Mr. PENNY, Mr. ROWLAND, and Mr. WOLPE.

H.R. 1206: Mr. ROGERS, Mr. STUMP, Mr. FRANK, Mr. WALKER, and Mr. SENSENBRENNER.

H.R. 1244: Mr. FORSYTHE and Mrs. ROUKEMA.

H.R. 1287: Mr. OXLEY, Mr. MARRIOTT, Mr. MADIGAN, Mr. PASHAYAN, Mr. DENNY SMITH, Mr. LAGOMARSINO, Mr. SHELBY, Mr. WEBER, Mr. KOGOVSEK, Mr. BROWN of Colorado, Mr. BATEMAN, Mr. HILLIS, Mr. STENHOLM, Mr. EDWARDS of Oklahoma, Mr. WINN, Mr. MCEWEN, Mr. KINDNESS, Mr. HAMMERSCHMIDT, Mr. HARTNETT, Mr. SIMON, Mr. FAZIO, Mr. REGULA, and Mr. SENSENBRENNER.

H.R. 1303: Mr. FRENZEL and Mr. ROE.

H.R. 1330: Mr. MOLLOHAN, Mr. OBEY, and Mr. LAFALCE.

H.R. 1351: Mr. KILDEE, Mr. BONER of Tennessee, Mr. MCDADE, and Mr. WHITEHURST.

H.R. 1527: Mr. BARNES, Mr. CHAPPIE, Mr. CONABLE, Mr. CROCKETT, Mr. ECKART, Mr. EDGAR, Mr. FISH, Mr. FROST, Mr. GINGRICH, Mr. GONZALEZ, Mr. HOYER, Mr. LEHMAN of Florida, Mr. MCGRATH, Mr. MCNULTY, Mr. MADIGAN, Mrs. MARTIN of Illinois, Mr. MITCHELL, and Mr. RATCHFORD.

H.R. 1611: Mr. SIMON.

H.J. Res. 22: Mr. CLINGER and Mr. SAWYER.

H.J. Res. 95: Mr. FISH, Mr. REID, Mr. STENHOLM, Mr. CHAPPELL, Mr. LEACH of Iowa, Mr. LEVIN of Michigan, Mr. PATMAN, Mr. HUBBARD, Mr. BROYHILL, Mr. BARNARD, and Mr. BARTLETT.

H.J. Res. 97: Mrs. SNOWE, Mr. O'BRIEN, Mr. WOLPE, Mr. MINISH, Mr. EVANS of Iowa, Mr. FOLEY, Mr. TORRICELLI, Mr. HAMILTON, Mr. HYDE, and Mr. DAUB.

H.J. Res. 120: Mr. RANGEL.

H. Con. Res. 47: Mr. DASCHLE, Mr. APPLEGATE, Mr. EDGAR, Mr. WYLIE, Mr. LEATH of Texas, Mr. HILLIS, Mr. STAGGERS, Mr. BILIRAKIS, and Mr. SMITH of New Jersey.

H. Res. 25: Mr. DREIER of California.

SENATE—*Thursday, February 24, 1983*

(Legislative day of Wednesday, February 23, 1983)

The Senate met at 11:30 a.m., on the expiration of the recess, and was called to order by the President pro tempore (Mr. THURMOND).

The PRESIDENT pro tempore. Our opening prayer today will be delivered by the Reverend E. E. Wheeless, Jr., pastor of the First Baptist Church, Springfield, Va. Rev. Wheeless is sponsored by Senator JOHN WARNER, of Virginia.

PRAYER

The Reverend E. E. Wheeless, Jr., M. Div, M.R.E., pastor, First Baptist Church, Springfield, Va., offered the following prayer:

Almighty God and Sovereign Ruler over men and nations, we come before Thy presence seeking divine guidance. Provide the wisdom and insight for the Senators in their many responsibilities. May they know divine wisdom for decisions that affect a great people and a great nation.

Because Your word teaches us that righteousness exalts a nation, grant that each of us individually will be what the Lord expects. Speak to our hearts that the steps of a righteous man are ordered by the Lord.

May You not only bring peace into the world but may You provide justice among the peoples of the world.

Thank You that You hear our prayer. We are grateful for the confidence that we have in the presence and the power of God. We are truly amazed that You allow imperfection to speak to perfection and humanity to speak to divinity.

Our prayer is with a sense of hope and with great thanksgiving.

In the name of our Lord Jesus Christ, Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

ORDER FOR PERIOD FOR TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I ask unanimous consent that after the recognition of the two leaders under the standing order and the recognition of the distinguished junior Senator from Hawaii (Mr. MATSUNAGA) on special order, there be a period for the transaction of routine morning business to extend not longer than 30 minutes in which Senators may speak for not more than 5 minutes each.

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

ORDER OF PROCEDURE

Mr. BAKER. Mr. President, at the conclusion of the time just provided for the transaction of routine morning business, the Senate will resume debate on the motion to proceed to the consideration of S. 47, calendar order No. 13, the Shipping Act of 1983.

Mr. President, I hope that what I am about to say next will not be misunderstood because it is not meant to be in the nature of a threat and certainly not coercive.

We attempted yesterday to get a unanimous-consent order that would provide for a cloture vote on the bill on Tuesday next. For a variety of reasons that did not work on yesterday, but a part of that multipart agreement was that we would not be in session on Friday. I am sure by now Senators, knowing them as I do and as we all do, have begun, at least tentatively, to make plans for Friday, more often than not, to travel back to their States or to undertake other important responsibilities.

I feel I must give a final answer on whether we will be in session on Friday early enough for Senators to make their plans and to adjust their schedules, so let me say this, Mr. President. I am still hopeful that we can work out an agreement on this matter. I regret that it fell through yesterday. I think that the parties are very close to getting that done. But if we do not have such an agreement by 2 p.m. today, it seems to me that to wait any longer to make the decision on the Friday session would be unfair to Senators. Therefore, if we do not have an agreement by 2 p.m., it will be my intention to ask the Senate to be in session on Friday and perhaps on Saturday in order to dispatch the business presently before us.

Mr. President, I have no further need for my time under the standing order.

Mr. METZENBAUM. Mr. President, will the majority leader be good enough to yield to me for just a couple of minutes?

Mr. BAKER. I am happy to yield to the Senator from Ohio.

Mr. METZENBAUM. Let me say as one who has been involved in this particular measure that the majority leader knows that I actually called him the other day and indicated that I was prepared to enter into an agreement with him in reference to a cloture vote to occur on Tuesday around 4 p.m. I actually suggested Wednesday, and he indicated that he needed to do it on Tuesday in order to proceed with the orderly conduct of the business of the Senate. I indicated my agreement.

We then had some negotiations in which we got rather close to an agreement, and it had to do actually not with anything more than the makeup of the conference committee.

Later in the day, that matter seemed to be moving toward resolution on an amicable basis. Then developed a new matter which I will not discuss at this moment, but as one who has been involved in the debate I still am prepared to attempt to move forward and not to keep the Senate in session on Friday or Saturday. If we have to, we will, but I hope that we can accommodate Senators as well as the leadership of the Senate. I think that in order to achieve that objective, there will have to be some give so that we may proceed.

When I am talking about give, I am really only talking about one matter of some consequence, and that is about the Senate taking up the amendments that a committee has already determined should be offered by the chairman of that committee. I am hopeful that we will be able to work that out. I will try to cooperate in every way with the leader of the Senate, but at this moment we still are just a bit apart.

Mr. BAKER. Mr. President, I thank the Senator.

Mr. President, let me repeat now the request that I was prepared to make yesterday so that Senators will be aware of it. Perhaps they will confer and consult for the next hour or so before we have to make a final decision on the Friday session.

Mr. President, I am not now making this request. I am merely reciting it for the information of Senators. This is the request I would have made yesterday had the negotiations not failed.

I would have asked unanimous consent that the bill, S. 47, be made the pending business and to provide that no cloture motion would be in order until 4 p.m. on February 24, which is today; provided that the committee substitute proposed by the Committee on Commerce, Science, and Transportation as well as the 17 committee

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

amendments to be offered by the Committee on the Judiciary be considered germane under rule XXII and that the vote on the cloture motion occur without the necessity of a mandatory quorum at 4 p.m. on March 1; provided that if there are disagreeing votes between the two Houses on S. 47 and a conference is required that there be five conferees on the part of the Committee on Commerce, Science, and Transportation, three Republicans and two Democrats, and three conferees on the Committee on the Judiciary for the consideration only of those parts dealing with antitrust matters, two Republicans and one Democrat; provided further that the Senate convene at 12 noon on Thursday, February 24, go over from Thursday until Monday, February 28, at 11:30, and go over from Monday to Tuesday, March 1, at 11:30, to recess on that day at 12 noon until 2 p.m., and that the time from 2 p.m. on next Tuesday until the vote on cloture at 4 p.m. be equally divided and controlled by the majority and the minority leaders or their designees.

That was the plan that I had urged yesterday, Mr. President, and thought we were going to get. I gather from the remarks of the Senator just now and from—has my time expired?

The PRESIDING OFFICER (Mr. TRIBLE). No, it has not.

Mr. BAKER. I gather from the remarks made just now and based on conversations yesterday that the sticky point now is whether or not the Judiciary Committee will offer all 18 amendments or, rather, only 17 of the 18 amendments. That is not a matter I am trying to arbitrate, Mr. President. That is purely up to the Judiciary Committee or any other Senator if they wish to offer the 18th amendment, if that amendment is germane under the provisions of rule XXII after cloture and at any time, of course, when recognition can be gained before cloture.

May I inquire of the Chair, does the Chair have a copy of the 18th Judiciary Committee amendment and can it tell the Senator whether that amendment would be germane under the provisions of rule XXII after cloture?

The PRESIDING OFFICER. The Chair does not, at this time.

Mr. BAKER. Mr. President, I will make an effort in the meantime to obtain a copy of the controversial 18th amendment.

I have bad recollections of the 18th amendment. In any event, perhaps we will have better luck with this one than we did with the one that created prohibition.

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

Mr. BAKER. I yield.

Mr. BYRD. If it had not been for that amendment, would we have the song "Old Rocky Top?"

Mr. BAKER. We might not have, and Tennessee would be poorer for it. [Laughter.]

Mr. President, I will make an effort to obtain that amendment and will submit it to the tender mercies of the Parliamentarian and obtain some expression of opinion on whether or not it is germane under the provisions of rule XXII, post cloture.

The impression I have and the advice I have received from staff who believe they have examined it adequately is that the amendment is probably germane. So we may have a tempest in a teapot on the question of whether that qualified under rule XXII. It may be qualified by its terms.

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

Mr. BAKER. I yield.

Mr. METZENBAUM. Mr. President, it seems to me that if we could work out an arrangement whereby definitely it would be offered prior to the cloture vote, we would never have that concern. If we would obtain some agreement that it would be brought to a vote prior to cloture, then the whole question of germaneness would not be relevant, as I understand it.

Mr. BAKER. I thank the Senator.

Mr. President, I have just now had a conversation with the distinguished President pro tempore on this subject.

If they would do me the kindness of consulting with other Senators, on both sides of the aisle, who also are involved in this mater, I would be extremely pleased to be able to announce that we have resolved the issue.

Personally, I am perfectly willing to do it on the basis of 18 amendments offered en bloc or 17 amendments offered en bloc, with one amendment to be debated separately, or any combination of that.

I urge Senators, then, to talk to other Members who have indicated a particular interest. I am thinking of the Senator from Oregon (Mr. PACKWOOD), the chairman of the Commerce Committee; the Senator from Alaska (Mr. STEVENS); the Senator from Washington (Mr. GORTON), on this side. I believe there are others on the other side. I wish they would let us know as soon as possible if something can be worked out on this basis. Otherwise, it is going to be necessary to provide, for a certainty, that the Senate will be in session on Friday.

Mr. President, having said that, I am once again prepared to yield to the distinguished minority leader any time I have remaining under the standing order.

Mr. BYRD. I thank the majority leader.

RECOGNITION OF THE MINORITY LEADER

The PRESIDING OFFICER. The minority leader is recognized.

PEACE IS THE BEST GUARANTEE OF SECURITY IN THE MIDDLE EAST

Mr. BYRD. Mr. President, earlier this week, the President announced that the United States would guarantee the security of Israel's northern border, but only after all Israeli troops had been withdrawn from Lebanon.

I commend the President for recognizing the legitimacy of Israel's security requirements as they relate to the border with Lebanon. Last summer's incursion into Lebanon by Israeli Defense Forces was reflective of these legitimate concerns. However, I want to take this opportunity to offer my own observations as they relate to the President's proposal.

First, the best guarantee of security for Israel, or any other nation in the region, is peace. Yet, I have not detected any willingness on the part of the Arab world, exclusive of Egypt, to pursue peace with Israel.

Second, Israel has demonstrated that it is fully capable of guaranteeing its own security. It has done so without risking the lives of U.S. servicemen.

Third, one can understand the reluctance on the part of Israel to turn over the most basic responsibility of any nation to anyone else. The experience with UNIFIL forces in southern Lebanon, who could not prevent PLO shelling of Israeli settlements or PLO terrorist raids against Israel's civilian population, certainly would give any rational person pause for thought before entrusting one's own security to someone else.

Fourth, there is also the matter of the role of Congress when it comes to the commitment of U.S. forces abroad or guarantees made by our Government. I do not see how a President can offer any guarantee in the absence of the normal consultation process with the Congress. This is not to say that Congress is not committed to the security of Israel. We are certainly prepared to respond in any way necessary in support of Israel when its security is threatened. But as I pointed out earlier in my remarks, Israel has demonstrated it is fully capable of taking care of itself.

I suspect the President made the offer as an inducement to secure Israeli troop withdrawals from Lebanon. However, I think it is important to focus on the facts as they relate to the situation in Lebanon.

Last summer, the President outlined the appropriate principles governing U.S. policy toward the situation in Lebanon. He stated it was U.S. policy

that all foreign forces—Syrian, PLO, and Israeli—should be removed from Lebanon and that full Lebanese sovereignty should be restored to all its territory.

Since that time, considerable public attention has been paid to one element of this policy, that of Israel's negotiations with the Government of Lebanon. Little attention has been focused on the lack of progress in securing the withdrawal of Syrian and the remaining PLO forces.

In fact, the administration has, from time to time, expressed its displeasure over the slowness with which the Israeli-Lebanese negotiations have proceeded. Some administration spokesmen have gone so far to claim that the Israelis were placing undue demands upon the Lebanese Government in an exchange for withdrawal.

Yet, what about Syria and the remaining PLO forces? The only justification for a Syrian presence in Lebanon stems from the Arab League mandate designating that country's forces as the peacekeping force in Lebanon following the 1975-76 civil war. That mandate expired last June and can only be renewed at the request of the Lebanese Government. Since the Lebanese Government has not renewed the mandate, Syria has been an illegal occupier of the sovereign territory of another Arab nation for nearly 8 months now. So why is not pressure being applied to Syria?

I can recall during the debate on AWACS sales to Saudi Arabia that the administration argued the sale was necessary to insure the Saudis would contribute to the peace process. Well, what are the Saudis doing to pressure the Syrians and the PLO to withdraw from Lebanon? As major financial backers of the PLO and the Syrian presence in Lebanon, the Saudis certainly are able to bring pressure to bear on both.

I have heard arguments that an agreement has to be reached first with Israel before an agreement can be achieved with Syria and the PLO. I have heard arguments that as long as Israel has an occupation force in an Arab country, King Hussein does not have any flexibility to join the peace process. I do not buy those arguments, for the following reasons:

First, it appears the Arab world is perfectly willing to sit on their hands as long as occupiers of Arab countries are other Arab armies.

Second, it appears the Arab world was perfectly content to accede to the creation of a state-within-a-state, as was the case with the PLO in Lebanon prior to last summer's fighting, as long as it is Arabs violating the sovereignty of other nations.

Third, it appears that Arabs killing Arabs, as was the case when the PLO attempted to overthrow King Hussein in 1970, or Arabs killing Israelis, as has been the case with PLO terrorism, are perfectly legitimate exercises in the eyes of many in the Arab world.

But let Israel exercise the most basic responsibility of any sovereign state—that of protecting the lives of its citizens—and, all of a sudden, our most reliable ally in the region for more than 30 years is an obstacle to peace.

If Saudi Arabia, Jordan, and Syria truly wanted peace with Israel, they could have it. All Israel has ever asked from its neighbors is the right to exist in peace as a legitimate, sovereign state within secure and defensible borders. It has been, and continues to be, denied that right by all its neighbors, with the exception of Egypt. Therefore, it should be obvious to all that the burden rests squarely on the shoulders of those in the Arab world who still refuse to negotiate a permanent peace with Israel.

I think that our own Government should recognize the facts. While I have no problem with pressure to bring about some agreement between the Lebanese and Israelis, there should also be pressure applied to the other foreign military forces that are in Lebanon because I cannot blame Israel, if Israel refuses to pull back to its own borders while Syria and its forces remain in Lebanon in violation of the Arab mandate which has not been renewed and can only be renewed by request of the Lebanese Government. Then I can understand the hesitancy of the Israelis to withdraw.

I want the Israelis out of Lebanon also, but I also think it only fair to expect that the Syrians and the PLO's also leave Lebanon so that once again the Lebanese can have a country of their own, a Government that is sovereign over its own territory and peace in that area of the Middle East.

It seems to me that if this matter could be resolved it would be a major factor in the stability of the Middle East and in the securing of an ultimate peace in the Middle East.

Let me say again that peace is the best guarantee of the borders of Israel, and I would hope that the administration would exert its efforts in the direction to bring about peace there and to bring pressure on certain Arab countries which can, in turn, bring pressure on the Syrians and the PLO to remove their forces because until those forces are removed there is not going to be any great likelihood of peace to the north of Israel.

We have already seen what has happened and, of course, that explains the reasons for the move of the Israelis into Lebanon in the first place. They did it out of the natural law, I would suspect of self-preservation, they being attacked from the north. Syrians were in Lebanon in violation of the Arab mandate, and Lebanese Moslems and Lebanese Christians were being driven from their homes, driven from their villages. The Israelis in the northern part of Israel were being shelled and rocketed. They were having to leave their homes, schools, and farms, and they did just what we ourselves would do under the same circumstances.

We would not stand for that 1 minute. If Canada or some force in Canada were to shell our northern States, we would go in and take the attacking forces out, and the Israelis went in for reasons of self-protection. I want to see them out, but I also think that we should do what we can to get the Syrians out, get the PLO out, and we should not put the whole pressure on the Israelis because it is rather naive in my way of thinking to expect the Israelis to leave unless there is a guarantee that the Syrians are going to leave also and the PLO is going to leave. Else Israel will have to do it all over again when there arises the necessity of self-protection.

Mr. President, I yield the floor.

RECOGNITION OF SENATOR MATSUNAGA

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

COMMISSION ON WARTIME RELOCATION AND INTERNMENT OF CIVILIANS RELEASES ITS FINDINGS

Mr. MATSUNAGA. Mr. President, the 96th Congress judiciously enacted legislation providing for a Federal study of the relocation and internment of civilians during World War II. The nine-member Study Commission established by Congress was specifically mandated to examine the relocation and internment of Japanese Americans living on the west coast of the United States, and Aleuts living in the Aleutian Islands chain in Alaska. During the last 2 years, I have followed the progress of this study with great interest and as one of the principal sponsors of the legislation which authorized the study, I was pleased to learn that the Commission's study is now substantially complete. I have been informed that part I, of its report, containing its findings of fact, will be officially released today. I have been further informed that the Commission's recommendations to Congress, based on its findings, will be submitted in June of this year.

Having had the privilege of reading an earlier-released copy of part I of its report, I commend the Commission on Wartime Relocation and Internment of Civilians for its thorough and unbiased examination of the facts surrounding the relocation and internment of Japanese Americans and

Native Aleuts. This volume—containing the Commission's findings of fact—is a first, and I might point out it is a rather thick volume giving in detail the findings of the Commission. It is the first time that any Federal body has ever fully examined what is regarded as one of the darkest pages in American history. Indeed, the evidence gathered and published today by the Commission indicates that even the U.S. Supreme Court was kept in the dark during its consideration in 1943 and 1944 of the Hirabayashi and Korematsu cases.

The Commission's report confirms what Americans of Japanese ancestry have always known: The exclusion of Japanese Americans from the west coast of the United States and their detention under armed guard in isolated camps during World War II, was not justified by military necessity, and the decisions were shaped by racial prejudice, war hysteria, and failure of political leadership.

The Commission found, further, that "a grave injustice was done to American citizens and resident aliens of Japanese ancestry, who, without individual review or any probative evidence against them, were excluded, removed, and detained by the United States during World War II."

The Commission report confirms that the exclusion, removal, and detention of Japanese Americans inflicted tremendous material costs, including the loss of homes and businesses sold or abandoned under duress, and injury to careers and professional advancement. But, even more importantly, there was the loss of liberty and the personal stigma of suspected disloyalty for approximately 120,000 people who knew themselves to be devoted and loyal Americans. Even today, 40 years later, many Americans find it extremely difficult to believe that their Government would imprison them when not one—not even one—of the Japanese Americans was even indicted or convicted of a crime. If there is a lingering belief that there must have been some good reason for the evacuation and detention of the Japanese Americans, this report will surely dispel it forever. Many attribute the relocation of Japanese Americans to wartime hysteria. However, the Commission found that the exclusion and removal of Japanese Americans was racially motivated and followed a long and ugly history of west coast anti-Japanese agitation. Antipathy and hostility toward the Japanese, as an ethnic group, was a major factor of life on the west coast for more than 40 years before the enemy attack on Pearl Harbor.

Moreover, the record, revealed during the Commission's study, shows that responsible public officials, knowing full well that there was no danger of an enemy attack on the west coast, took no action to allay public fears. According to the Commission report, the country was unfairly led to believe—or misled to believe—that both American citizens of Japanese ancestry and resident Japanese aliens were a threat to American Security. The Commission's findings include the following:

(1) Lt. Gen. John DeWitt, Commanding General of the Western Defense Command, recommended exclusion of Japanese Americans to the Secretary of War on the grounds that ethnicity (or race) determined loyalty;

(2) The Federal Bureau of Investigation—FBI—and members of Naval Intelligence, who had relevant intelligence responsibility, were ignored when they recommended that nothing more than careful surveillance of suspected individuals was necessary;

(3) Gen. DeWitt relied heavily on civilian politicians rather than informed military judgments in reaching his conclusions as to what actions were necessary, and civilian politicians largely repeated the prejudiced, unfounded themes of anti-Japanese factions and interest groups on the west coast;

(4) No effective measures were taken by President Roosevelt to calm the west coast public and refute unfounded rumors of sabotage and fifth column activity at Pearl Harbor;

(5) Gen. DeWitt was temperamentally disposed to exaggerate the measures necessary to maintain security and placed security far ahead of any concern for the liberty of citizens;

(6) Secretary of War Stimson and Assistant Secretary of War John J. McCloy, both of whose views on race differed from those of General DeWitt, failed to insist on a clear military justification for the measures General DeWitt wished to take;

(7) Attorney General Francis Biddle, while contending that exclusion of the Japanese Americans was unnecessary, did not argue to the President that failure to make out a case of military necessity on the facts would render the exclusion constitutionally impermissible or that the Constitution prohibited exclusion on the basis of ethnicity given the facts on the west coast;

(8) Those representing the interests of civil rights and civil liberties in Congress, the press, and other forums were silent or indeed supported exclusion. Thus, there was no effective opposition to the measures vociferously sought by numerous west coast interest groups, politicians, and journalists; and

(9) President Roosevelt, without raising the question to the level of Cabinet discussion or requiring careful review of the situation, and despite the Attorney General's arguments and other information before him, agreed with the Secretary of War that exclusion should be carried out.

In contrast to the sorry record of Japanese American detention during World War II, the Commission found that the evacuation of Aleuts from their island homes was militarily necessary. Islands in the chain were actually under enemy attack and, in one case, more than 40 American Aleuts were captured and imprisoned in Japan. All residents of islands under threat of attack, including military personnel and dependents and employees of the U.S. Department of the Interior, were evacuated along with Native American Aleuts.

However, the Commission report reveals that American Aleuts, who were evacuated to southeastern Alaska, were subjected to deplorable conditions. Typical housing consisted of an abandoned gold mine or fish cannery. Lack of medical care contributed to extensive disease and an estimated 10 percent of the Aleuts died as a result. Removal from their island homes and the death of many village elders caused irrevocable changes in the Aleuts' traditional way of life, and upon their return home after the war, they found their homes and villages destroyed. The evacuation of the early 1940's remains for the American Aleuts, as it does for Japanese Americans, the single most traumatic experience of their lives.

Mr. President, I have related only a brief summary of the Commission's findings. I strongly urge all of my colleagues to read the Commission's report, for it merits the most careful study and reflection. It reinforces my strong belief that some form of compensation is warranted for those who were the victims of what the Commission has found to be pure and simple racial prejudice and failure of political leadership. Justice delayed may be justice denied, but, no matter how long overdue, compensatory action on the part of our Government would demonstrate once again the greatness of America. In this connection, I look forward to the release of part II of the Commission's report, which I understand will include recommendations for congressional action.

Mr. President, it has been said by wiser men than me that those who neglect their history are doomed to repeat their errors of the past. The story of the Japanese Americans during World War II is one which would be told and retold, so that no other group of Americans will ever be forced to suffer the same experience because of their race or ancestry. Their experience, perhaps more than any other, poignantly reinforces the truth so dramatically uttered by President Franklin Delano Roosevelt that "Americanism is a matter of the heart and mind, not of race or ancestry."

Mr. President, I yield the floor.

(Mr. GOLDWATER assumed the chair.)

● Mr. INOUYE. Mr. President, today, as the culmination of many months of extensive hearings and meticulous archival research, the Commission on Wartime Relocation and Internment of Civilians has issued a detailed report documenting its findings. As an author of the legislation which established the Commission, I have looked forward to reviewing this report with some anticipation, and upon doing so I have found it to be an eminently read-

able as well as thoroughly documented work.

The report demonstrates conclusively that the exclusion, evacuation, and detention of over 100,000 U.S. citizens and resident aliens were unjustified and unnecessary. According to the Commission, the background of the decision leading to the exclusion of Japanese Americans was the "long and ugly history of West Coast anti-Japanese agitation and legislation." The report points out that, in spite of the fact that ethnic Japanese comprised less than 3 percent of the population of California, antagonism and hostility toward this minority group was widespread and persistent.

Other factors which contributed to the decision for exclusion were disconcerting Japanese battle victories in the Pacific, and the widespread belief that the Pearl Harbor attack was facilitated by sabotage and fifth column activity carried out by ethnic Japanese in Hawaii. Political pressure on the west coast added fuel to the fire, and the report indicates that the Federal Government did little or nothing to quell the hysteria and antagonism.

The culmination of these various circumstances and events was the issuance of Executive Order 9066. With the signing of this order by the President, in concurrence with the War Department, American citizens and alien residents were compelled to leave the west coast based on wartime military necessity. As a result, approximately 120,000 people were placed in locked and guarded internment camps. Property was confiscated or sold for almost nothing, assets were frozen, but more importantly, dignity was sacrificed, and self-respect suffered considerably. Mr. President, how can we put a price tag on the suffering which these people, our fellow Americans, endured only four decades ago?

In establishing the Commission, it was, and still is my hope that its findings will serve to inform and educate the American people, to haunt our consciences to such an extent that this black chapter in our Nation's history will never be reopened, not in our lifetime or in future generations. Ladies and gentlemen, let us make the Commission's report a sober reminder of past errors, a record of grave injustice committed against our brothers. Let us remember that the ignorance, fear, and anger which precipitated the incarceration of thousands of loyal Americans are "wolves in sheep's clothing" engendered by, but not necessarily limited to, conditions of wartime hysteria.

I, and most other ethnic Japanese residents of Hawaii, at the time were fortunate in that we were not interned. As a soldier, however, I visited the Rohwer, Arkansas' internment camp, and try as I have, I cannot forget this experience. I still recall the question I asked myself as the barbed wire fences came into view: "Is this America?" Hopefully, as a result of the Commission's excellent work, this black chapter can be closed but not forgotten.

Mr. PROXMIRE. Mr. President, will the junior Senator from Hawaii yield me some of his time which, I understand, he may have left?

Mr. MATSUNAGA. Yes; I will be happy to yield the time to the distinguished Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, I have some matters I want to discuss, but I would like to congratulate my good friend from Hawaii on an excellent statement. This is certainly one of the most tragic and serious abridgments of civil liberties this country has ever carried out. It was a studied policy of our country, and it is one, in retrospect, that every one of us deplores, and I am just delighted that the great Senator from Hawaii has called it to our attention. It should be on our conscience and it should be resolved to never let it happen again.

Mr. MATSUNAGA. Mr. President, I thank the Senator from Wisconsin, and especially because he represents the great State of Wisconsin and its wonderful people. I recall that shortly after the attack on Pearl Harbor, although I was even before the attack on active duty and temporarily in command of a company defending the Island of Molokai in the Hawaiian Islands chain, shortly after it became rather remote that the Japanese would invade, which was in June 1942, I was ordered, along with all other Americans of Japanese ancestry in Uncle Sam's uniform, to turn in my arms and ammunition, and without more notice than 76 hours we were on board the converted troop ship, the SS *Maui*, sailing for a destination unknown.

When we landed in Oakland, Calif., we were put upon a troop train, 1,565 of us, all of Japanese ancestry in American uniform, stripped of our arms and ammunition. When that train finally came to a screeching halt, we looked out the window and the first thing we saw were barbed wire fences. We exclaimed: "Well, the pessimists were right. We are headed for a concentration camp." But it turned out that the barbed wire fences held two Japanese prisoners of war whom our men had captured on Waimanalo Beach on December 7, two men who had manned a two-man submarine and mistakenly was beached on Waimanalo Beach.

Mr. PROXMIRE. Japanese or Americans?

Mr. MATSUNAGA. Americans of Japanese ancestry captured the two Japanese sailors who manned the two-man submarine and 1,565 of us, a battalion, an infantry battalion, had the duty of guarding these two Japanese prisoners of war as our first duty. We trained with wooden guns, although we were veterans already of war.

Had it not been for the great people of Wisconsin, who welcomed us as the pure unhyphenated Americans, who took us into their homes and who showed us such kindness, believe me—I have this flashback, and one of the most pleasant experiences—as one who had been stripped of his arms, accused of being a disloyal American, had it not been for the people of Wisconsin, my faith in this great country would have been shattered. And through you, I say to Senator PROXMIRE, I take this opportunity to thank the people of Wisconsin.

Mr. PROXMIRE. Mr. President, I wish to thank my good friend again. Once again, I point out that some of the most magnificent soldiers that this country has ever had were the Americans of Japanese ancestry who represented us, and fought for us, and defended this country at great risk and, in some cases, losing their lives. The senior Senator from Hawaii, I understand, left an arm in Europe. Both Senator MATSUNAGA and Senator INOUYE are not only outstanding Senators but were great soldiers fighting for this country.●

THE ADMINISTRATION'S PROPOSED JOBS PROGRAM

Mr. PROXMIRE. Mr. President, we have one of the most absurd economic policy ironies in recent years now. Here we have the supreme test of Keynesian economics: We have a deficit in this fiscal year of more than $200 billion. Indeed, in the first 3 months of this fiscal year—October, November, and December—the deficit was $68.3 billion. That is for 3 months alone. That makes the deficit ink the first 3 months of this fiscal year worse than the deficit for any full year in history prior to 1982. By the time the fiscal year expires next September 30, the deficit will be at least three times as high as any this country has ever suffered.

Mr. President, we can talk about stimulating the economy by increasing spending and cutting taxes, but this is ridiculous. Every penny of that deficit must be borrowed. It must be borrowed from the savings of the American people. Some calculate that the deficit will absorb more than 90 percent of all private savings, leaving very little for borrowing by home buyers and auto buyers and farmers buying tractors and businessmen borrowing to buy equipment.

Obviously, any private sector recovery will run right smack into these colossal demands on the credit market. And with a limited supply of credit interest rates, the price of credit will once again go through the roof,

unless—unless—the Federal Reserve Board massively increases the supply of credit. It might just do that. In fact, for the last 3 months the Fed has been doing exactly that. In spite of this explosion of money, M-1 has increased at an annual rate of about 15 percent since the first of the year; M-2, at the breathtaking rate of 30 percent; and, in spite of pumping huge amounts of credit into the market, interest rates have stabilized and started to rise.

It is astonishing that that could happen with this new credit coming in, but that is, of course, because we have such an immense amount of Federal borrowing because of the debt.

All of this, Mr. President, brings us to the wisdom, or lack thereof, of a jobs bill. Obviously, with such a high proportion of the work force being without jobs, with evidence everywhere of the heartbreak and tragedy of unemployment, Congress cannot simply stand by and do nothing.

But, what can we do? If we cut taxes further or spend more, we will create no new net jobs. Whatever we spend for a jobs program, we must borrow and, in the process, crowd out through higher interest rates those who would like to buy homes or cars, and other private borrowers in this credit economy of ours.

So what kind of program should we adopt to ease the misery of the unemployed? Well, yesterday morning's Washington Post, in a lead editorial, recognizes our dilemma and says wisely that, under present circumstances, the only good reason to spend money on a jobs program is to relieve the hardships of people who have been out of work for a long time and have scant hope of being rehired. The editorial points out that nearly a fourth of the unemployed have been out of work for more than a half year. It suggests that any jobs program should help the worst off among this group.

Such a policy might not create any new net jobs. It would, however, provide an equity and justice that causes the worst kind of heartbreak in our society.

Meanwhile, it is time Congress considered changing the wage and hour law from the 8-hour, 5-day-a-week discipline with time and a half for overtime, to a 7-hour day with double time for overtime. Such a change would provide at least 5 million additional jobs in the private sector, without a penny of additional spending; in fact, with a reduction in unemployment compensation and welfare spending.

Now mind you, I do not call for this dramatic change in policy. I am not introducing legislation to achieve it. It could be costly, it could be inflationary, and it could be a mistake in the long run.

We have not had a change in hours in this country for 50 years. The changes, when we went from a 12-hour day and a 6-day workweek to an 8-hour day and a 5-day workweek have been wholesome and have been constructive. We have been able to live with them and influence other countries to adopt a similar policy. So I think we should consider them. But I think before we take the step we should be very careful in what we do. However, it is one clear answer to our unemployment problem that has not been given the kind of consideration it deserves.

Mr. President, I ask unanimous consent that the editorial from the Washington Post 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, Feb. 23, 1983]

FIGHTING UNEMPLOYMENT NOW . . .

By announcing its commitment to a $4.3 billion "jobs" program of vague specification, the White House has put Congress in a bind. Congressional leaders of both parties agree that swift action is needed—preferably by adding a jobs package to a March emergency appropriations bill needed to keep unemployment benefits flowing. But they are also aware that the limitations the White House has put on its program pretty much ensure that it won't do much to help the long-term unemployed.

The President's chief economic adviser, Martin Feldstein, described the program to a Senate subcommittee last week as an acceleration of planned spending on construction and maintenance, with no special targeting on the long-term unemployed. That probably means work on highways, dams, federal buildings, mass transit, port dredging, veterans' hospitals and urban renewal.

That will be good news for the construction unions in areas where these projects happen to be located. Unfortunately, most of the long-term unemployed aren't construction workers, and certainly no one would want to attract more workers into this perennially overcrowded field.

Mr. Feldstein defends this approach in more traditionally Keynesian terms. If the projects are going to be built anyway, they might as well be built when the economy is slack for whatever general stimulus value they may have. Looked at this way, however, the money is hardly worth spending.

It is far from clear that more of this sort of general stimulus is needed. Large tax rebates are due in April as the result of overwithholding last year; another tax cut comes in July; the $5 billion in added highway spending will begin shortly, and defense spending is accelerating. If there is any punch left in deficit spending, these outlays should provide it.

Mr. Feldstein should also ask himself whether it is really likely that this "speed-up" of public works won't add permanently to the deficit. When Congress looks in the pork barrel next year and finds it empty, the temptation to replace the missing $4.3 billion will be irresistible.

Studies of local public works programs have also shown that their job-creation value—even when both direct and multiplier effects are taken into account—is very low initially. In the first two years of operation, it would cost almost $50,000 a year for each direct and indirect job created in this way. The $4.3 billion would add only about 90,000 jobs a year—a drop in the unemployment bucket.

The only good reason to spend this kind of money on a jobs program is to relieve the hardships of people who have been out of work for a long time and have scant hope of being rehired. Almost 24 percent of the unemployed have been jobless for over half a year—a considerably higher number than in any other post-war recession. Their number, moreover, continues to grow. Spending $4 billion on helping the worst-off among this group could do much to get them back on their feet. If Congress and the President are interested in more than a symbolic jobs program, this is where their efforts should be concentrated.

NUKESPEAK—HOW OUR LANGUAGE PUSHES US TOWARD A NUCLEAR CATASTROPHE

Mr. PROXMIRE. Mr. President, I call to the attention of the Congress a new book entitled "Nukespeak," by Hilgartner, Bell, and O'Connor.

In the years I have been in this body, I have rarely called the attention of my colleagues to any book on any subject. But the steady, unremitting, year-after-year march of this world toward nuclear war cries out for action from the American Government and from this U.S. Senate.

So, Mr. President, I ask unanimous consent that the brief introduction to "Nukespeak," which indicates how our words and how the assumptions we make in our lives have conditioned us to accept the possibility of nuclear war too uncritically, be printed in the RECORD.

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

INTRODUCTION

The language we use has important influences on our thinking.

George Orwell wrote passionately about the role of language in shaping political discourse and understanding. In his 1946 essay, "Politics and the English Language," Orwell charged that political language consists mainly of "euphemism, question-begging and sheer cloudy vagueness." Thus "pacification" is the bombing of defenseless villages; "transfer of population" or "rectification of frontiers" is the robbing of millions of peasants of their farms; "elimination of unreliable elements" is accomplished when "people are imprisoned for years without a trial or shot in the back of the neck or sent to die of scurvy in Arctic lumber camps."

In the thirty-six years since the atomic bombings of Hiroshima and Nagasaki, a new language has evolved. We call that language *Nukespeak*. Nukespeak is the language of nuclear development, a term we use to include the development of both nuclear weapons and nuclear power. In Nukespeak, atrocities are rendered invisible by sterile words like *megadeaths;* nuclear war is called a *nuclear exchange*. Nuclear weapons accidents are called *broken arrows* and *bent spears*. Plutonium is called a *potential nuclear explosive*. The accident at Three Mile Island was called an *event*, an *incident*, an *abnormal evolution*, a *normal aberration*, and a *plant transient*. India called its nuclear bomb a *peaceful nuclear device*.

Nukespeak is the language of the nuclear mindset—the world view, or system of beliefs—of nuclear developers. The word *mindset* means what it implies, a mind that is already set. A mindset acts like a filter, sorting information and perceptions, allowing some to be processed and some to be ignored, consciously or unconsciously. Nukespeak encodes the beliefs and assumptions of the nuclear mindset; the language and the mindset continuously reinforce each other.

Euphoric visions of nuclear technologies are an important expression of the nuclear mindset. The discovery of X-rays and radium at the end of the nineteenth century brought forth visions of a technological *Garden of Eden*. The *philosopher's stone* and the *elixir of life* had been found at last. The discovery of nuclear fission in 1938 unleashed a torrent of similar imagery: nuclear-powered planes and automobiles would whisk us effortlessly around the globe, while unlimited nuclear electricity powered underground cities, farms, and factories.

After World War II and the bombing of Hiroshima and Nagasaki, nuclear developers used information-management techniques—official secrecy and public relations—to promote what one called the *"sunny side of the atom."* Once atomic energy was applied for peaceful purposes, a nuclear-powered *paradise* would be at hand. Electricity *"too cheap to meter"* would power the new *Golden Age*. No problem would be too difficult to solve quickly and economically. Reactors would operate safely; the disposal of radioactive waste would be a nonproblem; international *safeguards* would allow the benefits of the *peaceful atom* to spread to every nation while preventing the spread of nuclear bombs.

In his novel *1984*, Orwell warned about the danger of complete state control over the dissemination of information. The history of nuclear development has been profoundly shaped by the manipulation of information through official secrecy and extensive public-relations campaigns.

Nukespeak and the use of information-management techniques have consistently distorted the debate over nuclear weapons and nuclear power. Time and time again, nuclear developers have confused their hopes with reality, publicly presented their expectations and assumptions as facts, covered up damaging information, harassed and fired scientists who disagreed with established policy, refused to recognize the existence of problems, called their critics mentally ill, generated false or misleading statistics to bolster their assertions, failed to learn from their mistakes, and claimed that there was no choice but to follow their policies.

The nuclear debate is the most important debate in human history. We hope that this book will help readers understand the language, visions, and mindset underlying nuclear development, and that this understanding will contribute to a fruitful redirection of the discussion.

GENOCIDE CONVENTION: LEARNING FROM MISTAKES IN NAZI GERMANY

Mr. PROXMIRE. Mr. President, one-half century ago this month, Adolf Hitler was appointed Chancellor of Germany. As head of the Third Reich, Hitler took his dream of wiping every Jew off the face of Europe and tried to make it a reality. As a result of this endeavor, 6 million Jews perished.

How could one man be allowed to cause so much suffering affecting so many people, and what caused him to prevail? These questions must be addressed because if we fail to understand the past, we will repeat our mistakes in the future.

Some claim that Hitler had an uncanny insight into mass psychology and an extraordinary ability as an orator and organizer that allowed him to seize power. P. H. Terzian, in a January 1983 article for the Los Angeles Times, explains why he disagrees with this evaluation. Terzian points out that Hitler's ideology scarcely made him unique: anti-Semitism, grievances about the Versailles Treaty, and a platform of national self-renewal were not new to the Weimar Republic.

Terzian also doubts the theory that the Weimar Republic was so debauched by a decade of inflation, reparations, and unemployment, that a supine fatherland had no way out but to seek desperate remedies. After all, he asserts, the Reichstag was representative, the press was free, and art and literature were in the midst of a golden age.

So what did go wrong? Terzian offers this explanation:

> . . . the republic—delicate or otherwise—subsisted on a fallacy. It was assumed that the existence of democratic institutions presupposed their success, that democracy required no effort, only faith. This was no more true in the Germany of 1933 than it is plausible today. The Germans had no knowledge of democracy under strain, and so in the midst of crisis reverted to atavism.

Within this discourse lies a message which can be translated and applied across the Atlantic: Democracy is a delicate institution which must be protected and preserved.

It is crucial that we here in a democratic nation like the United States understand the ways in which our democratic way of life may be denied, because a country cannot rely on faith to protect its freedom. We learned this lesson from Nazi Germany.

In 1983, on the 50th anniversary of Hitler's rise to power, the threat of genocide still exists. A treaty that has been pending before the Senate since 1949, the Genocide Convention, deals with this threat. If ratified, the Genocide Convention would make the extermination or intent to exterminate any national, racial, ethnic, or religious group an international crime. The United States still refuses to become a party to the Genocide Convention, even though the need for such a treaty has not diminished since the Holocaust. Those who would destroy an entire group of people, for whatever reason, have found their work shamefully easy. Oppressors feel that they can work without fear of retribution. The Genocide Convention is a step in the direction of correcting this situation.

Let us not wait for future horrors to occur before we are spurred to action. I urge my colleagues to ratify this treaty immediately.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of routine morning business that will not last longer than 30 minutes where Senators may speak for 5 minutes each.

A NEW DAY IN CHICAGO

Mr. PROXMIRE. Mr. President, the day before yesterday, Tuesday, a remarkable thing happened in the city of Chicago. Chicago, as we all know, is our second biggest city. There were three candidates running for mayor. Chicago has never had a black mayor. One of the candidates, Representative WASHINGTON, is black. Representative WASHINGTON won.

I think that is a great development. This is a great week for our country, because there is no question that blacks have been discriminated against in our country. In this body, we have no blacks now. A few years ago, we had a remarkably fine Senator from Massachusetts, Senator Ed Brooke, who is black.

Blacks are beginning to develop the kind of outstanding leadership that I think is going to make quite an impression on this country in the future. We recognize that not only does Chicago have a black mayor, but Los Angeles, Atlanta, Detroit, Newark, Gary, and New Orleans do, also. It is a remarkable indication of the ability of our black citizens, who have suffered such really serious discrimination—economically, educationally, and in so many ways—and have overcome this.

I have great respect for both Rich Daley and Jane Byrne. They are two fine people, and I think either one would have made a good mayor. There is no question in my mind that the best person won, that Representative WASHINGTON won strictly on the basis of the merits. He has been a fine Congressman. He was one of the few people, black or white, in Chicago who devoted a great deal of time to civil rights. Although he was in the Chicago political organization, he was a person who goes beyond it. He has indicated, incidentally, that he is going to stop the kind of patronage that has been the heart and core of the Chicago machine in the past.

I think this is a good day for all those who believe in representative government, especially those who believe our black citizens have not had the kind of opportunity they deserve and that they can and will provide the

kind of leadership this country urgently needs at all levels.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

UNIFORM PARCEL WEIGHT AND SIZE LIMITATIONS EFFECTIVE FEBRUARY 27, 1983

Mr. STEVENS. Mr. President, last summer the President signed into law a small but significant piece of legislation which I introduced to repeal long outdated parcel size and weight limitations imposed on the mailing public. The limitations, intended to protect the Railway Express Agency, provided that the Post Office Department, and later the U.S. Postal Service, could not accept parcels larger than 40 pounds or 84 inches in combined length and girth between first-class post offices. That is to say that Americans served by the approximately 6,000 largest post offices, and at that time by the REA, were not able to mail packages as large as residents of smaller communities.

The REA went out of business in 1975, thus ending any arguable need for this very real discrimination among Americans. Last August, we repealed this arbitrary limitation. The Governors of the U.S. Postal Service requested a change in regulations from the Postal Rate Commission, and recently accepted the Commission's recommended decision.

Uniform parcel weight and size limitations of 70 pounds and 108 inches, respectively, will become effective this Sunday, February 27. I am pleased to note this small measure of additional equality for the American people, and one less burdensome and unnecessary regulation.

LEATHER PRODUCTS EXEMPTION FROM CARIBBEAN BASIN INITIATIVE

Mr. COHEN. Mr. President, I support the goals of legislation to implement the economic provisions of the Caribbean Basin Initiative (CBI). I believe that promoting political stability through development of economic strength is a laudable goal. I do not believe, however, that industries such as leather products manufacturers—already suffering the effects of import competition—should bear the burden of this new policy.

I am very pleased that President Reagan's proposal already contains an exemption for leather products from the duty-free provisions of the CBI. I do not see how, without this assurance, I could justify supporting one-way trade liberalization to the 2,500 unemployed shoe and leather workers who have lost their jobs during the past year in my State. The exemption is needed both because of the import-sensitive nature of the leather products industry and the lack of alternative remedies available through our domestic trade laws.

The footwear industry is among the most sensitive to the effects of import competition. To substantiate this claim, I need only to refer to some historical facts. In 1968, the United States produced 642 million pairs of shoes and imports accounted for 21 percent of the domestic market. Based on trends in 1982, production has been reduced to an annual rate of 167 million pairs, while imports have now captured over 60 percent of the domestic market.

Similarly, in the State of Maine, America's No. 1 footwear-producing State, there were nearly 27,000 workers employed in this industry in 1968 producing 58 million pairs in 82 plants throughout the State. By this year, however, only 63 plants employing 16,300 workers remain and production has declined to 47 million pairs.

In fact, the International Trade Commission, which is statutorily authorized to make injury determinations under our trade laws, has found on two separate occasions that imports were causing serious injury to the domestic shoe industry.

The administration recognized the need for special consideration for certain industries when the Caribbean Basin Initiative was originally proposed to Congress. The textile and apparel industry was exempted totally from the trade liberalization provisions due to the import-sensitive and labor-intensive nature of the industry. Now I am pleased that the same treatment is afforded the leather products and footwear industry.

Mr. President, the footwear industry has undertaken many of its own initiatives to improve its competitiveness with foreign imports and has reasonable wage rates. In spite of these efforts, imports continue to grow, forcing Americans out of work. I feel that these jobs cannot be sacrificed to improve our relationship with the Caribbean region.

It is for all these reasons that I want to express my continued support for exempting the leather products and footwear industries from the trade liberalization portions of the Caribbean Basin Initiative.

MR. CALE YARBOROUGH OF SARDIS, S.C., WINNER OF THE 1983 DAYTONA 500 STOCK CAR RACE

Mr. THURMOND. Mr. President, I want to take this opportunity to formally congratulate stock car driver Cale Yarborough of Sardis, S.C., on winning the 1983 Daytona 500 race on Sunday, February 20, in Daytona, Fla.

This is Mr. Yarborough's third Daytona 500 victory, yet this particular race was perhaps more special to him than any other race he has driven. While driving during the time trials on the Monday before the race, Mr. Yarborough's high-performance Chevrolet Monte Carlo suddenly rose off of the racetrack and violently tumbled through the air before being virtually demolished. Fortunately, Mr. Yarborough escaped injury from this grueling accident. His car, which only moments earlier had set an all-time one-lap record of 200.503 miles per hour, was damaged beyond repair. The chances of winning the race with his backup car seemed slim, but the quality of one's automobile is only half of the art of racing. The other half of this challenging sport depends upon the abilities of the driver. Mr. Yarborough proved his skills at Daytona and made a remarkable recovery—one which race car enthusiasts recognize as one of the great comebacks in stock car history.

I commend Cale Yarborough for his skill and competitive spirit, and for his unique ability to overcome adverse circumstances to obtain the ultimate goal of victory. Such is the mark of greatness.

Mr. President, I know that my colleagues in the Senate will want to join me in congratulating Mr. Yarborough for this superb achievement. In order to better describe this exciting race, I ask unanimous consent that an article from the Charleston News and Courier be printed in the RECORD.

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

[From the Charleston (S.C.) News and Courier, Feb. 21, 1983]

RESILIENT YARBOROUGH WINS DAYTONA 500

DAYTONA BEACH, FLA. (AP)—Cale Yarborough, who this past week had flipped through the air in a frightening crash, drove his backup car past Buddy Baker on the back stretch of the last lap to win the $1 million Daytona 500 Sunday.

Yarborough, a three-time Winston Cup champion, sat solidly in the second spot, behind Baker, for 10½ of the last 11 laps. On the final trip around the 2.5-mile Daytona International Speedway, the 42-year-old driver from Sardis, S.C. dropped low near the end of the long backstretch and whipped his Pontiac LeMans past Baker's Ford Thunderbird, taking Bill Elliot's Ford and the Chevrolet of Joe Ruttman with him in the draft.

Yarborough stayed ahead through the final two turns to win his third Daytona

500, while the trailing threesome came across the finish line in a virtual dead heat. Elliott wound up second, about four car lengths behind Yarborough, with Baker third and Ruttman fourth, Dick Brooks was fifth, a lap behind the leaders.

The winner averaged 155.979 mph in earning the top prize of more than $100,000.

The race was fast and relatively clean despite tensions that built prior to the event after a week of spectacular and violent crashes, one resulting in a severe head injury for Bruce Jacobi, who remains in critical condition.

The top four finishers locked together and ran single file when the green flag fell 32 laps from the end of the 200-lap event following the sixth and final caution period of the race.

Yarborough, who last won this race in 1968 and 1977, set an all-time one-lap record of 200.503 mph last Monday before crashing in the Chevrolet Monte Carlo that the team of Harry Ranier had prepared for this race. That came during the opening time trial for the race and put the team, headed by crew chief Waddell Wilson, far behind in preparations.

Yarborough came back with the backup car and qualified in the eighth starting position.

The start of the race was clean and competitive, with six lead changes among five drivers in the first eight laps and nine changes among seven drivers in the first 20 trips around the high-banked trioval.

Among the early big name dropouts were Benny Parsons, Tim Richmond, and seven-time Daytona 500 winner Richard Petty.

Parsons, the 1975 Daytona 500 winner, retired his Buick on lap seven with a dropped cylinder. Richmond's Pontiac LeMans started 24th and ran as high as eighth before going out on lap 25 with a broken cylinder. Petty's Pontiac Grand Prix retired while leading the race on lap 48 when the engine blew. Petty had led four times in the fast-paced race.

There were no caution flags in the first 50 laps, but Bosco Lowe spun his Buick while speeding down pit road on lap 39 and scattered crewmen in the pits of Buddy Baker and David Pearson. The car hit the low concrete pit wall and had to be retired, but the only injuries were to a crewman and one spectator, both of whom suffered scratches on the leg and bruises while scrambling out of the way.

The first yellow flag came out on lap 52 when Phil Parsons, Benny's younger brother, began smoking badly while running down the main straightaway. His Buick skidded into the infield grass and slid almost 400 feet before Parsons got the car back in hand and drove slowly around to the pits.

Darrell Waltrip's bad luck in Daytona's major events continued as he crashed his Chevrolet coming out of the fourth turn moments after the second caution flag was brought out by Dale Earnhardt's blown engine on lap 54.

Both Lake Speed and Waltrip, who has won nine times on this track but never has taken the 500 or the Firecracker 400, were trying to unlap themselves by passing leader Dick Brooks before the start-finish line.

Waltrip was taken to Halifax Hospital, where his injuries were diagnosed as a mild concussion and contusions. Waltrip was to be kept overnight for observation.

SHOPPING CENTER PROTECTION IMPROVEMENTS ACT OF 1983

Mr. DECONCINI. Mr. President, I rise today to speak in support of S. 549, the Shopping Center Protection Improvements Act of 1983, a bill which I cosponsored along with Senator HATCH. This bill would improve the protections in the bankruptcy code for shopping centers and their solvent tenants in the event of the bankruptcy of other tenants.

It is important to understand that S. 549 makes changes in the code that only make effective provisions already contained in the code. These changes strengthen protections which Congress sought to provide in the Bankruptcy Reform Act of 1978; they are not a departure from the basic principles of the 1978 act.

It is important that Congress act very quickly on these changes because without them many viable small businesses may be threatened with insolvency as an unintended and unnecessary consequence of the administration of other bankruptcies under the code. An important goal of these proposed changes is to protect shopping center tenants—often small businesses trying to survive in a difficult economy—against a bankruptcy domino effect. Under current law, the administration of a shopping center lease by the debtor or his trustee can and has caused the bankruptcies of other tenants by hurting the business of the entire shopping center.

Shopping centers are unique real estate arrangements. They are unique because of the high degree of interdependence of many businesses—some of which are direct competitors—and because of the nature of the agreements between merchants and the shopping center which are necessary to make such competition profitable to all parties. A successful shopping center is the product of sophisticated planning and negotiation which results in a carefully chosen balance of merchants. Tenants are chosen on the basis of their business use, their type of operation, the market they will serve, their financial viability, and business experience, and the needs of the surrounding community. All of these factors determine the appeal of the shopping center, as a whole, to a broad segment of the population to be served. To insure that the desired tenant mix is maintained in a shopping center, the landlord and all of the tenants enter into agreements which specify in detail the business use permitted for each tenant space.

Shopping center leases are necessarily made on a long-term basis. Generally, the tenants make large financial investments in preparing their establishments for the contemplated business, and the value of these investments is dependent upon the success of the entire shopping center. To be successful, the tenant space in a shopping center must be fully occupied by establishments operating at full capacity and offering products or services which, in conjunction with those offered by other tenants, are designed to maximize the attraction of customers to the shopping center.

To avoid the disruption of the business of a shopping center and all of its solvent tenants in the event of the insolvency of a tenant, it is necessary that tenant space not be left vacant, operated at a curtailed level, or changed to a new business use. Prior to the Bankruptcy Reform Act of 1978, shopping centers were able to prevent such disruption by incorporating into the leases clauses which permitted the landlord to take the lease back in the event of the insolvency of a tenant. These clauses were made unenforceable by the 1978 act.

However, Congress recognized the unique nature of shopping centers and sought to avoid or at least minimize the disruption of the business of a shopping center and its other tenants by incorporating specific protections into the bankruptcy code. These protections generally provide that in the event a trustee chooses to assume or to assign an unexpired shopping center lease, he must make certain assurances, including that the use provisions of master agreements will not be substantially breached and that the tenant mix will not be substantially disrupted.

Unfortunately, experience has shown that the protections provided by Congress in 1978 are inadequate. Because the bankruptcy code sets no deadline for the trustee to decide whether to reject or to assume an unexpired shopping center lease, tenant space has been boarded up for extended periods of time. Such a situation has a depressing effect on the business of the other tenants of a shopping center and has caused the bankruptcy of other tenants in some cases. Where the debtor's establishment is an anchor store—for example, the grocery store anchor of a small strip center—the entire shopping center can be destroyed.

Another problem which has arisen regards the assignment of unexpired leases to businesses not conforming with the use restrictions of the lease. Although this is plainly contrary to the intent of Congress, it appears that the use of the word "substantially" regarding breach of the lease provisions and disruption of the tenant mix has enabled debtors to avoid these restrictions.

These and other problems which have occurred under the bankruptcy code need to be expeditiously remedied. In recent months, bankruptcies of large national chain stores, as well

as small merchants, have occurred which are affecting dozens of shopping centers across the country. The vacancy, curtailed operation, or deviation from the specific use of this space will affect hundreds of other shopping center tenants. Many of these other tenants are presently operating under difficult circumstances due to the recession. There is a substantial danger, therefore, that further reductions in the business of the shopping center due to the actions of the debtor or of his trustee could create a ripple effect, causing the bankruptcies of other tenants in affected shopping center. For example, in a Michigan shopping center where an Anchor department store was vacant for several months the business in the center dropped over 50 percent, leading to the bankruptcy of a neighboring store.

For these reasons, it is important that Congress act quickly to make the necessary changes in the bankruptcy code. Trustees or debtors in possession should be required to decide whether to assume or reject an unexpired shopping center lease within 60 days of the filing of the bankruptcy petition. The word "substantially" should be deleted from the provisions requiring assurances that an assignment of a shopping center lease would not breach lease agreements and would not disrupt the tenant mix. The trustee should be required to perform all of the obligations of the tenant under the lease until the lease is assumed or rejected.

These and other changes in the bankruptcy code contained in S. 549 are needed to make effective the protections which Congress ought to provide shopping centers and their tenants in the 1978 act. Indeed, these protections are needed by the economy as a whole to avoid jeopardizing the solvency of the large numbers of merchants in shopping centers with a bankrupt tenant.

A hearing on this bill was held on January 24, before the Courts Subcommittee of the Judiciary Committee. I urge my colleagues to consult the record of that hearing. Upon consulting that record, I am sure they will recognize the need for swift action in the House and Senate on this bill.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore laid before the Senate a message from the President of the United States submitting a sundry nomination which was referred to the Committee on Environment and Public Works.

(The nomination received today is printed at the end of the Senate proceedings.)

MESSAGE FROM THE HOUSE

At 11:44 a.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that pursuant to section 3(b), Public Law 96-317, as amended, the Speaker appoints Mr. LUNGREN as a member on the part of the House of the Commission on Wartime Relocation and Internment of Civilians.

The message also announced that pursuant to section 451(a) of Public Law 96-374, the Speaker appoints as members of the National Commission on Student Financial Assistance the following Members on the part of the House: Mr. FORD of Michigan and Mr. ERLENBORN.

At 12:23 p.m., a message from the House of Representatives, delivered by Mr. Gregory, one of its reading clerks, announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 65. Concurrent resolution welcoming Her Majesty Queen Elizabeth II and His Royal Highness The Prince Phillip, Duke of Edinburgh, on their official visit to the United States.

HOUSE CONCURRENT RESOLUTION REFERRED

The following concurrent resolution was read, and referred to the committee on Foreign Relations:

H. Con. Res. 65. Concurrent resolution welcoming Her Majesty Queen Elizabeth II and His Royal Highness The Prince Phillip, Duke of Edinburgh, on their official visit to the United States.

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-278. A communication from the Administrator of Veterans' Affairs, transmitting a draft of proposed legislation to amend title 38, United States Code, to extend the authority of the Administrator of Veterans' Affairs to provide certain contract hospital care and medical services in Puerto Rico, the Virgin Islands, and other territories; to the Committee on Veterans' Affairs.

EC-279. A communication from the Secretary of the Interior, transmitting, a draft of proposed legislation to amend Section 1(a)(1) of Public Law 95-348 (92 Stat. 487) to authorize the appropriation of $4,038,000 for capital improvement projects on Guam for fiscal year 1984; to the Committee on Energy and Natural Resources.

EC-280. A communication from the Director of the Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a request by the Sun Gas Company for a refund of excess royalty payments; to the Committee on Energy and Natural Resources.

EC-281. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a plan for the East Carroll Watershed, Louisiana; to the Committee on Agriculture, Nutrition and Forestry.

EC-282. A communication from the President of the National Railroad Passenger Corporation, transmitting, pursuant to law, a draft amendment to Amtrak's Criteria and Procedures for Making Route and Service Decisions; to the Committee on Commerce, Science, and Transportation.

EC-283. A communication from the Assistant Secretary of the Treasury (Legislative Affairs), transmitting, pursuant to law, a Treasury fact sheet on the Contingency Tax Plan; to the Committee on Finance.

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. BUMPERS:

S. 581. A bill to establish competitive oil and gas leasing and modify leasing procedures for onshore Federal lands; to the Committee on Energy and Natural Resources.

By Mr. EXON:

S. 582. A bill to amend the Internal Revenue Code of 1954 to allow a farmer to elect to include in income agricultural commodities received under a payment in kind program at the time such commodities are sold, and for other purposes; to the Committee on Finance.

By Mr. HEINZ:

S. 583. A bill to amend the Tariff Schedules of the United States; to the Committee on Finance.

By Mr. SASSER:

S. 584. A bill to provide that no gain shall be recognized for purposes of the Internal Revenue Code of 1954 from any net gift made before March 4, 1981; to the Committee on Finance.

By Mr. GRASSLEY:

S. 585. A bill to amend title 18 of the United States Code to prohibit the robbery of airline tickets; to the Committee on the Judiciary.

By Mr. HEINZ (for himself, Mr. HATFIELD, Mr. RIEGLE, Mr. ANDREWS, Mr. DODD, Mr. LEVIN, Mr. D'AMATO, Mr. HART, Mr. MOYNIHAN, and Mr. EAGLETON):

S. 586. A bill to direct the Secretary of Housing and Urban Development to undertake a program to demonstrate the feasibility of funding neighborhood development activities by providing Federal matching funds to private nonprofit neighborhood organizations on the basis of the voluntary contributions to such organizations from individuals, businesses, and religious institutions in their neighborhoods; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. COHEN:

S. 587. A bill for the relief of Pandelis Perdikis; to the Committee on the Judiciary.

By Mr. CHILES:

S. 588. A bill to amend the Immigration and Nationality Act to prevent the unauthorized entry into, and the transportation to and within, the United States of illegal aliens; to the Committee on the Judiciary.

By Mr. McCLURE (by request):

S. 589. A bill to amend section 1(a)(1) of Public Law 95-348 (92 Stat. 487) to authorize the appropriation of $4,038,000 for capital improvement projects on Guam for fiscal year 1984; to the Committee on Energy and Natural Resources.

By Mr. COHEN:

S. 590. A bill to increase the amount available for weatherization under the low income home emergency assistance program, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. INOUYE (for himself, Mr. STEVENS, Mr. HART, Mr. HOLLINGS, Mr. THURMOND, Mr. COCHRAN, Mr. LAXALT, Mr. LUGAR, Mr. TSONGAS, Mr. MURKOWSKI, Mr. MELCHER, Mr. BRADLEY, Mrs. HAWKINS, and Mr. EAGLETON):

S. 591. A bill to amend the Internal Revenue Code of 1954 to provide a mechanism for taxpayers to designate $1 of any overpayment of income tax, and to contribute other amounts, for use by the U.S. Olympic Committee; to the Committee on Finance.

By Mr. CHILES:

S. 592. A bill to amend the Immigration and Nationality Act to provide special authorities and procedures for the control of immigration emergencies; to the Committee on the Judiciary.

By Mr. INOUYE (for himself, Mr. KASTEN, Mr. DOLE, Mr. JEPSEN, Mr. THURMOND, Mrs. KASSEBAUM, and Mr. MATSUNAGA):

S. 593. A bill to amend the Federal Meat Inspection Act and the Poultry Products Inspection Act to permit distribution of certain State-inspected meat and poultry products, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. DURENBERGER (for himself, Mr. BOREN, and Mr. THURMOND):

S. 594. A bill to amend the Internal Revenue Code of 1954 to treat as a reasonable need of a business for purposes of the accumulated earnings tax any accumulation of earnings by such business in anticipation of section 303(a) distributions before the death of a stockholder; to the Committee on Finance.

By Mr. NICKLES:

S. 595. A bill to amend title II of the Social Security Act to restrict the payment of benefits under such title to certain aliens; to the Committee on Finance.

By Mr. PRYOR:

S. 596. A bill to provide surplus commodities to farmers who lost grain stored in certain insolvent warehouses; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. DECONCINI (for himself and Mr. GOLDWATER):

S. 597. A bill to convey certain lands to Show Low, Ariz.; to the Committee on Energy and Natural Resources.

S. 598. A bill to authorize a land conveyance from the Department of Agriculture to Payson, Ariz.; to the Committee on Energy and Natural Resources.

By Mr. LEVIN (for himself, Mr. BOREN, Mr. SPECTER, Mr. RANDOLPH, Mr. SASSER, Mr. ZORINSKY, Mr. MITCHELL, Mrs. HAWKINS, Mr. RIEGLE, Mr. TSONGAS, Mr. HOLLINGS, Mr. FORD, Mr. HUDDLESTON, and Mr. INOUYE):

S. 599. A bill to provide that the amount of unnegotiated social security checks shall be returned to the social security trust funds; to the Committee on Finance.

By Mr. DECONCINI (for himself and Mr. GOLDWATER):

S. 600. A bill to amend Public Law 95-244; to the Committee on Labor and Human Resources.

By Mr. QUAYLE (for himself and Mr. PELL):

S. 601. A bill to provide for demonstration projects under which the Secretary of Defense may require a contractor under certain defense contracts to provide training in skilled occupations in which there is a substantial shortage and for other purpose; to the Committee on Labor and Human Resources.

By Mrs. HAWKINS (for herself and Mr. CHILES):

S. 602. A bill to provide for the broadcasting of accurate information to the people of Cuba, and for other purposes; to the Committee on Foreign Relations.

By Mr. MOYNIHAN:

S. 603. A bill for the relief of Jose R. Dominguez-Miranda, Maria Celina Dominguez, Isabel Cristina Dominguez, and Luis Roberto Dominguez; to the Committee on the Judiciary.

By Mr. MOYNIHAN (for himself, Mr. BIDEN, Mr. HEINZ, Mr. KENNEDY, Mr. INOUYE, Mr. PELL, Mr. BRADLEY, and Mr. METZENBAUM):

S. 604. A bill to protect law enforcement officers; to the Committee on the Judiciary.

By Mr. DANFORTH (for himself, Mr. PELL, Mr. BOSCHWITZ, and Mr. DOLE):

S. 605. A bill to amend title 11, United States Code; to the Committee on the Judiciary.

By Mr. STAFFORD (for himself and Mr. PELL):

S.J. Res. 41. Joint resolution to authorize and request the President to designate the week of April 10, 1983, through April 16, 1983, as "National Education For Business Week;" to the Committee on the Judiciary.

By Mr. MURKOWSKI (for himself, Mr. STEVENS, and Mr. JACKSON):

S.J. Res. 42. Joint resolution designating Alaska Statehood Day, January 3, 1984; 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. CHILES (for himself and Mrs. HAWKINS):

S. Res. 71. Resolution to honor the 12th Annual Model Senate of Stetson University during the centennial celebration of Stetson University; to the Committee on the Judiciary.

By Mr. KENNEDY (for himself, Mr. HEINZ, Mr. HART, Mr. BOSCHWITZ, Mr. BYRD, Mr. PACKWOOD, Mr. BAUCUS, Mr. BIDEN, Mr. BINGAMAN, Mr. BOREN, Mr. BRADLEY, Mr. BUMPERS, Mr. BURDICK, Mr. CHILES, Mr. COHEN, Mr. CRANSTON, Mr. D'AMATO, Mr. DANFORTH, Mr. DECONCINI, Mr. DIXON, Mr. EAGLETON, Mr. EXON, Mr. FORD, Mr. GLENN, Mr. GRASSLEY, Mr. HATCH, Mrs. HAWKINS, Mr. HEFLIN, Mr. HOLLINGS, Mr. HUDDLESTON, Mr. INOUYE, Mr. JACKSON, Mr. JOHNSTON, Mrs. KASSEBAUM, Mr. LAUTENBERG, Mr. LEVIN, Mr. MATSUNAGA, Mr. METZENBAUM, Mr. MITCHELL, Mr. MOYNIHAN, Mr. PELL, Mr. PRESSLER, Mr. PROXMIRE, Mr. PRYOR, Mr. RIEGLE, Mr. SARBANES, Mr. SASSER, Mr. SPECTER, Mr. STAFFORD, Mr. WEICKER, and Mr. ZORINSKY):

S. Res. 72. Resolution to assure Israel's security, to oppose advance arms sales to Jordan, and to further peace in the Middle East; to the Committee on Foreign Relations.

By Mr. SPECTER (for himself and Mr. DIXON):

S. Res. 73. Resolution to declare the sense of the Senate that any job program or assistance should be targeted to areas of high unemployment; to the Committee on Labor and Human Resources.

By Mr. MITCHELL (for himself, Mr. PACKWOOD, and Mr. MOYNIHAN):

S. Con. Res. 11. Concurrent resolution expressing the sense of the Congress concerning the obligations of the Government of the Soviet Union under international law with respect to human rights; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BUMPERS:

S. 581. A bill to establish competitive oil and gas leasing and modify leasing procedures for onshore Federal lands; to the Committee on Energy and Natural Resources.

FEDERAL OIL AND GAS LEASING ACT OF 1983

Mr. BUMPERS. Mr. President, today I am introducing legislation to replace the current system for issuing oil and gas leases on Federal lands with an all-competitive system. The legislation is identical to the proposal which I introduced in the past Congress, and to legislation which the Senate Energy and Natural Resources Committee approved in the 96th Congress.

The legislation is based upon several premises. First, issuance of Federal oil and gas leases constitutes an award of valuable Government property that should be made on a competitive basis in order to assure the public of a fair price. Second, the rights to develop energy resources which belong to the taxpayers should not be awarded through a system which invites fraud and speculation. Third, replacing the existing lottery system for awarding leases with an all-competitive bidding system would generate additional revenues, promote diligent development of leases, and simplify leasing procedures to encourage rapid development of oil and gas on Federal lands.

Mr. President, every Member of the Senate is aware of my strong opposition to the way in which our federally owned oil and gas reserves are leased. I first became aware of the Interior Department's leasing procedures in 1979, when 33,000 acres near producing gas wells at Fort Chaffee, Ark., were leased noncompetitively for only $1 per acre. But the situation at Fort Chaffee is not unique. In many areas,

valuable leases are being given away at bargain prices simply because the Interior Department has not determined that they lie within a "known geologic structure." In Idaho, for example, the State recently accepted competitive bids ranging from $7 per acre to $230 per acre for State lands adjacent to Federal tracts. The adjacent Federal Tracts have all been leased noncompetitively for only $1 per acre. A similar situation exists in Oregon. Private lands adjacent to the Umatilla National Forest have been leased for bonus bids ranging from $47 per acre to $250 per acre. But the lands within the national forest—the Federal lands—have been leased for only $1 per acre. The high prices offered for the adjacent, non-Federal lands in all of these areas indicate that industry considers the regions to have some potential for oil and gas production. But because the Federal lands do not fall within a "known geologic structure," arbitrarily defined by the Interior Department, they cannot be competitively leased. The existing leasing program is clearly anachronistic, wasteful, and must be replaced.

Other energy minerals owned by the Federal Government, including coal reserves and oil and gas on the Outer Continental Shelf, are leased by competitive bid. But onshore oil and gas are primarily leased noncompetitively. Under the existing system for leasing onshore oil and gas, only about 3 percent of Federal leases are sold competitively. Regardless of the fair market value of the tracts, the remaining 97 percent are sold noncompetitively for an annual rental of $1 an acre without any obligation to drill. Nearly all of the noncompetitive leases are awarded through a lottery system, in which applicants submit a filing fee for the opportunity to gamble for valuable oil and gas resources. As of February 1982, only 2,845 of the existing 121,818 onshore oil and gas leases had been awarded by competitive bidding. The remaining 118,973 leases, covering nearly 134 million acres, have been awarded for only the $1 per acre annual rental.

The current noncompetitive leasing system is an outgrowth of the 19th century need to develop an underdeveloped continent in order to secure it forever from possible incursions. During that time, Congress approved laws giving lands to railroads in order to encourage their efforts to build new lines. The homestead laws gave land to settlers. Mining laws virtually gave minerals away, and the leasing laws were equally generous. We are no longer giving away land, and we should no longer give away oil and gas leases. The very existence of the lottery is an admission that the system is an anachronism, because it demonstrates the existence of a competitive interest in lands, replacing the former need to entice development.

That competitive interest should be met with a competitive bidding system, the sort of system which nearly every State employs in awarding leases on State lands. It is the best way to make sure that the Government gets a fair return on its property; it will eliminate the opportunity for fraud; and it will insure the participation of applicants who will develop the lease rather than applicants merely using the system as a tax shelter, selling leases with the gain taxed as capital gains while deducting their application fees against ordinary income.

The most compelling argument for replacing the lottery system with a competitive bidding system is the potential for realizing additional revenue. The Department of the Interior admits that in 1981, revenues from competitive leases averaged $440 per acre, while revenues from the noncompetitive leases averaged only $3.66 per acre. Obviously, the competitively issued leases should be expected to generate more revenue, because these are issued only in those areas with proven oil and gas reserves. But many of the noncompetitive leases have been issued in producing areas, as demonstrated by the royalties collected from these leases, and it is reasonable to assume that large bonuses would have been paid for the rights to drill in these areas.

A recent study completed by the Congressional Budget Office confirms this assumption. In a letter to Senator HENRY M. JACKSON, the CBO concluded that the competitive bidding system that my bill would establish would result in a net increase in revenues of approximately $700 million over the next 5 years. Of this total, approximately $660 million would be distributed to State governments under the provisions of the Mineral Leasing Act. I ask unanimous consent that a copy of that letter be included in the RECORD.

Another reason for discontinuing the noncompetitive leasing system is the number of filing service companies—more than 250—which encourage people who have no intention of developing oil and gas leases to enter the lottery. The lottery system, aided by these companies, creates a situation in which revenues that should go to the Federal Government are instead siphoned off by the companies and the lottery winners. Advertising literature of filing services, which were created solely to take advantage of the lottery system, is filled with examples of people who won noncompetitive leases in the lottery and paid the first year's rental of $1 per acre only then to reassign them to major energy companies for immediate cash bonuses payments and future royalties. Information supplied by the Department of the Interior at hearings in 1980 showed that one lessee received $200,000 plus future royalties for a lease obtained from the Federal Government for $2,157, plus a $10 filing fee. Clearly we have a competitive system for oil and gas leasing, but the competition begins only after the Department of the Interior has issued a lease for $1 per acre to a lottery winner, and the real value of the lease is realized by that winner rather than by the public.

Despite the logic of having a competitive system, some people have opposed this proposal. Many supporters of the existing system merely play the lottery to capitalize on its tax advantages. I am not interested in preserving unwarranted tax breaks, and I doubt that any other Senator is either. Most other opponents to competitive bidding are independent producers of oil and gas. This opposition is curious, because these producers have prospered under the existing competitive systems used by most States. Arguments are made that independent companies, which indeed do most of the exploring in this country, will not be able to obtain leases under a competitive system. Yet, of the leases sold competitively, both by the States and by the Federal Government, more than 80 percent have been awarded to independent companies.

I have great regard for the independent producers, and my proposal accommodates their concerns. For example, it adopts the various bidding systems employed by the Outer Continental Shelf Lands Act, which were designed to preserve the independent's ability to compete with the major oil companies in obtaining offshore leases. My bill also provides a very simple and straightforward method for leasing. If there is competitive interest in a tract, it will be offered for lease within 3 months. Even if no competitive interest is expressed for a tract, a single applicant can secure a lease for the tract within 6 months. I am perfectly willing to consider modifications to my proposal in order to allay the independents' fears, and I would welcome the suggestions of any Senator for improving my proposal.

Mr. President, at a time when every effort is being made to increase revenues to the Treasury, balance the budget, and increase energy production on the Federal lands, we simply cannot afford the existing onshore leasing program. The leasing program outlined in my bill contains all the reforms necessary to establish an efficient, effective, and equitable leasing program for Federal energy resources. I hope my colleagues will review it carefully and support its adoption by the Senate.

By Mr. EXON:

S. 582. A bill to amend the Internal Revenue Code of 1954 to allow a farmer to elect to include in income agricultural commodities received under a payment-in-kind program at the time such commodities are sold, and for other purposes; to the Committee on Finance.

TAX TREATMENT OF PAYMENT-IN-KIND FUNDS

Mr. EXON. Mr. President, I am introducing today a measure to address the recent questions which have been raised regarding the tax treatment of commodities received under the USDA's payment-in-kind program. The Treasury Department has indicated that under current law, a farmer would realize income for tax purposes in the amount of the fair market value of the commodities received at the time they are made available to the farmer.

This announcement by the Treasury has raised a reluctance among many farmers to participate in the PIK program in light of the uncertain tax consequences. Although the administration has voiced support for legislative changes to address this situation, doubts have been expressed as to whether legislation can be enacted before the March 11 deadline for signing up for the PIK program. An "eleventh hour" attempt by the Congress on March 10 is not sufficient to help those reluctant farmers who are concerned about this matter.

The legislation I am introducing today is exactly like the bill introduced earlier this month, S. 446, but with one minor change. I would propose that a farmer be given the option to "elect" the tax treatment of PIK commodities. Under this measure, a farmer could have PIK commodities recognized for tax purposes when received, or he could choose to realize income only at the time when the PIK commodities are sold.

Since this distribution under the PIK program is an "out of the ordinary" situation for farmers, this option to "elect" tax treatment would provide flexibility for those who anticipate higher incomes in later years. For 1982, net farm income is down by nearly $5 billion according to latest estimates. Farm cash receipts are down by nearly $4 billion. It may be more advantageous for a farmer to elect to declare the receipt of the PIK commodities as income for this 1983 tax year, then to wait until the commodities are sold in 1984.

I am hoping that the Senate Finance Committee will review this option during hearings on PIK tax proposals. I am hoping even more that the Congress will act on this matter soon, before the PIK program becomes a part of history with all other Government promises which end up with a "Catch-22."

Mr. President, 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. 582

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 451 of the Internal Revenue Code of 1954 (relating to general rule for taxable year of inclusion) is amended by adding at the end thereof the following new subsection:

"(f) SPECIAL RULE FOR AGRICULTURAL COMMODITIES RECEIVED UNDER A CERTIFIED PAYMENT IN KIND PROGRAM.—

"(1) IN GENERAL.—At the election of a taxpayer who receives any commodity under a certified payment in kind program—

"(A) no income shall be treated as realized by reason of receipt of such commodity, but

"(B) there shall be included in gross income the amount of any gain from the sale or exchange of such commodity.

"(2) SPECIAL RULES FOR DETERMINING AMOUNT OF GAIN, ETC.—If a taxpayer makes an election with respect to any commodity received under a certified payment in kind program, in the case of any sale or exchange of such commodity—

"(A) in determining the amount of gain from such sale or exchange—

"(i) the taxpayer shall be treated as having a zero basis in such commodity, and

"(ii) such gain shall be treated as ordinary income, and

"(B) the taxable year in which gain from such sale or exchange is included shall be determined under the taxpayer's method of accounting for the taxable year in which such sale or exchange occurs.

"(3) CERTIFIED PAYMENT IN KIND PROGRAM.—The term 'certified payment in kind program' means any program—

"(A) under which the Secretary of Agriculture or his delegate makes payments in kind of any agricultural commodity to any producer of agricultural commodities who—

"(i) diverts farm acreage from the production of an agricultural commodity, and

"(ii) devotes such acreage to conservation uses, and

"(B) which the Secretary of Agriculture certifies to the Secretary of the Treasury as being described in subparagraph (A).".

(b) The amendment made by this section shall apply to taxable years beginning after December 31, 1982.

SEC. 2. (a) Section 2032A(e) of the Internal Revenue Code of 1954 (relating to special rules for valuation of certain farm, etc., real property) is amended by adding at the end thereof the following new paragraph:

"(15) TREATMENT OF PAYMENTS RECEIVED UNDER A CERTIFIED PAYMENT IN KIND PROGRAM.—For purposes of this section, any commodity received by, or on behalf of, any person under a certified payment in kind program (within the meaning of section 451(f)(3)) shall be treated as a commodity produced by such person on acreage diverted from agricultural use under such program.".

(b) The amendment made by this section shall apply to estates of decedents dying after December 31, 1976.

By Mr. GRASSLEY:

S. 585. A bill to amend title 18 of the United States Code to prohibit the robbery of airline tickets; to the Committee on the Judiciary.

ROBBERY OF AIRLINE TICKETS

● Mr. GRASSLEY. Mr. President, I am introducing legislation to provide Federal jurisdiction over airline ticket thefts. This legislation would amend title 18 of the United States Code to prohibit the transportation or use in interstate or foreign commerce of counterfeit or stolen airline tickets. In order to provide the most efficient and effective use of manpower and resources in dealing with the most serious cases, this language would limit Federal jurisdiction to those cases involving at least $5,000 in value.

Airline tickets which have been stolen or fraudulently obtained are readily negotiable, can be converted to cash or sold to the unsuspecting public for use in interstate and international air transportation.

For example, in New York on September 24, 1981, airline tickets valued at $5 million were stolen, along with 3 ticket validating machines, 5 travel agency identification plates and 200 plates representing nearly every airline in the world.

The total potential liability that airlines were exposed to increased from $42,405,600 in 1981 to $51,187,200 in 1982. This alarming increase demonstrates the grim seige that is being waged upon our Nation's airline ticket offices.

At present, stolen airline ticket cases are handled in a fragmented manner under local and State statutes. A lack of coordination through one central agency has resulted in a limited number of successful apprehensions and prosecutions.

The investigation, apprehension, and prosecution of suspects involved in this type of criminal activity requires a coordinated nationwide approach, which can be developed by providing Federal jurisdiction which would be the result of this bill's passage. I urge all of my colleagues to support this legislation.●

By Mr. HEINZ (for himself, Mr. HATFIELD, Mr. RIEGLE, Mr. ANDREWS, Mr. DODD, Mr. LEVIN, Mr. D'AMATO, Mr. HART, Mr. MOYNIHAN, and Mr. EAGLETON):

S. 586. A bill to direct the Secretary of Housing and Urban Development to undertake a program to demonstrate the feasibility of funding neighborhood development activities by providing Federal matching funds to private nonprofit neighborhood organizations on the basis of the voluntary contributions to such organizations from individuals, businesses, and religious institutions in their neighborhoods; to the Committee on Banking, Housing, and Urban Affairs.

NEIGHBORHOOD DEVELOPMENT DEMONSTRATION ACT OF 1983

● Mr. HEINZ. Mr. President, today on behalf of myself and Senators HATFIELD, RIEGLE, ANDREWS, DODD, LEVIN, D'AMATO, HART, MOYNIHAN, and EAGLETON, I am introducing the Neighborhood Development Demonstration Act of 1983. A companion bill is being introduced in the House today by Congressman BILL COYNE of Pennsylvania and Congressman ROBERT GARCIA of New York. This bill is a significant initiative to help rebuild distressed communities and spur economic development through neighborhood-based nonprofit organizations.

The objective of this act is to demonstrate the feasibility of a new mechanism for encouraging neighborhood development organizations to undertake activities such as job creation, new enterprise development, housing rehabilitation, and social services improvement. The mechanism would provide Federal matching funds to nonprofit neighborhood organizations which raise voluntary charitable contributions from individual businesses and charitable organizations in their neighborhoods.

Since October last year when I first introduced this legislation with Senator HATFIELD, I have worked with the Neighborhood Coalition, an umbrella organization comprised of more than 40 national groups, the Senate and House Housing Subcommittees, and the additional Senate cosponsors to refine the bill. This new version highlights the two principal objectives of this demonstration project:

1. To achieve tangible improvements in neighborhoods through public/private partnerships; and

2. To foster the long-term self-sufficiency of nonprofit neighborhood development organizations.

It is important to note that the neighborhood organizations would have to work closely with local government to assure coordination on proposed activities. With this requirement in the bill we have been assured of the endorsement of the National League of Cities and the U.S. Conference of Mayors.

In this difficult period of high unemployment and economic distress, we believe that the bill points the way toward an effective public/private partnership that can address some of the key problems in lower income communities. The major strengths of the bill's approach are as follows:

1. The bill would help to leverage additional private-sector involvement in lower income communities by providing neighborhood organizations with a pool of unrestricted capital that could be used as seed money for commercial and industrial development.

2. The proposed legislation builds upon the strengths and successes of established neighborhood development organizations with a proven track record of working with municipal leadership. It does not attempt to create or finance new entities.

3. The proposed legislation is based upon principles of private initiative, self-help, and voluntarism. No Federal funds would be disbursed unless neighborhood groups raise charitable donations from residents of their own communities.

4. The proposed legislation minimizes bureaucratic redtape. It establishes a simple matching process.

5. The proposed legislation supplements and reinforces other recent initiatives to strengthen economic development in low-income communities. In particular, the bill reinforces the emphasis on neighborhood-based economic development in the enterprise zone proposals and provides a special incentive for charitable giving by lower income, nonitemizing taxpayers. Charitable deductions for nonitemizers were authorized by the Economic Recovery Tax Act of 1981.

In my home State of Pennsylvania, groups in the cities of Pittsburgh and Philadelphia already have outstanding records of neighborhoods voluntarily organizing to address specific community needs. This bill would provide an additional incentive across the Nation for greater private sector partnerships with community groups for neighborhood revitalization. The Department of Housing and Urban Development would administer the 3-year demonstration project under which neighborhood groups would be selected competitively nationwide to receive a matching grant to locally raised funds.

The Neighborhood Development Demonstration Act would authorize several hundred demonstration projects over 3 years in distressed areas. Selection of neighborhood groups would be based on the past accomplishments of and the tangible results expected by the applicants for matching funds, as well as on geography, community population, size, and neighborhood economic conditions. Eligibility would require nonprofit status, and depend on a proven track record, a representative government board, location in pockets of poverty, and a plan to coordinate with local government. The maximum grant would be $50,000 in 1-year seed money. The ratio of Federal money to match locally raised funds would vary according to need. It is foreseen that the first year's funding would be used to attract longer term financial support from philanthropic and charitable organizations.

I must reemphasize for the record, that the ultimate purpose of this bill is to encourage voluntarism and public/private partnership on behalf of better neighborhoods. Several States—including Pennsylvania and Missouri—have enacted Neighborhood Assistance Act legislation which provides tax breaks for neighborhood development contributions by State businesses. This initiative at the Federal level, would directly dovetail with those State programs and others aimed at improving neighborhoods.

This program would require an authorization of only $15 million for the entire 3-year demonstration. I believe that this is a small price tag for the improvement of a valuable national asset: the neighborhoods of our Nation's cities.

In sum, we think this bill meets the needs of the times. It provides a tangible, substantial demonstration of Federal concern and involvement in meeting the needs of the Nation's distressed communities, but does so within the context of Federal budgetary realities and the need for public/private partnerships to meet social needs. We hope that many of our colleagues will join with us in seeing this bill through to passage.

Mr. President, I ask unanimous consent that letters of endorsement be included in the RECORD.

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

NATIONAL LEAGUE OF CITIES,
Washington, D.C.

Hon. JOHN HEINZ,
U.S. Senate, Washington, D.C.

DEAR SENATOR HEINZ: On behalf of the National League of Cities I would like to express our support and commend you for your positive leadership in introducing the "Neighborhood Development Demonstration Act of 1982." We believe your bill recognizes the important role neighborhood organizations can play in conserving and improving the physical, economic, cultural and social opportunities in our distressed urban areas.

We are pleased that the legislation provides incentives for the leveraging of private sector resources by community groups in conjunction with local and federal efforts in community revitalization. These interactions and relationships are particularly critical during this period of limited budgets and scarce public resources. In addition, the requirement that city governments must certify that neighborhood development organization activities are consistent with and supportive of local government community and economic development plans and objectives is an important feature. Increased coordination and cooperation is necessary if local governments and neighborhood organizations are to supplement and support local revitalization activities rather than undercutting or competing with them.

Thank you for the opportunity to comment on the proposed "Neighborhood Development Demonstration Act." We look forward to working with you and Congress toward its enactment.

Sincerely,

ALAN BEALS,
Executive Director.

U.S. CONFERENCE OF MAYORS,
Washington, D.C.

Hon. JOHN HEINZ,
U.S. Senate, Washington, D.C.

DEAR JOHN: On behalf of the membership of the U.S. Conference of Mayors, it is my pleasure to lend our support to the Neighborhood Development Demonstration Act of 1982.

The demonstration program authorized by your bill is a sensible way to continue federal support of neighborhood-based development efforts which are designed to stimulate employment and housing in distressed cities. Strong neighborhoods are the backbone of healthy cities. Continued federal support as envisioned by your legislation will ensure that the efforts which have been growing in recent years do not wither now for lack of support.

We are especially pleased by the bill's provision for a certification from the chief elected official of the locality in which the neighborhood group is located, that the activities are consistent with the city's own development efforts. This guarantee of close cooperation between City Hall and neighborhood development groups is an important feature of the bill.

We look forward to participating further in the development of this legislation as it moves through the legislative process, and hope you will feel free to call on our staff for assistance or comment as the bill moves along.

Thank you for this opportunity to share our views on your legislative initiative.

Sincerely,

JOHN J. GUNTHER,
Executive Director.

OICs OF AMERICA, INC.,
Philadelphia, Pa.

The Honorable JOHN HEINZ,
U.S. Senator, Washington, D.C.

DEAR SENATOR HEINZ: As you know, OICs of America has become actively involved in efforts to serve inner-city development, particularly through housing, and targeted neighborhood community development. We have reviewed proposed legislation regarding a demonstration program to provide federal matching funds to private, non-profit neighborhood organizations on the basis of the voluntary charitable contributions such organizations receive from individuals and businesses, and learned of your interest in it.

This approach is basically sound and conforms with OIC's focus on strengthening community based activities while providing incentives to expand public-private partnership development. I will be interested in the progress of this program concept, and be glad to offer thoughts to your staff as you consider final versions.

As ever, we deeply appreciate your support of the OIC movement.

Sincerely,

GRACE A. WHITNEY,
Director, Community Economic Development.●

By Mr. CHILES:

S. 588. A bill to amend the Immigration and Nationality Act to prevent the unauthorized entry into, and the transportation to and within, the United States of illegal aliens; to the Committee on the Judiciary.

STRENGTHENING IMMIGRATION LAWS AGAINST THE SMUGGLING OF ALIENS

● Mr. CHILES. Mr. President, today I am introducing a bill to strengthen our immigration laws regarding the bringing in and harboring of illegal aliens in the United States. Over the past few years, thousands of undocumented aliens have crossed our borders, often with assistance from persons in the United States. In Florida, it has been estimated that as many as 2,000 persons a month are being smuggled into our State from Haiti, Cuba, the Dominican Republic, and South America. Lately, aliens from as far away as Pakistan and Bangladesh have joined in the influx.

There is an obvious demonstrated need for clarifying and strengthening our laws regarding entry and harboring. Experience, as well as the courts, has called for change. One U.S. district court concluded that the current law against illegal entry only applies to "surreptitious entries." In the court's view, the thousands of Cubans who came with the flotilla did not come surreptitiously and, therefore, those who assisted them were not guilty of violating immigration law. My bill would clearly prohibit any bringing in or harboring of illegal aliens on a day-to-day basis, not just during an emergency or mass migration, such as the Cuban flotilla.

Mr. President, this clarification is essential if we are to effectively curtail the smuggling of illegal aliens into the United States. I want to make certain that if someone is assisting illegal aliens into the United States under the dark of night or in broad daylight, it is a criminal offense and will be enforced and prosecuted as such.

Florida is still a major docking point for undocumented aliens from various points in South America and the Caribbean. These aliens are often assisted by smuggling operations whose travel packages are often more Madison Avenue than those of commercial airlines. One enterprising smuggler offers the alien a "second trip free" if the alien is caught or deported on the first attempt. Travel agencies in Florida and neighboring countries openly direct interested parties to these various smuggling operations, and provide information on prices and arrangements. Therefore, not only do we have a continual flow of illegal entry of aliens into our country, but someone is making an awful lot of money off of it.

As with the drug flow into Florida, these smuggling operations will continue until the U.S. Government cracks down as they have with drug enforcement. The perpetrators must know that a stiff penalty awaits them if they are caught bringing, assisting, or harboring one illegal alien, let alone a boatload.

In addition to strengthening our law enforcement against such smugglers, this bill will prevent the swindles and tragedies which have befallen many of the aliens who "hire" the smuggling service. Reports from the Bahamas and Caribbean show that many aliens have been left penniless on these islands, after being tricked into believing they are in Florida. The Bahamas, in particular, have become a haven for aliens, left with no money and provisions, and no means of going home or leaving for another country.

There have also been several known, and probably many unknown, instances of drowning and killings of aliens by the smugglers. The most publicized was that of the 21 Haitians who washed up on a Florida beach. The smugglers are not held accountable and most often are not even detained or sentenced under immigration law, let alone other criminal law.

Mr. President, it is uncertain if another flotilla will invade Florida or other States. Regardless, any form of alien smuggling must be stopped by the United States. My legislation merely builds on the Immigration and Nationality Act to more clearly express our intent to stop the bringing in and harboring of illegal aliens in this country.

Specifically, my bill would charge a person bringing an illegal alien into this country with a misdemeanor punishable by a $2,500 fine per alien and/or a 1-year imprisonment. For the bringing in of an alien for commercial or financial gain, the person shall be charged with a felony with a fine of $10,000 and/or imprisonment up to 5 years for each alien. In addition, my bill would make it a felony with a $10,000 fine and/or 5 years imprisonment for one to bring an alien into this country at a point other than a designated port of entry, regardless of the alien's documentation status. A person who transports, conceals, harbors, or shields an illegal alien would be charged with a felony, fined up to $10,000, and receive a 5-year prison sentence, or both. Any conveyance used in the transportation of illegal aliens shall be subject to seizure and forfeiture. My bill would make immigration law regarding the seizure and forfeiture of a vessel, vehicles, and aircraft comparable to such law in customs and drug enforcement. Currently, immigration law requires that INS bear the burden of proof when seizing a conveyance suspected of violating immigration law and INS bear the financial and administrative costs as well. It is my understanding, that no other law enforcement agency is subject to such liability. My bill would put the burden of proof on the suspect to demonstrate his innocence. The weaknesses and unrealistic application of the current immigration law was demonstrated during the Cuban flotilla when hundreds of vessels were in-

volved. I believe that my legislation would certainly strengthen the hand of INS to seize vessels or aircraft when there is probable cause.

The final provision of my bill is the one I feel is most crucial for an effective curtailment of alien smuggling. My legislation expressly gives Federal, State, and local law enforcement officials the authority to arrest persons suspected of bringing in, harboring, concealing, or transporting an illegal alien. This authority expands upon existing law which only allows INS officials to make such arrests.

Mr. President, this lack of authority in current law has certainly impeded efforts to detect, detain, and arrest those involved in smuggling or harboring illegal aliens. Often, it is the Coast Guard and local law officers who first detect alien smugglers. Under current practice, such officials can only report spottings to INS under a friendly agreement of cooperation. It is a gamble whether or not INS officials will have the ability to follow up on the detection report. The last I heard, the INS in Florida had only two boats, one helicopter, and one light plane—on loan—to detect and detain such smugglers. It would certainly add to INS' ability to stop such smuggling if all law enforcement officers could detain and arrest such perpetrators. We have encouraged such cooperation against drug smuggling and it has been effective. I believe the problem of alien smugglers has grown to such proportions along our shores that stiffer laws are necessary.

Mr. President, these changes in current law do not represent major alteration of our immigration laws. However, they will go far in providing the INS and law enforcement officials with a stronger hand against alien smuggling. We must have the ability to protect our own borders. We simply cannot establish such control if persons are encouraged by substantial financial motives while only slightly discouraged by the law. We must alter this balance. I believe my bill will strengthen our laws toward this goal.●

By Mr. McCLURE (by request):

S. 589. A bill to amend section 1(a)(1) of Public Law 95-348 (92 Stat. 487) to authorize the appropriation of $4,038,000 for capital improvement projects on Guam for fiscal year 1984; to the Committee on Energy and Natural Resources.

CAPITAL IMPROVMENT PROJECTS ON GUAM

● Mr. McCLURE. Mr. President, at the request of the administration, I send to the desk for appropriate reference a bill to amend section 1(a)(1) of Public Law 95-348 (92 Stat. 487) to authorize the appropriation of $4,038,000 for capital improvement projects on Guam for fiscal year 1984.

Mr. President, this draft legislation was submitted and recommended by the Department of the Interior, and I ask unanimous consent that the bill, and the executive communication which accompanied the proposal from the Secretary of the Interior be printed in the RECORD.

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

S. 589

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1(a)(1) of Public Law 95-348 (92 Stat. 487) as amended by Public Law 97-357 (96 Stat. 1705) is amended by deleting the word "and" where it last appears, and inserting after the words "fiscal year 1983," the words "and $4,038,000 for fiscal year 1984,".

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., February 1, 1983.

Hon. GEORGE BUSH,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: There is enclosed a draft bill "To amend Section 1(a)(1) of Public Law 95-348 (92 Stat. 487) to authorize the appropriation of $4,038,000 for capital improvement projects on Guam for fiscal year 1984."

We recommend that the bill be referred to the appropriate committee for consideration, and that it be enacted.

The proposed bill would authorize funds for fiscal year 1984 for needed capital improvement projects on Guam in the amount contained in the President's 1984 budget. The current authorization will expire at the end of fiscal year 1983. The authorization would be for water and sewer construction at Tumon Bay.

The Office of Management and Budget has advised that enactment of this proposal would be in accord with the program of the President.

Sincerely,

JAMES G. WATT,
Secretary.●

By Mr. COHEN:

S. 590. A bill to increase the amount available for weatherization under the low-income home emergency assistance program, and for other purposes; to the Committee on Labor and Human Resources.

LOW-INCOME HOME EMERGENCY ASSISTANCE AMENDMENTS OF 1983

Mr. COHEN. Mr. President, I rise to introduce legislation that would amend the Omnibus Reconciliation Act to allow States to use up to 25 percent of their energy assistance allotments toward weatherization activities.

As a Senator from a cold-weather, oil-dependent State, I am particularly sensitive to the hardship that has resulted from the increases in home energy prices. Home heating oil prices have tripled from the 1976 average price of 40.6 cents a gallon to the current average price of $1.19 per gallon.

Although the price of home heating oil has finally begun to stabilize, the price of natural gas has recently skyrocketed. In many areas of the country, natural gas prices are 20 to 40 percent higher than they were a year ago.

While rising energy costs force all Americans to make some difficult choices, they often cause real hardship and suffering to low-income Americans.

Low-income families are forced to come to terms with an entirely different set of questions that plague them throughout the winter months. Where will the money come from for the next purchase of heating oil? What can I do without today so I might increase my chances of having enough money on hand to purchase some heating oil tomorrow or next week? Can I do without the medicine the doctor prescribed? Can I skimp on the nutrition I require?

While the average U.S. household spends about 5 or 6 percent of income on home energy costs, according to new data compiled by Project Energy Care of the National Council of Senior Citizens, the energy costs of low-income households—after low-income energy assistance is included—average 19 percent of annual income. The study also concludes that during the winter months, over 70 percent of low-income elderly individuals spend over 20 percent or more of their incomes on energy bills, and one of every four elderly poor individuals spends more than 30 percent of his income on heating bills. Only about one-half of low-income Americans eligible for energy assistance payments actually received them.

The study further points out that about 17 percent of the low-income population heats with fuel oil, while nearly 60 percent use natural gas. With the price of natural gas approaching that of home heating oil, the prediction that the percentages of income spent on energy costs by elderly and poor families will rise considerably seems inevitable.

I ask unanimous consent that the Executive Summary of the National Council of Senior Citizens' study be inserted in the RECORD at the end of my statement.

In recognition of the desperate plight of many low-income Americans, Congress authorized a $1.875 billion spending level for the energy assistance program in the Omnibus Reconciliation Act of 1981 and provided this amount for fiscal year 1982. Congress approved a 1983 appropriations level of $1.975 billion in response to the large increase in applications for assistance nationwide during the early weeks of the program this year.

A few weeks ago, Senators DANFORTH, EAGLETON, and SARBANES introduced legislation to increase the authorization level to $2.5 billion for fiscal years 1983 and 1984.

The legislation I am offering today would complement the legislation of-

fered by my colleagues. It would allow States to use up to 25 percent of their energy assistance funds to supplement their weatherization activities. While the energy assistance program is necessary to reduce the burden of rising fuel costs on low-income families, the weatherization assistance program is more effective in reducing fuel costs over the long run. By reducing home energy consumption by 15 to 30 percent, the weatherization assistance program has proved invaluable to our national conservation effort.

In addition, this legislation would require States to apprise the Department of Health and Human Services of the amount of funds to be used for weatherization activities and of the types of activities to be undertaken. This information will be included in the State's annual application. Furthermore, this legislation provides for the collection of data on the number and income levels assisted by these weatherization activities.

Obtaining accurate data on the use of energy assistance funds for weatherization activities has been very difficult. Including weatherization information in existing reports will allow us to obtain this important data without placing additional burdens on the State.

The low-income energy assistance block grant program was reauthorized for fiscal years 1982, 1983, and 1984, in Public Law 97-35, the Omnibus Reconciliation Act of 1981, at $1.875 billion. This program is quite similar to earlier energy assistance programs, with greater flexibility afforded the States because of fewer Federal requirements. Perhaps the greatest improvement in this program is the provision allowing States to use up to 15 percent of their allotments for weatherization activities. Since the adoption of this provision, 47 States have used portions of their fuel assistance allotments to weatherize an estimated 330,000 homes. Seventeen States have used up to 14 percent of their allotment for weatherization activities, 10 States have used from 10 to 15 percent, 10 States have used from 5 to 10 percent, and 7 States have used 1 to 5 percent.

Maine, which established the first weatherization assistance program in 1973, used 15 percent of its $25.1 million allotment—$3.5 million—for weatherizing 3,000 homes. This money has added greatly to the weatherization activities in Maine which, all told, have provided 33,062 Maine homeowners with weatherization improvements.

Despite administration attempts to terminate the low-income weatherization assistance program, support for its continuation remains strong in both Houses of Congress. For fiscal year 1982, $144 million was appropriated—a reduction of only $37 million from the previous year's level of $181 million. The fiscal year 1983 funding level for the weatherization assistance program is $145 million. While this appropriation is certainly helpful, it is not enough.

While the Department of Energy's low-income weatherization assistance program has weatherized 1 million homes since the program began in 1977, the Department has estimated that 12 to 13 million low-income Americans live in homes still in need of weatherization improvements. In Maine alone, there are 20,000 people on the waiting list for weatherization assistance.

The real value of the weatherization assistance program rests on its ability to dramatically—and permanently—reduce energy consumption in the home. With the continual rise in fuel prices, the cost of providing energy assistance will ultimately rise as well. But, if a portion of energy assistance funds are used for weatherizing homes, reducing fuel bills by about 20 percent, the value of the energy assistance will be greatly enhanced. And, as fuel prices continue to rise, the dollar value of the energy saved through weatherization improvements will continue to go up.

The Congress is to be commended for giving States greater flexibility and discretion in establishing their own energy assistance program through the passage of the Omnibus Reconciliation Act. Yet, I believe States should be given even greater discretion in using allotted energy assistance funds to meet the fuel-assistance needs of their residents. Therefore, the amendment I am offering today to the Omnibus Reconciliation Act will authorize States to use up to 25 percent of their energy assistance block grant funds for weatherization or home repairs related to energy conservation. My amendment will not require States to use any of their funds for weatherization activities. Rather, States will have the option of providing more households with weatherization improvements or assisting more families in paying their fuel bills. This is consistent with the administration's policy of returning control of assistance programs to State and local governments. This legislation will greatly improve the energy assistance program by allowing States to increase the value of their allotment by permanently reducing fuel bills. I urge my colleagues to support it.

Mr. President, I ask unanimous consent that an executive summary be printed in the RECORD.

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

SEARED HOPES AND FROZEN PROMISES—EXECUTIVE SUMMARY

Seared Hopes & Frozen Promises is a report prepared by Project EnergyCare of the National Council of Senior Citizens (NCSC). Funded by the Community Services Administration in 1980, Project EnergyCare was a national information and outreach program focusing on the home energy needs of the elderly and disabled poor. It has recently completed a national survey of 24,000 elderly households in 38 states. The findings are:

(1) The average U.S. household spends about five-six percent of income on home energy costs, but the energy costs of low-income households—after low-income energy assistance—average 19 percent of annual income. Only about one-half of such households receive any help from federal energy assistance programs.

(2) The percentage of income that poor elderly households spend on energy is much higher during the winter months. In the winter, over 70 percent of the low-income elderly spend over 20 percent or more of their income on energy bills. One of every four elderly poor households spends more than 40 percent of its income on heating bills during the winter.

(3) For the poorest group of elderly—those on SSI—the situation is starker. In 12 states, the average energy bills during the coldest month equals or exceeds the maximum SSI payment. In nine additional states, less than $25 a week remains of the SSI payment after energy bills are paid.

(4) The percentages of income used for energy bills are considerably higher for those who heat with fuel oil than for those who use natural gas. About 17 percent of the low-income population heats with fuel oil, while nearly 60 percent use natural gas. Over coming years, natural gas prices are expected to rise to the level of fuel oil prices, as natural gas is deregulated. The percentages of income spent on energy costs by large numbers of elderly and poor families are expected to rise considerably over future years as natural gas prices increase.

For example, in the Southeastern United States, 23 percent of the elderly poor heating with oil spend more than 60 percent of their incomes to stay warm in winter, versus three percent of those who now heat with gas. As natural gas prices increase (over 21 percent last year in this region), more and more elderly poor will see dramatic increases in their home heating budgets. Like those using oil, one out of every four may soon be spending three-fifths of their income to stay warm in the South during the winter.

A key purpose of this sample, from the more than 600,000 elderly and disabled poor reached by Project EnergyCare, was to look at the impact of rising energy costs on older Americans with low, fixed incomes and thereby assess the value of existing energy services directed to them. Were, in fact, such services needed by only a few who face a grim energy picture today and tomorrow? Or is the problem of home energy shared by the many elderly poor?

Taken together with the three other studies sponsored by Project EnergyCare, the sample quite clearly shows that the problem of home energy affects thousands and thousands of people—not just isolated individuals—who live in every community of the United States, from the colder Northeast to the warmer Southwest and Southeast. The difficulties the elderly are having in affording adequate heating or cooling is bound to become more severe in the future, as funding for critical federal energy programs is reduced or eliminated and as prices for other energy sources that the poor depend upon, such as gas and electricity, begin to

reach the equivalent cost of home heating oil.

The other studies reviewed in this report and prepared for NCSC's Project EnergyCare are:

(1) Poor + old = Cold, by the Grier Partnership. This report explores the economic impact of rising energy costs on low-income households. It contains extensive data on average energy expenditures, and compares these costs to maximum allowable SSI payments broken down by state.

(2) The Cost of Survival, by the Grier Partnership. If low-income Americans were to pay what the average American pays for home energy—roughly five percent of their income—over $7 billion in subsidies would be needed. The Report's purpose is to calculate on a state-by-state basis the amount of subsidy necessary to keep low-income persons from paying more than a certain percentage of their income for home energy. Frozen Promises contains a comparison between the state-by-state needs revealed in this study with current distribution of federal energy assistance funds.

(3) A Comprehensive Analysis of the Costs and Benefits of Low-Income Weatherization and Its Potential Relationship to Low-Income Energy Assistance by the Consumer Energy Council of America.

This report provides an in-depth analysis of the social and economic impact of weatherization on low-income households. The study explores data from numerous field sites to determine rates of energy savings at various levels of investment under different programs. The results show that weatherization is a lower cost alternative to increasing our national energy supply than is investment in new production. The study also shows that the Department of Energy's Weatherization program has been effective in reducing low-income households energy consumption at a reasonable cost.

For additional information, contact Project EnergyCare, National Council of Senior Citizens, 925 15th Street, N.W., Washington, D.C. 20005, (202) 347-8800, Att'n: Michael Sandifer or Eric Shulman.

By Mr. INOUYE (for himself, Mr. STEVENS, Mr. HART, Mr. HOLLINGS, Mr. THURMOND, Mr. COCHRAN, Mr. LAXALT, Mr. LUGAR, Mr. TSONGAS, Mr. MURKOWSKI, Mr. MELCHER, Mr. BRADLEY, Mrs. HAWKINS, and Mr. EAGLETON):

S. 591. A bill to amend the Internal Revenue Code of 1954 to provide a mechanism for taxpayers to designate $1 of any overpayment of income tax, and to contribute other amounts, for use by the United States Olympic Committee; to the Committee on Finance.

UNITED STATES OLYMPIC CHECKOFF ACT OF 1983

Mr. INOUYE. Mr. President, today, Senator STEVENS and I, on behalf of ourselves and Senators HART, HOLLINGS, THURMOND, COCHRAN, LAXALT, LUGAR, TSONGAS, MURKOWSKI, MELCHER, BRADLEY, HAWKINS, and EAGLETON are reintroducing the United States Olympic Checkoff Act of 1983. This bill would amend the Internal Revenue Code of 1954 to establish an Olympic trust fund within the Treasury of the United States. Taxpayers could allocate $1 of their personal income tax refunds to that account or they could include cash contributions with their returns to be given to the U.S. Olympic fund. The Treasury would periodically turn over the funds to the United States Olympic Committee, which would use the money to carry out programs for the expansion and improvement of amateur athletics in the United States so that all Americans, including women, minorities, the aged, and the handicapped, are able to participate in athletic endeavors.

Mr. President, 17 Senators cosponsored an earlier version of this bill, S. 1595, in the 97th Congress, and over 200 Members cosponsored a companion measure in the House of Representatives. The legislation has been modified this year to allow the Treasury to recover administrative costs from the fund before turning over money to the United States Olympic Committee. The checkoff will thus operate at no cost to the Government. The bill also allows taxpayers to include voluntary contributions of any size with their Federal income tax returns; it does not limit these donations to $1, as was the case with S. 1595.

Mr. President, the Senate Finance Subcommittee on Taxation and Debt Management held hearings on this measure on October 30, 1981. Several of our finest Olympic athletes and members of the U.S. Olympic Committee testified strongly in favor of the bill. Those of us introducing the bill today believe that the hearing record presents an excellent case for prompt action in the 98th Congress.

The need for this legislation is clear. As Robert J. Kane, past president of the U.S. Olympic Committee pointed out to the Subcommittee on Taxation and Debt Management:

> The Olympics are the most visible peaceful involvement of the United States with other nations. Our pride and prestige and our youth are on view for billions of people of differing ethnic and political persuasion and, as well, of our friends to see and appraise. It is a wholesome and healthful involvement. Our American athletes are the very best anywhere, when they are given a proper chance. The facts prove this. But fewer than half of our sports are on the high school and college programs, and there is really no other good way in this country to help amateur sports other than on the educational programs.
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> Of the 26 Olympic sports of the winter and summer games, only 12 are on high school and college programs. So unless our young people have financial resources to pay their way, they are not able to take part in the other 14 sports. And only recently have our women been given a proper chance, even on our educational programs.
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> So, there are about 14 pauper sports in this country, the great capitalist nation of the world; whereas, in the Soviet Union, East Germany, and virtually every other large country in the world, all sports are richly supported, and in each case by their governments.
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> Not surprisingly, then, we do very well in the sports that are on our high school and college programs, and really not very well in the others. In making this point, I would like to refer on a factual basis to what happened the last time we took part in the summer games—and, as you all know, that was in 1976, not 1980—and at the same time to explode the myth that the recent emergence of the Soviet bloc countries had undermined our part in victories in the Olympic games.
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> In 1976, at Montreal, Russia got the most gold medals, 57; East Germany, 40; and the United States, third, with 34. Now the Russians won 10 medals in Greco-Roman wrestling. We won none. Greco-Roman wrestling is not a high school or college sport. The Russians won five gold medals in weightlifting, and we don't have that on our college programs. They won five gold medals in canoeing; we won none. The East German women won 11 of 13 swimming events; we won none. The United States won 8 gold medals in track and field; overwhelmingly in men's swimming, 12 gold; first in men's basketball, but men's basketball is only 1 gold medal.
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> The East Germans, of their 40 medals, the women won 25 of those 40. The Russian women won 12 golds; our U.S. women won 2. I think that demonstrates that what has happened in the world from 1952 and thereafter is that the Russians figured where we were vulnerable and made sure that the sports that we were vulnerable in, they beefed up.
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> We are still doing as well as ever in the sports that we support. And I don't have to remind you of what happened in the winter games. In the past 4 years the Olympic has advanced more, done more things, than in their 50 years previous. The great victory of our hockey team, the apotheosis of Eric Heiden, the showing of our skiers, the showing of our other speed skaters, that can happen in all sports in this country if we give our athletes a chance. I hope with this bill that's here today that we can provide that chance for all our athletes.

Mr. President, we need to expand our Olympic training efforts, but this requires money. Of the more than 140 Olympic teams around the world, ours is the only one which does not receive governmental assistance. If the United States is to remain competitive, and if it is to provide the caliber of team we expect, then we must find a way to provide our Olympic athletes with a dependable means of financial support. Instead of providing direct monetary assistance, it is our judgment that the proud tradition of amateur athletics that we have in this country is best served by providing the American public with the opportunity to support the effort themselves through a checkoff mechanism on their income tax returns.

Before commending this bill to my colleagues, I would like to take a moment to answer some of the questions raised about last year's version of the United States Olympic Checkoff Act. In his testimony before the Senate Finance Subcommittee on Taxation and Debt Management in 1981, Hon. John E. Chapoton, Assistant Secretary of the Treasury for Tax Policy, stated:

Treasury is opposed to S. 1035, and S. 1595. We do not believe that Federal tax returns, or the Federal tax collection system, should be used as a vehicle for voluntary contributions to any charity or cause, however meritorious. If a voluntary check-off of the kind proposed by S. 1035 and S. 1595 were incorporated on tax returns, the flood gates would be opened for other charities and worthwhile causes to request a similar check-off system. Thus, an issue to be considered by this Subcommittee is whether the Internal Revenue Service should serve as a collection agent for all charities. It would be difficult to argue that certain charities, such as the National Endowments, should have a check-off, but that other charities, such as the Boy Scouts, should not.

This flood gate argument is the reservation most often heard about the Olympic tax checkoff bill. As I have already pointed out, the bill will not pose a burden on the Treasury since the Government will be able to recover the cost of administering the program from the Olympic fund. I was, therefore, surprised to read the following message from the Commissioner of the Internal Revenue Service on the cover of the 1040 Federal income tax forms and instructions for 1982:

Quite often we receive inquiries about how people may make voluntary contributions to reduce the public debt. If you wish to contribute, just enclose in your tax return envelope a separate check made payable to "Bureau of the Public Debt." Subject to the limitations on charitable contributions, you can deduct this contribution on next year's tax return. * * *

Mr. President, after insisting that the Federal tax collection system should not be used as a vehicle for voluntary contributions to good causes, we now find that the IRS is itself urging taxpayers to make charitable donations toward retiring the public debt. The flood gate is open, and it has been opened by none other than the Department of the Treasury.

The question, therefore, comes down to the following: Is the U.S. Olympic effort important enough to merit establishing a checkoff mechanism on Federal tax returns? The sponsors of this bill believe it is, and we hope that our colleagues will agree with us. Indeed, during the hearings on S. 1595, Senator PACKWOOD asked Mr. Chapoton: "Don't you think there is almost a basic difference in kind between the Olympics and almost every other kind of charity you might want to name?" To which Mr. Chapoton replied: "When the Senators were testifying, that thought was apparent to me. Yes, there is a difference. I agree."

Mr. President, the 1984 Summer Olympic Games in Los Angeles are almost upon us, and there is no doubt in my mind that the time has come to establish the U.S. Olympic fund and the checkoff mechanism necessary to support the U.S. Olympic effort. I urge my colleagues to cosponsor this worthwhile measure and trust that it will receive favorable consideration in the 98th Congress.

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

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

S. 591

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "United States Olympic Checkoff Act of 1983".

SEC. 2. DESIGNATION OF OVERPAYMENTS AND CONTRIBUTIONS FOR UNITED STATES OLYMPIC TRUST FUND.

(a) IN GENERAL.—Subchapter A of chapter 61 of the Internal Revenue Code of 1954 (relating to returns and records) is amended by adding at the end thereof the following new part:

"PART IX—DESIGNATION OF OVERPAYMENTS AND CONTRIBUTIONS FOR UNITED STATES OLYMPIC TRUST FUND

"SEC. 6097. Amounts for United States Olympic Trust Fund.

"SEC. 6097. AMOUNTS FOR UNITED STATES OLYMPIC TRUST FUND.

"(a) IN GENERAL.—With respect to each taxpayer's return for the taxable year of the tax imposed by chapter 1, such taxpayer may designate that—

"(1) $1 of any overpayment of such tax for such taxable year, and

"(2) any cash contribution which the taxpayer includes with such return,

be paid over to the United States Olympic Trust Fund.

"(b) JOINT RETURNS.—In the case of a joint return showing an overpayment of $2 or more, each spouse may designate $1 of such overpayment under subsection (a)(1).

"(c) MANNER AND TIME OF DESIGNATION.—A designation under subsection (a) may be made with respect to any taxable year only at the time of filing the return of the tax imposed by chapter 1 for such taxable year. Such designation shall be made on the first page of the return.

"(d) OVERPAYMENTS TREATED AS REFUNDED.—For purposes of this title, any overpayment of tax designated under subsection (a) shall be treated as being refunded to the taxpayer as of the last date prescribed for filing the return of tax imposed by chapter 1 (determined without regard to extensions) or, if later, the date the return is filed.".

(b) CLERICAL AMENDMENT.—The table of parts for subchapter A of chapter 61 of such Code is amended by adding at the end thereof the following new item:

"PART IX—DESIGNATION OF OVERPAYMENTS AND CONTRIBUTIONS FOR UNITED STATES OLYMPIC TRUST FUND.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after the date of enactment of this Act.

SEC. 3. ESTABLISHMENT OF UNITED STATES OLYMPIC TRUST FUND.

(a) IN GENERAL.—Subchapter A of chapter 98 of the Internal Revenue Code of 1954 (relating to trust fund code) is amended by adding at the end thereof the following new section:

"SEC. 9504. UNITED STATES OLYMPIC TRUST FUND.

"(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the 'United States Olympic Trust Fund', consisting of such amounts as may be appropriated or credited to the United States Olympic Trust Fund as provided in this section or section 9602(b).

"(b) TRANSFER TO UNITED STATES OLYMPIC TRUST FUND OF AMOUNTS DESIGNATED.—There is hereby appropriated to the United States Olympic Trust Fund amounts equivalent to the amounts designated under section 6097 and received in the Treasury.

"(c) EXPENDITURES FROM TRUST FUND.—

"(1) IN GENERAL.—The Secretary shall pay, not less often than quarterly, to the United States Olympic Committee from the United States Olympic Trust Fund an amount equal to the amount in such Fund as of the time of such payment less any administrative expenses of the Secretary which may be paid under paragraph (2).

"(2) ADMINISTRATIVE EXPENSES.—Amounts in the United States Olympic Trust Fund shall be available to pay the administrative expenses of the Department of the Treasury directly allocable to—

"(A) modifying the individual income tax return forms to carry out section 6097,

"(B) carrying out this chapter with respect to such fund, and

"(C) processing amounts received under section 6097 and transferring such amounts to such Fund.".

(b) CLERICAL AMENDMENT.—The table of sections for such subchapter A is amended by adding at the end thereof the following new item:

"Sec. 9504. United States Olympic Trust Fund.".

Mr. STEVENS. Mr. President, I am pleased to join my good friend from Hawaii in sponsoring this very important measure for amateur sports.

As the United States readies itself to host the 1984 Olympics, athletes throughout our country are training to earn a spot on the U.S. Olympic team. These men and women will represent our country in competition against the finest athletes from around the world. However, there is one significant difference between our athletes and those from other countries, and that is the amount of support they receive from their governments.

Of the 140 Olympic teams around the world, only the United States does not provide governmental assistance to its team. This puts our team at a marked disadvantage with other countries. Many of today's advanced training methods require expensive facilities and equipment. These facilities are needed if our country hopes to remain competitive in international competition.

The best illustration reflecting the importance of Government support of Olympic teams is the 1976 Olympics. For the first time in the history of the summer Olympics, the United States did not finish first or second in gold medals. Instead, East Germany, with a population one-thirteenth that of the United States, surpassed the United States. I do not believe this is because East Germany has more superior athletes than those in the United States.

Instead, I believe this reflects the support of their team by their government, and their advanced training facilities.

The Olympics are no longer simply a game. They reflect our country's strength and will, and serve as an important international symbol. The victories of our Olympic athletes are victories for the American people. We can all recall the intense pride felt by Americans when our hockey team beat the Russians in the 1980 winter Olympics. We are all moved when we witness the grace and beauty of a gymnast or when we watch the determination of an exhausted athlete pushing himself to his body's limits in search of victory.

Our Olympic teams need dependable financial support if we hope to continue our winning tradition. The U.S. Olympic Committee (USOC) has been charged with 14 separate goals and functions by Congress. President Ford's Commission on Olympic Sports estimated the need of amateur sports in the United States at $215 million, in 1976 dollars, and a continuing need of $83 million annually. The USOC's entire budget for the 1980-84 quadrennium is only $77.1 million.

Instead of providing direct monetary assistance, it is our judgment that the proud tradition of amateur athletics that we have in this country is best served by providing the American public with the opportunity to allocate $1 from their tax refund to an Olympic trust fund. The program would operate much like the Presidential election checkoff, except that no Government money would be used. Even the administrative costs of the Treasury would be paid for out of the donations. The money raised through this act would insure that our Olympic teams have the dependable income base it requires to support its programs.

This bill costs the Government nothing, but it does reflect our support of our Olympic programs and our athletes. Our teams represent our country in international competitions, and inspire our people. I strongly feel that our Olympic teams deserve our backing, and I hope that you will join me in supporting this measure.

By Mr. CHILES:

S. 592. A bill to amend the Immigration and Nationality Act to provide special authorities and procedures for the control of immigration emergencies; to the Committee on the Judiciary.

AUTHORITIES AND PROCEDURES FOR IMMIGRATION EMERGENCIES

● Mr. CHILES. Mr. President, today I am reintroducing my legislation to clarify the Federal Government's role during large scale immigration emergencies. My bill provides for a contingency plan which specifies the steps the President and appropriate agencies may take to stop an uncontrolled mass migration of aliens to the United States.

Mr. President, the Senate took the first step last year toward reforming our immigration policy. Unfortunately, the House of Representatives failed to complete action on the bill before the end of the 97th Congress. Therefore, we are back to ground-zero, which troubles me greatly. The State of Florida is still digging out from the impact of the mass migration from Cuba and Haiti during the last few years. The major influx has slowed considerably but there are still many detected and undetected boats slipping into Florida harbors daily carrying hundreds of undocumented aliens from Haiti, Colombia, the Dominican Republic, Pakistan, and Bangladesh. Control of this influx is at best sporadic with only informal agreements regulating the cooperation between the Immigration and Naturalization Service (INS), the Coast Guard, and local law enforcement. It is obvious that a constructive plan and additional resources are needed to effectively control our shores.

Last year, Senator SIMPSON skillfully and diligently steered an immigration reform package through the Senate. He has assured me that he will continue this year to strive for an immigration reform bill. With the absence of any reform in our immigration policy, it is even more imperative that some form of contingency plan be defined to set forth the current authorities of the President to deal with immigration emergencies. Early last year the administration testified that such a plan was being drafted. Yet, no such plan has been presented to Congress. I would hope the administration will soon act on this pressing matter.

In addition to a contingency plan based on current law, I feel that it is necessary to have additional legal authorities for responding to declared immigration emergencies. Attorney General Smith concurred with this judgment last year and I am hopeful we will have his counsel again on this issue in the near future. Last year I withdrew my proposed emergency powers amendments when I received assurances from both the Justice Department and State Department that the administration does have authority under existing law to stop another immigration emergency. The Justice Department indicated that it had developed a plan to control future crisis situations. Yet, such a plan is still not in place. If another Mariel boatlift occurred this month, we would still be unable to effectively control the situation. Fidel Castro would once again have the upper hand. I firmly believe that if the United States had a strong contingency plan in place, Castro would not even attempt to violate our controls. Castro and others must receive the message that the United States can protect the integrity of its borders.

Mr. President, the legislation I am introducing today would lay the groundwork for such a contingency plan.

First, the bill would allow the President to declare an immigration emergency if a substantial number of undocumented aliens are about to embark, or have embarked, for U.S. shores and in his judgment, additional procedures and resources are needed to respond. Within 48 hours, the President would notify the President pro tempore of the Senate and the Speaker of the House that such a declaration had been made and the reasons for such action. An announcement would be made in the Federal Register. The emergency period would end after 120 days or sooner if the President so determines. The emergency could also be extended for an additional 120 days.

During a declared emergency, the President would have the authority to take special steps to cut off a massive influx of illegal aliens. In order to prevent the likes of a Mariel boatlift or mass migration of thousands of Haitians from Haiti and the Bahamas, the President would have the authority to restrict departures of U.S. registered boats from ports and harbors which could be used as staging points for bringing aliens into the United States. Fines and penalties could be imposed on those who violate the restrictions. Persons on vessels not involved in the migration could obtain authorizations to leave the port. In addition, Government agencies such as the Coast Guard would be allowed to assist in preventing unauthorized immigration by intercepting ships bound for staging areas. In order to assure that this aspect of the contingency plan is effectively enforced, the President would be able to use the resources of other Federal agencies.

Under this legislation, an alien who arrives in the United States without proper documentation could be summarily excluded from entering the United States if he does not appear to have a legitimate asylum claim. This provision could also be used to stop undocumented aliens traveling by sea to the United States before they reach U.S. territorial waters, utilizing the President's existing authority to interdict foreign vessels on the high seas. The Attorney General would develop procedures for deciding whether an alien shall be excluded or admitted to the United States for a hearing.

Finally, my legislation would allow for aliens who are admitted to the United States to be held in detention at Federal facilities specified by the President until their immigration status is determined. Aliens who are

ineligible for asylum in the United States would be returned to the country from which they came, or a third country. Current law requires that aliens be returned to the country from which they came. In both the Cuban and Haitian influxes, this was to be impractical because the Cuban Government refused to repatriate the refugees and many of the Haitians had come from the Bahamas, not Haiti. This provision of my bill would make the law more flexible and hopefully, more enforceable.

The purpose of my bill is not to close our doors to the legitimate refugee. We have a great responsibility and tradition as a free, democratic nation to assist those fleeing from persecution and repression. Yet, we cannot accept every alien who arrives on our shores simply because they are here. The legal definition of refugee is very narrow and should be reserved for those who are truly victims of persecution.

We must, case by case, make a decision about the status of an alien. Such screening demands a comprehensive plan and procedure. I do not feel we have anything close to this now in our immigration policy especially for mass migration. Some will argue that the President now has the authority to exercise such a plan under his implied powers and his authority as Commander in Chief under the Constitution and I am inclined to agree. However, there are many who hold different views. I cannot stand by and witness another crisis like the Mariel boatlift while we debate the President's authority for such powers here in the Congress or in the courts. I believe that it is crucial that we define the precise powers and responsibilities of the President and the Federal Government during immigration emergencies. Immediate action during such emergencies is the only effective tool. I believe my bill sets forth a contingency plan that allows for swift action. I urge my colleagues and the administration to join me in recognizing the critical need for such legislation.●

By Mr. INOUYE (for himself, Mr. KASTEN, Mr. DOLE, Mr. JEPSEN, Mr. THURMOND, Mrs. KASSEBAUM, and Mr. MATSUNAGA):

S. 593. A bill to amend the Federal Meat Inspection Act and the Poultry Products Inspection Act to permit distribution of certain State-inspected meat and poultry products, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

FEDERAL MEAT AND POULTRY PRODUCTS INSPECTION ACT OF 1983

Mr. INOUYE. Mr. President, today, I am introducing legislation on behalf of Senators KASTEN, DOLE, JEPSEN, THURMOND, KASSEBAUM, MATSUNAGA, and myself which would allow State-inspected meat and poultry products to enter into interstate commerce. This bill would permit the sale of State-inspected meats to consumers in neighboring States and to federally inspected plants. However, it would continue the present practice of barring State-inspected meats from international trade, where by treaty all meat must be federally inspected.

Under present law, State meat inspection plans must either meet or exceed Federal standards for wholesomeness, cleanliness, and freedom from residues. However, quality State-inspected products are often barred from nearby markets by virtue of an arbitrary State line that bisects a local community. The bill we are offering will correct this inequity by allowing State-inspected meats equal access to American meat and poultry markets.

State-inspected meat and poultry plants may be smaller than the average federally inspected plant, but they produce as wholesome a product. They may follow some different procedures under State law and use different equipment, but it would be a mistake to assume that their products are inferior. Take for example the requirement that all federally certified plants must provide an inspector with a private office. This may be feasible for some of the larger, newer plants which can tailor their specifications to Federal requirements, but what about the small family producer who has been making specialty meats for decades? His packing procedures and end product are as good as anyone else's, and he meets all of the necessary laws and State requirements, but what if he does not have space for a separate inspector's office? Should we really deny that producer the right to ship his products in interstate commerce? Is this fair to either the small producer or the nearby consumer who would like to buy his products but cannot because he happens to live in a different political jurisdiction?

Consumer confidence in our Nation's meat and poultry products is at an all-time high, and this bill will do nothing to harm that confidence. What it would do is end the discrimination against State-inspected meats which enjoy the confidence of consumers in 27 States throughout the country.

The benefits of this legislation are clear. First, consumers would be rewarded with a greater variety of wholesome meats at competitive prices. Second, livestock producers would not have to ship their animals clear across a State to reach a Federal plant: They could use local, State-inspected plants and still get their meat into interstate commerce, thus saving a great deal on transportation costs and helping smaller meatpacking plants stay in operation. Third, State plants would no longer be pushed to join the Federal meat inspection system. This bill would thus save the U.S. Department of Agriculture and the American taxpayer money by keeping meat-inspection programs in the hands of individual States.

Mr. President, last year I introduced legislation identical to this bill, S. 2400, which received favorable comment from the U.S. Department of Agriculture. Indeed, the Secretary of Agriculture recommended that it be enacted into law. I ask unanimous consent that Secretary Block's letter of August 30, 1982, be printed in the RECORD at this point.

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

DEPARTMENT OF AGRICULTURE,
Washington, D.C., August 30, 1982.

Hon. DANIEL K. INOUYE,
U.S. Senate,
Washington, D.C.

DEAR SENATOR INOUYE: This is in response to your request for a report on S. 2400, a bill entitled the "Federal Meat Inspection Act Amendments of 1982."

The Department of Agriculture recommends enactment of this bill.

This bill amends the Federal Meat Inspection Act and the Poultry Products Inspection Act to permit carcasses, parts of carcasses, meat and meat food products of cattle, sheep, swine, goats, equines, or poultry prepared under State inspection to be eligible for sale or transportation in interstate commerce. Furthermore, the bill permits the entry of State inspected product into Federally inspected plants for further processing. However, under provisions of this bill State inspected product would not be eligible for sale or transportation in foreign commerce. Therefore, any State inspected or mixed State-Federal inspected product would be kept separated from any federally inspected product in a federally inspected plant.

The Federal Meat Inspection Act and the Poultry Products Inspection Act, as amended, as well as strict regulatory trade agreements on meat and poultry exports and imports, require the United States to accept only meat and poultry inspected by a national system of inspection that is at least equal to our Federal inspection system; our trading partners have the same requirements as regards product imported from this country. Therefore, neither the United States nor our trading partners are permitted to accept imports from plants that have been inspected by a State, local or provincial system. The provision in the bill which would make State-inspected products ineligible for sale or transportation in foreign commerce is thus consistent with maintaining our trading relations regarding meat and poultry imports and exports.

The Wholesome Meat Act and the Wholesome Poultry Products Inspection Act require States carrying out State inspection programs to develop and effectively enforce requirements, with respect to intrastate operations, "at least equal to" the Federal requirements imposed under the Acts. There are now 27 States conducting meat and/or poultry inspection programs for intrastate product. These programs conduct inspection at plants accounting for 5 percent of the total red meat and one percent of poultry slaughtered in the United States. USDA's responsibility for maintaining a national

standard for meat and poultry inspection under these Acts is enforced in such States through a review of each State program. Also, a statistically selected sample of State plants is reviewed periodically as a further check on the effectiveness of the State's inspection system.

Since States which choose to carry out inspection programs must develop and effectively enforce meat inspection requirements "at least equal to" those of the Federal program, it is reasonable that States should be allowed comparable benefits under the law with respect to sales in other than foreign commerce. This legislation would give State inspected plants the opportunity to expand their markets to include wholesale and retail outlets in other States and State or federally inspected plants regardless of where they are located. The Department does not believe that this bill as written will have any significant impact on the meat and poultry industry, or on consumer confidence in that industry.

The Office of Management and Budget advises that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

JOHN R. BLOCK,
Secretary.

Mr. INOUYE. Mr. President, allowing State-inspected meat and poultry products into interstate commerce is an idea whose time has come. I urge my colleagues to join us in passing this important piece of legislation.

I ask unanimous consent that a position paper by the American Association of Meat Processors and the full text of the bill be printed in the RECORD.

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

S. 593

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 "Federal Meat and Poultry Products Inspection Act of 1982".

FEDERAL MEAT INSPECTION ACT

SEC. 2. (a) Section 301 of the Federal Meat Inspection Act (21 U.S.C. 661) is amended—

(1) by striking out "solely for distribution within such State" in subparagraph (1) of paragraph (a);

(2) by adding at the end of subparagraph (2) of paragraph (a) the following new sentence: "In carrying out the provisions of this Act, the Secretary may conduct such examinations, investigations, and inspections as he determines practicable through any officer or employee of any State or Territory or the District of Columbia commissioned by the Secretary for such purposes.";

(3) by striking out "with respect to the operations and transactions within such State which are regulated under subparagraph (1)," in subparagraph (3) of paragraph (c) and inserting in lieu thereof "with respect to all establishments within its jurisdiction which do not operate under Federal inspection under title I of this Act and at which any cattle, sheep, swine, goats, or equines are slaughtered or their carcasses or parts or products thereof are prepared for use as human food and with respect to the distribution of carcasses, parts thereof, meat, or meat food products of such animals within the State,"; and

(4) by adding at the end thereof the following new paragraph:

"(e) Notwithstanding any other provisions of this Act—

"(1) Carcasses, parts thereof, meat, and meat food products of cattle, sheep, swine, goats, or equines prepared under State inspection in any State not designated under paragraph (c) of this section, and prepared in compliance with the meat inspection law of the State, shall be eligible for sale or transportation in commerce and shall be eligible for entry into and use in the preparation of products in establishments at which Federal inspection is maintained under title I of this Act, in the same manner and to the same extent as products prepared at such establishments. Such State inspected articles, and federally inspected articles prepared, in whole or in part, from such State inspected articles, shall not be eligible for sale or transportation in foreign commerce and shall be separated at all times from all other federally inspected articles in any federally inspected establishment which engages in the preparation, sale, or transportation of carcasses, or parts thereof, meat, or meat food products, for foreign commerce.

"(2) All carcasses, parts thereof, meat, and meat food products that are inspected under a program of inspection pursuant to the law of a State not designated under paragraph (c) of this section shall be identified as so inspected only by official marks which (A) clearly identify the State as the State which performed the inspection, and (B) are of a design prescribed by the State. Federally inspected articles prepared, in whole or in part, from such State inspected articles shall be identified as so inspected only by the same official marks as prescribed by the Secretary for articles slaughtered or prepared under title I of this Act.

"(3) The operator of any establishment which is operated under Federal inspection may transfer to State inspection and the operator of any establishment which is operated under State inspection may transfer to Federal inspection if—

"(A) the operator gives written notice to both the appropriate Federal and State officials of the proposed transfer; and

"(B) the Secretary determines that such transfer will effectuate the purposes set forth in section 2 of this Act and will not adversely affect the stability of the total State and Federal inspection systems.

A transfer of inspection authority under this paragraph may not become effective until October 1 of any year and until at least one hundred and eighty days have elapsed after notice of the proposed transfer has been given to the appropriate Federal and State officials. The Secretary may, in his discretion, make individual exceptions for any applicant for Federal inspection under title I of this Act who presents clear and convincing evidence that he intends to, and will be able to, engage in foreign commerce to the extent that Federal inspections would be required, to engage in such commerce.".

(b) The second sentence of section 408 of such Act (21 U.S.C. 678) is amended to read as follows: "Marking, labeling, packaging, or ingredient requirements in addition to, or different than those made under this Act may not be imposed by any State or Territory or the District of Columbia with respect to articles prepared at any establishment under Federal inspection under title I of this Act or with respect to articles prepared for commerce at any State inspected establishment in accordance with the requirements under section 301(e) of this Act; but any State or Territory or the District of Columbia may, consistent with the requirements of this Act, exercise concurrent jurisdiction with the Secretary over articles distributed in commerce, or otherwise subject to this Act, for the purpose of preventing the distribution for human food purposes of any such articles which are not in compliance with the requirements of this Act and are outside of any federally or State inspected establishment, or, in the case of imported articles, which are not at such an establishment after their entry into the United States.".

POULTRY PRODUCTS INSPECTION ACT

SEC. 3. (a) Section 5 of the Poultry Products Inspection Act (21 U.S.C. 454) is amended—

(1) by striking out "solely for distribution within such State" in subparagraph (1) of paragraph (a);

(2) by striking out "with respect to the operations and transactions within such State which are regulated under subparagraph (1) of this paragraph (c)," in subparagraph (3) of paragraph (c) and inserting in lieu thereof "with respect to all establishments within its jurisdiction which do not operate under Federal inspection under this Act and at which any poultry are slaughtered or any poultry products are processed for use as human food and with respect to the distribution of poultry products within the State,"; and

(3) by adding at the end thereof the following new paragraph:

"(e) Notwithstanding any other provisions of this Act—

"(1) Poultry products processed under State inspection in any State not designated under paragraph (c) of this section, and processed in compliance with the poultry products inspection law of the State, shall be eligible for sale or transportation in commerce and shall be eligible for entry into and use in the preparation of poultry products in establishments at which Federal inspection is maintained under this Act, in the same manner and to the same extent as poultry products processed at such establishments. Poultry products complying with the requirements under the poultry products inspection laws of States not designated under paragraph (c) in which the products were processed shall be considered as complying with this Act. Such State inspected poultry products, and federally inspected poultry products processed, in whole or in part, from such State inspected poultry products, shall not be eligible for sale or transportation in foreign commerce and shall be separated at all times from all other federally inspected poultry products in any federally inspected establishment which engages in the processing, sale, or transportation of poultry products for foreign commerce.

"(2) All poultry products that are inspected under a program of inspection pursuant to the law of a State not designated under paragraph (c) of this section shall be identified as so inspected only by official marks which (A) clearly identify the State as the State which performed the inspection, and (B) are of a design prescribed by the State. Federally inspected poultry products processed, in whole or in part, from such State inspected poultry products shall be identified as so inspected only by the same official marks as prescribed by the Secretary for poultry products processed under sections 1

through 4, 6 through 10, and 12 through 22 of this Act.

"(3) The operator of any establishment which is operated under Federal inspection may transfer to State inspection and the operator of any establishment which is operated under State inspection may transfer to Federal inspection if—

"(A) the operator gives written notice to both the appropriate Federal and State officials of the proposed transfer; and

"(B) the Secretary determines that such transfer will effectuate the purposes set forth in section 2 of this Act and will not adversely affect the stability of the total State and Federal inspection systems.

A transfer of inspection authority under this paragraph may not become effective until October 1 of any year and until at least one hundred and eighty days have elapsed after notice of the proposed transfer has been given to the appropriate Federal and State officials. The Secretary may, in his discretion, make individual exceptions for any applicant for Federal inspection under title I of this Act who presents clear and convincing evidence that he intends to, and will be able to, engage in foreign commerce to the extent that Federal inspection would be required, to engage in such commerce.".

(b) The second sentence of section 23 of such Act (21 U.S.C. 467e) is amended to read as follows: "Marking, labeling, packaging, or ingredient requirements in addition to, or different than, those made under this Act may not be imposed by any State or Territory or the District of Columbia with respect to articles prepared at any establishment subject to Federal inspection under this Act or with respect to articles prepared for commerce at any State inspected establishment in accordance with the requirements under section 5(e) of this Act. Further storage or handling requirements found by the Secretary to unduly interfere with the free flow of poultry products in commerce shall not be imposed by any State or Territory or the District of Columbia. However, any State or Territory or the District of Columbia may, consistent with the requirements of this Act, exercise concurrent jurisdiction with the Secretary over articles distributed in commerce, or otherwise subject to this Act, for the purpose of preventing the distribution for human food purpose of any such articles which are not in compliance with the requirements under this Act and are outside of any federally or State inspected establishment, or, in the case of imported articles, which are not at such an establishment after their entry into the United States.".

POSITION PAPER OF THE AMERICAN ASSOCIATION OF MEAT PROCESSORS

Legislation being considered: S. 2400 introduced by Senator Daniel Inouye; H.R. 5268 presented by Congressman William Wampler.

These bills, if enacted, would permit state inspected meat products to be shipped in interstate commerce and to be sold to federally inspected establishments.

ASSOCIATION POSITION

For.

ASSOCIATION PROFILE

The American Association of Meat Processors, which we will refer to throughout this document as AAMP, is the non-profit meat trade group which represents the small to medium size independent meat processors in the United States. AAMP's membership includes over 1,500 independent, family-owned meat businesses located throughout the United States and Canada.

Many of these small business people maintain their meat plants under state meat inspection programs while others operate with federal inspection in states which no longer maintain state meat inspection programs. The plants which are operating under state meat inspection are generally satisfied with their present inspection status . . . except for the discrimination against them insofar as free and unhindered shipment of their products and sales of their meat to federally inspected meat plants is concerned. Federally inspected small meat plants, for the most part, are also operating satisfactorily in their present situations . . . except for the problems they often experience in working with the federal bureaucracy.

SUPPORTIVE STATEMENTS FOR PASSAGE

State meat inspection programs are equal to, but not necessarily identical to, the Federal meat inspection program

The state and federal programs, contrary to the unfounded allegations of some opponents of the present system, are equal; but they are far from being the same.

Either the states are doing the job or they aren't. If anyone can show irrefutable proof to Congress that the job is being inadequately handled by the state programs, then the USDA should assume the responsibility for administering these programs. If they can't prove that the states are doing an inadequate job, and we believe that this evidence cannot be provided because it is nonexistent, then there is no reason to oppose passage of legislation to end this gross inequity and barrier to free trade in the meat industry.

Study after study has been done on the equal status of state meat inspection programs. These inquiries have shown that the USDA has kept its finger on the pulse of the state programs. Problems found in the state programs during these studies, whether they be in individual plants or in a specific area of a state, would exist if the meat inspection were administered by the federal government. Inherent problems do not cease to exist simply because the governing agency changes.

Successful compliance programs, including the ability to trace and recall adulterated product should it be necessary, have been implemented in all state programs. The last remaining program without such a compliance program, Florida, recently completed steps to activate a separate compliance branch. Prior to that time, compliance activities had been handled by inspection supervisors. Evidence of the excellence of these activities is provided by the fact that all of the state inspection programs assisted the USDA in the recall of horse and kangaroo meat which had been shipped into this country from Australia.

Small plants voluntarily applying for Federal inspection find the process too expensive, frustrating and the bureaucracy too difficult to deal with—

On the surface, it would seem that it should be a breeze to transfer a plant from state meat inspection to the federal meat inspection program. After all, state systems are equal to the federal program and must abide by federal regulations. If the plant is operating satisfactorily under state inspection, shouldn't it be easy to apply for and receive federal inspection?

Maybe it should be, but it is not. Some of these problems and expenses are outlined here.

Facilities Requirements—The major hurdle facing the small existing meat plant applying for federal inspection is the facility requirements. These are set forth in a document known as "Handbook 570."

Many of the small plants were built prior to enactment of the Fedeal Meat Inspection Act. While they were built according to generally accepted industry specifications for the production of wholesome products, they were not bound by guidelines laid down by any governmental agency. Consequently, as these plants were brought into the meat inspection systems, many were often unable to meet the federal facility requirements in "Handbook 570" designed primarily for big packing plants. These facilities deviations did not necessarily affect sanitation or wholesomeness of product. In the early days of meat inspection, many small meat businesses were forced out of business because of unwarranted demands that facilities changes be made.

For example, overhead rails, which support trolleys by which sides and quarters are moved about in meat plants, are required by federal regulation to be 11 feet high in beef coolers. It is a sensible requirement where beef carcasses are handled as sides since it prevents the meat from dragging on the floor. Many small plants did not meet this specification because they were designed to handle beef in quarters rather than sides. Also, many small plants did not have private offices for an inspector, as required in federally inspected meat plants.

Eventually, the USDA recognized the fact that small plants do operate different than large packing houses and published a document entitled "Federal Facilities Requirements for Small Existing Meat Plants." This guideline permitted the lower rail heights for handling beef quarters, plus many other such variations which do not affect sanitation or wholesomeness of product. As the title suggests, these variations applied only to existing facilities and were not applicable to the construction of new plants or to expansion of old ones.

As the result of the issuance and use of the "Small Existing Plant Handbook," thousands of small establishments are successfully operating today under inspection, turning out product that is sanitary and wholesome, under both federal and state programs. But, there are only two instances in which meat plants are permitted to be "grandfathered" into meat inspection using this guideline:

1. When an entire state is designated for federal takeover, and,

2. When a meat plant is brought into a state meat inspection program.

When small plants voluntarily apply for federal inspection without their entire state program designated, they must renovate to make any facilities changes which had been permitted under the Small Existing Plant Handbook guidelines. If a small meat plant is operating in a sanitary manner, producing a wholesome product today, it would not necessarily be permitted into the federal program tomorrow without extensive and expensive renovations

In a state designated for federal inspection, the "Small Existing Handbook" automatically applies to the plants which are brought under the federal program during the designation. Therefore, those plants absorbed into the federal program during a designation are not normally faced with the massive expenditures for facilities renovations. In addition, they have three years in which to make any needed corrections while

those voluntarily applying must complete the work before the grant of inspection is considered.

Thus, obtaining federal inspection on an individual plant basis is not as easy as it sounds even though the state program under which it is operating is certified, and is being operated, as equal to federal by the United States Department of Agriculture.

Expense of Applying for Federal Inspection—Initially, small plants which had been permitted to operate under the guidelines of the Small Existing Plant Handbook in a state program were faced with thousands of dollars in expenditures for facilities renovations. This, incidentally, is on top of the money that most of them spent to make renovations when they were first brought under state meat inspection. In applying for federal inspection, a state inspected plant runs into a mass of paperwork which must be completed prior to the plant being granted federal inspection. The procedure is as follows:

1. The Plant must be reviewed by the federal inspection authorities.
2. Deficiencies must be corrected to bring the plant up to "570" standards.
3. Blueprints must be drawn up and sent to Washington for approval.
4. Label applications must be submitted.

Problems always arise. The approval of blueprints and labels is an area fraught with problems for plants being brought into the federal inspection. After the plant has gone to the expense of preparing the blueprints and waded through the label approval forms, they are frequently returned from Washington with a list of questions and corrections which must be made to the labels and/or blueprints. This often happens to a plant several times before final approval is granted.

But, the major expense is the large number of facility changes that must be implemented, changes which too often have no relationship to or bearing on the wholesomeness of the meat being handled.

Scheduling of Inspectors in Small Plants—When they shift from state to federal inspection, another problem that state inspected establishments face is inflexibility of inspection hours. State programs are generally much more flexible than federal in this regard. A plant which is voluntarily applying for federal inspection is apt to have to rearrange the plant's work schedule to meet the availability of an inspector. These rearrangements can often result in a plant having to reschedule employee's hours to work around the availability of a federal inspector. Obtaining an additional day of inspection on a temporary basis or making an emergency change in inspection hours is often difficult if not impossible. Often an overtime charge is made for small plants requiring federal inspection, even in cases where the inspector is in the plant less than eight hours a day.

Small meat plant operators find it difficult to obtain answers to questions and problems from the massive Federal bureaucracy.

Of all objections to federal inspection, this is the one most often voiced and one of the major concerns of small operators who are faced with the decision of applying for federal inspection. The operators of most small plants do not want to face the massive bureaucracy with which federally inspected plants must deal on a regular basis.

In some areas, such as Hawaii, getting a problem resolved under federal inspection means contacting Washington. The time zone differences alone point out the ludicrousness of the federal communications channels on a practical basis. Unresolved problems typically means production halts. Stoppages of hours or days can too readily translate into economic losses which are non-recoverable.

Small plant operators find it extremely difficult to deal with such a complex bureaucracy. They need a direct line of communication with their official policymakers. Speed in solving problems and clarifying policies is crucial to the survival of small plants. Unless they have someone like AAMP assisting them, small meat plant operators under federal inspection must take their problems to a myriad of federal government employees before possibly finding an answer.

In comparison with the Federal Meat Inspection Program, state program organizational structures are simple and direct. If a problem can't be solved working with the inplant state inspector or his supervisor, the plant operator and/or the inspector can appeal to the state program director. Unresolved problems are handled quickly and without costly delays. A typical organizational chart for both programs might look like this:

[Chart deleted in the RECORDS.]

People in the state government offices are normally in tune with what is going on in their program, even in the individual plants. There is little or no passing the buck from one bureaucrat to another until everyone is so frustrated that they give up rather than try to solve the problem. Once a decision has been rendered by a state meat inspection director, it is a relatively simple matter for supervisors to insure that the directive is followed by all inspection personnel.

In contrast, a federal inspector, after receiving a final determination from Washington, is not necessarily bound to abide by the answer because he is closer to the situation and may be aware of circumstances not known to the Washington staff. After hours and days of frustrating phone calls, the operator is often left with the feeling that he has won the fight but lost the battle because the inspector is not under the direct control of his ultimate supervisor and may choose not to abide by national policies.

The closest link in the chain of upper level management in the USDA is the Area Supervisor. The Area Supervisor is often called upon to resolve problems in meat plants under jurisdiction. This often requires that he visit the plant. Now, this closest link is being removed. The USDA is planning to close all area offices. This means that someone in Maine with a problem will have to deal with an Area Supervisor located in Philadelphia. The supervisor may be familiar with the problem at issue but may never have seen it or even know where the town is located.

Close contact by top level State officials with their employees and the meat plants under their jurisdiction makes it more difficult for illicit activities such as bribery and collusion to exist—

It has been suggested that, because of the kind of direct contact with policymakers which is typical of state programs, there is a proneness to influence by politicians and businesspeople. We have seen no evidence of this. In fact, we suspect that such illicit activities are easier to cover up and hide in a program as massive as the Federal meat inspection program.

Communications between top level policymakers and their field personnel are efficient—

The additional levels of bureaucracy in the federal program have created the problem of properly relaying information to the lay inspector. When a policy decision is made in Washington, it is relayed from the Washington office to the Regional office to the Area Office to the Circuit Supervisor and then to the lay inspector. The inspector often does not receive the information at all or receives it long after he really should have it. This results in confusion when, through USDA news releases, association bulletins and/or magazines, a policy is announced and the inspector has not yet received official notice of its implementation.

Confusion is also apparent when an AAMP member calls for help with a problem, obtains the information as to Washington's official policy from the AAMP staff and then finds the inspector has no record or knowledge of the regulation or policy which applies to the given situation.

Because of the simple lines of communications in state programs, this problem is almost non-existent. Circuit supervisors and inplant inspectors can be quickly and efficiently advised of policy decisions affecting the plants in their jurisdiction.

Policy decisions are often made in Washington by unelected Federal policy makers with no opportunity for public comment—

Changes have been made in federal "policies" which have not been announced through proper rulemaking procedures. One area in which this frequently occurs is in approving new product standards through the label approval process. These "closed door" decisions have often resulted in some confusion and a lot of frustration for meat plant owners. It is rather easy for "policy" decisions to be made and to be buried in the federal bureaucracy. However, at the state level where plant operators have easier access to public officials who oversee the state inspection programs, this kind of problem does not often surface.

Foreign meat products, which are subject to less intense inspection than is offered by the States or the USDA, are permitted free access to American markets. The same privilege should be given to American businesses that are constantly watched—

Foreign meat products from countries having an agreement with the USDA have free access to any market in the United States. Yet, the USDA is not conducting continuous onsite meat inspection in foreign countries which export to the United States. Foreign systems are certified by the USDA as meeting USDA requirements and the foreign governments, with the help of a handful USDA veterinarians, conducts the inspection of those plants exporting meat to the United States.

These foreign programs receive minimal supervision and oversight by the USDA and most have not been visited by a USDA inspector. The state meat inspection programs, on the other hand, receive quarterly onsite checks by the USDA and are often subjected to more frequent visits if a deficiency in the state program is found during the quarterly visit. Yet, this state inspected meat, which is receiving intense inspection by people who are often trained in federal training facilities under a program monitored directly by the USDA, is not permitted the same privilege of free movement into United States commerce which is enjoyed by foreign products. If imported meat, which is often subject to less inspection than domestic meat, is permitted access to U.S. markets, is it fair to deny state inspected meat this same right?

Consumer confidence in our Nation's meat supply, including state inspected meat, is at an all-time high, and there is no reason to believe, or proof that has been offered, which would lead anyone to believe that passage of this bill will change this—

As long as we continue to deny state inspected meat the right to move into interstate commerce and into federally inspected plants, we are saying that state inspected product is inferior and is not to be trusted. We maintain that this is not the consumer's view of inspection. We doubt that most consumers are even aware that both the federal and state meat inspection systems exist nor to what extent their meat is inspected. What they do know is that they are constantly supplied with wholesome, quality meat. Consumers in 26 states continue to express their confidence in state inspected meat by purchasing and consuming millions of pounds of state inspected meat every year.

The argument that consumer confidence in meat will be undermined by allowing state inspected products to be shipped interstate is ludicrous and unfounded. We have yet to see any evidence, study or indication that this is true. Some of our nation's top meat products, evidenced by the fact that they are annually winners in national competition, are produced in state inspected meat plants. These products are as successful as they are because of their excellence and high quality.

The present restrictions do not allow small plants to serve their natural marketing areas and inhibit their growth—

Meat plants operating under state inspection cannot now serve their natural marketing areas because of restrictions in the current law. This means that plants ten, five, even one mile, from a state line are restricted from serving their natural marketing areas. They must pay a penalty in their advertising costs because newspapers, periodicals, radio and television stations base their rates on the number of readers or audience reached. Paying full rates for advertising when the law does not allow them to serve those reached by the advertising is a compounded penalty for small plants operating under state meat inspection.

There is an artifical and political barrier to the growth of these small businesses that are forced to stagnate. By not allowing them to expand beyond political, they are required to remain small or face expensive technical and administrative programs of the Federal inspection system.

Livestock producers pay a penalty of lessened competition under the present law—

A small plant that is allowed to serve its natural marketing area without regard to political jurisdictions increases its volume. That means it buys more cattle, hogs, lambs, chickens, turkeys and veal animals. To the livestock producer, that means increased local markets and better competition for his animals. It translates into profits for the livestock grower. Simply by being able to sell more animals two or three miles away from the farm instead of trucking them hundreds of miles to major packing plants means less expense and greater profit for the producer.

Consumers would be rewarded with more variety and competitive pricing—

Consumers would be the greatest beneficiaries of this legislation. Many areas of the country feature meat items that are not available elsewhere. Small, state-inspected plants would be able to introduce their regional or ethnic products into area where they are currently not available. The opportunities for mail-order and catalogue sales by small firms would be greatly enhanced by this legislation.

State and Federal plants would be able to cooperate and operate more efficiently—

Present law allows a federally inspected meat plant to buy meats from Australia, New Zealand, Argentina or European countries and ship them into interstate commerce as processed or fabricated products. Yet these same federal plants cannot buy meats from small, state inspected plants that produce the meats and other raw materials that they need. Thus, we see a scenario of plants in the same town that cannot trade with one another, stiffling the efficiency and economic growth of both facilities. Nor can federal plants subcontract or "job out" work to smaller state-inspected facilities. Many federal plants find it necessary to subcontract smoking, slicing, private labeling, breaking or other operations, either as a matter of course of during seasonal or peak times. Present law prohibits them from engaging in these mutually beneficial arrangements if a state-inspected plant is involved. The consequence is that federal plants must pay expensive shipping costs to have such work done or do it themselves with new equipment that will be used only occasionally and with workers who will be facing layoffs after those peak or seasonal periods.

Five thousand State-inspected plants are prohibited from bidding on most Government meat contracts under present law—

Federal government meat purchases for the military, school lunch programs, prisons, hospitals and other institutions are off-limits to 5,000 state-inspected meat plants because that product must be shipped across state lines. The lessened competition and higher prices that the government and taxpayer endure are totally unwarranted, but are yet compelled by the present restrictions. Many schools, institutions, etc., receive meats from federal government purchases in large quantities or in forms they cannot handle. They commonly take them to be stored, processed, sliced, or further handled in small, local state-inspected meat plants . . . plants that were originally forbidden to have bid on those government contracts. Local school districts and other entities pay additional storage and processing costs at further cost to the taxpayer.

Close cooperation between USDA and State programs is essential in continuing to supply American consumers with the wholesome, unadulterated, properly labeled product to which they are accustomed—

One point needs to be made absolutely clear. In no way should any of the criticisms of the Federal inspection program we've presented be considered as a condemnation of the federal meat inspection programs. The program is needed, has been well run and, judging by the low incidence of illness and death related to consumption of meat which has been inspected by either federal or state officials, the both programs have accomplished their goal of providing consumers with a continuous supply of wholesome meat.

The federal program has its place in inspecting large plants, in dealing with export problems, providing guidance and assistance to the states in maintaining their programs and providing laboratory capabilities. Large packing plants need the assurance that they can produce meat in one state to sell it in other states without having to subject the product to differing standards in different states.

State inspection programs also have their place alongside the federal program. It is our experience that, by and large, small meat plants function more efficiently and economically under state inspection programs because of the less cumbersome bureaucracies in state programs.

It is time to recognize that the monumental task of providing the American consumer with a safe, wholesome supply of meat cannot be accomplished by the federal government alone. The close cooperation which has developed between the state meat inspection programs and the federal inspection program is evidenced by the large part state meat inspection programs played in the recall of Australian horse and kangaroo meat. This cooperation and pooling of resources between the states and the federal government should be encouraged.

Ultimate responsibility for assuring that a safe supply of meat enters interstate commerce lies with the USDA. They have demonstrated for years that this responsibility can be safely and economically met through cooperation with the state programs. Far from abdictating their responsibilities, the USDA has met the challenge with foresight and with the best interests of the consuming public in mind by continuing to foster the state meat inspection programs.

SUMMATION

Both state and federal programs are needed. The USDA and the state programs need to work together, complementing each other's programs, without the constant feeling that the state system is inferior to the federal. The state programs are doing a tremendous job of providing consumers in their states with a wholesome supply of meat. The passage of legislation to permit the interstate shipment of state inspected meat products would be a step in the right direction in eliminating the feeling of competitiveness which has always seemed to prevail as these programs are discussed.

Mr. KASTEN. Mr. President, I thank my distinguished colleague from Hawaii and join him in support of the Federal Meat and Poultry Products Inspection Act of 1983.

Primarily, the bill will allow for State-inspected meats to be shipped and old interstate. Under present law, State-inspected meat products may not be marketed in interstate commerce despite the fact that Federal law requires State-inspection standards to be at least equal to Federal inspection standards. This limitation works a particular hardship on those small family-owned meat-processing plants located near State borders. Bear in mind that the meat processors I am referring to are small, family owned and operated businesses that employ 10 or less people. There are more than 14,000 of these businesses nationwide. In my State alone, there are 600 plants that fall into this category.

As our attention is directed toward unfair trade practices and protectionism tactics of foreign competitors, it is ironic that we are imposing domestic trade restrictions on our own meat industry. We cry "foul" to foreign trade practices, yet present law governing

U.S. meat inspection smacks of that which we condemn. For example:

Four small meat processors in Texas formerly sold their products to a larger, State-inspected plant for distribution. Business was prosperous. The larger receiving plant decided to undertake an ambitious expansion program which included the lengthy process of becoming federally certified in their inspection program. As a result, these four small processors lost a viable market outlet and ended up with diminished market share.

A small plant in Lodi, Wis., specializes in the production of cured summer sausage. Recent recognition this fall of their product appeared in a national publication which resulted in nationwide requests for their product. The Lodi locker could not fill these orders as their meat is State inspected and not allowed to be shipped interstate. Estimated loss in receipts: over $6,000.

A small plant situated in the panhandle of Maryland is located 10 miles from Pennsylvania, 15 miles from Virginia and 5 miles from the West Virginia border. His marketing area is confined to Maryland under present law, with other markets close to him. Regardless of the demand for his product, he cannot sell his State-inspected meat products interstate.

From the examples just cited, trade barriers are obvious. By removing these barriers, a more competitive atmosphere will be created for all meat processors, large and small. It will allow consumers a wider variety and choice of specialty meats to choose from. Healthy competition would also result in lower prices to the consumer for quality foods. Market expansion for the small processor could result in the creation of more jobs. Consumers would experience the added convenience of being able to purchase variety meats at their local supermarket without having to drive any great distance or by having relatives/friends purchase an item for them to later be shipped across the country.

Let me stress that this bill in no way modifies present inspection laws. The consumer is protected. Quality and wholesome meat products will continue to crowd the shelves of retail outlets. The change witnessed by consumers will be a more diversified line of meat products on which they can discriminantly spend their dollars.

The rumor that State-inspection programs are inferior to Federal inspection programs is grossly untrue. The State inspection program is required to meet, if not exceed, the quality level of Federal inspection programs. If State inspection programs are found to be inferior, USDA steps in to assume inspection responsibilities until such time State inspection can be certified to meet stringent requirements. In the areas where USDA can determine equality, sanitation and wholesomeness of product, the Department of Agriculture has asserted State programs to be equal in quality of inspection.

Successful State compliance programs united with Federal inspection efforts have assisted USDA in the recall of horse and kangaroo meat which had been shipped into the United States from Australia last year. In this instance, the quality of State inspection programs speaks for itself. Ironically, present law allows a federally inspected meat plant to buy meats from Australia, New Zealand, Argentina, and European countries for shipment into interstate commerce as processed products. Yet, these same Federal plants cannot buy meats from State-inspected plants for sale into domestic channels.

This bill was introduced to the Senate last session, but due to time constraints, final action was not taken. Last August, comment was requested from USDA concerning this bill. USDA's comment was favorable and OMB advised of no objection to this bill from the standpoint of the administration's program. With this in mind, it is my hope that passage of this bill be expedited, for it will result in greater competition in the marketplace by tearing down domestic trade barriers we have unwittingly fostered throughout the years.

I urge my colleagues to support the Federal Meat and Poultry Products Inspection Act of 1983.

By Mr. DURENBERGER (for himself, Mr. BOREN, and Mr. THURMOND):

S. 594. A bill to amend the Internal Revenue Code of 1954 to treat as a reasonable need of a business for purposes of the accumulated earnings tax any accumulation of earnings by such business in anticipation of section 303(a) distributions before the death of a stockholder; to the Committee on Finance.

FAMILY BUSINESS PRESERVATION ACT

Mr. DURENBERGER. Mr. President, we hear a lot today about the problems many family-owned businesses are having in these troubled economic times. But we hear little about two important problems that successful family-owned businesses face in passing these businesses on to future generations.

The Family Business Preservation Act, which I am introducing today along with my colleagues Senators BOREN and THURMOND, addresses these problems. It modifies the accumulated earnings tax to permit family-owned businesses to prepare for the purchase of a deceased owner's stock. The bill also conforms the section 6166 shareholder requirement for extended payment of estate tax to the subchapter S changes made last year.

In 1981 with the Economic Recovery Tax Act, we took critical steps to remove estate tax barriers to passing family-owned businesses to future generations. Our bill today takes another important step to keep the family in family-owned businesses.

Presently the income tax laws impose a barrier to owners of businesses who want to accumulate earnings in the corporation for redeeming stock after the death of one of the owners. After an owner's death, the family frequently must sell part or all of the stock because of lack of liquidity to pay estate taxes—a substantial burden in many cases despite the changes made by the 1981 act. But the corporation cannot accumulate sufficient earnings because of the accumulated earnings tax. This tax of 27½ to 38½ percent is in addition to the regular corporate tax and is levied on earnings accumulated in excess of $250,000. The law allows accumulations for reasonable business needs, and one of these needs is money to buy out a shareholder. But this is available only after the shareholder's death. Too often the liquidity this provides is too little too late for estate tax purposes without depriving corporations of the liquidity they need for ongoing operations.

This rule is especially severe for businesses with a high market value compared with annual earnings. Family-owned newspapers—the independent newspapers so essential to the free press in our democracy—are prime examples of high value-low earning companies. High tech companies increasingly are also facing this problem because of sharp appreciation in a short period of time. In fact, the problem could face any nonliquid corporation.

Last year when I introduced a similar bill I cited a prime example of the need for this legislation, and I would like to draw it to my colleagues' attention once again. The Wall Street Journal, on August 19, 1981, carried the story of the Salisbury, N.C., Post. The paper with a circulation of 24,700 had earnings of $400,000 the previous year on revenues of about $4 million. The asset value was $3 million, but the market value was about $20 million. Even with the $600,000 exclusion that will be phased in by 1987, the estate tax would be $9.8 million, or 24½ times annual earnings.

Enactment of this legislation would permit owners of family-owned newspapers and other businesses to set aside funds for redemption of stock at the death of a major shareholder—to undertake the planning so essential for avoiding undue disruption at the time of the death of a principal owner. By taking these steps a business could avoid the necessity of selling to a larger corporation—to a chain, in the case of newspapers—just to meet the

liquidity demands of the estate tax. Our bill would help in an important way to stem the tide of undue concentration in business.

In this time of massive Federal deficits, it is more essential than ever to weigh every measure by how much it will cost the Federal Treasury. This bill passes muster because it allows the accumulation of earnings prior to death, but only with after-tax dollars.

The liquidity problem caused by estate taxes can also be alleviated by payment of estate taxes over a number of years. The second part of the bill will conform the provisions of section 6166 that set forth the requirements for qualifying for extended payment of estate taxes with the subchapter S changes made last year. Historically, the requirement that the business have 15 or fewer shareholders to qualify for section 6166 mirrored the rules for subchapter S qualification. Both were directed at aiding closely held businesses. In October of 1982 we changed the subchapter S rules to increase the shareholder requirement to 35, but we neglected to make the corresponding change in section 6166. Our bill would make this change.

Mr. President, small businesses are more important today than they have ever been. The economy requires that these independent concerns remain a vibrant, vital and growing part of American productivity. I urge my colleagues to give this measure quick and affirmative consideration.

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. 594

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Family Business Preservation Act".

SEC. 2. SECTION 303 REDEMPTION NEEDS OF A BUSINESS.

(a) IN GENERAL—Paragraph (1) of section 537(b) of the Internal Revenue Code of 1954 (relating to section 303 redemption needs) is amended to read as follows:

"(1) SECTION 303 REDEMPTION NEEDS.—The term 'section 303 redemption needs' means, with respect to any taxable year of the corporation, the amount needed (or reasonably anticipated in such taxable year to be needed) in such taxable year or any subsequent taxable year to make redemptions of those shares of stock of such corporation to which section 303(a) applies (or to which such corporation reasonably anticipates section 303(a) may apply)."

(b) CONFORMING AMENDMENT—Subsection (b) of section 537 of such Code (relating to special rules) is amended by striking out paragraph (5).

(c) EFFECTIVE DATE—The amendment made by this section shall apply with respect to taxable years beginning after December 31, 1982.

SEC. 3. COORDINATION OF SECTION 6166 WITH SUBCHAPTER S.

(a) IN GENERAL—Paragraph (1) of section 6166(b) of the Internal Revenue Code of 1954 (relating to interest in a closely held business) is amended by striking out "15" in subparagraphs (B)(ii) and (C)(ii) and inserting in lieu thereof "35".

EFFECTIVE DATE—The amendment made by this section shall apply with respect to estates of decedents dying after December 31, 1982.

● Mr. BOREN. Mr. President, I am pleased to join Senators DURENBERGER and THURMOND in sponsoring the Family Business Preservation Act. This legislation will go a long way toward addressing the significant liquidity problems faced by newspaper owners and other family-owned businesses upon the death of a major owner who was the last of his or her generation.

A recent study by the Rand Corp. examines the dramatic changes which have taken place in the ownership structure during the 20th century. It shows whereas at one time this industry was dominated by small, family-owned enterprises; today about 70 percent of all newspaper firms are subsidiaries of larger corporations. Further, the study shows that the increase in the number of newspaper chains is, "* * * not the result of efficiency gains associated with conglomeration." The study goes on to point out that "* * * tax laws can provide strong economic incentives for merger. Estate taxes make it impossible for most families to retain ownership from generation to generation."

This legislation is designed to deal with this problem. It will amend section 537 of the Internal Revenue Code to allow family-owned businesses to accumulate funds which can be used to facilitate payment of estate taxes upon the death of an owner. The change would include as a "reasonable business need," funds accumulated to facilitate payment of taxes on estates of major owners of a closely held business. A major owner would be defined as one who owns at least 20 percent of a business—a test consistent with other provisions of estate tax law.

As it currently stands funds accumulated year by year to facilitate redemption of stock by heirs to pay estate taxes without forcing the sale of the business are subject to the accumulations penalty tax which currently renders any such effort useless. This tax requires that any corporation which accumulates more than $150,000 must show that the accumulation is justified by reasonable business needs. If it is determined that the accumulation is unreasonable, and thus taxable, the excess accumulation each year is taxed at the rate of 27½ percent on the first $100,000 and 38½ percent on the excess.

This legislation is also designed to make a minor change in section 6166 of the Internal Revenue Code to open the extended time payment provisions of existing Federal estate tax law to more family-owned businesses. Currently there are three tests in section 6166:

First, the interest of the deceased in the business must be at least 20 percent.

Second, such business interests must constitute at least 35 percent of the estate.

Third, the business must have fewer than 15 shareholders.

This legislation will replace the 15 shareholder limit to allow that a business may have 35 or fewer shareholders. It is interesting to note that this is little more than a technical correction. Under the Economic Recovery Tax Act of 1981 the test used for subchapter S election (Small Business Corporations as to Taxable Status) was raised to 35 or fewer shareholders.

Current IRS estate tax valuations based "market values" of small, family-owned businesses often result in heavy estate tax burdens on heirs who desire to continue a business which enjoys only modest earning power. With earnings far short of the taxes levied on the business, the business cannot realize its taxable value short of actual sale. This result cannot be tolerated in that it serves to further weaken the sense of community in the United States and threatens our Nation's economy.●

By Mr. NICKLES:

S. 595. A bill to amend title II of the Social Security Act to restrict the payment of benefits under such title to certain aliens; to the Committee on Finance.

ALIENS RECEIVING SOCIAL SECURITY

● Mr. NICKLES. Mr. President, today I am introducing legislation to restrict the amount of social security benefits which flow to aliens working illegally in the United States and to aliens living abroad.

When it was created in 1935, social security's purpose was to provide greater economic security to workers in the United States. The act did not discriminate in eligibility on the basis of citizenship, but looked only at the type and location of employment of a worker. Few aliens were working and earning social security credits even in 1940. There were only 100 beneficiaries living abroad, receiving benefits totaling about $12,000. No one could have anticipated that in 1981 that number would have increased to 313,000 beneficiaries receiving payments of about $1 billion. Of course, some of those beneficiaries living abroad are U.S. citizens, but most—62 percent—are aliens.

As a result of the initial statute and Congress subsequent inadequacy to deal with this issue, two areas of abuse in the payment of social security bene-

fits to aliens have developed. The first is that current law allows aliens who have lived in the United States to receive social security benefits as a result of illegal employment. The second inconsistency is that aliens living abroad who have earned social security credits as a result of legal employment are now receiving benefits far in excess of what Americans in comparable situations receive.

ILLEGALLY EMPLOYED ALIENS RECEIVING SOCIAL SECURITY BENEFITS

The Immigration and Nationality Act regulates the entry of non-U.S. citizens to America. The act requires that prior to being permitted to enter the United States for employment, the Secretary of Labor must certify to the Attorney General that the entry and employment of the alien will not displace any American workers. In short, the effect of this act is to make it illegal for any alien to work in the United States without this country's express permission.

In contrast, the Social Security Act allows aliens to work and earn social security credits and benefits regardless of whether they are legally living or working in this country. The result of this inconsistency in law is that both illegal aliens and aliens who are legally in this country, but without permission to work, are earning and receiving social security benefits.

It is difficult to estimate the total amount of benefits which go annually to aliens who have worked illegally in this country. However, the General Accounting Office, in a draft report on this issue, estimates that between $0.9 to $2.3 billion in social security benefits go to illegally employed aliens.

Obviously it is a flagrant waste of the scarce funds available in the social security trust fund to support aliens who have worked illegally in our country. The legisation that I am proposing today would bring consistency to our laws on this matter by amending the Social Security Act to require legal resident and employment status in order to earn social security credits. Authority is given to the Social Security Administration to stop any benefits or credits from going to an alien as a result of illegal employment. In addition, any alien filing for benefits must show sufficient evidence that he was lawfully employed when earning social security credits.

ALIENS LIVING ABROAD RECEIVE EXCESSIVE SOCIAL SECURITY BENEFITS

The second issue addressed by this legislation is the excess in social security benefits which are going to aliens and their dependents living outside of the United States. Again, drawing from the General Accounting Office's audits of the Administration's files, there were about 194,000 alien beneficiaries living abroad in 1981. Approximately $700 million in benefits went to this population.

In looking at the alien beneficiary issue, it is most informative to compare the average alien beneficiary to the average U.S. beneficiary. Stark differences in the amount of benefits received become apparent.

First, the average American retiree receives $5 for every dollar paid into the trust fund. The average alien beneficiary receives $23 for every dollar paid into the system—more than three times the amount of U.S. citizens.

Second, the average American beneficiary has worked 20.5 years prior to retirement. The average alien beneficiary has worked only 10.5 years—almost half the time of Americans.

And finally, a large proportion of the added benefits which go to aliens are not going to the wage earner, but to dependents. GAO found that for every American wage earner, 0.4 dependents exist. However, for every alien wage earner, 1.69 dependents exist—over three times the dependents of Americans. To explain this unusual characteristic of the alien population, GAO reviewed individual case files and found that a common trend exists. Often the alien wage earner will retire and, subsequent to his retirement, add dependents through new marriages and additional children. This results in large increases in the monthly benefits received by the family. This characteristic also explains why aliens receive so much more in benefits than the average American per tax dollar. Following are three true examples which GAO found in its case study:

An alien in a foreign country retired at age 63. He got married to a 29-year old woman who one year later had a child. The annual benefit for the wife and child is $1,074. The child will be 18 years of age in 1996, and, therefore could continue to receive benefits until then.

An alien in a foreign country retired at age 62 and at age 65 married a 29-year old woman. She had three children during the succeeding five years. She and the children have received $11,509 in Social Security benefits over five years. Their annual benefit amount is $2,256. Their benefits could continue until the children are age 18 and could resume for the spouse when she attains age 62 or, if widowed, age 60.

An alien in a foreign country retired at age 62 and one year later began living with his 15-year old granddaughter in a common-law marriage relationship. He fathered two children by her during the succeeding six years. The children became eligible for benefits and received $12,896 over a six-year period. Benefits could continue until the youngest child reaches 18 in 1995.

I think that these examples provide convincing evidence of the abuse which is currently taking place in the Social Security system. The following is a chart summarizing the differences between alien beneficiaries and American beneficiaries.

Comparisons	U.S. beneficiaries	Alien beneficiaries
1. Benefits received per dollar paid into system	5:1	23:1
2. Years worked prior to collecting benefits	20.5	10.5
3. Dependents per wage earner	1.69	0.4

Some may wonder why the United States pays retirement benefits to aliens at all. As transportation methods have evolved to make world travel more convenient and companies have expanded, nonresident employment has become much more frequent. In an effort to remove barriers for such exchange, the United States has entered into agreements with a number of countries regarding pension plans. The intention of these agreements is to insure that Americans have the opportunity to participate in a retirement program when they work abroad which is comparable and equal to social security.

However, the United States does not just honor citizens from countries with which we share a formal negotiated agreement. Current law also allows an alien to participate in the social security program even if no formal reciprocal agreement exists for Americans between the United States and the alien's country. The only requirement is that the alien come from a country which has some program that resembles our social security system and is open to U.S. citizens. Unfortunately, what often occurs is that the program offered by the other country doesn't approach the generosity of the social security system. The GAO estimates that 99 percent of aliens receiving social security payments qualify, in part, because they come from a country which has some semblance of a social insurance program which is open to Americans or a formalized agreement with the United States. Because the treaty clauses are estimated to be one of the major exceptions under which many aliens gain participation in the social security program, it should be used to insure equal treatment of American workers. Simply having an open pension plan in existence should not qualify a country for participation in our program.

The legislation that I am proposing today corrects the excessive flow of benefits to aliens living abroad through four provisions. First, future alien beneficiaries would be entitled to receive social security benefits only up until the point at which they have recovered the taxes they paid into the trust fund. Second, the proliferation of dependents after retirement would be addressed by limiting dependent benefits to the spouse alone, provided that the relationship existed at least 1 year prior to the wage earner's application for benefits. Third, the immediate imbalance in benefit payments to aliens—represented by the 23-to-1

ratio—would be corrected by stopping the cost-of-living adjustments which current alien beneficiaries receive. The COLA is based on the U.S. economy and is meant to help those living on fixed incomes in this country to keep pace with inflation. The final provision of my legislation deals with the "informal treaty" loophole. All of the above provisions would apply to those aliens living abroad in countries with which the United States has no formally negotiated agreement. An alien from a country which simply has some form of social insurance program open to Americans would no longer be eligible to participate in our social security program. It must be certain, through a negotiated agreement, that the alien's country provides a truly comparable program for American workers abroad.

This legislation comprises a fair and realistic proposal for aliens and social security. It should be evident that if Congress expects to have the support of this Nation to make the sacrifices required to save social security, then Congress must be willing to cut excess and inequity out of the program. It does not make sense to continue to provide so generously for non-U.S. citizens when we face the prospect of not being able to meet obligations to U.S. citizens in June. Although it represents only a small fraction in the context of the overall shortfall in social security, this legislation is significant. For it is this and other inexplicably inconsistent policies like it which make up much of the reason for America's cynicism about Congress ability to deal with the social security problem.

I hope that my colleagues will join me in making these changes in the problem.●

By Mr. PRYOR:

S. 596. A bill to provide surplus commodities to farmers who lost grain stored in certain insolvent warehouses; to the Committee on Agriculture, Nutrition, and Forestry.

GRAIN STORAGE COMPENSATION ACT OF 1983

● Mr. PRYOR. Mr. President, every Member of the Senate has heard horror stories about farmers who have worked many hours planting and harvesting a crop, only to see it go down the drain when a grain elevator becomes insolvent or bankrupt. This has become a very serious problem the last few years. I have seen figures which show that over the last few years there have been almost 125 elevator bankruptcies. This has cost over 3,500 farmers more than $25 billion and has resulted in a great deal of human suffering.

There have been many changes proposed at both the State and Federal levels to deal with this situation. I have supported amendments to the Bankruptcy Act, initiated by the Senator from Kansas, Mr. DOLE, which would set up expedited procedures for farm crops and would also clarify title to the grain. In addition, I have introduced legislation designed to protect against future losses by setting up an insurance fund, funded by farmers, that would compensate them for losses resulting from the insolvency or bankruptcy of a grain elevator. Both this legislation, and the Bankruptcy Act amendments would deal with insolvencies that might occur in the future. I am convinced, however, that we can do something to help farmers who have suffered losses the past couple of years due to the insolvency or bankruptcy of a grain elevator.

Mr. President, today I am introducing the Grain Storage Compensation Act of 1983. This bill will expand the PIK program to allow farmers who have suffered a loss due to the insolvency or bankruptcy of a grain elevator to receive PIK commodities. With an enormous surplus, and many communities economically wrecked due to the collapse of a local grain elevator, it seems to me that we should provide this assistance. Our farmers are the envy of the entire world, yet many of them are on the edge of an economic cliff, largely through no fault of their own.

Several features of this bill are important, and I would like to point them out. First, it only applies to insolvencies or bankruptcies occurring on or after the Soviet grain embargo and the date of enactment of the bill. Since it is a narrowly defined period, it is not open ended. The elevator insurance legislation I have proposed will deal with prospective insolvencies. Second, the first date involved—the grain embargo—is important because it had such a profound effect upon the commodity markets and international trade. Third, the program will be conducted by the ASCS and will require no additional personnel. A farmer who has suffered a loss will have to establish this fact by competent evidence before he can receive PIK commodities.

Mr. President, the farmers of this country have been devastated the last few years by declining prices and rising production costs. Net farm income has fallen, and exports have declined for the first time in over a decade. These problems are serious enough, but imagine the frustration and pain a farm family feels when an entire year's work is lost. Many of them can never recover. Therefore, Mr. President, I submit that we expand the PIK program in a way which is reasonable and equitable and will literally bring back many small towns in this country. I urge my colleagues to join me in this effort and ask unanimous consent that the text of the bill be included in the RECORD.

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

S. 596

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 "Grain Storage Compensation Act of 1983".

DEFINITIONS

SEC. 2. As used in this Act, unless the context clearly requires otherwise—

(1) the term "depositor" means the owner or holder of a scale ticket, a warehouse receipt, or other original source document issued by a public grain warehouse for grain who resides in a State and who is entitled to possession or payment for the grain represented by such ticket, receipt, or other document;

(2) the term "grain" means barley, corn, cotton, dry edible beans, flaxseed, grain sorghum, oats, rice, rye, soybeans, sunflower seeds, wheat, and any other commodity which is commonly classified as a grain and traded at, or stored in, a warehouse;

(3) the term "insolvent" has the same meaning given to such term under section 101(26) of title 11, United States Code;

(4) the term "Secretary" means the secretary of Agriculture;

(5) the term "State" means a State, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific;

(6) the term "surplus commodities" means agricultural commodities owned and held by the Commodity Credit Corporation that are not obligated for any other purpose under any other provision of law; and

(7) the term "warehouse" has the same meaning given to such term under section 2 of the United States Warehouse Act (7 U.S.C. 242).

COMPENSATION FOR INSOLVENCY OF LICENSED WAREHOUSES

SEC. 3. In any case in which a depositor has sustained a loss of grain, the loss of such grain was the direct result of the insolvency of a public grain warehouse in which the grain was stored, and the insolvency of such warehouse occurred at any time during the period beginning on December 1, 1979, and ending on the date of the enactment of this Act, the Secretary shall transfer to such depositor, in accordance with this Act, surplus commodities, or title to such commodities, in an amount, type, and quality the Secretary determines sufficient to compensate such depositor for such loss.

NOTICE OF COMPENSATION

SEC. 4. (a) Within sixty days of the date of enactment of this Act, the Secretary shall publish—

(1) in the Federal Register a notice containing a list of the public grain warehouses throughout the United States which became insolvent during the period described in section 3; and

(2) in a newspaper of general circulation in the area of each public grain warehouse which became insolvent during the period described in section 3 a notice containing the name of such warehouse.

(b) The Secretary shall include in each notice described in subsection (a) a summary of the compensation program provided for in this Act, including a summary of the eligibility requirements described in section 5(a).

PAYMENT OF COMPENSATION

SEC. 5. (a) To be eligible to receive compensation under this Act, a depositor must, within sixty days after the date of publication of the notice described in section 4(a)(2), file a written application for such compensation with the depositor's local office of the Agricultural Stabilization and Conservation Service. The application must describe the type and quantity of grain lost as a result of the insolvency of a warehouse described in section 3.

(b)(1) Within thirty days of the receipt of an application described in subsection (a), the Secretary shall determine if a depositor qualifies for compensation under this Act.

(2) If the Secretary approves an application for compensation under this Act, the Secretary shall, at the earliest practicable time, transfer to such depositor surplus commodities, or title to such commodities, in accordance with section 3.

(3) If the Secretary denies, in whole or in part, an application for compensation under this Act, the depositor shall have the right to appeal administratively such denial.

AUTHORIZATION OF APPROPRIATIONS

SEC. 6. There are authorized to be appropriated such sums as may be necessary to carry out this Act.●

By Mr. DECONCINI (for himself and Mr. GOLDWATER):

S. 597. A bill to convey certain lands to Show Low, Ariz.; to the Committee on Energy and Natural Resources.

SHOW LOW, ARIZ.

Mr. DECONCINI. Mr. President, today I am introducing a measure to convey certain Forest Service lands to the city of Show Low, Ariz., for public purposes.

This bill, Mr. President, is identical to legislation I sponsored in the 97th Congress, S. 2308, which was favorably reported by the Energy and Natural Resources Committee and passed by the full Senate prior to adjournment. However, because there was little time remaining in the session, consideration by the House was not possible. I am hopeful, Mr. President, that this body can take quick action on this bill and send it to the House for early consideration this Congress.

I would like to point out again to the Senate that we are hoping to convey title to approximatley 585.46 acres of Forest Service land to the city of Show Low for a municipal airport and public park. The parcels of land we wish to convey have been occupied by the city under special use permit for many years. Title to these lands will allow the city to expand airport services without creating unnecessary restraints for both the city and the Forest Service.

Mr. President, Senator GOLDWATER has cosponsored this measure and we both want to repeat how important this bill is to the city of Show Low. I urge its expeditious consideration by the full Senate.

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

S. 597

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. That the Secretary of Agriculture is authorized and directed to survey and convey, by quitclaim deed and without consideration, to the city of Show Low, Arizona, all right, title, and interest of the United States to the lands generally depicted on a map entitled "Land Conveyance, City of Show Low, Arizona," and dated July 1982, which shall be on file and available in the office of the Chief Forest Service, Department of Agriculture, and more particularly described as follows:

(a) a tract of land, together with improvements thereon known as the David C. Porter Park estimated to include approximately 52.46 acres; and

(b) a tract of land, together with improvements thereon known as the Show Low Municipal Airport estimated to include approximately 533 acres.

SEC. 2. Title to any real property acquired by the city of Show Low pursuant to this Act shall revert to the United States if the city or any successor of the city uses such real property for other than public purposes.

By Mr. DECONCINI (for himself and Mr. GOLDWATER):

S. 598. A bill to authorize a land conveyance from the Department of Agriculture to Payson, Ariz.; to the Committee on Energy and Natural Resources.

PAYSON, ARIZ.

Mr. DECONCINI. Mr. President, the bill my distinguished colleague Senator GOLDWATER and I are introducing today will demonstrate how successfully a group of citizens in a small community and a Government agency can work together to build a memorial paying tribute to both the community and the Government agency.

Mr. President, I am referring to a plan by the residents of a town in Arizona, Payson, to restore the first forest ranger district office and dwelling house in that area. These buildings have been abandoned by the Forest Service for larger and more modern facilities. Payson citizens propose to restore the ranger station, and construct a fireproof building to serve as a museum to display historical artifacts and antiques from pioneer Forest Service days and other items of historic value to the town of Payson.

As a forest town, much of the history of Payson and its residents reflect the flavor of our national forest which has added to the charming character and the quality of the town. The residents of the community wish to preserve a piece of the Forest Service's past and the effects this Government agency has had on their own lives.

The purpose of this legislation is to convey approximately 1.1 acres of Forest Service land to the town of Payson just for that objective. By conveying this land to the town, historic preservation of the community and the Forest Service will be enhanced.

We are talking about a relatively miniscule portion of Federal property in this area, Mr. President. This conveyance, however, will signify a major investment in the quality and caliber of achievements made today and yesteryear in this Arizona town.

Mr. President, the members of the Northern Gila County Historical Society should be commended for their foresight and efforts to make this unique plan a reality. It is my hope that this bill can be expeditiously considered by the Energy and Natural Resources Committee this year so that the community may move forward with their plans as soon as possible.

Mr. President, 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. 598

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled That, notwithstanding any other provision of law, the Secretary of Agriculture is authorized to transfer, without consideration, to the town of Payson, Arizona the following described parcel:

A parcel of land entirely within the S½ of the SE¼ of the SE¼ of the SE¼, of Section 5, T10N, Range 10E, G&SRB&M, Payson, Gila County, Arizona, more particularly described as follows: commencing at the common corner of Sections 4, 5, 8, & 9, T10N, R10E, G&SRB&M; thence N 89°56' W, along the south line of Section 5, a distance of 164.47 feet to the true point of beginning; thence continuing N 89°56' W, along the south line of Section 5, a distance of 337.13 feet; thence N 13°33'08" E, a distance of 223.16 feet, to a point on the south right-of-way line of West Main Street; thence S 74°10'23" E, along the south right-of-way line West Main Street, a distance of 145.02 feet; thence S 43°09' E, along the south right-of-way line of West Main Street, a distance of 243.72 feet; thence N89°56' W, along the south right-of-way line of West Main Street, a distance of 21.36 feet, to the true point of beginning. The above described parcel of land contains 1.10 acres, more or less.

SEC. 2. (a) The property described in the first section shall be used for the preservation and display of articles of historical significance. If the property is not used for historical purposes, title to such property shall revert to the United States.

(b) Subject to the use restrictions provided in subsection (a), the town of Payson, Arizona may provide for the administration of the property by the Northern Gila County Historical Society.

By Mr. LEVIN (for himself, Mr. BOREN, Mr. SPECTER, Mr. RANDOLPH, Mr. SASSER, Mr. ZORINSKY, Mr. MITCHELL, Mrs. HAWKINS, Mr. RIEGLE, Mr. TSONGAS, Mr. HOLLINGS, Mr. FORD, Mr. HUDDLESTON, and Mr. INOUYE):

S. 599. A bill to provide that the amount of unnegotiated social security checks shall be returned to the social

security trust funds; to the Committee on Finance.

SOCIAL SECURITY CHECK TRANSFER

● Mr. LEVIN. Mr. President, I am today introducing with Senators BOREN, SPECTER, RANDOLPH, SASSER, ZORINSKY, MITCHELL, HAWKINS, RIEGLE, TSONGAS, HOLLINGS, FORD, HUDDLESTON and INOUYE legislation which would credit millions of dollars of uncashed social security checks to the social trust funds.

Each year between $20 million to $50 million of unnegotiated social security checks remain in the general fund rather than being recredited to the social security trust funds. According to the National Commission on Social Security Reform, the accumulated total of uncashed benefits is now up to an estimated $300 million to $400 million.

When payment is made to a social security beneficiary, a voucher is submitted by the Social Security Administration to the Treasury Department for the amount of the benefit. This amount is then withdrawn from the social security trust fund and the payment is sent to the beneficiary. For any number of reasons some benefit checks may not be cashed. In many instances the checks are lost, stolen, burned, or saved for later use. Under present procedure, regardless of why the check is not cashed, the money has technically been spent by social security. The Treasury Department holds these funds until the checks are cashed. If the check is never negotiated, this money is added to the Treasury's general fund. The social security trust funds not only lose the initial amount, but also the interest obtainable by proper investment of the trust funds.

Mr. President, considering the deteriorating condition of the social security system, this $300 million to $400 million and $20 million to $50 million annually could make a contribution toward preserving the solvency of the social security system.

For the past several years, the Social Security Administration has been negotiating with the Treasury Department to arrange for a change in the administrative procedure used in handling these outstanding checks, but to no avail. Furthermore, in its package of recommendations, the National Commission on Social Security Reform proposes making a lump-sum payment to the old-age and survivors insurance trust fund (OASDI) from the general fund the amount of uncashed OASDI checks issued in the past. However, the Commission mistakenly indicates that the Treasury Department has changed its procedures in order to resolve the problem of uncashed checks in the future. There have been no changes to date.

In response to this need for a legislative remedy, we are introducing a bill which provides procedures for crediting the Federal old-age and survivors insurance trust fund and the Federal disability trust fund with the amounts of social security checks which have not been negotiated within 12 months. The bill also applies retroactively, transferring the accumulated total of unnegotiated checks.

I urge the speedy enactment of this much needed legislation.●

By Mr. DECONCINI (for himself and Mr. GOLDWATER):

S. 600. A bill to amend Public Law 95-224; to the Committee on Labor and Human Resources.

GRAND CANYON UNIFIED SCHOOL DISTRICT

Mr. DECONCINI. Mr. President, this bill, which is cosponsored by my distinguished senior colleague, Senator BARRY GOLDWATER, amends Public Law 95-244, as amended by section 3 of Public Law 96-581.

All it does, Mr. President, is modify existing law and establish a "special fund" to provide some needed additional support to the Grand Canyon Unified School District—which is within the Grand Canyon National Park. This educational support has already been authorized by the acts of Congress previously mentioned. The revenues for the fund would come entirely from revenues received by the United States from visitors to the Grand Canyon National Park. This is money received at the gate—$2 a car, 50 cents per person on buses.

Pursuant to terms prescribed by the Secretary of the Interior, payments from this fund would be made to the Grand Canyon School District for the education of the children who actually reside on Federal land. Because Federal property is not subject to taxation by State or local agencies, this amendment will assure that the Federal Government pays its fair share of the cost of the health, safety, and education of the children of its employees.

If this support were not necessary on a continuing basis, we would not suggest that a special fund be established. But the district simply does not have the tax base to support the yearly costs of operating the school. Establishing a fund under the control of the Secretary is a much more effective way of dealing with the problem than asking the Congress for a line item appropriation year after year.

These children, for the most part, are the children of Federal employees—the people who operate and maintain the facilities at the Grand Canyon. The Grand Canyon is not an Arizona monument Mr. President, it is a national monument. It is one of America's greatest tourist attractions. It brings a lot of tourists and tourist money into this country. All we are asking for is that a very small amount of these Federal revenues, of which millions are collected at the park, be set aside to cover some of the costs of operating and maintaining the school facilities. The Secretary of the Interior simply estimates how much money will be necessary—in addition to the moneys received for the general tax levies, State equalization aid, and the various Federal programs—and expends the funds when they are needed for operation and maintenance. There is no authorization to use the funds for construction.

Mr. President, as I said, all but a small portion of the land within the boundary of the school district is owned by the Federal Government. Less than 2 percent of the property in the district is privately owned. About 10 to 15 percent of the land is held by the State and 85 percent of the land is managed by the National Park Service and the U.S. Forest Service.

Because so little land is privately owned, the assessed valuation for tax purposes for the district during the 1981-82 school year was $6.7 million. This results in a tax rate of $5.78 per $100. And this rate is projected to increase by at least $1 per $100 for the coming school year. The tax base, such as it is, is eroding. When the Santa Fe Railroad removes it tracks, as planned, it will no longer pay taxes to the district. Last year it paid over $44,000.

In the 1981-82 school year, the district had an enrollment of 216 students and 186 of these students lived within the Grand Canyon National Park boundary and were classified as category A for Federal impact aid purposes. The district received $276,000 in impact aid funding and approximately $47,000 in other Federal education funds, for a total of $323,000 in Federal assistance.

Thus, even though over 80 percent of the district's students are dependents of Federal employees who reside on Federal nontaxable land, only 36 percent of the district's total budget was financed by Federal funds. Next year the Federal share will be even less, about 29 percent, because of less impact aid and lower Federal education funding levels. Also, one major misconception should be clarified: The district does not receive payment in lieu of tax assistance. It has not received such assistance since the program's enactment.

It is quite clear the Federal Government is not providing its share of assistance to this school district which has, as its primary purpose, the education to dependents of Federal employees. It should be remembered that if this district did not exist, the children would have to be bused to either Flagstaff, Ariz., 89 miles one way, or Williams, Ariz., 60 miles one way. This, of course, assumes one of those districts would be able to accept them. Busing 4 hours a day simply is not practical and

I seriously doubt it would be acceptable to the parents of these children.

Another important point to remember also is that having an adequate school system within the park makes it much easier for the National Park Service to attract quality personnel.

Mr. President, as I have stated, current law authorizes additional Federal support to the district. In fact these statutes, over a 7-year period, have authorized up to $6 million to supplement the other sources of the district's moneys. However, the only funds which have been appropriated under this authorization have been added by the Senate, at my request. The amounts $500,000 in fiscal year 1979 and $250,000 in fiscal year 1980. In fiscal year 1982, the Senate, again at my request, added $1 million to the bill but the amendment was rejected by the House of Representatives. The administration has never requested funding under this authorization and has requested none for fiscal year 1983.

This is a small bill, Mr. President, but it is not small or trifling to this school district. It leaves it to the Secretary to control the fund and to estimate how much will be required to meet the minimum standards of the act. It is roughly estimated that it would take $1 to $2 million over 1 or 2 years to bring the facilities up to the required health and safety standards.

I would ask my colleagues to act on this legislation as expeditiously as possible.

Mr. President, 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. 600

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. (a) The first section of the Act entitled, "An Act to authorize the Secretary of the Interior to make payments to appropriate school districts to assist in providing educational facilities and services for persons living within or near the Grand Canyon National Park on nontaxable Federal lands, and for other purposes," approved March 14, 1978 (92 Stat. 154), as amended (20 U.S.C. note following sec. 238), is amended by striking out the matter after the enacting clause through the word "payments" the first time it appears and inserting in lieu thereof the following: "That (a) notwithstanding any other provision of law providing for the disposition of revenues described in this subsection, and under such terms and conditions as may be prescribed by the Secretary of the Interior, payments may be made, in advance or otherwise, from any revenues received by the United States from visitors to Grand Canyon National Park,".

(b) Subsection (c) on the first section of such Act is amended to read as follows:

"(c) For the purpose of this Act, the Secretary of the Treasury is authorized and directed to maintain in a special fund a portion of the park revenues, sufficient for the maintenance and operation of Federally owned buildings, facilities, equipment, real property, and grounds used for school purposes, and for all applicable current Federal, State, and local fire life safety, and building codes, based upon estimates to be submitted by the Secretary of the Interior, and to expend amounts deposited in the special funds under this subsection upon certification by the Secretary of the Interior.

By Mr. QUAYLE (for himself and Mr. PELL):

S. 601. A bill to provide for demonstration projects under which the Secretary of Defense may require a contractor under certain defense contracts to provide training in skilled occupations in which there is a substantial shortage and for other purposes; to the Committee on Labor and Human Resources.

DEFENSE PROCUREMENT TRAINING DEMONSTRATION PROJECT ACT

● Mr. QUAYLE. Mr. President, today I am reintroducing the "Defense Procurement Training Demonstration Project Act." I am pleased to have Mr. PELL again join me in cosponsoring this bill. In hearings before the Subcommittee on Employment and Productivity, which I chair, we have repeatedly heard testimony that there is a shortage of skilled labor for available positions, despite the continuing high rate of unemployment. My proposal would provide one component to resolve this paradoxical problem of continuing skill shortages in the midst of vast unemployment.

The bill requires the Secretary of Labor to publish a list of skilled occupations in which there is a substantial projected shortage, and then authorizes the Secretary of Defense to select from this list those skills in which a shortage will have an adverse impact on defense procurement. With respect to any large contract requiring the use of such skills, the Secretary of Defense is authorized to require the contractor or subcontractor to provide the training in that occupation.

This is a demonstration project only, and the Secretary of Defense is to report to the Congress on its efficiency within 30 months. The bill also contains a provision to facilitate the donation of surplus machine tools and related equipment to vocational education schools in order to assist those schools in providing necessary skill training.

I ask unanimous consent that a copy of the bill be printed in the RECORD.

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

S. 601

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 "Defense Procurement Training Demonstration Project Act".

SEC. 2. (a)(1) The Secretary of Defense, after consultation with the Secretary of Labor, is authorized to establish and carry out demonstration projects in accordance with the provisions of this Act to provide training in skilled occupations in which there is a substantial shortage of workers in defense procurement.

(2) For the purpose of this Act "defense procurement" means any procurement defined in section 2303 of title 10, United States Code.

(b)(1) The Secretary of Labor shall develop and publish a list of skilled occupations in which there is a substantial shortage of workers. The list shall be revised annually.

(2) For the purpose of this subsection—

(A) the term "skilled occupations" includes only occupations for which the normal training program is at least two years but the term does not include any occupation for which a college degree is a normal prerequisite; and

(B) there is a substantial shortage of workers with respect to a skilled occupation if the sum of the number of trained programs in that skilled occupation is less than 80 per centum of the anticipated demand for the occupation for the five-year period beginning on the first day of the first month after the determination is made.

(c) The Secretary of Defense shall prepare a list of occupations, based upon the list of occupations prepared by the Secretary of Labor under subsection (b), which, the Secretary of Defense determines will, because of the shortage of workers in any specific occupation, have an adverse effect on defense procurement by expanding the lead-time for such procurement or by increasing the costs of the defense procurement.

(d) The Secretary of Defense shall carry out the demonstration projects authorized by this Act with respect to selected contracts for defense procurement entered into after the date of enactment of this Act if the Secretary determines that—

(1) the defense procurement contract involves the expenditure of at least $10,000,000;

(2) the defense procurement contract will require the contractor or any subcontractor of the contractor to hire additional workers in any of the skilled occupations contained in the list prepared by the Secretary of Defense under subsection (c); and

(3) the training of workers to meet the shortage of workers in any skilled occupation listed under subsection (b) is critical to the timely completion of work under defense procurement contracts in the area in which the contract will be performed.

(e) In carrying out the provisions of this Act the Secretary of Defense is authorized to include, in any contract selected by the Secretary to be a demonstration project, provisions designed to—

(1) require the contractor to provide training (either directly, or by way of contract or other arrangement) in the skills which the Secretary of Defense determines to be necessary to the completion of the contract under subsection (c) of this section; and

(2) specify the type of training, including on-the-job training, training from agencies and institutions experienced in furnishing occupational training, or any combination of such training.

(f) The Secretary of Defense shall, to the extent practicable, assure an equitable geographic distribution of training pilot projects carried out under this Act.

SEC. 3. In awarding contracts under applicable provisions of Federal law, the costs associated with carrying out demonstration projects under this Act shall not be considered.

SEC. 4. Not later than two and one-half years after the date of enactment of this Act, the Secretary of Defense shall prepare and submit to the Congress a report on the demonstration projects carried out under this Act, together with such recommendations, including recommendations for legislation, as the Secretary deems appropriate.

SEC. 5. Section 4 of the Defense Industrial Reserve Act (50 U.S.C. 45) is amended—

(1) by striking out "and" at the end of clause (6);

(2) by striking out the period at the end of clause (7) and inserting in lieu thereof a semicolon and the word "and"; and

(3) by adding at the end thereof the following new clause:

"(8) authorize the donation of any such property directly to the educational institution or training school having a loan agreement for any such property when in the opinion of the Secretary that property is no longer needed by the Department of Defense.".●

By Mrs. HAWKINS (for herself and Mr. CHILES):

S. 602. A bill to provide for the broadcasting of accurate information to the people of Cuba, and for other purposes; to the Committee on Foreign Relations.

RADIO MARTI

Mrs. HAWKINS. Mr. President, I am submitting today a bill to establish a Government-operated radio station for broadcasting to Cuba, known as Radio Marti. If created, Radio Marti will provide the Cuban people with comprehensive and objective news about Cuba and Cuba's role in the world. Legislation similar to this passed the House by an almost 2 to 1 margin, and was favorably reported out of the Senate Foreign Relations Committee during the 97th Congress. Only time constraints in the "lameduck" session prevented this legislation from becoming law last year.

I believe that it is essential that the Senate take swift action on this legislation. If we do, for the first time in a long time the people of Cuba will be able to listen to an alternative to government-censored news and programs. When this legislation is enacted, the Cuban people will finally hear the truth. Access to accurate news reports and varied opinions is something that we in the United States take for granted. We forget sometimes that the truth is a precious and rare commodity in countries where the government censors every broadcast and news report. For decades, the United States has provided the people of Eastern Europe and the Soviet Union an alternative to government propaganda, and now at long last we can provide the same to the people of Cuba.

I believe that the people of Cuba would soon learn to rely on Radio Marti for information about the world—and especially about their own country—in the same way that the people of Eastern Europe and the Soviet Union rely on Radio Free Europe and Radio Liberty. As it stands now, the Cuban people learn the news from either the government-controlled media or by word of mouth. Both of these sources are inadequate and unreliable. True, there are broadcasts that reach Cuba from Florida, but these are for the most part in English and are designed for an American, not a Cuban, audience.

What the people of Cuba need is a Spanish-language broadcast with a clear signal to alert them to events involving Cuba domestically or internationally. They do not get such information now. Most Cubans are unaware of the mismanagement of the Cuban economy. They do not know that during the 1976-80 5-year plan, production in most key sectors fell far below planned goals. They are not aware that the Cuban economy is expected to be even less successful at producing jobs in the future. They are also ignorant of the fact that government-imposed bureaucracy, in addition to the personal inconveniences it causes, is stifling the innovation, productivity, and efficiency needed to improve Cuban economic conditions. The average Cuban does not know that the only thing that has prevented a Cuban economic collapse has been over $13 billion in Soviet aid over the last decade, or that Soviet subsidies now equal over $3 billion per year, 25 percent of the Cuban gross national product. While many Cubans know from their own experience about broken promises concerning the availability of housing, foodstuffs, and consumer goods, they are uninformed that these problems plague the great majority of the Cuban people.

Local disinformation is also a problem. For example, the Cuban Government points to an increase in the number of physicians in Cuba as one of its health care successes. In fact, though, the number of physicians as a percentage of the population has increased marginally since the revolution, and the turn around began 5 years before the Castro takeover. More importantly, infant mortality—a function of illiteracy, poor nutrition, and a rising birth rate—has increased since Castro's revolution.

The Cuban people are also deliberately kept ignorant of the Cuban Government's foreign adventures. Cuban soldiers who have died in Africa have been buried there, and those who have been wounded have been treated in Eastern Europe as part of a concerted effort to hide the truth from the people of Cuba. Closer to home, the Castro regime has armed, trained, and supported guerrillas from Colombia to Nicaragua. Yet, the Cuban people are unaware of their country's deep involvement and commitment of resources to international subversion, or the diplomatic setbacks these policies have caused.

I believe that the people of Cuba need to know the actual outcome of Castro's programs. Radio Marti will accomplish this. Radio Marti will supply the Cuban people with information they cannot get through the government-censored news media. It will encourage the Cubans to draw their own conclusions.

This new station gets its name from José Marti, the leading figure in the Cuban independence movement. He is Cuba's greatest hero and a man held in high regard throughout the Caribbean. By adopting the name "Marti," we have set a high performance standard for ourselves for truthfulness and integrity. I am sure we can meet this standard.

Some may have heard about threatened radio interference from Cuba in retaliation for Radio Marti. The people of Florida, however, have lived with such interference for the past 13 years. Therefore, it is a mistake to suppose that this is related to Radio Marti. Long before Radio Marti was announced, Cuba declared its intention to create or expand 200 radio stations and to construct two half-million-watt transmitters. True, interference may affect American radio stations. However, Cuba began this aggressive radio broadcasting buildup before Radio Marti was announced. Radio Marti is not the cause of Castro's interference. Radio Marti is only an excuse for Castro to try to blackmail the United States.

I believe we have a right, as a nation, to decide our foreign policy independently, regardless of threats of a foreign dictator. We also have the right to expand international radio broadcasts in conformity with international law.

Radio Marti has broad bipartisan support. It passed the House in the 97th Congress by a 2-to-1 margin. It also has the support of President Reagan and the AFL-CIO. I urge my colleagues to renew their support for this important proposal.

● Mr. CHILES. Mr. President, on January 28, the Cuban community celebrated the birthdate of José Marti. This man, known to his countrymen as the apostle of the Cuban revolution, was a man of impeccable character. His life in exile was dedicated to working toward a free and independent Cuba, and it was the fervor that he displayed while trying to accomplish this mission that gained him the title of apostle. José Marti sought the truth for his people. His dream was to take them from under the colonial rule of the Spanish Government and deliver them into the light of democracy. He was a strong believer in democratic principles, in the dignity of man, and he fell in battle in defense of the principles in which he believed. He

was a noble man; he died for a very noble cause.

I am today joining in the introduction of legislation to establish Radio Marti, for like the man it is named after, it also seeks the truth for the Cuban people.

Today, the Cuban people continue to live in the dark. The Castro regime would have it no other way. After 20 years, its empty promises are all too evident in the empty cupboards of Cuban households. The Castro regime would be hard-pressed to explain to its people why they must continue to suffer shortages while their Government commits troops into Angola, advisers into Yemen and Ethiopia, and sends arms to Nicaragua. But explanations are necessary, for the Cuban people have a right to know. Opponents of this measure contend that it is nothing more than a hard-line propaganda ploy that would only entice the Cuban Government to retaliate by jamming our own radio stations. I would not sponsor and support this measure if it was a mere propaganda ploy. Radio Marti, like its counterparts, Radio Free Europe and Radio Liberty, is to serve as an unbiased and reliable news and entertainment source. It will provide the Cuban people with an alternative to the controlled information they receive, in the same way Radio Free Europe and Radio Liberty provide alternative news sources to the people of Eastern Europe and the Soviet Union. If providing for the Cuban people an alternative news source is hard line, then so be it.

Fear of retaliation by the Castro regime should not dictate our foreign policy. I do not need to remind this distinguished body that Cuba's own foreign policy is being exported throughout the world in the form of arms shipments, insurgent troops, and the providing of safe harbor to drug shipments being transported to the United States. Cuba also maintains a radio station in Grenada which broadcasts to the Caribbean, and has interfered with Florida radio stations long before any mention of Radio Marti.

Mr. President, I hope that the Senate will act to pass this needed legislation. We owe the truth to the Cuban people, and we should not forgo this opportunity to provide some measure of light to that troubled and oppressed land.●

By Mr. MOYNIHAN (for himself, Mr. BIDEN, Mr. HEINZ, Mr. KENNEDY, Mr. INOUYE, Mr. PELL, Mr. BRADLEY, and Mr. METZENBAUM):

S. 604. A bill to protect law enforcement officers; to the Committee on the Judiciary.

LAW ENFORCEMENT OFFICERS PROTECTION ACT OF 1983

● Mr. MOYNIHAN. Mr. President, I rise today to introduce legislation, on behalf of myself and seven distinguished colleagues, that is designed to address one of the most serious and potentially dangerous problems facing our Nation's 528,000 law enforcement officers—the proliferation of so-called cop-killer bullets. It would do so by limiting the availability and use of armor-piercing handgun ammunition that can penetrate the bullet-resistant vests worn by police.

There is an urgent need for this legislation. The development of bullet-proof vests in the mid-1970's provided law enforcement officers with a significantly greater degree of protection than had previously been the case. Indeed, these vests have so far been credited with saving the lives of some 400 law enforcement officers. FBI statistics indicate that the number of law enforcement officers killed in the line of duty declined 31 percent between 1974—when such vests were first made available to police departments—and 1981. However, these vests are rendered virtually useless by a new type of bullet that recently has entered the market in large numbers.

These high velocity, small caliber, pointed bullets, made of alloy or steel jacketed lead, have no legitimate commercial use. Those companies presently manufacturing armor-piercing bullets claim they are intended for police use, yet not one police department in the country will employ them—not only because of their awesome penetration capacity, but also because they pose greater ricochet hazards than more conventional ammunition. James P. Damos, former president of the International Association of Chiefs of Police, has said: "We can find no legitimate use for such (armor-piercing) ammunition, either in or out of law enforcement."

As a result, law enforcement agencies are leading the call for a ban on this type of bullet. These groups include the International Association of Chiefs of Police, the Fraternal Order of Police, the International Brotherhood of Police Officers, and the International Union of Police Officers. In addition, U.S. Associate Attorney General Rudolph W. Giuliani recently urged the adoption of legislation banning these bullets in a letter to Congressman MARIO BIAGGI, sponsor of identical legislation in the House, saying: "I continue to believe that any further delay (in adopting such legislation) is a tragic mistake."

The bill we are introducing would require the Department of the Treasury to determine which handgun bullets, when fired from a handgun with a barrel 5 inches or less in length, are capable of penetrating the equivalent of 18 layers of Kevlar, which is the standard composition of most police vests. The Department would then publish its findings in the Federal Register, and 60 days after publication those bullets identified would be banned from further manufacture, import, sale, or use—except when authorized by the Secretary of the Treasury for law enforcement or military purposes.

A licensed importer, manufacturer, or dealer who violated this act would be subject to a fine of not more than $10,000, imprisonment for not more than 10 years, and revocation of their Federal license. In addition, a person using or carrying an illegal bullet during the commission of a Federal felony would be subject to a mandatory sentence of not less than 1 year nor more than 10 years for the first offense, and not less than 2 years nor more than 25 years for the second or any subsequent offense.

During the past year, seven States—Alabama, California, Illinois, Kansas, Minnesota, Oklahoma, and Rhode Island—have enacted their own laws banning such bullets. A number of localities including Alexandria, Va., Brookhaven, N.Y., Broward County, Fla., Dade County, Fla., and Louisville, Ky., have taken similar action.

Although encouraged by these actions we believe the Federal Government needs to assist State and local jurisdictions with their efforts to counter the widespread distribution and use of these lethal bullets. While the primary responsibility for law enforcement should rest with the States and localities, the Federal Government does have a role to play. The most effective means for keeping the armor-piercing bullets out of the hands of criminals is to establish a uniform national law for the manufacture, importation, sale, and use of the bullets. This is the purpose of our legislation.

Let us also be clear about what our bill is not designed to do. Our legislation in no way attempts to limit the availability of armor-piercing bullets for sporting purposes, even though most States prohibit hunters from using such bullets as they tend to cause prolonged suffering to animals rather than instantaneous death. Only bullets capable of penetrating body armor when fired from a handgun are to be banned; rifle ammunition would not be covered.

Moreover, in introducing this legislation, we are not attempting to limit the availability of conventional ammunition to law-abiding citizens for self-defense and sporting purposes. The legislation has been drafted in such a manner as to apply only to a narrow class of bullets capable of penetrating bullet-resistant armor when fired from

a handgun. Based on currently available test data, including a Federal Bureau of Investigation report issued last year, the bill would ban only eight bullets. Other commonly used types of conventional handgun ammunition, such as the .357 magnum, the 9mm, the high velocity .38 special, the high-velocity .22 long rifle, and the .44 magnum, are incapable of piercing standard body armor and thus would continue to be available.

Our legislation, then, is at its core a law enforcement officers protection bill. It is well known that law enforcement is a particularly dangerous and far too often unappreciated occupation. We have entrusted law enforcement officers with the tremendous responsibility of protecting us from criminal acts—a responsibility that often places them in life-threatening situations. In return, it is our duty to protect the approximately 250,000 officers who regularly wear bulletproof vests with the maximum possible protection from the dangers to which they are exposed daily. We owe them nothing less.

Mr. President, I urge my colleagues, on behalf of the men and women of the law enforcement community, to join me in supporting this eminently sensible legislation. I ask that my bill and an informative Congressional Research Service brief on the subject of armor-piercing bullets be printed in the RECORD at this point.

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

S. 604

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Law Enforcement Officers Protection Act of 1983."

SEC. 2. (a) Whoever, being a licensed importer, manufacturer, or dealer under chapter 44 of title 18, United States Code, imports, manufactures, or sells a restricted handgun bullet, except as specifically authorized by the Secretary of the Treasury for purposes of public safety or national security, shall be fined not more than $10,000 or imprisoned not more than ten years, or both, and the license of such person shall be subject to revocation under such chapter.

(b) Whoever—

(1) uses a restricted handgun bullet to commit any felony for which he may be prosecuted in a court of the United States; or

(2) carries a restricted handgun bullet unlawfully during the commission of any felony for which he may be prosecuted in a court of the United States;

shall, in addition to the punishment provided for the commission of such felony, be sentenced to a term of imprisonment for not less than one year nor more than ten years. In the case of his second or subsequent conviction under this subsection, such person shall be sentenced to a term of imprisonment for not less than two nor more than twenty-five years. Notwithstanding any other provision of law, the court shall not suspend the sentence in the case of a conviction of such person under this subsection or give him a probationary sentence, nor shall the term of imprisonment imposed under this subsection run concurrently with any term of imprisonment imposed for the commission of such felony.

SEC. 3. (a) The Secretary of the Treasury may prescribe such regulations as may be necessary to carry out this Act, including regulations requiring appropriate persons to provide samples of bullets for testing under this Act.

(b) Any regulation identifying a bullet as a restricted handgun bullet shall take effect sixty days after the date on which such regulation is promulgated in accordance with applicable law.

SEC. 4. As used in this Act, the term—

(1) "body armor" means a commercially available, soft, lightweight material with penetration resistance equal to or greater than that of eighteen layers of Kevlar;

(2) "handgun" means a firearm originally designed to be fired by the use of a single hand; and

(3) "restricted handgun bullet" means a bullet that, as determined by the Secretary of the Treasury, when fired from a handgun with a barrel five inches or less in length, is capable of penetrating body armor.

[The Library of Congress Congressional Research Service, Washington, D.C.]

BULLET THREATS TO PROTECTIVE BODY ARMOR

INTRODUCTION AND SUMMARY

Introduction

Since about 1975, law enforcement officers have been using protective body armor of the "soft" or "lightweight" variety to an increasing extent. This type of body armor, unlike the heavy flak jackets worn by the military and by special police units on dangerous tactical assignments, is designed to be lightweight and soft enough to be worn comfortably under law enforcement officers' uniforms or under plain clothes officers' outer garments.

This type of soft or lightweight body armor has been developed to the extent that it quite effectively "defeats" (stops the penetration of) many types of handgun bullets and some rifle bullets. It is the purpose of this report to analyze the characteristics of bullets which are most likely to defeat soft, lightweight body armor. The following section discusses various types of bullets and the purposes for which bullets are designed. The third section discusses recent law enforcement officer fatalities and the related use of soft body armor. The fourth section discusses recent developments in, and characteristics of, soft body armor. The last section presents a brief analysis of bullet characteristics, particularly those that can defeat currently available soft body armor.

Summary

Existing, commercially available soft, lightweight body armor apparently can effectively stop most of the handgun bullets which pose a threat to law enforcement officers today. However, there is a class of handgun and rifle bullets—often called armor- and metal-piercing—that can penetrate such armor. These types of bullets are: generally constructed of steel-jacketed lead or hard metal alloys; often pointed in shape rather than being flat, rounded, or hollow-pointed; and generally high velocity. Smaller handgun and rifle bullets (for example, .22 caliber) with the above characteristics are generally more effective in penetrating soft body armor than larger bullets (for example, .45 caliber) with the same characteristics.

BULLETS

Types

There are many ways to classify the various types of bullets that have been or are in use.[1] For purposes of this analysis, bullets will be discussed according to the following characteristics:

For use mainly in handguns, rifles, or machine guns, or in more than one type of weapon;

Velocity (low, for example, 730 feet per second, to high, for example, 1800 feet per second);

Caliber (small, for example, .22 caliber, to large, for example, .45 caliber);

"Hardness" (soft nosed lead bullet, or partially jacketed, to full metal jacketed (with copper or steel) to hard metal alloy bullet); and

Shape (round or hollow point to pointed nose).

Sometimes bullets are classified according to either their "stopping power" their ability to knock down or disable a human being—or their "armor- or metal-piercing" ability. These two types of characteristics, however, may be somewhat mutually exclusive. For example, one bullet designed for high "stopping power" is the .357 caliber magnum hollow point bullet. Upon impact, this bullet expands (because of its hollow point) and converts a large percentage of its (high) velocity to kinetic energy within the wounded body—thus knocking down, stopping, or disabling the person. This type of bullet, however, may be effectively stopped by soft body armor without body penetration and hence without wounding, except for "blunt trauma".[2] On the other hand, an armor-piercing bullet which will penetrate soft body armor may, because it is hard and retains its shape, pass through a body with relatively little damage if it does not hit a bone, other hard substance, or vital organ. Obviously, bullet wounding capabilities are not completely predictable because of the exceedingly complex structure of the human body, and even the relatively less devastating bullets can and often do kill. In fact, more law enforcement officers were killed with .38 caliber weapons in 1976 through 1980[3] than with any other weapon, mainly because these weapons are in more common use than other, more devastating bullets like the various magnum and armor-piercing bullets.

Purposes

It can be seen from the above discussion that many, if not most, bullet characteristics derive from the purpose or purposes which the ammunition designers had in mind. Thus, expanding bullets, particularly hollow point bullets, were designed for the purpose of more effectively transmitting kinetic energy to the wounded body than do ordinary bullets. Protective body armor, including the soft or lightweight variety, has been and is being designed to defeat many types of bullets, including many of the relatively more devastating (high velocity, hollow point) bullets. However, certain types of high velocity bullets made entirely of hard metal alloys, or which are fully cov-

Footnotes at end of article.

ered with steel jackets, can defeat the currently available soft body armor. Thus, certain bullets of the armor- or metal-piercing variety, whether or not designated as such by bullet manufacturers, pose a threat to existing body armor which can effectively defeat most "ordinary" bullet threats.

LAW ENFORCEMENT OFFICER FATALITIES

Current statistics

A number of law enforcement officers are killed and wounded each year by handguns, rifles, shotguns, and other weapons. Recent statistics from the Federal Bureau of Investigation (FBI) indicate that this number, while still large, has decreased rather significantly from 1974 and 1975 to 1978. The following table shows statistics for law enforcement officers killed by firearms and other weapons for this period:

LAW ENFORCEMENT OFFICERS KILLED, BY TYPE OF WEAPON

	1971	1972	1973	1974	1975	1976	1977	1978	1979	1980	Total
Weapon used:											
Handgun	97	77	93	95	93	66	59	67	76	69	792
Rifle	16	16	21	12	21	12	13	13	18	13	155
Shotgun	11	18	13	21	13	16	11	11	6	13	133
Total Firearms	124	111	127	128	127	94	83	91	100	95	1,080
Knife	2	3	2	1		5			4	3	20
Bomb		1				4			1		6
Personal Weapons	2						1	1			4
Other (clubs, etc.)	1	1	5	3	2	8	9	1	1	6	37
Grand Total	129	116	134	132	129	111	93	93	106	104	1,147

Source: Federal Bureau of Investigation. Law enforcement officers killed 1980. Washington, U.S. Department of Justice, 1980, p. 11.

There reportedly is a consensus that at least 400 U.S law enforcement officers have been protected from death or injury through the use of bulletproof vests from 1975 to the present.[4] Although such a consensus cannot be confirmed with existing data, it is interesting that the approximately 20 percent decrease in firearm-related deaths indicated in the above table since 1974 could be accounted for partially by increased use of soft body armor by law enforcement officers.

The following table shows the size of bullets and types of firearms which caused the deaths of the 95 law enforcement officers in 1980. The handgun bullets shown in that table are all of a class which can be defeated by existing soft body armor unless they are of the hard metal alloy or steel-jacketed, armor-piercing variety. Soft body armor cannot defeat high velocity, metal jacketed rifle bullets either, some of which may be represented in the "rifle" column of the table.

Officer fatalities while wearing armor

In 1980, the first year such data were collected uniformly by the FBI, 14 law enforcement officers in the United States were killed in the line of duty while wearing protective vests.[5] Seven of the officers were shot in the head and five received fatal gunshot wounds to areas of the upper torso not protected by the vests. One officer was struck by a vehicle. The remaining officer was shot in the back with a bullet that penetrated his vest, but this was a .30-06 caliber rifle bullet fired from about 50 yards away. Soft body armor is not designed to prevent the penetration of most rifle bullets, such as .30-06 caliber bullets.[6]

LAW ENFORCEMENT OFFICERS KILLED, 1980—TYPE AND SIZE OF FIREARM

Size of weapon	Type of weapon			
	Handgun	Officer's own weapon	Rifle	Shotgun
Total	69	[1] 13	13	13
Handgun size:				
.22 caliber	4			
.25 caliber	2			
.32 caliber	8			
9 millimeter	2			
.357 magnum	16	7		
.380 caliber	1	1		
.38 caliber	30	4		
.44 magnum	2			
.45 caliber	1			
Caliber not reported	3			

LAW ENFORCEMENT OFFICERS KILLED, 1980—TYPE AND SIZE OF FIREARM—Continued

Size of weapon	Type of weapon			
	Handgun	Officer's own weapon	Rifle	Shotgun
Rifle size:				
.22 caliber			4	
.223 caliber			3	
7 millimeter			1	
.30-06 caliber			1	
.30-30 caliber			1	
.303 caliber			1	
.308 caliber			1	
.444 magnum			1	
Shotgun size:				
20 gauge				3
12 gauge		1		10

[1] Included in appropriate category.

Source: Federal Bureau of Investigation, Law enforcement officers killed 1980, Washington, U.S. Department of Justice, 1980, p. 12.

BODY ARMOR

Recent developments

Since at least the early 1970s, there has been considerable interest among law enforcement support agencies in developing effective soft body armor that would be comfortable and unobtrusive enough to be worn continuously by law enforcement officers while on duty. Organizations like the National Institute of Law Enforcement and Criminal Justice (NILECJ) of the Law Enforcement Assistance Administration (LEAA) of the U.S. Department of Justice, and the International Association of Chiefs of Police, have sponsored several studies of soft body armor.[7] Research programs on soft body armor and weapons threats have been administered and carried out by the Law Enforcement Standards Laboratory of the National Bureau of Standards, Department of Commerce; Edgewood Arsenal, Aberdeen Proving Grounds, Department of the Army; the FBI Quantico Test Base; and several private weapons testing laboratories. About 25 to 30 manufacturers of soft body armor are now producing units commercially for sale to an increasing number of U.S. law enforcement organizations.

Commercially available soft body armor

Most, if not all, soft body armor commercially available today is made of differing numbers of layers of Kevlar, a synthetic (aramid) fiber produced by the Du Pont Company. In addition to the number of layers of Kevlar used, the weaving and other processes used in the production of the final protective vest affects the strength of the product.

In the early 1970s, protective body armor generally was classified as to whether it was made of 7, 12, 16, 24, or other numbers of layers of Kevlar. Currently, manufacturers and police departments often designate certain threats (types of bullets) that the vests are to protect against, regardless of the numbers of layers of Kevlar involved.

In 1982 it is estimated that approximately half (about 250,000) of the Nation's law enforcement officers own or have access to soft body armor.[8]

The state of the art of protective body armor, which today is largely based upon the use of Kevlar, involves a trade off between the thickness of the protective vest versus the types of bullets which the vest can defeat. Certain commercially available bullets, like .357 caliber magnum hard metal alloy bullets, and some foreign-made nine millimeter steel jacketed bullets, can defeat commercially available soft body armor.

Protection available

A side-by-side comparison of the handgun weapons used to fatally injure law enforcement officers in 1980 (shown above and repeated for convenience here) and handgun bullets required to be defeated by soft body armor in the equipment purchase specifications of a number of U.S. cities indicates that currently available soft body armor apparently can protect against the large majority of bullet threats facing law enforcement officers today. While most commonly used bullets apparently can be defeated by existing soft body armor, there is a class of bullets which can defeat it. This subject is discussed in the following paragraphs.

Possible remaining threats

Bullet Characteristics

Although a number of bullets can be defeated by currently available soft body armor, a number of threats remain. Most, if not all, types of metal- or armor-piercing bullets will apparently defeat existing soft body armor, whether these bullets are hard, metal alloy bullets, or lead bullets which are steel jacketed. Other types of non-armor- or metal-piercing bullets which might defeat soft body armor are bullets which are small caliber (for example, .22 caliber) or high velocity (particularly magnum) bullets. Bullets which combine these latter two characteristics (small caliber plus high velocity) are more likely to defeat some types of soft body armor (depending upon its thickness

and construction) even if these bullets are not of hard metal alloy or steel jacketed construction. Thus, there currently exist several specific bullets, and a class of bullets having certain characteristics, that can, or could be designed to, defeat currently available soft body armor.

Blunt Trauma

Even if bullets do not penetrate soft body armor, lethal wounds could be caused by "blunt trauma." This type of wounding effect can be described as being similar to being hit on the body by a hard swung baseball bat. Because this phenomenon currently does not appear to be a major wounding cause, it is not discussed further here. However, it is conceivable that, were higher powered bullets used or developed to defeat soft body armor, blunt trauma effects might be a major cause of concern to body armor researchers, developers, and manufacturers, as well as medical practitioners.

BODY-ARMOR DEFEATING BULLETS: THREAT CHARACTERISTICS

This section describes some bullet characteristics that are important to a consideration of what types of bullets can defeat, or can be designed to defeat, existing soft body armor.

Velocity

Handgun bullets typically range in muzzle velocities from about 730 feet per second (fps) (low velocity) to over 1,800 fps (high velocity), depending upon the powder charge of the cartridge and the length of the handgun barrel. Eleven hundred fps (roughly the speed of sound in air) may be a convenient point to differentiate between low and high velocity bullets, although it is unlikely that a consensus could be obtained that significantly different wounding effects occur above and below this velocity for a given type of bullet.

It is clear, however, that high velocity bullets are more likely to defeat soft body armor than low velocity bullets, all other characteristics remaining constant.

Caliber and weight

Caliber measures the diameter of bullets, that is, a .45 caliber bullet has a diameter of .45 inch. Caliber is thus a measure of size. A .45 caliber bullet is considerably larger than a .22 caliber bullet. The most common police bullet, and the most common bullet causing police fatalities, is the .38 caliber, intermediate in size between the .22 caliber and the .45 caliber.

Weights of bullets are measured in grains. The larger the caliber, the more a bullet weight, given a constant shape.

The smaller caliber bullets, for example, the .22 caliber, are more likely to penetrate the commercially available body armor than larger caliber bullets, other bullet characteristics remaining constant.

Shape and hardness

Bullets are produced in several shapes—including round or ball nosed, flat-nosed, pointed, and hollow pointed. Round, flat-nosed (some of which are called wadcutters or semi-wadcutters), and hollow point bullets are often constructed as lead or semi-jacketed bullets which expand upon contract. The hollow point bullets are generally the most effective of these "expanding" bullets. Pointed bullets generally are constructed of lead with metal jackets, which are usually of copper. If such bullets are jacketed with steel, they generally have armor- or metal-piercing capabilities. Another class of bullets is constructed of hard metal alloys and are also armor- or metal-piercing bullets.

Thus, the harder and more pointed a bullet is, the more likely it is to penetrate commercially available body armor, other bullet characteristics remaining constant.

Summary of bullet threat characteristics

Given the characteristics of the most successful, currently available soft body armor, bullet threat characteristics can be summarized in the following way:

Bullet characteristics	Lowest level of threat	Highest level of threat
Velocity	Low velocity	High velocity.
Caliber, weight	Large caliber, heavy	Small caliber, light.
Shape	Round or flat nose, hollow point.	Pointed.
"Hardness"	Lead, or copper semi-jacketed lead.	Full steel jacketed lead, or hard metal alloy bullet.

Thus, the bullet type with the highest probability of penetrating soft body armor, and with a proven capability of penetrating many layers of existing soft body armor, is a high velocity, small caliber, pointed, steel jacketed lead or metal alloy bullet. Such bullets may be handgun bullets, rifle bullets, or bullets which can be used in either handguns or rifles.

Possible ramifications of "perfect" body armor

Commercially available soft body armor is not perfect, that is, it can be defeated by certain bullets of the hard metal alloy or steel-jacketed armor- or metal-piercing types. Assuming that "perfect" body armor could be developed to meet current threat conditions, there is at least one positive and one negative ramification of such a development:

Possible Positive Ramification

Decreased wounding and death of law enforcement officers under current conditions, that is, continued use by criminals of existing types of bullets which, to a considerable extent, can be defeated by existing soft, light-weight body armor.

Possible Negative Ramification

An "arms and ammunition race" by the criminal segment of society for even more powerful bullets and other weapons to defeat existing armor, and increased use by criminals of such armor. This possible negative ramification could be precluded to some extent by controlling, by law and enforcement, the manufacture, distribution, sale, possession, and international trade of all bullets of the armor- or metal-piercing type and, perhaps body armor.

FOOTNOTES

[1] There may be as many as 10,000 different bullets that have been manufactured since the development of the bullet cartridge around the time of the U.S. Civil War.

[2] Blunt trauma is injury caused by bullets which do not penetrate armor. It is injury caused by the force of the blow itself, as when a person is hit in the chest by a hard swung baseball bat.

[3] Federal Bureau of Investigation. Law Enforcement Officers Killed 1976. Washington, U.S. Department of Justice, 1976, p. 24. Also for 1977, p. 13; 1978, p. 13; 1979, p. 13; and 1980, p. 12.

[4] Conversations with a Department of Justice official and a representative of the International Association of Chiefs of Police on March 24, 1982.

[5] Those cases are taken from Federal Bureau of Investigation. Law Enforcement Officers Killed 1980. Washington, U.S. Department of Justice, 1980. This report does not include information sufficient to determine whether the "protective vests" were soft body armor or other types, nor is that information currently available from the FBI.

[6] Id. at p. 28, 30, 32, 33, 34, 36, 37, 38, 40, 42, 43, and 44.

[7] For example, Montanarelli, Nicholas, Clarence E. Hawkins, and Lester D. Snubin, Body Armor: Lightweight Body Armor for Law Enforcement Officers, Washington, U.S. Department of Justice, LEAA, NILECJ, May 1976, p. 113; Goldfarb, Michael A. et al. Body Armor: Medical Assessment, Washington, U.S. Department of Justice, LEAA NILECJ, May 1976, p. 30; National Institute of Law Enforcement and Criminal Justice, NILECJ Standard for the Ballistic Resistance of Police Body Armor, Washington, U.S. Department of Justice, LEAA, NILECJ, December 1978, p. 10; and International Association of Chiefs of Police. Police Armor Testing and Summary of Performance Testing Data. Gaithersburg, Maryland, International Association of Chiefs of Police, December 1978, p. 23.

[8] Conversations with a Department of Justice official and a representative of the International Association of Chiefs of Police on March 24, 1982.●

By Mr. DANFORTH (for himself, Mr. PELL, Mr. BOSCHWITZ, and Mr. DOLE):

S. 605. A bill to amend title 11, United States Code; to the Committee on the Judiciary.

CLOSING BANKRUPTCY LOOPHOLES USED BY DRUNK DRIVERS

● Mr. DANFORTH. Mr. President, Tuesday, the U.S. Supreme Court ruled that a driver's refusal to submit to a blood alcohol test can be introduced as evidence against him at a trial on drunk driving charges. This decision gives local prosecutors yet another weapon in the fight against drunk driving, which, in the words of Justice Sandra Day O'Connor, "occurs with tragic frequency on our Nation's highways."

I commend the Court's action. Tuesday's decision, South Dakota against Neville, recognizes that the decision to drive or not to drive is one of choice, and that our judicial processes should work in ways that hold individuals responsible for their free actions.

Mr. President, I hope Congress will use the occasion of this landmark decision to put its own house in order. Today there exists an unconscionable loophole in the bankruptcy statute which makes it possible for drunk drivers who have injured, killed, or caused property damage to others to escape civil liability for their actions by having their judgment debt discharged in Federal bankruptcy court. This loophole affords opportunities for scandalous abuse of judicial processes.

Imagine the heartbreak of a parent who has been notified that his or her child has been killed or permanently disabled by some fellow weaving down the road, intoxicated and totally oblivious to the danger he poses to others. Then imagine these distraught parents losing whatever compensation they have recovered for their loss because the drunk driver has turned to the Federal bankruptcy court system and has had his liability discharged. Or, imagine the hardship on children who lose a father, a mother, or perhaps both to a drunk driver who is then relieved of his debt. Unfortunately, these are not simply hypothetical possibilities. The bankruptcy process

has already been employed by drunk drivers to avoid financial responsibility for their actions, and to deny victims and their families the right to compensation for loss and suffering.

Consider, for example, the case of a Jefferson County, Mo., man who, according to the St. Louis Globe-Democrat, was ordered to pay $600,000 to the families of three teenagers, two of whom were killed and one of whom was paralyzed for life. The offender, who had been convicted of drunk driving three times in the year preceding the accident, crashed head on into the teenagers' car. He was convicted of manslaughter, but received probation rather than a jail sentence. Here, a repeat offender who devastated three Missouri families, sought to be relieved of civil responsibility as well. As soon as the families were awarded their judgment, the guilty driver marched across the street to the Federal courthouse and asked the bankruptcy court to absolve him of financial responsibility for his deeds.

How could the possibility for such a miscarriage of justice exist? Mr. President, under our current bankruptcy state, drunk driving is not defined as a "willful and malicious" act, and only those liabilities which were incurred for commission of willful and malicious acts are exempt from discharge. Now those who drink too much are certainly aware that they are not in any condition to operate an automobile, and they know that by choosing to drive they are endangering other people on the road. This certainly seems "willful" to me, and the disregard for the safety of others is clearly "malicious."

Mr. President, this situation cannot be allowed to continue. Today, on behalf of myself and Senators PELL, BOSCHWITZ, and DOLE, I am reintroducing legislation I sponsored in the 97th Congress which would define the operation of a motor vehicle while legally intoxicated as a willful and malicious act for purposes of the bankruptcy statute.

All across the Nation, people are outraged over the alarming toll in death and injury wreaked by the drunk driver. Statistics show that over 25,000 people are killed and another 650,000 are injured in alcohol-related crashes each year. Americans are beginning to realize that they do not have to put up with drunkenness on the highways. Last year, I introduced a comprehensive legislative package to address the drunk driving problem. It consisted of three elements. The first two elements provided for a Federal incentive grant and driver register program intended to assist State legislators and law enforcement officials in waging a full-scale attack on drunk driving. These two elements are now law. The third element was this proposal, which is strictly an effort to prevent abuse of the Federal bankruptcy system.

Mr. President, I have recently received two letters in support of this provision. One is from George Wright, a Federal bankruptcy judge in Alabama. He enclosed a copy of an opinion which he says he was forced to render due to the present state of the law. Another is from Ray A. Gerritzen, an attorney in St. Louis, Mo. He is presently representing clients whose son was killed by a drunk driver, and the driver is now involved in bankruptcy proceedings. Their letters and the court's opinion vividly illustrate the need for this legislation. I ask unanimous consent that they be printed, along with the bill, in the RECORD at this point.

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

U.S. BANKRUPTCY COURT,
NORTHERN DISTRICT OF ALABAMA,
Tuscaloosa, Ala., November 22, 1982.

Re Senate 2159, amending section 523 of the Bankruptcy Code.

Hon. JOHN C. DANFORTH,
U.S. Senate,
Washington, D.C.

DEAR SENATOR DANFORTH: Enclosed herewith is a copy of an opinion which I have *reluctantly* rendered. I write this letter in support of your amendment. It is hoped that your amendment will be successful in passage.

Kindest personal regards, I remain

Very truly yours,

GEORGE S. WRIGHT,
Bankruptcy Judge.

Enclosure.

United States Bankruptcy Court for the Northern District of Alabama Western Division

(AP No. 82-0573, BK No. 82-0779)

IN RE: RODNEY SILAS, DEBTOR

VIRGINIA LEE & TIMOTHY LEE, TIMOTHY PARRISH AND ST. FARM MUTUAL AUTOMOBILE INSURANCE COMPANY, PLAINTIFF

v.

RODNEY SILAS, DEFENDANT

ORDER OF THE COURT

The plaintiff, Timothy Lee, filed an objection to the discharge of the debtor under § 523(a)(6).

I. FINDINGS OF FACT

1. In the late evening on New Year's Day 1981, after too much New Year's celebration by both drivers—the defendant-debtor, Rodney Silas, was involved in a head-on automobile accident with the plaintiff, Timothy Lee, on a two-lane highway on the Warrior River Road in western Jefferson County, Alabama.

2. Deputy Sheriff, Mike Williams, Jefferson County, Alabama, investigated the accident and talked to the debtor, Silas, at the scene of the accident. Silas had a strong odor of alcoholic beverages, was unsteady on his feet, and his speech was slurred so that in the Deputy's opinion, Silas was intoxicated. Silas was arrested for driving under the influence of intoxicants (DUI). Deputy Williams located the point of impact approximately 2½ feet in plaintiff Lee's lane of travel. On cross examination, Deputy Williams testified that no excessive speed was indicated.

3. The plaintiff, Timothy Lee, testified that he had been drinking beer and that he had left Patrick's, which was a neighborhood bar and was going home; that he could not recall seeing the other vehicle and that he was unable to recall the events preceding the impact. As a result of the accident, he was knocked unconscious and regained consciousness a day and one-half later in the hospital. He received a broken nose, broken finger, general contusions and abrasions.

4. Rodney Silas admitted that he had been at a party drinking beer and had brought one case of beer to the party consisting of 6 or 7 people; that the beer was consumed and that he was going back to the store to get another one-half case of beer when the wreck occurred. Silas admitted that he did not know exactly what happened but that he did not think that he was on the wrong side of the road. He pled guilty to driving under the influence of intoxicants (DUI) and the court so finds that he was intoxicated at the time of the accident.

5. However, the court finds that wherein plaintiff Lee was unable to remember the events, there is no evidence that Silas' actions were "deliberate or intentional."

II. CONCLUSIONS OF LAW

A. The Bankruptcy Act of 1898

Section 17(a)(8) of the Bankruptcy Act of 1898 excepted from discharge any debt resulting from a willful and malicious injury as follows: "(8) are liabilities for willful and malicious injuries to the person or property of another other than conversion as excepted under clause (2) of this subdivision."

In the leading case of *Tinker v Colwell*, 193 U.S. 473, 24 S. Ct. 505, 48 L. Ed 754 (1904), the Supreme Court, in construing the "willful and malicious" language of § 17(a)(8) created a "reckless disregard" standard which excepted from discharge injuries resulting from the conscious and reckless disregard of the rights of others even where there was no deliberate intent to injure. Many courts utilizing the reckless disregard standard of *Tinker v Colwell, supra*, held that "willful and malicious" under § 17(a)(8) encompassed debts resulting from injuries caused by the defendant-debtor's drunken driving and that such debts were nondischargeable in bankruptcy. *Den Haerynck v Thompson*, 228 F. 2d 72 (10th Cir. 1955); *Harrison v Donnelly*, 153 F. 2d 588 (8th Cir. 1946); *In re Irwin*, 2 BCD 783 (N.D. Iowa 1976). However, there was a minority line of cases that rejected this reckless disregard standard in motor vehicle cases. See NORTON *Bankruptcy Law and Practice* § 27.28 n. 11 (1981); Annot. 13 A.L.R. 2d 168 (1950) (Later Case Service 1973).

B. The Bankruptcy Code of 1978

11 USCA § 523(a) provides:

"A discharge under section 727, 1141, or 1328(b) of this title does not discharge an individual debtor from any debt . . . (6) for willful and malicious injury by the debtor to another entity or the property of another entity."

In enacting § 523(a)(6) of the Bankruptcy Code of 1978, Congress used the same "willful and malicious" language as appeared in § 17(a)(8) of the 1898 Act. Yet, the House Report to § 523(a)(6) contains the following statement:

"Paragraph (6) excepts debts for willful and malicious injury by the debtor to another person or to the property of another

person. Under this paragraph, 'willful' means deliberate or intentional. To the extent that *Tinker v Colwell, supra,* held that a lesser standard is intended, and to the extent that other cases have relied on *Tinker* to apply a 'reckless disregard' standard, they are overruled." H.R. Rep. No. 595, 95th Cong., 1st Sess. 365 (1977), reprinted in U.S. Code Cong. & AD. News [1978] 5787, 6320.

Also, the Senate Report to § 523(a)(6) contains the following statement:

"Paragraph (5) provides that debts for willful and malicious conversion or injury by the debtor to another entity or the property of another entity are nondischargeable. Under this paragraph "willful" means deliberate or intentional. To the extent that *Tinker v Colwell,* 139 U.S. 473 (1902), held that a less strict standard is intended, and to the extent that other cases have relied on *Tinker* to apply a "reckless disregard" standard, they are overruled." S. Rep. No. 989, 95th Cong., 1st Sess. 79 (1978).

The final bill, representing a compromise between the House and Senate, included the exact wording of the House version. 124 Cong. Rec. H11059 (daily ed. Sept. 28, 1978):

"The statements of the sponsors in the House [124 Cong. Rec. H11096 daily ed. Sept. 28, 1978] and the Senate [124 Cong. Rec. S17412 (daily ed. Oct 6, 1978)] were identical and referred only to the selection of the House version of the bill."

In re Bryson, 3 B.R. 593, 596, 6 BCD 199, 1 CBC 2d 1038 (Bankr. N.D. Ill. 1980). These House and Senate reports evidence a rejection of the "reckless disregard" standard enunciated in *Tinker v Colwell, supra,* "and the many cases holding various degrees of recklessness to constitute willfulness and maliciousness will no longer be controlling in construing section 523(a)(6) of the Code." 3 Collier on Bankruptcy ¶ 523.16 at 523-119 (15th ed. 1982).

There are, however, several cases that have refused to follow the 1978 Code legislative history contained in these Congressional Reports and have continued to apply the "reckless disregard" standard of *Tinker v. Colwell, supra,* in determining dischargeability under § 523(a)(6).[1] Nevertheless, the present weight of authority interpreting § 523(a)(6) concludes that injuries resulting from drunken driving are dischargeable absent proof of intentional or deliberate conduct on the part of the debtor.[2] *In re Morgan,* 22 B.R. 38 (Bankr. D. Neb. 1982); *In re Brown,* 18 B.R. 591 (Bankr. N.D. Ala. 1982); *In re Bryson, supra; In re Vaser,* 7 B.R. 116, 3 CBC 2d 211 (Bankr. W.D. Wis. 1980); *In re Rambo,* 5 BCD 800 (Bankr. M.D. Tenn. 1979).

In a factually similar case, the Bankruptcy Court for the Northern District of Illinois, Eastern Division, considered the dischargeability of a judgment debt arising from injuries received when the debtor, while intoxicated, crashed into the plaintiff's car. The court determined:

"Here the defendant showed reckless disregard. He was drunk when he ran into the plaintiff. But there is no evidence that the defendant intended to injure anyone. His conduct cannot be described as 'willful and malicious' under § 523(a)(6). The court concludes that Bryson's debt to the Williamses is dischargeable." *In re Bryson, supra,* at 596.

[1] Footnotes at end of court case.

III. APPLICATION OF LAW TO FACTS

After having heard testimony and arguments of counsel, this court is of the considered opinion that the plaintiff has failed to carry its burden (pursuant to Bankruptcy Rule 407) in showing that the defendant-debtor intentionally or deliberately injured anyone,[3] so that such debt is due to be discharged.

This opinion is the findings of fact and conclusions of law pursuant to Rule 752 of the Rules of Bankruptcy Procedure. A separate judgment will be entered in accordance with this opinion.

Done and ordered this 22d day of November, 1982.

GEORGE S. WRIGHT,
Bankruptcy Judge.

FOOTNOTES

[1] *In re Askew,* 22 B.R. 641 (Bankr. M.D. Ga. 1982); *In re Rines,* 18 B.R. 666, 8 BCD 1205 (Bankr. M.D. Ga. 1982); *In re Auvernshine,* 9 B.R. 772, 7 BCD 511, 3 CBC 2d 946 (Bankr. W.D. Mich. 1981). These cases hold that a few sentences appearing in the legislative history are insufficient to overrule *Tinker v Colwell* and its progeny particularly where substantially identical language appears in § 17(a)(8) of the 1898 Act and § 523(a)(6) of the Code. Additionally, various problems of statutory construction arise when a judicially interpreted phrase ("willful and malicious") is re-enacted using identical language. See 73 Am. Jur. *Statutes* §§ 150-151, 322-324 (1974); NORTON *Bankruptcy Law and Practice* § 27.28 n. 7 (1981).

[2] Senator John C. Danforth (Missouri) has introduced a bill (S2159) to correct the majority rule by amending § 523 of the Code to except from discharge liabilities arising from drunken driving.

"I was amazed to learn that, although the Federal bankruptcy statute does not allow discharge of debts arising from willful and malicious acts, some Federal judges have said that drunk driving is not, in itself, 'willful and malicious.' "

The proposed amendment provides:

"(e) Any injury resulting in a judgment based upon liability of the debtor where, in connection with such liability such debtor was found to have operated a motor vehicle while legally intoxicated shall be deemed to be a willful and malicious injury for purposes of subsection (a)(6) of this section."

128 Cong. Rec. S1397 (daily ed. March 2, 1982). Although this court is philosophically aligned with such an amendment, it is unfortunately not the present state of the law and it is not the province of this court to legislate but to interpret the intent of Congress as unequivocally enunciated by the legislative history of both the House and Senate.

[3] The court also notes that the plaintiff would have failed to carry its burden even under the relaxed "reckless disregard" standard.

GERRITZEN & GERRITZEN,
St. Louis, Mo., January 20, 1983.

Hon. JOHN C. DANFORTH,
U.S. Senate,
Washington, D.C.

DEAR SENATOR DANFORTH: In view of the keen interest your office has shown in the tragedy of drunk drivers killing people and having their responsibility waived out by United States bankruptcy courts, you should be advised that another such situation has arisen in the case of Carl Leslie Turner.

Carl Leslie Turner was operating an automobile on Sunday, March 1, 1981 in St. Louis County when according to witnesses he violated a red electric traffic signal at approximately 90 miles an hour colliding with an automobile in which our client's son was killed. In hope that you can use it in the United States Senate, I enclose herewith copy of one of the photographs of the vehicle in which our client's son was killed. We have filed a suit for damages against Mr. Turner which is now pending in Jefferson County, Missouri. However, Mr. Turner has filed a motion to stay proceedings because of a petition he has filed in the United States Bankruptcy Court for the Eastern District of Missouri. He had no liability insurance at the time. He plead guilty to manslaughter and was sentenced by the circuit judge in Jefferson County. It is now understood that he has definitely already served time in the Missouri State Penitentiary or some branch thereof. Most importantly, after having plead guilty to manslaughter he is attempting to discharge this civil debt in the United States Bankruptcy Court. I am filing a complaint to except the debt from dischargeability. However, the problem still exists that there are several United States Bankruptcy Court decisions discharging debts of drunken drivers who have killed people or horribly injured them. I hope you are successful in putting this matter to a screeching halt.

In view of the outstanding leadership already shown by the President on many issues and his acute concern for what can be done about the drunk driver, I am sending a copy of this letter to the President of the United States. I keenly await your reply.

Yours very truly,

RAY A. GERRITZEN.

S. 605

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 523 of title 11, United States Code, is amended by adding at the end thereof the following:

"(e) Any injury resulting in a judgment based upon liability of the debtor where, in connection with such liability such debtor was found to have operated a motor vehicle while legally intoxicated shall be deemed to be a willful and malicious injury for purposes of subsection (a)(6) of this section.".●

By Mr. STAFFORD (for himself and Mr. PELL):

S.J. Res. 41. Joint resolution to authorize and request the President to designate the week of April 10, 1983, through April 16, 1983, as "National Education For Business Week;" to the Committee on the Judiciary.

NATIONAL EDUCATION FOR BUSINESS WEEK

Mr. STAFFORD. Mr. President, today I am pleased to join my distinguished colleague, Senator PELL, in introducing a joint resolution to declare the week of April 10-16, 1983, "National Education for Business Week."

Throughout this Nation's history, the contributions of men and women in business support occupations have been vital in keeping our Nation's businesses running smoothly. Today, the rapid scientific and technological advancement of our society and the changing nature of our economy continue to create challenges for these members of the business community. An extremely important part in meeting these challenges is the commitment of the business education community to prepare people for entry into the work world of tomorrow.

According to a recent Labor Department survey, the vast majority of the jobs opening up between now and 1985 will require some vocational and technical training beyond high school. Secretaries, bookkeepers, stenographers,

laboratory technicians, specialists in marketing and merchandizing—the people who compose the backbone of the American business community—will rely more than ever before on the strength of business education to adapt to the rapidly changing conditions of business technology.

Mr. President, recognition of the contributions of business educators will focus attention on the needs of workers whose practical training and skills are basic to the future of business. Students, teachers, parents, business people and Government officials will be reminded that the demand for trained workers in business continues to be high. Attention will be drawn to the contributions that business schools and colleges make to the community. Sponsorship of contests for business students, organization of open houses for business representatives, and the strengthening of the relationship between business schools and other academic institutions are among the many activities that "National Education for Business Week" will promote.

Mr. President, in view of the economic challenges facing this country and of the vital contribution that business educators make to the well-being of business, commercial, and governmental life in America, it is particularly appropriate that the contributions of business educators be recognized. It is in this light that my distinguished colleague, Senator PELL, and I urge all Members to lend support for this joint resolution.

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. 41

Whereas business educators play a vital role in supporting government, business, and the commercial life of the United States of America;

Whereas men and women in marketing, merchandising, and data processing occupations contribute to efficient business life, are essential in keeping our Nation's businesses running smoothly, and thus contribute to the continued prosperity of the United States;

Whereas the Nation's educators provide the training ground for the continually changing office technology and are depended upon to teach new skills and emphasize positive work values; and

Whereas it is fitting that the contributions of business educators to the well-being of business and governmental life of America be recognized, encouraged, and honored: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to issue a proclamation designating the week of April 10, 1983, through April 16, 1983, as "National Education for Business Week", and calling upon the people of the United States to observe the week with appropriate programs, ceremonies, and activities.

By Mr. MURKOWSKI (for himself, Mr. STEVENS, and Mr. JACKSON):

S.J. Res. 42. Joint resolution designating Alaska Statehood Day, January 3, 1984; to the Committee on the Judiciary.

ALASKA STATEHOOD DAY

● Mr. MURKOWSKI. Mr. President, I am proud to introduce today a Senate Joint Resolution with my good friend, the senior Senator from Alaska, TED STEVENS, commemorating the silver anniversary of the entry of Alaska as the 49th State of the Union. The United States bought the Territory of Alaska in 1867 from Russia as an effort to extend this Nation's presence in the Pacific Northwest. Alaska. It took Alaska almost 100 years before it finally became part of the Union.

After years of struggle, proposals, and counterproposals, the U.S. Congress voted statehood for Alaska in June 1958. President Dwight D. Eisenhower on July 7, 1958, signed the bill providing the final action needed to complete the act. Six months later on January 3, 1959, Alaska was formally brought into the Union. Alaska erupted in celebration the day the bill was signed into law. Newspaper headlines printed: "We're In!" in bold letters covering half a page, church bells rang, businesses closed for the day, and city streets were clogged with merrymakers.

Despite the economic buildup during the gold rush, Alaska was an unknown quantity as it entered the Union. In Fairbanks, where I now make my home, the site of the city's first supermarket was still covered with trees and a used car lot. Anchorage, which has a population today of 220,000, had only a few paved streets. And the wealth that lay under Alaska's North Slope would remain undiscovered for nearly a decade.

The people of the United States decided by the enactment of the Alaska Statehood Act that Alaska could be a contributing member of the Union. We, the Government and people of this country have been rewarded many times over for that decision. For an original investment of approximately $7 million, the Nation has reaped a bonanza in return. At the turn of the century, for example, one goldfield near Nome, Alaska, returned that much gold ore in less than 1 year.

The Federal Government currently collects $3 in revenue from Alaska for every $1 it spends there. From Alaska comes one-eighth of the Nation's gold; one-fifth of the Nation's oil production; and two-fifths of its harvested fish. Alaska, in addition, possesses 10 of the 16 strategic minerals needed for the Nation's security. As an example Alaska has one of the world's largest molybdenum deposits located at Quartz Hill near Ketchikan, Alaska. When developed, it will supply one of this country's strategic minerals.

I recite this list of Alaska's resources not to laud my State's wealth, but to point out that America has benefited from the inclusion of its northernmost and most western member, just as Alaska has thrived as the 49th State.

During the 1950's the issue of Alaska statehood was heatedly debated across the Nation and in Alaska. There still exist some people who contend we should not have been allowed in the Union. But the conclusion reached by the Alaska Statehood Commission that just completed its review of the State and Federal relationship, was that statehood was in the interest of the people of Alaska and to the interest of all the people of the Nation.

No Member of the U.S. Senate knows the history of the struggle for Alaska's statehood better than the senior Senator from Washington, HENRY JACKSON. It was his leadership and foresight that helped shepherd the Alaska Statehood Act throughout the U.S. Congress in 1958. I am proud to have my good friend, the senior Senator from the State of Washington, join Senator STEVENS and myself in cosponsoring this resolution.

I therefore respectfully submit that January 3, 1984, be known as Alaska Statehood Day in honor of the silver anniversary of Alaska's entry into the United States of America.

I ask unanimous consent that the resolution be printed in the RECORD immediately after my statement.

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

S.J. RES. 42

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

Whereas, July 7, 1958, marks the twenty-fifth anniversary of enactment of the Alaska Statehood Act as approved by the United States Congress and signed by President Dwight D. Eisenhower;

Whereas the Alaska Statehood Act authorizes the entry of Alaska into the Union on January 3, 1959;

Whereas the State of Alaska is still growing and developing based on the principles established by the Alaska Statehood Act;

Whereas the Alaska Statehood Act is the foundation of the union between the State of Alaska and the United States of America which has been to the benefit of both parties;

Whereas many commitments between Alaska and the Federal government are still being fulfilled;

Whereas the State of Alaska is a storehouse of this nation's natural resources;

Whereas Alaska provides one-eighth of the nation's gold; one-fifth of the nation's oil production; and two-fifths of its harvested fish all to the benefit to the Union;

Whereas Alaska possesses ten of the sixteen strategic minerals needed for our nation's security;

Whereas the Federal government collects three dollars in taxes from Alaska for every dollar it spends there;

Whereas the United States has reaped economic rewards from Alaska many times greater than its original $7 million investment;

Whereas the people of Alaska contribute to the cultural diversity and cultural resources of this nation; and

Whereas the Alaska Statehood Act authorized Alaska's entry into the United States of America and provided the basis for these benefits shared by Alaska and the Union: Therefore, be it

Resolved by the Senate and House of Representatives of the United States in Congress assembled that January 3, 1984, be known as "Alaska Statehood Day" in honor of the silver anniversary of the entry of Alaska into the Union. The President is requested and authorized to issue a proclamation calling upon the people of the United States; and the Federal, State and local governments to observe "Alaska Statehood Day" with the appropriate ceremonies and recognition.●

Mr. STEVENS. Mr. President, today I join with my distinguished colleague from Alaska, Senator FRANK MURKOWSKI, in sponsoring this resolution designating January 3, 1984, as Alaska Statehood Day, recognizing Alaska's 25th anniversary as the Nation's 49th State.

In those 25 years, the Nation and the world have become increasingly aware of the Great Land, the name given to Alaska by its first settlers and cherished by Alaskans today.

In this past quarter century more and more Americans have learned to enjoy our State's natural wonders, from the continent's highest mountain to Alaska's 10 million lakes and streams.

Alaska's 34,000 miles of coastline are the gateway to the world's greatest fishery. Alaska's forests offer the Nation a valuable portion of its timber and pulp. Beneath Alaska's surface lies an abundance of energy for all Americans—coal and oil and natural gas.

By far Alaska's greatest resource is its people. Alaskans typify our forefathers' dreams of freedom of spirit, a love of the land, and the vision and strength to be pioneers.

Since the Secretary of the Treasury William Seward convinced President McKinley that the United States should purchase Alaska for $7.2 million in 1867, Alaska has played a vital part in shaping our Nation. At 2 cents per acre, for 365 million acres, Alaska has been a pretty darn good deal.

Achieving statehood for Alaska was the product of hard work by scores of individuals. Seven Congresses considered legislation regarding the admission of the territory as a State of the Union.

Alaskans by the planeload made countless trips to Washington, D.C., to testify in support of statehood for Alaska. So many Alaskans were involved in creating the compact between Alaska and the Federal Government. Some are no longer with us, but many are Alaskans today, still working to continue the tradition they began. Two are memorialized right here in the Halls of the Capitol, E. L. "Bob" Bartlett, and Ernest Gruening. To them and to all of those Alaskans who worked toward statehood we are eternally grateful.

There are others still in this Congress today who were instrumental in gaining statehood status for Alaska. Among them, my good friend from the State of Washington, Senator JACKSON, who was chairman of Territories on the Senate Interior Committee when the Alaska statehood bill was passed. His work has not gone unnoticed in my State, and over the years he has taken a good friend to Alaska.

When the Alaska statehood bill was debated for the last time in Congress, former Senator James Edward Murray, of Montana, made an observation that has proved prophetic. In noting that 35 new States had been added to the Union prior to Alaska, he said:

> But none . . . has been more freighted with destiny or has been of more potential epoch-making significance than . . . Alaska.

The silver anniversary has a special meaning to me. As the legislative counsel to the Secretary of the Interior Fred Seaton during the Eisenhower administration, I had the opportunity of working on the Statehood Act in its embryonic stage. We spent a great deal of time helping to fashion the final product that was finally passed by Congress.

Alaskans are proud to be part of the United States. They are well aware of the invaluable contributions the State makes to our Nation's well-being. They are conscious of Alaska's critical strategic position for defense, as well as its important resources and its natural beauty.

The Nation and the State are both the stronger for the compact between us.

Alaska, the northernmost, westernmost and easternmost State of the Union, spans four time zones. A land one-fifth the size of the contiguous 48 States, it is unique in its setting, its resources and its needs.

Historically, we Alaskans have enjoyed a streak of independence that will remain a part of our heritage forever. But Alaskans are proud to be a part of the most free, stable, and independent political system in the world, a system designed to allow each State appropriate latitude to manage its affairs.

The silver anniversary of Alaska statehood symbolizes our continued faith and trust in the Federal relationship created 25 years ago.

ADDITIONAL COSPONSORS

S. 14

At the request of Mr. HUDDLESTON, the name of the Senator from South Dakota (Mr. ABDNOR) was added as a cosponsor of S. 14, a bill to provide authority for activities to develop and expand markets for U.S. agricultural commodities, and for other purposes.

S. 17

At the request of Mr. DOLE, the name of the Senator from Arizona (Mr. DECONCINI) was added as a cosponsor of S. 17, a bill to expand and improve the domestic commodity distribution program.

S. 23

At the request of Mr. MOYNIHAN, the names of the Senator from West Virginia (Mr. RANDOLPH) and the Senator from Montana (Mr. BAUCUS) were added as cosponsors of S. 23, a bill to conduct an inventory of our Nation's water and sewer systems, bridges, highways and roads; to develop a 10-year investment plan to rebuild the public improvements essential to economic development; and for other purposes.

S. 29

At the request of Mr. GRASSLEY, the name of the Senator from New Mexico (Mr. DOMENICI) was added as a cosponsor of S. 29, a bill to strengthen law enforcement in the areas of child exploitation and pornography, and for other purposes.

S. 44

At the request of Mr. KASTEN, the name of the Senator from Kentucky (Mr. HUDDLESTON) was added as a cosponsor of S. 44, a bill to regulate interstate commerce by providing for a uniform product liability law, and for other purposes.

S. 65

At the request of Mr. RANDOLPH, the names of the Senator from Virginia (Mr. TRIBLE), the Senator from New York (Mr. MOYNIHAN), and the Senator from North Dakota (Mr. BURDICK) were added as cosponsors of S. 65, a bill to extend the Appalachian Regional Development Act to provide transitional assistance to the Appalachian region.

S. 103

At the request of Mr. BOREN, the name of the Senator from Alabama (Mr. HEFLIN) was added as a cosponsor of S. 103, a bill to amend the Highway Revenue Act of 1982 to repeal the increase in the highway use tax.

S. 117

At the request of Mr. CHILES, the name of the Senator from Louisiana (Mr. LONG) was added as a cosponsor of S. 117, a bill to improve the effectiveness and efficiency of Federal law enforcement efforts.

S. 131

At the request of Mr. SASSER, the name of the Senator from Florida (Mrs. HAWKINS) was added as a cosponsor of S. 131, a bill to require the Economic Regulatory Administration of the Department of Energy to complete the investigation of all oil overcharge cases pending within the Administration.

S. 145

At the request of Mr. MITCHELL, the names of the Senator from California (Mr. CRANSTON), and the Senator from Maine (Mr. COHEN) were added as cosponsors of S. 145, a bill to amend the Clean Air Act to better protect against interstate transport of pollutants, to control existing and new sources of acid deposition, and for other purposes.

S. 209

At the request of Mr. INOUYE, the names of the Senator from South Dakota (Mr. ABDNOR), the Senator from Michigan (Mr. LEVIN), and the Senator from Oregon (Mr. HATFIELD) were added as cosponsors of S. 209, a bill to amend the Controlled Substances Act to establish a temporary program under which heroin would be made available through qualified hospital pharmacies for the relief of pain of cancer patients.

S. 212

At the request of Mr. PRESSLER, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 212, a bill to authorize funds for the U.S. Travel and Tourism Administration.

S. 222

At the request of Mr. KASTEN, the name of the Senator from Colorado (Mr. HART) was added as a cosponsor of S. 222, a bill to repeal the withholding of tax from interest and dividends and to require statements to be filed by the taxpayer with respect to interest, dividends, and patronage dividends.

S. 242

At the request of Mr. QUAYLE, the name of the Senator from Florida (Mrs. HAWKINS) was added as a cosponsor of S. 242, a bill to provide additional authorizations for labor intensive programs, to provide additional provisions for the dislocated workers program under title III of the Jobs Training Partnership Act, to promote employment and training for recipients of federally financed unemployment benefits, to provide procurement targeting in labor surplus areas, and for other purposes.

S. 331

At the request of Mr. BYRD, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 331, a bill to create a National Investment Corporation.

S. 401

At the request of Mr. DODD, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 401, a bill to authorize financial assistance for a continuing education program to secondary school teachers of science and mathematics designed to increase their competency, and for other purposes.

S. 430

At the request of Mr. TSONGAS, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 430, a bill to prohibit employment discrimination on the basis of sexual orientation.

S. 443

At the request of Mr. DOLE, the name of the Senator from South Carolina (Mr. THURMOND) was added as a cosponsor of S. 443, a bill to reorganize the court system for cases and proceedings under the bankruptcy laws, and for other purposes.

S. 444

At the request of Mr. DURENBERGER, the name of the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of S. 444, a bill to provide that registration and polling places for Federal elections be accessible to handicapped and elderly individuals, and for other purposes.

S. 445

At the request of Mr. DOLE, the names of the Senator from Mississippi (Mr. COCHRAN), the Senator from Arizona (Mr. DECONCINI), and the Senator from South Carolina (Mr. THURMOND) were added as cosponsors of S. 445, a bill to amend title 11, United States Code, and for other purposes.

S. 450

At the request of Mr. PRYOR, the name of the Senator from Illinois (Mr. DIXON) was added as a cosponsor of S. 450, a bill to amend title 39, United States Code, to strengthen the investigatory and enforcement powers of the Postal Service by authorizing certain inspection authority and by providing for civil penalties for violations of orders under section 3005 of such title (pertaining to schemes for obtaining money by false representation or lotteries), and for other purposes.

S. 454

At the request of Mr. BYRD, the name of the Senator from Illinois (Mr. PERCY) was added as a cosponsor of S. 454, a bill to provide for an accelerated study of the causes and effects of acidic deposition during a 5-year period, and to provide for grants for mitigation at sites where there are harmful effects on ecosystems resulting from high acidity.

S. 476

At the request of Mr. LEVIN, the name of the Senator from Oklahoma (Mr. BOREN) was added as a cosponsor of S. 476, a bill to amend title II of the Social Security Act to require a finding of medical improvement when disability benefits are terminated, to provide for a review and right to personal appearance prior to termination of disability benefits, to provide for uniform standards in determining disability, to provide continued payment of disability benefits during the appeals process, and for other purposes.

S. 490

At the request of Mr. DIXON, the name of the Senator from North Carolina (Mr. HELMS) was added as a cosponsor of S. 490, a bill to amend the Agricultural Trade Development and Assistance Act of 1954 to improve certain agricultural commodity donation programs, and for other purposes.

S. 501

At the request of Mr. DOLE, the names of the Senator from Mississippi (Mr. COCHRAN), the Senator from Rhode Island (Mr. CHAFEE), the Senator from Alaska (Mr. STEVENS), the Senator from Pennsylvania (Mr. SPECTER), and the Senator from South Dakota (Mr. ABDNOR) were added as cosponsors of S. 501, a bill to amend the laws of the United States to eliminate gender-based distinctions.

S. 527

At the request of Mr. GRASSLEY, the names of the Senator from Texas (Mr. TOWER), and the Senator from Missouri (Mr. DANFORTH) were added as cosponsors of S. 527, a bill to amend the Internal Revenue Code of 1954 with respect to the tax treatment of agricultural commodities received under a payment-in-kind program.

S. 540

At the request of Mr. GOLDWATER, the names of the Senator from West Virginia (Mr. RANDOLPH), the Senator from Ohio (Mr. GLENN), the Senator from Connecticut (Mr. DODD), the Senator from Illinois (Mr. DIXON), the Senator from Kentucky (Mr. HUDDLESTON), and the Senator from Louisiana (Mr. JOHNSTON) were added as cosponsors of S. 540, a bill to amend the Public Health Service Act to establish a National Institute of Arthritis and Musculoskeletal and Skin Diseases, and for other purposes.

SENATE JOINT RESOLUTION 15

At the request of Mr. MOYNIHAN, the names of the Senator from Nebraska (Mr. EXON), and the Senator from Michigan (Mr. LEVIN) were added as cosponsors of Senate Joint Resolution 15, a joint resolution designating the month of March 1983 as National Eye Donor Month.

SENATE JOINT RESOLUTION 20

At the request of Mr. INOUYE, the names of the Senator from North Dakota (Mr. BURDICK), the Senator from Minnesota (Mr. DURENBERGER), the Senator from Georgia (Mr. MATTINGLY), the Senator from New York (Mr. MOYNIHAN), the Senator from Indiana (Mr. QUAYLE), the Senator from

Idaho (Mr. SYMMS), the Senator from Nebraska (Mr. ZORINSKY), the Senator from Kentucky (Mr. FORD), the Senator from Washington (Mr. JACKSON), the Senator from South Dakota (Mr. ABDNOR), the Senator from Arizona (Mr. DECONCINI), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Indiana (Mr. LUGAR), and the Senator from Alaska (Mr. STEVENS) were added as cosponsors of Senate Joint Resolution 20, joint resolution to authorize and request the President to designate March 27, 1983, as "National Recovery Room Nurses Day."

SENATE JOINT RESOLUTION 21

At the request of Mr. DECONCINI, the name of the Senator from Kentucky (Mr. FORD) was added as a cosponsor of Senate Joint Resolution 21, joint resolution to designate April 1983 as "National Child Abuse Prevention Month."

SENATE JOINT RESOLUTION 36

At the request of Mr. PRYOR, the names of the Senator from Ohio (Mr. GLENN) and the Senator from Rhode Island (Mr. PELL) were added as cosponsors of Senate Joint Resolution 36, joint resolution designating April 29, 1983, as "National Nursing Home Residents Day."

SENATE CONCURRENT RESOLUTION 2

At the request of Mr. CRANSTON, the name of the Senator from Alaska (Mr. MURKOWSKI) was added as a cosponsor of Senate Concurrent Resolution 2, concurrent resolution expressing the sense of the Congress with respect to the role of the Administrator of the Veterans' Administration.

SENATE CONCURRENT RESOLUTION 11—RELATING TO SOVIET GOVERNMENT OBLIGATIONS WITH RESPECT TO HUMAN RIGHTS

Mr. MITCHELL (for himself, Mr. PACKWOOD, and Mr. MOYNIHAN) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 11

Whereas the Government of the Soviet Union is pursuing a policy of virtually closing its borders to Jewish emigration, as evidenced by declining emigration levels which for 1982 were the lowest since 1970, with only 2,688 Soviet Jews allowed to emigrate;

Whereas this policy has left tens of thousands of people seeking to emigrate from the Soviet Union with little hope of being granted permission to emigrate in the foreseeable future;

Whereas there are several hundred long-term "refuseniks", including many children, who applied to emigrate from the Soviet Union between 1970 and 1976 and have been waiting for permission to emigrate since that time;

Whereas those who have been denied emigration rights, especially the long-term "refuseniks", are often subjected to a life as internal refugees in the Soviet Union, resulting in loss of jobs, loss of membership in important social and professional organizations, revocation of academic degrees, surveillance and arbitrary assault, and other forms of harassment of social isolation;

Whereas these individuals also suffer physical, emotional, and psychological problems which result from social isolation;

Whereas these individuals are also denied the right to cultural expression, evidenced by the breaking up of cultural seminars and Hebrew classes and harassment by Soviet officials of those individuals participating in those forms of cultural expression;

Whereas these individuals are subjected to arbitrary arrest, imprisonment, and internal exile, as is the case with the Jewish "Prisoners of Conscience" currently serving sentences in the Soviet Union;

Whereas it is the stated policy of United States law, including section 502B (a)(1) of the Foreign Assistance Act of 1961 and section 402 of the Trade Act of 1974, that human rights considerations are a vital element of United States foreign policy; and

Whereas the Government of the Soviet Union, by arbitrarily denying its citizens the right to emigrate and the right to religious and cultural expression, and by harassing members of a specific ethnic group, is violating the norms of international law as set forth in agreements and declarations such as the Final Act of the Conference on Security and Cooperation in Europe (hereafter in this concurrent resolution referred to as the "Helsinki Final Act"), the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the International Labor Organization Convention Concerning Employment Policy, and the UNESCO Convention Against Discrimination in Education: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that—

(1) the Government of the Soviet Union should fulfill obligations undertaken in the Helsinki Final Act, the Universal Declaration of Human Rights, and other international agreements relating to human rights, by pursuing a more humane emigration policy and ceasing harassment of Jews and others seeking to emigrate;

(2) the fulfillment by the Government of the Soviet Union of its obligations with respect to internationally recognized emigration rights would significantly promote improved relations between the United States and the Soviet Union;

(3) the President or his representatives should convey to the Government of the Soviet Union the concerns of the Congress expressed in this concurrent resolution at every appropriate opportunity, including—

(A) at such time as agreements are negotiated between the United States and the Soviet Union in the areas of trade, commerce, including grain sales, and science and technology exchange; and

(B) at such time as the President or his representatives meet with leaders of the Soviet Union concerning other aspects of relations between the two countries; and

(4) the President or his representatives should also convey these concerns of the Congress to the governments of allies of the United States and urge the cooperation of those governments in efforts to promote emigration from the Soviet Union.

SEC. 2. The Secretary of the Senate shall transmit a copy of this concurrent resolution to the President with the request that he transmit such copy to the Chairman of the Presidium of the Supreme Soviet of the Soviet Union.

Mr. MITCHELL. Mr. President, the Senate concurrent resolution I am submitting today expresses the sense of this Congress that our Government do everything in its power to encourage the Soviet Union to observe the international guarantees of human rights which it has signed.

The Soviet Government's perception of human rights is not the same as ours. But if the Soviet Union wants to claim a right to be a respected member of world community of nations, it must recognize that its signature to human rights documents carries with it a commensurate obligation.

This is important, not only for the people directly addressed in this Senate resolution, but for all people, everywhere. If a nation can, with impunity, disregard its solemn international undertakings in this respect, it can do so in any other. And if other governments allow international obligations to be flouted, they undermine the structures of international cooperation on which our hopes for peace rest.

This resolution directly addresses the plight of Soviet Jewry, for the reason that this minority group in the Soviet Union today is the subject of an escalating campaign of harassment and outright anti-Semitism. In a tragically ironic twist of history, the inheritors of the czarist state have reinstituted one of its most notorious features.

The Soviet Constitution officially recognizes over 100 different Soviet nationalities and guarantees to each the right to maintain its own language, culture, and traditions. In many cases, that guarantee is honored more in the breach than in the observance, but in no case more blatantly than as it affects Soviet Jews.

Although Jewish people are the 16th largest of the Soviet nationalities, they alone are denied schools in either Yiddish or Hebrew; they alone are denied links with coreligionists in other countries; and they alone are the subject of an official campaign of anti-Semitism.

Soviet treatment of its Jewish citizens has eerie echoes of the other great totalitarianism of our century: the National Socialist government of Adolf Hitler, whose 50th anniversary falls this year. Hitler, too, relied on the world's not recognizing the implications of his government's actions until it was too late. His reliance was, unfortunately, not misplaced.

For that reason it is imperative for all people, Jewish and Gentile alike, to understand what is meant by the "plight of Soviet Jewry" and to recognize that it is a threat to all human rights.

In 1948, Stalin destroyed the Jewish cultural and educational institutions that then existed in the Soviet Union. Jewish theaters, Jewish schools, Jewish publications and printing presses; the institutions by which Jewish culture and identity were sustained; all were destroyed. Despite changes in Soviet leadership since Stalin's death, that destruction has never been remedied.

Schools for Jewish children are not permitted. Only 57 synagogues exist in the entire country, 20 in Soviet Georgia, which has 28,000 Jews. The remaining 37 synagogues serve a community of 2 million people.

Jewish religious gatherings in private homes are systematically discouraged. Established study groups are broken up by police. There is in the Soviet Union no seminary for the training of rabbinical students. Four individuals were granted the right to enter rabbinical studies in Budapest. A commitment that two would be permitted to do so in the United States has not been honored. Even Jewish cemeteries are being systematically liquidated.

Two press organs serve the 2 million Jewish citizens of the Soviet Union. One is a Yiddish-language newspaper published in the so-called Jewish autonomous region, where only 10,000 Jews live. It is published in editions of 1,000 copies. The other is a monthly literary journal, published in editions of 7,000, of which half are sent abroad.

The teaching of Hebrew is illegal, because it is not considered "socially useful" labor. Hebrew teachers are thus guilty of "parasitism," and liable to arbitrary arrest and detainment.

No Russian-language translations of Jewish or Hebrew works have been published, although over 97 percent of Soviet Jews do not speak Yiddish or Hebrew. Despite Government claims that Jewish religious literature is regularly published, no copies of such publications have been seen by Soviet Jews.

In 1977, the Soviet Union started an indoctrination course for the armed services which continues today. It ascribes to a mythical "Masonic-Zionist" conspiracy the goal of world domination. This course, and the anti-Semitic publications Soviet censors have passed in recent years, is nothing but a thinly disguised reiteration of anti-Semitic propaganda of the most virulent kind. The Soviet state is mimicking the czarist regime, whose secret police originated the notorious "Protocols of the Elders of Zion," a staple of anti-Semites everywhere. Official Soviet art is propagating the monstrous perversion of truth that Jews collaborated with the Nazis in death camps.

In practical terms Soviet Jewish citizens are suffering economic discrimination.

In 1950, 15 percent of scientific workers were Jewish. Today, the proportion is less than 5 percent. Quotas have systematically reduced the number of Jewish students admitted to higher educational institutions. Jews are 3.56 percent of the Moscow population, but only 1.6 percent of Moscow University students. Between 1970 and 1975, the number of Jewish postgraduate students in the Soviet Union fell from 4,945 to 2,841. For a people which was traditionally barred from any but urban professions, the implication is clear: There is a systematic effort underway to deny to young people of Jewish origins the basic right to equal educational opportunity within the Soviet Union.

And today, in an ominous echo of the Hitler years in Germany, the Soviet Government is revoking scientific diplomas earned by Jews. Not since the promulgation of the Nuremburg racial laws has any advanced nation sought to use its institutions to legally strip certain citizens of their rights. Yet that is precisely the case in the Soviet Union today.

Given these realities it is not surprising that some Jewish citizens of the Soviet Union seek to leave their country.

The plight of would-be emigrants is well known. Application to leave entails interminable delays in receiving official papers and clearances, loss of work, dismissal from professional associations, lengthy interviews with security forces, and all the attendant harassment a totalitarian state has within its power.

Jewish applicants for emigration must receive an invitation from an immediate family member in Israel. Invitations are frequently intercepted in the mail. The definition of "family" is further being narrowed by the demand that there be a relationship of economic dependence as well as first-degree consanguinity.

Those who are not discouraged and repeatedly seek the right to leave are subjected to intimidation and harassment, which can range from lengthy interviews with the police to arrest and conviction. The outcome of arrests is predetermined: To be charged is to be convicted. So, all over the Gulag of the Soviet prison system there are Jewish prisoners of conscience, whose only crime is the desire to leave a nation which has done its utmost, both officially and unofficially, to make them unwelcome and unwanted.

The purpose of the resolution we are introducing today is twofold. On the one hand, it is vital that the recent dramatic drop in emigration permits be reversed, so that those Soviet Jews who wish to leave may do so. Over 51,000 people were allowed to depart in 1979. In 1982, only 2,688 people are allowed out. Over 10,000 people who have applied for exit permits exist inside the Soviet Union today.

They include longtime "refuseniks" who have waited for exit permission for a decade. Ida Nudel, for example, applied to leave in 1971. Her sister was permitted to leave with her family, but she was not. Since 1971, this woman has tried to exercise a fundamental right: The right to leave her country for another. She has been harassed, beaten, imprisoned, and exiled. In 1978 she was exiled to Siberia and forced to live with 60 male prisoners. She slept with an axe under her pillow to protect herself. On her return to Moscow she was denied a residence permit. She was forced to sleep at the railway station in Riga, having been refused residence and the right to seek shelter elsewhere. Her whereabouts today are unknown.

Other refuseniks have seen their sons inducted into the military. Soviet law prohibits departure within 3 years' of military service, so such inductions are tantamount to a sentence of living without permanent work, under police surveillance and harassment, with interrupted mail and telephone service and the constant fear of arrest, detainment or prison.

We cannot condemn 10,000 people to such an existence for an indeterminable number of years. The resolution therefore expresses the sense of Congress that this situation be taken into account in the negotiation of trade, technical, and other agreements with the Soviet Union.

The second purpose of our resolution is directed to the vast majority of Soviet Jews, who have not requested permission to leave.

They are the world's third largest Jewish comunity, consituting one-fifth of the world's Jewish population. Discrimination against Jews in the Soviet Union could, over time, so undermine Jewish traditional, religious and cultural life as to virtually extinguish all trace of an identifiable Jewish community.

Deportation of some national groups and forced Russification of others have weakened many national communities within the Soviet Union. Those which most successfully maintain their culture and language have a geographic base.

The same is not true of Soviet Jews. The Jewish autonomous region in the Central Asian desert contains less than 10,000 Jewish inhabitants. Soviet Jews are dispersed in urban areas throughout the Soviet Union. Consequently, Soviet law, which formally bans the teaching of Hebrew, and Soviet practice, which effectively prevents organized religious and cultural observance, is a far more serious threat to Jewish survival than russification of a geographically compact community. And the pervasive, offi-

cially sponsored and sanctioned anti-Semitism in the Soviet Union is clearly designed to send the message that Soviet Jews cannot be good citizens so long as they are Jews.

A generation ago, the Jewish people lost a third of their entire population to the lunatic demand of Adolf Hitler that Europe be made "judenrein." The subtler undermining of Jewish life in the Soviet Union today is a less savage but not less serious threat to survival.

There are ominous signs that repression of all forms of dissent is being stepped up in the Soviet Union today. And because Jewish emigrants constitute the largest remaining discrete group of dissidents, repression falls most heavily on them.

Last April saw the arrests of a number of religious groups. In July and August, there was a dramatic interruption of telephone service. Direct dial service, introduced for the 1980 Olympics, has been terminated. In September, the KGB stepped up efforts to terminate all contracts between refuseniks and overseas supporters. Alexander Lerner, the patriarch of the refusenik movement, has been warned to stop speaking with foreigners.

So the second goal of this resolution is directed to alleviating the conditions of life that most Soviet Jews will be forced to face indefinitely.

This resolution is designed to encourage our Government to do its best in all dealings with the Soviet Union to bring home the fact that relations between our two countries will never see real and permanent improvement so long as the most fundamental rights of human beings are brutally suppressed by Soviet officials.

Relations between ourselves and the Soviet Union are strained today. The invasion of Afghanistan and the Soviet role in the suppression of the Polish people cannot be ignored. But just as the military invasion was a breach of the geographic frontiers of a sovereign state, so is Soviet treatment of Soviet Jewry an invasion of the spirit of all people, everywhere. The Soviets must recognize that violence against humanity is no less intolerable than violation of geographic borders.

The Soviet view of human rights is not identical to ours. It is clear, for instance, that the Soviets regard Jewish emigrants as a bargaining chip in relations with the United States, a repugnant use of human lives and human fears. But if, by taking advantage of that Soviet view, we can shorten the ordeal of any human being, we should do so.

In the long term, the Soviet Union must come to recognize that our concern about human rights springs, not from an anti-Soviet political animus, but from the same foundations that underly all our political and cultural traditions.

We did not fight Hitler's extermination policy only to stand by silently while the Soviet Government launches its own official anti-Semitism 30 years later. We do not condemn repression in authoritarian countries only to condone it in totalitarian states.

We do not believe that the rights of any human being must depend on the accidental geography of his birth. We believe that unless and until nations can reach accommodation on the basic rights of the individual, there can be little or no hope for permanent friendship and peace.

Indirectly, the Soviet Union acknowledges this reality. The Soviet Government gives lip service to the ideals of human rights expressed in countless international documents. In public pronouncements, the Soviets are willing to recognize the fundamental rights that all people share and to which all people, including their own, aspire. What we must do is persuade the Soviet Government that verbal acknowledgment, by itself, is not an adequate way to recognize human rights.

It must be the task of our Government, and of all world governments, to impress upon the Soviet leadership that lip service does not discharge the Soviet responsibility to fulfill the international agreements it has signed. If the Soviet Government wants the respect of other peoples as an international leader to go beyond recognition of Soviet ownership of a nuclear stockpile, then it must begin to extend to its own citizens the respect for human rights that is indivisible from human dignity.

I hope President Reagan's recently announced effort to publicly promote the ideals of democratic nations will focus on the fundamental reality. And I urge all Senators to make the plight of Soviet Jewry a human rights priority in the coming months.

● Mr. PACKWOOD. Mr. President, I am pleased to join today with my colleague from Maine in introducing a resolution which addresses the tragic plight of Soviet Jewry. The purpose of our resolution is to express the sense of the Congress that the Soviet Union should pursue a more humane emigration policy and stop harassing Jews and others seeking to emigrate. The resolution urges the President and other members of the administration to convey the concerns of Congress to Soviet officials.

Mr. President, the climate in the Soviet Union has evolved into one in which anti-Semitism thrives. Progressively greater injustices are permitted and the frequency and severity of discrimination against the Jewish population has grown dramatically. The cruel denial of equal rights continues in employment and education, obstacles to religious and cultural expression proliferate, and anti-Jewish propaganda fills the media.

In 1950, Jews constituted 15 percent of all scientific workers in the Soviet Union; today, the figure is less than 5 percent. A quota system at most universities and in hiring policies has resulted in an increasingly smaller number of Jewish university students and professionals. The anti-Jewish discriminatory pattern in higher education poses a direct challenge to historic job opportunities and traditional lifestyles of Soviet Jews.

The Soviet Government has long pursued a policy aimed at suppressing Jewish culture and at severing Soviet Jewry from its cultural heritage. While it is true that restrictions apply to the observance of all religions in the Soviet Union, those aimed specifically at Judaism are especially severe. Synagogues have been closed, contact with other religious groups are forbidden, no seminary exists to train clergy, Jewish religious texts have been confiscated, and no Jewish literature may be published or distributed. The private teaching of Hebrew—the only language common to all Jews everywhere—has been outlawed. It is virtually impossible for Jews to pass on the rituals and traditions of Judaism to younger generations. As a result, the Jewish religion could face extinction in the Soviet Union.

The worsening situation for Soviet Jews has led hundreds of thousands to apply to emigrate. And yet the number of Jews allowed to leave the Soviet Union has rapidly diminished. Only 2,688 Soviet Jews emigrated last year, the lowest level since 1971 when truly effective emigration began. This represents a decrease of a staggering 95 percent in the past 3 years. In addition, the approximately 300,000 Soviet Jews awaiting exit visas face increasingly severe governmental harassment. Many have been fired from their jobs and some scientists have been advised that their academic degrees have been or will be revoked. Only in Hitler's Germany have the academic degrees of Jews been revoked.

There are a multitude of individual examples—documented cases—of hardship, of separated families, and of persecution. The Helsinki accords, which the Soviet Union signed, requires respect for the rights of religious and ethnic groups. They also forbid Governments from holding people who want to emigrate and rejoin their families. Minority rights are also guaranteed in the Soviet Constitution, the International Covenant on Civil and Political Rights, and the Universal Declaration on Human Rights. The Soviet Union, however, continues to blatantly ignore these agreements.

The persistence of an international voice of outrage against the treatment of Soviet Jews must continue. Our message helps sustain the hope and courage of Jews who face vicious op-

pression day after day. It also reminds the Soviet Union of our concern for the plight of these people.

I ask my colleagues to lend their voices to this cause by cosponsoring and supporting the resolution Senator MITCHELL and I are introducing today—and thereby demonstrate to the Soviets our commitment to do whatever we can to halt their anti-Semitic activities.●

SENATE RESOLUTION 71—HONORING THE TWELFTH ANNUAL MODEL SENATE OF STETSON UNIVERSITY AND THE CENTENNIAL OF STETSON UNIVERSITY

Mr. CHILES (for himself and Mrs. HAWKINS) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 71

Whereas one hundred years ago, Henry A. DeLand founded DeLand Academy, which later became Stetson University;

Whereas Stetson University has grown from a small academy to a first class university with alumni who have served at all levels of government;

Whereas Stetson University, for the past twelve years, has sponsored a United States Model Senate, allowing students from Florida and the southeastern United States an opportunity to learn about the performance of the United States Senate by portraying Senate Members;

Whereas through the model Senate students learn to draft bills, work on committees, and understand the internal workings of the United States Senate;

Whereas each year the Model Senate has had outstanding support from fine men and women who now serve or have served in the United States Senate;

Whereas opportunities like the Model Senate help to direct the future of aspiring political personalities; and

Whereas the Model Senate is an educational program that promotes better government by encouraging student participation in legislative affairs: now, therefore, be it

Resolved, That the United States Senate recognizes and honors the Twelfth Annual Model Senate of Stetson University and the University in its centennial year marking the founding of Stetson University.

● Mr. CHILES. Mr. President, this week Florida's Stetson University is holding its 12th Annual Model Senate. To mark the 12th Annual Model Senate and the centennial of the founding of Stetson University, I am submitting, along with Senator HAWKINS, this Senate resolution. Speakers for the model senate have included Senators BAKER, BRADLEY, BUMPERS, BYRD, HAWKINS, INOUYE, KASSEBAUM, MATHIAS, and myself. Former Senators Sam Ervin, Richard Stone, and Spessard Holland have also served as speakers. Senator Holland was the first speaker and is credited with helping the program get off the ground. This year's keynote address will be delivered by Senator DAVID PRYOR from Arkansas.

Started in 1971 under the auspices of Dr. Wayne Bailey, chairman of Stetson University's Political Science Department, the model senate has grown to include students from colleges and universities all over the Southeastern United States. The program includes 3 days where conditions of the U.S. Senate are recreated with 75 to 100 students playing the roles of actual Senators. The model senate has been guided in its 12-year history by Dr. Floyd Riddick, former U.S. Senate Parliamentarian. Participants choose key leaders and the approximate Republican-Democratic balance is preserved. The model senate involves over 150 students each year, many of whom go on to become active in government and politics. It is with great pleasure that I offer this resolution to honor such an effective educational tool patterned after the U.S. Senate.

Stetson has more to be proud of than the model senate. This university is celebrating the 100th anniversary of its founding. Started in 1883 by Henry Deland as Deland Academy, it was renamed Stetson University in 1889 in honor of hat manufacturer John B. Stetson. Chartered in the same year as a university by the Florida State Legislature, Stetson has grown into one of the State's foremost schools and has achieved a number of firsts in its 100 years. Stetson had the first music school in Florida and the first business school in the State. The university was one of the first, if not the first, to admit women as students in Florida and had the first forensic and debate program in the State. Added to this list of firsts is Stetson's victories in the State's first baseball championship and first men's and women's basketball championships. One of Stetson University's students, Benjamin Hulley, was awarded the first Rhodes Scholarship given in the State of Florida. Stetson's first 100 years have been filled with many achievements and I extend to the university best wishes for the next 100 years.●

SENATE RESOLUTION 72—RELATING TO ARMS SALES TO JORDAN

Mr. KENNEDY (for himself, Mr. HEINZ, Mr. HART, Mr. BOSCHWITZ, Mr. BYRD, Mr. PACKWOOD, Mr. BAUCUS, Mr. BIDEN, Mr. BINGAMAN, Mr. BOREN, Mr. BRADLEY, Mr. BUMPERS, Mr. BURDICK, Mr. CHILES, Mr. COHEN, Mr. CRANSTON, Mr. D'AMATO, Mr. DANFORTH, Mr. DECONCINI, Mr. DIXON, Mr. EAGLETON, Mr. EXON, Mr. FORD, Mr. GLENN, Mr. GRASSLEY, Mr. HATCH, Mrs. HAWKINS, Mr. HEFLIN, Mr. HOLLINGS, Mr. HUDDLESTON, Mr. INOUYE, Mr. JACKSON, Mr. JOHNSTON, Mrs. KASSEBAUM, Mr. LAUTENBERG, Mr. LEVIN, Mr. MATSUNAGA, Mr. METZENBAUM, Mr. MITCHELL, Mr. MOYNIHAN, Mr. PELL, Mr. PRESSLER, Mr. PROXMIRE, Mr. PRYOR, Mr. RIEGLE, Mr. SARBANES, Mr. SASSER, Mr. SPECTER, Mr. STAFFORD, Mr. WEICKER, and Mr. ZORINSKY) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 72

Whereas Israel is a stable, democratic and reliable ally of the United States;

Whereas the security of Israel is in the national interest of the United States;

Whereas Jordan continues to oppose the Camp David peace process;

Whereas Jordan has aligned with Iraq, whose government is committed to the destruction of Israel;

Whereas Jordan is purchasing advanced weapons from the Soviet Union;

Whereas the sale of advanced arms to Jordan would jeopardize the security of Israel and increase the overall instability of the region;

Whereas promises to sell advanced U.S. arms to Jordan set the stage for an unnecessary and divisive confrontation with Congress; and

Whereas an escalation of the arms race in the Middle East is contrary to the interests of the United States, Israel and Jordan.

Resolved, it is the sense of the Senate of the United States of America, That—

1. The United States should not sell advanced fighter aircraft, mobile anti-aircraft missiles, or any other advanced arms to Jordan under present conditions, in which Jordan continues to oppose the Camp David peace process and purchases arms from the Soviet Union, and in which such sales jeopardize both the security of Israel and progress toward peace in the Middle East.

2. The United States should ensure that Israel retains its qualitative military edge over any combination of Mideast confrontation states.

3. The United States should focus its efforts on bringing Jordan into direct peace negotiations with Israel.

Mr. KENNEDY. Mr. President, I am pleased to join with Senators HEINZ, HART, BOSCHWITZ and 47 other Senators in introducing a Senate resolution opposing the sale of advanced weapons to Jordan and calling on Jordan to enter direct peace negotiations with Israel. A similar resolution was introduced in the past Congress.

All of us hope that recent public reports will be borne out, and that Jordan is reconsidering its past opposition to the Camp David peace process and direct peace negotiations with Israel. For many years, I have strongly urged King Hussein, both publicly and privately, to engage in such negotiations with Israel. I am confident that all the sponsors of our resolution today will enthusiastically welcome such a development—as will all peoples who support the cause of peace around the world. As our resolution makes clear, our first priority must be peace, not another escalation of the arms race in the Middle East.

Reintroduction of our resolution at this time, supported by a majority of the newly elected Senate, should be clear notice to the administration of our determination to enhance the Middle East peace process and to

oppose destabilizing arms sales in that violatile region of the world.

Over the past year, reports have circulated with disturbing persistence that the Reagan administration is considering the sale of advanced arms to Jordan. These reports include the possible sale of fighter aircraft such as the F-5G or F-16, portable Stinger antiaircraft missiles, Sidewinder air-to-air missiles and laser-guided bombs. The F-5G, which is being redesignated the F-20A, is a highly capable aircraft, built to carry Sidewinder missiles, and also capable of carrying bombs and other ordnance. It could be readily integrated into the AWACS system which, under the administration's misguided policy, is being sold to Saudi Arabia. The shoulder-fired Stinger missiles have never before been transferred outside of NATO; they can be carried and used by individual soldiers—and they can be seized by terrorists.

Sales to Jordan of this sophisticated weaponry would significantly increase the military threat against Israel. With its fast scramble time, short takeoff and landing characteristics, high acceleration and maneuverability and superior ground attack capabilities, the F-5G would greatly enhance Jordan's ability to participate in a surprise Arab air attack on Israel.

The Arab States give high priority to strengthening their air forces, and Jordan is the state with the best geographic position to spearhead a combined Arab attack on Israel; Jordan shares the longest border with Israel and has airfields closest to key targets in Israel. Amman is barely 50 miles from Jerusalem.

Provision of the F-5G or other advanced aircraft will increase the likelihood of escalation of conflict between Israel and Jordan, make it more difficult for Jordan to stay out of any future Middle Eastern conflict, and destabilize the already delicate balance of power in the Middle East.

In addition, Jordan has continued to acquire advanced weapons, including surface-to-air missiles, from the Soviet Union. Its forces have received military training on Soviet territory and from Soviet technicians in Jordan. These Soviet ties raise serious questions about the security of any high technology weapons supplied by the United States to Jordan. Sales such as those proposed by the administration could undermine not only Israeli but also American security.

The Congress has repeatedly expressed concern to the administration on this issue. In February 1982, 33 Senators wrote President Reagan to express concern over disturbing reports that the administration might transfer F-16 and mobile Hawk air-to-ground missiles to Jordan. Subsequently we introduced two Senate resolutions opposing such sales, and the resolution we are introducing today parallels these efforts. In 1982 and again in 1983, a majority of the Senate sponsored our resolution.

Jordan obviously has its own legitimate security needs. But what is needed now from the United States is not more sophisticated arms for Jordan, but more sophisticated diplomacy in bringing Jordan into the Camp David peace process. The administration should be concentrating its resources on a vigorous effort to engage Jordan in direct peace negotiations with Israel. This is a far more promising avenue for lasting peace in the Middle East.

Mr. HEINZ. Mr. President, last May Senator KENNEDY and I, together with a majority of the Senate, submitted a resolution expressing opposition to the sale of advanced weapons to Jordan. Today, we are resubmitting this resolution, again with a majority of the Senate in support.

As March 1 approaches, the date of King Hussein's self-imposed deadline for his decision on whether or not—or on what terms—to participate in the Mideast peace process, we are all anxious to find a way to persuade the King to join the peace negotiations. Our focus on his potential role is appropriate. Without question, the King is not only a valuable addition to advancing the peace process, but also a necessary element. Further progress is unlikely to be made without him. Despite his importance, however, we must be certain that the means we employ to bring the parties to the bargaining table are consistent with our national security interests and those of our long-standing friend and ally, Israel, and with achievement of our ultimate goal: a just and lasting peace.

It is no secret that King Hussein wants American arms. Although no sale has been formally announced, the administration has discussed, without necessarily committing itself, a variety of difficult weapons systems with the Jordanians. The clear signal sent has been that advanced weapons would be more easily obtained were Jordan more cooperative in participating in the construction of peace agreements. My concern is that the administration, in its zealous pursuit of peace, will interpret token conciliatory gestures by Jordan as real movements toward peace, and thereby provide a still uncooperative Jordan with highly sensitive weapons that both endanger Israel's security and do not, in fact, bring us one step closer to peace.

Such a sale would produce multiple ill effects. Clearly, it would threaten Israel whose security is in our national interest. Although it is difficult to discuss specific weapons systems in the absence of a specific sale, persistent rumors have suggested some highly advanced arms, some of which have never been sold outside of NATO, are being considered. The list of weapons discussed has been said to include advanced fighter aircraft, including the F-5G, or F-16, portable Stinger antiaircraft missiles, Sidewinder air-to-air missiles, and laser-guided bombs. The F-5G, built to carry Sidewinders as well as bombs and other ordnance, can also be integrated into the AWACS system being sold to Saudi Arabia. The Stinger missiles, never before sold outside of NATO, can be carried and used by individual soldiers, and therefore could be more readily seized by terrorists.

Second, as I have stated before, I am greatly disturbed by the counterproductive policy trend this sale would reinforce; that is, trying to buy peace with weapons of war. Both logic and experience show this policy to be unsuccessful. From an a priori standpoint, it just does not make sense to add weapons to an already extremely volatile area; we would merely be increasing the chance of violence, as well as escalating its extent when it does occur.

Furthermore, in practice, this policy has been as unfruitful as logic would predict. In 1978, when the Carter administration first proposed a major arms sale to Saudi Arabia, it was hinted that such a sale would make the Saudis more amenable to suggestions for peace talks. Having sold the Saudis both F-15's and then the AWACS in 1981, we still find them unceasingly intransigent. They have not only remained opposed to any negotiations, but have also vented their hostility at the most trivial opportunity. At this year's World's Fair, for example, an event designed to promote world understanding, the Saudis distributed maps that designated the land where Israel now stands as part of Jordan.

King Hussein's lack of cooperation, though less trivial, has been no less injurious to hopes of peace. At the time of the signing of the Camp David accords, on which President Reagan's proposals are based, the King expressed vehement opposition. He strengthened his ties with Iraq and the PLO, both sworn enemies of Israel and promoters of terrorism. In addition, he has, in the past, asked for his friends the Soviets to mediate peace talks rather than the United States.

Most frustrating, though, is the King's habit of appearing to soften his stance only later to resume his intractable position. He has continually aroused our hopes with his apparent willingness to cooperate, then disappointed us with a variety of excuses. Most recently, he has cited doubts about America's ability to obtain Israel's withdrawal from Lebanon as another explanation for his hesitancy.

Of course, we cannot lay all the blame for that problem at the King's

door. We must guard against our tendency to attribute the King with more independence than he actually enjoys. The King wants to act in the interest of the Arab States collectively, and his own political position gives him little choice. Yet the Arab States' inability to reach a consensus has helped to cause the King's apparent unreliability. Moreover, his hesitancy to enter negotiations concerning PLO autonomy without a mandate from that organization is understandable. Unfortunately, recent events have further complicated the King's task; though the PLO's traditional intransigence has softened somewhat, the problem of a mandate has been complicated by factionalism within its ranks. Thus, it is becoming increasingly unclear from whom the King should seek his mandate and for whom such a mandate will hold validity. The PLO executive committee seems to have regrouped in Algiers, only to deny King Hussein a mandate to negotiate on its behalf.

In any case, with the King's past record of noncommitment, an arms sale at this time without any definite assurance would be a gamble with terrible odds.

In the final analysis, though, it is essential to examine why the King, a careful and astute politician, may finally be warming toward President Reagan's peace initiative. Could it be that the King is only interested in obtaining American weapons? Last January 10, an article in the Washington Post suggested to the contrary. It reported that the King's "new thinking is said to reflect growing fears generated by the greatly accelerated pace of Israeli settlements in the occupied territories, the perceived threat of Israeli aggression against Jordan's East Bank and other threats to the Kingdom he has ruled for decades."

Thus it appears the King is searching for ways to insure Jordan's national security. Seeking that through an arms sale would be illusory, at best. But, by providing arms to Jordan we enhance the King's idea of security, thereby providing a disincentive to find real security through lasting peace. Our irony is that we may have finally found the King at a point where he believes peace is his country's most attractive option; an arms sale at this time would only serve to offer him a destructive alternative.

Finally, it is only fair to acknowledge that the King's reluctance to negotiate may stem at least partly from doubts about the outcome of the negotiations. A weapons sale would not bridge major fissures that could prove to be impasses once both sides begin talking. For example, though the King is now discussing President Reagan's suggestion of Palestinian autonomy on the West Bank and Gaza, the King has never retracted his demand for the establishment of a Palestinian homeland, an entity precluded by the Reagan plan, as well as by Israeli Government policy. Jordan must enter negotiations as a state committed to peace, willing to compromise, not as a reluctant participant brought to the table by a weapons sale.

For these reasons, at the present time, I oppose an arms sale to Jordan without an adequate commitment by Jordan to enter the peace process. Such a sale endangers the security of Israel, destabilizes a volatile area, and impedes our most important objective: the creation of a just and lasting peace.

● Mr. LAUTENBERG. Mr. President, I join today in sponsoring this Senate resolution opposing the sale of sophisticated weapons to Jordan. When one examines the situation in the Middle East, one is struck by the role Jordan could play in seeking peace in the region. But Jordan has refused. Instead, Jordan continues to stand by while others actively seek peace. Arms should not be Jordan's reward.

Anwar Sadat sought peace with Israel. Israel welcomed him, and the Camp David process ultimately brought peace between Israel and Egypt. I think we all share the hope that there also can be peace between Israel and Jordan. But it cannot come while King Hussein passively stands by. Hints are not enough. The United States must require of Jordan a real and tangible commitment to peace with Israel.

Until that is forthcoming, the sale of sophisticated arms to Jordan must be seen as a menacing threat to Israel—our stable, reliable, and democratic ally—and a threat to peace.

For these reasons, I believe that the Congress should express its opposition now to any proposal to sell sophisticated weapons to Jordan.●

● Mr. PRYOR. Mr. President, I have joined with other Senators today to express my concern over the prospect of a request for a substantial sale of arms to Jordan in the next few months.

In this matter, we may be putting the cart before the horse since King Hussein requested no arms during his recent visit to the United States and President Reagan has not proposed a sale at this time. But I think a signal from the Congress can be useful at this time as an indication of our concern over the rising level of arms in the Middle East and the death and destruction that will inevitably result from the abundant availability of land and air weapons in that region.

According to Andrew J. Pierre, author of "The Global Politics of Arms Sales," over three-fourths of all purchases of arms by Third World nations were by Middle Eastern countries, and the United States bears the major responsibility for arms buildups around the world since we have supplied 45 percent of all arms aid to the developing nations. That is a heavy moral responsibility that we share along with the Soviet Union, France, and Great Britain.

President Reagan has reversed the Carter administration policy of reducing the level of arms sales and has made such sales a centerpiecee of our foreign policy. I hope that the Congress of the United States will use all the power at its disposal to refute the Reagan policy and restore some sanity and foresight to our military assistance programs.

Thus, while I recognize Jordan's crucial role in establishing peace in the Middle East and the importance of continued good relations with that country, I want to put the President on notice today that any future arms sales proposals will receive a close and critical scrutiny by the Congress.●

● Mr. CHILES. Mr. President, I am pleased to join Senator KENNEDY and others today in sponsoring this resolution opposing the sale of advanced arms to Jordan.

Since we first got wind that President Reagan was considering such a sale, we have been able to discourage him from pursuing the idea. Our efforts last year ranged from letters to the President to the introduction of a resolution of disapproval. This time around, we have over half the Members of the Senate signed on as cosponsors. It is my hope that sustained opposition here in Congress will kill the proposal.

Selling sophisticated weapons to Jordan at this time is ill-advised, to say the least. Not only would it pose a threat to Israel's security, but it would also send a very wrong message to the Arab world.

I am particularly concerned that the administration wants to deal with the Jordanians in this way, when they have not agreed to participate in the peace process. At a time like this, it makes absolutely no sense to sell them advanced weapons. All we accomplish by doing that is to destroy some of their incentive for making peace.

The hopes for a just and lasting peace in the Middle East do depend to a large extent on Jordan. Hopefully, King Hussein can be convinced to step forward. I think he has the capacity to do so, but there is no reason to even consider selling him arms until he does.

The proper pattern was set by the late Anwar Sadat. By going to Israel and offering peace, he set the stage for friendship with the United States. That friendship has brought Egypt many rewards. If King Hussein is looking for similar rewards, let him also come forward—without preconditions—in pursuit of peace.●

● Mr. BINGAMAN. Mr. President, I am pleased to be an original cosponsor

of the resolution introduced today by Senator KENNEDY opposing the sale of advanced weapons to Jordan, supporting Israel's security, and urging efforts to bring Jordan into direct peace negotiations with Israel.

I want to commend the principal cosponsors of this resolution, Senators KENNEDY, HEINZ, HART, and BOSCHWITZ, for taking this initiative both in the last Congress and again here today. I am convinced that the sale of advanced weapons to Jordan will only contribute to further instability in the Middle East. Further, we should not be rewarding Jordan for its failure thus far to engage in the search for peace in the Middle East through direct negotiations with Israel.

The search for peace, for political stability, and economic vitality, must be our first and foremost task in the Middle East, as in other troubled regions like Central America and southern Africa. Our emphasis should be on bringing the rivals in these conflicts together in direct negotiations and on aiding the economic recovery of these countries as peace is restored.

Sophisticated arms transfers of the sort apparently being discussed within the administration in the case of Jordan seldom contribute to political stability and never advance the economic revitalization of these regions. My cosponsorship of this resolution reflects in part this broader concern about our arms transfer policy to the Third World.●

● Mr. SARBANES. Mr. President, I have joined in sponsorship of Senate Resolution 72, to assure the security of Israel, to further peace in the Middle East, and to oppose the sale of advanced arms to Jordan. This resolution carries forward the commitment of Senate Resolution 406, which was introduced nearly 1 year ago in the 97th Congress in response to unwarranted statements by the Secretary of Defense with respect to the sale of sophisticated arms, including the Hawk mobile missile system, to Jordan.

Those statements were made in an airport interview apparently without regard to the delicate balance in the Middle East, despite the continuing refusal of King Hussein to participate in peace negotiations within the framework of Camp David, and in clear contravention of the 1975 agreement carefully worked out between the Congress and the President to preclude the sale of the Hawk anti-missile system. They were made on the Secretary's own initiative, without prior consultation with the Congress and in the absence even of any request from the King of Jordan.

This year's resolution, like last year's, is intended to make plain the strong commitment of the Senate to support a just and lasting peace in the Middle East, a peace that will be accomplished only through direct negotiations among the parties directly concerned, and the equally strong opposition of the Senate to any steps that will make such negotiations more difficult to achieve. The sale of sophisticated military equipment to Jordan at this time will impede, not promote, the peace process. It is no more likely to induce Jordan to participate in good-faith negotiations than the sale of advanced military equipment to Saudi Arabia has caused the Saudis to moderate their intransigent position.

Furthermore, it is important to remember that Middle East States hostile to Israel have a very significant quantitative advantage in the weapons at their disposal. In the face of that threatening arsenal, Israel has had to rely, and has been encouraged to rely, on the qualitative superiority to aggression, and Israel's security depends on it. The sale of technologically advanced weapons system to Saudi Arabia in 1978, and again in 1981, introduced a new and destabilizing factor into the military equation in the Middle East. A sale of comparable importance to Jordan would further erode the qualitative margin which is essential to Israel's survival and would only make more difficult the task of bringing about fruitful negotiations for peace.

Mr. President, as the resolution states, the sale of sophisticated military equipment to Jordan would "jeopardize both the security of Israel and progress toward peace in the Middle East"; it would undermine Israel's "qualitative military edge over any combination of Mideast confrontation states"; and it would divert the energies and attention of our own Nation from the urgent task of "bringing Jordan into direct peace negotiations with Israel." For these reasons, I join in sponsoring Senate Resolution 72.●

SENATE RESOLUTION 73—RELATING TO TARGETING OF JOBS LEGISLATION

Mr. SPECTER (for himself and Mr. DIXON) submitted the following resolution; which was referred to the Committee on Labor and Human Resources:

S. RES. 73

Whereas, our nation's rate of unemployment is over 10 percent, and persists at record levels, leaving over 11.4 million Americans out of work; and,

Whereas, the unemployment level is much greater in some states, even exceeding 50 percent in some localities; and,

Whereas, our economy is undergoing profound structural changes, creating high levels of long-term unemployment and causing many traditional manufacturing and heavy industries to severely curtail production; and,

Whereas, the ongoing recession has produced approximately four million dislocated workers whose skills are no longer appropriate for existing or emerging employment opportunities; and,

Whereas, millions of families have suffered tragically from the burden of unemployment and many individuals, unemployed through no fault of their own, have become so discouraged that they are no longer seeking work; and,

Whereas, traditional anti-recessionary approaches have often compromised their effectiveness in providing jobs in high unemployment areas at the expense of parochial interests: Therefore be it

Resolved, It is the sense of the Senate that, any jobs program or other form of anti-recessionary assistance be targeted to areas of high unemployment, and

Further, that any such program or assistance provide special aid to the long-term unemployed and dislocated workers.

Mr. SPECTER. Mr. President, I rise today to request that the Senate, in legislating a jobs bill, give priority to those areas of the country that have suffered the most.

The President has forwarded a proposal to provide assistance for creating jobs. Congress must now decide what action to take and how this money is to be allocated. The temptation to manufacture pork-barrel measures which serve special interests only must be resisted. If we are to offer effective assistance to meet the critical needs of the many unemployed individuals throughout this country, the Congress must enact legislation that is targeted to reach the economic casualties of this ongoing recession.

In this regard, the Congress should approach this bill with its priorities firmly in place; assistance must be granted to regions that have incurred the most severe stress as a result of the recession. Many people, including the President, have been encouraged by the Department of Labor's most recent release of unemployment statistics. These numbers indicate that the jobless rate declined from 10.8 percent to 10.4 percent in January 1983. While this is positive news, it does not reflect the fundamental structural unemployment problem our economy is experiencing. Although the national unemployment rate declined, the rate for my State—Pennsylvania—increased from 12.9 percent to a staggering 13.6 percent. Other States and areas experienced similar increases. Some counties in Pennsylvania and throughout the rest of the country have more than 20 percent of their work force unemployed; some localities even exceed 50 percent.

Economic indicators suggest this country may be breaking the grips of a harsh recession, but I can offer convincing evidence that hard times persist where structural changes in our economy have left thousands of dedicated workers unemployed.

Certain segments of the economy are undergoing profound transition. Manufacturing industries continue to give way to service-oriented businesses requiring skilled labor. Martin Feldstein, the President's chief economic

adviser, estimates that dislocated workers comprise at least one-third of our unemployed work force. It is likely that these individuals will never regain their jobs, notwithstanding a prosperous recovery. These people were dedicated workers and deserve the opportunity to become contributing and productive members of our work force once again. Today, they are victims of our changing economy, uncertain whether unemployment compensation will be extended long enough for them to find work again. These individuals and their families rest uneasily as they are delinquent in their mortgages and unable to pay their bills.

Mr. President, it is incumbent upon this body to present a rational and thoughtful response to the unemployment dilemma this Nation faces. We must resist any temptation to fill this bill with miscellaneous projects and programs to meet the numerous and diverse needs of the many interests that call upon us to act. Instead, our action here must be intelligent and concentrated.

In the past, legislative efforts to combat the pains of recessionary times have exhibited a propensity to be diluted and short-term in nature. The diagnosis is indisputable; the medicine must be administered promptly and correctly. We are obligated to allocate the modest Federal resources we make available to those areas greatest in need. Only through acknowledging that certain elements of our work force require the focus of our efforts will we achieve the objectives of this proposal.

Mr. President, today I am offering a resolution that expresses the sense of the Senate that any increased assistance to address the critical unemployment problem should be targeted at those States suffering most from our sluggish economy. I am asking the Senate to resolve to channel any jobs program or antirecessionary assistance to areas afflicted with high unemployment. Furthermore, such program or assistance should provide special aid to the long-term unemployed and dislocated workers.

It is essential that we bear in mind those individuals that will be left behind in the wave of economic recovery. I am hopeful that the Senate will act swiftly to meet this critical need for jobs, and that the legislation we construct will assure the most equitable and effective distribution of Federal resources to alleviate the problem of unemployment.

Mr. DIXON. Mr. President, I am pleased to join my distinguished colleagues from Pennsylvania. ARLEN SPECTER, in sponsoring this resolution which will put the Senate on record as being committed to providing meaningful help to the people who need it most and the areas of the country which are hardest hit by this recession.

There are many proposals now pending before this Congress to provide assistance to the unemployed. It is certainly a problem of such critical dimensions, that we can never do enough to alleviate the problem. But we must try.

The administration has projected unemployment levels above 10 percent for the remainder of this year, and near that for the next 2 years. It is not that people are not trying to find work; they are and the media is full of examples—20,000 people in Milwaukee lined up in January for 200 jobs; 2,000 people in Peoria lined up for 100 jobs; 30,000 people in Chicago lined up for 2,000 jobs. The list is endless.

People are doing without the basic necessities, losing everything they have worked their whole lives to obtain; standing in line for hours to get a pound of cheese or a single stick of butter; losing their homes; keeping their heat turned off because they cannot afford the utility bills; neglecting medical care for themselves and their children because they no longer have issurance and do not qualify for medicaid.

The pain is real. The need, dire. Our responsibility is clear, and our agenda, vast.

AMENDMENTS SUBMITTED FOR PRINTING

OCEAN SHIPPING ACT

AMENDMENT NO. 5

(Ordered to be printed.)

Mr. METZENBAUM proposed an amendment to the bill (S. 47) to improve the international ocean commerce transportation system of the United States.

DEPARTMENT OF TRADE

AMENDMENT NO. 6

(Ordered to be printed and referred to the Committee on Governmental Affairs.)

Mr. COHEN submitted an amendment intended to be proposed by him to the bill (S. 121) to establish as an executive department of the Government of the United States a Department of Trade, and for other purposes.

NOTICES OF HEARINGS

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. ROTH. Mr. President, the Senate Committee on Governmental Affairs will not hold the scheduled hearing on proposed legislation to create a Department of Trade on Tuesday, March 1. The hearing will be rescheduled at a later date. For further information, please contact Mike Mitchell at 224-4751.

SUBCOMMITTEE ON LABOR, HEALTH AND HUMAN SERVICES, EDUCATION AND RELATED AGENCIES

Mr. WEICKER. Mr. President, I am pleased to advise the Senate that the Appropriations Subcommittee on Labor, Health and Human Services, Education and Related Agencies will hold its fiscal year 1984 public witness hearings on Thursday, April 28; Friday, April 29; Monday, May 2; and conclude on Tuesday, May 3. These hearings will be preceded by a hearing on Wednesday, April 27 when the subcommittee will take testimony from Members of Congress.

The deadline for interested groups and individuals to submit their requests for an opportunity to testify is Tuesday, March 15. All requests must be in writing and should be addressed to me in care of the Labor, Health and Human Services, Education and Related Agencies Appropriations Subcommittee, SD-186, Washington, D.C. 20510.

Those persons whose requests are received by March 15 will receive a letter providing instructions for their appearance before the subcommittee.

In addition, the deadline for those who only wish to submit statements for the hearing record will be Friday, May 6. Such statements must be no longer than seven double-spaced pages, and 3 copies should be sent to me in care of the subcommittee.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. McCLURE. Mr. President, I would like to announce for the information of the Senate and the public the scheduling of public hearings before the Committee on Energy and Natural Resources to consider pending natural gas legislation. The hearings will be held on Wednesday, March 9; Thursday, March 10; Friday, March 11 and Saturday, March 12, beginning at 9:30 a.m. in room SD-366 of the Dirksen Senate Office Building.

Those wishing to testify or who wish to submit written statements for the hearing record should write to the Committee on Energy and Natural Resources, room SD-360, Washington, D.C. 20510.

For further information regarding these hearings you may wish to contact Mr. David Doane at 224-7144 or Mr. Howard Useem at 224-5205.

SUBCOMMITTEE ON ENERGY RESEARCH AND DEVELOPMENT

Mr. DOMENICI. Mr. President, I would like to announce for the information of the Senate and the public the scheduling of a public hearing before the Subcommittee on Energy Research and Development to consider the President's proposed budget for fiscal year 1984 for the Department of Energy's nuclear energy programs—other than the breeder reactor programs. The hearing will be held on Friday, March 4, beginning at 9:30

a.m. in room SD-366 of the Dirksen Senate Office Building. Testimony will be received from administration witnesses.

For further information regarding this hearing you may wish to contact Mr. Paul Gilman of the subcommittee staff at 224-4431.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON ENERGY AND MINERAL RESOURCES

Mr. GORTON. Mr. President, I ask unanimous consent that the Subcommittee on Energy and Mineral Resources of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Thursday, February 24, to hold an oversight hearing on abandoned mine land fund.

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

ADDITIONAL STATEMENTS

STATE FISCAL CONDITIONS ENTERING 1983

● Mr. DURENBERGER. Mr. President, I would like to call to the attention of my colleagues a recent survey conducted for the National Conference of State Legislatures by Steven Gold and Karen Benker under the auspices of the Ford Foundation. The report on the findings of the survey is entitled "State Fiscal Conditions Entering 1983."

The authors characterize the fiscal conditions of the States as "exceedingly grim" as State legislatures prepare for their 1983 sessions. They found that only six States expect a year-end balance at or above the level traditionally considered the "minimum prudent balance"—5 percent of annual general fund spending—while 19 States are projecting actual deficits at the year's end. Furthermore, this fiscal stress is not specific to any particular region of the country. The survey found that "at least two States in each of the Nation's eight regions anticipate ending fiscal year 1983 with a deficit unless present policies are changed."

To meet the constitutional requirement of a balanced budget or the demands of prudent fiscal management, the survey found that all States intend to adopt "some combination of spending reductions and tax increases" in the coming legislative sessions. Moreover, the authors saw evidence that, based on current service levels, "ballooning revenue shortfalls" are in the offing for fiscal year 1984 as well.

This report is very useful for the comprehensive picture it yields of the States' fiscal condition. It is also of great importance, because it provides an explanation of why the States are presently in such fiscal straits. And it is only by carefully considering the causes, as well as the conditions those causes create, that Congress can determine what, if any, the Federal role should be in alleviating this fiscal pressure.

The report points to four basic explanations for the States' current fiscal dilemma. By far the most important explanation is the recession. In the words of the report, "the recession is the major source of State fiscal problems." This is both good news and bad news. It is bad news in that it means States' fiscal problems will almost certainly persist as long as the economy does not recover. It is good news in that it means most of the stress is not the result of a permanent structural defect in the Federal system.

Recognizing that the recession accounts for most of the fiscal conundrum facing the States also gives clear signals to Congress as to where Federal responsibility lies: To put in place policies that will insure a strong and sustained economic recovery. More than any aid program created in Washington, a vibrant economic recovery is the lasting solution to States' fiscal woes. Happily, we are beginning to see signs that such a recovery has begun. This also implies that Congress has a responsibility to monitor States' fiscal conditions closely during the recovery period for any signs of crisis at which time Federal action would be called for. We are not yet to that point in spite of the bad news in this report.

The second major explanation of fiscal distress cited by the report is the widespread tax cuts adopted by State and local governments in the late 1970's. The authors found that when States raise taxes in 1983, they will often be recouping some of the revenue given away during the recent period of tax relief. Table 9 in the report makes this point dramatically. To the extent that revenue shortfalls result from earlier tax cuts, the dilemma States face is more political than fiscal. The authors observe that "legislators and Governors do not enjoy raising taxes or cutting popular programs, but that course appears inevitable." Indeed, governing in a democracy was never meant to be easy. That is the essence of democracy.

The third explanation for the revenue shortfalls, while less important than the former two, is the most ironic. As the inflation rate has been brought under control, State and local tax collections, like those of the Federal Government, have fallen off. This aspect of the problem may therefore be the dark before the dawn as lower rates of inflation set the stage for true economic recovery and as real economic growth begins to increase tax collections once more.

The final explanation for States' fiscal problems offered by the authors of this report is the one of greatest concern to me in my role as chairman of the Subcommittee on Intergovernmental Relations. At precisely the time economic slump and declining inflation decreased State revenues, Congress has made major cuts in Federal aid to State and local governments. The overall contribution of these cuts to the fiscal stress revealed here should be put in perspective. They contribute little compared to the effects of the recession and lowered inflation. But such cuts have had their effect, and because they have come in programs that tend to deliver human services directly to people, they have worked together with the other forces mentioned here to produce hardship on certain segments of society.

Federal aid, Mr. President, cannot create jobs on any meaningful scale. Federal aid cannot make a significant dent in the infrastructure problem if it is anywhere near the magnitude we are led to believe. Countercyclical Federal aid intended to have macroeconomic effects to help end the recession is destined to be too little, too late and directed to the wrong place. However, Federal aid can, when delivered efficiently, help State and local governments meet emergency needs they otherwise would not be able to meet during fiscal hard times. And when a recession becomes so severe as to inflict unacceptable hardship on a relatively small segment of society, Federal aid, judiciously administered, can help to redistribute some of that hardship broadly across society.

This report is required reading as we begin to consider this year's Federal budget. If ever careful thought were called for, this is the year. Simple solutions seldom solve complex problems, but this year in particular, they are apt to make them worse. I ask that the report entitled "State Fiscal Conditions Entering 1983" be printed in the RECORD.

The report follows:

STATE FISCAL CONDITIONS ENTERING 1983

(By Steven Gold and Karen Benker,* fiscal affairs program, National Conference of State Legislatures)

SUMMARY

Fiscal conditions are exceedingly grim in most states as legislators begin their 1983 sessions. This is the overwhelming message of a survey of legislative fiscal officers conducted in December 1982 and January 1983.

Principal findings of the survey include the following points:

At the end of the current fiscal year, 19 states project deficits in their general funds and another 12 states anticipate having a

* Steven Gold is the Director of the Intergovernmental Finance Project and Karen Benker is a research analyst. This report was prepared with financial support from the Ford Foundation. The views expressed are the authors' and do not reflect the positions of the Ford Foundation or NCSL.

year-end balance of 1 percent or less of their annual general fund spending. At the other extreme, only six states expect a balance of more than 5 percent, which has traditionally been regarded as the minimum prudent balance.

Thirty-five states have reduced their spending for the current fiscal year below the level in their original budgets for fiscal year 1983.

The reason for these cutbacks is a plague of revenue shortfalls that has afflicted nearly every state. As the recession has persisted much longer than expected, all but three states have seen their tax revenue flow in more slowly than anticipated in their budgets.

As a result of amendments to budgets adopted in most states, the median increases of revenues and expenditures are 5.5 percent and 6.4 percent respectively. This is less than the inflation rate for the goods and services which states purchase.

Total state employment has been decreasing since mid-1981. During the past year there has been a decrease in the number of state workers in 28 states.

All regions of the country have been affected by fiscal miseries. At least two states in each of the nation's eight regions anticipate ending fiscal year 1983 with a deficit unless present policies are changed.

While the budget problems of the states are similar in 1983 to those of 1982, the outlook is that the policies adopted in many states will differ. Tax increases are likely to play a much larger role in budget adjustments than they have in many years. Meeting in special sessions during the last few weeks of 1982, five states raised either their personal income or general sales tax or both. This is probably a harbinger of things to come.

If the states do resort to general tax increases in 1983, it will represent a major policy shift for most of them. Between fiscal years 1978 and 1982 state taxes fell as a percentage of personal income in 44 states. The national average of state taxes in relation to personal income decreased from 7 percent to 6.5 percent during those four years.

In addition to the widespread tax cuts adopted in the wake of the Tax Revolt of the late 1970s, the recession is the major source of state fiscal problems. The reduction of federal aid and the drop in the inflation rate (which lowered tax collections) also contributed to budget difficulties.

The results of the survey confirm the gloomy prognosis of a survey by the National Governors' Association and the National Association of State Budget Officers compiled in December. Conditions are considerably worse, however, than the earlier survey reported. For example, the number of states anticipating deficits is more than twice as great.

All states will adopt some combination of spending reductions and tax increases to eliminate or reduce their prospective deficits, so the actual number of states ending the fiscal year with deficits will certainly be less than the survey indicates.

Although it was not the focus of the survey, the outlook for fiscal 1984 budgets is also very bleak. Unless the national economy recovers strongly, balancing state budgets will continue to be difficult.

Any report on state fiscal conditions today will have a familiar ring. One year ago an NCSL report began this way: "With their revenues buffeted by the national recession, the majority of states entered 1982 either in deficit or teetering on the brink of deficit."[1] In July, summarizing state budget actions, another report stated, "State legislatures met this year amidst perhaps the worst fiscal conditions in forty years . . . Fiscal conditions are bleak in most states."[2]

Each of these statements made in 1982 is just as true today but there are two important differences now. First, state fiscal conditions have seriously deteriorated since mid-1982. Second, while most states are still teetering on the brink of deficits, 1983 will not be a re-run of 1982 because the policies adopted are likely to differ. Indications are that in 1983 raising taxes will play a much larger part in solving budget problems than was true in 1982.

Last year most states dealt with their budget problems by holding the line on spending and making minor adjustments in their taxes. During the regular legislative sessions held in the first half of 1982, only nine states raised either their personal income or general sales tax.[3] Budgets were constructed on the assumption that an economic recovery beginning during the late summer would boost revenues and keep budgets in the black. When the recession not only continued but intensified as the year progressed, many state budgets were thrown out of balance.

Virtually every state is required to balance its budget annually. Because of revenue shortfalls two-thirds of the states—an unprecedented number—have already reduced their spending for this fiscal year below the level originally enacted. In many states, however, further spending reductions or tax increases are needed to avoid deficits for the current fiscal year. In addition, legislation will be wrestling with imbalances in their fiscal year 1984 budgets (for the period beginning July 1) because of the continuing weak economy.

WHAT THE SURVEY RESULTS MEAN

This report described the fiscal position of the states as of early January, 1983. It is based on results of a survey of legislative fiscal officers conducted in December 1982 and January 1983. In most states the information reflects projections which have been revised within the past few weeks in preparation for the coming legislative sessions. Many states are understandably unwilling to provide updated estimates to NCSL before they have been released to the public at large.

The survey dealt primarily with general fund spending and revenue, which does not include certain special funds, such as for highways in most states. The general fund accounts for the majority of total spending in nearly all states, and it is the focus of most attention in budget deliberations. In some instances, states earmark a large portion of tax revenues for specific purposes. For example, Alabama and Utah have separate school funds; for purposes of this report, these funds have been added to the general fund. A number of states, particularly those with extensive energy industries, dedicate a portion of their tax revenue collected from those industries to trust funds. Federal aid is generally not included in the general fund, so it is not reflected here.

In recent years 22 states have created contingency funds or "rainy day funds". These funds receive revenue in "good years" which can be used to help finance services in years when revenue collections are less than normal. This year's survey, unlike previous ones, includes revenue in these funds as part of the balances available to states. To omit them would understate the resources available.

A key indicator of fiscal conditions is how large a state's year-end balance is in relation to its total spending during a year. In the past, states generally viewed a 5 percent balance as a prudent level to maintain. One reason to keep such a large balance is to guard against unexpected decreases of revenue or emergencies requiring increased spending. Additionally, states must allow for variations in cash flow during the year. Revenue flows in at a greater pace during the second half of the fiscal year (January to June) than during the first half, but spending occurs relatively evenly throughout the year. Therefore, the balance at the start of the fiscal year (July 1 for 46 states) is considerably higher than the average throughout the year. The need for a 5 percent balance may be less than it was in the past because states have adopted more sophisticated cash management practices, but balances of 1 percent or less definitely cause serious problems.

States with projected deficits or small surpluses will undoubtedly take action during their 1983 legislative sessions to adjust revenues and spending. As a result, the actual balances in these states at the end of fiscal year 1983 may be larger than this survey indicates. For example, last year's NCSL January survey indicated that 30 states faced deficits or anticipated year-end balances of one percent or less of general fund spending, but by the end of the fiscal year only 19 states had deficits or such small balances.[4]

MAJOR RESULTS OF SURVEY

As noted above, the prospective year-end balance is a very important indicator of state fiscal conditions. However, it is susceptible to misinterpretation if viewed in isolation. For example, some states in the last two months of 1982 enacted major increases of sales and income tax rates. The year-end balance in these states is now expected to be positive, although large forecasted deficits had prompted the tax increases. Therefore, this survey considers not only the year-end balance, but four other indicators as well—the actions already taken to deal with budget problems, the growth rates of spending and revenues, the frequency of shortfalls below anticipated revenues, and changes in state employment levels.

Balances: Surplus or deficit

A very significant indicator of budget problems is that 31 states expect to conclude fiscal year 1983 with a balance of one percent or less or their annual spending, including 19 states which at this time anticipate deficits. Eight other states forecast balances between 1 and 3 percent of spending and 5 states anticipate balances of 3 to 5

[1] Steven Gold and Karen Benker, "State Fiscal Conditions as States Entered 1982" (NCSL, Legislative Finance Paper 13, 1982), p.1.

[2] Steven Gold, Karen Benker, and George Peterson, "State Budget Actions in 1983" (NCSL, Legislative Finance Paper 27, 1982).

[3] Florida, Nebraska, Washington, Vermont, and Wisconsin raised their general sales tax; Michigan, Ohio, Minnesota, and Oregon raised their income taxes. Gold et. al. "State Budget Actions," pp. 7-12.

[4] The only states with other dates for the end of their fiscal years are New York (March 31), Texas (August 31), Michigan (September 30), and Alabama (September 30). As originally reported by NCSL, 29 states anticipated surpluses of 1 percent or less or deficits. Shortly after the survey was completed, Wisconsin lowered its revenue estimate, shifting it into the deficit category.

percent, for a total of 44 states with balances below 5 percent.

Tables 1 and 2 report the prospective balances for 1983 in comparison with those for 1982. As Table 1 shows, in all but four cases 1983 surpluses are smaller than those that actually occurred in 1982. Table 2 compares the 1983 projections with similar forecasts reported by NCSL in January 1982. The 19 states projecting a deficit now are a considerably greater number than the 13 making that projection a year ago.

TABLE 1.—YEAREND GENERAL FUND BALANCES AS A PERCENTAGE OF GENERAL FUND SPENDING, FISCAL YEAR 1982 AND FISCAL YEAR 1983.

	Actual 1982	Projected 1983
New England:		
Connecticut	−1.3	−1.9
Maine	2.9	0
Massachusetts	0	.7
New Hampshire	−10.9	−5.4
Rhode Island	.4	−4.0
Vermont	0	−2.5
Mideast:		
Delaware	[1] 7.9	[1] 5.3
Maryland	[1] 5.4	[1] 1.0
New Jersey	2.0	1.1
New York	[1] 1.5	−3.3
Pennsylvania	0	−2.2
Great Lakes:		
Illinois	2.2	0
Indiana	0	2.7
Michigan	−1.5	−13.8
Ohio	1.0	.9
Wisconsin	2.1	−7.7
Plains:		
Iowa	1.0	−4.0
Kansas	6.9	6.4
Minnesota	−13.3	−.2
Missouri	3.2	3.3
Nebraska	.4	2.5
North Dakota	25.0	2.3
South Dakota	7.3	2.4
Southeast:		
Alabama	1.4	0
Arkansas	[1] 5.2	[1] 4.9
Florida	[1] 5.4	[1] 0
Georgia	[1] 1.4	[1] .5
Kentucky	2.1	[1] .6
Louisiana	6.3	−3.5
Mississippi	[1] 2.9	[1] .3
North Carolina	3.3	0
South Carolina	[1] 4.2	[1] 1.6
Tennessee	[1] 2.4	[1] 1.1
Virginia	[1] 6.7	[1] −3.5
West Virginia	6.3	1.4
Southwest:		
Arizona	.5	[1] −11.9
New Mexico	[1] 18.2	[1] −3.2
Oklahoma	[1] 17.4	[1] 4.4
Texas	13.6	9.4
Rocky Mountain:		
Colorado	1.0	−6.1
Idaho	0	−16.1
Montana	9.9	4.2
Utah	3.0	−.6
Wyoming	52.0	11.0
Far West:		
California	[1] .5	[1] −4.5
Nevada	[1] 12.5	[1] 5.1
Oregon [1]	0	.3
Washington [2]	0	−2.1
Alaska	[1] −7.1	[1] 8.8
Hawaii	17.1	3.7

[1] Includes contingency fund.

[2] Figures compare changes in the fiscal year 1979–81 biennium budget period to the fiscal year 1981–83 budget period. Annual figures are not available.

Notes.—

Alabama: Figures shown combine the general fund and the education fund. Then fiscal year 1983 general fund revenue projections indicate a $6 million deficit, while the education fund shows a $25.1 million balance which will be prorated to $0 by the end of the fiscal year.

Alaska: The revenue and expenditures figures do not reflect reversions and changes to other funds that relate to the general fund.

Arkansas: A $50 million working capital fund is included in the balance, but it is used solely for cash flow purposes.

California: The projected deficit estimates range from $1 to $1.8 billion.

Illinois: State officials require that a $200 million balance is necessary for cash flow purposes, so that the real shortfall is $200 million.

Maine: Projecting $1.2 million fiscal year 1982 balance, but actual revenues are down by $4.5 million. Also, in November 1982 the voters passed a personal income tax measure that is retroactive to tax years 1981–82 which will cost the state $32 million in tax rebates. This initiative is likely to be amended by the legislature.

Minnesota: A deficit was allowed in fiscal year 1982 as long as the budget is balanced at the end of the biennium which is June 30, 1983.

Montana: Fiscal year 1982 revenues came in higher than originally anticipated, so fiscal year 1983 revenues were revised upward. In January 1983, fiscal year 1983 revenue estimates were revised downward.

Nebraska: Fiscal year 1982 closing balance and fiscal year 1983 balance forward does not include $18.6 million of outstanding interfund borrowing.

New Jersey: Figures shown combine the general fund and the property tax relief fund.

Ohio: Unofficial revenue estimates show the general fund short $200 to $500 million.

Oklahoma: Due to unique budgeting methods, carryovers and balances may not be comparable to other states.

Oregon: Unofficial revenue estimates show the general fund balance lower than indicated in this table.

Tennessee: Unofficial revenue estimates show the general fund short $130 to $140 million. Monthly allotment holdbacks have already been initiated and savings to date total $42 million.

Texas: Figures shown combine the general fund with other major State funds.

Utah: The uniform school fund is combined with the general fund.

TABLE 2.—PROJECTED YEAREND BALANCES, FISCAL YEAR 1982 AND FISCAL YEAR 1983

Balance as a proportion of annual appropriations	Fiscal year 1982		Fiscal year 1983 as projected in January 1983
	As projected in January 1982	Actual	
Deficit	13	5	19
1 percent or less	17	14	12
1.1 to 3 percent	3	10	8
3.1 to 5 percent	6	4	5
More than 5 percent	11	17	6

Many more states would have been classified as expecting a deficit were it not for the budget cuts and tax increases which have already been implemented (described in Appendices A and B). Likewise, most or all of the states presently projecting a deficit will restore a balanced budget before the end of the fiscal year by raising revenue, reducing spending, or some combination of the two. Only five states finished 1982 with deficits, although 13 had projected one in the January survey by NCSL.

During the past five years, there have always been at least a half dozen states with large balances of 10 percent or more, but that is not true at the present time. Only Wyoming reports a balance of that magnitude. The main reason for the absence of states with large balances is the downturn in the oil industry. Last year in January five of the seven states projecting balances over 10 percent were among the major oil producing states.

Questions sometimes arise as to how it is possible for states to finish their fiscal years with deficits. In some states the balanced budget requirement applies only at the end of a biennial budget period, not at its midpoint. Elsewhere, states must adopt a balanced budget but are not forced to make adjustments if an unexpected deficit arises. In most states, however, the actual budget (not merely the enacted one) must be balanced at the end of each fiscal year.

Actions already taken

Revenue shortfalls have forced most states to amend the budgets they had initially enacted for FY 1983. Table 3 shows the percentages by which spending and revenues have been raised or lowered from the levels incorporated in the initial budgets. The great majority of changes are in a downward direction.

TABLE 3.—PERCENTAGE CHANGE IN REVENUES AND APPROPRIATIONS DURING FISCAL YEAR 1983

	Revenues	Appropriations
New England:		
Connecticut	−1.5	0.7
Maine	0	0
Massachusetts	0	0
New Hampshire	−6.1	−5.1
Rhode Island	−3.6	.7
Vermont	−5.4	−2.8

TABLE 3.—PERCENTAGE CHANGE IN REVENUES AND APPROPRIATIONS DURING FISCAL YEAR 1983—Continued

	Revenues	Appropriations
Mideast:		
Delaware	−4.4	−2.0
Maryland	−.4	−.7
New Jersey	2.5	.9
New York	−2.2	−.9
Pennsylvania	−2.3	0
Great Lakes:		
Illinois	−5.2	−2.7
Indiana	−12.8	−11.8
Michigan	−11.2	4.4
Ohio	−2.5	−2.9
Wisconsin	11.4	−1.8
Plains:		
Iowa	−6.5	−3.5
Kansas	−2.7	−4.4
Minnesota	−11.4	−16.2
Missouri	−3.9	−4.1
Nebraska	−2.2	−1.5
North Dakota	−36.7	7.2
South Dakota	−2.6	.3
Southeast:		
Alabama	−7.1	−7.9
Arkansas	−2.7	−2.7
Florida	−8.7	−7.7
Georgia	−2.7	−1.4
Kentucky	−4.0	−2.7
Louisiana	−6.5	−1.8
Mississippi	−7.1	−6.9
North Carolina	−3.7	−3.6
South Carolina	−3.8	−3.8
Tennessee	0	0
Virginia	−4.3	−2.3
West Virginia	−7.3	−8.9
Southwest:		
Arizona	−12.4	−4.0
New Mexico	−3.4	0
Oklahoma	0	−9.1
Texas	−3.5	0
Rocky Mountain:		
Colorado	−13.4	−.7
Idaho	−25.4	−5.2
Montana	8.5	5.4
Utah	−4.0	−1.4
Wyoming	−4.2	0
Far West:		
California	−3.1	3.2
Nevada	−15.2	−11.1
Oregon [1]	−7.6	−7.0
Washington [1]	−9.6	−7.3
Alaska	29.8	0
Hawaii	−5.7	0

[1] Figures compare changes in the fiscal years 1979–81 biennium budget period to the fiscal years 1981–83 budget period. Annual figures are not available.

Spending Reductions: One of the most dramatic signs of state fiscal problems is that 35 states have already reduced spending below the level set when the 1983 budget was adopted. Most of these reductions were considered necessary to avoid deficits although in some instances these actions were taken to prevent balances from falling to an undesirably low level.

A description of these budget cuts is provided in Appendix B. Most reductions were on an across-the-board basis, with exemptions for welfare, Medicaid, aid to local governments including public schools, and certain other programs. In many states, however, aid to local governments has been reduced below the amount budgeted, although aid was often cut by a smaller percentage than funds for states agencies. In a few states, even income maintenance programs have been reduced.

These spending reductions are occurring in budgets which were fairly lean when originally passed. The average increase in appropriations for FY 1983 was less than 8 percent before the cuts.

Tax increases: From July to late November, the only response to disappointing revenue collections was to reduce spending. In the last several weeks of 1982, five states went into special session and increased their sales and/or income taxes.

Minnesota raised its sales tax from 5 percent to 6 percent and added a 3 percent

surtax on an already existing surtax of 3.5 percent. Both actions expire June 30, 1983.

Indiana raised its sales tax from 4 percent to 5 percent and also increased its income tax. Both actions are permanent.

New Jersey raised its sales tax from 5 percent to 6 percent and increased the income tax rate for returns over $50,000. Both actions are permanent.

Mississippi temporarily raised its sales tax from 5 percent to 5.5 percent effective in 1984 and increased its income tax beginning in 1983.

Nebraska increased its income tax from 17 percent to 18 percent of federal income tax liability.

The results of recent special sessions are described further in Appendix A.

Many actions taken by states during 1982 were in the nature of stop-gap measures: they helped to balance the FY 1983 budget but often left unresolved problems for FY 1984. Examples include acceleration of tax payments, postponement of expenditures, interfund transfers, and issuance of short term debt. See Appendix C for details on which states employed each of these devices.

Acceleration of tax payments: Seventeen states speeded up tax collections, providing them with a one-time windfall. For example, Missouri is now collecting income tax withholding from large firms on a weekly basis rather than monthly, netting the state an additional $34 million this year.

Postponement of payments: Eighteen states deferred certain expenditures into the next fiscal year. For example, in a special session Indiana postponed over $250 million in payments to local governments until FY 1984. Michigan recently postponed $500 million of aid payments. Other states that deferred expenditures include California, Illinois, Minnesota, New Jersey, and Wisconsin.

Interfund transfers: In order to cope with cash flow problems, at least 16 states borrowed from pools of money other than the general fund. One state to do this was Wisconsin, which temporarily borrowed $200 million and must repay this loan with interest. Other states include Illinois, Michigan, Nebraska, Oregon, New York, and Utah. States that transferred funds directly into the general fund and are not obligated to repay the funds include California, Kentucky, and New Hampshire.

Short term debt: This past year several states borrowed in the short term credit market in response to cash shortages. In July 1981, Minnesota legislators raised the short term debt limit from $100 million to $360 million, and in January 1982 increased the limit again to $850 million. The full $850 million must be repaid by the end of June 1983. New Hampshire also raised its debt limit from $40 million to $60 million.

Michigan, which has been particularly hard hit as a result of foreign trade competition, obtained a loan guarantee from Japanese bankers so that the $500 million borrowed in October 1982 would carry a lower investment risk and reduce Michigan's interest payments.

California, Idaho, Rhode Island, and Washington were other states that borrowed unusually large amounts in FY83 to help pay bills.

Growth of revenues and expenditures

The median increases for FY 1983 after taking revisions into account are 5.5 percent for revenues and 6.4 percent for expenditures. These increases are lower than the inflation rate for goods and services states purchase (which has been increasing more rapidly than prices of consumer purchases).[5] Table 4 shows the reported increases for each state.

TABLE 4.—PROJECTED GROWTH RATES OF GENERAL FUND REVENUES AND EXPENDITURES, 1982 to 1983

	Percentage change	
	Revenue	Spending
New England:		
Connecticut	6.7	8.4
Maine	7.7	9.4
Massachusetts	5.5	4.9
New Hampshire	7.2	.6
Rhode Island	5.2	6.4
Vermont	15.0	18.3
Mideast:		
Delaware	4.9	7.2
Maryland	5.7	10.3
New Jersey	11.4	9.3
New York	1.8	5.3
Pennsylvania	4.5	5.4
Great Lakes:		
Illinois	1.4	3.6
Indiana	4.8	.7
Michigan	−8.2	5.6
Ohio	14.9	15.6
Wisconsin	6.1	19.0
Plains:		
Iowa	1.4	4.1
Kansas	11.2	6.3
Minnesota	12.8	−21.6
Missouri	7.9	7.1
Nebraska	19.1	2.4
North Dakota	−10.9	−.7
South Dakota	−.3	4.3
Southeast:		
Alabama	2.6	2.6
Arkansas	5.3	5.7
Florida	8.0	5.7
Georgia	7.5	7.5
Kentucky	6.4	9.4
Louisiana	.9	.8
Mississippi	.8	.2
North Carolina	5.0	6.8
South Carolina	9.3	9.2
Tennessee	16.5	17.0
Virginia	6.4	13.8
West Virginia	−1.6	2.3
Southwest:		
Arizona	−3.8	−1.5
New Mexico	3.0	15.0
Oklahoma	27.1	15.0
Texas	2.8	11.1
Rocky Mountain:		
Colorado	12.6	17.4
Idaho	−9.6	8.2
Montana	−1.3	−4.1
Utah	7.4	11.7
Wyoming	5.4	50.5
Far West:		
California	.6	2.8
Nevada	−9.3	.9
Oregon [1]	10.8	0
Washington [1]	24.1	17.9
Alaska	−15.2	−85.0
Hawaii	2.2	13.3

[1] Figures compare changes in the fiscal year 1979–81 biennium budget period to the fiscal year 1981–83 budget period. Annual figures are not available.

Interpretation of increases for many states is difficult because of devices employed to maintain budget solvency. As noted above, eighteen states deferred spending from one year to the next, while 17 states accelerated tax collections into an earlier year. Such actions can seriously distort comparisons between years. For example, suppose that spending is planned to rise from $1.00 billion to $1.05 billion, a 5 percent increase. Then, in order to avoid a deficit in the earlier year, $.05 billion of spending is deferred from the first year to the second. Since the spending levels will now be $.95 billion and $1.1 billion respectively, the percentage increase between the two years is nearly 16 percent rather than 5 percent. California, Colorado, Illinois, and New Jersey are among the states where this occurred.

[5] U.S. Office of Business Economics, Surveys of Current Business.

Rate of revenue inflow

As Table 5 shows, nearly every state reporting indicated that revenue was coming in more slowly than had been anticipated. Only three states responding to this question did not indicate that it faces a shortfall. States with particularly large shortfalls were Colorado, Idaho, and Michigan. As noted above, states with large petroleum industries have not been spared in this recession. Collections have been depressed not only for severance taxes (i.e., those directly on the extraction of oil and gas), but also for personal and corporation income taxes and general sales taxes.

TABLE 5.—FISCAL YEAR 1983 REVENUE SHORTFALLS AS OF JANUARY 1983

[Dollars in millions]

	Amount of projected shortfall	Percent of general fund revenues
Alabama	$130–160	6.7–8.2
Alaska	[1]	
Arizona	220	13.5
Arkansas	27	2.6
California	1,000–1,800	4.6–8.3
Colorado	170–200	9.7–11.4
Connecticut	49	1.5
Delaware	29.6	4.2
Florida	390–411	7.5–7.9
Georgia	100	2.7
Hawaii	70	5.4
Idaho	94	20.3
Illinois	362–435	4.1–4.9
Indiana	282	12.5
Iowa	126	6.1
Kansas	39	2.7
Kentucky	75–89	3.2–3.8
Louisiana	250–400	6.1–9.8
Maine	4.5	.7
Maryland	12	.4
Massachusetts	[1]	
Michigan	660–900	14.4–19.7
Minnesota	500	10.2
Mississippi	85	6.9
Missouri	86–95	3.7–4.1
Montana	[1]	
Nebraska	16.8	2.1
Nevada	68	16.2
Mew Hampshire	19.6	5.7
New Jersey	60–100	1.0–1.7
New Mexico	160	12.9
New York	579	3.3
North Carolina	126	3.6
North Dakota	123	26.9
Ohio	178–400	2.5–5.6
Oklahoma	26	1.5
Oregon (biennium)	221	7–1
Pennsylvania	188	2.5
Rhode Island	35	4.1
South Carolina	75	3.7
South Dakota	7	2.5
Tennessee	130–140	4.0–4.4
Texas	340	3.3
Utah	70	7.4
Vermont	17	5.1
Virginia	130–206	4.1–6.5
Washington (biennium)	632	8.2
West Virginia	91	6.8
Wisconsin	423	10.2
Wyoming	16	4.0

[1] Revenue equaled or exceeded projection.

Employment policies

After rising for 35 years, state workforces have been decreasing since mid-1981, according to data collected by the Bureau of Labor Statistics (BLS).[6] NCSL survey data supports the BLS findings. Twenty-eight of the states surveyed have reduced the level of their state workforce from 1981 to 1982. In comparison, the average annual growth of state employment was 3.3 percent between 1969 to 1980. The largest decreases in 1982 occurred in Nevada, New Hampshire, and Michigan, where employment declined 16

[6] According to the U.S. Bureau of Labor Statistics state employment in October 1982 was 1.5 percent below its level a year earlier.

percent, 10 percent, and 7.3 percent respectively.

Appendix D reports changes in employment levels and other policies affecting workers.

In addition to cutting back employment levels, 21 states currently have a hiring freeze in effect. Other states effectively have an "informal" hiring freeze since budget cuts have deterred agencies from filling vacant positions. In January 1983 California became the latest state to initiate a freeze, while other states such as North Carolina, Iowa, and Illinois have had hiring restrictions in effect since at least 1980.

Seventeen states postponed, scaled down, or eliminated scheduled Cost of Living Adjustments (COLA) and/or merit raises for state employees due to budget problems. For example, North Dakota reduced the average COLA from 8 percent to 4 percent, and California eliminated a 5 percent COLA, for savings of 1.4 billion.

Financially hard-pressed states also adopted more drastic measures to cut employee costs such as: reducing the hours worked during the work week; initiating mandatory furloughs or "payless vacation" days; and adopting a lagged payroll which lengthens each pay period until one entire payroll is deferred into the next fiscal period.

More specifically, during a December special session, Minnesota legislators decided to temporarily transfer part of the cost of the state pension program to employees, resulting in a 2 percent wage reduction. This action saved the state $63 million. Several states considered reducing work weeks, although only Oregon came close in adopting this option for FY83 by reducing the 40-hour work week to 36 hours. In negotiations with the unions, this measure was exchanged for elimination of a COLA. Thus far, only Idaho has temporarily reduced the work week for the last 6 weeks of FY82 to balance the budget.

In a similar action, Illinois asked state employees to take 5 day furloughs throughout this fiscal year, while in Alabama negotiations are under way for public safety employees to take 1 day unpaid leave every 2 weeks.

In New York and Washington less drastic action was taken when these states endorsed a plan to defer one pay period into the next fiscal year. Employees in Washington took the state to court over this action, but the court upheld the right of the state to enact this policy.

At NCSL's Annual Meeting in July 1982, George Peterson of the Urban Institute stated that state employees had been hit harder than any other group by state budget ajdustments up to that time.[7] That still appears to be true.

REGIONAL PATTERNS

Table 6 shows how the prospective year-end balances for 1983 vary across the country. Fiscal distress is found in all regions. Each of the eight regions of the country has at least two states with a prospective deficit. In all regions except the Plains, at least half of the states anticipate a balance of 1 percent of less. New England has the most uniformly dismal fiscal conditions, with every state projecting a balance of 1 percent or less.

TABLE 6.—GENERAL FUND BALANCES FOR YEAREND, 1983 BY REGION

Region	Percent				Deficit	Total
	Over 5	3.1 to 5	1.1 to 3	0 to 1.0		
New England	0	0	0	2	4	6
Mideast	1	0	1	1	2	5
Great Lakes	0	0	1	2	2	5
Plains	1	1	3	0	2	7
Southeast	0	1	3	6	2	12
Southwest	1	1	0	0	2	4
Rocky Mountain	1	1	0	0	3	5
Far west	2	1	0	1	2	6
Total	6	5	8	12	19	50

The Sunbelt is no better off than other regions. Deficit states in the South include Louisiana, Virginia, Arizona, and New Mexico. Two of these states—Louisiana and New Mexico—are among those where booming severance taxes during the late 1970s and early 1980s had produced overflowing state treasuries. Due to the "oil glut" severance tax collections in 1982 fall short of 1981 levels.

The figures in Table 6 illustrate why the year-end balance can be a misleading indicator of budget problems. Fiscal conditions in New England are no worse than in the Pacific Northwest or the Great Lake states—the two hardest hit regions of the country—but several states in those regions, such as Indiana, Ohio, Wisconsin, Oregon, and Washington, have already raised taxes and cut expenditures sharply. No New England state other than Vermont raised its sales or income tax in 1982, nor have most New England states made large spending reductions in FY 1983 budgets.

Table 7 examines regional patterns from another perspective—differences in the size of revenue shortfalls. The Great Lakes, Rocky Mountain, and Far West states had the highest proportion of states with shortfalls of 5 percent or more.

TABLE 7.—REVENUE SHORTFALLS BY NUMBER OF STATES, BY REGION

Region	Under 5 percent	Over 5 percent
New England	3	2
Mid-East	6	0
Great Lakes	1	4
Plains	4	3
Southeast	6	6
Southwest	2	2
Rocky Mountain	1	4
Far West	1	5

Note.—In cases where the revenue shortfall was estimated within a range, the high point of the range was used to classify the state.

In general, Great Lake states such as Indiana, Ohio, Wisconsin, Minnesota, and Michigan and states of the Pacific Northwest—Idaho, Oregon, and Washington—have had the most serious fiscal problems during the past year.[8]

Figure 1 shows unemployment rates in each state for November 1982. While there are exceptions, the states with extremely high unemployment rates tended to have more serious state fiscal problems.

CAUSES OF FISCAL PROBLEMS

Several factors have contributed to the serious fiscal problems facing most state governments. The recession is the most important consideration, since people who are unemployed pay little if any income tax and relatively little sales tax, while companies with low profits pay little if any corporate income tax. The decrease of inflation added to states' problems, since it lowered the yields from the sales tax and other taxes while having a much smaller impact on costs. The reduction of federal aid also contributed to state fiscal woes, although it had less effect than the impact of the recession. Finally, the legacy of the state tax cuts enacted in reaction to the Tax Revolt of the late 1970s sharply reduced the revenue which many states had available. As Table 8 shows, in 44 states the tax burden as a proportion of personal income decreased between 1978 and 1982. Nationally, state taxes fell from 6.98 percent to 6.48 percent of personal income during that period.[9]

TABLE 8.—*Unemployment rates by State, November 1982*

Alabama	15.3
Alaska	9.8
Arizona	10.4
Arkansas	10.0
California	11.0
Colorado	8.9
Connecticut	6.9
Delaware	9.2
Florida	9.5
Georgia	8.0
Hawaii	7.0
Idaho	8.6
Illinois	12.7
Indiana	13.0
Iowa	8.5
Kansas	7.1
Kentucky	10.7
Louisiana	10.7
Maine	7.0
Maryland	7.7
Massachusetts	6.5
Michigan	16.4
Minnesota	8.6
Mississippi	11.9
Missouri	9.4
Montana	9.4
Nebraska	6.2
Nevada	11.3
New Hampshire	7.0
New Jersey	9.4
New Mexico	9.9
New York	9.5
North Carolina	9.5
North Dakota	6.9
Ohio	14.0
Oklahoma	6.6
Oregon	11.9
Pennsylvania	11.6
Rhode Island	9.5
South Carolina	10.8
South Dakota	5.6
Tennessee	11.8
Texas	7.6
Utah	8.7
Vermont	6.7
Virginia	8.1
Washington	12.4
West Virginia	16.4
Wisconsin	11.0
Wyoming	6.9

[7] George Peterson, "The Pattern of Legislative Cutbacks: Nine Propositions," in The Legislative Role in Budget Cutback Management (NCSL, Legislative Finance Paper 30, 1982).

[8] Minnesota is classified as a Plains State in Table 6 and Table 7.

[9] Steven Gold, "Recent Developments in State Finances" (NCSL, Legislative Finance Paper 33, 1983).

TABLE 9.—STATE TAX REVENUE PER $1,000 OF PERSONAL INCOME, SELECTED FISCAL YEARS

State	1970	1974	1978	1982
Alabama	$72.11	$74.26	$74.90	$68.20
Alaska	68.28	63.41	130.71	449.77
Arizona	83.07	76.98	87.49	69.50
Arkansas	70.81	75.21	77.98	68.17
California	65.91	70.08	86.70	75.65
Colorado	62.10	65.08	64.64	50.23
Connecticut	53.82	59.84	61.88	58.15
Delaware	88.21	92.59	100.46	89.75
Florida	63.45	73.74	66.63	54.14
Georgia	66.04	72.03	71.93	65.90
Hawaii	111.26	108.00	111.42	98.51
Idaho	75.53	75.41	82.06	70.39
Illinois	60.60	62.98	66.11	60.80
Indiana	53.13	63.15	66.54	57.48
Iowa	63.66	65.63	70.81	65.69
Kansas	53.23	58.13	63.34	56.09
Kentucky	76.40	82.07	89.59	80.79
Louisiana	80.55	89.19	85.40	76.11
Maine	69.51	80.16	84.78	75.53
Maryland	70.56	70.65	76.75	65.36
Massachusetts	61.33	72.14	78.66	74.79
Michigan	66.98	73.33	78.28	63.51
Minnesota	75.92	92.02	97.38	86.04
Mississippi	92.81	92.02	91.03	78.19
Missouri	51.03	56.46	55.86	48.52
Montana	59.31	65.16	72.57	71.03
Nebraska	46.96	49.91	64.84	52.79
Nevada	73.21	79.86	77.21	75.44
New Hampshire	38.07	44.48	43.34	34.82
New Jersey	43.95	47.79	58.71	62.08
New Mexico	94.99	102.69	109.19	108.41
New York	75.16	81.73	80.94	76.48
North Carolina	79.19	80.01	79.55	73.53
North Dakota	65.68	60.00	76.56	79.51
Ohio	42.21	51.20	54.54	52.02
Oklahoma	64.17	67.27	73.78	85.34
Oregon	59.31	65.25	69.60	58.54
Pennsylvania	64.32	77.56	75.83	66.57
Rhode Island	65.06	70.84	72.37	70.92
South Carolina	77.47	85.20	84.30	76.96
South Dakota	56.49	51.29	54.48	53.39
Tennessee	61.39	64.15	68.52	55.19
Texas	54.17	60.99	68.52	57.28
Utah	80.33	77.07	80.69	75.49
Vermont	94.80	95.50	83.10	73.54
Virginia	61.90	64.15	66.27	57.89
Washington	78.52	76.93	88.91	72.93
West Virginia	91.31	85.85	88.13	89.64
Wisconsin	86.68	93.64	96.40	82.05
Wyoming	78.73	74.98	94.20	131.45

Source: U.S. Census Bureau.

COMPARISON WITH NATIONAL GOVERNORS' ASSOCIATION SURVEY

In December 1982 the National Governors' Association and the National Association of State Budget Officers published a survey very similar to the present one, "Fiscal Survey of the States: December 1982 Update." In a news release accompanying the report, it was noted that ". . . the fiscal situation in the states is probably worse than portrayed here. Several states have not recently updated their estimates; and since revenues across the country were lower than expected this fall, these early estimates will no doubt prove optimistic."

The current survey confirms the NGA-NASBO prediction. Since the information in this survey is more current than that reported by NGA and NASBO, it is not surprising that the outlook is bleaker than the earlier report described. For the 41 states reporting in the NGA-NASBO survey, this survey has lower fiscal year 1983 year-end balances in 19 states, roughly the same balances in 17 states, and higher balances in only 5 states. In four of the five cases where the NGA-NASBO figure was lower, the discrepancy can be explained by state budget adjustment actions adopted since the earlier survey or by the inclusion in this report of "rainy day funds" which NGA-NASBO did not include. (In this comparison, if the difference in year-end balance was projected to be less than one percent, the two surveys were considered to be in agreement.)

The eight states where the current survey portrays a considerably weaker fiscal situation than NGA-NASBO are:

PROJECTED FISCAL YEAR 1983 BALANCE

	NCSL	NGA-NASBO
Connecticut	−1.9	0.1
Michigan	−13.8	0
Iowa	−4.0	.5
Louisiana	−3.5	.5
Colorado	−6.1	−1.7
Idaho	−16.1	.7
Montana	4.2	10.4
Wyoming	11.0	26.9

Despite these differences, the two surveys are in substantial agreement as to the severity of state fiscal problems. As the NGA-NASBO report states, "The recession and other factors have caused state fiscal conditions to deteriorate badly through 1982." The accompanying news release added, "This is the ninth NGA-NASBO report and is by far the bleakest yet."

CONCLUSION

It appears that legislators and governors will face very tough decisions as they develop budgets for fiscal year 1984. Although this report has concentrated on prospects for the current fiscal year, the magnitude of problems in the year beginning July 1 is even greater. Early revenue projections, based on current service levels, indicate ballooning revenue shortfalls. Some examples:

California is forecasting a shortfall as high as $4.5 billion.

New York's impending deficit may be $1.8 billion.

Wisconsin and Minnesota face biennial budget gaps of $1.3 billion and $1.5 billion respectively. The shortfall in Wisconsin had been estimated at $2.5 billion prior to a recent special session at which some temporary tax increases were made permanent.

Reports from around the country as well as the results of special sessions held in December suggest that 1983 will see more increases of major state taxes than any year in more than a decade. This does not mean that states are increasing the size of government. As John Shannon, Assistant Director of the U.S. Advisory Commission on Intergovernmental Relations, said recently: [10]

"The evidence suggests that a major state tax increase is a signal of fiscal desperation—not the proof that the big spenders are once again in the saddle. Since Proposition 13, a state government only turns to its citizenry for a major tax transfusion when it is clearly apparent that the state is suffering a severe fiscal hemorrhage—a large revenue shortfall due to the economic recession."

Tax increases of 1983 should be viewed in the context of the tax reductions of recent years. When states raise taxes in 1983, they will often be recouping some of the revenue given away during the recent period of tax relief.

A year ago we wrote, "one implication of this survey is that in most states budget deliberations this year will be more excruciating than usual." That is also true this year. Legislators and governors do not enjoy raising taxes or cutting popular programs, but that course appears inevitable.

Budget-making in the states contrasts sharply with budget-making in Washington, D.C. When states confront deficits, they nearly always act to eliminate them. Fiscal discipline is much stronger in the state capitols than in our national capital.

[10] John Shannon, "Fiscal Federalism after Proposition 13: Federal and State-Local Spenders Go Their Separate Ways" (Paper presented at American Economic Association meetings, Dec. 29, 1982).

APPENDIX A.—FISCAL YEAR 1983 SPECIAL SESSIONS

Indiana

A special session was held in December to resolve an estimated $452 million shortfall. Actions include: permanently raising the sales tax from 4 percent to 5 percent beginning January 1983; permanently increasing the flat rate personal income tax from 1.9 percent to 3 percent beginning January 1983; postponing $286 million in payments to fiscal year 1984; and cutting the budget $59 million.

Minnesota

In December with a $312 million deficit projected for the remainder of the fiscal year 1981-83 biennium, the legislature chose to: add a 3-percent personal income tax surcharge on top of the 3.5-percent surcharge enacted for 1983 earlier, with both scheduled to sunset in June 1983; made the temporary sales tax increase from 4 percent to 5 percent permanent; enacted a temporary 1-percent sales tax increase bringing the rate to 6 percent which will expire June 1983; shift $100 million of payments to fiscal year 1984; lower benefits for State employees; and cut the budget $79 million.

Mississippi

The Governor called a special session in December to propose a State public school kindergarten program and raise the appropriate revenue. The legislature voted to: increase the sales tax from 5 percent to 5.5 percent effective January 1984 to December 1986; and created a third top tax bracket of 5 percent for taxpayers with income over $10,000 effective January 1983 to December 1986.

Nebraska

In November, the legislature met and cut the budget by $18.1 million. The Board of Equalization: postponed the scheduled sales tax decrease from 3.5 percent to 3 percent from December 1982 to December 1983, and increased the personal income tax from 17 percent to 18 percent of Federal tax liability retroactive to tax year 1982. This will automatically increase the corporate income tax since this tax rate is tied to a percentage of the personal income tax rate.

New Jersey

During the last week in 1982, the legislature met in a special session and: permanently raised the sales tax rate from 5 percent to 6 percent January 1983; increased the top personal income tax bracket from 2.5 percent to 3.5 percent on income in excess of $50,000 effective January 1983; ordered the Governor to cut the budget by $30 million; and provided for supplemental appropriations of $85 million primarily for aid to education that was cut out earlier.

New York

The legislature resolved the $200 million deficit faced by the Mass Transit Authority in New York City by raising all business taxes for 2 years in areas served by the MTA. The State deficit and New York City deficit remains unresolved.

Wisconsin

In a special session during the first week in January, the legislature made the previously enacted temporary sales tax and cigarette tax increase permanent.

APPENDIX B.—STATE BUDGET CUTS IN FISCAL YEAR 1982 AND FISCAL YEAR 1983

State	Fiscal year 1982 budget cuts	Fiscal year 1983 budget cuts (actual and pending)
Alabama		In October 1982, general fund was over $55 million or 12.4 percent. Education fund cut $96.4 million or 6.7 percent.
Arizona	Cut 5 percent across the board exempting corrections	Agency budgets cut 10 percent in July 1982 to save $65 million. Shortfall of $155 million pending.
Arkansas		Budget reduced by 2 percent or $27.5 million. Second shortfall of $17 million pending.
California	Cut $67 million or 2 percent from State agency budgets	Cut $70 million or 2 percent from state agency budgets. Shortfall of $1.5 billion pending.
Colorado	Cut 1 percent across the board	Cut 2 percent across the board to save $30 million in October 1982. Second shortfall of $102 million currently pending.
Connecticut		Cut 5 percent from agency budgets in January 1983. Will save about $20 million. $60 million shortfall will probably roll over into next fiscal year.
Delaware		Shortfall of $28 million. Options include cutting the budget or spend down rainy day fund.
Florida	Cut $27 million in agency budgets. Remainder of $190 million shortfall was taken from working capital fund.	First across-the-board budget cut in August 1982 totaled $109 million or 2 percent of the budget, with no program exemptions. Second across-the-board in December, cut another 2.5 percent to save $136 million. Remaining shortfall $166 million made up with other budget adjustments.
Georgia		State agency budgets cut by $106 million. Cut represents 2.8 percent of total general fund budget.
Idaho	Cut 4 percent across the board with only 2 months left in fiscal year 1982 to save $17 million. State employees worked 4-day workweeks for 6 weeks.	Cut 10.5 percent across the board, exempting school aid and corrections, to save $19 million. Second shortfall of $70 million pending.
Illinois		Cut $164 million in selective cuts; second shortfall pending.
Indiana		Budget cut 4.5 percent or $117 million for biennium. Second shortfall for fiscal year 1984 totaled $452 million or 19 percent of budget. Primarily raised taxes in special session with some cuts.
Iowa		Voluntary State agency cuts totaling $70 million or 3.4 percent of general fund. Second shortfall of $80 million pending.
Kansas		Agency budgets cut 4 percent or $22.5 million from budgets in July. Second short fall of $60 million partially corrected with 4 percent cuts to school and entitlement budgets saving $22 million.
Kentucky	Cut 6 percent across the board to save $282 million	Revenues are down by $102 million. Cut 3 percent of the budget, but exempted higher education, K–12, and entitlement programs. This cut will also apply to fiscal year 1984.
Louisiana		Cut agency budgets $76 million in October. Represents 1.8 million of general fund. Second shortfall of $149 million pending.
Maine		This past election, an indexing measure was passed by the voters which will cost the State an estimated $32 million. In addition, revenues are down $4.5 million.
Maryland		Cut 1.5 percent or $10 million from agency budgets in November. Exempted Department of Public Safety and Corrections.
Michigan	Total cuts were $778 million or 15 percent of general fund. There were 4 rounds of selective cuts.	No cuts enacted, but current revenue shortfall is $660 to $900 million or 14.4 percent to 19.7 percent of total general fund budget.
Minnesota	Budget cut 5 percent for biennium or $450 million	In December 1982, special session additional cuts were made totaling $145 million.
Mississippi	Cut $59 million or 4.8 percent from general fund. Reduced ½ of the scheduled increase from the prior year.	Projected $85 million shortfall. Cut the budget 1.5 percent to save $20 million.
Missouri	In June 1981, cut $75 million or 3.5 percent of general fund in selective cuts	In October 1982, cut $95.3 million or 4.1 percent; 10 percent in agency budgets and 5 percent higher education and K–12 budgets.
Nebraska	In November 1981, cut $17.1 million or 2.3 percent of the general fund. Exemptions include aid to local governments and schools, welfare, and corrections.	In November 1982, cut $16.3 million or 2.2 percent of the budget with few exemptions.
Nevada		Cut $33.6 million or 7.9 percent of general fund in selective cuts.
New Hampshire	In 1981 session, cut 10 percent in personal services for both fiscal year 1982 and fiscal year 1983 to save $14 million.	In addition to the cut made in the 1981 session, in the 1982 session another cut of 5 percent was enacted. Also in January 1983, a 4 percent across-the-board cut was made to save $15.7 million.
New Jersey		In January 1983, selective cuts of $30 million or ½ of 1 percent of the general fund were made. Aid to local government was not affected.
New Mexico		Revenue estimates down $165 million. $100 million will be made up with contigency funds. Remaining $65 million may be made up with 3.5 percent cuts.
North Carolina	In November 1981, 5 percent of the budget was frozen to save $150 million	In July 1982, a 5 percent across-the-board cut was enacted and in September was increased to 6 percent to save $127 million. Smaller cuts to public school and human service programs were made.
North Dakota	In Noermber 1981, cut $26.7 million from State agency budgets for the biennium. Total equals 3 percent of general fund.	The November 1981 cut was also applied to fiscal year 1983.
Ohio	In February 1982, cut $102.6 million or 1.7 percent of general fund. Selective cuts exempted welfare and medicaid. In March 1982, cut another $56 million in across-the-board cuts (some exemptions) or 0.9 percent of general fund. In April 1982, cut $50.9 million or 0.8 percent of general fund.	In July 1982, cut $321 million or 4.6 percent of general fund. Most State agencies were cut 10 percent. Second short fall of $200–$500 million pending.
Oklahoma		October allotments held back 5.5 percent to save $8 million. November allotment held back 13 percent to save $18 million. Basic school aid, welfare, and medicaid cut only 4 percent.
Oregon	In March 1982, selectively cut $126.5 million. Reduced property tax relief program. basic school support (3.6 percent), and State agencies (up to 6.4 percent).	In June 1982, cut selectively $73.7 million from agency budgets, employee salary adjustment, property tax relief program, and basic school support. In September 1982, cut $14 million in agency budgets and property tax relief program. Total cuts equal 6.9 percent of general fund.
Pennsylvania	Cut general fund 1 percent across the board exempting certain basic educational subsidies to save $44 million.	$164 million shortfall pending.
Rhode Island	Budget cut selectively $10 million or 1.2 percent in December 1981	$35 million shortfall pending million.
South Carolina	Cut 2.2 percent across the board exempting debt service in December 1981 to save $40 million.	Cut the budget 4.6 percent to save $80 million.
Tennessee		Monthly cuts in allotments amount to $42 million or 2.2 percent of the general fund. Cuts were selective exempting public shcool aid, but cutting high education 5 percent. Total projected shortfall is $130–$140 million.
Utah		2 percent voluntary cuts in the general fund and the uniform school fund to save $18 million. Second shortfall was $30 million corrected with a one-time windfall due to a court decision.
Vermont	Selectively cut $2 million or 1 percent of general fund	Selecetively cut $4.3 million or 1.3 percent of general fund. General fund still short $8 million.
Virginia		Cut State agency budgets $55.1 million in October. Cuts total 1.8 percent of general fund. State agency budgets cut $55 million in October. Cuts total 1.8 percent of general fund. Revenues are down another $130 million and a second cut is expected.
Washington	Budget cut 5 percent across the board in April, exempting certain programs to save $180 million for fiscal year 1981–83 budget period.	Special session in June to make up $253 million shortfall with cuts and revenue increases. Recent projections show another $145 million shortfall.
West Virginia	In January 1982, general fund budget cut by 2.4 percent to save $30 million. Most agencies cut 5 percent. Certain programs exempted.	In November 1982, budget reduced by $22 million with most agencies cut 3 percent (K–12 exempted). In January 1983, the budget was cut another $70 million to increase the cut to 10 percent. K–12 budget was cut only 4 percent. These cuts equal 6.8 percent of the general fund.
Wisconsin	State agency budgets cut 8 percent for both years of the biennium	State agency budgets cut another 2 percent for fiscal year 1982 and 4 percent for fiscal year 1983. Total biennium cuts total $91 million. Currently short $315 million. Will probably roll over into next budget period.

APPENDIX C.—STOP-GAP BUDGET ADJUSTMENTS IN 1982 [1]

	Postponed payments into next budget cycle	Postponed capital construction	Transfers to general fund	Tax speedup	Excess short-term debt [2]
Alabama			X		
Alaska	X			X	
Arizona		X	X		
Arkansas		X			
California	X	X	X	X	X
Colorado	X				
Connecticut	X			X	
Delaware					
Florida		X	X	X	
Georgia					
Hawaii					
Idaho		X		X	X
Illinois	X	X	X	X	
Indiana	X	X		X	

APPENDIX C.—STOP-GAP BUDGET ADJUSTMENTS IN 1982 [1]—Continued

	Postponed payments into next budget cycle	Postponed capital construction	Transfers to general fund	Tax speedup	Excess short-term debt [2]
Iowa				X	
Kansas	X			X	
Kentucky	X		X		
Louisiana					
Maine					
Maryland					
Massachusetts					
Michigan	X		X		X
Minnesota	X				X
Mississippi	X				
Missouri		X		X	
Montana					
Nebraska		X	X	X	
Nevada				X	
New Hampshire	X		X		X
New Jersey	X	X		X	
New Mexico					
New York			X		X
North Carolina	X				
North Dakota					
Ohio	X			X	
Oklahoma					
Oregon			X	X	
Pennsylvania		X	X		
Rhode Island	X			X	X
South Carolina			X		
South Dakota					
Tennessee					X
Texas					
Utah			X		
Vermont					X
Virginia		X	X		
Washington	X	X		X	X
West Virginia					
Wisconsin	X		X		
Wyoming					

[1] Adjustments reflected in this table all occurred in calendar year 1982 but may affect 1982, 1983, or 1984 fiscal years.
[2] Excess short-term debt means unusualy high State borrowing compared to borrowing during the previous 5 years.

APPENDIX D.—1982 STATE PERSONNEL ADJUSTMENTS

State	Hiring freeze	Merit/COLA adjustment	Change in workforce from 1981 to 1982 (percent)
Alabama		X	[1] 10.5
Alaska			6.2
Arizona			([2])
Arkansas			0
California	X	X	[3] 1.0
Colorado			−5.1
Connecticut			1.1
Delaware	X		[1] 2.9
Florida	X		1.0
Georgia	X		([2])
Hawaii	X		[3] .2
Idaho			−2.4
Illinois	X		−2.3
Indiana	X	X	[1] −5.0
Iowa	X		0
Kansas		X	([4])
Kentucky	X		[1] −2.6
Louisiana			[1] 3.3
Maine			0
Maryland			1.5
Massachusetts			[1] −6.8
Michigan		X	[1] −7.3
Minnesota	X		−5.4
Mississippi		X	[1] −5.5
Missouri	X		−1.0
Montana			−2.0
Nebraska		X	−2.9
Nevada	X		[1] −16.0
New Hampshire	X	X	[1] −10.0
New Jersey			−.2
New Mexico			[3] 3.2
New York	X	X	3.3
North Carolina	X	X	[3] 0
North Dakota	X	X	([4])
Ohio			[1] −1.2
Oklahoma	X		[1] 5.4
Oregon		X	−3.0
Pennsylvania			[3] −1.6
Rhode Island	X	X	[1] −1.8
South Carolina		X	[3] 3.0
South Dakota			−1.0
Tennessee	X		[1] −1.2
Texas			3.1
Utah			([2])
Vermont			[1] −1.8
Virginia			−1.4
Washington	X	X	−3.4

APPENDIX D.—1982 STATE PERSONNEL ADJUSTMENTS—Continued

State	Hiring freeze	Merit/COLA adjustment	Change in workforce from 1981 to 1982 (percent)
West Virginia	X	X	−6.3
Wisconsin		X	1.0
Wyoming			[1] 2.4

[1] Does not include higher education employees.
[2] Decrease.
[3] Includes K–12 employees.
[4] Not available.●

ESTONIAN INDEPENDENCE DAY

● Mr. ZORINSKY. Mr. President, today marks the 65th anniversary of Estonian Independence Day. On this day in 1918, Estonia proclaimed its independence from imperialist Russia and opened an era of unprecedented liberty and equality.

Sadly, it was to last only a few short years. In 1939, the Molotov-Ribbentrop Pact was signed dividing Poland between the two military superpowers of Germany and Russia. Estonia, along with Latvia and Lithuania, was bartered away to Russia. The free and independent infancy of a sovereign people was replaced by a cold, hard domination of Russia as she prepared to go to war. In the postwar era, the Soviet Union has maintained its stranglehold over the area and its people.

To their credit, the Estonians have never relinquished their dream of freedom, despite threats to their language, culture, and their very existence. The Soviets have set out to crush their individuality, to Russianize them out of existence.

The practical effects of this are readily apparent in Estonia today. The right of Estonians to use their mother tongue is attacked and hundreds of thousands of non-Estonian immigrants have poured into Estonia's overindustrialized cities.

Yet another cause for concern is the rise of Yuri Andropov to a position of supreme power in the Soviet Union. He is the only Russian leader, to date, who has visited Estonia. He went there after the student demonstrations of 1980 in his role as chief of the KGB to chastise the local KGB for not adequately controlling and suppressing national sentiments.

Considering also the ruthless suppression of the Ukrainian national movement executed by the KGB under Andropov, the Estonian national movement—in fact, all national movements within the Soviet Union—must view the future with apprehension.

But there are bright spots as well on this 65th anniversary of Estonian Independence Day. Last month, the European Parliament passed a resolution reiterating the right of the Baltic States of Estonia, Latvia, and Lithuania to self-determination. And the continuing refusal of the United States to recognize the Soviet seizure of the Baltic States gives strength to those still struggling to free themselves from Soviet oppression.

Today, it is most appropriate that we join with the Estonian people to commemorate their dream of freedom. We honor them for their courage and determination. We express our solidarity with them in the fight to regain their sovereignty. And most important, Mr. President, we reaffirm our commitment to work with them to try to make Estonian Independence Day more than just a memory.●

IN COMMEMORATION OF ESTONIAN INDEPENDENCE DAY

● Mr. DOLE. Mr. President, on February 24, Estonians throughout the world will commemorate the 65th anniversary of Estonian independence. On this day in 1918, out of the havoc of post-World War I Europe, the courageous Estonian people proclaimed their nation an independent republic and asserted their right to self-determination. Although invaded by the armies of Soviet Russia that very same year, the independence of Estonia was not to be denied. In the ensuing year, the Estonians were able to repulse the Soviets and conclude a treaty of peace in February 1920, in which the Soviets officially recognized the new republic and explicitly renounced "voluntarily and forever all rights of sovereignty over the Estonian people and territory." Thus, after centuries of domination by foreign powers, Estonia became a member of the community of free and independent states.

In the two decades that followed, the Estonian people demonstrated their unshakable commitment to the ideals of liberty and justice. They adopted a constitution which embraced democratic principles and protected the rights of all citizens of Estonia, including those of minorities. This democracy fostered the development of a flourishing national culture, the heart of which was, and still is, the Estonian language, the symbol of their country's national identity. The Estonian heritage of a colorful national folklore and specifically a distinctive style of choral singing sprung to life as never before. Estonia may also be proud of the great strides made in both the agricultural and industrial sectors of the economy during this period. Indeed, these 20 years of independence clearly demonstrated what a small nation is able to achieve in all fields of life when its people are permitted to be the masters of their own destiny.

THE SOVIETS ANNEX ESTONIA

The year 1939 saw the end of sovereignty for the Estonian state as Stalin and Hitler carved up the Baltic region and Poland in the notorious secret protocol of the Molotov-Ribbentrop Pact of August 1939. All three Baltic nations fell victim to the vicious impulse toward hegemony by the Soviet empire. Treaties of nonaggression were forced upon these three small states by Stalin in 1939 and, on August 3, 1940, in complete contradiction to the terms of the 1920 peace treaty, Estonia was declared a republic of the Soviet Union. The United States has never recognized the forcible incorporation of the Baltic States into the U.S.S.R. and, to this day, continues to speak out against this illegal Soviet act.

The 43 years of Estonian victimization to Soviet expansionism contrasts strikingly with the period of Estonian independence. A massive effort of Russification has been employed, threatening the future of Estonia. The Estonian people now face the possibility of becoming a minority in their own country. The Estonian language is being replaced with the Russian language in business affairs, official gatherings, in schools and kindergartens. Journals devoted to the Estonian language and culture are becoming harder to find with each passing year as they are displaced by Russian publications. History and other fields of study are presented from a strictly Soviet perspective.

Not only are the Estonian people denied their sovereignty and national identity, they are also denied their basic human rights. Estonians are now subjected to the dictates of a government which routinely denies the rights embodied in the U.N. declaration on human rights and the Helsinki Final Act to its citizens. Those who speak out against Soviet violations of human rights are liable to be sent to prisons, labor camps and psychiatric wards.

COURAGEOUS INDIVIDUALS STILL SUFFER FOR ESTONIA

Yet, despite these risks, in recent years numerous individuals have spoken out in support of Estonian rights and independence. One such courageous individual was Juri Kukk, a chemist, teacher and Estonian nationalist who, in January 1981, was sentenced to hard labor for the peaceful expression of his opinions. He undertook a hunger strike before his trial began, and by the end of March 1981, he was dead.

Another patriot is Mart Niklus, who in November 1981, was sentenced to 10 years of special regimen camp and 5 years of internal exile for sending an appeal to Leonid Brezhnev and a memorandum to the Atlantic charter states calling for the publication in the Soviet Union of the secret protocol of the Molotov-Ribbentrop Pact that doomed his nation to Soviet tyranny.

Tiit Madison, an Estonian human rights activist, was arrested in October 1980 and sentenced to 6 years of imprisonment for his effort. Religious leaders also have been harassed and arrested. Villu Jurgo, an Estonian Lutheran pastor, lost his state license to preach in December 1980 for encouraging national consciousness among Estonian youths. The methodist pastor, Herbert Murd, arrested for the second time in October 1981, spent a year behind bars before he was released in September 1982.

In addition to these individuals who dare to speak out, many groups of people have protested Soviet repression. In September 1980, over 1,000 young people demonstrated in Tallinn, the capital of Estonia, after the performance of a popular musical group was suddenly banned because Soviet authorities detected nationalistic elements in the group's lyrics. Demonstrations followed on October 1 and 3, during which an estimated 5,000 students waved the banned Estonian national flag and shouted slogans calling for the independence of Estonia and the removal of foreign troops. After the demonstrations were suppressed and many students thrown out of school, forty Estonian intellectuals, including Juri Kukk, wrote to the Communist Party paper Pravda, calling for a wider and more candid discussion of the tense situation in Estonia.

OPPRESSION CONTINUES

Tragically, the Soviet Government continues to invoke crude and repressive measures against the people of this small, captive nation. Russification has been stepped up with an expected new influx of Russian workers for a project to deepen the harbor in Tallinn. Those who point out that the Kremlin violates the U.N. declaration on human rights, the Helsinki, Final Act, and even the Soviet constitution, article 72, which states that "each union republic should retain the right to freely secede from the U.S.S.R.," continue to be harassed, confined to psychiatric wards or sentenced to lengthy prison terms.

Despite the horrendous acts inflicted upon them by Soviet authorities, the people of Estonia continue to cherish their own language and culture. They have withstood the attempts to destroy their national identity and yearn for the life of freedom and independence that was theirs 65 years ago. In pursuit of this goal of freedom, it is vital that they be made aware that the free peoples of the world have not forgotten and that they deeply empathize with them. They must be assured that the United States will never recognize as legitimate Soviet control of the Baltic States. Only with the extension of our support can the 65th anniversary of the proclamation of Estonian independence be a day of hope for the future rather than a day of sadness for the past.●

65TH ANNIVERSARY OF ESTONIAN INDEPENDENCE

● Mr. D'AMATO. Mr. President, on February 24, 1983, we commemorate the 65th anniversary of the establishment of the Independent Democratic Republic of Estonia by the Estonian National Council.

The Estonian people have a long history of resistance to foreign oppression. In 1227, the country was divided between the Danes and the German knights. However, the Estonians did not readily submit to their conquerors, and finally there occurred a series of uprisings which forced the Danes to relinquish control. The same flame of resistance refused to be quenched during successive foreign regimes, especially during the brutal establishment of a program of Russification instituted in 1882. On February 23, 1918, German troops entered Estonia, causing the Russian Bolsheviks to flee. At this time, the Estonian leaders took a symbolically momentous step; on February 24, 1918, they proclaimed Estonian independence. Although Germany refused to recognize this patriotic declaration, Estonian leaders, who had fled the country, persuaded France, Britian, and Italy to accord de facto recognition of independence.

After the German withdrawal, the Estonians, with the help of the Finns, successfully drove the invading Red army out of the country. The Soviet Union "voluntarily and forever" renounced its sovereign rights over the "peoples and territory of Estonia" in the Soviet-Estonian Peace Treaty of 1920. The new constitution of Estonia was modeled on the United States, French, and Swiss constitutions, affirming independence, a republican form of government, and emphasizing human rights and dignities of minorities. De jure recognition by almost all sovereign states and admission to the League of Nations in 1921 brought Estonia to the fore in world affairs as the spokesman for the small democratic states.

Immediately following the Nazi-Soviet nonaggression pact in 1939, this new free Estonia was dissolved, by the terror tactics of Josef Stalin's totalitarian regime. During this time, Estonia was illegally incorporated in the Soviet Union. Upon German reconquest in 1941, the Estonian resistance movement flourished despite German atrocities, until the Red army once again overran Estonia in 1944 and purged all enemies of the people.

The people of Estonia have managed to uphold their national character, in spite of the harsh realities of life under their Communist masters. The United States has never accepted the validity of the Soviet annexation of Estonia, and consequently has not invalidated the recognition it accorded to the Estonian Republic in 1922. The stoicism and dignity with which the Estonian people have suffered at the hands of the Communist dictators as well as their fierce resistance to foreign aggression throughout history show that the democratic spirit of the Estonian people cannot be broken.

On February 24, Estonians around the world, including 20,500 Estonian-Americans, will join in solidarity with their countrymen in observance of Estonian independence. In light of our Nation's dedication to the principles of independence and commitment to protection of human rights, it is appropriate that we join with members of the Estonian community in observing the 65th anniversary of Estonian Independence Day. It is imperative that the United States send a clear and strong sign of moral support to the 1.3 million Estonians living under Soviet oppression and that our Government continue to champion the cause of independence for Estonia. I urge my colleagues to join me in voicing support for the struggling people of Estonia and outrage over continued Soviet hegemony in the Baltic region.●

REPEAL WITHHOLDING NOW

● Mr. KASTEN. Mr. President, over the Lincoln Day recess, I had a chance to travel through Wisconsin and visit with my constituents. As many of my colleagues know, the American people are deeply concerned about the law that requires 10 percent withholding of interest and dividend income.

Withholding is a people issue, not just a fight between savings institutions and the Treasury. My office receives an average of 3,000 letters a day against withholding. After reading some of them, I am even more commit-

ted to repealing withholding in the 98th Congress.

Withholding will hurt a number of low-income and elderly Americans—and even though many will be exempt from withholding, they will not be exempt from the problems it will cause.

Mr. President, I have come across two letters in recent weeks that have touched me deeply. These letters were written by people who worked hard all their lives to provide for their families and their retirement. And now, thanks to withholding, their lives will change. Through the letters of Mildred Meyer of Jefferson, Wis., and Mr. and Mrs. Harry Kornburger of Milwaukee, Wis., we see what impact the 10-percent withholding tax will have. I ask that these letters be included in the RECORD.

The letters follow:

MILWAUKEE, WIS., *January 24, 1983.*

Hon. ROBERT W. KASTEN, Jr.,
U.S. Senate,
Russell Senate Office Building,
Washington, D.C.

DEAR SENATOR: Regarding the 10 percent withholding tax your planning on Savings, Certificates, and dividends; being senior citizens (78 yrs), we are asking that you repeal this law, because it would impose a very unnecessary and unfair penalty on small savers like ourselves.

The most direct effect this will have on us personally is that the compounded interest yields on our savings will be diminished by the 10 percent withheld.

We haven't had to pay an income tax for quite some time because of insufficent income in our retirement years. We have strived so hard to have a modest saving for a rainy day, denying ourselves many things. The exception has been this past year receiving a higher interest on some of our saving certificates, but in 1983 this will not be so, because of interest rates being lowered, and the spending for eye glasses, perhaps dentures, repairs on our home, as well as new linoleum on kitchen floor, which is 43 years old and crumbling, and aluminum siding, because of our heart condition not being able to paint anymore. This will all take quite a bit away from our savings.

Much more would be taken away if the 10 percent withholding tax goes thru, than any tax we would normally have to pay, if any. Also this will entail a lot of extra book work for banks, building and Loans institutions, and U.S. government returning moneys to the poorer or modest class of people.

You all claim there is such a large deficit, but do not hesitate to raise your own salaries, in such bad times as these. Anyone you talk to, say its so unfair to all of us, and then penalizing us with a withholding tax. You would all set a good example to reduce your salaries instead of raising them.

What about people with a lot of money, investing in tax sheltered bonds or stocks? How can they get away with it?

Please, we beg of you, to repeal this unfair 10 percent withholding tax.

Yours very truly,

MR. AND MRS. HARRY KORNBURGER.

JEFFERSON, WIS., *January 9, 1983.*

Hon. ROBERT W. KASTEN,
Senate Office Building,
Washington, D.C.

DEAR SIR: I am a widow, seventy-three years of age. My husband and I were married during the Great Depression. We knew how it felt to do without, to suffer hunger. Yet never once did we ask anyone for help. We reared four children, four wonderful children who had to pitch in and help earn the money towards their educations. Six years ago my husband died. By careful living (and denying ourselves things many might consider essential), we finally had a few dollars in the bank. I had hoped the interest realized on that investment would help ease the financial burden of the few years ahead for me. Now there are those who support legislation to take away a goodly percentage of even that. For shame!

I'll continue teaching my piano class, raising the few vegetables I can in my little garden, mowing my lawn myself, in winter shoveling the snow from my walks myself. After there is no more strength to do these things, then what? Will the same government that taketh away, give? If so, it will be at a terrible expense to its people.

God bless America! May God grant her legislators who are truly mindful of the needs of the peoples of our beloved nation.

Respectfully yours.

MILDRED O. MEYER.●

KENNETH ADELMAN SHOULD BE CONFIRMED

● Mr. EAST. Mr. President, several Senators have recently expressed opposition to the nomination of Kenneth Adelman to be Director of the Arms Control and Disarmament Agency. The leadership of the Soviet Union has also voiced the opinion that Mr. Adelman ought not to be appointed. I disagree with both groups.

In my view, Mr. Adelman has encountered opposition primarily because of his honesty in recognizing the Soviet dictatorship for what it is: A government totally devoid of honor and unworthy of the trust of civilized nations.

Very recently the Soviet Union has again shown its utter contempt for arms control agreements with the United States and with other nations.

On February 8, 1983, the Soviet Union flight tested an apparent second new type of ICBM with total encryption of telemetry. On July 4, 1982, the Soviet Union violated the threshold test-ban treaty by exploding a nuclear weapon with yield in excess of the treaty limits. The Soviet Union has used poison gas against women and children in Laos, Cambodia, and Afghanistan.

How many violations of international obligations are required before the U.S.S.R. will be seen for what it is? Why should honesty in a Presidential nominee be punished while Soviet deceit and duplicity goes unchallenged as if nonexistent?

Mr. President, I ask that three articles from the Washington Times, which I am providing, and a letter I received recently from former Secretary of Defense Donald Rumsfeld be printed in the RECORD at the conclusion of these remarks.

The material follows:

[From the Washington Times, Feb. 23, 1983]

BYRD ANNOUNCES OPPOSITION TO ADELMAN

(By Thomas D. Brandt)

Senate Minority Leader Robert Byrd, D-W. Va., came out yesterday in opposition to Kenneth Adelman, President Reagan's nominee to head U.S. arms control efforts, while Adelman is being called back to Washington for a third hearing on Thursday.

And the Senate Foreign Relations Committee today is polling its members by hand-carried letter to see if a majority of them want to subpoena New York Daily News columnist Ken Auletta who quoted Adelman as saying in 1981 that negotiating arms control was "a sham."

Adelman said he has no recollection of the interview and that those are not his views. Last Friday Auletta released all his notes, some of which further complicate the record of Adelman's views.

In the interview, according to Auletta, Adelman also said, "I'd go into negotiations willing to give up a great deal—a real reduction in nuclear weapons, if the Soviets were willing to."

The thrust of his position in 1981, Auletta said, was that Adelman was emphasizing an arms buildup as part of his view that honest arms reductions were not achievable at that time.

Auletta said that Adelman was also opposed to the SALT II treaty, which was a position that President Reagan used as part of his campaign platform.

Last week the committee appeared to be divided 9-6 against Adelman, but Sen. Charles Percy, R-Ill., committee chairman, said he wants to move to a vote on the nomination immediately after the hearing and get the issue to the Senate floor, whether the committee recommends approval or not.

Byrd said he opposed Adelman's nomination because he questioned his competence and because of his cavalier attitude in his committee testimony. In not answering a number of questions, according to Byrd's discussion of the matter in the Senate Democratic caucus yesterday, Adelman either was not informed about the issues, or did not take the committee seriously enough to answer them.

Auletta, who is being advised by Floyd Abrams, an attorney who is an authority on 1st Amendment constitutional issues, said he was concerned about the precedent of a newsman voluntarily responding to a congressional committee's request for information, so he said he would only appear under subpoena.

On a personal level he said, "I like the guy (Adelman). We swim in the same pool.

"I don't want to appear to be, or am I, an adversary of Ken Adelman. I'm not here to pass judgment on him."

[From the Washington Times, Feb. 23, 1983]

A SHAM IS A SHAM IS A SOVIET SHAM

Did Kenneth Adelman, the president's nominee to head the Arms Control and Disarmament Agency, once tell a columnist that arms control talks with the Russians would be "a sham"? Well, I don't know if he did or didn't. But he certainly should have

said this. And he should have added that any agreements with the Russians are a sham. My dictionary defines "sham" as "an imitation that is meant to deceive; counterfeit; deception; fake."

As a case in point, consider the unratified SALT II treaty which various administration spokesmen have told us—with straight faces—is not being undercut by the Soviets. According to reliable sources, on Feb. 8 of this year, the Soviets tested a new type of ICBM which resulted in a triple violation of SALT II.

This new missile, known as the PL-5 (it is named after the Plesetsk Test Range 5 from which it was fired), has multiple independently targeted re-entry vehicles and it is mobile. It is a new light ICBM. It carries four MIRV warheads. The missile's telemetry signals were 100 percent encoded. Furthermore, its Transportation Erector-Launcher is 1.7 meters longer than the TEL of the mobile SS-16. And this establishes it as a missile derivative of the SS-16. The new missile the Soviets have tested cannot be regarded as a mere follow-on to the SS-13 because it is MIRVed.

What all of this amounts to is at least three violations of SALT II:

(1) As a derivative of the SS-16, the PL-5 violates the prohibitations on SS-16 testing, development, production and deployment contained in SALT II and its protocol.

(2) The PL-5 is a second new type Soviet ICBM, yet Article IV of SALT II allows only one new type ICBM for the Soviets. In mid-December of last year, State Department spokesman Alan Romberg said that if the Soviets tested the kind of missile they have just tested, "this would conflict with the terms of SALT II."

(3) The 100 percent encryption of the PL-5's telemetry signals by the Soviets violates Article XV of Salt II, which prohibits such encryption because this interferes with the capability of the United States to verify this arms control agreement.

The Soviets' illegal testing of its PL-5 missile is but the most recent violation of a series of United States-Soviet agreements. Other violations include the following:

There have been 15 Soviet underground nuclear weapons tests which United States intelligence sources believe to be over 150 Kilotons. These tests violate the Threshold Test Ban signed in 1974 and jointly put into effect in 1976.

In January of this year, the Soviets used naplam to murder scores of men, women and children trapped in a cave in Afghanistan. These innocent non-combatant civilians were burned to death. This is a blantant violation of the 1980 Convention on Unhumane Acts of War, an agreement signed by the Russians in 1980.

The Arms Control and Disarmament Agency has recently completed a study, by Charles Sorrells, compiling the evidence that the Soviets have deployed SS-16s at Plesetsk. This study strongly supports the judgment that the Soviets have done this in violation of SALT II.

A new SS-20 mobile intermediate-range ballistic missile complex containing nine SS-20 launchers has recently been discovered near Novosibirsk in the U.S.S.R. This newly discovered complex—not previously associated with any missile activity—has been operational for several years. What this means is that all SS-20 deployment numbers must now be revised upwards. And this new discovery suggests that the U.S. verification capability may be inadequate to verify any Soviet intermediate range nuclear force agreement such as the one presently being negotiated with the Russians.

And finally, on May 25, 1972, the United States and the Soviets signed the so-called incidents at sea treaty which is designed to reduce the risk of unintended serious confrontations between our two countries on and over the high seas. Despite this agreement, the Soviets have repeatedly precipitated such incidents.

Based on this sorry record of performance, the word "sham' would seem to be a rather understated characterization of the Soviet attitude regarding bilateral agreements with the United States. When Lawrence Eagleburger, undersecretary of state for political affairs, testifies tomorrow before the Senate Foreign Relations Committee, it should be interesting to see what word he uses to describe how the Soviets have behaved. One thing's for sure: He will definitely be asked.

[From the Washington Times, Feb. 22, 1983]

HEADS THEY WIN, TAILS WE LOSE

Wonder how many of the dewy-eyed disarmers in the West are aware of the asymmetry (that's a busy word in the arms-talk lexicon) between U.S. and Soviet observance of weapons limitation treaties? Not a great many, we suppose, and probably fewer still who think it important.

But the distinctions are interesting as the frenzy for some—for any—treaty with the Soviets gains political velocity here.

At the Puget Sound Naval Shipyard, for example, the U.S. is busily dismantling its third Polaris-missile submarine, per terms of the SALT-I treaty that expired in 1977. The three subs were denuded of their missiles as a quid pro quo for putting the first two of America's Trident subs in service.

Uncle Sugar, good citizen of the world community, is living up to the treaty, as well as abiding by the unratified SALT-II agreement—so long, President Reagan says, as the Kremlin is equally meticulous.

On the same day, however, that Washington Times columnist John Lofton recounted his inability to get Navy permission to photograph the Polaris strip-tease (a "bizarre" episode, said Lofton, who readers know is given to understatement), U.S. intelligence sources were reporting indications that the Soviets are playing the arms-control game by their rules.

The gunners in the Kremlin have test-fired a new intercontinental ballistic missile, a "light" version with four nuclear warheads, the Associated Press reported.

The ICBM reportedly fired on Feb. 8, though, may be the second new missile the Soviets are polishing up for their arsenal. Last December, the U.S. government confirmed reports that a medium-sized, solid fuel ICBM was being launched.

Hold on, gang. The SALT-II treaty provided that each nation could deploy one new ICBM, and that a light one. "If they begin to test another new type of ICBM," a State Department spokesman said, "this would conflict with the terms of SALT-II."

But intelligence sources also warned the AP not to jump to conclusions based on initial indications of a new Soviet missile test. Okay.

The fat young oysters did not jump to conclusions about what the Walrus and the Carpenter had in mind when they invited the tasty fellows for a little walk along the beach.

DONALD RUMSFELD,
Skokie, Ill., February 10, 1983.

Hon. JOHN P. EAST,
U.S. Senate,
Washington, D.C.

DEAR SENATOR EAST: As you know, Ambassador Kenneth Adelman has been nominated by the President to the post of Director of ACDA. Because I have known him so long and so well, I want you to know of my very high regard for his abilities.

Dr. Adelman has served in the United States government on and off for a dozen years. When I was in the Pentagon, he served as my assistant with great skill and dedication. After leaving government in 1977, he was a Senior Member of the Strategic Studies of Stanford Research Institute (SRI), where he researched and wrote on foreign policy and defense issues, including arms control.

As you know, for the last 18 months, he has served as Ambassador Jeane Kirkpatrick's principal Deputy at the United Nations. In that position, he has had broad management experience and has participated in many National Security Council decision sessions on arms control. He has represented the United States ably in the First Committee, dealing with multi-lateral arms control matters. He also coordinated the United States' delegation to the United Nation's Second Special Session on Disarmament.

Ken will bring to this post his dedication, a fine brain, tremendous energy and creativity, and the intellectual toughness necessary to deal with difficult problems and bureaucratic complexities. I am confident he will do a first-rate job for the country.

I hope that you will get to know Ken and give him a hand on his nomination.

Thanks so much. With my best personal regards.

Sincerely,

DONALD RUMSFELD.●

HERITAGE FOUNDATION REPORTS CONTINUED UNITED STATES RETREAT FROM TAIWAN

● Mr. GOLDWATER. Mr. President, a short but thorough paper has just reached my desk which proves beyond any question that the present administration is following the same mistaken policies of the last three administrations by making unnecessary, unilateral concessions to Communist China which damage Taiwan. The author of this paper is Mr. Jeffrey B. Gayner, who is a specialist on international affairs at the Heritage Foundation. His paper was circulated as one of the foundation's regular Backgrounder reports.

Among the major conclusions made by Mr. Gayner, and supported with factual evidence, are:

Major concessions made to Peking have led to neither a more conciliatory People's Republic of China attitude toward the United States nor a diminution in demands that the United States place additional pressure on Taiwan to succumb to the People's Republic of China

These unnecessary unilateral concessions only stimulated more exorbitant demands.

The August joint communique of the Reagan administration has substantially undermined the character of United States-China policy carefully crafted by Congress in the Taiwan Relations Act.

The principal provision in the Communique reduces, and presumbably will terminate, arms sales to Taiwan.

Peking's "peaceful resolution" for Taiwan consists only of a willingness to accept a surrender of Taiwan's sovereignty.

The August communique completely ignores the vital military needs of Taiwan.

Not only does the paper point out the obvious contradictions between the Taiwan Relations Act and the joint communique, but Mr. Gayner finds that present Chinese military developments threaten obsolescence for Taiwan's current inventory of U.S. supplied aircraft. The last thing Taiwan needs is a U.S. pledge to reduce arms sales. Instead, if our purpose is to help safeguard the security of Taiwan, the United States should provide Taiwan with an advanced fighter, such as the F-16/79 or the F/5G.

Mr. President, the Heritage Foundation paper is an important document. It is clearly and persuasively written, and I ask that it may appear at this point in the RECORD.

The document follows:

FEBRUARY 3, 1983.

THE UNITED STATES, CHINA, AND THE SECURITY OF TAIWAN

INTRODUCTION

During the first two years of the Reagan Administration, constructing a coherent China policy has posed a vexing problem. The United States regrettably has allowed demands by the People's Republic of China (PRC) concerning Taiwan to dominate U.S. China policy, and even U.S. relations with Asia in general. In particular, Washington felt compelled to react positively to Peking's demands that all arms sales to Taiwan be terminated. In the five months following a Joint Communiqué of last August, it has become increasingly obvious that the major concessions made to Peking have led to neither a more conciliatory PRC attitude toward the U.S., nor a diminution in demands that the U.S. place additional pressure on Taiwan (Republic of China) to succumb to the PRC. Rather than pacifying the PRC or protecting vital U.S. interests. These unnecessary unilateral concessions, as they had in the three previous administrations, only stimulated more exorbitant demands in subsequent negotiating periods.

Through the provisions of the August Joint Communiqué, the Reagan Administration has substantially undermined the character of U.S. China policy carefully crafted by Congress in the course of passing the Taiwan Relations Act (TRA) in 1979. That act provided a workable foundation for dealing with the fundamental reality of the two hostile Chinese authorities governing the Republic of China and the PRC. Moreover, the TRA protected the close ties established over nearly three decades between Taiwan and the U.S., as manifested in the Mutual Security Treaty and a wide range of economic, social, and cultural bonds as well.

The August Joint Communiqué, more than the actions of any previous administration, threatens the continued integrity and security of Taiwan. By asserting more carelessly than ever before that Taiwan is China's internal affairs and that the U.S. "has no intention of . . . interfering in China's internal affairs, the Reagan Administration has logically undermined Taiwan's already precarious legal position. This invariably leads to endless demands from Peking to further degrade the status of Taiwan, such as the recent assertion that Taipei should be expelled from the Asian Development Bank (ADB). Taiwan is a founding member of the ADB and has fulfilled all of its obligations there. Therefore the United States should not act on behalf of Peking's political aggression to expel Taiwan, particularly since such action would violate both Section 4(d) of the Taiwan Relations Act and Section 25 of the Foreign Assistance Authorization Act (P.L. 96-259) passed by Congress in 1980.

By stating that the U.S. "understands and appreciates" Peking's "peaceful overtures" to Taiwan, the Reagan Administration in effect ignored the PRC's political history for the past thirty-four years. The implication arises therefore that only recalcitrance in Taipei prevents an accommodation between the two Chinese political authorities. Clearly the terms of any currently possible agreement have been set in Peking and require nothing less than the obliteration of the de facto sovereignty of Taiwan. By thus bending toward Peking's rhetoric on Taiwan, the U.S. makes any mutual accommodation of interests far less likely.

The principal provision in the Communiqué reduces, and presumably will terminate, arms sales to Taiwan. By placing stringent military sanctions on Taiwan that adversely affect both its military and psychological strength, the U.S. gratuitously applies pressure on behalf of Peking that can ultimately be fatal to Taipei. If, as reported, Washington were considering providing the PRC with detailed information on the defensive equipment supplied to Taipei over thirty years, the U.S. would be committing an unprecedented action toward an ally—turning over information to a hostile communist regime. The PRC will likely press for the information during the upcoming Shultz visit to Peking.

In the face of the obviously escalating potential PRC military threat to Taiwan, the U.S. should have pursued exactly the opposite course of action and provided advanced fighters to Taipei along with other new military equipment. Only a military balance across the Taiwan Straits can preserve peace in the area. If the Reagan Administration fails to reverse the direction of its China policy, the possibility of open military conflict between an increasingly powerful and aggressive PRC and an increaseingly desperate and insecure Taiwan can only be enhanced. Further, such a betrayal of an ally will seriously erode U.S. credibility in Asia and ultimately diminish its security capabilities in East Asia generally. Finally, the futility of basing U.S. political and military policy on Peking's reliability is amply demonstrated by the current prospect of a modest rapprochement between the PRC and the Soviet Union.

THE U.S. POLITICAL RETREAT FROM TAIWAN

The August 17, 1982, Communiqué marked a possibly decisive political turnaround in the decade of discussions between Washington and Peking. President Ronald Reagan and Assistant Secretary of State John Holdridge both issued statements that downplayed the significance of the Communiqué, implying that it merely continued previous policies. Analysis of the text of the agreement and its obvious implications indicates that the agreement seriously tilts U.S. policy in favor of Peking's efforts to obliterate Taiwan as a viable independent political entity.

President Reagan stated on August 17 that "This document preserves principles on both sides and will promote the further development of friendly relations between the governments and peoples of the United States and China." Similarly, in testimony before the House Foreign Affairs Committee, Assistant Secretary of State John Holdridge asserted that "The present wording evolved from ten months of intense negotiations in which fundamental principles were at stake on both sides."

However, as in all previous negotiations with the PRC, U.S. objectives dissolved, and the process led to simply resolving the extent of additional U.S. concessions. The PRC sought several interrelated objectives: an immediate oversight role in sale of arms to Taiwan, termination of such sales by a date certain, U.S. pressure on Taipei to negotiate its "reintegration" into mainland China, alteration of the strict provisions of the Taiwan Relations Act, and an explicit U.S. affirmation of Peking's legal sovereignty over Taiwan. The U.S. entered the negotiations with the principal objective of modifying PRC demands sufficiently to quiet Peking's threat to downgrade relations with Washington, mounting since the Reagan inauguration. Consequently, on every point they sought, the PRC gained either explicit, implicit, or deferred concessions from Washington. On the other hand, U.S. negotiators claimed that Peking's retreat from some of its original bargaining positions constituted PRC "concessions."

A review of these issues reveals that, however adroitly the language of the eventual Communiqué was manipulated, Peking made major gains of which President Reagan himself was perhaps not sufficiently aware. This was evidenced by the President's peculiar telephone call to Dan Rather at CBS News denying that the agreement had seriously altered the status quo.

"There has been no retreat by me. We will continue to arm Taiwan. We have a moral obligation to Taiwan. I am concerned about what the reports will do to our international relations. The Taiwan question is a matter for the Chinese people, on both sides of the Taiwan Strait, to resolve, we will not interfere in this matter or prejudice the free choice of, or put pressure on, the people of Taiwan in this matter."

On numerous occasions in private conversations with conservatives, the President has continued to deny adamantly that the Communiqué constituted retreat from his previous position on Taiwan. Only by severely straining the meaning of the language and context of the agreement, however, can it be construed that the U.S. did not retreat significantly on some fundamental issues. Greater care must be exercised in future discussions with Peking.

PEKING'S MEDIATING ROLE IN ARMS SALES

The specific language of the Taiwan Relations Act makes no provision for the PRC's having a role in the determination of arms sales to Taiwan. The language of the act [Section 3(b)] reads as follows:

"The United States will make available to Taiwan such defense articles and defense services in such a quantity as may be necessary to enable Taiwan to maintain a sufficient self-defense capability . . . . (and) the President and the Congress shall determine the nature and quantity of such defense articles and services based solely upon their judgement of the needs of Taiwan, in accordance with procedures established by law."

Moreover, throughout the legislative history of the passage of that act, Members of Congress made clear that consulting Peking about such matters would be totally inappropriate. Nonetheless, the record of the past two years clearly indicates that, rather than consulting Congress as provided by the law, the U.S. State Department in fact consulted Peking. No reasonable review of the record can overlook that, each time the U.S. appeared on the verge of selling arms long promised to Taipei, Peking raised protests, which led to additional delays in concluding the arms sales. Then two days after the Communiqué was issued, the U.S. formally announced the sale of 60 F-5E fighters (worth $240 million) to Taiwan. Nonetheless, Secretary Holdridge ironically testified that the Communiqué which promised to reduce arms sales "should not be read to imply that we have agreed to engage in prior consultations with Beijing on arms sales to Taiwan." Secretary Holdridge had just concluded ten months of negotiations with the PRC precisely on such arms sales. The U.S. should refuse to allow the subject to be placed on the agenda for discussions between PRC and U.S. authorities, as such an action in effect would include the PRC in the U.S.-Taiwan arms sales process.

TERMINATION OF ARMS SALES AND PEKING'S "PEACEFUL INTENTIONS"

From the beginning of the Reagan Administration, the PRC was determined to force the U.S. to abandon its military support for Taiwan. Even Secretary Haig's efforts in June 1981, when he offered military equipment to the PRC, failed to quell Peking's demands that arms sales to Taiwan end. In fact, U.S. arms sales to Taiwan fell from $800 million under Carter in 1979 to only $225 million under Reagan in 1981. But by its single-minded demand that all sales end, the PRC eventually succeeded in extracting point 6 of the Communiqué from the United States:

"Having in mind the foregoing statements of both sides, the United States Government states that it does not seek to carry out a long-term policy of arms sales to Taiwan, that it arms sales to Taiwan will not exceed, either in qualitative or in quantitative terms, the level of those supplied in recent years since the establishment of diplomatic relations between the United States and China, and that it intends to reduce gradually its sales of arms to Taiwan, leading over a period of time to a final resolution. In so stating, the United States acknowledges China's consistent position regarding the thorough settlement of this issue."

The heart of the Communiqué resides in this provision. To again quote Secretary Holdridge, the U.S. "did not agree to set a date certain for ending arms sales to Taiwan." At the same time Peking promised in the "foregoing statement," alluded to in point 6 above, that it is a "fundamental policy [of the PRC] to strive for a peaceful solution to the Taiwan question" (point 4 of the Communiqué).

In the first place, even if no agreement existed on a termination date, the PRC extracted a pledge from the U.S. to freeze Taiwan forces at existing levels, an unprecedented U.S. agreement. The New York Times editorialized on its obvious implication:

"The practical significance of the American pledge should not be minimized. The limit on qualitative improvement means the equipment Taiwan gets from the United States will be increasingly obsolete. Should Peking ever change its mind about a peaceful resolution, Taiwan's ability to defend itself directly, or even to negotiate liberal terms of autonomy directly within a unified China, would be impaired."

The second point to note is that the PRC has already interpreted "final resolution" of this issue to mean, in the words of their foreign ministry spokesman, that U.S. arms sales "must be completely terminated over a period of time." Thus, the U.S. agreed to ambiguous language that indubitably will limit its latitude of action in future arms sales to Taiwan. In order to verify American adherence to the language of this provision, the PRC has already demanded detailed confidential information on precisely the character and quantity of all arms previously supplied to Taiwan. Of some immediate military value, the information could then become a "benchmark" for judging future reductions in sales.

Finally, Peking denies making any substantive concessions to extract Washington's unilateral disarmament of Taipei and has insisted since that no linkage exists between arms sales to Taiwan and a peaceful method of resolving the Peking-Taipei conflict. On the day of the Communiqué, the official organ of the Central Committee of the Communist Party boldly stated in an editorial:

"The United States has no right to demand that China undertake any obligation as to the methods it chooses in solving the Taiwan problem, nor should the United States put forth as a prerequisite condition for the cessation of arms sales to Taiwan that China commit itself to not solving the Taiwan problem by any means other than a peaceful one. * * *"

Similarly three days later the official PRC news agency Xinhua stated: "Here, it should be pointed out once again that U.S. arms sales to Taiwan and China's efforts for peaceful resolution of the Taiwan issue are two separate questions of an entirely different nature. * * *"

"PEACEFUL RESOLUTION" FOR TAIWAN AND PEKING'S INTERNAL AFFAIRS

In his official report to the XIIth Communist Party Congress, Chairman Hu Yaobang reiterated that the Taiwan question is an internal Chinese affair and thus arms sales mean that the U.S. is "treating Taiwan as an independent political entity." The report reads in part, as follows:

"As the Chinese Government has repeatedly stated, these are acts of infringement on China's sovereignty and of interference in China's internal affairs. Not long ago, after nearly a year of talks, the Chinese and U.S. Governments issued a joint communique providing for a step-by-step solution of the question of U.S. arms sales to Taiwan, leading to a final thorough settlement.

"We hope that these provisions will be strictly observed. Sino-U.S. relations can continue to develop soundly only if the principles of mutual respect for sovereignty and territorial intergrity and non-interference in each other's internal affairs are truly adhered to."

Unfortunately the plain language in the Communiqúe provides American acquiescence to the Chinese interpretation of the issue as an internal affair. Every allusion in the Communiqúe to the term "peaceful resolution" derives form the PRC's position linking such a "peaceful" resolution of the PRC-Taiwan conflict to Peking's internal solution of the problem. Thus, in paragraphs 4 and 5, references appear three times to Peking's "fundamental policy" of a peaceful solution. But each of these references relates to "peaceful reunification" of the PRC and Taiwan under either the Message to Compatriots in Taiwan issued by the PRC on January 1, 1979, or the Nine Point Proposal made by the PRC on September 30, 1981.

This point was reinforced by the PRC Ambassador to Washington Chai Zemin in an interview on CBS News and later reprinted in Peking. He referred to the "peaceful settlement" under the 1979 and 1981 proposals and then said, "However, we are not to make any commitment to any country on the peaceful settlement to the Taiwan problem. We consider the Taiwan problem to be China's internal affair. It is up to us to decide how to solve this problem."

In other words, Peking's peaceful policy consists only of a willingness to accept "peacefully" a surrender of Taiwan's sovereignty. Thus, U.S. enthusiasm for a so-called fundamental policy of peace obviously will be interpreted in Peking as support from Washington for their demands concerning Taiwan. The Communiqué even explicitly states that "The U.S. Government understands and appreciates the Chinese policy of striving for a peaceful resolution of the Taiwan question as indicated in China's Message to Compatriots . . . and the Nine Point proposal."

Although construed as a "new situation," according to Holdridge, the breakthrough for the agreement consisted of nothing more than a reaffirmation of Peking's previous proposals. Moreover, while embracing Peking's proposals without qualification, the U.S. completely ignored Taipei's proposals. A speech by Premier Sun Yun-hsuan on June 28, 1982, proclaimed Taiwan's three conditions for reunification: "The goal of the Principle of Nationalism is a government of the people. The goal of the Principle of People's Rights is a government by the people, and the goal of the Principle of the People's Livelihood is a government for the people." In a separate statement, the Premier indicated that "if the political, economic, social, and cultural gap between the China mainland and Free China continues to narrow, the conditions for peaceful reunification can gradually mature."

President Reagan seemed in support when he stated on the day the Communiqué was issued "We will not interfere in this matter [the Taiwan question] or prejudice the free choice of, or put pressure on, the people of Taiwan in this matter." But the actions of his Administration speak louder. Beyond embracing Peking's reunification proposals, the U.S. has promised to end arms sales to Taiwan and may even initiate a military sales program to the PRC.

The Senate Judiciary Subcommittee on Separation of Powers has launched a formal

inquiry into the possibility that the Communiqué violated the authority of Congress. For again, as when President Carter broke relations with Taiwan without consulting Congress and during the 1978 Christmas recess, the Reagan Administration has contravened the clear intentions of the Congress.

THE GROWING PRC MILITARY THREAT TO TAIWAN

Peking's policies in the defense area cannot seriously challenge Soviet military forces in Asia. Nonetheless, the PRC has augmented significantly its military power, particularly in terms of new fighter aircraft. While this buildup can only have a modest deterrent effect on the Soviets, its strengthened air power can pose a substantial military threat to Taiwan.

The August 17th Communiqué completely ignores the vital military needs of Taiwan. Rather than relating future military sales to Taiwan to the potential military threats to the island, the Communiqué pledges to downgrade, and presumably end, military sales on the basis of Peking's peaceful rhetoric. Unfortunately, as so many other nations have discovered, rhetoric can change daily, but military capabilities cannot. Thus, the security of a country, such as Taiwan, can only be adequately maintained if it can be defended against the most likely adversaries. An examination of the current military capabilities of the People's Republic of China, coupled with prospective force improvements, indicates that the plan to downgrade the military capabilities of Taiwan will create a dangerously unstable situation. In fact, in order to maintain military balance in the region, and hence a stable environment for deterrence of war, the United States should supply Taiwan with a more advanced fighter, either the F5G (sometimes designated the F-20) or the F16/79.

Present Chinese military developments threaten obsolescence for the current Taiwanese inventory of U.S. supplied aircraft. While Taiwan's Air Force at the moment has a qualitative superiority over most of the PRC combat aircraft sufficient to guarantee its security, it is not clear that this will continue to be the case. The PRC is acquiring at least three new aircraft that are significantly more capable than its imitations of the Soviet MiG 15/17/19/21.

These three aircraft, the F-8/12, A-5, H-8, alone pose a significant threat to Taiwan's increasingly outdated planes, for they will close the qualitative gap between the two air forces and the PRC's greater number will tip the balance in their favor. Moreover, other more advanced aircraft are being developed at research institutes on the mainland or possibly being purchased abroad. Should they be deployed, without a parallel deployment by Taiwan, the PRC would have total air supremacy over the Straits.

Thus, there is an overriding need to rearm Taiwan now. It takes, on average, at least two to four years, from the time of ordering, for a new aircraft to be delivered in significant numbers; then it takes another couple of years for an air force to become accustomed to the new aircraft and develop the tactics best suited to it.

THE BASIS OF PRC AIR STRENGTH

Careful examination of the three new PRC aircraft reveals how large the advances of the Chinese Communists really are. The least advanced is the A-5, a totally redesigned MiG-19 with tactical strike as its primary mission. It has new wings with 30 percent increase in surface area as well as side air intakes, thus leaving the nose free for a new targeting radar randome. This aircraft is generally considered to be underpowered with its two copies of the Soviet Tumansky R-9BF/R-9B-811 engine (the Chinese designation is Wopen 6A). There are, however, reports that new engines might be provided by the Rolls Royce Spey, which would afford significantly more thrust for its weight and size. This, of course, would greatly increase the plane's capabilities by solving what were first thought to be serious design problems. The A-5 is now being produced in significant numbers, 500 having been built by mid-1981 at the main arsenal at Shenyang (see Table 1 for performance characteristics).

The F-8/F-12 is the principal fighter in production for the People's Liberation Army Air Force. The F-12 is a PRC designed plane powered by two souped-up 20,000+lb. thrust Rolls-Royce RB-168 Spey engines (the same engine that powers the Royal Air Force Buccaneer and the RAF F-4 Phantom aircraft). It is primarily a fighter and secondly a tactical strike aircraft. It is believed to have the same, or slightly more advanced, radar fire control system and navigational aids as the A-5. Consequently, it commends an advanced all weather day/night capability that has not previously been available to the PRC.

The F-12 was based on the design concept of the MiG-23 Flogger. The Chinese have examined an Eygptian Flogger and apparently have incorporated many of its advanced features, with the exception of the swing wings (the PRC plane has delta wings). The Spey engines give the F-12 a speed of Mach 2.4. New electronic systems also are being developed for this and other aircraft. New ECM pods have been sighted indicating other internal electronic improvements. The F-12 is believed to have been in full-scale production since 1981 at the PRC's largest aircraft facility in Chengtu, the capital of the southwestern province of Szechuan. There could be increasing numbers facing Taiwan in the very near future.

The twin-engined bomber, the H(Hong)-8, is supposedly similar to a Backfire in configuration. There is little information available about this aircraft at the moment, except that it is likely to be a multi-role, swing-wing bomber, with a prime role as an anti-shipping and precision, medium-range strike on military land targets.

SUPPORTING PRC MILITARY STRENGTH

The Chinese have not limited themselves to designing/producing new planes. They have also developed new weapons systems. William Perry, Under Secretary of Defense for Research and Engineering, visited China in late 1980 and said that he saw a complete disassembled IR (infrared) guided Sidewinder missile. A conventional or nuclear tipped, radar guided stand-off missile with an estimated range of 50km has apparently been developed for the H-8. An infrared homing air-to-surface bomb has also been developed for the F-12. These new systems give the PRC Air Force an accuracy and an all-weather capability they did not have five years ago—one that will eliminate the advantage Taiwan heretofore enjoyed.

As alarming as these developments are, there is no sign of their abating. The Spey engine plant at Xian, set up in 1976, is now, after some delay, producing 20 engines a month, enough for 240 planes a year. At that rate it would take only two years to exceed the entire inventory of Taiwan's Air Force. Furthermore, the Chinese are gaining full mastery of the new technology as 70 of their technicians and engineers went to England to be taught about the Spey. Rolls Royce also sent some of their experts to the PRC to train additional scientists. As an extension of this effort the Chinese Government has started to pump funds and additional expert personnel into the premier scientific research institution, the Institute of Aeronautical Design in Peking. The PRC has also obtained U.S. technology through 400 U.S. export licenses and advanced French aeronautical technology through the purchase of the Super Frelon and the SA-365N Dauphin 2 helicopters. A plant is being constructed to build the latter in Northeast China. In addition, Marconi Avionics is to upgrade the electronics in the F-6 and F-7 in a $90 million contract. Marconi is also competing for a $500 million contract for added avionics systems.

Thus it appears that, with the initial breakthrough of signing the Spey contract in December 1975, the stagnation of Chinese aircraft production and design ended. In view of the obvious Chinese needs in the field of new advanced aircraft these production and design efforts will continue to escalate.

Examples of this threat are the F-8A and the F-8B, both of which are currently being produced by the Chinese aircraft industry. The latter aircraft is swing-wing attack plane and the former is a delta-wing interceptor.

RELATIVE STRENGTH: PRC AND TAIWAN

The qualitative threat posed to Taiwan by the F-12, A-5, and H-8 is obvious. Along with the existing numerical advantages, it casts serious doubt on the future security of Taiwan. The PRC has over 6,000 combat aircraft to Taiwan's 484, a 12 to 1 ratio; and 528,000 air force personnel to 77,000, giving the PRC an advantage of 6.8:1 in this category.

The PRC's current inventory should not be underestimated. Though the old Mig-19/21s are of limited range and growth potential, they have impressive maneuverability and dogfight potential. The Mig-19 is reported by Jane's All the World's Aircraft to outmaneuver all aircraft in the Asian theater with the exception of the F-86. The Mig-19 (F-6) reportedly can outclimb the F-104, a plane renowned for its rate of climb. The U.S. Air Force uses the F-5E to simulate Mig-21 performance characteristics when it practices air-to-air combat. The additional F-5E aircraft being supplied to Taiwan will do nothing to redress the growing qualitative imbalance between the two Chinese Air Forces.

All of the advanced Chinese aircraft, the A-5, F-7 (Mig-21), and F-12 (Mig-23), possess capabilities equal or superior to those of the F-5E, the mainstay of the Taiwan Air Force. The PRC planes, in general, are faster, have a greater thrust-to-weight ratio and approximately equal or better radar fits and rates of climb.

Recent reports claim that the PRC has contacted France concerning the procurement and possible production in China of large numbers of Mirage 2000 jet fighters. This is the most modern plane currently produced by France and is considered to be on rough parity with the F-16A. The Mirage 2000 would be a quantum leap for the PRC in terms of airframe design, power-plant, and avionics. It would easily out perform any aircraft in the Taiwan inventory. The 2000 would provide the PRC with an all-weather, day/night fighter that is equipped

with advanced, radar guided, medium range air-to-air missiles. Since Taiwan lacks an equivalent system or the potential for developing one, its air force would thus be at the mercy of the PRC.

With the possible acquisition of Mirage 2000s and the other planes now being designed and produced in the PRC, Peking would have an overwhelming numerical and technological advantage over the Taiwan Air Force and its increasingly obsolescent F-5A/Es. It would no longer be prohibitively costly for the PRC to destroy the Taiwan Air Force and gain air superiority over the island itself and the surrounding seas.

Once the Taiwanese lose the ability to dominate their own airspace, especially the seas and the Straits, the PRC will gain an increased capability to either invade the island or to implement an effective naval blockade. An invasion might be too costly a manner to destroy Taiwan as an independent entity, but the PRC still refuses to rule it out. A blockade would cripple the economy and bring Taiwan to its knees. Then Taipei would be forced to eventually surrender, failing significant outside military assistance.

These actions are not so remote as they might seem. In recent years, PRC leadership has been chronically unstable. It is conceivable that the leadership could change again or that domestic political pressure could lead to vigorous pursuit of the repeatedly avowed goal of reintegration of the island with the mainland. The military would be eager to redeem itself after the recent humiliation in Vietnam and to try out new equipment. By 1984/85, it is estimated the PRC will have 700+ A-5 attack aircraft, several hundred F-12 fighter aircraft and perhaps some Mirage 2000s as well as the thousands of aircraft that they already possess. In addition, the PRC will have advanced air-to-air missiles (AAMs) and a superb all-weather capability, which Taiwan will lack. Given this, the Taiwan Air Force would probably last less than two weeks under an intensive attack by the PRC.

Only with the prospective acquisition of an advanced fighter such as the F-5G, F-16/79, or even the F-16A can Taiwan hope to maintain a military balance in the area. By 1984-1986, Taiwan will have a maximum of 250 to 260 F-5E aircraft; all other aircraft, such as the F-104, F-5A, and the F-100 will likely be obsolete. Taiwan would need the F-16A or possibly the F-16/79 to guarantee its security as both planes constitute advanced, all-weather fighter fitted with advanced AAMs. Even with the F-5G, Taiwan might be at a slight disadvantage vis-a-vis such a plane as the Mirage 2000. However, with the superior training of its pilots, Taiwan could probably discourage PRC attack. The F-16A/F-16/79 and the F-5G could be ready for Taiwan by late 1984 or early 1985; at least 160 to 200 would be needed. Even fewer would dramatically restore military balance and substantially boost the morale of Taiwan.

Objections to the sale of these planes have centered on their range as posing a threat to the PRC. According to Jane's All the World's Aircraft 1981-1982, when both planes are carrying two AAMS and at least two bombs, the present F-5E has an equal or greater range than the F-16/79. Thus no new threat would be posed to the PRC in terms of increased ability to strike further inland. The F-16/79 would offer more to Taiwan's security than the F-5G in its ability to patrol and interdict the sea lanes and the Straits, a prime U.S. concern. With it, Taiwan could use its superior piloting capabilities to better advantage, whereas the F-5G would be easier for Taiwan to maintain because of extensive experience with the F-5E. However, the F-16/79 would not in any way be beyond Taiwanese operational capability.

Because the F-16/79 is a better plane, some degree of additional threat to the PRC would exist, but certainly not enough to raise significantly Taiwan's offensive capability. If the objective is to eliminate any possible threat that Taiwan poses to the PRC, the answer is quite simple—disarm Taipei. Unfortunately, this is the policy implicit in the August 17 Communiqué.

But if the aim is to safeguard the security of Taiwan, the U.S. should provide Taipei with an advanced fighter. The F-16/79/A is the best plane. The F-5G cannot be adequately equipped as an all-weather intercepter and retain its combat maneuverability. The F-16/79 has this potential, and the F-16A is already so fitted. The F-5G will be outdated sooner than the F-16/79, as the latter is inherently more advanced and has more room for growth. The costs of the F-16/79 and the F-5G are comparable and both planes could be available at approximately the same time.

Even if the F-16/79 or the F-5G were construed as a threat to the PRC, Taiwan is threatened far more by the PRC. Taiwan cannot even consider an invasion of the PRC; not only would it be doomed to military defeat, but such an action would guarantee the end of its political support from other nations. Consequently, the only reason for denying Taiwan an advanced fighter aircraft is that the PRC opposes the sales for primarily political reasons.

CONCLUSION

As Ronald Reagan campaigned for president in 1980, he promised, to restore balance and integrity to U.S. relations with Taiwan. Specifically he pledged that, unlike the Carter Administration, he "would not impose restrictions which are not required by the Taiwan Relations Act and which contravene its spirit and purpose." Moreover, he stated that, among the provisions of that act, the "most important . . . spells out our policy of providing defensive weapons to Taiwan." Finally candidate Reagan criticized Carter for making "concessions that were not necessary and not in our national interests."

Unfortunately, President Reagan, like his three predecessors in the White House, has continued to pursue a policy of successive concessions to Peking at the expense of the future security and integrity of Taiwan. The August 17th Communiqué made more drastic concessions to the PRC than had any previous agreement. By conceding that Taiwan is an "internal problem" of China, the U.S. has undermined morale in Taiwan and compromised its future legal status. By specifically negotiating with the PRC concerning Taiwan, the U.S. has, in fact, conceded to the PRC oversight authority of this aspect of U.S.-Taiwan relations. By using the same argument (that arms sales violate Peking's sovereignty over internal affairs), future dealings with Taiwan in trade, tourism, investment, social and cultural relations can similarly be challenged by Peking.

Numerous U.S. concessions to Peking over the last decade have neither satisfied the PRC demands concerning Taiwan, nor significantly affected their conduct of foreign policy. The U.S. has misinterpreted a serious split between the PRC and the Soviet Union as only a minor dispute that could end abruptly without constant U.S. cultivation of Peking. The PRC has effectively played upon these American fears of a Sino-Soviet rapprochement and American hopes for a peaceful PRC-Taiwan rapprochement as well. But, Taiwan, like other noncommunist countries in Asia, distrusts the PRC on the basis of bitter historical experience. Before giving support to implicit PRC pledges to resolve disputes peacefully, the U.S. should make the same demand of Peking that the PRC made recently to Moscow. In his official report to the XIIth Party Congress, Hu Yaobang, said Soviet "deeds, rather than words, are important."

In the 1951 Agreement on Peaceful Liberation of Tibet, Peking promised that "The central authorities also will not alter the established status, function, and powers of the Dalai Lama." The Dalai Lama had to flee Tibet and has never returned. Most recently the PRC has not even been able to assuage the suspicions of the Chinese in Hong Kong that prospective Peking sovereignty would not lead to disaster.

It should be noted as well that even the PRC denies any explicit connection between pursuing a peaceful policy toward Taiwan and resolving its differences with Taipei. This is the fatal flaw of the August 17th Communiqué. Thus, the U.S. should cease its tacit support of any "peaceful" proposals from Peking until such time as the PRC actually demonstrates genuine tolerance for diversity within the domain it currently governs. If the PRC refuses to concede genuine regional autonomy to areas such as Tibet that they now control, should the U.S. give credence to its vague promises for Taiwan or Hong Kong?

Given the PRC's political hostility to Taiwan coupled with its military buildup, any reduction of arms sales to Taipei would be both inappropriate and dangerously destabilizing. Maintaining a reasonable military balance over the Taiwan Straits, on the other hand, has effectively deterred war between the two Chinas for the last three decades.

In view of the continued reliability of Taiwan as an authentic ally of the United States and the growing potential PRC military threat to Taiwan, the Reagan Administration should be upgrading, rather than downgrading, the sophistication of equipment being sold to Taiwan. Specifically, the United States should sell a more advanced all-weather fighter to Taiwan to counter the new generation of aircraft being deployed by Peking. Though the August Communiqué unfortunately complicates such an action, the United States should revert to sound military and political principles and provide the equipment necessary to ensure the continued survival of Taiwan. Failure to do so can only lead to the eventual destruction of one of America's oldest and closest allies in the postwar era.●

SINTE GLESKA COLLEGE

● Mr. ABDNOR. Mr. President, today I would like to join with countless other individuals in saluting the accreditation of Sinte Gleska College, located on the Rosebud Indian Reservation, by the North Central Association of Colleges and Schools.

This is perhaps the most important milestone in Indian education as Sinte

Gleska is the first Native American college in the country to receive this accreditation.

I know that his special moment is shared by many people who have worked so hard through the years to make this dream a reality. Many times in the past 12 years, I have met with students, educators, officers, and supporters of Sinte Gleska to discuss the progress of this goal. I am especially pleased that their efforts were rewarded on January 31 when Sinte Gleska College received the authority to award both associate and baccalaureate degress.

It is my hope that this designation will serve as a symbol to other Native American colleges throughout the Nation and that they will pursue their goals as strongly as the supporters of Sinte Gleska College have.

Mr. President, I ask that a resolution adopted and concurred to by the South Dakota State Legislature honoring Sinte Gleska College be printed in the CONGRESSIONAL RECORD.

The resolution follows:

SENATE CONCURRENT RESOLUTION NO. 9

Whereas, the Rosebud Tribe in 1971 incorporated the Sinte Gleska College with the mission to provide for college education for its students and to promote the self-determination of its people; and

Whereas, Sinte Gleska has provided for college degrees and credits through a cooperative agreement with the Board of Regents through Black Hills State College, University of South Dakota and University of South Dakota-Springfield for both associate and baccalaureate degrees; and

Whereas, among the many progressive accomplishments since its inception, Sinte Gleska has now been formally awarded on January 31, 1983, initial accreditation at the associate and baccalaureate degree granting level by the North Central Association of Colleges and Schools; and

Whereas, with this formal approval, Sinte Gleska becomes the first reservation based tribally chartered college to be accredited at the baccalaureate degree level, and the second tribal institution with associate degrees in the United States:

Now, therefore, be it resolved, by the Senate of the Fifty-eighth Legislature of the state of South Dakota, the House of Representatives concurring therein, that Sinte Gleska College of the Rosebud Sioux Reservation be heartily congratulated for its exemplary educational effort and accomplishment; and

Be it further resolved, that the South Dakota Legislature extend its support and encouragement toward a cooperative and productive relationship between the state of South Dakota and Indian people in all future education endeavors for the mutual benefits of its people.●

DETROIT SCIENCE CENTER MONTH

● Mr. LEVIN. Mr. President, March 1983, has been designated "Detroit Science Center Month." The month has been highlighted to underline the evergrowing importance of science and mathematics in all communities. The Detroit Science Center plays an important part in the study of science and mathematics in southeastern Michigan schools.

The many events scheduled to help celebrate Detroit Science Center Month are intended to focus the community's awareness on the Detroit Science Center and the vital role it plays. Among the activities planned for March is a PRISM award which is given to the outstanding science teacher in the area who has best encouraged his or her students in the pursuit of science. There will also be a contest for schoolchildren in which they must develop ideas for new power sources, transmission methods and coding. A fashion show with a space theme is planned to raise funds to aid the science center. There will be a science film festival and Black Press Day will be celebrated on March 16. These are just a few of the many activities planned for the month.

The Detroit Science Center is dedicated to meeting the vital needs of the public to better understand science and technology. It is a real pleasure to recognize the Detroit Science Center for its fine achievements and the valuable service it provides people—young and old—in the area. I am sure that Detroit Science Center Month will only enhance the reputation of this outstanding facility and I am confident that its importance will increase in the years ahead.●

COMMENDATION OF REPRESENTATIVES SHANNON AND CONTE

● Mr. TSONGAS. Mr. President, we have a long tradition of cooperation in the Massachusetts congressional and senatorial delegation, and sometimes we take that collegial spirit for granted.

Today, I should like to take a few moments to express my gratitude for the outstanding service which has been rendered to my home city of Lowell, Mass., by two of my distinguished colleagues in the House, Mr. SHANNON and Mr. CONTE. It is not overstating it to say that they have together made the difference for the most exciting urban renaissance in this country.

Back in 1978, Congress approved the establishment of the Lowell National Historical Park and the Lowell Historic Preservation Commission. The mission of these two bodies is to preserve and restore the historic structures which embody the birthplace of the American Industrial Revolution. The park and the commission have become the catalyst for an enormous surge of private investment in what was a failed industrial center, and is now returning to a position of preeminence.

So, because of the national park and Commission, over $90 million in private investment has been sparked in projects ranging from housing to high technology. We have the worldwide headquarters of one of the Nation's leading computer companies, and we soon hope to have a first-class hotel, and training center to serve our business and industrial core.

We had authorized the park and Commission, but we found ourselves immediately in a position where the Federal support was lagging far behind the private support for our city's rebirth. The Federal Government, in its shortsightedness, was not willing to fund the park and Commission to undertake the important restoration work which Congress had authorized it to do. Each year, when the Federal budget was released, Lowell received either zero funds, or funds which would permit only a snail's pace of development, rather than the intense, short term development effort that was required.

Faced with this, we turned to JIM SHANNON and SILVIO CONTE for help. Over the past 4 years, these two men have worked tirelessly to insure that funds were available in the budget for the Lowell projects. They have testified, spread the Lowell story throughout the Congress, and gained the strength needed to pass the funding bills for Lowell.

Last year, when I was unable to secure Senate support for the Lowell Park and Commission, Mr. SHANNON and Mr. CONTE had an especially difficult task, which was to convince the Senate to accept the House approved funding in conference on the legislation. Throughout this time, these two Congressmen and their staffs, Dan Adams and Mary Silviera, have not only provided the technical and substantive backup and research needed to get funds secured, they have lent the most important ingredient of all—a sincere commitment and enthusiasm for the work which is taking place in our city.

While I have thanked them both privately for the miracles they have worked, I want to let everyone here and in Lowell know that they owe a deep debt of gratitude to these two outstanding public officials.●

CONGRESSIONAL BUDGET OFFICE ANALYSES ON SENATE JOINT RESOLUTION 25, S. 459, S. 473, AND S. 577

● Mr. McCLURE. Mr. President, on February 23, the Committee on Energy and Natural Resources reported the bills Senate Joint Resolution 25, a bill to redesignate the St. Croix Island National Monument in the State of Maine as the "St. Croix Island International Historic Site"; S. 459, a bill to authorize and direct the Secretary of the Interior to convey, by

quitclaim deed, all right, title, and interest of the United States in and to certain lands that were withdrawn or acquired for the purpose of relocating a portion of the city of American Falls out of the area flooded by the American Falls Reservoir; S. 473, a bill to authorize the Secretary of the Interior to acquire certain lands by exchange for addition to Effigy Mounds National Monument in the State of Iowa; S. 577, a bill to provide for the conveyance of certain Federal lands adjacent to Orchard and Lake Shore Drives, Lake Lowell, Boise Project, Idaho, at that time the Congessional Budget Office analyses were not available.

I ask that the budget analyses for the bills prepared by the Congressional Budget Office be printed in the CONGRESSIONAL RECORD at this point.

The analyses follow:

CONGRESSIONAL BUDGET OFFICE,
Washington, D.C. February 23, 1983.

Hon. JAMES A. MCCLURE,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Dirksen Senate Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has reviewed S.J. Res. 25, a bill to redesignate the Saint Croix Island National Monument in the State of Maine as the "Saint Croix Island International Historic Site", as ordered reported by the Senate Committee on Energy and Natural Resources, February 23, 1983.

Based on this review, it is expected that no significant additional cost to the federal government would be incurred as a result of enactment of this bill.

Enactment of this bill would not affect the budgets of state and local governments.

Sincerely,

ALICE M. RIVLIN,
Director.

CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., February 23, 1983.

Hon. JAMES A. MCCLURE,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Dirksen Senate Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has reviewed S. 459, a bill to authorize and direct the Secretary of the Interior to convey, by quitclaim deed, all right, title, and interest of the United States in and to certain lands that were withdrawn or acquired for the purpose of relocating a portion of the city of American Falls out of the area flooded by the American Falls Reservoir, as ordered reported by the Senate Committee on Energy and Natural Resources, February 23, 1983.

The bill directs the Secretary of the Interior to convey without cost to the city of American Falls, Idaho, approximately 82.09 acres. The United States reserves all right-of-way and oil and gas in the land, together with the right to prospect for, mine, and remove the same.

Based on information received from the Bureau of Reclamation, it is expected that enactment of this bill will result in no significant additional cost to federal, state or local governments.

Sincerely,

ALICE M. RIVLIN,
Director.

CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., February 23, 1983.

Hon. JAMES A. MCCLURE,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Dirksen Senate Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has reviewed S. 473, a bill to authorize the Secretary of the Interior to acquire certain lands by exchange for addition to Effigy Mounds National Monument in the State of Iowa, as ordered reported by the Senate Committee on Energy and Natural Resources, February 23, 1983.

This bill authorizes the Secretary of the Interior to exchange approximately three acres of land within the Effigy Mounds National Monument for approximately four acres of land adjacent to the monument in order to make use of an existing road to clearly delineate the boundary between the national monument and private landholdings. Based on information from the National Park Service, it is estimated that no significant additional cost to the federal government would be incurred as a result of enactment of this legislation.

Enactment of this bill would not significantly affect the budgets of state and local governments.

Should the Committee so desire, we would be pleased to provide further details on this estimate.

Sincerely,

ALICE M. RIVLIN,
Director.

CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., February 23, 1983.

Hon. JAMES A. MCCLURE,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Dirksen Senate Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has reviewed a bill to provide for the conveyance of certain federal lands adjacent to Orchard and Lake Shore Drives, Lake Lowell, Boise Project, Idaho, as ordered reported by the Senate Committee on Energy and Natural Resources, February 23, 1983.

This bill authorizes the Secretary of the Interior to convey certain parcels of land to adjacent landowners for fair market value. Based on information from the Bureau of Reclamation, it is estimated that during fiscal years 1983–85 a total cost of approximately $50,000 will be incurred by the federal government for land surveys, appraisals, and preparation of legal descriptions associated with these conveyances, and a fair market value of approximately $350,000 will be received.

Enactment of this bill would not affect the budgets of state and local governments.

Should the Committee so desire, we would be pleased to provide further details on this estimate.

Sincerely,

ALICE M. RIVLIN,
Director.●

AMBASSADOR JEANE KIRKPATRICK ON EL SALVADOR

● Mr. HELMS. Mr. President, just a few days ago, U.S. Ambassador to the United Nations Jeane Kirkpatrick returned from an extended trip to Latin America. Mrs. Kirkpatrick is one of America's best informed and astute observers of events in Latin America. We are especially fortunate to have her as a member of this administration, speaking on behalf of the devotion of the United States to the principles of freedom and human dignity throughout the world.

Others do not feel so blessed. Upon her return, she was invited to speak at the University of California at Berkeley, a place which first became prominent in the lexicon of U.S. activism during the early sixties with the so-called free speech movement. There are those at Berkeley who believe in free speech only when it comes from the mouth of leftist ideologues. I regret that Ambassador Kirkpatrick was refused an opportunity to speak by a shrill and unruly gang of bigots who were determined that the Ambassador would not be accorded the dignity to speak from the very platform to which she had been invited.

The very university selected by American scholars as the most prestigious in a number of fields thus became the scene of a crime against the basic rights of freedom of speech and expression, which form the very basis of our representative system of government. It was a dark day indeed in the history of free institutions when an unruly mob deprived the community of the opportunity to hear a dispassionate debate of issues of burning importance.

The people at Berkeley lost their opportunity to hear the gentle but firm voice of this great lady. Perhaps they are still there, shouting, "Out of El Salvador, out of El Salvador," drowning out other speakers, perhaps their own teachers, perhaps the voice of reason itself.

Mr. President, I know my colleagues would join me in expressing dismay at this incident. I hope that they would also share my delight in hearing the comments which Ambassador Kirkpatrick delivered just a few days later, on February 19, to the conservative political action conference here in Washington. Her remarks speak for themselves. I commend them to the Members of this body and to all those who are interested in Central America. I commend them especially to the students and teachers at Berkeley who refused the opportunity to consider Mrs. Kirkpatrick's remarks the first time around. I hope they have had time to reflect on the implications of their actions and will now be open to a voice to which, it seems, they have paid all too little attention in the past.

Mr. President, I ask that the text of Ambassador Kirkpatrick's address be printed in the RECORD.

The address follows:

ADDRESS BY AMBASSADOR JEANE J. KIRKPATRICK, U.S. PERMANENT REPRESENTATIVE TO THE UNITED NATIONS BEFORE THE CONSERVATIVE POLITICAL ACTION CONFERENCE

Thank you very much. I tell you this is a lot nicer than it was at Berkeley. I really, truly, very deeply, appreciate that very generous introduction. Your welcome was a great deal more pleasant than another one I had this week.

I have had the experience in the past week of being shouted and chanted at in one place and picketed in another, presumably for the offense of supporting United States' aid to the Government of El Salvador. I say presumably because there wasn't a formal statement of charges, but there was a chant in the background that said something like "forty-thousand dead, out of El Salvador." I thought to myself if those thirty-seven American advisors have produced forty thousand dead, that was pretty extraordinary. Needless to say, we know better.

The Government of El Salvador, as you know, continues to labor under the terrible burden of trying to oppose a well-armed, well-financed campaign brought against it by guerrillas, supported and sponsored by the Soviet Union, the Soviet Bloc and Cuba, and closer to home, Nicaragua. Probably most of the people who picketed or chanted or shouted, I thought to myself, consider themselves liberals. Almost everybody who takes that position these days considers themselves liberals, and a significant portion of persons who consider themselves liberals take that position. Probably they consider that the liberal position is to oppose the not very generous U.S. aid to the elected Government of El Salvador.

Probably, some of those who were shouting and chanting and picketing were simply students who were not very well informed about events in Central America; conceivably they had been misled by their teachers. But some of them presumably were teachers. I say that because I read an interview reported in the school newspaper afterward with some people who purported to be teachers, who were outside. And when one thinks about those teachers, one wonders who misled them into thinking that the defense of an elected democracy or the defense of the United States national interest so near our border against a well-armed, well-financed guerrilla attack, is an un-liberal thing to do. I found myself wondering whatever made them think the "U.S.-out-of-El Salvador" position was a liberal position. I find myself wondering about what they knew about Nicaragua. I wondered, for example, did they know that Nicaragua, with a population of 2.7 million, now has an active-duty armed force of approximately 25,000, at least, twice the size of the National Guard of Somoza, with another 50,000 reservists and militia; much larger than any other military force in the region. I wondered did they know that to accommodate and train this force, 36 new Cuban-designed military garrisons had been built in addition to the 13 inherited from the National Guard. I wondered did they know that there were several thousand—the exact number is disputed, at the minimum 2,000, at the maximum 7,000—Cuban military and internal security advisors in Nicaragua today: that several hundred Nicaraguans are training or have completed training in Cuba and other Eastern European countries. I wondered did they know that sophisticated weapons including Soviet-made T-55 tanks, amphibious ferries, helicopters and transport aircraft had been added to Nicaragua's arsenal, all presumably to protect it against the potential aggressions of—Costa Rica.

In the background there were chants suggesting that Nicaragua's democracy needed to be protected. And I wondered what they knew about Nicaragua's democracy. I wondered, for example, did they know that the independent press in Nicaragua had been virtually silenced. That of all of what had been a flourishing, independent press only La Prensa remains, and La Prensa, for many years the voice of opposition to the Somoza government, is today heavily censored, subject to prior censorship, forbidden to publish without permission in advance on each item and forbidden to print blank spaces. I wondered did they know about the systematic destruction of the way of life of the Miskito and Sumo and Rama Indians from Nicaragua's Atlantic Coast; about villages burned to the ground, Indians moved from their ancestral homes to detention camps, about the arrests, and indeed, murder of many indigenous Indians, some 15,000 of whom today are in exile as refugees in Honduras. I wondered did they know about the 3,500 to 7,000 political prisoners languishing today in Nicaragua's prisons. About the harassment and slow strangulation of Nicaragua's independent labor unions? About the beating and arrests of their leaders? About the tightly controlled labor and peasant organizations that have been established in lieu of the independent trade union and peasant movements of Nicaragua? I wondered, indeed, just what it was they know when they chanted "U.S. out of El Salvador" and shouted of preserving Nicaraguan democracy. I wondered even more what it was they knew when they talked about, as they did, and waved placards announcing "No more Vietnams." I, too, think it is very important that we have no more Vietnams. I wondered if they meant the same thing I did when they talked about that.

It is a fact, we all know it, that Vietnam developed into a moral symbol with powerful emotional overtones—a symbol that gives intensity to any discussion of the use of U.S. power. That same intense emotional resistance against the use of U.S. power anywhere in the world, for any purpose in the world, still lingers like smog. The offer to send a peace-keeping force of U.S. Marines to the Lebanon to help in the evacuation of the PLO evoked a fear of the Vietnam syndrome.

What was that syndrome that they feared that seems to apply to any sort of military entanglement anywhere in the world? What were the lessons of Vietnam that evoked such feeling? First among the lessons that Vietnam could teach us is that where American power withdraws, something very terrible happens under certain kinds of circumstances. The argument that was made about Vietnam, everyone remembers it, was that the Government of South Vietnam—we used to call it—was probably morally unworthy of support by the United States. It was said to be guilty of serious human rights violations, of regular abuses of personal and legal rights. It was said that the United States should not stand in the way of the resolution of an internal matter by a coalition government, which you may recall, it was claimed would represent the full panoply of opinion in Vietnam.

I think we all know something about what the Government of Vietnam has turned out to be. We seem not to have learned much, however, from the lessons of Vietnam human rights under national liberation governments, or about the control and manipulation of American public opinion. How little we hear about human rights abuses in Vietnam today. Just after the war, after we withdrew from our Vietnam war, there was a good deal of emphasis on the fact that the predicted bloodbath had not taken place. Since then, there has been very little discussion of the most extraordinarily oppressive re-education camp system in the contemporary world. That complex network of camps features forced labor and employs political indoctrination. The inmates include military, political, intelligence officers, former government officials, cadres of non-Communist political parties, common criminals, ordinary citizens attempting to flee the country, and, it appears, the entire membership of the elite units of the former South Vietnamese military forces. Most inmates of the re-education camp system have never been charged with a crime. Indeed, the process of arrests and detention in these re-education camps lacks even pretext of a legal basis. Most terms are indefinite. Food supplies in the camps are totally inadequate, even for a person undertaking very light work. By late 1978, the rice ration had dropped between 400 and 470 grams a day. Meat and fish are supplied only on national holidays. Medical supplies are virtually non-existent. Malnutrition and disease are now very slowly killing the inmates. Nobody knows quite how many people are still confined to these camps. The lowest figure which I have seen anywhere is that which was cited in the Human Rights Report of the State Department submitted last month, that is 60,000. The figure more commonly encountered in European, particularly French, sources who follow the Vietnamese situation very closely, is something over 200,000. It is generally conceded that conditions in these Communist prisons are far worse than under what used to be called the "Thieu regime." Torture is very wide-spread. For example, Nguyen Van Cai, a leader of the Hoa Hao sect, who recently was released, explained to a French journalist that he had had a high-voltage light shined into his eyes, that he was hung upside down and had fish sauce poured into his nose, that he was then beaten by his guards into a state of unconsciousness. Similar experiences of torture were reported by monks arrested by the Communists and many examples of such torture have been reported by former officers and soldiers in the armed forces of South Vietnam who had the misfortune to fall prisoner in those camps.

What can we say about this? We can say that we didn't know it would happen. We can say, I suppose, that we are sorry. We can recognize, I suppose, that we bear some sort of responsibility for what has happened to these people. Solzhenitsyn wrote: "Members of the United States anti-war movement became accomplices in the betrayal of Far Eastern nations, in the genocide and the suffering today imposed on 30 million people there." Solzhenitsyn pointed out that convinced pacifists do not seem to hear the moans coming from the re-education camps of Vietnam nor do they seem to understand their responsibility for what happens there. Oscar Handlin, commenting on this in Freedom at Issue, noted that Lyndon Johnson had once agonized each day over each day's bombing targets. "Who," said

Handlin, "mourns the victims today?" Reflecting after the fact about those events Handin wrote in 1978: "The United States no more confronted the choice of war or peace in 1968 than it did in 1941, nor a choice of coalition or anti-Communist governments, not even a choice of bombing or not bombing targets that would save lives and spare dikes. The actual choice, the only choice, was between war with all its horrible risks and consequences and surrender to totalitarian aggressors whose appetite grew with the feeding. The clatter heard in the past decade out of Angola, Ethiopia, Afghanistan and Iran was the sound of falling dominoes as awareness of Western paralysis eased restraints upon assualts from within and without." The clatter is also heard in El Salvador.

The political and social events that occur where Marxist-Leninist rule are matters of fact, facts which are, moreover, readily available and have been replicated in every country which has had the misfortune to experience a "liberating" Communist revolution. The list of such countries, you know it, is now long: The Soviet Union, itself, Latvia, Lithuania, Estonia, Poland, Czechoslovakia, Albania, East Germany, Cuba, Vietnam, Korea, Cambodia, Laos, Yemen, Ethiopia, Angola, Mozambique, Guinea-Bissau, Benin, Nicaragua, Grenada. In not one country where a Communist revolution has occurred have citizens been permitted free elections, a free press, trade unions, free speech, freedom to immigrate without official obstacles. In not one country, where Communists have come to power, have the objective conditions ever been judged such that the vanguard could safely permit the toiling masses to control their own lives.

Not all Communist governments feature slave labor, forced migration, engineered famine, forced separation of families of the sort that at one time or another have characterized the Soviet Union, Cambodia, Afghanistan, Vietnam. Not all have, after the fashion of Stalin or Castro, imprisoned tens of thousands of their own citizens. But none has produced either freedom or economic development. Not one has ever evolved into a democracy. Not one. Despite the various iron curtains—electronic, political, physical—with which Communist rulers try to keep information in and information out, knowledge of political repression in those countries, of social regimentation, of economic failure, is widely, easily available elsewhere. But the faith that Communism is somehow progressive, a good thing, and the hope that each new Marxist-Leninist triumph will turn out well, seems—incredibly enough—to persist. Many liberals who had great expectations for the soi-disant nationalists and agrarian reformers of this and that—Cuba, Vietnam, Cambodia—now pin their hopes on Salvador's guerrilla coalition. And already we have heard marvelous accounts of Guatemala's indigenous, agrarian reformers.

How can it be that persons so deeply committed to the liberation of South Vietnam and Cambodia from Generals Thieu and Lon Nol are so little affected by the enslavement that followed the "liberation" of those countries? Why was there so little anguish among the American accomplices who helped Pol Pot to power? Why is there so little anguish among the ardent proponents of Sandinista revolution now that that revolution has turned into a new and more complete tyranny? Since the evidence is overwhelming that Marxist-Leninists everywhere impose economic systems that cannot produce goods and political systems that cannot produce loyalty or liberty, why is it so difficult to accept, to believe, to understand?

I was very deeply impressed last summer by Saul Bellow's most recent novel, "The Dean's December"—I commend it to all of you. In the course of that novel Bellow wrote:

"Liberalism had never accepted the Leninist premise that this was an age of wars and revolutions. Where the Communists saw class war, civil war, pictures of catastrophy, we saw only temporary aberrations. Capitalistic democracies could never be at home with the catastrophic outlook. We are used to peace and plenty. We are for everything nice and against cruelty and wickedness and craftiness, monstrousness. Worshippers of progress, its dependents, we are unwilling to reckon with villainy, misanthropy. We reject the horrible, the same as saying we are anti-philosophical."

"Our outlook," Bellow continues, "requires the assumption that each of us is at heart trustworthy. Each of us is naturally decent and wills the good. The English-speaking world is tempermentally like this. You see it in the novels of Dickens, clearly. In his world there is suffering, there is evil, betrayal, corruption, savagery, sadism, but the ordeals end and the decent people arrange a comfortable existence. In themselves, they make themselves cozy. You may say that it is simply Victorian, but it isn't. Modern businessmen and politicians, if they are going to give a billion dollars in credit to the other side, do not want to think them monstrous."

My own reflections on recent history and the contemporary scene have led me to the conclusion that we Americans are specialists in the production and distribution of wealth and goods. We are very good at it. Despite our contemporary economic problems and temporary recessions, we remain the world's greatest experts in this field. The Soviet Union, to the contrary, contains the world's greatest experts in the use and the extension of political power. They have demonstrated in continuing expansion unparalleled skill in winning control over governments and populations and in using that control in turn to win control over more governments and more populations. They are not very good at the production of goods and wealth, and we sometimes seem not to be very good at the preservation and extension of political power. Each of these activities, producing wealth and producing power, has its own rules. The production and distribution of wealth is not a zero-sum game. Quite the contrary, you need to share it in order to increase it. That is the reason that internal markets always develop and living standards go up where economic development takes place. Power, on the other hand, is a zero-sum value. The more one person has, the less another has.

An unfortunate aspect of these two qualities is that each of us tends to project to the other our own motives and goals. We cannot resist imagining that they long, above all, to develop more efficient, productive economic systems and raise the standard of living of their deprived people. They cannot but imagine that we, whatever we may say, are just about to use our undoubted might to expand our control over some new area of the world.

Sometimes, it seems to me, that we are rather like a man who goes out for a walk, finds that he is being pursued by a mugger bent on attacking him. He begins to run and so does the mugger. Then the man who went out for a walk thinks to himself, I'm not a runner. I don't want to be in a race but if I stop, he'll beat me to death. The man runs a little longer. He gets tired. He thinks maybe I misunderstood this situation anyway, maybe he just came out for a walk too. So the man slows down and he hears footsteps coming just in back of him. Then he looks back. The mugger is almost upon him. The man starts to run again. That man is us. We don't want to be in a race. We didn't come out to run. We'd really like to live our own lives, enjoy our own liberty. That's all we want to do. How can we create a situation that will permit us to do that?

Last night I spoke in Tacoma, Washington. In the question period a man said, from the left side: "This administration, Ambassador Kirkpatrick, insits on seeing the events in Central America as an East-West conflict and not in terms of the question of basic, social injustice." I said to him I wasn't sure that was a correct formulation. It is true that in this Administration we see plenty of evidence of the presence of the East. We see in El Salvador, for example, Soviet Tanks, howitzers, Sam's, a great quantity of eastern bloc arms. We see an Eastern presence. But an East-West conflict? Not necessarily. This, after all is a democracy. The people decide. Congress decides. Maybe it won't be an East-West conflict. Maybe it will just be a steady, Soviet expansion near our Southern border without any Western response at all. That is for the people to decide.

Thank you. Good night.●

CLINCH RIVER—NOW INDUSTRY IS SAYING NO

● Mr. HUMPHREY. Mr. President, for the last 2 years I have argued against further Federal support of construction of the Clinch River breeder reactor project. Throughout this period I have emphasized just how economically foolish it is for the Department of Energy (DOE) to spend money to commercialize breeder reactor technology now. I have always believed that spending so much on such a premature effort was counterproductive—that it would serve to distract the nuclear industry from its real problems and opportunities, which lie with conventional reactors.

Now the nuclear industry is starting to agree. In its most recent issue, Nuclear Engineering International concluded that the current pace of breeder development was no longer justifiable. This journal is the most popular and respected of international nuclear trade publications and previously has been a staunch supporter of breeder reactor development. Yet, in its leading comment page, the journal concluded that national efforts to build large-scale breeder projects such as Clinch River are "premature and can damage the prospects for the acceptance of nuclear technology." The journal went on to explain that:

The United States has the least need for fast reactors (and is spending the most on them) and it is difficult to see any economic or technical justification now for proceeding

with Clinch River. . . . The utilities and the vendors in the United States, as elsewhere, are putting little or none of their own money into the fast reactor. The push is coming from the scientists in the national research establishment, the existence of which is at stake.

The U.S. nuclear industry apparently agrees. In the latest issue of Nucleonics Week, the lead article, "CRBR Supporter Says Utilities Won't Put More Money into Project," details the difficulty DOE faces in gaining additional financial support for Clinch River.

Both of these articles are important reading as the Congress faces the task of bringing the Federal budget back into balance. I ask that they be printed in the RECORD.

The articles follow:

[From Nucleonics Week, Feb. 24, 1983]

CRBR SUPPORTER SAYS UTILITIES WON'T PUT MORE MONEY INTO PROJECT

The issue of utilities putting more money into the Clinch River Breeder Reactor is dead, an official who is one of the project's main supporters tells Nucleonics Week. The possibility further complicates efforts to find ways to take CRBR off the federal budget cycle and put it on a private funding footing. A utility task force examining the alternatives is considering the possibility of selling the project's electricity production, after the plant's five-year demonstration period, to DOE to power its gaseous diffusion plants, although there are problems with that idea.

Most of the ideas the task force is looking at involve capitalizing on the plant's commercial value after its demonstration period. In particular, the task force is looking at indirect loan guarantees, a DOE official said, guaranteeing on-time completion, performance and operation of the project at a reasonable cost.

One problem involved with the sale of CRBR's electricity to DOE for its diffusion plants is the existence of take-or-pay contracts DOE had already signed with Tennessee Valley Authority for electricity to run those plants. Additionally, the enrichment plant most likely to be powered by the CRBR is the first one DOE has been expected to shut down once the gas centrifuge enrichment plant at Portsmouth, Ohio, goes into operation.

Another problem the task force may face is that in taking the project out of the federal budget, fuel costs will be significantly increased. DOE has always counted on obtaining fuel for the breeder from government stockpiles, with no charge levied against CRBR since it was all part of the government. But if the project is placed on a commercial basis, the entire fuel cycle cost would have to be charged against it, Shelby Brewer, DOE assistant secretary for nuclear energy, admitted to a congressional subcommittee this week. The General Accounting Office, Congress' financial arm, has estimated fuel costs for the 25-year CRBR life span after the five-year initial period would be about $5-billion.

DOE officials have made clear that while they would like to continue to fund CRBR, they don't expect to get any more money from Congress if private industry doesn't increase its support, possibly to as much as $1-billion. Industry was originally supposed to pay half the cost of CRBR when it was estimated at $700-million. Now it is estimated to cost $3.6-billion and utilities are contributing $338-million. Increased utility or vendor contributions and/or foreign government participation are being eyed as ways of raising funds to complete the project, as are federal loan guarantees, performance guarantees and tax incentives. The final DOE recommendation may include a mix of options.

The project faces tough sledding in Congress this year. Last year the House pulled funding for it from the continuing resolution that is financing DOE's fiscal 1983 operations. The Senate restored funding, but the compromise conference report set aside $1-million for DOE to come up with a report on funding alternatives by March 15. Whatever DOE comes up with, however, will probably be the beginning of the debate. An industry source says the existing task force primarily is being handled by the utilities, and vendors and general industry will probably have some ideas of their own to propose. The Edison Electric Institute testified before a Congressional subcommittee on behalf of the project this week but made no reference to increased funding by utilities.—*Frances Seghers, Washington, and James Branscome, Knoxville.*

[From Nuclear Engineering International, February 1983]

FACING FACTS ON FAST REACTORS

(By Richard Masters)

The large amounts of money being spent world-wide by the nuclear industry on the development of fast breeder reactors is becoming increasingly difficult to justify.

Is this continuing level of expenditure appropriate if one takes a rational view of future trends in energy demand and fuel supply? Will it ever be possible to recoup the vast sums that have been spent and the much greater sums that will need to be spent before the fast reactor can become a commercial option for electricity utilities?

The present nationalistic and quasicommercial approach to the development of the fast reactor in many countries is premature and can damage the prospects for the acceptance of nuclear technology. Serious reappraisal is needed of national expenditures on fast reactor R.&D. and measures are urgent to bring about effective savings and improved results through international cooperation.

It is not enough to compare the production costs of one kilowatthour from an FBR with those from an IWR. This ignores all the other factors, including the time scale, involved in bringing FBRS into commercial operation. There should in each country be a systematic quantification of the costs of introducing FBRS and comparison with expected benefits, all discounted to an appropriate date with due allowance for the risks. Similar studies are also needed on an international scale. An international project does not automatically justify what does not make sense nationally.

For the past 30 years the conventional wisdom in the nuclear industry has been that fast breeder reactors will eventually take over the base load generation of electricity, at least in industrialized countries.

More generally the fast reactor has been seen as offering energy independence and a more than transitory existence to the nuclear industry.

The need to press ahead with the development and application of FBRS has been seen as urgent. In 1967 the IAEA predicted that "if only the current types of nuclear reactor continue to be built, then by 1980 all known reserves of low cost uranium would be committed." And some 10 years later the UK Atomic Energy Authority was confidently predicting an installed capacity of 33 GWe of breeder capacity in Britain by 2000, with a huge expansion to follow.

Even at that time serious independent observers of the industry in Britian were questioning whether the FBR could ever be economic and there has been growing acceptance that Britain cannot justify going it alone. How many countries can?

TIMESCALE

Every year the timescale gets longer and the economics more uncertain. The British Central Electricity Generating Board in its evidence to the Sizewell inquiry says it might need to order fast reactors in 25 years from now, but adds: "There is considerable uncertainly about this date; it could be somewhat earlier or perhaps considerably later." The Board's new chairman, Sir Walter Marshall, who as chairman of the UKAEA was until recently in charge of Britain's fast reactor programme, has said that the first truly commercial fast reactor with its fuel cycle could not possibly be operating in Britain until 2013 and in practice it was more likely to be commissioned a decade later.

Sir Walter believes it would be "irresponsible" to abandon a fast reactor programme but accepts that "in view of the demand for electricity and the fall in the price of uranium there is a strong a priori reason for saying that the right economic decision is to slow up."

Similar caution is evident in all other western countries with fast reactor programmes including France, where the utility Electricité de France is showing no enthusiasm for a "commerical" programme of fast reactors to follow Superphenix.

The United States has the least "need" for fast reactors (and is spending the most on them) and it is difficult to see any economic or technical justification now for proceeding with Clinch River. Unfortunately here as elsewhere arguments based on national prestige are brought to bear on what should be economic decisions. The utilities and vendors in the United States, as elsewhere, are putting little or none of their own money into the fast reactor. The push is coming from the scientists in the national research establishments, the existence of which is at stake.

The recent statement on fast reactors by the British government has the merit of recognizing the real position. The UKAEA, under its new chairman Sir Peter Hirsch, has been asked to draw up a development programme that is geared to the longer timescale for the likely introduction of FBRS and which takes account of the potential for securing the maximum benefits from international collaboration.

The timing is good. The Authority has an opportunity for taking a lead in specifying what a realistic r and d programme for keeping the fast reactor option open should consist of in present circumstances and how effective international co-operation might be achieved. Britain could, for example, buy into Superphenix for operating experience and offer PFR at Dounreay as a test bed for components. It has unrivalled expertise on the FBR fuel cycle and also plutonium to contribute to an FBR club. In this way Britain's current r and d expenditure on fast reactors of £100 million a year could be reduced considerably. There is a precedent

here in the approach by the AEA to expenditure on fusion which lead to the setting up of Jet.

Uranium will not be suddenly exhausted or become excessively expensive in the early years of the next century. There will be plenty of time to identify the trend and decide when it is worth ordering FBRS instead of thermal reactors. In any case there is scope for stretching out supplies by improving uranium utilisation in light water reactors and the introduction of reactors with better neutron economies.

But perhaps of greater significance to fast reactor economics than the availability of uranium is the fact that with advances in techniques for the storage of irradiated fuel from light water reactors utilities can avoid reprocessing. The uncertain and growing costs of reprocessing are then properly loaded on the fast reactor and with limited reprocessing there will be doubts about the availability of plutonium to fuel a large programme of fast reactors. In these circumstances the fast reactor may never be economic.

There still remains the strategic argument but the benefits must still be properly quantified and balanced against the premium it is worth paying for an insurance policy of fast reactors. At present it seems excessive. If the nuclear industry is to win support and acceptance for the fast reactor it will have to provide effective answers nationally and internationally. Evangelical fervour is not a substitute for sound technical and economic argument.●

SALUTE TO PETER DESIBIO

● Mr. D'AMATO. Mr. President, on February 28, 1983, a very dear friend of mine, Peter DeSibio, known to everyone in Nassau County as "Uncle Pete," will celebrate his 75th birthday.

Uncle Pete has been a Republican Party leader in Nassau County for over 40 years. He has been an inspiration to me personally and to all who have served with him in civic and charitable organizations.

Uncle Pete has been deeply involved in civic, cultural, and humanitarian activities and he continues to serve a broad range of community interests. Many institutions have benefited from his strong commitment to public service.

The list of his achievements is very long and impressive. I will list only a few to indicate to my colleagues the breadth of his interests. He has raised money for the Hebrew Academy of Nassau County for almost 30 years, and at the same time has headed drives for the Catholic Diocese of Rockville Centre, the Community Chest, the Salvation Army, the American Red Cross, the American Cancer Society, and Scholarship Awards for the Lawrence Public Schools.

Mr. DeSibio has served his community tirelessly. I am proud to say that he is a consitutent and a friend. I ask my fellow Senators to join me in wishing him a happy birthday.●

THE PRESIDENT SHOULD SEEK A SECOND TERM

● Mr. WILSON. Mr. President, I ask that my remarks made at the California State Republican Party Convention, urging the President to seek a second term, be printed in the RECORD.

The statement follows:

PRESIDENT REAGAN SHOULD SEEK REELECTION

(By Senator Pete Wilson)

("* * * President Reagan has * * * inspired in us a profound pride, gratitude, admiration and confidence * * * his enormous challenges in restoring America to prosperity, opportunity, and the strength required to keep the peace, will require not just the two years remaining in his present term but a second term. "—California Republican Party resolution by Sen. Wilson, Jan. 30, 1983.)

WASHINGTON.—He's called "The Great Communicator." And, President Reagan proved why once again recently when he delivered his masterful State of the Union address.

In a command performance, he proved wrong all those preachers of doom and gloom who would like to portray this presidency in disarray.

I happened to escort the President as he came before the joint session of Congress. Let me tell you: this is not the wounded stag that those partisan detractors hope for.

President Reagan demonstrated once again that he is a man who understands what the country needs. He will not perscribe the quick fix. He has the wisdom, the courage, the experience, the know-how, to do the job right.

His tradition is that of our party's founder, President Lincoln, who once said, "Let us have faith that right makes might, and in that faith, let us to the end dare to do our duty as we understand it."

Like Lincoln, our President told us truthfully that the nation faces difficult challenges. We are experiencing hard times. But we are coming out of the tailspin. We are on the road to recovery. We are getting America back to work.

The President focused rightfully on the economy. The deficit, he said, is like an anchor being tossed a drowning man and with it we would drown in a tide of red ink.

He recognizes the need to bring spending under control. Yet we find ourselves in a position of having to rebuild and strengthen our defense. We have little choice when during the 1970's defense spending nosedived while domestic spending increased in some categories as high as 97%.

Did you know that in 1962 about 50% of the budget went for national defense? Or that in 1982 that amount is only about 20%? Compare that to the Soviet Union which over the past decade has outspent us by $140 billion on strategic weaponry alone. Add that to the conventional superiority the Soviets are acknowledged to have.

Yet, this is a President committed to peace through strength. Strength and a clear resolve to protect American interests are the only credible deterrents to Soviet aggression.

In the face of this inevitable clash of priorities, this President recognizes we can't afford a near $200 billion deficit. He knows that we cannot be strong abroad unless we are strong at home. He knows that America cannot be strong and healthy until our economy is strong and healthy.

The President has offered to tough austerity program to bring that spending down and to get the job-generating ability of the economy going strong. Results are already clearly being shown.

One of the areas he is addressing has tremendous impact on California—high technology. Our state is #1 when it comes to this new vanguard of job development. He understands that in marketing and agricultural states like ours need to have legitimate access and the right of fair competition overseas.

The President appealed for bipartisan support, of the kind he gave leadership to in forging a compromise on Social Security. He has shown his willingness to work and to communicate together.

Now the time has come to work with and communicate something to The Great Communicator. We out to say enough to the gleeful pessimists.

We need to tell this President that he is not only a great human being for whom we have a deep personal affection, but that he is a superb President whose performance in office has inspired pride and confidence.

This is a President in the tradition of Lincoln. This is a President blessed with the vision, faith and stamina to do his duty as he so clearly understands.

That is why I offer this resolution to the California Party so that we will be united in purpose for 1984. We will under the banner of President Ronald Reagan and Vice President George Bush complete the task that they've begun and to lead us to peace and prosperity.●

SENATOR SIMPSON'S COMMENTARY

● Mr. DANFORTH. Mr. President, no Senator can make a point more clearly or more colorfully than the junior Senator from Wyoming. Not only are his points well made, they are worth making. ALAN SIMPSON is a person of principle and conviction. He has no reticence about honestly stating his views without regard to the trendiness of the moment.

Last Sunday a column written by Senator SIMPSON appeared in the Washington Post. It is a valuable piece because it provides at least a modicum of balance to the criticism incessantly directed at the EPA.

Senator SIMPSON's column deserves not only our reading but our reflection. It is an important commentary not just about the EPA but about the Congress, the media, and popular trends in public discourse.

I ask that Senator SIMPSON's column be reprinted in the RECORD.

The column follows:

[From the Washington Post, Feb. 20, 1983]

IN DEFENSE OF ANNE GORSUCH—EPA IS DOING THINGS BETTER

(By Senator Alan K. Simpson)

Lord, here we go again! With the scent of the kill filling the flared and twitching nostrils of "the observers" in Washington, and with good old "high emotion" vaporizing all desire to seek reason and balance, the "pack" is circling in on the Environmental Protection Agency and its administrator, Anne Gorsuch. It reminds me of that old

cartoon of the two buzzards in the tree, with one saying, "Patience, my ass. I'm going to kill something!"

I am not an apologist for Anne Gorsuch. She beautifully expresses her own thoughts in a very frank and candid manner—an interesting woman. Yes, I, too, have heard the same comments about her—that she is aloof, cold, tough as hell, arrogant, confrontational, sly—the full spectrum of adjectival abuse.

Have you ever seen a pack of coyotes? They are not the kind of warm and furry animals that you pat gently on the head and feed a dish of warm milk. They circle their prey—fired up and lathered by the chase—and then rip at the throat. They will polish off a lamb in pretty short order. Anne Gorsuch is not perceived as being a lamb—indeed not—and it may be that fact alone that has helped get the old juices flowing as the pack attempts to drag her agency to its knees.

What spurs this kind of attack? What fires and focuses all this energy? It may be that everything else is too dry or boring to bear. After all, legislating—often like administering—is just about the driest and sometimes dullest form of human endeavor. For it consists of research, reading, reviewing, meeting with fellow legislators, amending, searching, learning, growing, determining how to compromise an issue without compromising yourself, and in humility finding how to take a crumb when you can't get a loaf. It is not high drama.

But when all of that pent-up frustration born of boredom finds a chink in the boilerplate then hallelujah, the chase is on! At the first mention of the word "shredder" the old eyeballs bulge and fangs come out. With all the gleeful licking of the chops going on, and now even a new "in" title ("Sewergate"), it is sometimes difficult to inquire as to whether there is any reason or balance or fairness lurking in the organization being assaulted. Possibly we might consider taking a few moments for a presentation of "the other side."

The version of recent agency history that is currently fashionable is that the pre-Gorsuch EPA was a heady model of efficiency and fairness ("One of the most efficient and capable agencies of government," according to The New York Times). That is not the EPA I remember. I recall an EPA that was hopelessly behind schedule on the implementation of the major environmental laws, constantly mired in controversy and battles with the states and other branches of the federal government, and frequently accused of "anti-business bias" in the ideological interpretation of scientific evidence. It was an agency whose leadership was portrayed as being largely indifferent to the efficient management of the nation's resources.

Given our national fiscal situation, it was both necessary and inevitable that Anne Gorsuch would be asked to prune the EPA budget and subject agency activities to a more rigorous scrutiny than they had ever undergone before.

Perhaps some of the subsequent changes at EPA have been unwise. It is difficult to tell since there seems to be such a dearth of knowledgeable and disinterested analysis of what has really taken place. The hard-hitters in the Washington environmental community have been unremittingly hostile to Gorsuch since well before her confirmation and have always denounced in near hysterical tones virtually everything she has done. Most of Gorsuch's critics are simply so pinched and shriven with bias partisanship that they would flunk a saliva test.

The administrator of EPA has the task of trying to enforce some of the most convoluted and ambiguous statutes and regs ever enacted. Almost every significant regulatory action she takes is challenged in court—by someone. Not only is she subject to the constant cross fire from the environmentalists, the business community and Congress, but her actions are under a barrage of continuing judicial review. The fact that she is widely criticized does not succinctly mean that Anne Gorsuch is doing a miserable job.

An interesting example is the criticism that EPA is now getting—from the environmentalists, of all people—for taking seriously the statutory deadlines for attainment of clean air standards. We now hear the extraordinary argument that these attainment dates really don't have anything to do with actual air quality—that the deadlines Congress fussed, struggled and busted its fanny over a few years ago don't apply out there in the real world. I think Anne Gorsuch might be forgiven for having the impression that she just can't win regardless of what she does.

One of the delightful ways for a lawmaker to pick up a few headlines in the old hometown press is to subpoena Gorsuch before one of the many committees and subcommittees in this place, whose staff spend an inordinate amount of of hours sniffing out subject matter that can get "the boss" on the tube. Just run out a subpoena and have Anne Gorsuch haul up to the Hill, by pack mule train, about 750,000 documents having to do with, say, Superfund. It's a great and time-honored game. But is it always productive? I think not.

The theory here, when the fur begins to fly, is to get on the "right side." Which side is the right side? Quite naturally its the side that makes you a folk hero at home.

There is no question that the basic philosophy and style of this administrator is less pleasing and digestible to the environmental community than that of previous administrators. But I do labor under the longstanding illusion that a public official should be judged not on the basis of clamor or conflict but on the basis of certain results—in this case, environmental quality. The truth is that the health of the American people and the quality of their environment are getting better, not worse. The air and water may not be as clean as we wish, but they are eminently cleaner than they were, and show continuing improvement. Hazardous waste dumps are being cleaned up. No previous EPA administrator can boast of that fact.

It is not my purpose to defend all actions that Anne Gorsuch has taken as administrator of EPA. I've surely resisted some. I know I would have handled some matters quite differently had I been in her shoes—but who of us can object to fair and informed criticism of the record of any public official?

What I do not have much stomach for is the mindless antipathy, the raging harassment and assertions, the blatant lust for the "kill" that has been so evident recently.

Much has been made of the reduced budgets at EPA. This is seen by some thoughtful people as a lessening of the commitment to clean up our nation. Is it? What happened may be something that makes sense. Lawyers were fired and scientists were hired. Anne Gorsuch stated, "I don't need all that money for lawyers and litigants and bright stars and fancy writers and paper peddlers and white paper specialists. Just give me some 'grinders' who can sit down with the deputy, John Hernandez, and other scientists and crank out a list of the chemicals that cause difficulties for human beings. I want to know what they are, how they can be controlled, what we should be up to. Let's toss out the lawyers and hire the scientists and get some rationalization about scientific effect of chemicals." Makes sense.

I believe many of us have finally plugged our ears to the old siren song of Washington. The words and music went, "If we only had a good chunk more money and some more good people, we could do you a tremendous job." There aren't too many people left around here pumping out that guff any more or buying it. Many see clearly that we no longer need lengthy litigation, marvelous memorandums, ponderous tomes, distinction piled upon distinction, and paralysis by analysis. Start walking the walk instead of talking the talk.

But others still don't agree. Seems every time we take a crack at a responsible amending or reauthorization of the Clean Air Act we get letters from constituent groups who have been wired up in a miasma of misrepresentation: "Lay off the Clean Air Act, Simpson, or we'll tear your shorts off!"

Recent public opinion polls clearly show that the American people want clean air and clean water and are willing to pay for it. I go for that. This does not mean that the public's willingness to pay should be translated into a willingness of the federal government to spend itself goofy on environmental programs. We can have a clean environment and reduced budgets if appropriations are expended wisely. That is what Anne Gorsuch's administrative efforts are about—the wise and thoughtful use of limited resources.

All federal agencies and departments are finding the going tough in these times of tremendous deficits. Should EPA be exempt from all economic constraints while our right to sensible environmental protection is already being maintained under current funding levels? None of EPA's harshest critics has shown that EPA has not continued to follow the law just as set out by Congress, nor can the critics show that the environment has been degraded, because just the opposite is true.

"Superfund" is a case in point. Under the stewardship of Anne Gorsuch, EPA has taken significant and effective actions to establish priorities to clean up some of the worst dump sites in the nation. Some will argue that litigation is preferable to any out-of-court settlements. But let us not forget that each case litigated costs the taxpayers hundreds of thousands of dollars while always delaying the actual cleanup. Out-of-court settlements are not intrinsically evil.

So: what the hell *have* they been doing over there? Well, EPA has been active in reducing the backlog of state implementation plans (plans required of the states before environmental protection strategies can be approved by EPA). This backlog has been reduced by 98 percent under Anne Gorsuch.

Through management streamlining, the requested budget reduction of 50 percent in 1982 has not prevented the EPA from proposing 14 effluent guidelines and promulgating 12 of those—when before this administration came on the scene only one was birthed after an investment of more than $100 million. For the very first time, EPA is on track with court-ordered deadlines. Is this not responsible action? One would think so.

The backlog of overdue decisions on chemical testing has been reduced by 25 percent. Backlogged applications for pesti-

cide registrations have been reduced by 97 percent and use permit delays reduced by 83 percent. The backlog on grants and other resistance agreements has been reduced by 95 percent. The clogging of unresolved audits has dropped from 653 to 5 during the past 18 months. And if one examines the actual record, acid rain research levels have increased—contrary to the comments of the critics.

As chairman of the subcommittee on nuclear regulation, I observe EPA's Office of Radiation Programs. That office has accomplished much since Anne Gorsuch and John Hernandez took charge. It has really zeroed in on its mission of establishing environmental standards for a variety of activities in the nuclear field, many of which were hopelessly behind schedule and had, prior to Gorsuch's arrival, been but "pacing items" for the regulatory progrmas of other federal and state departments and agencies. This re-emphasis of ORP's mission might well be one of the most important achievements of EPA in the nuclear field.

EPA has also proposed standards for high-level waste repositories, an issue that the agency had been grappling with for an extraordinary period of time. These standards, once adopted, will be incorporated into the Department of Energy and the Nuclear Regulatory Commission high-level waste repository programs.

Final standards for inactive uranium mining and milling activities, which were recently promulgatd by EPA, will allow DOE to move forward in its cleanup program for these inactive sites. Standards in numerous other areas related to the nuclear field have shown great progress since Gorsuch took over the shop, including standards for active uranium mill tailings sites that EPA in the past had failed to promulgate, even in the face of a statutory congressional mandate.

Because enforcement and implementation of clean air programs are two of the EPA's most important responsibilities, virtually no funding reductions have been proposed in those areas. Research support for national hazardous air emission standards has increased by $1.3 million to ensure their timely completion. The enforcement effort continues at the same funding levels as fiscal 1983, and EPA is maintaining its focus on the most significant violators, which include those tampering with auto pollution equipment and the large industrial polluters. The 17 percent reduction in state grants in this area is based on EPA's belief that improvements in federal and state operations will enable states to operate effectively with a reduction in the federal share of the total resource support.

Acid rain research will increase by $1.5 million to a total of $14 million. Total government-wide funding for acid rain will be $27.6 million, an increase of $4.3 million over the past fiscal year. Quality assurance efforts will get a $1.3 million injection.

There was an increase of nearly $1 million for improving toxic risk assessments. Total health effects studies will be funded at an increased level of $51 million, an increase felt necessary to continue to protect the health of American people.

The most diligently ignored factor in EPA's budget is the increase in funding for Superfund by 48 percent—and increases in resources for site cleanup by nearly 55 percent. If numbers alone are the game, then know that in 1982 EPA obligated 81 percent of all the funds appropriated in this program—including obligation of 90 percent of all waste-site cleanup funds. In 1984, EPA will be expanding the number of sites where response actions will be conducted.

The EPA budget proposals for 1984 deserve sensible analysis and not ridicule. The proposals for both 1982 and 1983 have resulted in environmental progress. Programs that were dormant are now productive. Savings of nearly $200 million over the 1981 appropriations are to be achieved while the EPA continues environmental progress through a series of actions: addressing a growing number of the most dangerous hazardous waste sites; improving management of our basic regulatory process in the EPA such as in the toxic new source performance standards, effluent guidelines and pesticides programs, and basic and essential regulatory reform efforts that have enabled the agency to implement statutory responsibilities in a much more sensible and effective manner.

We hear much about the acid rain issue—and should. We hear that EPA may be "stalling," prolonging research efforts as a means of reducing any chances for successful acid rain legislation. Yet there are (believe it or not!) professional scientists at EPA—career people—who survive all of the changes in administration throughout the years. The criticism leveled at EPA is a whack in the chops to these dedicated scientists and their objective work, as well as to many of the politically appointed administrators. The real truth is that Congress *does* need more information on acid rain—regardless of the lack of House action or the recent action taken by the Senate. EPA has been responding to this need for more information and will certainly continue to do so. Congress does need some more information on things like: the buffering capacity of different soils; the effects of oxidant catalysis; the role of long-range transport; the efficacy of different control strategies; and the effects of windblown alkaline dust on acid rain formation. EPA is not stalling on the acid rain issue. Instead, Congress is severely reined in by a lack of finite knowledge about the cause-and-effect relationships of different industrial control strategies. Congress should take the rap on inaction and stalling on acid rain, not EPA.

Notice, too, that when persons have expressed to Anne Gorsuch that something might be awry, or that sly trickery is afoot, or that the sneak thieves are in full flight or that the shredder has shorted out-or when they say Rita Lavelle shouldn't be working here, or that she should, or that Hugh Kaufman shouldn't be here, or that he should—all of those mumblings, memos and meanderings get turned over to the Department of Justice. It seems like a good place to report charges of wrongdoing. If things are really out of whack, it will come out in the wash.

And finally—isn't it interesting how "the observers" seem to foster preconceived notions about this administration and the environment? I would hope we might dispel one notion—that the proection of the environment and the public health and safety is solely in the domain of those of the other political faith. Check out the record of the Republican Senate and a Democratic House and review the number of environmentally responsible bills that have been passed by those bodies and praised by the president as he signed them into law—endangered species, barrier islands and nuclear waste legislation to mention but three.

Perhaps it would be well for us all—congress-persons, "the observers" and the public we serve to consider again the words of Edmond Burke: "Those who would carry the great public schemes must be proof against the most fatiguing delays, the most mortifying disappointments, the most shocking insults and worst of all—the presumptious judgment of the ignorant beyond their design."●

PREVENTING HUNGER AT HOME

● Mr. SASSER. Mr. President, I am pleased to be a cosponsor of Senate Concurrent Resolution 6, "Preventing Hunger at Home." The resolution expresses Congress commitment to insure that federally funded nutrition programs are protected from budget cuts which would prevent them from responding effectively to the nutritional needs of children and adults in these times of economic hardship and high unemployment.

During recent Budget Committee hearings, I had the opportunity to ask Secretary of Agriculture Block about proposed cuts in the child nutrition programs and the special supplemental food program for women, infants, and children (WIC). His response was disturbing for the administration's budget proposals amount to reneging on the Federal Government's commitment to and responsibility for nutrition programs.

The administration is proposing, once again, to put the summer food program, child care food program, and the school breakfast program into a general nutrition block grant. If this proposal is enacted, there would be a 15 percent reduction in the funding for these programs and the child care food programs for family and group day-care homes would be eliminated. Under the block grant, States would be permitted to use their grant money to finance child nutrition and related activities, however, there is no assurance that the States would replace the money lost by these programs.

Mr. President, child nutrition programs are significant to the future of our Nation, and to reduce them to the proposed levels would be a calamity. Let me illustrate the effects of block granting the breakfast, child care, and summer feeding programs.

In Tennessee, a 15-percent reduction in funding would eliminate 11,131 schoolchildren from the school breakfast program. Nationally, the number of children forced out of the program could be as many as 500,000. Since the onset of this administration's budget-cutting tactics, 900,000 fewer children participate in this program.

The child care food program (CCFP) provides assistance to family and group day care operations in low-income areas so that they can provide nutritious meals and snacks to preschoolers without raising day care costs for their families. The proposed budget removes all funding for CCFP for family and group day care homes and consequently cuts out one-third to

one-half of the daily nutritional requirements for 165,000 low-income children. The outcome of this action can only be to raise fees charged to already financially strapped working parents or reduce the quality of care provided these children.

As for the summer feeding program, 500,000 low-income children who had been served in previous summers have already been eliminated from the program because of budget cuts and new operating restrictions. Further budget cuts will only mean that more children will be subjected to the health problems associated with inadequate diets.

The school lunch program currently serves 23,000,00 children in over 90,000 schools of which half are from low-income families. There are over 3,000,000 fewer children and 2,000 fewer schools—a 12-percent decrease—participating in the school lunch program than before the administration's initial budget cuts, and a third of these children had been receiving free and reduced price lunches.

The administration is proposing a couple of disturbing technical changes to the school lunch program in their 1984 budget. First, they are proposing to delay the inflation adjustment reimbursement rate until January 1984. This translates into schools losing money operating the program since they would be paying current prices for food supplies and would be reimbursed based on prices from 6 to 20 months in the past. Schools with a high number of low-income students are reimbursed more, therefore, their losses due to the delay would be greater. A second administration proposal would require certification from the food stamp office before children would be allowed to get free or reduced price lunches. Families who refuse to apply for food stamps because they view it as humiliating are often willing to get free or reduced price lunches because the rules of the program protect their children from being treated differently from paying children. These families will probably drop out of the program should this proposal be enacted. Moreover, certification by the food stamp office would require parents to appear at the food stamp office and thus would mean losing time from work, which they cannot afford, and, in most cases in my State, traveling to the county seat which is miles away from home, school, and work. Food stamp workers are already overburdened and this added change will not only jeopardize the efficiency of the school lunch program and the food stamp program, but also result in the loss of more children from the school lunch program.

Mr. President, as has been widely publicized, the special supplemental food program for women, infants, and children (WIC) clearly leads to a decrease in the number of premature births and low-birthweight babies, and for every $1 spent on the program there is a saving of at least $3 in future medical care expenses. This program is designed to provide supplemental nutritious food to pregnant, postpartum, and breastfeeding women, infants, and young children from low-income families who are determined by professionals to be at nutritional risk. The administration is proposing $1.06 billion for the program in 1984, the current level of funding. Yet food prices are expected to rise 5 percent in fiscal year 1984 and as a result about 5 percent of the WIC participants will be dropped from the program. This translates into approximately 115,000 low income, nutritionally at risk women, infants, and children being terminated from the rolls of one of the most successful and effective nutrition programs we have on the books.

Mr. President, we are presently experiencing a WIC caseload reduction of approximately 150,000 from the number served in fiscal 1982. The current reductions and proposed reductions are coming at a time when our Nation is reeling from an anemic economy and historically high unemployment. Infant mortality is on the rise in cities with severe unemployment; if anything, we should be increasing support for WIC. I am deeply concerned, too, for the thousands who are not being served by this program who have historical health problems and are eligible for WIC and for those who have inadequate diets and desperately need it.

I would like to complement the Senator from Minnesota (Mr. BOSCHWITZ) for introducing this resolution which reaffirms Federal commitment to reducing hunger and malnutrition and provides reassurance to those who need and depend upon these nutrition programs to help them through the current difficult economic circumstances. I would also like to thank Ms. Janet L. Wolf and the Tennessee Hunger Coalition for their time and cooperation in providing my staff with information on the status of the Federal food programs in Tennessee.

In conclusion, I feel it is imperative that we take a long, hard look at ways to enhance these programs and seriously consider the long-term consequences—social, psychological, and financial—of domestic policies which address only immediate costs and benefits. I urge my colleagues to support Senate Concurrent Resolution 6 and the principles it embodies.

Mr. President, I ask that the letter from the Porter-Leath Children's Center, which illustrates the effects of the 1984 budget proposals on child nutrition programs, be printed at this point in my remarks.

The letter follows:

PORTER-LEATH CHILDREN'S CENTER,
Memphis, Tenn., February 7, 1983.

Hon. JAMES SASSER,
405 Russell Senate Office Building,
Washington, D.C.

DEAR SENATOR SASSER: I am writing today about the administration's proposals for the Child Care Food Program (CCFP). I understand that the administration is proposing a block grant for food with a reduction of about 28 percent in funding. I further understand that they propose to eliminate from CCFP all funding for family day care.

Because our agency is the sponsoring organization for a network of day care homes, these proposed cuts are of serious concern to me. The 35 day care homes in our network serve about 110 children, all of them children from poverty families. We are totally dependent upon funding from CCFP for food for these children. This year we anticipate receiving about $55,000 from USDA for food service in this program. The other costs in the program come from Title XX and United Way, neither of which can make up any reductions for food service. In a nutshell, if we lost the money for food service, there is no way we could continue the program at all.

This would mean that the 110 children now in day care could no longer participate. Each of these children is in day care because a parent is working or in training for work. Remember these are low income families working at marginal jobs at best. They do not have resources to pay this cost of food for their children. These parents would undoubtedly have to drop out of training or quit work if their children were denied day care.

Senator Sasser, enough is enough. Our agency has cut services and cut services. We lost $70,000 in foster care and day care from Title XX in October, 1980. We cut back the number of children who were getting day care and foster care at that time. We lost $300,000 in health services in December, 1981. We dropped our program for pregnant adolescents, and further reduced our health services to children in North Memphis. Just last month we lost $50,000 in our emergency shelter program, reducing our capacity to serve abused and neglected children. Last year we took a cut in our food service, when the administration reduced the number of meals or snacks that are allowed to be served to children. Currently, we are permitted to serve only two meals and one snack each day. In all, we have lost more than $420,000 in actual reductions in this small agency. We cannot afford to take any more cuts at all. Reductions in food service will mean the end of our day care program.

This $420,000 cut in the last year and a half is more than a 30 percent reduction of our total budget and over 60 percent of our federal funds from Title XX, USDA, and Children & Youth Administration. It does not seem fair or right to me that we should be asked to take more cuts, especially when those cuts will simply put out of business entirely one of our programs.

Please help us to keep the program alive, and to keep the kids in the program eating properly. Don't let the administration take any more cuts out of programs such as this one. I count on you for your support.

Very truly yours,

JAMES R. BENNETT,
ACSW Executive Director.●

ACID RAIN

● Mr. LUGAR. Mr. President, my colleague the senior Senator from Illinois recently addressed the Illinois Mine Workers Legislative Conference on the problems of the high sulfur coal industry and the need to assure the future of midwestern coal. Senator PERCY finds that the impact of proposed acid rain legislation is as severe for Illinois as it is for Indiana and other midwestern coal-producing States. Senator PERCY points out that the acid rain legislation proposed last year by the Senate Committee on Environment and Public Works may have no impact on acid rain problems in the most sensitive areas while a liming program would provide immediate relief, relief which is needed until scientific knowledge advances far enough to suggest a reasonable solution to the acid rain problem. The Subcommittee on Energy, Nuclear Proliferation and Government Processes has also released two valuable studies of the impact of this proposed legislation.

I ask unanimous consent that the text of Senator PERCY's speech and the studies by the Department of Energy and the Congressional Research Service be printed in the RECORD for the benefit of my colleagues.

The material follows:

ADDRESS OF SENATOR CHARLES H. PERCY

Rich Trumka, John Banovic, Leroy Bauer, Joe Angleton, Jerry Hawkins, and my mine workers friends. I deeply appreciate your inviting me here today to address this Annual Legislative Conference of the United Mine Workers of America.

Since the topic of your conference is legislation, let me begin by just mentioning one piece of legislation which I feel will adversely affect not just mine workers, but all Americans who work and strive to save and invest for their financial futures.

Last summer, the Congress decided it would be a good thing to begin withholding Federal income taxes on both interest and dividend income. In the Senate, that particular provision passed on a close vote of 50 to 48. I am proud of the fact that I was one of the 48 Senators who opposed this provision. It runs counter to all of the things we have been trying to do in order to stimulate more personal savings.

I wanted to tell all of you who have taken the time to write your elected representatives in Washington about this matter that your message is being heard loud and clear. In the last four weeks, my office alone has received over 200,000 cards and letters on this issue—more mail than on any other single issue in the entire time I have been in the Senate. More mail on withholding than on Watergate, Vietnam, the Panama Canal, and even labor law reform. I have already introduced legislation to repeal this law. Keep those cards and letters coming in until it's taken off the books!

I certainly do not need to tell you about the troubles faced by Illinois miners. Thirty percent of our miners are out of work—5,000 miners out of a work force of 16,000. Domestic and international markets for our coal are sluggish, despite a good price and our best efforts to promote exports. Non-unionized Western coal continues to make inroads into the traditional markets for our coal. And acid rain legislation in Washington poses a significant threat to the Illinois coal industry.

I am not pleased with the present conditions for Illinois mine workers, and I know you aren't. Your challenge and mine is to see what we can do about it. There are some important and meaningful things that we can do. There are some things we should not do.

Illinois is the "Saudi Arabia" of coal. There are an estimated 162 billion tons of identifiable and recoverable coal reserves in Illinois—enough coal to provide centuries of power to American and foreign consumers. We must not permit Illinois coal to be lost as a national energy asset.

We are not going to let the Federal Government turn its back on important funding for fossil fuel research and development. I will vigorously fight the Office of Management and Budget's proposal to slash by 58 percent the funding for these crucial R&D projects. We need more of the kind of research being carried out at Argonne National Laboratory in Illinois—like the dry-scrubber that I dedicated one year ago—not less. I will also continue to fight with Congressman PAUL SIMON to turn the Carbondale Mining Technology Center into a national center for research into overcoming the problems of the high-sulfur coal industry.

We must not allow the current glut in the oil market to lull us into excessive dependence on a single energy source. The full utilization of high-sulfur coal as a liquid fuel—methanol—can and will be important to future generations.

In fact, while we in the United States have been slow to develop a real interest in the use of methanol, the Japanese have already expressed their eagerness to use methanol as a clean burning boiler fuel. As Chairman of the Foreign Relations Committee, I have been working on a project with the Japanese government which, over a 30-year period, could use as much as 186 million tons of number six Illinois coal.

In a nutshell, the project calls for the construction of a methanol plant in Panama that would be supplied with Illinois coal shipped through New Orleans. The methanol would be piped across Panama to supertankers for the trip across the Pacific to Japan. I am happy to report that progress to date on this project has been good—we already have $2.5 million in federal support for the project and we fully expect the private sector in the U.S. and the Japanese government to lend additional support.

I know that the issue of highest priority at your Legislative Conference this year is the acid rain legislation that has been introduced in the 98th Congress. Despite the lack of firm scientific evidence, this legislation calls for a ten-million ton annual reduction of sulfur dioxide emissions into the atmosphere. It places the entire burden of reducing emissions on the Midwest—on the utilities that burn high sulfur coal and, ultimately, on the miners who extract that coal. It callously disregards the human misery that will be felt from Illinois to West Virginia.

Up until now, the debate on this legislation has unfortunately been couched in the rhetoric of "environmentalists" versus "labor and industrial concerns." I do not see it that way. In my sixteen years in the U.S. Senate, I have worked closely with both industry and labor and I have enjoyed your support. And no one can question my record as an environmentalist or my support for providing a clean and healthful environment for all Americans. The real question at hand on this legislation is whether this can be achieved without sufficient evidence as to whether the benefits will outweigh the costs which would be borne by thousands of American workers and consumers.

Let's look at those costs. Six months ago, I asked the U.S. Department of Energy to prepare an impact statement on how this acid rain legislation would affect the high sulfur coal industry. I was so startled by their findings that I asked another agency, the Congressional Research Service of the U.S. Library of Congress, to conduct its own study. I am releasing both of these studies to you today. This is what they had to say:

Over 21,000 Illinois miners and allied workers will permanently lose their jobs if this legislation becomes law;

Most utilities now burning Illinois coal will switch to low-sulfur Western coal as the least costly way to comply with the stringent S-O-2 reductions called for in the legislation;

By 1995, Illinois coal production will drop by at least 40 percent, or 25.6 million tons, if this legislation becomes law;

The brunt of this decline in coal production will be felt in Randolph, Perry, Jackson, Williamson, Saline, and Gallatin Counties. Dr. Larry Parker of the Congressional Research Service calls the impact "very harsh." Unemployment in these counties, already at 18.2 percent last December, will be driven up to an unbelievable 29 percent. Personal income in those counties will drop by $200 million or 20 percent.

These casualties will be created despite the lack of evidence on the "benefits" side. despite the fact that we already have an acid rain strategy in place that requires up to a 90 percent reduction in S-O-2 emissions for new emissions sources. Despite the belief by some scientists that the 10-million-ton S-O-2 reduction called for by the legislation may not save a single fish or tree.

Let me tell you about my approach to this problem. It calls for evidence, hard facts on the benefits and the costs. I have cosponsored legislation with Senator Byrd of West Virginia that will accelerate the study of this problem, and get us clear answers to this problem no later than 1987. Our approach says let's not wait until 1995, as the acid rain legislation says, to bring relief to the sports fishing industry of the Northeast. Let us bring relief in 1984 through a federal program to fund the liming of acidified lakes, regardless of the cause.

Let's follow the lead of Sweden, which has successfully brought back to life up to 1,500 lakes where fish had previously been dying—at a cost of only five million dollars, no lost jobs, and no increased costs to utilities and consumers. Sweden plans to expand this program to 20,000 lakes by 1986.

The Byrd bill, which I fully support, provides for up to 75 percent federal support for state liming programs similar to those which have been so successful in Sweden. The most important aspect of this bill is that we are preserving jobs while we are searching for a viable solution to the acid rain problem—one which is based on hard facts and clear evidence.

We have learned from the U.S. Department of Energy and the Congressional Research Service that the acid rain legislation currently pending in Congress would cause an economic catastrophe in America's heartland. It will retard conversions to coal from overpriced Canadian natural gas and im-

ported oil. It will drive up the price of low sulfur coal, causing consumers to pay higher electricity bills and making low sulfur coal less competitive in world markets, which should be good news to the governments of South Africa and Poland.

Let's face it. It is an environmental problem when the elderly, the disabled, and the poor are forced to struggle to afford higher utility rates caused by this approach.

It is an environmental problem when a family is left with the breadwinner out of work without just cause.

It is a grave environmental problem when a whole region is economically destroyed because of the indifference of Washington.

I promise you this morning: as your senator, I will continue to fight on your side, every step of the way. The voice of Illinois coal—the strong voice of Illinois coal—will be heard in Washington.

Thank you.

DEPARTMENT OF ENERGY,
Washington, D.C., September 24, 1982.

Hon. CHARLES H. PERCY,
Chairman, Subcommittee on Energy, Nuclear Proliferation and Government Processes, Committee on Governmental Affairs, U.S. Senate, Washington, D.C.

DEAR SENATOR PERCY: I very much appreciate your concerns with the energy impacts of the "Acid Rain Proposal" approved by the Senate Committee on Environment and Public Works on July 22, 1982. The Department has also extensively reviewed the proposed legislation, especially the potential impacts to energy supply and demand, and has concluded that this legislation does not serve the best interests of the Nation.

Our analysis of the legislation pending before the Senate indicates that massive costs will be imposed on two key components of our Nation's energy infrastructure: the coal industry and electric utilities. Moreover, the costs incurred by these two sectors will eventually be borne by consumers and industries dependent upon coal and/or electricity for their energy needs. The Department is also concerned that the stress placed upon these sectors could lead to unnecessary increases in oil and gas use, harm our ability to participate in the growing coal export trade, impede the ability of the Midwestern and Appalachian coal industries to respond to long term energy needs, and seriously disrupt the economies and stability of major Eastern coal producing regions.

Portions of the proposed legislation addressing nitrogen oxide emissions would seriously impede the ability of electric utilities to convert existing oil or gas units to coal. Specifically, the bill would prohibit increases in nitrogen oxide emissions from January 1981 levels on a plant-by-plant basis. Since coal combustion inherently results in more nitrogen oxide emissions than does the combustion of natural gas or oil, savings estimated at between 350,000 and 400,000 barrels of oil per day from coal conversions will not take place. In addition, ten powerplants which have already converted to coal, representing a displacement of 60,000 barrels of oil per day, may have to be reconverted back to oil because these conversions resulted in nitrogen oxide emission increases beyond the January 1981 levels.

The Department is even more concerned with the provisions of the proposed bill that would mandate a reduction in annual sulfur dioxide emissions in 31 Eastern states by 8 million tons below 1980 levels. The Department's findings regarding these sulfur dioxide limitations are as follows:

There are only three methods available to achieve these levels of reduction: coal switching, flue gas desulfurization (scrubbers), or coal cleaning. On an annualized accounting basis, the costs of these three methods are comparable. The method of economic choice will depend upon site-specific characteristics of each powerplant.

Although the costs of each control method appear comparable, there will be a substantial bias towards coal switching. Almost all of the powerplants affected by the bill will already have been in service for at least twenty-five years. The capital investment needed to install flue gas scrubbers doesn't make economic sense if the powerplant has only a limited service life prior to retirement. The technologies for coal cleaning available today are limited in the degree to which sulfur compounds can be removed. Overall, the Department anticipates that between 50 and 75 percent of the sulfur dioxide reduction mandated by the bill would be achieved by switching from high to low sulfur coals.

Moreover, the sulfur emissions problem is largely a problem of older plants. Modern plants have installed extensive clean-up systems. Thus, the problem is self-correcting over time as the older plants move into retirement.

The direct dollar costs of the sulfur dioxide reduction mandated by the bill have been calculated by the Department to be at least $3.5 to $4.6 billion annually in 1982 dollars. Because of a number of simplified assumptions, these calculated costs should be considered as a lower bound or minimum estimate. Actual direct costs are likely to be in the range of $5 to $7 billion annually in 1982 dollars.

These annual costs eventually taper off as the affected powerplants are retired. Taking such retirements into consideration, the Department anticipates that the total direct costs incurred over the effective lifetime of this legislation will be between $110 and $150 billion in uninflated dollars. The annual and total costs estimates are relatively insensitive to the control technique used (because direct costs of each method are roughly comparable).

These direct costs translate into higher bills for residential, commercial and industrial consumers of electricity. For 1982, the Department estimates total annual electricity revenues in the 31 Eastern states at about $70 billion. Thus, the $5 to $7 billion anticipated cost increase represents a seven to ten percent increase over current average electricity payments. Averages, however, can be deceptive since some states will bear very little of these extra costs while others, especially those highly dependent upon coal for electricity generation, would see substantial rate increases. It appears that five states (Ohio, Indiana, Missouri, Pennsylvania and Illinois) would be required to achieve about 60 percent of the initial 8 million ton sulfur dioxide reduction, 16 states would be responsible for attaining about 35 percent of the reduction, and 10 states for about 5 percent. Those states required to achieve the greatest levels of emission reduction will also bear the greatest portion of the overall costs.

The proposed legislation will cause a major disruption to the Nation's coal mining industry by eliminating the market for an estimated 140 to 175 million tons per year of medium and high sulfur coals and placing almost an equivalent amount of demand on low sulfur coal supplies. While nationwide coal mine employment is unlikely to be significantly affected, between 36,000 and 45,000 miners employed in medium and high sulfur coal mines are likely to lose their current jobs. Unfortunately, low sulfur coals are generally not found in the same geographical areas as the medium and high sulfur coals mines that would be forced to shut down. For example, net coal production in Illinois is estimated to drop from its 1981 level of 51 million tons to 26 million tons by 1995. This represents a decline of about 70 million tons from 1995 coal production forecasts, and would result in a loss of employment opportunities for about 18,000 miners.

These production and employment decreases will lead to significant adverse regional impacts. Because the average miner's family consists of 3.6 persons, the proposed legislation will adversely affect between 130,000 and 160,000 citizens. On top of this, local businesses and the communities in which these miners and their families live are likely to experience substantial economic disruption and social dislocations. These adverse impacts will occur in an industry and in regions already experiencing significant unemployment. For example, the United Mine Workers reports 18.7 percent (or 32,400 miners) of its membership as currently unemployed. Illinois coal miner unemployment is currently running at about 16 percent or 2,700 miners. Almost all of this unemployment is associated with our medium and high sulfur coal fields.

The proposed legislation will also cause the demand for low sulfur coal to increase sharply. The greatest demand stresses resulting from this legislation are likely to be on our premium low sulfur Eastern coals. Our major concern is that a sharp increase in the demand for these coals will result in significant increases in prices. Higher prices for low sulfur coals will adversely affect more than the large number of electrical utility and industrial powerplants that would be forced to switch from high sulfur coals. Throughout the Eastern United States, current users of low sulfur coals would also see higher coal prices. In addition, coal conversion, especially by industrial boilers, will be significantly reduced resulting in continued high oil and natural gas use. Unfortunately, we are unable to provide reliable quantitative estimates of the anticipated rise in low sulfur coal prices, the impacts on industrial coal users and regional industrial development, and the potential increase of oil imports. This is because the shift in coal demand is so significant as to call into question the usefulness of our analytical prediction tools which model fuel-choice behavior under stable market and economic conditions.

The Department of Energy is also concerned with the potential impact of this legislation on coal exports. The coal export trade consists almost entirely of low sulfur coals. Higher prices for U.S. coals will alter the competitive position of U.S. producers, could reduce the incentive for foreign energy users to substitute coal for petroleum and natural gas, and may be interpreted by our allies as an example of U.S. Government interference in coal markets that is insensitive to their energy needs.

Our Nation's ability to support its energy requirements is strongly dependent upon the use we make of our vast coal reserves. Close to 50 percent of these reserves are found in the Midwest and Appalachian states; yet only 15 percent of these Eastern reserves are known to consist of low sulfur coals. Therefore, we must be able to rely

upon our Midwestern and Appalachian medium and high sulfur coal reserves. The Midwest and Appalachian states, traditionally strong coal producing regions, have the infrastructure and workers needed to respond to our Nation's short and long-term energy needs. However, the impacts of the proposed legislation literally portend the crippling of these essential medium and high sulfur coal industries.

In summary, the Department of Energy finds the acid rain proposal now pending before the Senate as a premature move toward legislation. The costs of this proposed acid rain legislation are massive. These costs alone would not deter our support if we had evidence that would indicate that commensurate benefits would be achieved. That evidence is simply not available. In essence, we are being asked to set aside billions of our Nation's wealth to obtain benefits that have yet to be demonstrated.

Sincerely,

J. HUNTER CHILES III,
Director, Policy, Planning, and Analysis.

IMPACT OF PROPOSED ACID RAIN LEGISLATION ON THE ILLINOIS COAL INDUSTRY

(Prepared for Senate Subcommittee on Energy, Nuclear Proliferation, and Government Processes, Senate Governmental Affairs Committee, by Larry B. Parker, Analyst in Energy Policy, Environment and Natural Resources Policy Division, Congressional Research Service, February 21, 1983)

[Graphs and charts mentioned in article not reproduced in the RECORD.]

INTRODUCTION

In an effort to begin mitigating the acid rain problem, several bills were introduced in the 97th Congress to reduce sulfur oxide (SO2) and nitrogen oxides (NOx) emissions from utility and industrial plants. In August 1982, the Senate Environment and Public Works Committee passed a proposed program to reduce SO2 emissions by 8 million tons over the next twelve years and to freeze NOx emission rates at their current level. The bill does not dictate the manner in which the reduction would be achieved, providing affected States with flexibility in meeting the mandated reduction.[1]

A primary focus of the discussion on this bill has been the cost of compliance in terms of higher utility bills. Utilities have generally argued that political constraints will force them to place flue gas desulfurization (FGD) units on their plants, inceasing electricity rates. The coal companies and United Mine Workers Union have argued that utilities will switch from burning high-sulfur coal to lower-sulfur coal because switching is cheaper then FGD units. Finally, analyses done for various government agencies and interest groups have suggested that a "least-cost" mixture of FGD units and fuel switching may occur which would minimize electricity rate increases.[2] This final scenario tends to favor fuel switching over FGD units because of cost, but includes some FGD because of various technical, contractual, and site-specific constraints to fuel switching.

A "cost" issue which has not been addressed adequately is the impacts of such a bill on the coal industry in major coal-producing States.[3] If a State attempts to minimize the electricity rate increases from acid rain legislation, it will tend to maximize the impact on high-sulfur coal-producing States by favoring fuel switching over FGD units. If a State attempts to protect its local high-sulfur coal industry by insisting on FGD units, it will maximize the electricity rate impact of the legislation. However, these two issues have generally been discussed separately, preventing the tradeoff identified above from being discussed fully.[4]

This paper examines tradeoffs between electricity rates and the high-sulfur coal industry by analyzing the effects of a "least-cost" reduction scenario for the coal producing areas of Illinois. The discussion is divided into four parts: (1) background on coal producing areas in Illinois; (2) analysis of the effect acid rain legislation would have on those areas, focusing on particular counties; (3) discussion of potential mitigating factors to the impacts identified; and, (4) a conclusion.

BACKGROUND

Illinois has the third largest coal reserves in the nation behind North Dakota and Montana. As shown in Figure 1, most of the State has some reserves with particular concentrations in the southern half of the State. As shown in Figure 2, most of the State's 50 to 60 mines are located in the southern region. The smaller mines tend to be surface mines with the larger operations being deep mines. The State's coal production is divided between the two modes with deep-mining having a slightly larger percentage of the production.

Illinois coal is burned primarily in two regions, as shown in Table 1. The first is the midwest, the traditional area for consumption of Illinois coal. The primary consumers in this region include Illinois, Indiana, Iowa, Missouri, and Wisconsin. Generally, the coal is transported by rail or barge with some intra-state shipments by truck. Shipment by barge generally involves some shipment by rail or truck to the river at the production end or from the river at the receiving end. In 1977, the largest railroad haulers of Illinois coal were: (1) Missouri Pacific (11.8 million tons); (2) Illinois Central Gulf (10.9 million tons); (3) Burlington Northern (6.2 million tons); (4) Chicago and Northwestern (3.1 million tons); and, (5) Conrail (2.8 million tons).[5] The second region is the southeast, particularly Florida, Georgia, and Mississippi. This region represents a growing market for Illinois coal. Generally coal shipped to the southeast entails a combined barge and railroad transportation mode.

Table 1.—Shipments of Illinois coal to large (over 25MW) powerplants in 1979

State:	*Tonnage*
Florida	1,420,000
Georgia	2,962,900
Illinois	18,341,700
Indiana	9,317,900
Iowa	1,666,000
Kentucky	539,800
Michigan	766,300
Minnesota	515,700
Mississippi	260,500
Missouri	12,039,500
Tennessee	483,000
Wisconsin	3,279,400

Source: National Coal Association. Data include shipments to powerplants which total over 100,000 tons.

The coal being mined is bituminous with a fairly high energy content—11,000 to 13,000 Btus per ton. However, it is considered high-sulfur coal having an average sulfur content above two percent. Ash content averages about 10 percent.[6]

It is the sulfur content of Illinois coal which makes it less desirable than some other coals, particularly western coals.[7] The imposition of air quality standards in the early 1970's placed a premium on low-sulfur (under 1 percent) coal. This bias toward lower-sulfur coal has changed the pattern of coal consumption in Illinois. In 1966, before passage of the Clean Air Act, Illinois utilities burned Illinois coal almost exclusively. However, as shown in Figures 3 and 4, by 1975 low-sulfur western coal accounted for about 30 percent of the market. This trend has continued. By 1981, Illinois coal accounted for only 47 percent of the coal burned by State utilities.[8]

Partly because of declining production in high-sulfur coal areas during the early and mid-1970's, (Figure 5) the Congress changed the sulfur dioxide requirements in 1977 to mandate a percentage reduction in SO2 emissions regardless of the sulfur content of the coal. This sliding scale replaced the New Source Performance Standard (1.2 lbs. per million Btus) for coal-fired power plants established in response to the 1970 Clean Air Act. This change has eliminated the clear cost advantage low-sulfur coal had previously with respect to future power plants. However, the trend of the early and mid-70's of converting existing power plants to low-sulfur coal to meet emissions standards continues, although at a significantly slower pace as the compliance process is virtually complete. (See Table 2)[9]

TABLE 2. FUEL CHANGES IN COAL-FIRED POWER GENERATION CAPACITY IN ILLINOIS

[Megawatts]

Total coal-fired power generation capacity in 1972		16,424
Converted to low-sulfur Western coal by 1977	6,852	
Converted to low-sulfur Eastern coal by 1977	351	
Scheduled to convert to low-sulfur coal	1,673	
Maintaining high-sulfur coal combustion	5,798	
Conversions to oil		430
Retirements by 1977		1,320
Additions since 1972		3,800
Low-sulfur Western coal	893	
Low-sulfur Eastern coal	450	
Scrubbers	1,187	
Variances	1,270	
Total coal-fired power generation capacity in 1977		18,474

Source: Form 67, Federal Energy Regulatory Commission, 1977. Table from Boyce, et al. op. cit.

The proposed acid rain legislation requires sulfur dioxide reductions from existing plants. If the experience of the early to mid-1970's is a guide to future utility action, much of this reduction would probably come from fuel switching, unless political factors constrain that option. Such a scenario would minimize the electricity rate increases, but maximize the impact on high-sulfur coal areas.

IMPACT OF "LEAST COST" SCENARIO ON ILLINOIS

As noted earlier, the primary parties directly affected by the proposed acid rain reduction program have generally taken opposite and extreme positions regarding implementation strategies. The utilities have suggested that they will use FGD units, driving up the initial cost of compliance to consumers. The coal companies have suggested that the utilities will fuel switch, lessening the cost to their consumers but maximizing the cost to the high-sulfur coal industry.

For this analysis, a least cost scenario is used because neither of the extreme alternatives discussed above is likely to occur. Assuming economic forces are allowed to work unhindered (as in a least cost scenario), the

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Footnotes at end of article.

result would be a mixture of FGD units and fuel switching.[10] A least cost scenario would tend to favor fuel switching because of its cost advantage. However, as shown in Table 3, the cost differential between most alternatives is insufficient to conclude that one alternative will be consistently chosen over others. The inclusion of other market conditions, such as boiler compatibility, contractual arrangements, transportation costs, and low-sulfur coal demand, will dictate FGD units in some circumstances. It is the inclusion of these other considerations which makes an all fuel switching scenario impossible.

As suggested by utilities, political forces may be used to alter the least cost solution. However, such a result would come as a response to perceived inequities in the least cost solution. Hence, to determine whether sufficiently serious inequities will occur to warrant political action, one must first examine the market solution. From that analysis, one can determine what, if any, kind of mitigating action is necessary. As suggested later, there are several alternatives and degrees of alternatives available to policymakers, depending on the perceived seriousness of the problem. To assume a worst-case scenario as fact is to prejudge the result of the political process, and ignore other possible, and less costly, solutions.

Table 3. Representative Annualized Costs of SO_2 Reduction Alternatives [1]

	$/ton SO_2 removed (mid-1982 dollars)
Control strategy:	
Shift from high- to low-sulfur coal [2]	250–300
Shift from high- to medium-sulfur coal [2]	350–400
Shift from medium- to low-sulfur coal [2]	400–450
Shift from high- to low-sulfur residual oil	450–600
Shift from unscrubbed to scrubbed high-sulfur coal [3]	400–500
Shift from unscrubbed to scrubbed medium-sulfur coal [3]	600–1,100
Shift from unscrubbed to scrubbed low-sulfur coal [3]	1,500–2,000

[1] Cost will vary considerably depending on region and plant size. Costs per ton presented in this table are intended to be representative of average control costs only.

Costs include costs of upgrading particulate removal equipment.

Based on retrofit scrubbing costs for a 500-megawatt powerplant.

Source: ICF, Inc.

Methodology

The specific least-cost scenario chosen for this analysis is an 8.1 million ton reduction as modeled by ICF Incorporated.[11] The 8.1 million ton scenario was chosen for analysis due to its similarity to the proposed bill. However, it should be noted that the specific reduction requirement does not have a significant influence on Midwest coal production shifts. Because fuel switching is usually the easiest and cheapest method to achieve a quick reduction in SO2 emissions, fuel switching is generally employed first. As the reduction requirement rises, more reliance is placed on FGD. Table 4 lists the production impact of various reduction targets assuming a least-cost implementation strategy. As shown, the effect of SO2 reductions on the Midwest does not change significantly until 13.1 million tons.

To determine the reduction for Illinois, the Midwest production number (which includes Illinois, Indiana, and western Kentucky) was broken out according to the individual state's 1980 production (the base year of the projections). For Illinois, this resulted in an 25.6 million ton reduction in coal production.[12]

Impact—A six county example

A reduction of 25.6 million tons could have a dramatic effect on parts of Illinois. Twenty-five million tons of coal is about 40 percent of Illinois' 1980 production. If one restricts coal production to that consumed by electric utilities, the percentage is closer to 50. Unless Illinois could at least partially mitigate this production loss by acquiring new markets for Illinois coal by 1995 (when the reduction would be in full effect) or by some other means, significant economic disruption could occur.

TABLE 4. PRODUCTION IMPACTS OF VARIOUS ACID RAIN SCENARIOS

Region	Reduction scenarios (millions of tons)			
	13.1	12.0	[1] 10.0	8.1
Northern Appalachia	[2] (42)	(43)	(33)	(33)
Central Appalachia	55	50	47	47
Southern Appalachia	(4)	(4)	2	(3)
Midwest	(63)	(51)	(58)	(55)
West	55	46	40	40

[1] Numbers calculated from different base than other scenarios. Scenarios also assumes interstate trading of sulfur dioxide reductions.

[2] ( ) represents a decline in production.

Source: ICF, Inc.

To examine more closely the effect of such a production decline on Illinois, the analysis will focus on six counties in southern Illinois which produce over 50 percent of Illinois' steam coal. These counties are: Randolph, Perry, Jackson, Williamson, Saline and Gallatin. As shown in the Figure 6, they form a belt across southern Illinois and are dependent on the coal industry to a significant degree. These and surrounding counties will received the brunt of any steam coal reduction because of an acid rain program.

Description

During the 1950's, southern Illinois was a declining area, both in terms of coal production and population. From 1950 to 1960, the area's population declined 20 to 30 percent in contrast with significant gains in the northern part of the State. During the 1970's coal production stabilized in Illinois at a higher level than during the 1950's (see Figure 5) and the population trend reversed (see Table 5).

During the early 1980's, southern Illinois is an economically depressed area. Table 6 shows the high unemployment rate in southern Illinois. As indicated, the current recession has taken its toll with the area's unemployment considerably over the national average in some southern counties.

TABLE 5.—POPULATION TRENDS IN SOUTHERN ILLINOIS—1970–81

County	1981 population	Percent change from 1970
Franklin	44,300	15.6
Gallatin	7,600	2.5
Hamilton	9,300	7.3
Jackson	63,000	14.5
Jefferson	37,500	17.7
Perry	22,100	11.9
Randolph	36,500	16.3
Saline	28,900	12.4
Wabash	13,900	8.2
Williamson	58,000	18.3
Illinois	11,493,000	3.4

Source: Sales & Marketing Management magazine, 1982. 1982 Survey of Buying Power Data Service.

TABLE 6.—EMPLOYMENT AND UNEMPLOYMENT FOR SOUTHERN ILLINOIS, AUGUST 1982 (PRELIMINARY)

County	Labor force	Employment	Unemployment	
			Number	Rate
Franklin	16,959	14,483	2,476	14.6
Gallatin	2,662	2,088	574	21.6
Hamilton	4,749	4,202	547	11.5
Jackson	28,575	25,451	3,124	10.9
Jefferson	19,089	16,371	2,718	14.2
Perry	10,009	8,651	1,358	13.6
Randolph	16,955	15,256	1,699	10.0
Saline	11,302	9,173	2,129	18.8
Wabash	7,301	6,465	836	11.5
Williamson	22,694	18,955	3,739	16.5

Source: Illinois Bureau of Employment Security.

Besides high unemployment, the effective buying income (EBI) of southern counties is generally less than the State average. As shown in Table 7, the disparity between southern Illinois and the State average is wide: southern Illinois' EBI is from 20 to 40 percent lower than the State average across the three measures listed. The coal industry plays an important part in preventing this disparity from widening. As shown in Table 8, employment in the six county area falls into six categories: mining, manufacturing, transportation and public utilities, retail sales, services, and government (mostly State and local employees such as school teachers). These sources also account for the major share of personal income in the six counties. However, as shown in Table 9, the mining industry accounts for more wealth in the community relative to other sources than the employment figure would suggest. While the industry is fifth in wage and salary employment, it is second in total income. This is due primarily to the higher wages the coal industry pays its wokers relative to most other employment sectors in the six county area.

Impact of acid rain legislation on six county area

As stated earlier, a least-cost implementation strategy for an 8.1 million ton reduction in SO2 emissions would translate into a 25.6 million ton reduction in Illinois coal production. The six county area being focused on here produces 55 percent of Illinois coal destined for electric utilities. In 1980, this production was 29.2 million tons. Assuming a proportional reduction between the six county area and other coal-producing counties, the study area's reduction would be 14.1 million tons or 48 percent.

In 1980, about 6,000 of Illinois' 16,000 coal industry employees worked in the six county area.[13] If the projected 48 percent reduction is spread evenly across the counties' coal industry, 2,880 jobs in the coal industry would be lost.[14] This would be out of a total loss of 6,560 jobs statewide. A similar reduction in the personal income statistic would result in a loss addition of the 9,360 job loss calculated here, the unemployment rate would rise to 21.4 percent, assuming a constant labor force and no re-employment. Loss of personal income to the area would be on the order of $200 million or between 15 and 20 percent of the area's income.[15]

Unless the coal industry could be revived through new markets or the manufacturing sector be expanded rapidly, the area's recovery from such an event would probably be slow. The area lacks the diversity of economic activities to absorb the significant reduction of the mining industry in a quick or

timely manner. Hence, pressure to provide some social assistance would probably arise. However, this call for support would come at a time when the area's own tax base would be reduced due to lessened economic activity and employment. The State or Federal Government would probably be requested to provide assistance to the area. How much assistance the State or Federal Government could afford to provide is unknown.

TABLE 7.—EFFECTIVE BUYING INCOME OF SOUTHERN COUNTIES

[1981 dollars]

County	Median household EBI	Average household EBI	Per capita EBI
Franklin	$13,399	$16,500	$6,518
Gallatin	13,281	15,299	5,838
Hamilton	11,381	15,110	6,174
Jackson	15,848	21,433	8,029
Jefferson	15,970	19,415	5,559
Perry	16,579	18,672	7,013
Randolph	15,432	17,057	5,701
Saline	11,015	14,149	5,630
Wabash	17,724	20,464	7,656
Williamson	14,220	16,734	6,549
State average	24,424	27,225	9,808

Source: Sales and Marketing Management magazine, 1982. 1982 Survey of Buying Power Data Service.

Table 8. 1980 employment in six counties in selected categories (full and part-time)

Wage and salary employment catagory:	*1980 employment*
Mining	5,548
Construction	2,961
Manufacturing	10,593
Transportation and public utilities	4,169
Wholesale trade	2,164
Retail trade	11,746
Service	10,518
Government	20,812
Total	59,802

Source: Bureau of Economic Analysis, Department of Commerce.

Table 9. Personal income by major sources—1980

Employment source:	*Labor and proprietors income*
Mining	$188,353,000
Construction	67,727,000
Manufacturing	170,084,000
Transportation and public utilities	89,661,000
Wholesale trade	37,317,000
Retail trade	116,345,000
Services	126,590,000
Government	276,750,000
Total	1,148,427,000

Source: Bureau of Economic Analysis, Department of Commerce.

This result suggests that a "least cost" strategy for electricity consumers would not be a "least-cost" situation for southern Illinois, unless new markets could be created for Illinois coal. That possibility and other potential mitigating factors are discussed below.

POTENTIAL MITIGATING FACTORS

There are several factors which might mitigate the impact of an acid rain program. These include: (1) developing new markets for Illinois coal, (2) requiring use of FGD where practical, (3) reducing the SO2 reduction requirement, and (4) retraining or relocating coal workers. These options are discussed below.

Developing new markets for Illinois coal

Under the proposed reduction program, Illinois would have 12 years to develop new markets for its coal to replace those lost due to fuel switching. To examine market conditions in 1995 is difficult. However, current assessments suggest such markets would probably be in one of three areas: (1) new power plants, (2) synthetic oil or natural gas processes, and, (3) overseas sales. However, as indicated in Table 11, there is little agreement on these areas' ability to significantly mitigate the production lost from a least-cost reduction strategy.

Because all new powerplants constructed after 1977 are required to effect a percentage reduction in SO2 emissions, Illinois coal is in a competitive situation with low-sulfur coals for use in those new boilers. However, as shown in Table 11, there is little agreement on the potential future demand for electricity. Currently, due primarily to the recession, electricity use for 1982 is expected to be less than for 1981.[16] Even with economic recovery, it is not clear that many planned power plants will be needed in the near future.[17] Given the uncertainty regarding future demand and the high cost of overbuilding, utilities are exploring alternatives to increasing capacity to meet their customers' need for electricity.[18] To the extent these efforts are successful, the need for some future coal-fired power plants will be at least delayed. If the delay extends beyond 1995, the affected power plants will not present as timely an influence on coal production as could be hoped.

TABLE 11.—PROJECTED 1990 ILLINOIS COAL PRODUCTION

Projection	Millions of tons		U.S. electricity growth rate assumption		1990 nuclear capacity (GW)
	Base year production	1990 production	Year	Percent	
Environmental Protection Agency	[1] 62.5	55.8	1980–85	1.7	107
			1986–90	2.5	
National Wildlife Federation	[2] 60.0	74.0	1980–90	3.4	117

[1] 1980.
[2] 1979.
Source: ICF Inc.

A second possible market for Illinois coal is as feedstock for future synthetic fuel plants. With the passage of the Energy Security Act, there was great hope that a new synthetic fuels industry would take root in the U.S. and that commercial quantities of synthetic fuels would be produced by 1995.[19] However, with the decline in world oil prices and the Reagan Administration's attitude toward both coal research and development and the Synthetic Fuels Corporation, it seems unlikely that the ambitious goals of the Energy Security Act will be realized or that synthetic fuels will represent a significant market for Illinois coal in the near to mid-term.

A final possible market for Illinois coal is overseas. Currently, Illinois exports very little coal to other countries. The major difficulty in increasing exports is the sulfur content of the coal: the same problem facing Illinois coal under an acid rain reduction program. The Europeans have been reluctant to install FGD units to meet air quantity standards, placing Illinois coal at a disadvantage there.[20] Indeed, some governments have imposed upper limits on the sulfur content of imported coal. Finally, significantly increased coal exports would require a commitment toward increased port capacity, a commitment the current Administration has yet to make.

Requiring use of FGD where practical

In 1977, the Congress required a percentage reduction in new power plant emissions, regardless of the coal being burned. This requirement has helped to reduce the cost advantage low-sulfur coal had over high-sulfur coal under the previous performance standard. To protect the high-sulfur coal industry again, Congress could mandate continued use of local coals and require use of FGD where practical in meeting an acid rain reduction goal. For example, the program could require FGD units on all baseload power plants over 100MW which began operation after 1960 (except under extreme circumstances). Such a requirement would reduce the production impact on Illinois from 25.6 million tons to between 5 to 6 million tons.[21] Such a reduction would represent about 10 percent of Illinois' coal production and would be more manageable than the 40 percent reduction under the "least cost" scenario.

A scrubbing alternative would also create jobs in Illinois' emerging air pollution control industry. Illinois is estimated to be in the top ten States in terms of air pollution control industry employment.[22] An FGD scenario would increase demand for FGD designers and constructors along with operations and maintainance jobs to operate the installed equipment.

An FGD requirement would increase the cost of compliance to electricity consumers, particularly in the first few years of the program. However, as was shown in Table 3, scrubbing of high-sulfur coal (such as Illinois' coal) would not be prohibitively more expensive. However, the cost would increase significantly if utilities had to scrub lower sulfur coals.

If such a requirement could not be enacted on a national level, the State of Illinois could require such action intra-state. Using the same FGD scenario suggested earlier, Illinois would have about five plants in FGD conversion category.[23] These plants consume about 11 million tons of primarily Illinois coal per year. To the extent the utilities would have fuel switched these plants in lieu of the proposed FGD requirement, this production would be "saved". However, as with a national restriction, such a local requirement would entail higher costs to electricity consumers.

Reducing the SO2 reduction requirement

The impact of a reduction program on Illinois coal production could be reduced by reducing the SO2 reduction requirement. Such a move would have precedent as the committee bill has already cut the proposed 10 million ton reduction to eight million tons. However, for reasons discussed earlier, the level does not decline in proportion to the SO2 requirement. As shown in Table 12, assuming a 'least cost' scenario, the portion of coal production reduction would be less than the 25.6 million tons estimated for the 8.1 million ton scenario, but not dramatically. This situation would make justifying a reduced SO2 requirement more difficult.

Retraining or relocating coal workers

The final alternative discussed here is to "manage" the economic distruption by retraining or relocating coal workers. The extent of retraining needed would vary significantly from worker to worker. For example, operators of heavy equipment at strip mines would presumably need little retraining to work similar jobs in construction, whereas underground coal miners may need considerable training to obtain a job. Also,

retraining does not mean that a job would be available. In the case of the six county area, the loss of a substantial part of their basic industry, coal mining, might deprive the area of the vitality necessary to attract new industry to the area. Finally, retraining would be expensive to either the State or Federal Government. Given current financial difficulties on both the State and Federal levels, it is not clear from where such assistance would come.

Relocation of workers would be an option if an appropriate job could be located. However, jobs created by an acid rain bill would probably be located in West Virginia, Kentucky or the West—the low-sulfur coal production areas. In the eastern States of West Virginia and Kentucky, each State would have its own displaced high-sulfur coal workers to care for. Also, displaced coal workers in other affected States such as Pennsylvania and Ohio are geographically closer to the eastern low sulfur coal areas than Illinois and would therefore have an advantage in obtaining jobs there.

TABLE 12.—COAL PRODUCTION IMPACTS OF VARIOUS REDUCTION SCENARIOS

[In millions of tons]

Region	Reduction scenario	
	5.1	2.7
Midwest	[1](24)	(18)
Illinois	(17)	(14)

[1] ( ) equals reduction in production.
Source: ICF, Inc.

Relocation to western coal areas would have two problems. First, the distance and change in lifestyle would discourage some Illinois coal workers from seeking jobs there. Second, because of the geology and strip mining technique used in the West, worker productivity is five to six times that of Illinois workers.[24] Hence, fewer jobs will be created and virtually none for underground miners. Also, because of the high-paying nature of the mining jobs created, competition from local residents could be expected.

CONCLUSION

Assuming economic forces were allowed to work unhindered, enactment of an 8 million ton SO2 reduction program could have a dramatic effect on the Illinois coal industry. Employing a least-cost scenario for electricity consumers would entail a 25.6 million ton loss in production, approximately 40 percent of Illinois' 1980 production. For the southern Illinois counties examined here, such a loss would almost double that area's 1980 unemployment rate from 11 to 21 percent and involve loss of about $200 million in personal income (about 17 percent of the counties' total).

Of the mitigating factors investigated, only two provide any potentially significant relief for Illinois' industry: (1) finding new markets for Illinois coal, and (2) requiring FGD units on power plants where practical. Current uncertainty about future electricity demand, synthetic fuels, and export potential makes evaluation of the first alternative difficult. However, current circumstances suggest that new markets sufficient to overcome the deficit caused by the proposed program will not be forthcoming, at least through 1995.

Requiring FGD units on power plants where practical would be effective in reducing the production loss in Illinois from 25.6 to between 5 and 6 million tons, and creating jobs in the air pollution control industry. However, such a provision would require a consensus that the high-sulfur coal industry is sufficiently important for consuming States to pay higher electricity bills to maintain it. Such a debate could be similar to that over the 1977 amendments to the Clean Air Act regarding percentage reduction.

In sum, a "least cost" scenario would not be least cost to the coal industry in Illinois. Indeed, for coal-producing counties in southern Illinois, the cost could be very high. The Congress may wish to consider this tradeoff between electricity rates and coal employment in determining any implementation plan for reducing SO2 and NOx emissions.

FOOTNOTES

[1] See: Title I, Section 120 of S. 3041. Clean Air Act Amendments of 1982. Approved by the Senate Environment and Public Works Committee, August 1982. S. Rept. 97-666, 97th Cong., 2d sess.

[2] See: Parker, Larry B. "Summary and Analysis of Technical Hearings on Costs of Acid Rain Bills". Prepared for the Senate Committee on Environment and Public Works, July 26, 1982. CRS unnumbered report.

[3] The major studies on the effect of acid rain bills on the coal industry have been done by Peabody Coal Company and the United Mine Workers Union. These studies project massive unemployment in most eastern coal producing States. However, there are two major problems with the studies which limit their usefulness. First, the studies are based on a 10 million ton requirement which is achieved entirely by fuel switching. Besides being a technical impossibility due to factors such as boiler design, the "least cost" studies show that in some cases, due to contractual or site specific circumstances, fuel switching is not an economical alternative to FGD. Hence, the unemployment projections are overstated. Second, the studies do not attempt to address the issue of job creation in low sulfur coal areas as a possible mitigating factor.

[4] Indeed, there have been attempts by some opponents of acid rain legislation to combine both the high unemployment figures of the coal companies' projections and the high electricity rate increases of the utility companies' projections into one "disaster" scenario. As indicated above, such an extreme scenario would not happen. If the utilities use FGD on a plant, they would not also fuel switch that plant to low-sulfur coal. If the utilities switch to low-sulfur coal, they would not also install FGD.

[5] Boyce, David E., et al. "Implications of Expanding Coal Production for Illinois' Transportation Systems." University fo Illinois at Urbana-Champaign: Department of Civil Engineering, March 1981.

[6] "1981 Keystone Coal Industry Manual." New York: Mining Informational Services, Keystone Coal Industry Manual, 1981.

[7] As noted by Thompson, because of the organic sulfur content of Illinois coal, Illinois coal must be scrubbed after burning to meet current emissions standards, both in the U.S. and abroad. See footnote 20.

[9] Boyce, David E., et al. "Implication of Expanding Coal Production for Illinois' Transportation Systems." University of Illinois at Urbana-Champaign: Department of Civil Engineering, March 1981.

[10] See Parker, Larry B. op. cit. for a discussion of the different "least cost" analyses done on the acid rain issue.

[11] ICF, Inc. Summary of Acid Rain Analyses Undertaken by ICF for the Edison Electric Institute, National Wildlife Federation and Environmental Protection Agency. "Prepared by ICF Inc." for the Edison Electric Institute, May 1982.

[12] 1980 was chosen as the base year for projecting coal production because it is the most recent year of "normal" Illinois production for which data are available. (1981 was a strike year.) The reduction presented is in the range presented by other studies using a least cost methodology but assuming a higher reduction requirement. For example, ICF's analysis for the Environmental Protection Agency put the Illinois production loss at 24 million tons while the ICF analysis for the National Wildlife Federation put the loss at 27 million tons at the beginning of an acid rain reduction program. Since SO_2 reduction scenarios between eight and twelve million tons have little effect on midwest production losses, the figure of 25.6 million tons seems a reasonable estimate of the production impact on Illinois of an eight million ton reduction.

[13] Based on data from the Illinois Department of Mines and Minerals on people working in Illinois mines as reported by mine operators. This number includes all people working and therefore is greater than the wage and salary employment presented in table 8.

[14] This methodology was chosen over a "miner productivity" factor because the difference between the Illinois coal industry as a whole and the coal industry in the six county area. While the State's coal production is 56 percent deep-mined, the six county's coal production is about 75 percent strip-mined. Hence, any employment number based on "average productivity" would be artificially high. The actual number of jobs lost could be higher or lower than projected here depending on specific circumstances and on whether surface or deep mines would be disproportionately affected by the production decline. Such a determination would require a site specific study which is beyond the scope of this study.

[15] Assuming indirect job salary of about $15,000 a year in 1980. This compares with a direct job salary of over $20,000 a year.

[16] See Edison Electric Institute. Electric Output. Washington, D.C.: Edison Electric Institute, published weekly.

[17] See Kaufman, Alvin, and Nelson, Karen K. "Do We Really Need All Those Electric Plants?" Congressional Research Service Report 82-147S, August 1982.

[18] See Parker, Larry B. "Energy Demand Forecasting and its Appropriate Role in Planning and Policy." Report for the House Committee on Science and Technology, September 1981. Committee print.

[19] Energy Security Act of 1980. Public Law 96-294.

[20] See Thompson, Duane. "Factors Affecting the Export of High-Sulfur Coal From the Eastern Interior Basin." Report for the Senate Committee on Governmental Affairs, June 1981. Committee print.

[21] Estimated from data provided by National Coal Association. Steam Electric Plant Factors. Washington, D.C.: National Coal Association, 1982.

[22] H & W Management Science Consultants. "Employment in the Air Pollution Control Industry." Prepared for the Industrial Gas Cleaning Institute, February 1982.

[23] These plants are Coffeen, Kincaid, Baldwin, Dallman, and part of Meredosia.

[24] U.S. Department of Energy. Coal Production—1980. Washington, D.C.: Energy Information Administration. 1982.●

RACIAL AND RELIGIOUS BIGOTRY

● Mr. INOUYE. Mr. President, the recent anniversary of Abraham Lincoln's birth has brought to mind a matter which has been troubling me for some time—a matter which I am certain has not gone unnoticed by my colleagues in the Senate and other fellow Americans. This is the increased incidence of racially and religiously inspired violence in the United States. Ladies and gentlemen, this problem is not going away, and it will require constant vigilance on all of our parts to insure that gross errors of the past are not repeated.

According to a report issued last month by the Commission on Civil Rights, violence and harassment still exist, and such incidents are "a serious threat to the maintenance of a peaceful, democratic, and pluralistic society."

The fundamental cause of racially and religiously inspired violence, ac-

cording to the Commission, is the "continuing presence and tenacious survival of deep-seated racism and anti-Semitism" in the United States. As the report notes, however, this is only part of the problem. Add the suffering and misery caused by high unemployment, the human tendency to find scapegoats, and the perception that enforcement of civil rights laws is diminishing. What results is a potentially vicious breeding ground for violence.

It is unfortunate, yet all too human, that in times of stress and misfortune many cannot resist the impulse to lay the burden of blame on the "other guy"—be it the black man on the street, the Japanese autoworker, or the newly arrived Southeast Asian immigrant. Acting on such impulses only adds new poison to the bitter fruit spawned by what many have aptly characterized as the "politics of frustration."

Striking out at those who are less fortunate, who are of a different race, or who are perceived to be benefiting unreasonably from "handouts" is not the answer. It is also no secret that bigotry-bred violence is difficult to pinpoint, and even more difficult to quantify. But as the report mentions, many cities and States are making the effort, with quite positive results. For example, attempts are being made to monitor religious and racial violence and the groups that foster such incidents. Maryland has passed a unique law requiring police to keep statistics on crimes of religious or racial prejudice. Several private groups have been keeping a watchful eye on the Ku Klux Klan, and often file lawsuits against KKK activity.

Many schools have launched programs specifically designed to teach children about the effects of anti-Semitism and racism. The National Education Association in conjunction with other groups distributes a teacher's list on the KKK, and in Detroit the study of racial and religious bigotry is being built into the public school curriculum. Over half the battle is fostering an awareness of the problem, and it behooves us, as leaders of this Nation, to do all that we can to stop this subtle, yet very real, problem from escalating any further.●

OPERATION HOMECOMING

● Mr. TSONGAS. Mr. President, February 12 marked the 10th anniversary of the beginning of "Operation Homecoming." After years of war, turmoil, and captivity, 40 U.S. prisoners of war embarked on their long-awaited journey home. In the 6-week period that followed, a total of 587 POW's made that journey.

These very special men withstood torture, humiliation, and untold abuse in the prison camps of North Vietnam. Whatever our feelings were about the Vietnam war, this Nation shared in the joy of those who returned and we mourned those who never made it. We paused 10 years ago to pay homage to their bravery and valor and it is fitting that we pause once more.

The February issue of the American Legion magazine featured an article by Philip C. Clarke, entitled "Return From Hell—the POW's Remember." I ask that this article be printed in the RECORD.

The article follows:

RETURN FROM HELL—THE POW'S REMEMBER

Former POW Richard Keirn remembers well that day of freedom 10 years ago. "It was like a fairy tale, a dream," says the retired Air Force colonel. "After more then seven and one-half years in prison in North Vietnam, I was coming home along with all the others. Waiting at the Hanoi airport was the big, beautiful American plane. A U.S. airman was supposed to escort one of my fellow POWs, Kyle Berg, and me to the aircraft, but I don't think the airman's feet ever touched the ground till he got there because we were carrying him by both arms. 'Aw, come on fellas,' he said. 'I'm supposed to be escorting you.'

"And that airplane . . . It was the cleanest thing I had seen in nearly eight years. We got aboard, all 40 of us, very quietly. They started the engines and taxied out for takeoff and every one of us remained very quiet. The plane started down the runway and the pilot poured on the coal. As pilots ourselves, we knew when the gear left the ground. At that precise moment, as skinny and beat up as we were, we let out a mighty whoop and damned near tore that airplane apart. The shrink, who was over in the corner making notes, just ripped them up and tossed the pieces in the air. It was the wildest, most wonderful celebration I've ever known!"

And so it was, not only for the 587 POWs who had resisted and survived throughout the years of bestial torture and privation in North Vietnam, but also for their families, other loved ones and the entire country. Over a period of six weeks, from February 12 to March 29, 1973, a grateful America welcomed home with cheers, tears and overwhelming pride and affection some of the bravest and most dedicated men ever to wear the nation's uniform.

Frank A. Sieverts, then-special assistant to the deputy secretary of state for prisoner of war/missing in action matters, was at Hanoi's Gia Lam airport when the first group of POWs arrived for their flight to freedom. "The guards ordered the men off the bus. Suddenly, the senior American officer of the group took command away from the guards and gave the orders for the men to march in formation to the release point. The guards tried to intervene but fell back. It was clear then that, despite the grim experience of captivity, our men had endured and prevailed."

On this 10th anniversary of "Operation Homecoming," the American Legion Magazine sought out and interviewed more than a score of representative ex-POWs from across the country, including three who received the Medal of Honor, the nation's highest award. Their responses reflect a deep and lasting bond, forged amid the hatred and savagery of wartime Hanoi. Few humans have suffered such extreme physical and mental abuse, yet have emerged with spirits unbroken. There is even now no precise count of the Americans who died on the blood-spattered floors of the Communist torture chambers. But of the more than 1,800 Americans shot down over North Vietnam, fewer than one-third returned home. And throughout the war theater, 114 American POWs are known to have died in captivity.

A majority of those who survived the gulags of the North give full credit to their military training and discipline. Despite solitary confinement and the risk of severe punishment for anyone caught communicating, the POWs somehow managed to establish and maintain a clandestine keep-in-touch network, tapping out Morse code messages through the prison walls. Amazingly, they also set up a secret chain of command headed by the senior ranking prisoner and known as the "4th Allied POW Wing." One of its chief organizers, and first C.O., was Col. John P. Flynn, a courageous and intrepid flier who had been downed over North Vietnam in October 1967, and who was promoted to brigadier general while still in prison.

The former prisoners also attribute their survival to faith—faith in God, their country, their fellow Americans and in themselves. "The ability to hang on to that faith helped see us through some of the toughest times," says Air Force Col. Wayne Waddell, current president of "NAM-POW's, Inc," the close knit fraternal group that still links some 430 onetime residents of the infamous hellhole nicknamed, with macabre humor, the "Hanoi Hilton," and other North Vietnamese prison camps. "It was a matter of knowing that there were a couple of hundred million people back home who were not going to forget about you. It sure helped every morning to wake up thinking, 'one of these days . . .'"

To a man, the former POWs believe that Vietnam was "a noble cause," however badly misunderstood and often misrepresented at the time in the news media and elsewhere. There remain, inevitably, remnants of regret and even some bitterness that the nation failed to unite behind its fighting men so that the war could have been won, quickly and at less cost in lives and treasure.

"I'm convinced we were in Vietnam for the right reasons—and just as convinced we fought the war in the wrong way," says retired Col. Leo K. Thorsness, USAF, a Medal of Honor recipient who spent nearly six years in captivity. "As it turned out, it was the politicians who decided we should go to war, which was the correct thing, but then they continued trying to run the war, which was the wrong thing. They never gave us an opportunity to win."

Although there are still some skeptics, most of the ex-POWs sense that the country's attitude toward Vietnam and the military in general is changing for the better. Their advice: continue to strengthen America's will and determination to defend peace and freedom, whatever the price.

That the POWs paid the price, none can deny. And though most of the scars have healed, the memories remain.

Retired Vice Adm. James Stockdale, whose heroic resistance to the Communists is now legendary, says the most critical time in his capitivity came in 1969. "I have been senior officer at two prison camps that had been 'purged.' In each instance, our underground communications network had been uncovered and there had been much interrogation and torture of those involved to try to pry forth more names and details. Some

of our people had been badly hurt and at least one of the Americans had died under torture.

"After these two disastrous episodes, I was placed in total isolation and heavily guarded at all times. By then, however, I and several other POWs were in the process of setting up a third communications link by means of a note-drop system. To my dismay, I learned that the guards had found one of the notes on my person.

"I became deeply despondent, not because of the torture I knew would be inflicted on me, but because once more the cycle of terror was to be repeated. I felt I had to stop it. So the night before the interrogations, I broke a window and lacerated my wrist. I was discovered in a pool of blood and revived and, so help me, the North Vietnamese dropped the investigation and none of the other POWs were compromised or tortured."

Stockdale, who received the Medal of Honor for his acts of valor, recalls a more heartening experience, when human compassion contrived to pierce the prison's inhumane barriers of silence and despair. "For two years," says Stockdale, "11 of us were isolated in a section of the prison we called Alcatraz. We were the so-called 'bad cases,' those who had been identified as POW ringleaders or who had tried to escape. All of us were in leg irons 15 hours a day and confined in solitary cells 10 by 4 feet. But because our cells were crammed together, we could communicate.

"After dumping our slop buckets every morning, we would wash them out with a bamboo broom, using the wooden handle to rap out a few words of code. As a kind of ritual, we decided to honor one another on the anniversary of each of our shootdowns. Mine was September 9, and as I listened intently on the third anniversary of my shootdown, I heard my fellow prisoners tap out this message: 'Here's to CAG—my tag as a former carrier wing commander—for three great years. We love you. We are with you to the end.' I don't think I've ever received a medal, an award or citation that meant as much to me as did that message from my fellow POWs."

Retired Navy Capt. John S. McCain, III, remembers the agonizing decision he made in 1968 when the North Vietnamese offered him an opportunity to return home along with the six other POWs who were released to anti-war activists from the United States. "Even though I was in very poor physical condition at the time, thank God I had the strength to reject the offer and remain with the others." McCain, then a lieutenant commander, had been badly injured after parachuting from his crippled plane over the North and had been severely tortured. As the son of the then-Commander in Chief, Pacific, the late Adm. John S. McCain, Jr., the young flier was under intense pressure by the Communists to denounce the U.S. war effort.

Retired Air Force Col. Larry Guarino doesn't conceal his disgust for leading war critics who traveled to Hanoi and he believes, "weakened our country's resolve and caused us all a great deal of harm." Shot down June 14, 1965, Guarino, then a major, spent seven years and eight months in captivity, or, as he recalls, 2,801 days and 400 "beer calls." During that seemingly endless nightmare he underwent, by his own accounting, 390 days of hard torture. It's a record he'd just as soon forget, but one that marks him forever as a towering hero among his peers.

How did he manage to endure his long ordeal?

"You stand up to them whenever you can," says Guarino. "But then, if you want to save your life and your sanity, there are times when it's best to hunker down and sweat it out. It's a survival program: You do as little as they demand of you and still come out alive. And I can say that most of our guys tried their best to live up to the Code of Conduct."

They were difficult rules to observe, given the inhumane nature of the Communist cadres that rode herd at the Hanoi Hilton. But somehow, almost miraculously, the Americans managed for the most part to retain a sense of organization and self-discipline. And at times, they outwitted their captors. In a classic example, former Navy pilot Jeremiah Denton, now a senator from Alabama who spent seven years and seven months as a POW after his Navy fighter was shot down, blinked his eyes during a Japanese television interview from Hanoi to spell out in Morse code the word "t-o-r-t-u-r-e." It confirmed what many Americans had feared was happening behind the confines of Hanoi's prison walls.

Retired Col. John W. Finlay III, USAF, who endured nearly five years of captivity, says he still marvels at the resilience of the POWs. "The Viets never really understood us as well as we understood them," he remembers, "and I didn't understand them at all! They could break one of their own people under pressure, but break an American and he'd bounce right back the next day. The Communists just couldn't figure it out.

"On occasions," says Finlay, "the questioners would ask, 'Why don't you agree with what Jane Fonda says about the war?' And I would reply that as an American she was free to say what she pleased, and that I had just as much right to disagree. The Communists couldn't understand this either."

Except for the Communist propaganda broadcasts, which none of the Americans believed, the POWs were kept mostly in the dark about happenings on the outside. A newly arrived POW often could fill in some of the blank spaces, but normal conversations were impossible.

In late 1970, however, the prison regimen eased slightly and the Americans sensed something important had taken place. Later, it was learned that a U.S. commando team had raided the Son Tay prison camp west of Hanoi. Unfortunately, the camp had been evacuated earlier and the would-be rescuers had to return empty-handed. But the audacious action surprised and frightened the North Vietnamese. They hurriedly moved American POWs from other outlying prisons and trucked them to the more heavily defended Hanoi Hilton. And, for the first time, the POWs were placed in large, open bay rooms holding from 20 to 50 men each. Although senior officers were still held in isolation, there was now an opportunity for most of the Americans to talk with one another.

Taking advantage of the ease-up, the POWs in early February 1971 conducted their first do-it-yourself church service inside the prison compound, despite the ranting and raving of the camp commandant, a sadistic torturer nicknamed "Bug." That evening, the singing of hymns was followed by a spontaneous outburst of patriotic songs, including "The Star-Spangled Banner." Nearly every American joined in and the "Bug" was apoplectic. Troop reinforcements were called in, apparently in expectation of a prison riot or breakout. But for the POWs, it was a turning point. Morale soared, and so did hopes of freedom.

But setbacks were yet to come. On an April night in 1972, the prison "goon squad" administered a terrible beating to Air Force Lieut. Mike Christian, apparently after a small handmade American flag was discovered inside his shirt. The flag, pieced together from scraps by the lieutenant and another POW, Air Force Capt. Jim Hivner, had been secretly displayed while the Americans quietly recited the "Pledge of Allegiance." It was confiscated by the guards, but soon replaced with another improvised "Old Glory," and the pledges continued.

The so-called "Christmas bombing," ordered by President Richard M. Nixon in December 1972 to hammer a recalcitrant Hanoi back to the peace conference table, marked the beginning of the end of the long ordeal. The POWs erupted in a surge of unrestrained joy and relief, greeting each wave of B-52s and F-101s with resounding cheers. The Communist captors were struck by fear.

Retired Air Force Col. Richard D. Vogel was in a group of 180 POWs, that had been moved to a camp near the Chinese border. "We were trucked back to the Hanoi Hilton right after the Christmas bombing," he says, "and we could almost taste freedom."

As Leo Thorsness remembers: "Happiness was those B-52s that kept coming and coming, night and day. We knew then it was nearly over. Even if a bomb or two had hit the prison, we couldn't have cared less. We had been there so long. And on the faces of the guards, we could tell that Uncle Sam had finally got their attention. The one thing they understood was force."

The ex-POWs remember homecoming as a star spangled blur of joy, excitement and pride. Jim Stockdale says that after the years of death-like silence in isolation, the outside world seemed "awfully noisy, like being inside a bass drum. It was, to me, a yakety-yak world of noise, but a happy noise!"

Thorsness says, "One returning American was taken off a homeward bound plane in Hawaii because he was running a fever. It was I. They kept me there until they got my temperature down, and then I came home in an airliner all to myself, with the best-looking nurses in the world. When we sighted the lights of California, I got an OK to come up front and as the crew played some background music on tape, I reported our position and told the tower we had presidential clearance all the way to St. Louis. Not bad for a farm boy from the Middle West!"

Thorsness, now living in Santa Monica, Calif., and active in politics, is among those who believe the nation's sacrifices in Vietnam were not in vain. "Most Americans may still feel it was a mistake to get involved . . . but what's important, I believe, is that for 10 years we tied the Communists down in Indochina and gave other countries in the region—Thailand, Malaysia, Singapore, Indonesia, the Philippines—a chance to strengthen themselves. Their people, some 250 million strong, are still free and doing pretty well, which may not have been the case had we not gone to Vietnam. To my way of thinking, this is a living tribute to the Americans who died over there."

As for the future, Thorsness believes that "so long as we're the leader of the free world, like it or not, there are obligations. This doesn't mean we should send our men to fight for every nation trying to remain

free. But if we shrink back from our responsibilities, we could some day lose our own freedom."

Jim Stockdale, now with the Hoover Institution, a defense-oriented "think tank" at Stanford University, takes a different view of the Vietnam experience. "I see it as a national tragedy," says Stockdale. "We squandered so much public goodwill and credibility by trying to conduct a very worthwhile effort 'on the cheap,' so to speak. The nation's leaders never did explain to the people what we were fighting for, nor did they do the things that would have signified a national commitment, such as formally declaring war and mobilizing the reserves.

"Our leaders early on in the war were so afraid of public disapproval that they thrust the country headlong into a disastrous situation. In years to come, I believe it will be perceived as the nadir of the American political experience.

"But don't sell America short," says the retired admiral. "We are people of great resilience. And when inspired by comradeship, as in the case of our POWs, we are capable of superhuman feats. Our biggest enemies today are timidity, fear and selfishness in facing up to trying circumstances. This should not be. Our people can cope with wars, floods and other disasters much better than Americans themselves realize . . ."

Ex-POW John Finlay, now with the Planning Research Corporation in Florida, believes the United States "had every right in the world" to defend Vietnam. He wishes that those Americans who "bum rap" their country could have "an opportunity to live in, say, Vietnam or any Communist country for awhile and see how the other side lives. They'd certainly end up with a better appreciation of our way of life!"

Lt. Col. Melvin Pollack, who serves with the Forward Air Control program and systems command at Patrick Air Force Base, Fla., is one of the relatively few ex-POWs still on active military duty.

On returning from Vietnam, Pollack decided to catch up on the lost years (he spent five years and eight months as a POW). "While attending the University of Southern California in the fall of 1974, I read every issue of Newsweek going back six years. What amazed me was that with all the trouble in this country and what seemed almost like anarchy, we still held together. So, despite all the dissent, I realized that this country was great enough to go through what it went through and yet survive intact. That, I feel, is the beauty of our country."

Pollack remembers running into antiwar critics, including many old friends, after returning from Vietnam. "Some called me a liar for trying to answer their questions about how it really was. And they had never been to 'Nam! It was my first taste of the militant mindset of the antiwar people.

"Now," he adds, "I see the mood changing. ROTC on campus has picked up. It's in vogue to be in the military, and short haircuts are coming back—even in California. The pendulum is swinging again."

As for the public's perception of the military, Pollack says: "More than just respect, it's important that people appreciate that we're ready to defend the country if the time ever comes. And what's important for every citizen is to ask of himself: 'Am I or am I not willing to support my country in adversity?' That's the bottom line."

Larry Guarino, whose unyielding resistance to his Communist captors was an inspiration to other POWs, is now retired and living in Satellite Beach, Fla. On returning home from his long ordeal, Guarino was disillusioned by what he felt was the don't-give-a-damn attitude of the average American. "I just couldn't see how anyone could sit back after it was all over and not care—care about those poor people who got themselves killed, or fed themselves to the sharks or to the pirates of the South China Sea in their attempt to get away from Communism. All those poor people . . . they must be in the hundreds of thousands, even millions! How could anyone say we did not try to fight for a 'noble cause?' No matter how bad it looked, the cause was just!"

Retired Air Force Capt. Howard Rutledge of Norman, Okla., now active in politics and veterans affairs, says his experiences as a POW in Hanoi convinced him that Gen. Douglas MacArthur was absolutely right when he admonished that in war "there is no substitute for victory." Observes Rutledge: "What came out of the Vietnam War is that our people probably never again will accept the idea of committing our armed forces to battle without an equal commitment to win. I believe that Americans will say, 'yes, there are some things worth fighting for and our way of life is one of them.' But they'll also insist that once committed, we must go to win or not go at all . . ."

Dick Vogel, who retired from the Air Force in 1976, now works for Collins Avionics "helping make some of the stuff I used to fly with." The former POW believes there are some situations where the United States should get involved. "I don't think we need to be caretakers of the entire free world. But where our national interests are at stake, as I believe they were in Vietnam, we should take effective action. And if that happens, we need to explain why we're doing what we're doing so the public will back our military . . ."

Richard Keirn—"Pop" to his many friends—was knocked down in July 1965 by what he believes was the first Soviet-made SAM fired by the North Vietnamese. After military service going back to World War II—during which he also was shot down and spent 11 months as a POW in Germany—the colonel is now retired in Indian Harbour, Fla. Like other POWs, Keirn believes fervently in a strong America. "It's the best country on earth and we must protect it. I know. I've lived under Communism for nearly eight years and I experienced just how insidious it is. Just to get back to this country where I could say 'nuts to you,' or anything else I wanted to say without being tortured for it was the greatest feeling. It's been said a man doesn't appreciate freedom until he loses it. To which I would add, if a man's not willing to fight for the freedom of his country and his kids, he's not worth a damn!"

Ex-POW John McCain, who hung up his uniform to serve in Congress from Arizona, sees America emerging from its Vietnam trauma as, overall, "a far better nation. Maybe some of the activists of the '60s and '70s still haven't 'found themselves.' But certainly the young people I have met in recent years are dedicated Americans, truly super people."

On the basis of his Vietnam experiences, McCain, who comes from a long line of distinguished naval officers, offers this advice: "The right to disagree, to demonstrate and show one's ideological preferences is a precious heritage that we must guard, even if at times it seems to erode our national will, as I believe it did during the Vietnam War. Nevertheless, it is a right we should cherish, never forgetting that we still are the greatest nation, founded on the noblest principles conceived by the mind of man. It is our duty to preserve it."

What manner of men, we might ask, are these POWs, these indomitable Americans who prevailed for so many hellish years in Hanoi, and then faced the divisiveness of their countrymen back home, and yet remain so steadfast in their patriotism?

In contrast to earlier wars, our POWs in Vietnam were mostly mature men, career officers acquainted with the art of survival and with the Code of Conduct. Since retirement, many have distinguished themselves in business, the professions, academic life and public service. As POW wife Doris Day says, "They are a pretty special group."

That they are, and more.

Explained former POW Howard Rutledge: "I don't know what it was that pulled us so tightly together. There was no specific event. But I believe we were on the leading edge of a change in attitude, or philosophy, of the country as a whole. We came back 10 years ago with ideas that only recently have begun to be accepted, nationwide. I think we were ahead of where people are coming to right now."

Whatever changes develop in our society as a whole, the POWs of the Vietnam War most assuredly brought out the best in our nation and set examples of courage that will inspire Americans for generations to come.●

RECESS

Mr. STEVENS. Mr. President, I ask unanimous consent that the Senate stand in recess until the hour of 1:45 p.m. today.

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

Thereupon, at 12:37 p.m., the Senate recessed until 1:45 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mrs. HAWKINS).

The PRESIDING OFFICER. The Chair, in her capacity as the Senator from Florida, suggests the absence of a quorum.

The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. BYRD. What is the business before the Senate, Madam President?

The PRESIDING OFFICER. The motion to proceed to the consideration of S. 47.

Mr. BYRD. I thank the Chair.

Madam President, notwithstanding the Pastore rule, I ask unanimous consent that I may speak out of order.

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

BUS DEREGULATION BACKFIRES IN WEST VIRGINIA

Mr. BYRD. Madam President, I hate to say "I told you so," but precisely what I predicted would happen with

the passage of the Bus Regulatory Reform Act of 1982 is beginning to happen in West Virginia.

Shortly after the law became effective on November 20 of last year, Trailways and Greyhound—the two companies that provide 99 percent of the intrastate bus service in West Virginia—filed to abandon or curtail most of the bus routes in my State.

It is cold comfort to me that I was correct in predicting the adverse impact of this law, as I think of the many elderly people and people with modest incomes who will be without means of transportation if these applications for abandonment or curtailment are approved.

There have been 10 public hearings held in my State on the proposed Greyhound abandonments, and 4 hearings held on the proposed Trailways abandonments. Public opposition to the abandonments or curtailments was expressed in a loud and clear fashion at each of these hearings. The West Virginia Public Service Commission obtained a "temporary restraining order" through the Federal district court in the Trailways case, and is seeking injunctive relief from the court to require Trailways to continue two-way service while the proposals are under consideration by the commission.

According to the Commission, the temporary restraining order expired on Sunday, February 20. The Commission expects to learn shortly whether the court will issue a permanent injunction against the abandonments. There are indications that the bus companies may have gone beyond the limits of the law governing service reductions and have cut service in certain areas of West Virginia to one trip per day in only one direction. The Commission is pressing the court to consider that curtailment of service will leave many West Virginians without transportation.

I am assured by the Public Service Commission that the companies intend to appeal any adverse decisions at the State level to the Interstate Commerce Commission here, in Washington. This is precisely the problem that I brought to the attention of the Senate when the bus deregulation bill was being debated on June 30, and when the conference report on the bill came before the Senate on August 20 of last year.

I quote a letter sent to me by the chairman of the West Virginia Public Service Commission, Mr. E. Dandridge McDonald, concerning the bus deregulation bill:

> Consumers in West Virginia who might wish to be heard in cases appeared to the ICC * * * would be, in effect, precluded from effectively protesting since it would be virtually impossible to muster the resources necessary to retain specialized legal talent to represent them before the ICC in Washington.

That quote is a portion of a letter dated May 25, 1982, from Chairman McDONALD. I inserted the test of the entire letter in the RECORD on June 30 last year when the Senate voted on this bill. In retrospect, the concern expressed by Chairman McDONALD to me, and by me to the Senate—that abandonments would be almost impossible to stop—is now unfortunately becoming a reality.

Madam President, it is my hope that the ICC, in considering abandonment or curtailment proposals, will pay heed to the policy statement included in the law directing the Interstate Commerce Commission to consider the needs of small communities. There are few large cities in West Virginia, and even they do not have populations of more than 100,000 persons. The majority of the people in my State live in much smaller towns, and it is these communities that will suffer immediately from curtailments. And I fear that the abandonments will not stop at the small communities, but will affect practically every town in my State.

I feel so strongly about this subject that I wrote the President after the Senate had passed the bill and urged him to veto the measure. Unfortunately, he did not do so. When the Senate considered the conference report on the bill in August, I inserted an article from the Wall Street Journal into the RECORD. The article described the effects of a Florida State bus deregulation statute on small communities in that State. Small communities were suffering under the Florida law.

Despite all of these efforts, the bus deregulation legislation was passed overwhelmingly in the Senate by a vote of 85 to 10. The Senate adopted the conference report by a vote of 84 to 8. Yet these massive majorities do not alter the fact that this law works to the detriment of my State. I would presume that other States are going to likewise feel the pinch if they are not already feeling it.

Through smooth and persuasive arguments, the Congress was convinced that the public interest would best be served by deregulation of the bus industry. I was not persuaded, and I was 1 of the 10 Senators who voted against passage of the bill. I was also one of the eight lonely votes against the conference report. I stated that I was voting against the measure because of my fear that bus transportation service to communities in West Virginia would be reduced or eliminated. My worst fears are in the process of being realized.

To top it off, the communities that Trailways proposes to abandon constitute one of the most economically depressed regions in the United States. McDowell County, W. Va., where the town of Welch is located, had an astronomical 36 percent unemployment rate in December. People in the area are desperate for work. Many move about by bus, going from town to town looking for work. And now the bus may not run anymore.

Madam President, I ask unanimous consent that an article from the February 16 edition of the Huntington Herald-Dispatch, entitled, "West Virginia Unemployment Rate Highest Ever," be printed in the RECORD at the end of my remarks.

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

(See exhibit 1.)

Mr. BYRD. This situation reminds me of the trials of Job. How much pain and misery can be inflicted on these people? The elderly, who often cannot drive themselves, and people of modest means, who simply cannot afford an automobile, are being threatened with total isolation.

For these reasons, I have contacted the Chairman of the Interstate Commerce Commission, Reese H. Taylor, Jr., to make him aware of the serious effects that abandonment or curtailment of bus service would have on the people of West Virginia. I urged him to bring to the attention of the Commission the plight of small communities in my State, whose citizens could be effectively stranded if bus service is diminished. I also urged him to pay heed to the policy statement included in the Bus Regulatory Reform Act, which states that it is our national transportation policy to "* * * provide and maintain service to small communities and small shippers and intrastate bus services."

I hope that the ICC and the bus companies will examine the likely effects of proposed abandonments with the greatest care, and act to prevent further damage to the transportation system in West Virginia.

EXHIBIT 1

[From the Huntington Herald-Dispatch, Feb. 16, 1983]

WEST VIRGINIA UNEMPLOYMENT RATE "HIGHEST EVER"

CHARLESTON.—West Virginia's unemployment rate shot to 17.8 percent in December, the nation's highest figure during the recession, the federal government reported yesterday.

"West Virginia broke through the stratosphere this month," said Mike Cimini, director of the United States Bureau of Labor's state and local unemployment statistics project. "It would appear, just from eyeballing it, that this is the highest rate we've ever had."

The national unemployment average for December was 10.5 percent, the Bureau of Labor Statistics said.

In November, West Virginia and Michigan tied for the nation's worst unemployment rate—16.4 percent—but Michigan's rate dropped to 15.9 percent in December. Cimini noted that Hawaii had the lowest unemployment, at 6.3 percent.

Coal miners make up most of the unemployed, especially in the southern part of the state where many mines are idled by low

demand. The southern county of McDowell has 36 percent unemployment.

The Bureau of Labor statistics estimated that 138,000 West Virginians were out of work during December, nearly doubling the jobless rate recorded in December 1981, when 77,600 were without jobs.

It also noted that unemployment had worsened noticeably in all of West Virginia's metropolitan areas.

According to its figures, 14,500 people, or 11.9 percent of the work force, in the greater Charleston area were jobless during December. In the Parkersburg-Marietta area, 11,400, or 15.5 percent of the work force, were unemployed, while in the Wheeling area 14,000 people were jobless in December for a 17.8 percent unemployment rate.

The House of Delegates yesterday approved a resolution calling for creation of a special committee to study the unemployment problem.

"The alternative is to do nothing. To do nothing is unacceptable," said House Speaker Clyde See of Hardy County.

Also in the West Virginia House yesterday, a bill was introduced to raise $30 million by taxing liquor and using the money for public works projects and job training programs in counties with unemployment rates of 7 percent or more.

Applicable only to establishments holding private liquor club or beer licenses, the bill would put a tax of 10 cents an ounce on liquor and five cents on a 16-ounce container of beer or soft drinks. Soft drink sales would not be taxed in establishments holding neither private club nor beer licenses.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

UNANIMOUS-CONSENT AGREEMENT—S. 47

Mr. BAKER. An hour late perhaps but nonetheless welcome, I am pleased to announce, Mr. President, that an agreement appears to have been reached on this subject, and I would like to state it now. Before I do so, may I say that the staff for the minority leader and, indeed, the minority leader himself, have been made aware of the exact contents of the request I am about to put, which has been reduced to writing. He has indicated to me that it is agreeable to him and that he does not have a requirement to be on the floor at the time the request is put.

Mr. President, I ask unanimous consent that the bill, S. 47, be made the pending business; provided that no cloture motion in respect to that bill will be in order prior to the hour of 3:15 p.m. today; and provided that the committee substitute proposed by the Committee on Commerce, Science, and Transportation, as well as the 17 amendments to be offered by Senator THURMOND on behalf of the Committee on the Judiciary and one amendment to be offered by Senator LONG be considered germane under the provisions of rule XXII, and that the vote on the cloture motion occur without the requirement for a mandatory quorum at 4 p.m. on March 1; provided that Senator STEVENS will be recognized to offer an amendment to the Judiciary Committee amendments pertaining to past filing and enforcement; and provided further, Mr. President, that the Senate, when it completes its business today, stand in recess until Monday, February 28, at 10 a.m.; that on Monday, after the Senate completes its business, it stand in recess until Tuesday, March 1, at 11:30 a.m.; that at 12 noon on Tuesday, March 1, the Senate stand in recess until 2 p.m., and that at 2 p.m., until the vote on cloture occurs at 4 p.m., the time be equally divided and controlled by the majority and minority leaders or their designees.

The PRESIDING OFFICER. Is there objection?

Mr. METZENBAUM. Mr. President, reserving the right to object, and I do not intend to object, it is my understanding—and I address this inquiry more to the manager of the bill, Senator GORTON—that the 17 committee amendments that are referred to are otherwise known as the Judiciary Committee amendments?

Mr. GORTON. The Senator is correct.

Mr. METZENBAUM. Is the Senator from Ohio correct as well that there is an understanding that the Judiciary Committee amendments are not going to be offered today?

Mr. GORTON. The Judiciary Committee amendments will not be offered this afternoon because of the absence of the chairman of the committee.

Mr. METZENBAUM. I have no objection. I thank the Senator.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. Mr. President, reserving the right to object, just so we are clear, the Senator is aware that there are 17 amendments? There is one that is in disagreement, which is the one that I intend to offer my amendment to; there are 16 amendments that are in semi-agreement and one is in disagreement?

Mr. METZENBAUM. I understand full well, and I think that is contemplated by the unanimous-consent agreement, that the Senator from Alaska does have an amendment to one of the Judiciary Committee amendments.

The PRESIDING OFFICER. Is there objection to the majority leader's request? Without objection——

Mr. METZENBAUM. Reserving the right further to object, and I still do not intend to object, am I clear that when the Stevens amendment is offered, there is nothing about this unanimous-consent request that would deny any Member of the Senate any right to move to amend, to lay on the table, or to take any such other action to which that Senator would normally be entitled in connection with the handling of an amendment?

Mr. STEVENS. Mr. President, may I respond and make sure we are not getting confused. That is not a parliamentary inquiry, as I understand it.

It is my understanding that this agreement does not bar motions to table or other amendments and that there are other amendments that are contemplated to be offered under this agreement. This does not preclude other amendments, nor does it preclude other motions.

The PRESIDING OFFICER. The Senator is correct.

Is there objection to the majority leader's request? Without objection, it is so ordered.

Mr. BAKER. Mr. President, I thank the Chair. I thank the distinguished Senator from Ohio for his cooperation and consideration. I thank the Senator from Alaska for his help and assistance. I thank the Senator from Washington for his help and assistance as well. The Senator from South Carolina, the President pro tempore, has been most helpful in trying to work this out, as has the chairman of the Commerce Committee, the Senator from Oregon (Mr. PACKWOOD).

I neglected to say earlier that I talked on the telephone with the chairman of the Commerce Committee and indicated to him that I wished to make this request. He cleared it as well and indicated that it was not necessary for him to be on the floor at the time, or at least that was my understanding.

Mr. President, I think we are on the track now. I believe the Senator from Ohio may wish to offer an amendment this afternoon.

ORDER TO TEMPORARILY LAY ASIDE METZENBAUM AMENDMENT

May I ask the Senator from Ohio if he is agreeable to a further unanimous-consent request respecting that amendment; that is, if an amendment is offered by the Senator from Ohio today and it is not disposed of today, that on Monday next, it might be temporarily laid aside so we can proceed to the consideration of the several Judiciary Committee amendments?

Mr. METZENBAUM. I have no objection to that.

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

The PRESIDING OFFICER. Is there objection?

The Chair hears none, and it is so ordered.

CLOTURE MOTION—SHIPPING ACT OF 1983

Mr. BAKER. Mr. President, in keeping with the order previously entered, it is in order, I believe—and under the rules of the Senate—to file a motion of cloture on this measure. I now send to the desk a cloture motion under rule XXII.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on S. 47, a bill to improve the international ocean commerce transportation system of the United States.

Howard Baker, Strom Thurmond, Nancy Landon Kassebaum, Slade Gorton, Charles H. Percy, Gordon Humphrey, Jake Garn, Ted Stevens, Dan Quayle, Charles McC. Mathias, Frank H. Murkowski, Thad Cochran, Bob Packwood, Roger W. Jepsen, Paul Trible, Mark Andrews, John Danforth, Malcolm Wallop, Paula Hawkins, and Pete Wilson.

Mr. BAKER. Mr. President, this is the cloture motion which was referred to in the unanimous-consent agreement entered into a few moments ago, on which a vote will occur at 4 p.m. on Tuesday next, without the necessity of the mandatory quorum call as contemplated by rule XXII.

SENATE SCHEDULE

Mr. BAKER. Mr. President, the Senate will not be in session tomorrow. We will be in session today as long as it is productive to do so. I do not anticipate a late day today, however.

Under the order previously entered, the Senate will convene at 10 a.m., on Monday next.

I urge Senators to consider that on Monday there is a high likelihood of votes, perhaps even several votes. There are a number of amendments to be offered by the Senator from Ohio, I believe, as well as by the Judiciary Committee and perhaps by other Senators.

So, once again, I urge Senators to consider that Monday is likely to be a busy day. We will begin at 10 a.m., and votes should be expected throughout that day.

Mr. METZENBAUM. Mr. President, if the Senator will yield, I should like to indicate publicly at this point that quite often when there are a number of amendments, a request is made to stack up those amendments. The Members of the Senate have been given notice adequately in advance that there will be votes on Monday. Therefore, I want to add that I would not be inclined to stack up amendments for a later vote. I would have no difficulty in accommodating for an hour or something of that kind, but I would not be agreeable to holding them over until Tuesday. I hope the Members of the Senate will be present, because there may be more than one rollcall vote on Monday.

Mr. BAKER. I thank the Senator.

Senators should be on notice that votes should be expected on Monday and I believe will occur on Monday. With the announcement of the Senator from Ohio that he will object to a unanimous-consent request for an extensive stacking of votes, they should take account of that.

Mr. President, I do not anticipate a vote this afternoon. I believe I am correct in saying that the Senator from Ohio does not wish to do that.

I expect that we will continue for a little while this afternoon, perhaps at least with the opening statements of the managers. I do not anticipate a late day today.

SHIPPING ACT OF 1983

Mr. BAKER. Mr. President, I now ask the Chair to lay before the Senate S. 47.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 47) to improve the international ocean commerce transportation system of the United States.

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

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Commerce, Science, and Transportation with an amendment, as follows: Strike out all after the enacting clause, and insert the following:

S. 47

That this Act may be cited as the "Shipping Act of 1983".

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SEC. 2. DECLARATION OF POLICY.

The objectives of United States regulation of international liner shipping are—

(1) to develop and maintain an efficient ocean transportation system through commercial means, with minimum government involvement, in order to serve the needs of United States foreign commerce;

(2) to foster reliable and responsible service by marine terminal operators, ocean common carriers, and conferences;

(3) to encourage ocean transportation rates and practices for United States exporters and importers that are internationally competitive, and which are not unjustly discriminatory;

(4) to harmonize United States shipping practices with those of its major trading partners;

(5) to permit cooperation among carriers and rationalization of services; and

(6) to facilitate efficient and timely regulation by a single Federal agency of the various aspects of international liner shipping, responsive to the growth of ocean commerce and international developments affecting that commerce.

SEC. 3. DEFINITIONS.

As used in this Act—

(1) "agreement" means an understanding, arrangement, or association, written or oral, and any modification or cancellation thereof; but the term does not include a maritime labor agreement;

(2) "antitrust laws" means the Act of July 2, 1890 (ch. 647, 26 Stat. 209), as amended; the Act of October 15, 1914 (ch. 323, 38 Stat. 730), as amended; the Federal Trade Commission Act (38 Stat. 717), as amended; sections 73 and 74 of the Act of August 27, 1894 (28 Stat. 570), as amended; the Act of June 19, 1936 (ch. 592, 49 Stat. 1526), as amended; the Antitrust Civil Process Act (76 Stat. 548), as amended; and amendments and Acts supplementary thereto;

(3) "assessment agreement" means an agreement, whether part of a collective-bargaining agreement or negotiated separately, only to the extent that it provides for the funding of collectively bargained fringe benefit obligations on other than a uniform man-hour basis, regardless of the cargo handled or type of vessel or equipment utilized;

(4) "bulk cargo" means cargo that is loaded and carried in bulk without mark or count;

(5) "Commission" means the Federal Maritime Commission;

(6) "common carrier" means a person holding itself out to the general public to provide transportation of passengers or property between the United States and a foreign country for compensation that—

(A) assumes responsibility for the transportation from the port or point of receipt to the port or point of destination; and

(B) utilizes, for all or part of that transportation, a vessel operating on the high seas or the Great Lakes between ports in the United States and ports in foreign countries.

(7) "conference" means an association of ocean common carriers permitted, pursuant to an approved or effective agreement, to engage in concerted activity and to utilize a common tariff; but the term does not include a joint service, consortium, pooling, sailing or transshipment arrangement;

(8) "controlled carrier" means an ocean common carrier that is, or whose operating assets are, directly or indirectly, owned or controlled by the government under whose registry the vessels of the carrier operate;

ownership or control by a government shall be deemed to exist with respect to any carrier if—

(A) a majority portion of the interest in the carrier is owned or controlled in any manner by that government, by any agency thereof, or by any public or private person controlled by that government; or

(B) that government has the right to appoint or disapprove the appointment of a majority of the directors, the chief operating officer, or the chief executive officer of the carrier;

(9) "deferred rebate" means a return by a common carrier of any portion of the freight money to a shipper as a consideration for that shipper giving all, or any portion, of its shipments to that or any other common carrier, or for any other purpose, the payment of which is deferred beyond the completion of the service for which it is paid, and is made only if, during both the period for which computed and the period of deferment, the shipper has complied with the terms of the rebate agreement or arrangement;

(10) "fighting ship" means a vessel used in a particular trade by an ocean common carrier or group of such carriers for the purpose of excluding, preventing, or reducing competition by driving another ocean common carrier out of that trade;

(11) "forest products in an unfinished or semifinished state" means forest products that require special handling moving in lot sizes that range from being too large for containers up to and including shipload lot sizes, including, but not limited to lumber in bundles, rough timber, ties, poles, piling, laminated beams, bundled siding, bundled plywood, bundled core stock or veneers, bundled particle or fiber boards, bundled hardwood, wood pulp in rolls, wood pulp in unitized bales, paper board in rolls, and paper in rolls;

(12) "inland division" means the amount paid by an ocean common carrier to any inland carrier for the inland portion of through transportation offered to the public by the ocean common carrier;

(13) "inland portion" means the charge to the public by an ocean common carrier with respect to the nonocean portion of through transportation;

(14) "loyalty contract" means a contract with an ocean common carrier or conference, other than a service contract or a contract based on time-volume rates, by which a contract shipper obtains lower rates by committing all or a fixed portion of its cargo to that carrier or conference;

(15) "marine terminal operator" means a person engaged in the United States in the business of furnishing wharfage, dock, warehouse, or other terminal facilities in connection with a common carrier;

(16) "maritime labor agreement" means a collective-bargaining agreement between an employer or group of employers, subject to this Act and a labor organization representing employees in the maritime or stevedoring industry, or an agreement preparatory to such a collective-bargaining agreement among members of a multiemployer bargaining group, or an agreement specifically implementing provisions of such a collective-bargaining agreement or providing for the formation, financing, or administration of a multiemployer bargaining group; but the term does not include an assessment agreement;

(17) "non-vessel-operating common carrier" means a common carrier that does not operate the vessels by which the ocean transportation service is provided, and is a shipper in its relationship with an ocean common carrier;

(18) "ocean common carrier" means a vessel operating common carrier; but the term does not include one engaged in ocean transportation by ferry boat or ocean tramp;

(19) "ocean freight forwarder" means a person in the United States who—

(A) dispatches shipments via common carriers and books or otherwise arranges space for such cargo on behalf of shippers, and

(B) processes the documentation or performs related activities incident to such shipments;

(20) "person" includes individuals, corporations, partnerships, and associations existing under or authorized by the laws of the United States or of a foreign country;

(21) "service contract" means a contract between a shipper and an ocean common carrier or conference in which the shipper makes a commitment to provide a certain minimum quantity of cargo over a fixed time period, and the ocean common carrier or conference commits to a certain rate or rate schedule as well as a defined service level—such as, assured space, transit time, port rotation, or similar service features; the contract may also specify provisions in the event of nonperformance on the part of either party;

(22) "shipment" means all of the cargo carried under the terms of a single bill of lading;

(23) "shipper" means an owner or person for whose account the ocean transportation of cargo is provided or the person to whom delivery is to be made;

(24) "shipper's council" means an association of shippers or their agents, other than ocean freight forwarders and non-vessel-operating common carriers;

(25) "tariff" means any schedule of rates, charges, classifications, rules, and practices, including any supplement, amendment or reissue pertaining to services or accommodations subject to this Act;

(26) "through rate" means the single amount charged by a common carrier in connection with through transportation;

(27) "through transportation" means continuous transportation between origin and destination for which a single amounts is assessed and which is offered or performed by one or more carriers, at least one of which is a common carrier, between a United States point or port and a foreign point or port; and

(28) "United States" includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Marianas, and all other United States territories and possessions.

SEC. 4. AGREEMENTS WITHIN SCOPE OF ACT.

(a) OCEAN COMMON CARRIERS.—This Act applies to agreements by or among ocean common carriers to—

(1) discuss, fix, and regulate rates, accommodations, and other conditions of service including through rates and through transportation,

(2) pool or apportion earnings, losses or traffic;

(3) allot ports or restrict or otherwise regulate the number and character of sailings between ports;

(4) limit or regulate the volume or character of cargo or passenger traffic to be carried;

(5) engage in exclusive, preferential, or cooperative working arrangements among themselves or with one or more marine terminal operators or non-vessel-operating common carriers

(6) control, regulate, or prevent competition in international ocean transportation and,

(7) consult and confer with shippers and shippers' councils regarding general rate levels, charges, classifications, rules, practices, or services.

(b) MARINE TERMINAL OPERATORS.—This Act applies to agreements among marine terminal operators, and to agreements among one or more marine terminal operators and one or more ocean common carriers to—

(1) discuss, fix, and regulate rates and other conditions of services;

(2) pool or apportion earnings, losses, or traffic; and

(3) engage in exclusive, preferential, or cooperative working arrangements.

(c) SHIPPERS' COUNCILS.—Shippers may establish shippers' councils in order to—

(1) mutually consult and exchange information or views regarding rates, charges, classifications, rules, practices, or services;

(2) agree upon common positions;

(3) consult and confer with any ocean common carrier or conference regarding general rate levels, charges, classifications, rules, practices, or services; and

(4) in the case of a small shipper, combine cargo with another small shipper for the purpose of obtaining time-volume rates and service contracts with ocean common carriers. For the purposes of this paragraph, a small shipper shall be considered to be any shipper who in the normal course of its business (including any business conducted by a parent corporation or subsidiary that, in whole or in part, either controls or is controlled by such shipper) ships in ocean transportation an average of no more than 30 containers a month.

(d) ACQUISITIONS.—This Act does not apply to an acquisition by any person, directly or indirectly, of any voting security or assets of any other person.

SEC. 5. AGREEMENTS.

(a) FILING REQUIREMENTS.—A true copy of every agreement entered into with respect to an activity described in section 4 shall be filed with the Commission, except agreements related to transportation to be performed within or between foreign countries. In the case of an oral agreement, complete memorandum specifying in detail the substance of the agreement shall be filed. The Commission may by regulation prescribe the general form and manner in which agreements shall be filed.

(b) NOTICE AND REJECTION.—Within 10 working days after an agreement is filed, the Commission shall transmit a notice of its filing to the Federal Register for publication. The Commission shall within 30 days after filing reject any agreement that on its face fails to comply with this section. In rejecting an agreement, the Commission shall state, in writing, the deficiency or deficiencies that caused the Commision to reject the agreement.

(c) CONFERENCE AGREEMENTS.—Each conference agreement must—

(1) state its purpose and the manner in which it will be implemented;

(2) provide reasonable and equal terms and conditions for admission and readmission to conference membership of any ocean common carrier willing to serve the particular trade or route;

(3) permit any member to withdraw from conference membership upon reasonable notice without penalty;

(4) require an independent neutral body to police fully the obligations of the conference and its members;

(5) provide for a consultation process designed to promote—

(A) commercial resolution of disputes; and

(B) cooperation in preventing and eliminating malpractices; and

(6) establish procedures for promptly and fairly considering shippers' requests and complaints.

(d) CONFERENCES UTILIZING LOYALTY CONTRACTS.—

(1) Each conference agreement must provide that, if the conference has in effect a loyalty contract with one or more shippers, any member of the conference may take independent action on any rate or service item required to be filed in a tariff under section 9 whenever—

(A) a member requests the conference to amend a rate or service item and announces its intention to take independent action if the conference does not agree to the amendment;

(B) the conference fails to adopt the proposed amendment within 30 days after the first consideration of the amendment in a conference meeting; and

(C) the member seeking the amendment requests the conference to include in the conference tariff a separate entry for its account as proposed in the amendment.

(2) Each conference agreement must further provide that, if the requirements of paragraph (1) are met, the conference shall include the proposed amendment in its tariff as the rate or service item of the proponent and any other members of the conference wishing to adopt the new rate or service item and that the new rate or service item shall become effective on publication and filing but no later than 45 days after the initial request.

(e) INTERCONFERENCE AGREEMENTS.—Each agreement between carriers not members of the same conference must provide the right of independent action for each carrier. Each agreement between conferences serving the same or different trades that would otherwise be naturally competitive must provide the right of independent action for each conference.

(f) SHIPPERS' COUNCIL AGREEMENTS.—Each shippers' council agreement must—

(1) limit membership to those shippers that have a direct financial interest in the export or import of the cargo covered by the agreement;

(2) provide that membership is voluntary;

(3) provide that the members have the right to act independently with any carrier or conference;

(4) provide for a consultation process designed to promote—

(A) commercial resolution of disputes; and

(B) cooperation in preventing malpractice; and

(5) provide for regular and orderly communication and exchange of information with conferences in their trade.

(g) ASSESSMENT AGREEMENTS.—

(1) Assessment agreements shall be filed with the Commission and shall be deemed approved upon filing. The Commission shall thereafter, upon complaint filed within 2 years of the date of filing of the agreement, disapprove, cancel, or modify any such agreement, or charge or assessment pursuant thereto, that it finds, after notice and hearing, to be unjustly discriminatory or unfair as between carriers, shippers, or ports. The Commission shall issue its final decision in each proceeding within 1 year of the date of filing of the complaint. If an assessment or charge is found to be unjustly discriminatory or unfair as between carriers, shippers, or ports, the Commission shall remedy the unjust discrimination or unfairness for the period of time between the filing of the complaint and the final decision by means of assessment adjustments. These adjustments shall be implemented by prospective credits or debits to future assessments or charges, except in the case of a complainant who has ceased activities subject to the assessment or charge, in which case reparation may be awarded. To the extent that any provision of this paragraph conflicts with the language of any other section of this Act, the Shipping Act, 1916, or the Intercoastal Shipping Act, 1933, the provisions of this paragraph shall control.

(2) This Act, the Shipping Act, 1916, and the Intercoastal Shipping Act, 1933, do not apply to maritime labor agreements. This section does not exempt from the provisions of this Act, the Shipping Act, 1916, or the Intercoastal Shipping Act, 1933, any rates, charges, regulations, or practices of a common carrier or marine terminal operator that are required to be set forth in a tariff, whether or not such rates, charges, regulations, or practices arise out of, or are otherwise related to, a maritime labor agreement.

SEC. 6. ACTION ON AGREEMENTS.

(a) EFFECTIVE DATE.—Except with respect to assessment agreements, each agreement filed under section 5(a) shall become effective 45 days after filing, unless rejected under section 5(b) or suspended pursuant to subsection (b) but in no case may an agreement become effective in less than 30 days from its publication in the Federal Register.

(b) SUSPENSION.—At any time prior to the expiration of the forty-five day period referred to in subsection (a), the Commission, upon complaint of a person, may suspend the effective date of an agreement pending the outcome of any proceeding pursuant to subsection (c), if the Commission, after preliminary hearing, finds that—

(1) the complainant has shown a reasonable probability that the agreement will operate in violation of section 5 or 12; and

(2) the complainant will be substantially injured in the interim if the agreement is allowed to go into effect before a final decision on the merits.

No suspension period may exceed 180 days.

(c) CANCELLATION OR MODIFICATION.—The Commission may, at any time, upon complaint or upon its own motion, institute and conduct a hearing to determine if any agreement filed under section 5(a) operates in violation of section 5 or 12, and if so, shall by order, cancel or modify that agreement. Each agreement that is in effect at the time it is the subject of an investigation and hearing shall remain in effect during the investigation and hearing.

(d) HEARING.—Hearings pursuant to this section shall be limited to the submission of affidavits of fact and memorandums of law unless, in the opinion of the Commission, there is a genuine issue of fact that requires an oral evidentiary hearing. Oral argument may be ordered at the discretion of the Commission.

(e) BURDEN OF PROOF.—The burden of proof in any proceeding under this section, or under section 5(g)(1) or under any other section of this Act where an agreement is concerned, is at all times on any party, including the Commission, opposing the agreement.

(f) COMPLIANCE WITH SUBPENA OR DISCOVERY.—In any proceeding under this section, the Commission may disapprove or cancel an agreement for failure of a proponent of the agreement to comply with a subpena or discovery order lawfully issued by the Commission.

(g) FINAL DECISION TIME.—The Commission shall issue a final decision in each hearing under this section within 180 days of ordering the hearing. If, within this time period, the Commission determines that it is unable to issue a final order because of undue delays, the Commission may make a decision in the proceeding adverse to the delaying party on the basis of the delay, or in the case of undue delay caused by a proponent of an agreement, alternatively, toll the 180-day period for the period of delay.

(h) DURATION OF EFFECTIVENESS.—Each agreement, once in effect, shall remain in effect until withdrawn or until canceled or modified by the Commission. The Commission may not limit the effectiveness of an agreement.

SEC. 7. LOYALTY CONTRACTS.

(a) CONTRACT REQUIREMENTS.—Any ocean common carrier or conference engaged in foreign commerce may utilize loyalty contracts, including contracts for through transportation, if—

(1) the contract is available to all shippers on equal terms and conditions and, where the contract covers service under through rates via a United States port or ports, it also offers the shipper an option of port-to-port contract service, and provides that use of either service shall satisfy the shipper's loyalty obligation;

(2) the contract shipper is permitted prompt release from the contract with respect to any shipment or shipments for which the contracting carrier or conference cannot provide space as requested on reasonable notice by the shipper;

(3) the contract provides that whenever a rate for the carriage of goods under the contract becomes effective, insofar as it is under the control of the carrier or conference, the rate—

(A) may not be increased on less than 90 days' notice, except upon agreement of the applicable shippers; and

(B) may be increased on not less than 30 days' notice if the increase is to a level no higher than that from which the particular rate was reduced within 180 days immediately preceding the filing of the increase;

(4) the contract covers only those goods of the contract shipper as to the shipment of which it has the legal right at the time of shipment to select the carrier. It shall be deemed a breach of the contract if, before the time of shipment and with the sole intent to avoid its obligation under the contract, the contract shipper divests itself, or with the same intent permits itself to be divested, of the legal right to select the carrier and the shipment is carried by a carrier that is not a party to the contract. In any dispute under this paragraph, the contract shipper will prevail upon producing evidence which establishes the truth of its claim not to be in breach of the contract. No contract shall require the shipper to refuse to purchase, sell, or transfer any goods on terms that vest the right to select the carrier in any other person;

(5) the contract shipper is not denied the right to utilize competing services that involve loading to or from a vessel at a port or

points located beyond a carrier's or conference's geographic scope as defined in the contract;

(6) the damages recoverable for breach by either party are limited to actual damages to be determined after breach in accordance with the principles of contract law. The contract may specify, however, that in the case of a breach by a contract shipper the damages may be an amount not exceeding the freight charges computed at the contract rate on the particular shipment, less the cost of handling;

(7) the shipper, carrier, or conference is permitted on ninety days' notice to terminate the contract rate system in whole or with respect to any commodity without penalty;

(8) the contract provides for a spread or series of spreads between non-contract rates and rates charged contract shippers that shall not exceed an aggregate of 15 per centum; and

(9) the contract excludes bulk cargo (except liquid bulk cargoes, other than chemicals, in less than full shipload lots) and forest products in an unfinished or semifinished state.

(b) TREATMENT OF CONTRACT NOT IN CONFORMITY.—Utilization of a loyalty contract that does not conform with each of the requirements of this section is a violation exclusively of this Act.

SEC. 8. EXEMPTION FROM ANTITRUST LAWS.

(a) The antitrust laws do not apply to—

(1) any agreement that has been filed under section 5 and has become effective under section 5(f) or section 6, or is exempt under section 18 from any requirement of this Act;

(2) any activity or agreement within the scope of this Act, whether permitted under or prohibited by this Act, undertaken or entered into in the reasonable belief that (A) it is pursuant to an agreement on file with the Commission and in effect when the activity took place, or (B) it is exempt under section 18 from any filing requirement of this Act;

(3) any loyalty contract or any activity pursuant to a loyalty contract;

(4) any agreement or activity that relates solely, to ocean or through transportation services within or between foreign countries, whether or not via the United States;

(5) any agreement or activity concerning the foreign inland segment of through transportation that is part of transportation provided in a United States import or export trade;

(6) any agreement or activity with a shipper's council organized under the laws of a foreign country and operating exclusively outside the United States, even when that agreement or activity affects cargo transported in a United States import or export trade;

(7) any agreement or activity to provide or furnish wharfage, dock, warehouse, or other terminal facilities exclusively outside the United States; and

(8) subject to section 21(e)(2), any agreement, modification, or cancellation approved by the Commission before the effective date of this Act under section 15 of the Shipping Act, 1916, or permitted under section 14(b) thereof, and any properly filed and published tariff rate, charge, classification, rule, or practice implementing that agreement, modification, or cancellation.

(b) This Act does not extend antitrust immunity—

(1) to any agreement with or among air carriers, rail carriers, motor carriers, or common carriers by water not subject to this Act with respect to transportation within the United States; or

(2) to any discussion or agreement among common carriers that are subject to this Act fixing the inland divisions (as opposed to the inland portions) of through rates within the United States.

(c)(1) Any determination by any agency or court that results in the denial or removal of the immunity to the antitrust laws set forth in subsection (a) shall not remove or alter the antitrust immunity for the period before the determination.

(2) No person may recover damages under section 4 of the Clayton Act, or obtain injunctive relief under section 16 of the Clayton Act, for conduct that is prohibited by this Act.

SEC. 9. TARIFFS.

(a) IN GENERAL.—

(1) Except with regard to bulk cargo and forest products in an unfinished or semifinished state, each common carrier and conference shall file with the Commission, and keep open to public inspection, tariffs showing all its rates, charges, classifications, rules, and practices between all points or ports or its own route and on any through transportation route that has been established. However, common carriers shall not be required to state separately or otherwise reveal in tariff filings the inland divisions of a through rate. Tariffs shall—

(A) plainly indicate the places between which cargo will be carried;

(B) list each classification of cargo in use;

(C) set forth the level of freight forwarder compensation, if any, by a carrier or conference;

(D) state separately each terminal or other charge, privilege, or facility under the control of the carrier or conference and any rules or regulations that in any way change, affect, or determine any part or the aggregate of the rates or charges; and

(E) and include sample copies of any loyalty contract, bill of lading, contract of affreightment, or other document evidencing the transportation agreement.

(2) Copies of tariffs shall be made available to any person and a reasonable charge may be assessed for them.

(b) TIME-VOLUME RATES.—Rates quoted in tariffs may vary with the volume of cargo offered over a specified period of time.

(c) SERVICE CONTRACTS.—An ocean common carrier or conference may enter into a service contract with a shipper or shippers council to provide specified services under specified rates and conditions, subject to the requirements of this Act. Each contract entered into under this subsection shall be filed confidentially with the Commission, and at the same time, a concise statement of its essential terms shall be filed with the Commission and made available to the general public in tariff format, and such essential terms shall be available to all shippers similarly situated. The essential terms shall include—

(1) the origin and destination port ranges in the case of port-to-port movements, and the origin and destination geographic areas in the case of through intermodal movements;

(2) the commodity or commodities involved;

(3) the minimum volume;

(4) the line-haul rate;

(5) the duration;

(6) service commitments; and

(7) the liquidated damages for nonperformance, if any.

The exclusive remedy for a breach of a contract entered into under this subsection is an action in an appropriate court, unless the parties otherwise agree. This subsection does not affect service contracts relating to bulk cargo or forest products in an unfinished or semifinished state.

(d) RATES.—No new or initial rate or change in existing rate that results in an increased cost to the shipper may become effective earlier than 30 days after filing with the Commission. The Commission, for good cause, may allow such a new or initial rate or change to become effective in less than thirty days. Any change in an existing rate that results in a decreased cost to the shipper may become effective upon publication and filing with the Commission.

(e) REFUNDS.—The Commission may, upon application of a carrier or shipper, permit a common carrier or conference to refund a portion of freight charges collected from a shipper or to waive the collection of a portion of the charges from a shipper if—

(1) there is an error in a tariff of a clerical or administrative nature or an error due to inadvertence in failing to file a new tariff and the refund will not result in discrimination among shippers, ports, or carriers;

(2) the common carrier or conference has, prior to filing an application for authority to make a refund, filed a new tariff with the Commission that sets forth the rate on which the refund or waiver would be based;

(3) the common carrier or conference agrees that if permission is granted by the Commission, an appropriate notice will be published in the tariff, or such other steps taken as the Commission may require, which gives notice of the rate on which the refund or waiver would be based, and additional refunds or waivers as appropriate shall be made with respect to other shipments in the manner prescribed by the Commission in its order approving the application; and

(4) the application for refund or waiver is filed with the Commission within 180 days from the date of shipment.

(f) FORM.—The Commission may by regulation prescribe the form and manner in which the tariffs required by this section shall be published and filed. The Commission may reject any tariff that is not in conformity with this section and its regulations. Upon rejection by the Commission, the tariff is void and its use is unlawful.

SEC. 10. CONTROLLED CARRIERS.

(a) CONTROLLED CARRIER RATES.—No controlled carrier subject to this section shall maintain rates or charges in its tariffs filed with the Commission that are below a level that is just and reasonable, nor shall any such carrier establish or maintain unjust or unreasonable classifications, rules, or regulations in such tariffs. An unjust or unreasonable classification, rule, or regulation means one which results or is likely to result in the carriage or handling of cargo at rates or charges which are below a level which is just and reasonable. The Commission may, at any time after notice and hearing, disapprove any rates, charges, classifications, rules, or regulations which the controlled carrier has failed to demonstrate to be just and reasonable. In any proceeding under this subsection, the burden of proof shall be on the controlled carrier to demonstrate that its rates, charges, classifications, rules, or regulations are just and reasonable. Rates, charges, classifications, rules, or regulations filed by a controlled carrier that have been rejected, suspended, or disap-

proved by the Commission are void, and their use is unlawful.

(b) RATE STANDARDS.—For the purpose of this section, in determining whether rates, charges, classifications, rules, or regulations by a controlled carrier are just and reasonable, the Commission may take into account appropriate factors including, but not limited to, whether—

(1) the rates or charges which have been filed or which would result from the pertinent classifications, rules, or regulations are below a level which is fully compensatory to the controlled carrier based upon that carrier's actual costs or upon its constructive costs, which are hereby defined as the costs of another carrier, other than a controlled carrier, operating similar vessels and equipment in the same or a similar trade;

(2) the rates, charges, classifications, rules, or regulations are the same as or similar to those filed or assessed by other carriers in the same trade;

(3) the rates, charges, classifications, rules, or regulations are required to assure movement of particular cargo in the trade; or

(4) the rates, charges, classifications, rules, or regulations are required to maintain acceptable continuity, level, or quality of common carrier service to or from affected ports.

(c) EFFECTIVE DATE OF RATES.—Notwithstanding the provisions of section 9(d), the rates, charges, classifications, rules, or regulations of controlled carriers shall not, without special permission of the Commission, become effective sooner than the 30th day after the date of filing with the Commission. Each controlled carrier shall, upon the request of the Commission, file, within 20 days of request (with respect to its existing or proposed rates, charges, classifications, rules, or regulations), a statement of justification that sufficiently details the controlled carrier's need and purpose for such rates, charges, classifications, rules, or regulations upon which the Commission may reasonably base its determination of the lawfulness thereof.

(d) DISAPPROVAL OF RATES.—Whenever the Commission is of the opinion that the rates, charges, classifications, rules, or regulations filed by a controlled carrier may be unjust and unreasonable, the Commission may issue an order to the controlled carrier to show cause why such rates, charges, classifications, rules, or regulations should not be disapproved. Pending a determination as to their lawfulness in such a proceeding, the Commission may suspend such rates, charges, classifications, rules, or regulations at any time before their effective date. In the case of rates, charges, classifications, rules, or regulations that have already become effective, the Commission may, upon the issuance of an order to show cause, suspend such rates, charges, classifications, rules, or regulations on not less than 60 days' notice to the controlled carrier. No period of suspension under this subsection may be greater than 180 days. Whenever the Commission has suspended any rates, charges, classifications, rules, or regulations under this subsection, the affected carrier may file new rates, charges, classifications, rules, or regulations to take effect immediately during the suspension period in lieu of the suspended rates, charges, classifications, rules, or regulations—except that the Commission may reject such new rates, charges, classifications, rules, or regulations if it is of the opinion that they are unjust and unreasonable.

(e) PRESIDENTIAL REVIEW.—Concurrently with the publication thereof, the Commission shall transmit to the President any order of suspension or final order of disapproval of rates, charges, classifications, rules, or regulations of a controlled carrier subject to this section. Within 10 days after the receipt or the effective date of such Commission order, the President may request the Commission in writing to stay the effect of the Commission's order if he finds that such stay is required for reasons of national defense or foreign policy which reasons shall be specified in the report. Notwithstanding any other provisions of law, the Commission shall immediately grant such request by the issuance of an order in which the President's request shall be described. During any such stay, the President shall, whenever practicable, attempt to resolve the matter in controversy by negotiation with representatives of the applicable foreign governments.

(f) EXCEPTIONS.—The provisions of this section shall not apply to—

(1) any controlled carrier of a state whose vessels are entitled by a treaty of the United States to receive national or most-favored-nation treatment;

(2) any controlled carrier of a state which, on the effective date of this section, has subscribed to the statement of shipping policy contained in note 1 to annex A of the Code of Liberalization of Current Invisible Operations, adopted by the Council of the Organization for Economic Cooperation and Development;

(3) rates, charges, classifications, rules, or regulations of any controlled carrier in any particular trade which are covered by an agreement effective under section 6, other than an agreement in which all of the members are controlled carriers not otherwise excluded from the provisions of this subsection;

(4) rates, charges, classifications, rules, or regulations governing the transportation of cargo by a controlled carrier between the country by whose government it is owned or controlled, as defined herein and the United States; or

(5) a trade served exclusively by controlled carriers.

SEC. 11. OCEAN FREIGHT FORWARDERS.

(a) LICENSE.—No person may act as an ocean freight forwarder unless that person holds a license issued by the Commission. The Commission shall issue a forwarder's license to any person who—

(1) the Commission determines to be qualified by experience and character to render forwarding services; and

(2) furnishes a bond in a form and amount determined by the Commission to insure financial responsibility that is issued by a surety company found acceptable by the United States Department of the Treasury.

(b) SUSPENSION OR REVOCATION.—The Commission shall, after notice and hearing, suspend or revoke any license if it finds that the ocean freight forwarder is not qualified to render forwarding services or that it willfully failed to comply with any provision of this Act or with any lawful order, rule, or regulation of the Commission. The Commission may also revoke a forwarder's license for failure to maintain a bond in accordance with subsection (a)(2).

(c) EXCEPTION.—A person whose primary business is the sale of merchandise may forward shipments of that merchandise for its own account without a license.

(d) COMPENSATION OF FORWARDERS BY CARRIERS.—

(1) A common carrier may compensate an ocean freight forwarder in connection with any cargo shipment dispatched on behalf of others only when the ocean freight forwarder has certified in writing that it holds a valid license and has performed the following services:

(A) engaged, booked, secured, reserved, or contracted directly with the carrier or its agent for space aboard a vessel or confirmed the availability of that space; and

(B) prepared and processed the ocean bill of lading, dock receipt, or other similar document with respect to the cargo.

(2) No common carrier may pay compensation for services described in paragraph (1) more than once on the same cargo shipment.

(3) No compensation may be paid to an ocean freight forwarder except in accordance with a tariff filed under section 9(a).

(4) No ocean freight forwarder may receive compensation from a common carrier with respect to any shipment in which the forwarder has a direct or indirect beneficial interest nor shall a common carrier knowingly pay compensation on any such shipment.

SEC. 12. PROHIBITED ACTS.

(a) IN GENERAL.—No person may—

(1) operate under an agreement described in section 4 that has not become effective under section 6, or that has been suspended, disapproved, or canceled;

(2) operate under an agreement described in section 4 except in accordance with its terms and any modifications to the agreement made by the Commission; or

(3) knowingly and willfully, directly or indirectly, by means of false billing, false classification, false weighing, false measurement, false report of weight or measures, or by any other unjust or unfair device or means obtain or attempt to obtain ocean transportation for property at less than the rates or charges that would otherwise be applicable;

(b) COMMON CARRIERS.—No common carrier, including a joint venture, either alone or in conjunction with any other person, directly or indirectly, may—

(1) charge, demand, collect, or receive greater, less, or different compensation for the transportation of property or for any service in connection therewith than the rates and charges that are specified in its tariffs;

(2) rebate, refund, or remit in any manner, or by any device, any portion of its rates except in accordance with its tariffs;

(3) extend or deny to any person any privilege, concession, equipment, or facility except in accordance with its tariffs;

(4) allow any person to obtain transportation for property at less than the rates or charges established by the carrier in its tariff by means of false billing, false classification, false weighing, false measurement, or by any other unjust or unfair device or means;

(5) retaliate against any shipper by refusing, or threatening to refuse, cargo space accommodations when available, or resort to other unfair or unjustly discriminatory methods because the shipper has patronized another carrier, or has filed a complaint, or for any other reason;

(6) make any unfair or unjustly discriminatory contract with any shipper or engage in any unfair or unjustly discriminatory practice against any shipper or port, in the matter of—

(A) rates or charges;

(B) cargo classifications;

(C) cargo space accommodations or other facilities, due regard being had for the proper loading of the vessel and the available tonnage;

(D) the loading and landing of freight in proper condition; or

(E) the adjustment and settlement of claims;

(7) employ any fighting ship; or

(8) offer or pay any deferred rebates.

(c) CONCERTED ACTION.—No conference or group of two or more common carriers, other than a joint venture operating by itself, may collectively—

(1) boycott or take any other concerted action resulting in an unreasonable refusal to deal;

(2) utilize a device or means that unreasonably sets conditions or otherwise unreasonably restricts the ability of a shipper to select an ocean common carrier in a competing trade, or an ocean tramp, or a bulk carrier;

(3) unreasonably restrict the employment of intermodalism or other technological innovations by member common carriers;

(4) engage in any predatory practice designed to eliminate the participation, or deny the entry, in a particular trade of an ocean common carrier not a member of the conference, a group of common carriers, an ocean tramp, or a bulk carrier;

(5) negotiate with any nonocean carrier or group of nonocean carriers (for example, truck, rail, or air operators) on any matter relating to rates or services provided to ocean common carriers within the United States by such nonocean carriers: *Provided*, That this prohibition shall not prohibit the setting and publishing of a joint through rate by a conference, joint venture, or an association of ocean common carriers authorized to file tariffs;

(6) deny in the export foreign commerce of the United States compensation to an ocean freight forwarder or limit the amount thereof to less than 1¼ percent of the freight charges; or

(7) allocate shippers among specific carriers that are parties to an agreement or prohibit any carrier that is a party to the agreement from soliciting cargo from any particular shipper, except as otherwise required by the law of the United States or the importing or exporting country, or as agreed to by a shipper in a service contract.

(d) COMMON CARRIERS, OCEAN FREIGHT FORWARDERS, AND MARINE TERMINAL OPERATORS.—No common carrier, ocean freight forwarder, or marine terminal operator may—

(1) fail to establish, observe, and enforce just and reasonable regulations and practices relating to or connected with receiving, handling, storing, or delivering property;

(2) make or give any undue or unreasonable preference or advantage to any particular person, locality, or description of traffic in any respect whatsoever, or subject any particular person, locality, or description of traffic to an unreasonable refusal to deal or any undue or unreasonable prejudice or disadvantage in any respect whatsoever; or

(3) knowingly disclose, offer, solicit, or receive any information concerning the nature, kind, quantity, destination, consignee, or routing of any property tendered or delivered to a common carrier, ocean freight forwarder, or marine terminal operator consent of the shipper or consignee if that information—

(A) may be used to the detriment or prejudice of the shipper or consignee:

(B) may improperly disclose its business transactions to a competitor; or

(C) may be used to the detriment or prejudice of any common carrier.

Nothing in this paragraph shall be construed to prevent providing such information in response to any legal process, to the United States, or to any independent neutral body operating within the scope of its authority to fulfill the policing obligations of the parties to an agreement effective under this Act. Nor shall it be prohibited for any ocean common carrier that is a party to a conference agreement approved under this Act, or any receiver, trustee, lessee, agent, or employee of such carrier or person, or any other person authorized by such carrier to receive information, to give information to the conference or any person, firm, corporation, or agency designated by the conference, or to prevent the conference or its designee from soliciting or receiving information for the purpose of determining whether a shipper or consignee has breached an agreement with the conference or its member lines or for the purpose of determining whether a member of the conference has breached the conference agreement, or for the purpose of compiling statistics of cargo movement, but the use of such information for any other purpose prohibited by this Act or any other Act shall be prohibited.

(e) If, after notice and hearing, the Commission finds that the actions of carriers or foreign governments have unduly impaired access of any ship documented under United States flag to ocean trades between foreign ports, the Commission shall suspend the tariffs of such carriers or the national lines of such foreign governments, or both, in trades to and from United States ports, pursuant to the provisions of section 15(b)(1).

SEC. 13. COMPLAINTS, INVESTIGATIONS, REPORTS, AND REPARATIONS.

(a) FILING OF COMPLAINTS.—Any person may file with the Commission a sworn complaint alleging a violation of this Act and may seek reparation for any injury caused to the complainant by that violation.

(b) SATISFACTION OR INVESTIGATION OF COMPLAINTS.—The Commission shall furnish a copy of a complaint filed pursuant to subsection (a) to the person named therein who shall, within a reasonable time specified by the Commission, satisfy the complaint or answer it in writing. If the complaint is not satisfied, the Commission shall investigate it in an appropriate manner and make an appropriate order.

(c) COMMISSION INVESTIGATIONS.—The Commission upon its own motion may, in like manner and with the same powers, investigate any conduct that it believes may be in violation of this Act.

(d) SPECIAL INVESTIGATIONS OF CONDUCT PURSUANT TO POOLING AGREEMENTS.—(1) The Commission, upon complaint of a person, may initiate an investigation of conduct pursuant to an agreement to pool or apportion traffic or revenues, or establish a joint venture, with other common carriers operating in the same trade if it believes that conduct pursuant to the agreement substantially reduces competition in the trade.

(2) The Commission shall cancel or modify, any agreement subject to investigation pursuant to paragraph (1) if it determines that conduct pursuant to the agreement substantially reduces competition in the trade as a whole unless the agreement—

(A) results in gains in efficiency or services that outweigh any substantial reduction in competition; or

(B) is authorized by an express provision of a government-to-government agreement or undertaken pursuant to a government-to-government agreement in effect at the date of enactment of this Act, or an extension thereof; or

(C) is in furtherance of foreign policy interests of the United States that outweigh the interests of the United States in preventing the substantial reduction in competition.

(3) The sole remedy under this Act for conduct found to violate paragraph (2) is cancellation or modification of the agreement.

(e) REPORTS.—The Commission shall make a written report of every investigation made under this Act in which a hearing was held stating its conclusions, decisions, findings of fact, and order. A copy of this report shall be furnished to all parties. The Commission shall publish each report for public information and the published report shall be competent evidence in all courts of the United States.

(f) REPARATIONS.—For any complaint filed pursuant to subsection (a) within 2 years after the cause of action accrued, the Commission may, after notice and hearing and when appropriate, direct the payment of reparations to the complainant for actual injury caused by a violation of this Act.

SEC. 14. SUBPENAS AND DISCOVERY.

(a) IN GENERAL.—In investigations and adjudicatory proceedings under this Act—

(1) depositions, written interrogatories, and discovery procedures may be utilized by any party under rules and regulations issued by the Commission which rules and regulations, to the extent practicable, shall be in conformity with the rules applicable in civil proceedings in the district courts of the United States; and

(2) the Commission may by subpena compel the attendance of witnesses and the production of books, papers, documents, and other evidence.

(b) WITNESS FEES.—Witnesses shall, unless otherwise prohibited by law, be entitled to the same fees and mileage as in the courts of the United States.

SEC. 15. PENALTIES.

(a) ASSESSMENT OF PENALTY.—Whoever violates any provision of this Act, any regulation issued thereunder, or any Commission order is liable to the United States for a civil penalty. The amount of the civil penalty, unless otherwise provided in this Act, may not exceed $5,000 for each violation unless the violation was willfully and knowingly committed, in which case the amount of the civil penalty may not exceed $25,000 for each violation. Each day of a continuing violation shall constitute a separate offense.

(b) TARIFF SUSPENSION.—

(1) For any violation of section 12(b) (1), (2), (3), (4), or (8), or section 12(e), the Commission may suspend any or all tariffs of any common carrier, or that common carrier's right to use any or all tariffs of conferences of which it is a member, for a period not to exceed 12 months.

(2) For failure to supply information ordered to be produced or compelled by subpena under section 14, the Commission may suspend any or all tariffs of any common carrier, or that common carrier's right to use any or all tariffs of conferences of which it is a member.

(3) Any common carrier who accepts or handles cargo for carriage under a tariff that has been suspended or after its right to utilize that tariff has been suspended shall

be subject to a civil penalty of not more than $50,000 for each shipment.

(4) If, in defense of its failure to comply with a subpena or discovery order, a common carrier alleges that documents or information located in a foreign country cannot be produced because of the laws of that country, the Commission shall immediately notify the Secretary of State of the failure to comply and of the allegation relating to foreign laws. Upon receiving the notification, the Secretary of State shall promptly consult with the government of the nation within which the documents or information are alleged to be located for the purpose of assisting the Commission in obtaining the documents or information sought.

(5) Before any tariff suspension ordered under this subsection becomes effective, it shall be immediately submitted to the President who may, within 10 days after receiving it, disapprove the order if he finds that disapproval is required for reasons of the national defense or the foreign policy of the United States.

(c) ASSESSMENT PROCEDURE.—The Commission may, after notice and an opportunity for hearing, assess each civil penalty provided for in this Act. In determining the amount of the penalty, the Commission shall take into account the nature, circumstances, extent, and gravity of the violation committed and, with respect to the violator, the degree of culpability, history of prior offenses, ability to pay, and such other matters as justice may require. The Commission may compromise, modify, or remit, with or without conditions, any civil penalty.

(d) REVIEW OF CIVIL PENALTY.—Any person against whom a civil penalty is assessed under this section may obtain review under chapter 158 of title 28, United States Code.

(e) FAILURE TO PAY ASSESSMENT.—If any person fails to pay a civil penalty that has been assessed after it has become final or after the appropriate court has entered final judgment in favor of the Commission, the Commission shall seek to recover the amount assessed in any appropriate district court of the United States. In such an action, the court shall enforce the Commission's order unless it finds that the order was not regularly made or duly issued.

(f) LIMITATIONS.—

(1) No fine or other punishment may be imposed for criminal conspiracy to violate any provision of this Act, or to defraud the Commission by concealment of any such violation.

(2) Any enforcement action under this Act and any formal proceeding to assess any penalty under this section shall be commenced within 5 years from the date the violation occurred.

SEC. 16. COMMISSION ORDERS.

(a) IN GENERAL.—Orders of the Commission relating to any violation of this Act or any regulation issued thereunder shall be made, upon sworn complaint or on its own motion only after an opportunity for hearing. Each order of the Commission shall continue in force for the period of time specified in the order or until suspended, modified, or set aside by the Commission or a court of competent jurisdiction.

(b) REVERSAL OR SUSPENSION OF ORDERS.—The Commission may reverse, suspend, or modify any order made by it, and upon application of any party to a proceeding may grant a rehearing of the same or any matter determined therein. No rehearing shall, except by special order of the Commission, operate as a stay of such order.

(c) ENFORCEMENT OF NONREPARATION ORDERS.—In case of violation of any order of the Commission, or for failure to comply with a Commission subpena, the Commission, or any party injured by such violation, or the Attorney General may seek enforcement by any United States district court having jurisdiction over the parties. If, after hearing, the court determines that the order was properly made and duly issued, it shall enforce the order by an appropriate injunction or other process, mandatory or otherwise.

(d) ENFORCEMENT OF REPARATION ORDER.—(1) In case of violation of any order of the Commission for the payment of reparation, the person to whom the award was made may seek enforcement of the order in any United States district court having jurisdiction of the parties.

(2) In any United States district court the findings and order of the Commission shall be prima facie evidence of the facts therein stated, and the petitioner shall not be liable for costs, nor for the costs of any subsequent stage of the proceedings, unless they accrue upon his appeal. A petitioner in a United States district court who prevails shall be allowed a reasonable attorney's fee to be assessed and collected as part of the costs of the suit.

(3) All parties in whose favor the Commission has made an award of reparation by a single order may be joined as plaintiffs, and all other parties in the order may be joined as defendants, in a single suit in any district in which any one plaintiff could maintain a suit against any one defendant. Service of process against any defendant not found in that district may be made in any district in which is located any office of, or point of call on a regular route operated by, that defendant. Judgment may be entered in favor of any plaintiff against the defendant liable to that plaintiff.

(e) STATUTE OF LIMITATIONS.—Any action seeking enforcement of a Commission order shall be filed within 1 year after the date of the violation of the order.

(f) REPRESENTATION IN COURT.—Attorneys employed by the Commission may, if the Attorney General, after appropriate notice, does not object, appear for and represent the Commission in any case before a court of the United States or a State of the United States.

(g) IMPACT REPORTS.—The Commission shall be exempt from the requirements for the preparation of impact reports pursuant to 42 U.S.C. 6362(b).

SEC. 17. REPORTS AND CERTIFICATES.

(a) REPORTS.—The Commission may require any common carrier, marine terminal operator, or ocean freight forwarder, or any officer, receiver, trustee, lessee, agent, or employee thereof, to file with it any periodical or special report or any account, record, rate, or charge, or memorandum of any facts and transactions appertaining to the business of that common carrier, marine terminal operator, or ocean freight forwarder. The report, account, record, rate, charge, or memorandum shall be made under oath whenever the Commission so requires and shall be furnished in the form and within the time prescribed by the Commission. Conference minutes and self-policing reports required to be filed with the Commission shall not be released to third parties or published by the Commission.

(b) CERTIFICATION.—The Commission shall require the chief executive officer of every ocean common carrier and, to the extent it deems feasible, may require any shipper, consignor, consignee, non-vessel-operating common carrier, marine terminal operator, ocean freight forwarder, or broker to file a periodic written certification made under oath with the Commission attesting to—

(1) a policy prohibiting the payment, solicitation, or receipt of any rebate that is unlawful under this Act;

(2) the fact that this policy has been promulgated recently to each owner, officer, employee, and agent thereof;

(3) the details of the efforts made within the company or otherwise to prevent or correct illegal rebating; and

(4) full cooperation with the Commission in its investigation of illegal rebating or refunds in United States foreign trades and in its efforts to end those illegal practices.

Failure to file a certification shall result in a civil penalty of not more than $5,000 for each day the violation continues.

SEC. 18. EXEMPTIONS.

The Commission, upon application or on its own motion, may by order or rule exempt for the future any specified activity or class of agreements subject to this Act from any requirement of this Act, if it finds that the exemption will not substantially impair effective regulation by the Commission. The Commission may attach conditions to any exemption and may, by order, revoke any exemption. No order or rule of exemption or revocation of exemption may be issued unless opportunity for hearing has been afforded interested persons (who, for purposes of this section, include the departments and agencies of the United States).

SEC. 19. REGULATIONS.

The Commission may promulgate rules and regulations as necessary to carry out the provisions of this Act.

SEC. 20. REPORT TO CONGRESS.—No later than 2 years after the effective day of this Act, the Comptroller General shall submit to the Congress a comprehensive study of, and make recommendations concerning, the regulation of international ocean shipping by common carriers. Such comprehensive study shall specifically address—

(1) various options of deregulation of the international ocean shipping industry, with reference to their ability to promote an efficient, stable, and competitive United States common carrier fleet;

(2) the opportunities for harmonizing United States policy toward international ocean shipping with the policies of our major trading partners;

(3) the system for determining tariffs based on the classification of goods and its role in a deregulated international ocean shipping industry; including the most effective method for eliminating unnecessary cargo classifications as a basis for establishing tariffs and the feasibility of establishing a single tariff by each conference or common carrier for all cargoes shipped in units of comparable size, weight, and handling characteristics;

(4) the role of the antitrust laws in the international shipping industry and their impact upon our relations with foreign nations;

(5) the impact of the "rules of competition" being considered by our trading partners and their relationship to the trend in the developing world toward structured cartelization;

(6) the impact deregulation may have on the growth of State-owned or State-controlled merchant fleets;

(7) the size of the United States liner fleet, by number and cargo capacity, which each option may produce; and

(8) the future structure and role of the Federal Maritime Commission in a deregulated international ocean shipping industry.

SEC. 21. REPEALS AND CONFORMING AMENDMENTS.

(a) REPEALS.—The laws specified in the following table are repealed:

Shipping Act, 1916:	
Sec. 13	36 Stat. 117
Sec. 14a	46 U.S.C. 813
Sec. 14b	46 U.S.C. 813a
Sec. 18(b)	46 U.S.C. 817(b)
Sec. 18(c)	46 U.S.C. 817(c)
Sec. 26	46 U.S.C. 825
Sec. 44	46 U.S.C. 841b
Merchant Marine Act, 1920:	
Sec. 20	41 Stat. 996
Merchant Marine Act, 1936:	
Sec. 212(e)	46 U.S.C. 1122(e)
Sec. 214	46 U.S.C. 1124
Omnibus Budget Reconciliation Act of 1981:	
Sec. 1608	95 Stat. 752

(b) CONFORMING AMENDMENTS.—The Shipping Act, 1916 (39 Stat. 728), as amended (46 U.S.C. 801 et seq.), is amended as follows:

(1) in section 1 by striking the definition "controlled carrier";

(2) in sections 14, 15, 16, 20, 21(a), 22, and 45 by striking "common carrier by water" wherever it appears in those sections and substituting "common carrier by water in interstate commerce";

(3) in section 14, first paragraph, by striking "or a port of a foreign country";

(4) in section 14, last paragraph, by striking all after the words "for each offense" and substituting a period;

(5) in section 15, fourth paragraph, by striking "(including changes in special rates and charges covered by section 14b of this Act which do not involve a change in the spread between such rates and charges and the rates and charges applicable to noncontract shippers)" and also "with the publication and filing requirements of section 18(b) hereof and";

(6) in section 15, sixth paragraph, by striking ", or permitted under section 14b," and in the seventh paragraph, by striking "or of section 14b";

(7) in section 16, in the paragraph designated "First", by striking all after "disadvantage in any respect" and substituting "whatsoever.";

(8) in section 17 by striking the first paragraph, and in the second paragraph, by striking "such carrier and every";

(9) in section 21(b) by striking "The Commission shall require the chief executive officer of every vessel operating common carrier by water in foreign commerce and to the extent it deems feasible, may require any shipper, consignor, consignee, forwarder, broker, other carrier or other person subject to this Act," and substituting "The Commission may, to the extent it deems feasible, require any shipper, consignor, consignee, forwarder, broker, or other person subject to this Act,";

(10) in section 22 by striking subsection (c);

(11) in section 25, at the end of the first sentence, by adding "under this Act";

(12) in sections 29, 30, and 31, after the words "any order of the board", by adding "under this Act,";

(13) in section 32(a), by striking "and section 44"; and

(14) in section 32(c), after the words "or functions,", by adding "under this Act,".

(c) TECHNICAL AMENDMENTS.—Section 212 of the Merchant Marine Act, 1936 (46 U.S.C. 1122) is amended by—

(1) striking after subsection (d) the following undesignated paragraph:

"The Federal Maritime Commission is authorized and directed—";

and

(2) striking after subsection (e) the following undesignated paragraph:

"The Secretary of Transportation is authorized and directed—".

(d) EFFECTS ON CERTAIN AGREEMENTS AND CONTRACTS.—All agreements, contracts, modifications, and exemptions previously approved or licenses previously issued by the Commission shall continue in force and effect as if approved or issued under the provisions of this Act; and all new agreements, contracts, and modifications to existing, pending, or new contracts or agreements shall be considered under the provisions of this Act.

(e) SAVINGS PROVISIONS.—

(1) Notwithstanding section 9(c), each service contract entered into by a shipper and an ocean common carrier or conference before the date of enactment of this Act, may remain in full force and effect and need not comply with the requirements of that subsection until 15 months after the date of enactment of this bill.

(2) This Act and the amendments made by it shall not affect any suit filed before the date of enactment of this Act.

SEC. 22. EFFECTIVE DATE.

This Act shall become effective 180 days after the date of its enactment, except that section 19 shall become effective upon enactment.

Mr. GORTON. Mr. President, I am proud to bring before you today a bill that, if enacted, will be the most significant maritime legislation in decades. The Ocean Shipping Act of 1983 provides long overdue regulatory reform for international ocean liner shipping which will benefit both ocean liner carriers and the users of their services, our exporters and importers. S. 47 is supported by all segments of the maritime community: carriers; freight forwarders; labor; both small and large ports; and shippers, who are the consumers of carrier services.

THE NEED FOR REFORM

For the past 100 years, carriers have formed conferences to establish collectively rates and services. This is the accepted practice worldwide. Before World War I, Congress studied the ocean conference system to decide whether the then new antitrust laws should apply to this aspect of foreign commerce. Its findings are as relevant now as they were in 1913:

A shipping conference is a voluntary association of ocean carriers operating on a particular trade route between two or more countries.

The conference system could not operate legally in U.S. trades without express immunity from the application of the antitrust laws of the United States. The U.S. trades, however, were served by many foreign-owned companies, as well as U.S. operators, and U.S. imports and exports were also the imports and exports of many foreign nations with fully equal interest in our commerce. In the face of the unusual characteristics of international economic competition, it is concluded that some degree of immunity from the antitrust laws should be granted to liner operators in our foreign commerce.

The United States enacted the Shipping Act of 1916 to place some control over, but not prevent, conferences. The United States has been the only Nation to regulate strictly its ocean shipping industry. The Federal Maritime Commission regulates conferences by requiring tariff filing and by approving conference agreements on a case-by-case basis. As a result of a number of judicial decisions, the original antitrust immunity for international liner shipping has been eroded until, at this point, it is largely illusory. Antitrust principles are now part of FMC oversight and the Department of Justice also regulates—through antitrust litigation—international liner shipping serving the United States.

There are at least four problems with the current regulatory scheme. First, the system is unpredictable. A carrier is never sure whether the FMC will approve its agreements. The standards by which both the FMC and the Department of Justice scrutinize carrier agreements are so vague that they are almost wholly discretionary and are a constant source of dispute and litigation. Even if the FMC approves an agreement, carriers must "look over their shoulders" for Department of Justice enforcement, the aggressiveness and substance of which has also changed over time.

Second, lengthy delays in the FMC decisionmaking process result from the uncertainty discussed above. Delays in approving an agreement can, and often do stretch on for years. Even routine matters take an inordinate amount of time to complete.

Third, U.S. carriers complain of unequal enforcement of antitrust laws. They claim that the Department of Justice scrutinizes and challenges their activities far more than their foreign competition. Foreign carriers operate in the U.S. trade with highly efficient joint ventures, consortia, revenue pools, and space sharing arrangements that reduce overcapacity and therefore reduce the cost of transportation. U.S.-flag carriers, however, are unable to operate on an equal footing with their foreign competition.

Fourth, the regulatory system strains our international relations. Our trading partners claim the extension of our antitrust laws constitutes an outrageous meddling in international commerce, which subjects foreign carriers and shippers to laws and general competitive concepts that are completely foreign to them. In fact, some Europeans nations, such as Great Britain have passed blocking statutes which prevent their companies from responding to and cooperat-

ing with the Department of Justice when it seeks to exercise its antitrust authority. It is clear that, when price-fixing and collective activity are the worldwide practice, when subsidies and government ownership are common, and when cargo reservation is the trend, our traditional concepts do not apply.

LEGISLATIVE HISTORY

Since 1977, there have been several legislative initiatives to reform the regulation of international ocean liner shipping. These initiatives have been the subject of literally months of hearings in the Senate and the House. S. 47 is similar to a House bill in the 97th Congress that passed 350 to 33 and to a Senate bill in the 97th Congress that the Commerce Committee reported out unanimously. In the 96th Congress the Senate unanimously passed legislation with similar maritime goals.

S. 47

S. 47 retains the two fundamental features of the 1916 Shipping Act: First, antitrust immunity for liner conference agreements—agreements by an organization of liner operators establishing rates and joint services—and second, common carrier requirements that liner operators publish tariffs establishing rates and services available to all shippers without discrimination.

The purpose of S. 47 is to allow international liner shipping serving the United States to operate in a manner more similar to shipping elsewhere in the world. It accomplishes this by:

First. Reinstating the antitrust immunity originally provided by the Shipping Act of 1916.

Second. Providing shippers with the ability to negotiate flexible terms of carriage while retaining the common carrier system of liner ocean transportation.

Third. Streamlining FMC's regulatory role by providing a swift and predictable review process.

The bill's premise is that liner conferences are healthy because they reduce overcapacity and stabilize rates, which result in more efficient and predictable service for shippers. Shippers, the consumers of ocean liner services, endorse S. 47 because lower carrier costs and more predictable service will mean lower shipping costs. The bill protects against conference abuses and insures that these lower costs are passed on to shippers and ultimately to consumers in the form of lower prices for imported and exported goods. Conferences must maintain open memberships and in certain circumstances must permit members to set independent rates. Shippers are permitted to form shippers' councils and may negotiate contracts based on their special market needs. The bill prohibits predatory practices and rebating. International ocean liner shipping is a robustly competitive business and S. 47 is designed to keep it that way.

Mr. President, I now intend to outline the highlights of S. 47.

HIGHLIGHTS OF S. 47

First, it provides antitrust immunity for agreements between carriers, shippers, and ports. All enforcment is consolidated in one agency, the Federal Maritime Commission, under one law, the Shipping Act.

Second, it eliminates vague standards of Federal Maritime Commission review, such as "detrimental to the commerce of the United States" and "public interest" tests. Instead, S. 47 lists specific prohibited acts, such as rebating, and specific unfair, discriminatory, or predatory practices.

Third, the bill requires tariff filing at, and enforcement by, the Federal Maritime Commission.

Fourth, the bill allows shippers and carriers to negotiate time/volume rates and service contracts.

Fifth, the act requires prompt Federal Maritime Commission review of agreements and places the burden of proof on opposition to those agreements.

Sixth, the bill provides swift and predictable penalties for violations.

Seventh, S. 47 provides limited antitrust immunity for shippers to organize and confer on shipper-carrier practices, but not to negotiate specific rates.

Eighth, the bill requests a GAO study of deregulation of liner shipping for 1 year.

REBUTTAL TO OPPONENTS' ARGUMENTS

During the last Congress some newspapers pubished editorials opposing shipping bills in the House of Representatives and Senate. The editorials generally said that the bills were special interest legislation granting the carriers a new, sweeping exemption to the antitrust laws. This would occur at the expense of the shippers and the consumers, the editorials went on, who would pay higher shipping rates as a result. I believe that the writers of those editorials failed to consider why all of the groups affected by the legislation as well as all of the Senators on the Commerce Committee supported it.

As I have said, the Ocean Shipping Act is simply not a gross new inroad into the antitrust laws. The United States has exempted ocean common carriers' price setting functions since 1916. S. 47 would clarify the scope of antitrust immunity and would speed up the regulatory process, which has become a procedural morass.

Ocean shipping is a highly competitive industry. Nonconference carriers, tramps, neobulk operators, and gateway competition insure that no carrier or conference can extract monopoly rents for their services. S. 47 contains its own prohibitions and sanctions to keep ocean shipping competitive. These include prohibitions against predatory practices, limits on loyalty contracts, and mandatory rights of independent action in trades with loyalty contracts.

I wish simply to depart from this formal text to emphasize the fact that this is and has been for many years a highly competitive industry. Unlike transportation by rail or even to a certain extent by road, the oceans, of course, are open at all times, There is no investment in a trade route. It is extremely easy to move a ship from one trade route to another, all across the entire world. Wherever traffic exists, ships will search it out. Wherever one can make a profit, there will be a high degree of competition.

Opponents of the Ocean Shipping Act, including Dr. Allen Ferguson of the National Institute of Economics and Law, claim that S. 47 will harm shippers, consumers, and the economy in general because it will raise shipping rates by 20 percent, for a total cost of approximately $3 billion per year, a figure frequently used in the course of the last 2 days by the Senator from Ohio.

At the Merchant Marine Subcommittee hearing on February 2 of this year Dr. Ferguson was unable to present any evidence to support his supposition. He offered no theoretical or factual basis for his 20-percent figure which has been widely quoted in the press. The 20-percent figure appears to be a guess based on an event in the Canadian-European trade during the last session of Congress. There the chief nonconference carrier in the trade announced that it intended to join the conference. At approximately the same time the conference announced a 20-percent rate increase. Apparently Dr. Freguson deduced that the same thing would happen if the United States passed the Shipping Act. In fact, almost as soon as the rate increase was announced, executives of a major Canadian conference carrier resigned to form a new nonconference carrier to compete in the trade. The conference rate increases were immediately withdrawn.

I emphasize that this took place in a trade which did not then and has never enforced any laws remotely comparable to the antitrust laws of the United States. That incidentally is also the case throughout the rest of the world.

Almost all of those who Dr. Ferguson claims will be hurt by S. 47 support this bill. The shippers, the importers and exporters who pay for carrier services, support S. 47 because they will benefit from reduced carrier costs. Ports, both large and small, support S. 47. In the last Congress the American Association of Port Authorities rebutted Dr. Ferguson's position

paper, which asserted that small ports would be hurt by the Shipping Act. Small ports have a strong voice in the AAPA, as those familiar with disputes over waterway user charges can easily verify. The opponents' arguments came down to an assertion that these groups do not know their own interests; that, despite 66 years of experience with the conference system, they are wrong in believing that the system reduces the cost of ocean transportation.

So we have the paradox of a handful of outsiders saying that people who have made their lives in this business over the years do not know what their own interests are, do not know what the effect of changes in practices will be, but that they, the outsiders, do.

Conference systems operate everywhere in the world and are almost entirely unregulated outside the United States. Under Dr. Ferguson's theories shipping rates outside the U.S. trades should be higher because of the ease of forming conferences and the absence of antitrust laws.

Incidentally, in many of those other areas of the world, those conferences are closed, that is to say, outsiders may not join them. Under this bill conferences will be open to joining by any carrier who wishes to do so.

Dr. Ferguson in his testimony declined to compare shipping rates in the U.S. trades with those in other comparable trades, but Mr. Clifford Sayre, who manages shipping for DuPont, said that it was his company's experience that other trades offer lower rates, in part because they have developed true intermodal systems.

S. 47 would foster intermodalism. It resolves a long-standing dispute over where conference activities include intermodal transportation, which has developed because of containerships. At the same time S. 47 contains procompetitive safeguards, such as limits on the geographic scope of conference agreements.

The Ocean Shipping Act is not special interest legislation to bail out the U.S. merchant marine. It does not affect issues such as Government subsidies for U.S. shipbuilding or use of foreign ships in U.S. domestic trades. U.S.-flag carriers will benefit because they will no longer be the target of discriminatory enforcement of our antitrust laws.

I am a strong advocate of the antitrust laws and have worked to strengthen these laws and their enforcement in domestic industries. But in the international arena, we must recognize that we cannot work our will unilaterally over international markets. Conferences have existed for a century in international ocean shipping. American experience since 1916 has shown that they are an effective device to lower carrier costs and that shippers benefit from less costly and more reliable service.

The Ocean Shipping Act of 1983 is necessary to streamline the regulatory role of the Federal Maritime Commission, to reaffirm carrier participation in conferences, and to improve our strained international relations. The bill is supported by a broad range of people who participate, directly or indirectly, in international shipping.

I am grateful to the Senator from Ohio for permitting us now to move to the debate on this bill.

During the remainder of the day we will hear from a number of other Senators in opening statements and I understand there will be presented the first amendment proposed by the Senator from Ohio.

It is important at this point, however, to indicate that this bill went from the Commerce Committee to the Judiciary Committee, and that as a result of the hearings of the Judiciary Committee the chairman of that committee will have some 17 amendments to introduce on Monday. They have been the subject of long and intensive negotiation between members of the Judiciary Committee and members of the Commerce Committee, myself, and the chairman of the Merchant Marine Subcommittee included.

When Monday arrives either 15 or 16 of those amendments will be accepted on our part.

Many of them significantly improve the bill, in my view. Others, while they do not, I believe, necessarily improve the bill, nonetheless allow it to retain its deregulatory and procompetitive charcter.

One of those amendments—perhaps the most important—addresses the fundamental question of whether or not tariffs are to be filed with and enforced by the Federal Maritime Commission. That proposal will be opposed by the Committee and by this Senator, but will be thoroughly debated, and I trust will be voted on Monday.

This is controversial legislation. It is also very, very complex legislation. I began working in this field 2 years ago as the then chairman of the Merchant Marine Subcommittee without the slightest knowledge of the field and with no bias toward any of the many interests which are included in it.

I feel very deeply that the subcommittee has, particularly with the great help of the senior Senator from Hawaii, who has worked in this field during his entire career, come up with a bill which is relatively unique in that it will benefit not only the professional carriers who originally proposed changes in the law 6 years or so ago, but their consumers, and all of the other professions which are concerned with ocean transportation of goods, such as the ports, the labor unions, freight forwarders, and the like, as well. We have probably come closer to causing both the suppliers of services and the consumers of those services to agree on changes, which are quite significant, than has been the case in any of the other business deregulatory legislation to appear on the floor of this body for the last half dozen years or so.

While the bill remains highly controversial, I believe that it deserves the support of all Senators. I believe it will improve the competitive position of the United States in international trade, and I commend the passage of the bill, without amendments to which the Commerce Committee does not agree, to my colleagues.

The Senator from Hawaii (Mr. INOUYE) does wish to come over and deliver an opening statement. I would be happy to yield the floor to the Senator from Ohio, but we hope that the Senator from Hawaii's statement would be included in the RECORD prior thereto.

The PRESIDING OFFICER. The Senator from Hawaii.

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

Seven years ago the Senate Commerce Committee began the long and difficult task of maritime regulatory reform in an effort to revitalize the international segment of our merchant marine, when we first looked into the problem of illegal rebating. I am certain most of my colleagues are aware of what illegal rebating is all about. It is a secret form of rate war in which carriers surreptitiously, clandestinely, depart from the terms of their published tariffs on file with the FMC, and offer inducements and incentives that attract cargo to the detriment of their competitors.

In other parts of the world, illegal rebating may be called Kumshaw, or under-the-table payments, and this is what I am talking about, Mr. President.

Our liner trades operate on a come one, come all basis, inviting participation of foreign-flag carriers as cross-traders (that is, carriers of a nation(s) other than those of our trading partner in a given trade).

Since we are the largest trading nation in the world, our policy of freedom of access to our liner trades has attracted cross traders from all over the world. The result is our liner trades are overtonnaged and a climate conducive to rebating prevails.

Rebating can take many forms other than outright cash rebates. A carrier is, in effect, granting a rebate when it absorbs or pays for the cost of services which, under its tariff, would be paid by the shipper. Some examples are: Payment of the cost of inland transportation charges from the shipper's facility to the ocean carrier's terminal at the port; payment of the cost of inland transportation charges from

the ocean carrier's port terminal to the point of delivery to the consignee; free warehousing; or permitting unreasonable use of carrier equipment, for example, failure to collect container demurrage. Another form is payment of terminal charges that are the responsibility of the shipper or consignee, such as truck load-loading or unloading charges.

Obviously, rebate schemes in the U.S. liner trades are not designed to preserve a complete documentary record for posterity. They are designed to conceal the payment. In addition, deals can be consummated overseas where the chance of detection is slim at best. Accordingly, to eliminate rebating in our liner trades is a difficult task.

At the time we began our investigation into rebating in 1977, the FMC testified that it had evidence indicating a pervasive pattern of rebating in virtually all significant U.S. liner trades, and that it amounted to at least $100 million annually. Others estimated the amount to be at least five times that, a half a billion dollars. And that was in 1977.

There are those who say rebating is all right because it is the result of healthy competition. In fact, that is what the antitrust theorists are maintaining at this moment in this Chamber.

Let me repeat what an expert witness with 30 years experience in the real world of international shipping had to say about rebating (Manuel Diaz, president of Adherence Group, Inc.);

It results in unreasonable preference and advantage or prejudice and disadvantage, to shippers, ports, and other concerned interests.

It never benefits the consumer, and ultimately, must result in predatory competition leading to unbridled rate wars which will ultimately make it impossible for privately owned companies to continue to operate much less to replace their fleets.

In a nutshell, the result of illegal rebating, whatever its degree, is the enrichment of a few at the expense of the public interest and commerce between nations.

In addition to effects described by Mr. Diaz, illegal rebating posed additional problems for U.S. carriers vis-a-vis foreign-flag competition because there was an enforcement bias against the U.S. carriers.

In the case of foreign-flag carriers, their records, which were necessary to establish their illegal rebating, even when the FMC sought to obtain the records of a foreign-flag carrier, the agency was often confronted with a "blocking statute", which prohibited that carrier from turning over its records.

At the time of our investigation in 1977, according to the FMC, the United Kingdom, Belgium, Sweden, France, Finland, the Netherlands, the Federal Republic of Germany, Australia, and Norway had enacted such secrecy laws.

Mr. Diaz concluded by telling our committee that he did not think that the U.S. liner fleet had any future if our trades continued to be rife with rebating. He said he did not know "how any man in his right mind would invest one single cent in the building of U.S. vessels for the liner trade."

About 6 years later, it appears our liner industry's prospects for attracting investment have not improved, according to the statistics of the Council of American-Flag Ship Operators:

The consistent inability of the industry to earn a return on equity commensurate with other industries has weakened its ability to attract much needed capital investment. In comparison to other industry groups, the ocean liner industry is one of the poorest and most inconsistent in terms of return on equity:

Between 1976 and 1980, the industry has only generated a return on assets of between 0.9 percent and 6.1 percent.

During the same period, long-term debt increased from 0.76 of equity to 3.83 times equity. The ratio of current assets to current liabilities fell from 1.7 to 1.3.

The liner industry's return on equity in 1979 was less than one-fifth the all-industry average, in 1981 it was less than half and over the last 5 years has never been greater than two-thirds of the all industry average.

In any event, when the committee began its investigation in 1977, rebating was one of the major afflictions in our liner trades. The following year we strengthened our laws dealing with the problem, and provided, among other things, tariff suspension if a carrier failed to comply with an FMC request for records in an investigation into rebating.

Then, 2 years after we enacted that law, the FMC testified that the problem had greatly improved.

In the same year—1977—the committee began looking into the problem of rebating, it renewed earlier efforts to deal with the rate-cutting practices of State-controlled carriers—chiefly the Soviets—who were operating as cross-traders in our trades. These rate-cutting practices not only threatened to destroy legitimate competition in our foreign commerce, they put the survival of our merchant fleet in jeopardy.

By 1977, Soviet penetration of U.S. liner freight routes had grown substantially since 1971. From a relatively insignificant penetration level of 0.3 percent in 1971, the Soviet merchant marine had increased its share of the U.S. commercial liner cargo market to 3.4 percent as of the first 9 months of 1977. This represented a tenfold increase in the Soviet's market share during the 6-year period.

The Maritime Administration projected that by 1986 Soviet-flag ships would be hauling some 6.6 percent of our liner cargoes.

Our committee felt there was ample reason to infer that Soviet carriers cross trading in our liner trades were doing so at rates below the cost of commercially motivated carriers for noncommercial purposes such as an accumulation of hard currency, military, and political objectives. To put it in simple language, the Soviet fleet has no chief executive officer, board of directors, chairman of the board, and, most importantly, no stockholders.

The Soviet merchant fleet is part of their naval fleet. It is run by admirals, not by civilians, as you will find in the United States. Profit is not their motive. Their motives and objectives are military and political, so they are able to cut rates below cost to attract cargo.

Some of the more striking examples of rate cutting cited at our hearings in 1977 included: First, imported shoes from North Europe with a 44-percent rate variance; second, commercial household goods from the United States to Europe with a 33-percent rate variance; third, textile machinery from the United States to Europe at a 42-percent rate variance; and fourth, rattan furniture from the Philippines to the United States at a 31-percent rate variance.

Another instance concerned Lykes Bros. Steamship Co., and involved the shipment of buses—purchased by the Urban Mass Transit Administration—moving from Germany to Houston which was carried by the Soviet carrier Baltic Shipping Co. at rates well below those quoted by Lykes for the same shipment. Lykes had quoted a lash barge load rate of $20,000, which equals approximately $6,500 per bus. Baltic Shipping Co., however, quoted a rate approximately 55 percent lower, about $3,500 per bus.

As a result of investigation into the rate-cutting practices of the Soviets and other state-controlled carriers, Congress enacted legislation strengthening the provisions of the Shipping Act 1916, by giving the FMC power to regulate those practices. Among other things, that law prohibits these carriers from maintaining rates or changes in their tariffs which are below a level that is just and reasonable; and gives the FMC power to suspend their tariffs.

Again, as in the case of our laws against illegal rebating, the problems caused by the practices of these state-controlled carriers are substantially less.

Around the time our committee began looking into maritime regulatory reform, the Antitrust Division of the Department of Justice conducted its own study of the regulated ocean shipping industry. That study proposed repeal of the Shipping Act, which included abolition of tariff enforcement by the FMC, as a way to increase competition in ocean shipping.

Dr. Diaz, whom I have mentioned, testified before our committee that:

The test tube "free market" philosophy espoused by the Department of Justice in

their recently completed "study of the regulated ocean shipping industry" is singularly dangerous. By advocating repeal of the Shipping Act, so that steamship carriers in the foreign commerce would be regulated under U.S. domestic common law of common carriers and U.S. antitrust laws, the Department of Justice gives clear evidence of a thorough lack of sensitivity and, indeed, of understanding of the world outside its judicial laboratory. Our major trading partners have shown that their philosophy with respect to world liner shipping works infinitely better than ours. If this committee does no more, it should repudiate the proposals of the Department of Justice, however well intentioned those proposals may actually be, especially if you wish to save U.S.-flag liner shipping. If you don't believe me, take a look at what the "free market" philosophy has done for the U.S.-flag bulk carrier fleet.

I have been talking about the type of competition that the Department of Justice would like to have.

There have been times when I looked upon the activities of our agencies with disbelief, Mr. President.

I remember once the FMC subpenaed a Soviet shipping company, because it believed that the Soviets were not complying with some of our shipping laws.

Well, Mr. President, one agency filed an amicus curiae, not on behalf of the FMC, but in support of the Soviet position, saying that the Soviets are sovereign, and we have no business touching them.

Guess who that agency was. The very agency that says; "Wipe out the FMC." The Justice Department.

We have asked the Justice Department. "How often have you investigated consortia or combinations of foreign shipping companies for antitrist activities?" The Department had to tell us, "Never." They have only investigated consortia where U.S. flags were involved.

Well, Mr. President, I could go on and on. I am surprised at the GAO report that says we are in great shape. If great shape means carrying less than 4 percent of our foreign cargo, then I do not know what bad business is all about.

Before I close, Mr. President, I would like to just cite one experience.

Events proved that with enactment of the Controlled Carrier Act and the legislation strengthening our laws against illegal rebating, Congress has made a start toward correcting the abuses that threatened our foreign commerce and the viability of the U.S. merchant marine. Essential to that success were retention of the requirement for tariff filing and the strengthened enforcement powers given the FMC. Tariff filing and enforcement were necessary tools to stabilize our trades because our open trade policy attracted so many cross traders, overtonnaging was the inevitable result. In the words of a distinguished former Chairman of the FMC, Karl E. Bakke,

Political freedom begat freedom of seas; freedom of the seas begat freedom of access; freedom of access begat overtonnaging; and overtonnaging begat rebating.

Similarly, the lucrative nature of our trades, and the free access to them without virtually any protection against predatory practices, invited the Soviets to come in as cross traders for their national political purposes.

It may interest Members to know that even now, according to statistics I have seen, foreign flags carry over 30 percent of U.S. mail. These foreign-flag carriers include state-controlled lines such as Polish-Ocean Lines. Most other countries reserve their postal cargos for their own flagships as a matter of commercial practice.

Mr. President, during the past few days the Senate has heard a good deal of untested economic theory to the effect that more and freer competition will benefit our foreign commerce. The principal means for achieving these goals would be the abolition of tariff enforcement. The very tool which has helped correct the anticompetitive abuses which were rampant in our trades. But the arguments are based on just that—untested theory.

Our recommendations, however, are the result of 7 years of comprehensive investigation, supported by extensive testimony of those who have spent their lives in the real and practical world of international liner shipping.

The threat to our merchant marine is grave and it is immediate. Should its deterioration continue, the day may soon come when we will have to rely on the Soviets and other foreign flags to carry our exports and imports. In that sad event, it will be an easy matter for Mr. Andropov to say:

We don't agree with your policy in the Middle East, and we have therefore directed our vessels not to call at your ports.

Should anyone think this is an exaggeration, he need only recall the instructions the Liberian Government gave its flag vessels during the Yom Kippur war. They were prohibited from carrying oil to Israel for fear of offending the Arab countries.

But the U.S. merchant marine is also our fourth arm of defense. It was vital in World War II, the Korean war, and Vietnam. The Senate may recall that many of our allies refused to carry our cargo to Vietnam because they did not agree with our policy.

What will happen in the event of war or a national emergency if we have no merchant marine to call upon?

During the Falkland Islands crisis when ocean transport for troops and material was essential, the British had the *QE II* and other passenger vessels available. And according to statistics I have seen, the Soviets have over 70 troop transports available.

What is our situation at the moment? The military Sealift Command has had to charter foreign-flag vessels which have been reflagged United States, to supply our Rapid Deployment Force with arms and equipment.

Whereas, according to MarAd, we had 54 vessels capable of carrying troops in 1950, and 40 in 1960, today we have only 2. And those two are in the Pacific Ocean cruising around my State of Hawaii.

Mr. President, I ask the question, even if we were willing to risk the present and future welfare of our foreign commerce on untested economic theory, are we also willing to subject our national security to the same risk?

Our passenger fleet and our dry-bulk fleet are virtually nonexistent. The following statistics of the Council of American-Flag Ship Operators gives further evidence of the decline of the U.S. fleet:

The number of U.S. general cargo vessels declined from 523 in 1970 to 256 in 1980.

Relative size of the U.S. fleet declined from first in the world in 1950 to eighth in 1979.

Between 1971 and 1976 the U.S. general cargo fleet declined in GRT's by over 35 percent, from 8,462,000 to 5,490,000. During the same period, the Soviet fleet increased by over 25 percent, from 6,202,000 to 7,796,000.

The number of U.S. companies declined from 19 in 1970 to 9 in 1981. Of the nine, three are currently in serious financial difficulty.

In 1956–60, the U.S.-flag fleet carried 35.8 percent by value and 33.1 percent by weight of U.S. liner cargoes. The data utilized by GAO showed that by 1978, this had declined to 30.1 percent and 29.9 percent, respectively. GAO believed this indicates stability of U.S.-flag market share. However, more recent information shows this trend has continued, with data for 1981 showing a decrease to 27.6 percent by weight and 28 percent by value.

Mr. President, 2 days ago my distinguished colleague, the senior Senator from Louisiana, explained at some length why there was nothing hurried, secret, or sinister about the legislative process leading up to the Senate's consideration of S. 47.

He also explained quite convincingly, in my judgment, that international liner shipping is different than other modes of transportation, and must therefore have a limited exemption from our antitrust laws if the shipping public is to receive efficient, reliable service at fair prices. For these reasons, enactment of S. 47 would not, as some of its critics have alleged, "allow our free enterprise system to be picked to pieces by industry-by-industry efforts to escape competition."

The senior Senator from Louisiana also said that as we debate S. 47, it will become evident that much of the criticism is without substance.

At this point, Mr. President, I would like to address myself to some of the specifics of that criticism, and explain why I feel it is unwarranted.

Allegation. The proposed bill would expand the limited antitrust immunity now enjoyed by the ocean common-carrier industry into complete immunity from antitrust laws.

Fact. As reported by the Senate Commerce Committee, S. 47 would extend antitrust immunity only to concerted activity that is:

Pursuant to an agreement that has been filed with the Federal Maritime Commission (FMC) and is actually in effect subject to stringent standards of fairness set forth in the act;

Pursuant to an agreement concerning activity that has been expressly exempted by the FMC, after notice and hearing, from the filing requirement of the act as having de minimis anticompetitive consequences;

Believed in good faith to be pursuant to an effective or exempt agreement. Participation in "secret" anticompetitive agreements would continue, as now, to be subject to criminal sanctions under the antitrust laws. It should also be pointed out that under S. 47, the civil penalties for violation of the Shipping Act could amount to as much as 10 times the fine for the same conduct if subject to the antitrust laws.

Allegation. S. 47 would eliminate the FMC's authority to disapprove conference agreements that are not in the public interest or are detrimental to U.S. commerce.

Fact. S. 47 carefully catalogs, in a section entitled "Prohibited Acts," the kinds of agreements or activities that experience has demonstrated to be contrary to the public interest or detrimental to the foreign commerce of the United States.

If, upon complaint of a private party and after a preliminary hearing, the FMC determines that a filed agreement is likely to lead to one or more prohibited acts, there is provision in the bill for suspension of the agreement pending the outcome of a formal investigation that may lead to disapproval. If disapproved, parties to the proposed agreement have full exposure to the criminal sanctions of the antitrust laws should they nevertheless implement the agreement. Moreover, the bill expressly empowers the FMC to maintain continuing surveillance of implemented agreements and to modify or cancel any that are found to be operating in violation of the stringent and objective standards of fairness expressly required of such agreements.

Allegation. S. 47 would preclude parties injured by agreements and who successfully prove antitrust violations from recovering treble damages, as would be permitted by existing antitrust laws.

Fact. Parties to "secret" agreements or activity not reasonably believed to be within the scope of an agreement that is in effect pursuant to the act would continue to have criminal liability under the antitrust laws. While S. 47 would allow parties injured by violations of the Shipping Act to recover only the amount of actual damages suffered, rather than treble damages, that is fair to all concerned.

Treble damages under the antitrust laws are not intended to be compensatory; rather, the "treble damage" provision of the antitrust laws is a deterrent feature, which is mild by comparison with the liability exposure of one who violates the Shipping Act prohibitions—action that could lead to 10 times the criminal fine under the antitrust laws. The difference is that under S. 47, the injured party would be made whole, and the U.S. Treasury would benefit from the penalty assessment, whereas under the antitrust laws the consumer who may have suffered some injury reaps a windfall and the U.S. Treasury is usually a net loser in cost/return ratio in litigation.

The attached hypothetical illustrates that penalties for violations of S. 47 are potentially 10 times greater than Sherman Act criminal fines and 1916 act civil penalties combined.

HYPOTHETICAL

Assume facts which clearly violate both the current Shipping Act, 1916, and the Sherman Act and assume that the same facts violate S. 47:

A and B are competitors in the liner trade. They serve the same multiple ports. They agree to an allocation of ports, to an allocation of customers and to maintaining prices at artificially high levels.

A and B implement their agreement without filing it with the FMC and operate under the unfiled unapproved agreement for 2 years before it is discovered.

Under a one-count Sherman Act indictment, each would face a maximum fine of $1,000,000.

Under S. 47, the penalty for an unaggravated violation of the statute would be up to $5,000 per day. In this hypothetical, the violation would probably be found to have been willful and knowing—bringing the maximum civil penalty to $25,000 per day for each carrier: a total of $18,200,000 each versus the $1,728,000 under the Sherman and 1916 acts combined.

Allegation. S. 47 would permit the formation of shippers' councils—federations of shippers authorized to bargain with the conferences over rates, services, and so forth.

Fact. S. 47 allows conferences only to consult and confer—not "bargain"—with shippers' councils concerning general rate matters and services. This authority is consistent with the long-established and mutually beneficial consultation procedure between shipper groups and conferences in all other major maritime nations and trades, and merely brings the United States into legal conformity with the "real world" of commercial relationships in liner shipping matters. In fact, section 15 of the present Shipping Act requires conferences to "adopt and maintain reasonable procedures for promptly and fairly hearing and considering shippers' requests and complaints," but giving full effect to that requirement has not been possible because of antitrust concerns shared by shippers and carriers alike. S. 47 would make effective consultations of this sort possible, but at the same time imposes specific restrictions and requirements on shippers' councils to insure that antitrust immunity is limited to concerned activity relating only to transportation in the import or export trade. There is full exposure to liability under the antitrust laws for shipper activity that violates antitrust constraints applicable to domestic commerce, or activity other than what involves transportation-related matters in the foreign trade.

Allegation. S. 47 would virtually free the industry entirely from Government oversight and regulations.

Fact. Government oversight and regulation is the pervasive theme of S. 47; streamlining and simplifying those processes are its principal objectives. The ocean common-carrier industry would still be subject to substantially more restrictive Federal oversight and regulation than its counterpart modes in domestic inland rail, motor, air, and water transportation.

[Note: It should be recognized that under S. 47, the role of the Department of Justice is substantially reduced, and that the FMC will be doing the "oversight and regulation." Critics say such reliance on the FMC is not justified by its record. On the other hand, those who stand to be injured (shippers, ports, etc.) support S. 47, and are therefore satisfied with its regulatory regime.]

Allegation. S. 47 would lead to higher rates for shippers, and therefore consumers. Recent experience shows that rates could rise as much as 20 percent a year, leading to $3 billion per year annual cost increases to consumers.

Fact. This argument was advanced in the committee hearings by an economist (Dr. Ferguson) as a guess (see responses to questioning in the hearing before the Senate Commerce Committee on February 2). The fact is, objective studies by a major carrier in the U.S. North Atlantic-Europe trade (Hapag-Lloyd) and independent research organizations familiar with economics of the industry have demonstrated with solid statistical data that rationalization of services could reduce ocean transportation costs by as much as 30 percent. The dictates of the marketplace would mandate that a significant portion of this saving be passed on to the shipper—and consumer—in the form of: Lower rates on individual commodities, less frequent escalation of particular rates, greater intervals

between general rate increases, or all of these. This result would be particularly to be anticipated if shippers' councils are permitted to engage in the consultations with conferences contemplated in S. 47.

Allegation. S. 47 would primarily benefit foreign carriers since 72 percent of conference membership is made up of foreign carriers.

Fact. This bill would benefit the U.S. merchant marine more than the foreign carriers in our trade because it would allow our carriers to do what their competitors now do without constraint of U.S. domestic law. For example, the formation of joint ventures and consortia to rationalize utilization of vessels, shoreside facilities, personnel, cargo solicitation, and ancillary services. The very fact that the U.S. liner fleet now carries only about one-fourth of our own foreign trade is reason enough, both as a matter of national pride and of critical national interest, to take steps calculated to give our flag fleet a fighting chance to compete fairly in the marketplace on a commercial basis. S. 47 is intended to provide that opportunity.

Allegation. S. 47 will lead to increased unemployment in the industry.

Fact. Any measure that strengthens the competitive position of the U.S.-flag merchant marine, as this bill would, can only ameliorate the present plight of U.S. seamen and licensed officers. Graduates of our Merchant Marine Academy at Kings Point and its sister State institutions now are having to seek foreign employment, both initially and even after U.S. service, to gain experience necessary to upgrade their tickets. This has profound negative implications for both the quality and dedication of those responsible for our supply lifeline in time of national emergency, whether at home or abroad. S. 47 would be a positive step toward bringing our U.S. merchant marine resources back under domestic control.

Allegation. S. 47 will reduce the numbers of ports served by shippers.

Fact. Shippers are cost conscious, and there is nothing in S. 47 that would induce shippers to make any decision regarding port of entry or exit of shipments that they could not already make under present law. Indeed, S. 47 is supported by U.S. ports themselves.

Allegation. Shippers' councils will likely benefit large shippers at the expense of small shippers.

Fact. That is not the view of the National Industrial Transportation League concerning S. 47, or of testimony on prior legislation by representatives of the Secretariat of the European National Shippers' Councils. Concern about abuse of the "cartel versus cartel" consultation process is based on lack of comprehension of how that process works in the real world. The parties are not concerned about particular commodity rates—that is a matter customarily resolved between the conference and an individual shipper—but rather about general rate increases, adjustment surcharges—currency, bunker, congestion (demurrage), war risk, et cetera—and integrity of tariff rates. Those issues affect all shippers, regardless of size.

Allegation. According to the GAO report, the industry does not need legislation such as S. 47.

Fact. The GAO report in question—PAD-82-11; July 2, 1982—came nowhere near that unqualified conclusion. The full text of the GAO statement reads:

> Thus, it appears that the U.S. flag liner fleet is not in a state of general distress significant enough to justify a major revision of the Shipping Act.

Moreover, a fair reading of the entire report reveals that GAO carefully straddled the issue of revisions in the Shipping Act, concluding that there were merits both pro and con and inviting the Congress to sort them out. Indeed, on the issue of weakening versus strengthening the present limited degree of antitrust immunity available to conferences under the Shipping Act, GAO stated:

> Thus, while the first alternative may be preferable on economic grounds, certain diplomatic costs are associated with it that are not present in the second alternative. Since it was not possible for us to weigh these economic and diplomatic costs against one another, *we could not reach a conclusion as to which alternative was preferable.*

Allegation. The GAO report found that the average annual U.S.-flag share of U.S. liner cargo actually increased from 1966-70 to 1976-78.

Fact. Apart from the distortion introduced by carriage of military cargo during the Vietnam involvement in the comparison made by GAO, the fact is that the U.S.-flag share of this Nation's liner trade since 1976 has been declining steadily—from 31 percent in 1976 to 26 percent for the first 9 months of 1982, and heading further downward.

Allegation. According to the GAO report, the U.S.-flag liner fleet is in no chronic distress attributable to the Shipping Act.

Fact. Testimony by carriers, shippers, and consumers during consideration of several measures in the 95th Congress; consideration of S. 2585 and the omnibus shipping bill in the 96th Congress; the Shipping Act of 1982 in the 97th Congress—H.R. 4374; S. 1593—and the Shipping Act of 1983 in this Congress—S. 47—clearly establishes the contrary.

Moreover, it is instructive to read the full text of the GAO statement from which this single sentence allegation was extracted:

> Our review certainly did not indicate that the U.S. flag fleet is in any general chronic distress attributable to the Shipping Act. Of the eight defunct companies considered, a majority offered service on only one trade route at the time they were either acquired by other liner companies or ceased operation. This suggests that, in the future, successful liner companies may be those that are larger, multi-route operations. *As advances in containership technology produce even larger, more costly vessels, the continued successful operation of the fleet may require that U.S. flag companies form consortia similar to those formed by Japanese companies. These arrangements, in which capital resources are pooled, would enable U.S. operators to acquire the equipment needed to compete effectively against foreign flag consortia while still retaining the possibility of interline competition.*

Facilitation of such developments is precisely what S. 47 seeks to accomplish.

Allegation. FMC authority over tariff filing and enforcement should be repealed because it is unnecessary; introduces substantial inefficiencies in conference rate setting; and requires the U.S. Government to police and therefore support conference agreements. Moreover, the carriers can police themselves through neutral bodies.

Fact. Tariff filing and enforcement is an essential tool if we are to insure that all carriers in our trades compete equitably and fairly; and that all shippers are treated on a nondiscriminatory basis. Given the fact that we are the largest trading nation in the world, and that our trades are badly overtonnaged, there is the ever present temptation to illegally rebate to attract cargo.

Statutory tariff enforcement authority is important because the act prohibits secret rebating. By its very nature, rebating can and does involve sophisticated techniques using dummy bank accounts, corporate shells, and other devices that can be investigated effectively only with government-to-government cooperation.

Statutory tariff enforcement authority is important because the act prohibits shippers from obtaining or seeking to obtain ocean transportation at less than published tariff rates. If statutory sanctions against shipper violations are eliminated, this prohibition is meaningless. And if shippers are to remain subject to statutory fines and penalties, it is inequitable that the other party to an illegal transaction—the carrier involved—should not be subject to the same sanctions.

Statutory tariff enforcement authority is important because the act presently requires an effective tariff to be on file in order for a carrier to operate in the U.S. trades. If there is no requirement that carrier adhere to its tariff, the sanction of tariff suspension for egregious violations of the act becomes meaningless because even if the

right to use a tariff may be suspended—as proposed by the Judiciary Committee—there is noting to prevent an independent carrier merely from continuing to do business by ignoring its tariff or to prevent a conference member denied the right to use the conference tariff from resigning and filing a pro forma tariff that it then proceeds to ignore.

Although the "antidiscrimination" provisions of S. 47 may well protect shippers from prejudice arising from carrier departures from a published tariff, the same cannot be said for conference carriers that are prejudiced by failure of an independent carrier to observe its published tariff, or vise versa.

Without a mandate of tariff adherence, the "antidiscrimination" provision of S. 44 becomes a nightmare to enforce, because departure from the published tariff in a given case could no longer be viewed as a prima facie case of discrimination. The burden of proof would be shifted to the party alleging discrimination to show damage.

With respect to conferences, neutral body policing is a useful supplement to statutory tariff enforcement authority because it reduces the degree of government involvement in commercial matters and the administrative burden on the Federal regulatory agency. However, it is not a satisfactory alternative to Federal regulation, because the neutral body does not have access to compulsory process for access to investigatory information nor does it have recourse to diplomatic intervention where essential information located abroad is protected by "blocking statutes."

With respect to independent carriers, neutral body policing is not required. Absent statutory tariff enforcement authority, there would be no check at all on their tariff adherence.

With statutory tariff enforcement authority, the penalties for violations of tariff adherence requirements can be set by statute at a punitative level for all carriers. There is no assurance that as a contractual matter, under neutral body policing alone, a conference would be as stringent, given the commercial reality that in overtonnaged trades—which are prevalent in U.S. foreign commerce—rebating and other malpractices may be viewed as a competitive necessity—and even a matter of survival—for some carriers, given no comparable statutory constraints on independents. On the other hand, whatever the level of neutral body sanctions for tariff violations by conference members, independents would be undeterred from violations because of total lack of required supervision by any body.

Finally, I would say, Mr. President, that the attempts being made by some of our colleagues to weaken the Federal Maritime Commission, to take away part of the tariff regulations, will not only weaken our fleet; they will wipe it out.

So, Mr. President, with those words of sadness, I yield the floor.

(Mr. ABDNOR assumed the chair).

Mr. GORTON. Mr. President, I thank my distinguished colleague, the Senator from Hawaii (Mr. INOUYE) for his eloquent opening statement.

Mr. President, the Senate has before it now the first in a series of amendments which will be offered by the Senator from Ohio (Mr. METZENBAUM). This one is very simple in its phraseology. It strikes only the words, "through rates" and "through transportation," from the section of the bill dealing with intermodal rates. It is an ill-conceived amendment which would hurt not only the ocean common carriers of the United States and their trading partners but, most particularly, people who are in the business of both importing and exporting goods to and from the United States.

Obviously, Mr. President, the entire business of ocean transportation of goods has changed significantly since 1916. One of the most important of those changes has been the advent of intermodalism—that is the use of the same containers but on various modes of transportation such as ship and road. The advent of intermodalism has caused a serious problem which threatens the efficiency of our liner services to the detriment not only of conferences but of shippers.

In the late 1960's, the technical innovation of containerization made possible new economies of scale and thus promised the potential for substantial reductions in real costs to vessel operators and shippers. As a consequence, containerization became rapidly established on the most important U.S. trade routes. The full benefits of containerization can only be realized, however, when a container moves between shipper and consignee or between inland consolidation centers without breaking bulk. Under these circumstances, additional economies are derived from the speed with which intermodal transfer takes place, from savings in the labor and "storage" costs associated with this process, and from cost reductions in packaging and insurance as well as substantial reduction in damage and pilferage claims. The Federal Maritime Commission has approved conference agreements which authorize intermodal rates.

The Department of Justice, however, has taken a position contrary to the Federal Maritime Commission, claiming that the Commission has no authority to approve conference agreements providing for the fixing of through intermodal rates and that such agreements therefore violate the antitrust laws. This uncertainty regarding antitrust immunity inhibits conferences in U.S. trades from agreeing among themselves on the charge to quote shippers who choose to use conference facilities for the inland leg of a foreign door-to-door movement and it clearly frustrates the growth of an innovative, efficient, and economical transportation service.

It is to make certain that the Federal Maritime Commission can approve just such agreements that the section which the Senator from Ohio seeks to strike is included in S. 47.

Right at the outset of this debate, Mr. President, this amendment illustrates a lack of knowledge of the real world of the transportation of goods. Simply speaking, no one would be benefited by the passage of this amendment of the Senator from Ohio. He would continue a system in which there is great confusion in American foreign trade. He would continue a system in which only lawyers are enriched. He would continue a system which is very much to the detriment of both major and minor importers and exporters of the United States.

We need to encourage and not to discourage intermodal transfers of goods to and from the United States of America.

The Senator from Ohio claims that this could somehow be used to allow railroads, or perhaps common carriers such as trucks, to avoid antitrust actions and to gain antitrust immunity and to raise prices on what are essentially domestic trades. He raises the specter of using an ocean common carrier for a very short portion of what is essentially domestic trade and, somehow or other, greatly raising the rates for that trade.

Besides the logical inconsistency of that position, I must point out the fact that this act only applies to international trade. Somehow or other, the Senator from Ohio must believe that a domestic carrier by land would somehow find it economical to take his goods to an American seaport or to a foreign seaport, I would suppose, put them on a ship, take them off a ship a short distance later in an American seaport, repack them, send them by land to their ultimate destination. Somehow or other, the Senator from Ohio believes it would be economical for a carrier to do this because he would be able to fix prices on the ocean transportation of those goods, he would hurt consumers, and he would create a monopoly or an antitrust violation where one could now successfully be prosecuted by the Department of Justice.

Simply to describe the complexity of this kind of system and its overwhelming expense indicates that it, of course, will never happen. Anyone who tried it would immediately find himself in ruinous competition with a

normal carrier of goods in our domestic trades.

In addition to that, it is even in error, conceptually, and in illustrating that point I wish to read from the bill:

> This act applies to agreements by or among ocean common carriers to * * * work on various matters including through rates and through transportation.

In other words, this does not increase or create in any respect whatsoever antitrust immunities on the part of railroads or trucking firms in the United States. What it does allow is a conference made up of ocean carriers to get together and to create intermodal rates or through rates for the entire carriage of goods from, say, Europe to an internal point in the United States. This is something which they can do in almost every other part of the world, something which will save money not only for them but for their customers, the shippers of various goods. It does not add to the independent authority of land carriers whatsoever. It is in every respect an important part of the bill. It is important not only for American-flag carriers but also for all of the shippers in the United States. It should be rejected as ill conceived and detrimental to the commerce of the United States.

Mr. STEVENS. Mr. President, I support S. 47, the Ocean Shipping Act of 1983, a bill to revise regulation of international liner shipping operating in the U.S. foreign commerce.

After years of hearings and debate, this long-awaited legislation will bring U.S. regulation of international ocean-borne commerce into the 1980's—this change is sorely needed.

The Shipping Act of 1916 cannot accommodate the radical changes that have taken place in both international and domestic economic and political environments. First, the Ocean Shipping Act of 1983 responds to the need to achieve comity with our trading partners in regulating ocean commerce. This is accomplished by clarifying the antitrust immunity that is extended to international ocean liner conferences. Essentially, the rules of the game are better definded and more consistent with international practices.

Second, in clarifying the scope of the antitrust immunity, the legislation serves to better balance the burden of fear of prosecution under U.S. antitrust laws. Existing law weighs heavily on American interests while foreign liner operators, under the protection of their governments, have little or nothing to fear from enforcement of U.S. antitrust laws. It is high time that we act to correct the unfairness of this situation by making the rules the same for everyone in the liner shipping business.

Third, this bill deregulates sensibly. By eliminating the costly and time-consuming preapproval review of commercial agreements by the Federal Maritime Commission, private enterprise can more quickly respond to a changing international marketplace. Elimination of unnecessary intervention by the Federal Government in commercial activities is a primary objective of S. 1593, and is consistent with the Commerce Committee's desire and the Senate's wish to improve the performance and productivity of Government agencies. Ths bill also reduced the wasteful, needless, and confusing dual jurisdiction between the Federal Maritime Commission and the Department of Justice. Predictability in the enforcement of our maritime statutes has been wanting of late. Unfortunately, this has caused increasing friction among our trading partners and uncertainty in the industry, the tremendous costs of which are not easily measured.

Finally, the passage of S. 47 will begin an era of prosperity for U.S. exports. No one here can argue the importance of increasing the export of U.S. goods and products to foreign markets. The health and welfare of the American economy depends on sustaining growth in this area. The key to growth is in creating an environment conducive to shipping U.S. goods abroad. This important legislation is a critical step in that process. As the bill took shape, compromises reached between the export shippers and the ocean carriers assured that commercial flexibility is at the heart of this legislation. In providing for service contracts, including time/volume rates, and independent action, this legislation allows U.S. shippers to exercise considerable flexibility in arranging favorable terms for the carriage of U.S. products to foreign markets. This means that U.S. goods will be more competitive in foreign markets. Export growth will follow.

Furthermore, American interests will be better able to capitalize on the efficiencies of intermodalism by clarifying regulatory jurisdiction of such cargo movements. Dual intermodal jurisdiction between the ICC and FMC is harmful to U.S. foreign commerce and needs to be eliminated. This Nation can no longer afford to not take full advantage of advances in intermodal technology and the commercial opportunities that follow.

Even beyond the strong support of the many and diverse elements of the maritime industry, this legislation has widespread support from other areas as well. Our Nation's ports have endorsed this bill. Shippers, both large and small, believe this bill would result in lower freight rates and more flexible service. The overwhelmingly favorable vote on a similar bill last year in the House of Representatives—350 in favor to only 33 opposed—is further evidence of the worth of this legislation. The issue clearly enjoys bipartisan support.

This legislation is sorely misunderstood. The bill is fundamentally a long step toward deregulation. It provides U.S. enterprise with greater freedom and flexibility to better compete in a dynamic international marketplace. It clarifies the scope of antitrust immunity clouded by years of piecemeal court decisions and regulatory zeal.

The need to change the way we regulate international maritime trade is long overdue. S. 47 is a good start and I urge my colleagues to vote in favor of this measure.

● Mr. PACKWOOD. Mr. President, as chairman of the committee that has oversight over a number of transportation modes, I am pleased with the product now being brought before the Senate and urge its passage.

The Shipping Act of 1983 is unusual in that it represents for the most part a consensus of carriers and shippers—those who provide ocean shipping services and are seeking to maximize income, and those who are consumers of that service seeking the lowest cost ocean transportation. For this reason, I feel comfortable that the Senate Commerce Committee has reported out an excellent piece of legislation.

At the end of World War II, U.S. ships carried the most of U.S. goods moving in foreign commerce. Today, roughly 25 percent of these goods move on U.S. ships. In other words, U.S. carriers receive only $4.5 billion of the $15 billion freight bill paid by U.S. producers to move $200 billion of U.S. goods on liner ships.

A major reason for U.S. carriers' diminishing role in ocean commerce is our outmoded and complicated system of Federal regulation, which has been more heavily enforced against U.S. carriers than their foreign competition and imposed operating restrictions inhibiting their ability to respond to changing market conditions and to best serve shippers' needs.

S. 47 is a long-overdue update and recodification of these laws. Its intent is to clarify this antiquated and highly technical statute (the Shipping Act, 1916) to reflect today's commercial needs and requirements.

By streamlining the regulatory review process and by increasing opportunities for marketplace competition, many federally imposed barriers, which helped to inflate transportation costs, will be removed. Once these barriers are removed, the marketplace's competitive forces should aid U.S. producers and carriers in their efforts to contain and reduce ocean transportation costs.

A recent General Accounting Office study on the need for maritime regulatory reform also recommends eliminating these Federal regulatory barriers. It offered two options for doing so.

The first would require uniform enforcement of our antitrust laws. This proposal is unworkable because many of our trading partners have passed laws prohibiting antitrust actions against their citizens. The second called for complete deregulation. While S. 47 does not provide for total deregulation of the maritime liner industry, it goes a long way toward achieving many of the reforms recommended in this study.

In short, S. 47 is a regulatory reform bill which streamlines Federal regulation and which assists U.S. carriers and U.S. producers in their efforts to compete effectively in world trade. It changes Federal law to recognize more than 60 years of technological progress and innovation.

I. LEGISLATIVE HISTORY

S. 47 has its genesis in legislation studied and debated in both the Senate and House of Representatives in each of the past 5 years. As of today a total of 68 days of hearings have been held in the two Houses of Congress since 1977 on the issues addressed by this bill. Over that period testimony has been received from hundreds of witnesses, and compiled in many volumes of records. The ample record has established the need for maritime regulatory reform

In the 96th Congress, the Senate unanimously passed a bill which was quite similar to S. 47. Last year, the House passed a similar bill by a vote of 350 to 33. Senate consideration was prevented by a filibuster threat during the closing days of last session.

A hearing concerning S. 47 was held on February 2, 1983. Even though the vast majority of parties which would be affected by reform of ocean liner shipping regulation have voiced strong support for legislation, such as S. 47, the committee sought out opponents of the bill to testify at the hearing, so that they might have equal time to present their position.

Opponents of the bill had claimed that its enactment would raise shipping rates by as much as 20 percent. This figure was never substantiated. On the contrary, the committee received testimony from shippers who will actually have to pay the tariffs, that enactment of S. 47 could well reduce ocean shipping rates.

Despite testimony that the effect of the bill would be to harm small shippers, small shippers themselves testified that S. 47 would help them obtain better ocean transportation service at favorable rates.

A position paper of the representative Association of American Ports countered claims by one witness that the bill was inimical to ports' interests.

The committee heard suggestions that penalties under the Shipping Act were insufficient to discourage prohibited activities, and were substantially less than antitrust treble damage penalties. This was rebutted by presentation of a comparison of potential penalties as calculated under the antitrust laws as opposed to the significantly higher penalties that can be assessed by the Federal Maritime Commission under S. 47.

Substantial written comment was received from various shipper organizations. These focus on the need for oversight over pooling arrangements and joint ventures, the restriction of antitrust immunity to these agreements approved by the Federal Maritime Commission, prohibiting the allocation of shippers among conference carriers, the need for new authority provided in S. 47 for shippers and carriers to develop time-volume rates and service contracts, and the burden of proof regarding exceptions from loyalty contracts.

In addition, the committee adopted a revision of existing law in order to more effectively prevent exclusion of U.S.-flag carriers—and consequential increased cargo rates—by foreign nations or carriers.

Confident that with these changes the bill would benefit both carriers and shippers, the committee unanimously ordered S. 47 reported on February 15, 1983. In order to allow Judiciary Committee consideration, the committee also ordered that an original bill, identical to the S. 47 as reported by the committee, also be reported to the Senate. This original bill, S. 504, was reported on February 17, 1983 and referred to the Judiciary Committee.

II. ANTITRUST IN INTERNATIONAL OCEAN SHIPPING

I would like to say a few words about our antitrust laws and fair trade in world commerce. I and other sponsors of this legislation are strong proponents of antitrust as means of maintaining competition in our free enterprise system. Thus, it might appear to the most casual observer that there is inconsistency in the unanimous support of the Senate Commerce Committee for S. 47. There is not.

Domestic rules of competition may work at home and fully justify recent deregulatory approaches to trucking, rail, and domestic aviation, but they have been proven, not to work in international liner shipping.

These are international trades. The U.S. companies are only a few of many participants in these trades. To compete successfully, the U.S. participants must be able to play by similar rules. Since the United States does not have jurisdiction over the entire industry as we do in trucking, railroads, bottle manufacturing, steel, and so forth, we cannot make all the rules. If we try, we cannot enforce them. Our antitrust laws are not recognized abroad. England, for example, has passed blocking statutes to protect their companies from extraterritorial application of U.S. law.

Most of the regulatory problems and many of the competitive problems facing our industry are due to the intrusion of U.S. antitrust laws in an arena for which they are not designed—international commerce. Thus, it is the primary thrust of Congress this year to more closely conform domestic law with that of our foreign trading partners.

Unequal enforcement has hurt American carriers. The Department of Justice has generally not opposed consortia and joint service arrangements where all the parties were foreign-flag carriers. But it has opposed such agreements where one or more of the parties were U.S.-flag carriers.

The Justice Department has also adopted a double standard in seeking penalties for conduct already penalized by the Federal Maritime Commission. It has sought additional penalties under conspiracy statutes against U.S.-flag lines, but less often against foreign-flag lines.

In effect, the Justice Department's selective enforcement activities have imposed stricter and more burdensome standards on our own merchant marine. In those few cases where the Department of Justice has investigated rebating and other practices, it has created a major source of irritation to our foreign trading partners who operate in an unregulated marketplace, free of antitrust restraints.

III. RESTRAINTS ON CARRIERS

No one should think that carriers will be freely allowed to engage in anticompetitive practices. That is neither the intent nor the effect of this bill.

First, the grant of antitrust immunity is limited and specified. Generally speaking, activities or agreements by or among ocean common carriers, and by or among marine terminal operators as described in section 4 of this amendment, are only exempted from antitrust laws if they have been filed with the Federal Maritime Commission (FMC) under procedures set forth in section 5, and have become effective under section 6, or are reasonably believed to be filed and in effect.

Thus, carriers are not now, and will not in the future, be allowed to enter into secret agreements. Should they do so, they will not qualify for the antitrust exemption and will come under the full force of our antitrust laws.

Further, the antitrust exemption is not vague. Rather only those certain agreements or activities described in section 8 qualify.

Second, once under the Shipping Act jurisdiction, carriers face significant restrictions, specifically detailed in section 12. These are not vague, generalized rules, but rather prohibitions of

specific activities. All parties have a right to be able to ascertain beforehand the legality of any contemplated action. The replacement of vague "public interest" and "detrimental to commerce" standards in the 1916 act, with the specific prohibitions in this legislation will be one of the primary achievements of Congress in this area.

IV. SHIPPER-CARRIER COMPROMISE

As I mentioned at the outset, this bill reflects an agreement reached between shippers and carriers on how to assist carriers, while providing shippers the flexibility and protection they need.

There are some who will admit that shippers—importers and exporters—are the consumers in the transportation industry, and do seek the lowest tariffs, but claim that the final purchaser of the product is not well-served by this bill. That is simply not true. A U.S. exporter of chemicals will be better able to compete abroad if the ocean transportation costs are low and service is responsive. This, in turn, means jobs in U.S. manufacturing plants to supply the exports. If the shipper is a U.S. importer, he must also constantly seek the lowest ocean tariffs. If his imports are too expensive, the ultimate consumer will turn to less expensive domestic alternatives. In other words, to compete abroad or at home, U.S. shippers must always seek the lowest tariff, and the ultimate beneficiary of a lower tariff will be the U.S. consumer or worker. Thus, the endorsement of this legislation by shippers is particularly meaningful.

To provide an equal competitive stance for U.S. shippers, we must start from a base which balances the legal regimes of United States and foreign carriers. That is the goal of this bill.

Specifically, this bill would make lawful certain activities designed to enhance the negotiating power of shippers vis-a-vis the carrier conferences. Under section 9, tariffs, shippers may negotiate time-volume rates which vary with the volume of cargo offered over a period of time. They may also enter into a service contract with a carrier or conference to provide specific services, rates, and conditions to accommodate the shippers' individual needs. Under section 5, agreements, any conference utilizing a loyalty contract—by which lower rates are provided to shippers who commit their cargo to a particular carrier or conference—must provide the right of independent action. Thus, should a shipper seek a rate or service item which the conference is unwilling to agree to, that shipper need only convince one carrier to provide the service requested. The carrier will, under this bill, be able to offer that service without fear of expulsion from the conference.

Under section 4, shippers could create shippers' councils to discuss general rate levels. For smaller shippers this will provide the opportunity to combine shipments in order to gain the negotiating leverage necessary to obtain discount volume rates.

Finally, shippers will be beneficiaries of the expedited review processed and increased certainty provided in section 6 and elsewhere in this bill. New export opportunities will arise. An excellent example of such a scenario was described to me by an Oregon timber and wood products company executive. He noted that in bidding for a contract to export certain wood products to the Far East, he has faced lengthy delays in obtaining necessary ocean tranportation arrangements and their costs, so that he might calculate his expenses and submit a bid. As a result of these delays, the Far East purchaser looked elsewhere, and the contract went to a Norwegian firm. Such a situation is not good for U.S. carriers which might have carried his timber, and it is certainly not good for U.S. industry which lost an export market and jobs.

V. CONCLUSION

The Shipping Act of 1982 revises the Shipping Act, 1916, to provide an updated, simplified, more efficient regulatory scheme for international liner shipping. The paramount objective is to develop and maintain an efficient ocean transportation system through commercial means with minimum government involvement.

The legislation certainly considers:

The ocean common carrier who desires stability in enforcement;

The independent nonconference carrier who desires to remain in business as a competitive alternative to conferences;

The large shipper who desires broad loyalty arrangements and flexibility;

The small shipper who fears market dominance by his larger competitors and desires to see his goods compete with those similarly produced in foreign countries;

The freight forwarder who wants to be assured that the existing system of licensing and bonding will be retained and that he will continue to receive compensation; and

Ports and marine terminal operators who seek an increased volume of trade.

This bill truly represents a consensus by the affected parties. It is bipartisan. It is long overdue. I urge its passage.●

● Mr. LONG. Mr. President, the savings provisions found in the Shipping Act legislation now before the Senate state, at section 21(e)(2):

> This Act and the amendments made by it shall not affect any suit at law filed before the date of enactment of this Act.

This provision was originally proposed by me last year when the Shipping Act of 1982 was before the Senate Committee on Commerce, Science, and Transportation. It was adopted by the Commerce Committee at that time in roughly the same form, and subsequently it was included in the version of the Shipping Act of 1983 approved consecutively by the House Merchant Marine Committee, the House Judiciary Committee, and the House of Representatives itself. It is fitting and proper, therefore, that this provision is still included in the Shipping Act of 1983 presently before the Senate for consideration.

The purpose and intent of this provision, of course, is to make it clear that, if this new Shipping Act legislation is ultimately enacted into law, courts and administrative agencies shall not retroactively apply it, or any changes it might make in existing law, to any antitrust suit or Shipping Act proceeding commenced prior to the date of enactment of the new law. Thus, under this provision, pending antitrust actions, whether in a district court, or in the appeal, or certiorari process—as well as pending administrative proceedings under the Shipping Act—shall continue to be decided by courts and the Federal Maritime Commission on the basis of statutory and case law in effect prior to the date of enactment of the Shipping Act of 1983.

Consequently, even if it might be contended that the Shipping Act of 1983, if enacted, will operate legislatively to overrule, from that date forward, landmark antitrust decisions such as *Federal Maritime Commission* v. *Svenska Amerika Linien*, 390 U.S. 238, *Carnation Co.* v. *Pacific Westbound Conference*, 383 U.S. 213, and *Sabre Shipping Corp.* v. *American President Lines*, 285 F. Supp. 949, cert. denied, sub nom. *Japan Line, Ltd.* v. *Sabre Shipping Corp.*, 395 U.S. 922—these longstanding decisions will continue to be applicable to and decisive in cases pending before the date of enactment of the Shipping Act of 1983. Similarly, sections of the Shipping Act of 1916 and/or the Clayton Act, repealed or modified by the Shipping Act of 1983, shall continue to have the same effect and force of law they now have in pending cases prior to enactment of the Shipping Act of 1983. In other words, as the Senate Commerce Committee has stated in its reports in support of this new Shipping Act legislation: "[T]his bill shall not affect preexisting suits at law in any manner. * * *"[1]

The fairness of this provision is self-evident. It assures that justice will continue to be done in pending cases under existing law, while cases commenced after the date on which the Shipping Act of 1983 might become law in the future will alone be subject to the new, drastically different rules

[1] See S. Rept. 97-414, 97th Congress, 2d session, pg. 44.

of antitrust and maritime law it establishes.●

UP AMENDMENT NO. 2

(Subsequently numbered amendment No. 5.)

Purpose: To eliminate antitrust immunity for intermodal rate

Mr. METZENBAUM. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Ohio (Mr. METZENBAUM) proposes an unprinted amendment numbered 2:

On page 62, lines 5 and 6 strike: "through rates and through transportation" and insert in lieu thereof "of ocean transportation".

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the amendment which I have just called up be set aside at such time as the Senator from South Carolina, the chairman of the Judiciary Committee, reaches the floor and is prepared to call up his Judiciary Committee amendments.

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

Mr. METZENBAUM. Mr. President, the amendment I have sent to the floor has to do with the question of intermodal rates.

As currently drafted, S. 47 would allow conferences to fix rates for through transportation, including truck or rail transportation, from inland points to the ocean ports.

Understand what that means. That means we are providing an exemption not alone for the shipping industry but for that portion of the transportation that goes from the inland points to the ocean ports. For example, let us assume there is a shipment that comes in from England or any other place, and it could be from an island 100 miles from our shores, and the carrier would then be in a position to combine and to set rates not alone for the ocean shipping part of the voyage or the trip but for the land transportation as well.

We do not do that; we do not provide that the antitrust laws are not applicable to the trucking industry; we do not provide that the antitrust laws are not applicable to the railroad industry.

Why are we suddenly broadening out the expanse of exemption to include not only the ocean shipping but to include the land transportation part as well?

Frankly speaking, you do not have to be a genius to figure out that if you really want to have a combination to evade—and I am not saying avoid, I am saying evade—the antitrust laws of this country with respect to land transportation, then you can use this law to provide for that means. You can figure out a way to provide a very short hop by ocean carrier touching two ports and then provide for an exemption across the entire breadth of the United States. That is what this amendment is all about.

This amendment would deny that antitrust exemption. It is bad enough to provide this exemption for the shipping industry, but they have the audacity to come to the Congress of the United States and say:

"We not only want exemption for our segment of the industry, the ocean-carrying aspect, we want to broaden it all the way across the United States."

That is an insult to our intelligence; that is going far beyond the purview of what anybody really in good sense and common judgment ought to agree on.

Any need to offer through rates beause of shippers' desire for a single transportation price can be done with the law as is there proposed simply by allowing an individual carrier rather than a conference to offer a through rate. That could be done without the law. This would provide something special—an exemption.

What I just mentioned is already legal under the antitrust laws. Certainly one carrier can do that. One carrier could provide for transportation across the breadth of the United States in addition to the ocean-shipping portion, but a group of carriers ought not to be permitted to get together to evade the antitrust laws of this country with respect to ground transportation whether or not we pass this legislation giving the shippers an antitrust exemption for the ocean-shipping portion.

Mr. President, I will address myself further to this subject on Monday, but I hope that at the conclusion of the vote on the Judiciary Committee amendments to be offered by Senator THURMOND, that the Senate will see fit to adopt this, which will be one of a number of amendments that I will offer prior to the cloture vote on Tuesday.

HISTORY OF THE SENATE

(The following occurred during Mr. BYRD's presentation today of the "History of the Senate," which is printed later in today's RECORD:)

Mr. BYRD. Mr. President, I now yield to the distinguished majority leader, with the understanding that my speech in the RECORD not show an interruption, and with the understanding that I do not care whether it is counted as a second speech or not. [Laughter.]

Mr. BAKER. I thank the Senator. The minority leader is very generous.

To begin with, I commend him for another presentation on the history of the Senate. I look forward to the day when we can publish the first volume of those speeches. I will take that up with him in private.

I expect that this series of speeches on the history of the Senate, which will perhaps run two to three volumes when it is finished and bound, may be the definitive work on the history of the Senate of the United States. That is a major accomplishment, and we owe the minority leader a debt of gratitude for his perseverance in this scholarly effort.

Mr. BYRD. I thank the majority leader.

THE CALENDAR

Mr. BAKER. Mr. President, I have a number of items that appear to be cleared on this side for action by unanimous consent. I inquire of the minority leader whether he is prepared to consider those matters at this time.

Mr. BYRD. Yes.

Mr. BAKER. I thank the Senator.

Mr. President, I ask unanimous consent that we may proceed as in morning business for not to exceed 15 minutes.

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

Mr. BAKER. Mr. President, first, there are a number of calendar items that appear to be cleared. I speak of Senate Joint Resolution 15, Senate Joint Resolution 21, Senate Joint Resolution 27, S. 143, S. 304, and S. 419.

I inquire of the minority leader if he is prepared to consider all or any of those measures.

Mr. BYRD. Yes; Mr. President, all the measures enumerated by the majority leader have been cleared on this side.

Mr. BAKER. I thank the Senator.

NATIONAL EYE DONOR MONTH

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Senate Joint Resolution 15.

The PRESIDING OFFICER. The joint resolution will be stated by title.

The assistant legislative clerk read as follows:

A joint resolution (S.J. Res. 15) designating the month of March 1983 as National Eye Donor Month.

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

There being no objection, the Senate proceeded to consider the joint resolution.

Mr. RANDOLPH. Mr. President, it is gratifying to be a cosponsor of Senate Joint Resolution 15, to designate the month of March 1983 as National Eye Donor Month. By this designation, we will bring to the attention of the American public an important humanitarian organization—the Eye Bank Association, whose goal is bringing light to those whose world is dark. We hope to also encourage more people to

participate in this noble goal—by donating, at death, their corneas, so that sight can be restored to many individuals who suffer corneal disease or injury.

My involvement with corrective eye surgery dates back to 1930-31 when it was my privilege and responsibility to serve as governor of the Lions Clubs of West Virginia. Our statewide project was the securing of funds to provide medical services for children at the West Virginia State schools for the deaf and blind. Through our efforts and the surgical skill of the late Dr. J. E. Blaydes, we succeeded in restoring full or partial vision to more than two dozen young men and women.

The work performed by this gifted surgeon was enormous—more than 100 operations. His reward was enormous, too. Although he performed the surgery without charge, he later told the Lions Clubs of West Virginia:

> The joy of seeing the faces of these little children brighten, and hearing their expressions of happiness and gratitude, has repaid me a thousandfold.

I shall always be grateful for the privilege I had of being a part of this great undertaking.

Since that time, we have seen remarkable advances in eye surgery, particularly the development of the corneal transplant operation to the point where it is practically a surgical commonplace. However, because the supply of this precious tissue has never quite kept up with the need, all of the visually impaired individuals who could benefit from this operation have not been served. By designating March 1983 as "National Eye Donor Month" we will increase public awareness of the benefits provided through cornea donation. I urge my colleagues to join in supporting this legislation.

The preamble was agreed to.

The joint resolution was ordered to be engrossed for a third reading, was read the third time, and passed.

This joint resolution (S.J. Res. 15), with its preamble, reads as follows:

S.J. RES. 15

Whereas eye banks in the United States have grown from a single institution in 1944 to eighty in 1982;

Whereas over fifteen thousand children and adults in the United States have benefited as a direct result of efforts made by eye banks;

Whereas eye banks have sought to encourage research into the prevention and treatment of eye disease and injury in the United States; and

Whereas increased national awareness of benefits rendered through eye donation may add impetus to efforts to expand research activities, and benefit those persons affected by blinding diseases: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the month of March 1983 is designated as "National Eye Donor Month", and the President is authorized and requested to issue a proclamation calling on all citizens to join in recognizing this humanitarian cause with appropriate activity.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

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

The motion to lay on the table was agreed to.

NATIONAL CHILD ABUSE PREVENTION MONTH

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Senate Joint Resolution 21.

The PRESIDING OFFICER. The joint resolution will be stated by title.

The assistant legislative clerk read as follows:

> A joint resolution (S.J. Res. 21) to designate April 1983 as "National Child Abuse Prevention Month."

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

There being no objection, the joint resolution was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S.J. RES. 21

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the month of April 1983 is designated as "National Child Abuse Prevention Month" and the President is authorized and requested to issue a proclamation calling upon all Government agencies and the people of the United States to observe such month with appropriate programs, ceremonies, and activities.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

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

The motion to lay on the table was agreed to.

NATIONAL EMPLOY THE OLDER WORKER WEEK

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Senate Joint Resolution 27.

The PRESIDING OFFICER. The joint resolution will be stated by title.

The assistant legislative clerk read as follows:

> A joint resolution (S.J. Res. 27) authorizing and requesting the President to designate the week of March 13 through 19, 1983, as "National Employ the Older Worker Week."

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

There being no objection, the joint resolution was considered, ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

The joint resolution (S.J. Res. 27), with its preamble, reads as follows:

S.J. RES. 27

Whereas individuals aged fifty-five and over are a major national resource, constitute 22 per centum of the population of the United States at the present time, and are likely to constitute a larger precentage of the population in future decades;

Whereas a growing number of such individuals, being willing and able to work, are looking for employment opportunities, want to remain in the work force, or would like to serve their communities and their Nation in voluntary roles;

Whereas such individuals, who have made continuing contributions to the national welfare, should be encouraged to remain in, or resume, career and voluntary roles that utilize their strengths, wisdom, and skills;

Whereas career opportunities reaffirm the dignity, self-worth, and independence of older individuals by encouraging them to make decisions and to act upon those decisions, by tapping their resources, experience, and knowledge, and by enabling them to contribute to society;

Whereas the operation of title V of the Older Americans Act of 1965 has demonstrated that older workers are extremely capable in a wide variety of job roles;

Whereas recent studies conducted by the United States Department of Labor and the Work in America Institute indicate that, in many cases, employers prefer to retain older workers or rehire former older employees due to the high quality of their job performance and their low rate of absenteeism; and

Whereas the American Legion has sponsored a "National Employ the Older Worker Week" during the second full week of March in every year since 1959, focusing public attention on the advantages of employing older individuals: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to designate the week of March 13 through 19, 1983, as "National Employ the Older Worker Week", and to issue a proclamation calling upon—

(1) the employers and labor unions of the United States to give special consideration to older workers, with a view toward expanding career and employment opportunities for older workers who are willing and able to work and who desire to remain employed or to reenter the work force;

(2) voluntary organizations to reexamine the many fine service programs which they sponsor with a view toward expanding both the number of older volunteers and the types of service roles open to older workers;

(3) the United States Department of Labor to give special assistance to older workers by means of job training programs under the Jobs Training and Partnership Act, job counseling through the United States Employment Service, and additonal support through its older worker program, as authorized by title V of the Older Americans Act; and

(4) the citizens of the United States to observe this day with appropriate programs, ceremonies, and activities.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

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

The motion to lay on the table was agreed to.

Mr. BYRD. Mr. President, I say to the distinguished majority leader, for the Record, that I have no objection to the immediate consideration of the next four items, provided there are no amendments thereto, other than the technical amendment by Mr. ANDREWS.

Mr. BAKER. Mr. President, I ask unanimous consent that no amendment be in order to the next four items except the technical amendment to Calendar No. 21.

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

LEASE OF CERTAIN LANDS BY THE TWENTY-NINE PALMS BAND OF LUISENO MISSION INDIANS

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. 143.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 143) to authorize the Twenty-nine Palms Band of Luiseno Mission Indians to lease for ninety-nine years certain lands held in trust for such band.

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

There being no objection, the Senate proceeded to consider the bill.

Mr. ANDREWS. Mr. President, I rise on behalf of S. 143, the Twenty-Nine Palms Band Leasing Act. This act would authorize the leasing of trust lands held by the United States for the benefit of the Twenty-Nine Palms Band of California. This act will enable the band to enter into a 99-year lease of their property to the sanitary district of Indio, Calif. The arrangement will permit the bank to derive income from its trust lands and yet will provide a sufficient duration to the lease to protect the capital investment of the sanitary district.

I point out that S. 143 is the successor to S. 2418, of the 97th Congress. Extensive hearings were held on S. 2418 and the Indian Affairs Committee filed a report on that bill. For the legislative history on this legislation, therefore, reference should be made to the committee's hearing record and our report, Senate Report 97-656.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 143

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1 of the Act of August 9, 1955 (69 Stat. 539), as amended (25 U.S.C. 415), is further amended by inserting ", and lands held in trust for the Twenty-nine Palms Band of Luiseno Mission Indians," immediately after "Chelan County, Washington", in the second sentence.

Mr. BAKER. Mr. President, I ask unanimous consent to reconsider the vote by which the bill was passed.

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

The motion to lay on the table was agreed to.

RESERVING CERTAIN LANDS FOR BURNS PAIUTE TRIBE

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. 304.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill to hold a parcel of land in trust for the Burns Paiute Tribe.

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

There being no objection, the Senate proceeded to consider the bill.

Mr. ANDREWS. Mr. President, I rise on behalf of S. 304, the Burns Paiute Inheritance Act. This act will accomplish several things. First, it will authorize the taking in trust of the public domain allotment of Jesse L. James, a Burns Paiute Indian, for the benefit of the Burns Paiute Tribe. Second, it will provide that, in the future, the public domain allotments of all Indians in Harney County, Oreg.; who die intestate and without heirs shall be taken in trust for the benefit of the Burns Paiute Tribe. Third and last, it will raise the value of lands that are subject to the discretion of the Secretary of the Interior under 25 U.S.C. 373b from $2,000 to $50,000.

I should note that S. 304 is the successor to S. 1468 of the 97th Congress. The Indian Affairs Committee held a thorough hearing on that bill and filed a report on it. For the legislative history on this act, therefore, the hearing record of the Indian Affairs Committee on S. 1468 and Senate Report 97-508 should be consulted.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 304

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, pursuant to section 2 of the Act of November 24, 1942 (56 Stat. 1021, 1022; 25 U.S.C. 373b), the estate of Jesse Joseph James, Burns 144-N1116, consisting of a public domain allotment numbered 144-111, northwest quarter, section 32, township 23 south, range 32½ east, Willamette meridian, Harney County, Oregon, is hereby declared to be held in trust by the United States for the Burns Paiute Indian Colony of Oregon and part of the Burns Paiute Indian Reservation.

SEC. 2. Section 2 of the Act of November 24, 1942 (56 Stat. 1022; 25 U.S.C. 373b), is amended by inserting the following immediately before the period at the end thereof: *"Provided further,* That interests in all Burns public domain allotments located in Harney County, Oregon, belonging to Indians who die intestate without heirs shall be held in trust by the United States for the Burns Paiute Indian Colony of Oregon and shall be part of the Burns Paiute Indian Reservation." However no non-Indian lands in Harney County, Oregon, shall be considered Indian country as defined in section 1151 of title 18, United States Code.

SEC. 3. Section 2 of the Act of November 24, 1942 (56 Stat. 1022; 25 U.S.C. 373b), is amended by deleting "$2,000" and inserting in lieu thereof "$50,000".

Mr. BAKER. Mr. President, I ask unanimous consent to reconsider the vote by which the bill was passed.

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

The motion to lay on the table was agreed to.

PER CAPITA PAYMENTS TO INDIANS

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. 419.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 419) to provide that per capita payments to Indians may be made by tribal governments, and for other purposes.

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

There being no objection, the Senate proceeded to consider the bill.

Mr. ANDREWS. Mr. President, I rise today to speak on behalf of S. 419, the Per Capita Distribution Act. This act would authorize Indian tribes to make distributions among their members of the proceeds from the sale or lease of trust assets. This act is in keeping with the policy of self-determination which has been endorsed by this administration. The act illustrates the progress that has been made to date in Indian affairs. Many tribes have developed the capacity to make these distributions more promptly and efficiently than the Bureau of Indian Affairs. It is, moreover, appropriate that the tribes make these distributions because they concern the allocation of the proceeds of assets that belong to the tribes.

Mr. President, I point out that S. 419 is the successor of H.R. 4365 of the 97th Congress. There was no Senate companion to that bill. The Indian Affairs Committee held a hearing on H.R. 4365 and filed a report on it. For the legislative history on this act, one should refer to the Senate hearing on H.R. 4365 and Senate Report 97-659.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 419

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That funds which are held in trust by the Secretary of the Interior (hereinafter referred to as the "Secretary") for an Indian tribe and which are to be distributed per capita to members of that tribe may be so distributed by either the Secretary or, at the request of the governing body of the tribe and subject to the approval of the Secretary, the tribe. Any funds so distributed shall be paid by the Secretary of the tribe directly to the members involved or, if such members are minors or have been legally determined not competent to handle their own affairs, to a parent or guardian of such members or to a trust fund for such minors or legal incompetents as determined by the governing body of the tribe.

SEC. 2. (a) Funds distributed under this Act shall not be liable for the payment of previously contracted obligations except as may be provided by the governing body of the tribe and distributions of such funds shall be subject to the provisions of section 7 of the Act of October 19, 1973 (87 Stat. 466), as amended.

(b) Nothing in this Act shall affect the requirements of the Act of October 19, 1973 (87 Stat. 466), as amended, or of any plan approved thereunder, with respect to the use or distribution of funds subject to that Act: *Provided,* That per capita payments made pursuant to a plan approved under that Act may be made by an Indian tribe as provided in section 1 of this Act if all other provisions of the 1973 Act are met, including but not limited to, the protection of the interests of minors and incompetents in such funds.

(c) Nothing in this Act, except the provisions of subsection (a) of this section, shall apply to the Shoshone Tribe and the Arapahoe Tribe of the Wind River Reservation, Wyoming.

SEC. 3. (a) The Secretary shall, by regulation, establish reasonable standards for the approval of tribal payments pursuant to section 1 of this Act and, where approval is given under such regulations, the United States shall not be liable with respect to any distribution of funds by a tribe under this Act.

(b) Nothing in this Act shall otherwise absolve the United States from any other responsibility to the Indians, including those which derive from the trust relationship and from any treaties, Executive orders, or agreements between the United States and any Indian tribe.

SEC. 4. (a) The following provision of section 1 of the Act of June 10, 1896 (29 Stat. 3360), is repealed: "That any sums of money hereafter to be paid per capita to individual Indians shall be paid to said Indians by an officer of the Government designated by the Secretary of the Interior.".

(b) Section 19 of the Act of June 28, 1898 (30 Stat. 502), is repealed.

Mr. BAKER. Mr. President, I ask unanimous consent to reconsider the vote by which the bill was passed.

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

The motion to lay on the table was agreed to.

MASHANTUCKET PEQUOT INDIANS

Mr. BAKER. Mr. President, I have another item that is cleared on this side, and I speak now of Calendar Order No. 21, S. 366, to which there is an amendment which qualifies, I believe, under the unanimous-consent order previously entered. If the minority leader has no objection I will ask the Chair to proceed to consideration of that item.

Mr. BYRD. Mr. President, we are ready to proceed on that measure.

Mr. BAKER. I thank the Senator.

Mr. President, I ask the Chair to lay before the Senate S. 366, Calendar Order No. 21.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 366) to settle certain claims of the Mashantucket Pequot Indians.

The Senate proceeded to consider the bill.

UP AMENDMENT NO. 3

Mr. BAKER. Mr. President, I send to the desk an amendment on behalf of the distinguished Senator from North Dakota and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Tennessee (Mr. BAKER), on behalf of Mr. ANDREWS, proposes an unprinted amendment numbered 3.

On page 11, line 13, in between "$900,000" and "to" insert the following: "for the fiscal year beginning October 1, 1983".

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

The amendment (UP No. 3) was agreed to.

Mr. ANDREWS. Mr. President, I today speak on behalf of S. 366, the Mashantucket Pequot Indian Claims Settlement Act. This act will settle claims to land in Ledyard, Conn., that have been raised by the Mashantucket, or Western, Pequot Tribe of Connecticut. These claims are based on the tribe's assertion that certain transfers of its lands were made with Federal approval that was allegedly required by the Nonintercourse Act of 1790 and succeeding versions of that act.

These suits are extremely complex and four earlier claims, in the States of Maine, Florida, Virginia, and Rhode Island, have already been addressed by settlement acts approved by Congress.

I note that S. 366 is the successor to S. 2719 of the 97th Congress. That bill was the subject of an extensive hearing by this committee. It was ordered reported and a report was filed. Therefore, for the legislative history on this act, one should consult the Senate hearings on S. 2719 and Senate Report 97-596.

With respect to the report on S. 2719, I would like to point out that the committee report on this bill contains a garbled description of the effect of the jurisdiction section of the bill, section 6. This portion of the report should read as follows:

Sec. 6 provides that the reservation of the Mashantucket Pequot Tribe is Indian Country and that the reservation of the Tribe shall be subject to the full extent of state jurisdiction as provided in title IV of the Act of April 11, 1968, the Indian Civil Rights Act. The Tribe's reservation has this status notwithstanding section 406 of the Indian Civil Rights Act which requires a majority of the enrolled members of an Indian tribe before a state may assume jurisdiction over that tribe.

Mr. President, the Indian Affairs Committee has been alerted to the fact that S. 366, as reported, would require a waiver under section 402 of the Budget Act because it authorizes appropriations in the current fiscal year and, of course, was not reported out of committee on May 15 of last year. I would note that this was the case with S. 2719 as well because it was not introduced until after the May 15 deadline. Last fall, the Budget Committee granted a waiver for the bill but, as this is a new Congress, still another waiver is in order. Rather than seek that waiver, however, I would like to offer an amendment to cure the problem altogether. The amendment I am offering would change the fiscal year authorizing the appropriation from 1983 to 1984.

I urge the adoption of this amendment and the passage of S. 366 as amended.

● Mr. DODD. Mr. President, I rise today in support of S. 366, the Mashantucket Pequot Indians Claims Settlement Act of 1983, which I first introduced with my colleague, Senator WEICKER, on June 30, 1982. While this measure passed both bodies in the previous session, it was not enacted prior to sine die adjournment. I want to commend the Select Committee on Indian Affairs for its prompt and favorable consideration of this measure in the 98th Congress. This bill settles the first outstanding Indian land claim in the State of Connecticut and serves as a reaffirmation of Connecticut's policy which upholds the constitutional rights of our State's native Americans. Representative GEJDENSON has been the principal sponsor of identical legislation on the House side that together with this legislation carries the support of the entire Connecticut delegation.

I would also like this opportunity to express my appreciation to Chairman COHEN, Senator MELCHER, and the Select Committee on Indian Affairs for holding hearings and for their

careful consideration of this legislation.

This bill is the culmination of years of negotiations between the Mashantucket Pequot Tribal Council and the private landowners in Ledyard, Conn. Specifically, the Ledyard property owners have agreed to transfer 800 acres of undeveloped land to the tribe. Let me make it clear that this legislation would not displace a single homeowner and that all the property owners have agreed to this settlement and still reserve the right to not sell their property if they so choose.

In addition, the bill establishes a Federal trust of $900,000 for the purpose of land acquisition by the tribe as agreed to in the negotiated settlement and makes the Pequots a federally recognized tribe, giving the tribe all the rights and privileges which accompany such recognition. The bill also extinguishes all aboriginal title to land and subjects the tribe to the laws of the United States.

It must be made clear that in order for this well-thought-out agreement, which is the product of several years of negotiations, to be legal and valid, Congress will have to ratify the settlement.

I would also like to point out that this legislation reverses a trend in Indian land claim settlements by increasing the State's involvement. Connecticut has provided monetary and special in kind assistance to the tribe totaling $250,000. Recently, the State contributed 20 acres of land to the Pequots as part of the negotiated settlement. This land was their ancient burial ground. Again, the State legislation granting this land is contingent upon the passage of this bill in Congress.

Lastly, let me say that this legislation circumvents the need for uncertain and time-consuming litigation. The only viable alternative to litigation is to negotiate, and that is exactly what I am asking the Senate to affirm by passing this bill.●

● Mr. WEICKER. Mr. President, the Senate has before it S. 366, which would provide settlement of certain claims of the Mashantucket Pequot Tribe of Connecticut, and which would establish Federal recognition of the tribe.

It is great pleasure that I rise in support of this legislation. Essentially, the bill guarantees that the rights of minorities in the case of the Mashantucket Pequot Tribe are equally protected under our laws. This bill is motivated by the wish to provide a fair settlement to all involved parties and I believe that it accomplishes that aim. S. 366 has the support of the Connecticut congressional delegation, the Connecticut State government, the Mashantucket Pequot Tribe, and affected property owners.

Connecticut is proud of this bill which represents the "state of the art" in Indian land claims settlement legislation. We believe that it could set a precedent for Connecticut in future cases of this nature. I urge my colleagues to support S. 366.●

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and the third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 366

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 "Mashantucket Pequot Indian Claims Settlement Act".

CONGRESSIONAL FINDINGS

SEC. 2. The Congress finds that—

(a) there is pending before the United States District Court for the District of Connecticut a civil action entitled Western Pequot Tribe of Indians against Holdridge Enterprises Incorporated, et al., Civil Action Numbered H76-193 (D. Conn.), which involves Indian claims to certain public and private lands within the town of Ledyard, Connecticut;

(b) the pendency of this lawsuit has placed a cloud on the titles to much of the land in the town of Ledyard, including lands not involved in the lawsuit, which has resulted in severe economic hardships for the residents of the town;

(c) the Congress shares with the State of Connecticut and the parties to the lawsuit a desire to remove all clouds on titles resulting from such Indian land claims;

(d) the parties to the lawsuit and others interested in the settlement of Indian land claims within the State of Connecticut have reached an agreement which requires implementing legislation by the Congress of the United States and the Legislature of the State of Connecticut;

(e) the Western Pequot Tribe, as represented as of the time of the passage of this Act by the Mashantucket Pequot Tribal Council, is the sole successor in interest to the aboriginal entity generally known as the Western Pequot Tribe which years ago claimed aboriginal title to certain lands in the State of Connecticut; and

(f) The State of Connecticut is contributing twenty acres of land owned by the State of Connecticut to fulfill this Act. The State of Connecticut has provided special services to the members of the Western Pequot Tribe residing within its borders. The United States has provided few, if any, special services to the Western Pequot Tribe and has denied that it had jurisdiction over or responsibility for said Tribe. In view of the provision of land by the State of Connecticut and the provision of special services by the State of Connecticut without being required to do so by Federal law, it is the intent of Congress that the State of Connecticut not be required to further contribute directly to this claims settlement.

DEFINITIONS

SEC. 3. For the purposes of this Act—

(1) The term "Tribe" means the Mashantucket Pequot Tribe (also known as the Western Pequot Tribe) as identified by chapter 832 of the Connecticut General Statutes and all its predecessors and successors in interest. The Mashantucket Pequot Tribe is represented, as of the date of the enactment of this Act, by the Mashantucket Pequot Tribal Council.

(2) The term "land or natural resources" means any real property or natural resources, or any interest in or right involving any real property or natural resources, including without limitation minerals and mineral rights, timber and timber rights, water and water rights, and hunting and fishing rights.

(3) The term "private settlement lands" means—

(A) the eight hundred acres, more or less, of privately held land which are identified by a red outline on a map filed with the Secretary of the State of Connecticut in accordance with the agreement referred to in section 2(d) of this Act, and

(B) the lands known as the Cedar Swamp which are adjacent to the Mashantucket Pequot Reservation as it exists on the date of the enactment of this Act. Within thirty days of the enactment of this Act, the Secretary of the State of Connecticut shall transmit to the Secretary a certified copy of said map.

(4) The term "settlement lands" means—

(A) the lands described in sections 2(a) and 3 of the Act to Implement the Settlement of the Mashantucket Pequot Indian Land Claims as enacted by the State of Connecticut and approved on June 9, 1982, and

(B) the private settlement lands.

(5) The term "Secretary" means the Secretary of the Interior.

(6) The term "transfer" means any transaction involving, or any transaction the purpose of which was to effect, a change in title to or control of any land or natural resources, and any act, event, or circumstance that resulted in a change in title to, possession of, dominion over, or control of land or natural resources, including any sale, grant, lease, allotment, partition, or conveyance, whether pursuant to a treaty, compact or statute of a State or otherwise.

(7) The term "reservation" means the existing reservation of the Tribe as defined by chapter 824 of the Connecticut General Statutes and any settlement lands taken in trust by the United States for the Tribe.

APPROVAL OF PRIOR TRANSFERS; EXTINGUISHMENT OF ABORIGINAL TITLES AND INDIAN CLAIMS

SEC. 4. (a) Any transfer before the date of enactment of this Act from, by, or on behalf of the Tribe or any of its members of land or natural resources located anywhere within the United States, and any transfer before the date of enactment of this Act from, by, or on behalf of any Indian, Indian nation, or tribe or band of Indians of land or natural resources located anywhere within the town of Ledyard, Connecticut, shall be deemed to have been made in accordance with the Constitution and all laws of the United States, including without limitation the Trade and Intercourse Act of 1790, Act of July 22, 1790 (ch. 33, Sec. 4, 1 Stat. 137, 138), and all amendments thereto and all subsequent reenactments and versions thereof, and Congress hereby does approve and ratify any such transfer effective as of the date of said transfer.

(b) By virtue of the approval and ratification of a transfer of land or natural resources effected by subsection (a), any aboriginal title held by the Tribe or any member of the Tribe, or any other Indian, Indian nation, or tribe or band of Indians,

to any land or natural resources the transfer of which was approved and ratified by subsection (a) shall be regarded as extinguished as of the date of such transfer.

(c) By virtue of the approval and ratification of a transfer of land or natural resources effected by this section, or the extinguishment of aboriginal title effected thereby, any claim (including any claim for damages for trespass or for use and occupancy) by, or on behalf of, the Tribe or any member of the Tribe or by any other Indian, Indian nation, or tribe or band of Indians, against the United States, any State or subdivision thereof or any other person which is based on—

(1) any interest in or right involving any land or natural resources the transfer of which was approved and ratified by subsection (a), or

(2) any aboriginal title to land or natural resources the extinguishment of which was effected by subsection (b),

shall be regarded as extinguished as of the date of any such transfer.

(d) Nothing in this section shall be construed to affect or eliminate the personal claim of any individual Indian (except for Federal common law fraud claim) which is pursued under any law of general applicability that protects non-Indians as well as Indians.

(e)(1) This section shall take effect upon the appropriation of $900,000 as authorized under section 5(e) of this Act.

(2) The Secretary shall publish notice of such appropriation in the Federal Register when the funds are deposited in the fund established under section 5(a) of this Act.

MASHANTUCKET PEQUOT SETTLEMENT FUND

SEC. 5. (a) There is hereby established in the United States Treasury an account to be known as the Mashantucket Pequot Settlement Fund (hereinafter referred to in this section as the "Fund"). The Fund shall be held in trust by the Secretary for the benefit of the Tribe and administered in accordance with this Act.

(b)(1) The Secretary is authorized and directed to expend, at the request of the Tribe, the Fund together with any and all income accruing to such Fund in accordance with this subsection.

(2) Not less than $600,000 of the Fund shall be available until January 1, 1985, for the acquisition by the Secretary of private settlement lands. Subsequent to January 1, 1985, the Secretary shall determine whether and to what extent an amount less than $600,000 has been expended to acquire private settlement lands and shall make that amount available to the Tribe to be used in accordance with the economic development plan approved pursuant to paragraph (3).

(3)(A) The Secretary shall disburse all or part of the Fund together with any and all income accruing to such Fund (excepting the amount reserved in paragraph (2)) according to a plan to promote the economic development of the Tribe.

(B) The Tribe shall submit an economic development plan to the Secretary and the Secretary shall approve such plan within sixty days of its submission if he finds that it is reasonably related to the economic development of the Tribe. If the Secretary does not approve such plan, he shall, at the time of his decision, set forth in writing and with particularity, the reasons for his disapproval.

(C) The Secretary may not agree to terms which provide for the investment of the Fund in a manner inconsistent with the first section of the Act of June 24, 1938 (52 Stat. 1037), unless the Tribe first submits a specific waiver of liability on the part of the United States for any loss which may result from such an investment.

(D) The Tribe may, with the approval of the Secretary, alter the economic development plan subject to the conditions set forth in subparagraph (B).

(4) Under no circumstances shall any part of the Fund be distributed to any member of the Tribe unless pursuant to the economic development plan approved by the Secretary under paragraph (3).

(5) As the Fund or any portion thereof is disbursed by the Secretary in accordance with this section, the United States shall have no further trust responsibility to the Tribe or its members with respect to the sums paid, any subsequent expenditures of these sums, or any property other than private settlement lands or services purchased with these sums.

(6) Until the Tribe has submitted and the Secretary has approved the terms of the use of the Fund, the Secretary shall fix the terms for the administration of the portion of the Fund as to which there is no agreement.

(7) Lands or natural resources acquired under this subsection which are located within the settlement lands shall be held in trust by the United States for the benefit of the Tribe.

(8) Land or natural resources acquired under this subsection which are located outside of the settlement lands shall be held in fee by the Mashantucket Pequot Tribe, and the United States shall have no further trust responsibility with respect to such land and natural resources. Such land and natural resources shall not be subject to any restriction against alienation under the laws of the United States.

(9) Notwithstanding the provisions of the first section of the Act of August 1, 1888 (25 Stat. 357, chapter 728), as amended, and the first section of the Act of February 26, 1931 (46 Stat. 1421, chapter 307), the Secretary may acquire land or natural resources under this section from the ostensible owner of the land or natural resources only if the Secretary and the ostensible owner of the land or natural resources have agreed upon the identity of the land or natural resources to be sold and upon the purchase price and other terms of sale. Subject to the agreement required by the preceding sentence, the Secretary may institute condemnation proceedings in order to perfect title, satisfactory to the Attorney General, in the United States and condemn interests adverse to the ostensible owner.

(c) For the purpose of subtitle A of the Internal Revenue Code of 1954, any transfer of private settlement lands to which subsection (b) applies shall be deemed to be an involuntary conversion within the meaning of section 1033 of such Code.

(d) The Secretary may not expend on behalf of the Tribe any sums deposited in the Fund established pursuant to subsection (a) of this section unless and until he finds that authorized officials of the Tribe have executed appropriate documents relinquishing all claims to the extent provided by sections 4 and 10 of this Act, including stipulations to the final judicial dismissal with prejudice of its claims.

(e) There is authorized to be appropriated $900,000 for the fiscal year beginning October 1, 1983, to be deposited in the Fund.

JURISDICTION OVER RESERVATION

SEC. 6. Notwithstanding the provision relating to a special election in section 406 of the Act of April 11, 1968 (82 Stat. 80; 25 U.S.C. 1326), the reservation of the Tribe is declared to be Indian country subject to State jurisdiction to the maximum extent provided in title IV of such Act.

LIMITATION OF ACTIONS: FEDERAL COURT JURISDICTION

SEC. 7. (a) Notwithstanding any other provision of law, the constitutionality of this Act may not be drawn into question in any action unless such question has been raised in—

(1) a pleading contained in a complaint filed before the end of the one-hundred-and-eighty-day period beginning on the date of the enactment of this Act, or

(2) an answer contained in a reply to a complaint before the end of such period.

(b) Notwithstanding any other provision of law, exclusive jurisdiction of any action in which the constitutionality of this Act is drawn into question is vested in the United States District Court for the District of Connecticut.

(c) Any action to which subsection (a) applies and which is brought in the court of any State may be removed by the defendant to the United States District Court for the District of Connecticut.

(d) Except as provided in this Act, no provision of this Act shall be construed to constitute a jurisdictional act, to confer jurisdiction to sue, or to grant implied consent to any Indian, Indian nation, or tribe or band of Indians to sue the United States or any of its officers with respect to the claims extinguished by the operation of this Act.

RESTRICTION AGAINST ALIENATION

SEC. 8. (a) Subject to subsection (b), lands within the reservation which are held in trust by the Secretary for the benefit of the Tribe or which are subject to a Federal restraint against alienation at any time after the date of the enactment of this Act shall be subject to the laws of the United States relating to Indian lands, including section 2116 of the Revised Statutes (25 U.S.C. 177).

(b) Notwithstanding subsection (a), the Tribe may lease lands for any term of years to the Mashantucket Pequot Housing Authority, or any successor in interest to such Authority.

EXTENSION OF FEDERAL RECOGNITION AND PRIVILEGES

SEC. 9. (a) Notwithstanding any other provision of law, Federal recognition is extended to the Tribe. Except as otherwise provided in this Act, all laws and regulations of the United States of general application to Indians or Indian nations, tribes or bands of Indians which are not inconsistent with any specific provision of this Act shall be applicable to the Tribe.

(b) The Tribe shall file with the Secretary a copy of its organic governing document and any amendments thereto. Such instrument must be consistent with the terms of this Act and the Act To Implement the Settlement of the Mashantucket Pequot Indian Land Claim as enacted by the State of Connecticut and approved June 9, 1982.

(c) Notwithstanding any other provision of law, the Tribe and members of the Tribe shall be eligible for all Federal services and benefits furnished to federally recognized Indian tribes as of the date of enactment of this Act.

OTHER CLAIMS DISCHARGED BY THIS ACT

SEC. 10. Except as expressly provided herein, this Act shall constitute a general discharge and release of all obligations of the State of Connecticut and all of its politi-

cal subdivisions, agencies, departments, and all of the officers or employees thereof arising from any treaty or agreement with, or on behalf of the Tribe or the United States as trustee therefor.

INSEPARABILITY

SEC. 11. In the event that any provision of section 4 of this Act is held invalid, it is the intent of Congress that the entire Act be invalidated. In the event that any other section or provision of this Act is held invalid, it is the intent of Congress that the remaining sections of this Act shall continue in full force and effect.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER FOR REFERRAL OF S. 460

Mr. BAKER. Mr. President, next I have a request for a referral which I shall state for the benefit of the minority leader and other Senators.

Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be discharged from further consideration of S. 460, the flood insurance bill, and it be referred to the Committee on Banking, Housing, and Urban Affairs.

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

EXECUTIVE CALENDAR

Mr. BAKER. Mr. President, there are a number of items on the Executive Calendar on this side that are cleared for action by unanimous consent.

I inquire of the minority leader if he is prepared for the Senate to go into executive session briefly to consider all or any part of that calendar beginning with nominations on page 1 and continuing through nominations placed on the Secretary's desk in the Air Force, Army, and Navy.

Mr. BYRD. Mr. President, on this side of the aisle we are prepared to proceed with all nominations on the calendar.

Mr. BAKER. I thank the Senator.

EXECUTIVE SESSION

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate now go into executive session for the purpose of considering the nomination on today's Executive Calendar.

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

The PRESIDING OFFICER. The nominations will be stated.

U.S. POSTAL SERVICE

The assistant legislative clerk read the nomination of John R. McKean, of California, to be a Governor of the U.S. Postal Service.

Mr. STEVENS. Mr. President, John R. McKean has been serving as a Governor of the Postal Service since last March, for the balance of a term which expires on December 8, 1986. He was appointed to this term to fill a vacancy which was created when a previous Governor resigned after serving only 15 months of a 9-year term.

The President recently nominated Governor McKean for a different term on the same Board with a full 9 years to run.

It is a pleasure to see that Mr. McKean is making the kind of long-term commitment which is essential to providing the leadership that is needed in this important position. The U.S. Postal Service, in particular, needs the mature, experienced guidance which can be obtained only when the members of its Board of Governors are sufficiently interested in and dedicated to their jobs to serve for the extended period which the Congress intended when it provided for 9-year terms.

The Postal Service has a highly complex, increasingly technological job to do. Its effective performance of that job is vital to the Nation's economy and to the daily lives of every citizen. We need, as Governors of the Postal Service, leaders who are prepared to stay with the job over a long enough period to get to know the complexities of the system and to provide an effective contribution. I am pleased that we have such an individual in Governor McKean.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

DEPARTMENT OF DEFENSE

The assistant legislative clerk read the nomination of Vincent Puritano, of Virginia, to be an Assistant Secretary of Defense.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

AIR FORCE—ARMY—NAVY—MARINE CORPS

The assistant legislative clerk read nominations in the Air Force, Army, Navy, and Marine Corps, as follows:

IN THE AIR FORCE

The following officers for appointment in the Reserve of the Air Force to the grade indicated, under the provisions of chapter 837, title 10, United States Code:

To be major general

Brig. Gen. William L. Copeland, 250-42-0529FV, Air Force Reserve.

Brig. Gen. Gerald E. Marsh, 462-34-1800FV, Air Force Reserve.

Brig. Gen. Edward L. McFarland, 498-42-9860FV, Air Force Reserve.

Brig. Gen. John D. Moore, 550-40-9135FV, Air Force Reserve.

Brig. Gen. Joseph L. Shosid, 466-26-4216FV, Air Force Reserve.

Brig. Gen. James L. Tucker, Jr., 424-30-7695FV, Air Force Reserve.

Brig. Gen. Jerome N. Waldor, 143-20-7534FV, Air Force Reserve.

To be brigadier general

Col. Clyde F. Autio, 503-22-0363FV, Air Force Reserve.

Col. Norman J. Deback, Jr., 561-46-1635FV, Air Force Reserve.

Col. Ira De Ment III, 423-36-5629FV, Air Force Reserve.

Col. Ralph D. Erwin, 510-28-1249FV, Air Force Reserve.

Col. Walter Jajko, 188-28-2132FV, Air Force Reserve.

Col. Simeon Kobrinetz, 110-20-4179FV, Air Force Reserve.

Col. Frances I. Mossman, 576-32-7312FV, Air Force Reserve.

Col. Thomas R. Pochari, 105-24-6601FV, Air Force Reserve.

Col. William C. Roxby, Jr., 160-30-1599FV, Air Force Reserve.

Col. Rocco R. Sgarro, 060-28-3057FV, Air Force Reserve.

Col. John G. Sullivan, 497-28-7593FV, Air Force Reserve.

The following-named officer for appointment to the grade of lieutenant general on the retired list pursuant to the provisions of title 10, United States Code, section 1370:

To be lieutenant general

Lt. Gen. Richard C. Henry, 306-26-8290FR, U.S. Air Force.

IN THE ARMY

The following-named officer under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. Robert L. Bergquist, 034-22-3682, U.S. Army.

The U.S. Army Reserve officers named herein for appointment as Reserve Commissioned Officers of the Army, under the provisions of title 10, United States Code, sections 593(a), 3371, and 3384:

To be major general

Brig. Gen. Jimmy F. Bates, 409-46-6375.

Brig. Gen. Robert S. Holmes, 014-24-4864.

Brig. Gen. Robert E. Louque, Jr., 437-32-4337.

Brig. Gen. Norman W. Martell, 722-03-1773.

Brig. Gen. James R. Montgomery, 408-64-7709.

Brig. Gen. Donald A. Pearson, 315-26-8156.

To be brigadier general

Col. Joseph G. Gray, 439-48-6981.

Col. James F. Robb, 544-28-3431.

Col. Guilford J. Wilson, Jr., 208-24-5153.

Col. Edward Y. Hirata, 576-32-1814.

Col. Dennis R. Jones, 234-54-2915.

Col. George V. Bauer, 178-26-5378.

The Army National Guard of the United States officers named herein for appointment as Reserve Commissioned Officers of the Army, under the provisions of title 10, United States Code, section 593(a), 3385, and 3392:

To be major general

Brig. Gen. John G. Castles, 151-22-1860.

To be brigadier general

Col. Charles F. Battner, 493-30-9313.

Col. Ralph H. Brown, 434-38-4625.

Col. Samuel E. Fleming, Jr., 426-38-7195.
Col. Alvin D. McArthur, Jr., 245-48-7774.
Col. Harry L. Moore, 468-24-6515.
Col. Kenneth R. Newbold, 240-38-1516.
Col. David L. Nudo, 542-16-5404.
Col. Ervin T. Osborn, 542-26-2909.
Col. Joseph J. Saladino, 023-20-3246.
Col. James E. Threlfall, 018-24-5715.
Col. Mucio Yslas, Jr., 525-40-6566.

The following-named officer, under the provisions of title 10, United States Code, section 3019, for a period of 4 years beginning 1 June 1983, to be reappointed as chief, Army Reserve:

To be chief

Maj. Gen. William R. Berkman, 559-32-4169, U.S. Army Reserve.

The following-named officer to be placed on the retired list in the grade indicated under the provisions of title 10, United States Code, section 1370:

To be general

Gen. Edward C. Meyer, 205-18-3616, age 54, U.S. Army.

IN THE NAVY

The following-named officer to be placed on the retired list in the grade indicated under the provisions of title 10, United States Code, section 1370.

To be admiral

Adm. Robert L. J. Long, 490-44-9286/1120, U.S. Navy.

The following-named captains of the various staff corps of the Navy for promotion to the permanent grade of commodore, pursuant to title 10, United States Code, section 624, subject to qualifications therefor as provided by law:

MEDICAL CORPS

To be commodore

Louis Henry Eske
James Joseph Quinn

SUPPLY CORPS

Robert Burke Abele
Daniel Wayne McKinnon, Jr.
Phillip Freeman McNall

CHAPLAIN CORPS

John Richard McNamara

CIVIL ENGINEER CORPS

Arthur William Fort

DENTAL CORPS

Henry John Sazima

NURSE CORPS

Mary Joan Nielubowicz

The following-named captains of the Line of the Navy for promotion to the permanent grade of commodore, pursuant to title 10, United States Code, section 624, subject to qualifications therefor as provided by law:

UNRESTRICTED LINE OFFICER

To be commodore

Edwin Knowles Anderson
Clarence Ervin Armstrong, Jr.
Roger Francis Bacon
Bruce Raymond Boland
Jerry Creighton Breast
Charles H. Brickell, Jr.
Paul Donald Butcher
Richard Franklin Butts
Denny Bruce Cargill
David Fessenden Chandler
Guy Haldane Curtis III
Thomas R. M. Emery
Gerard Joseph Flannery, Jr.
Dale Norman Hagen
John Joseph Higginson
Chauncey Frazier Hoffman
Raymond Paul Ilg
Jerome Lamarr Johnson
Wendell Norman Johnson
Robert Joseph Kelly
Robert Kalani Uichi Kihune
Willis Ivan Lewis, Jr.
Henry Herrward Mauz, Jr.
Alvin Simmerman Newman
William Joseph M. O'Connor
William Tyler Pendley
Leonard Gordon Perry
James Guy Reynolds
Dean Reynolds Sackett, Jr.
John Frederick Shaw
Vernon Charles Smith
Robert Jay Steele

ENGINEERING DUTY OFFICER

Malcolm Mackinnon III
Kenneth Cornelius Malley
Thomas Uhlian Seigenthaler

SPECIAL DUTY OFFICER (CRYPTOLOGY)

Charles Francis Clark

IN THE MARINE CORPS

The following-named officer for appointment to the grade of lieutenant general on the retired list pursuant to the provisions of title 10, United States Code, section 1370:

To be lieutenant general

Lt. Gen. Richard E. Carey, 279-20-9619, U.S. Marine Corps.

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

DEPARTMENT OF TRANSPORTATION

The assistant legislative clerk read the nomination of L. Steven Reimers, of North Dakota, to be a member of the Advisory Board of the St. Lawrence Seaway Development Corporation.

Mr. ANDREWS. Mr. President, as the one who recommended Steve Reimers for this appointment, I feel particularly appreciative that the administration has recognized the talents and qualifications of a man I have known since we were both farm kids back in North Dakota.

As you know, the St. Lawrence Seaway is one of the major transportation arteries for the export of grain from the upper Midwest, and who better than a farmer with the leadership credentials of Mr. Reimers to bring an unusual depth of skill and experience to the Corporation's Advisory Board.

Mr. Reimers and his family farm in central North Dakota near Carrington. Amongst his many activities which attest to his widely recognized ability, Steve has served on the USDA Advisory Committee on Grains, and has served on and chaired the North Dakota State Wheat Commission.

As a fellow farmer, I am pleased and proud of the recognition the President has given our noble profession through this nomination, and I strongly urge my colleagues to approve it.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

DEPARTMENT OF THE INTERIOR

The assistant legislative clerk read the nomination of J. J. Simmons III, of Oklahoma, to be Under Secretary of the Interior.

● Mr. McCLURE. Mr. President, I strongly support the nomination of Mr. J. J. Simmons to be Under Secretary of the Department of the Interior. Mr. Simmons has a solid background in both the public and private sectors. Upon receiving his graduate degree in geological engineering from the University of St. Louis in 1949, he joined a family oil and gas business, where he worked for 13 years. He spent the next decade working in various positions within the Department of the Interior. In his last public capacity he served as the Administrator of the Oil Import Administration. Mr. Simmons then served for 12 years as vice president of government relations for Amerada Hess before being confirmed by the Senate as a Commissioner of the Interstate Commerce Commission in 1982.

Mr. Simmons' distinguished career, particularly his experience within the Interior Department make him eminently qualified for the position of Under Secretary.

The Committee on Energy and Natural Resources held hearings on Mr. Simmons' nomination on Monday, February 14, 1983, and reported him favorable for consideration by the Senate on a vote of 19 to 0. I know of no opposition to Mr. Simmons and strongly urge my colleagues to vote in favor of his nomination.●

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

NOMINATIONS PLACED ON THE SECRETARY'S DESK

The assistant legislative clerk proceeded to read sundry nominations in the U.S. Air Force, in the Army, and in the Navy placed on the Secretary's desk.

Mr. BAKER. Mr. President, I ask unanimous consent that the nominations be considered en bloc.

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

(The nominations confirmed above are printed at the conclusion of today's Senate proceedings.)

Mr. BAKER. Mr. President, I move to reconsider the vote by which the nominations were confirmed.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAKER. Mr. President, I ask that the President be immediately notified of the confirmation of these nominations.

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

ORDER FOR THE SECRETARY OF THE SENATE TO TAKE CERTAIN ACTION DURING THE RECESS OF THE SENATE

Mr. BAKER. Mr. President, I have one housekeeping request I wish to make if it is agreeable to the minority leader. Let me state it now for his consideration.

I ask unanimous consent that during the recess of the Senate over until Monday at 10 a.m. next the Secretary of the Senate be authorized to receive and refer messages from the President of the United States and the House of Representatives.

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

ORDER FOR CHAIR TO RECESS SENATE TODAY

Mr. BAKER. Mr. President, I wish, if there is no other Senator who has indicated he has further business to transact today, to enter an order providing that the Chair will recess the Senate in accordance with the order previously entered at the conclusion of the remarks by the minority leader if he is agreeable with that.

Mr. BYRD. Yes. Mr. President, I will do as I did the last day that I made a similar speech. That is, when I get to the last paragraph I shall make sure that there is no other Senator wishing to speak before I read that paragraph because I know the Chair will then recess the Senate.

Mr. BAKER. That is very thoughtful of the minority leader and very accommodating indeed and I thank him for it.

Mr. President, I now ask unanimous consent that at the conclusion of the remarks made by the distinguished minority leader the Chair automatically place the Senate in recess over according to the order previously entered until the hour of 10 a.m. on Monday next.

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

Mr. BAKER. Mr. President, I express my gratitude to the minority leader for his cooperation, and I will now leave the floor to his tender mercies.

Mr. BYRD. I thank the distinguished majority leader and wish him a good weekend and look forward to seeing him on Monday next.

THE UNITED STATES SENATE

THE SENATE IN THE TURBULENT 1850's

Mr. BYRD. Mr. President, it is one of the ironies of American history that in the decade preceding the Civil War the states and sections were growing more interdependent. Southern and western agriculture supplied northern industry, which in turn provided those regions with consumers goods. The Mississippi River carried an increasingly heavy north-south trade. And Senator Stephen A. Douglas, the manager of the Compromise of 1850, was fighting hard for a transcontinental railroad to link the Atlantic and Pacific. In fact, it may well have been his fight in the Senate to build that railroad that unleashed the full fury of sectionalism which the Compromise had attempted to contain. The paradoxes of the Kansas-Nebraska Act of 1854, and the turbulent years that followed, will be the subject of my remarks today, in my continuing series of addresses on the history of the United States Senate.

As Senator from Illinois, and Chairman of the Senate Committee on Territories, Stephen Douglas was most interested in settling the western territorial issues so that a transcontinental railroad could be built from Chicago to California. Of most immediate concern to him was the "Nebraska Territory," an area covering present-day Kansas, Nebraska, North and South Dakota, and Montana. Any railroad out of Chicago would necessarily pass westward through this territory. But the Nebraska Territory lay north of the Missouri Compromise line, and was therefore closed to slavery. Southern senators opposed such a route and threatened to filibuster against it. They instead favored a southern route through Texas. If Senator Douglas was to succeed, he would have to find some means of organizing the Nebraska territory that would be acceptable to both North and South.

On January 4, 1854, Douglas introduced a bill to organize the territory "with or without slavery, as their constitutions may prescribe at the time of admission." While this provision clearly contradicted the Missouri Compromise of 1980, which prohibited slavery north of the 36th degree of latitude, it was not strong enough to please proponents of slavery. Led by Senator David Atchison of Missouri, they pressed for an explicit repeal of the Missouri Compromise. It was Senator Archibald Dixon, a Kentucky Whig, who took Stephen Douglas, an Illinois Democrat, aside to convince him that only the repeal of the prohibition on slavery in the territories would save his bill. "By God, sir, you are right," Douglas responded at last. "I will incorporate it in my bill, though I know it will raise a hell of a storm." [1] He was correct in anticipating the ferocity of opposition to his measure.

On January 24, Douglas introduced his revised bill, which now divided the territory into Nebraska to the north and Kansas to the south. Contained in the Kansas-Nebraska bill was the explicit repeal of the Missouri Compromise which Southerners had demanded. Douglas explained that he introduced his bill early in the first session of the Thirty-Third Congress, because: "I find it generally to be the case with my territorial bills, that if I do not get them acted on early in the session they are crowded over by other business at the end of the session, and are always postponed for want of time." Senator Salmon P. Chase of Ohio then rose to request a postponement in the debate over the bill since few senators had had the opportunity to read the new version. Douglas graciously acceded to this request, not knowing that Chase and Massachusetts Senator Charles Sumner, both Abolitionists, had already prepared a stinging denunciation of his bill for publication as "The Appeal of the Independent Democrats." They wanted the debate held up until their charges could appear in the newspapers. Their broadside denounced Douglas for betraying the nation to "slavery despotism" by permitting slavery into the territories. After publication of this appeal, as Professor David Potter has noted, the Nebraska bill ceased to be primarily a railroad question and became instead a slavery question.[2]

When debate on the Kansas-Nebraska Act resumed on January 30, 1854, Senator Douglas was clearly a very angry man. "Sir," he said on the Senate floor, "little did I suppose at the time that I granted that act of courtesy to the two senators, that they had drafted and published to the world a document, over their own signatures, in which they had arraigned me as having been guilty of a criminal betrayal of my trust, as having been guilty of an act of bad faith against the cause of free government." Douglas had good reason for anger. The opponents of his measure had personified the issue by identifying it with him, and had stirred public sentiment against the senator throughout the north. Public opinion so turned against him that Douglas later remarked that he could ride all the way from Washington to Chicago by the light of his burning effigy. The antislavery senators, however, denied that they intended to make Douglas himself the object of their attack. "Sir, our offense is that we deny the nationality of slavery," Senator Chase responded. "All that we have ever insisted upon is that the territories of this Union shall be preserved from slavery." [3]

These speeches set the tone for the three and a half months of debate that followed. On February 6, 1854, for instance, the new Senator from Ohio, the vituperative Ben Wade, jumped into the fray with a fiery speech against Douglas. He had been but a young man when Congress

passed the Missouri Compromise in 1820 to save the Union, Wade recalled, and was also not a member of the Senate when the Compromise of 1850 was passed to soothe sectional anxieties. Now he professed to have been shocked when the chairman of the Committee on Territories announced that the 1850 compromise had superceded that of 1820 and wiped out the Missouri line between slavery and freedom. What was at stake, Wade insisted, was a vast territory, "large as an empire. It is pure as nature; it is beautiful as the Garden of Eden," and it should not be sullied by slavery. Free farmers of the north should not be degraded by working on the same level as slaves. "I am a believer in the Declaration of Independence," said Ben Wade. "I believe that it was a declaration from Almighty God that, all men are created free and equal, and have the same inherent rights."

Senator Dixon of Kentucky was immediately upon his feet. "Does the senator mean that the slave is equal to those free laborers that he speaks of in the North?" Dixon asked.

"Certainly. Certainly," replied Wade. "The slave, in my judgment is equal to everybody else, but is degraded by the nefarious acts and selfishness of the master, who compels him, by open force and without right, to serve him alone."

"Does the senator," Dixon persisted, "consider the free negroes in his state as equal to the free white people."

"Yes," said Wade. "Why not equal? Do they not all have their life by Almighty God?"

Anti-slavery senators like Wade were willing to accept that the Constitution of the United States was itself a compromise between the free and slave states. Although the Constitution had prohibited the importation of slaves after 1808, it had established a system whereby three-fifths of the slaves would be counted for purposes of apportioning representation, thereby increasing Southern power in the House of Representatives. In effect, the Constitution recognized and permitted slavery, at least where it already existed. The North had helped enforce the law, had accepted the institution of slavery in the South, although Northern states had themselves abolished slavery long before. But, said Ben Wade, "what will be said when you have thrown down the gauntlet on the other side, and told us that compromises for our benefit mean nothing at all?" [4]

Southerners, by contrast, argued that they had inherited the institution of slavery. Senator James C. Jones of Tennessee complained that Wade's speech had been "a tirade of abuse and denunciation of an institution which had descended to us from the fathers of the Republic." The very men who had fought the battles for liberty and independence, George Washington, Thomas Jefferson, James Madison, and so many others, had been owners of slaves. From these "fathers of the Republic" Southerners had inherited slavery as an economic and social system, and they could not conceive of life and orderly society without it. Abolition of slavery, as they saw it, would mean the collapse of their economy and ultimate economic domination by the industrial North.

Slavery also provided a system of absolute racial superiority, and they feared its unraveling. For Southerners the question was the legitimacy of their peculiar institution. If slavery was not an evil, but a necessity, then it should not be forever boxed into a limited area. Southerners, like those from other states, should be permitted to expand westward—or even southward into the Caribbean.

For Northerners, whether they morally accepted or rejected the institution of slavery—and there was no unanimity in the North over the question—the *extension* of slavery would undermine the ideals of the nation. The very existence of slavery made a mockery of the phrase "all men are created equal." Its extension meant a degradation of labor. Individual farmers would be placed in unfair competition with slaveowners and slave labor in the fields. The future of America, the "Garden of Eden," that they wanted, would be corrupted with the spread of slavery.

The lines were being drawn sharply, so sharply that they divided members of the same party. As Senator Jones, a Southern Whig, responded to Senator Wade, a Northern Whig: "If he [Wade] considered the association which has bound us together as members of the great Whig party to imply that I had any affinities with the doctrines which he proclaims here today, I now and forever eschew any such understanding, intention, or purpose . . . I utterly deny that it ever was, or ever can be, a principle of the Whig party, to inveigh against the institutions of the country which have descended to us from our fathers." The anti-slavery advocates, however, remained decidedly in the minority in both parties, and the efforts of Chase, Sumner, Wade, and others to strike from the Kansas-Nebraska bill the language which nullified the Missouri Compromise, lost by a vote of 13 to 30.[5]

An air of tension filled the Old Senate Chamber during the debate over the Kansas-Nebraska bill. Senators huddled together in frequent and sometimes frantic caucuses preparing amendments and other strategy. Senator Douglas, as floor manager for the bill, stayed largely in the background and allowed others to indulge in oratory. Senator Chase of Ohio—a formidable opponent who later became Chief Justice of the United States—led the anti-slavery forces. Although decidely in the minority, Chase exploited all the weaknesses and ambiguities in the bill, forcing Douglas to take more clear-cut stands than he had hoped would be necessary. How, for instance, should the popular sovereignty aspects of the bill be interpreted? Chase maintained that it would give the people of the territories, through their territorial legislatures, the power to ban slavery. This was indeed true, although Douglas had been arguing a policy of noninterference with slavery in the territories. That the territories should have the power to allow slavery, was a considerable change in emphasis. Chase's pressure on this point helped raise Southern doubts and fears about the results of the Kansas-Nebraska Act.[6]

Senator Douglas, and other Northern advocates of the bill simply did not believe that slavery would be economically feasible on the frontier. The climate and geography of the Plains territories would be inhospitable to the large-scale plantation farming that existed in the South. The majority of the settlers in these territories would be subsistance farmers, relying more on family labor than slave labor; and when these territories reached the stage of applying for statehood, their citizens would most likely adopt anti-slavery constitutions. But while Douglas believed this, he could not openly argue it without losing Southern support.

Public opinion weighed on everyone's mind, and the Kansas-Nebraska bill was stirring up hostile reactions in both the North and the South. Senator Lewis Cass, a supporter of the bill, quoted some of the more flamboyant charges made against it:

"This bill is a silent, halting, creeping, limping, aquinting motion, conceived in the dark, and mid-wifed in a committee room. It is a farrango, an olla-podrida /which was a highly seasoned Spanish stew, also known as a 'rotten pot'/. It is a juggle worthy of the trick of one egg under three hats. It is buttered on both sides. It is untrue, contradictory, suicidal, and preposterous. It is a shilly-shally, willy-won't, don'ty, can'ty style of legislation." [7]

As the debate wore on, as Professor Robert Johannsen has written in his stirring biography of Stephen Douglas,

"the exhaustion of the senators took its toll as they became increasingly impatient and irascible, quick to take affront and magnifying small details into major issues. Insults were hurled and denied, and quarrels broke out even among friends of the bill." All of this climaxed on the afternoon and evening of March 3, 1854. The debate lasted all night. Douglas did not gain the floor until nearly midnight. "Will the senators give way to a motion to adjourn?" he asked. "Oh, no! Oh, no!" came the reply. Douglas then offered to waive his final speech, but again the crowd responded: "Oh, no; go on." [8]

One of those who witnessed Douglas' speech that night was the Senate Doorkeeper, Isaac Bassett. Bassett recorded in his diary that this speech was one of Douglas' greatest and most memorable efforts. The galleries were filled with a brilliant array of ladies and gentlemen. Ladies who could not find seats in the galleries were invited onto the Senate floor. The appearance of Senator Douglas provoked applause from the assembled crowd, which sat through his entire three-hour address, late into the night. Isaac Bassett gives us a vivid description of the "Little Giant," Stephen Douglas, whom he called "one of the foremost debaters in the Senate. He had a rich voice, fluent in speech . . . He was short in stature, broad-shouldered, deep-chested /with/ a large developed head . . . somewhat like Daniel Webster's . . . In person he was considerably below the common height of men. Thick set, large expanding chest, remarkable large head, dark hair and eyes. Wide of mouth, he had a loud, full voice. As a speaker he was forcible, strong, clear, rapid. As he progresses he throws his whole soul into a subject." As Bassett recalled, "the multitude hung upon his words."[9]

Senator Douglas concluded debate on the Kansas-Nebraska bill with a lucid, well-reasoned speech. He held back no scorn for the arguments of his four leading opponents, Seward, Chase, Wade, and Sumner. Popular sovereignty, he insisted, would solve the sectional problems of the country and provide for the peaceful settlement of the great western territories. "You cannot fix bounds to the onward march of the great and growing country," Douglas told the Senate. "You cannot fetter the limbs of the young giant. He will burst all your chains. He will expand, grow, and increase, and extend civilization, Christianity and liberal principles." At last, at five in the morning, after seventeen hours of continuous debate, the Senate was ready to vote. Earlier, in a private letter, Douglas had predicted that if the full Senate voted, he would win by a margin of 45 to 17. As it transpired, the Senate vote was 37 to 14, showing that the "Little Giant" was a shrewd head-counter.[10]

Debate then shifted to the House of Representatives, and Senator Douglas was present at almost every session in which the House took up the Kansas-Nebraska bill, rallying its supporters. The House passed the bill on May 22, and President Franklin Pierce signed it into law on May 30. No one, especially not its sponsor, could imagine what a fury this bill would unleash.

Mr. President, it is outside the intended scope of my speeches to describe in detail the events that followed the passage of the Kansas-Nebraska Act. We may remember how Northern Abolitionists sponsored anti-slavery settlers to move into Kansas, and how pro-slavery Missourians crossed the border into Kansas to outvote Northern settlers. Douglas' bill, and his dream of popular sovereignty, had not led to peaceful settlement, but to open warfare between partisans of both sides, with Kansas as the stage and the Nation as the audience. The anti-slavery settlers located in and around the town of Lawrence. The pro-slavery forces concentrated at Leavenworth. After an election marked by thinly disguised election frauds, the pro-slavery settlers elected a territorial government, which immediately passed laws to permit slavery in Kansas and to make it illegal even to question the right to hold slaves. Meanwhile, the anti-slavery forces elected their own governor and legislature. Two "Kansases" existed, and each petitioned the federal government for recognition as a state.[11]

Senator Douglas was appalled by this course of events. By all accounts, Douglas was an ambitious man who had hoped for the Democratic nomination for president in 1852 and 1856; but on both occasions the nod went to lesser men, Franklin Pierce and James Buchanan, both "Northern men with Southern principles." The intense reaction against the Kansas-Nebraska Act throughout the North clearly threatened Douglas' presidential chances. He became the personification of the bill and the subject to countless petitions from clergy and other Northern groups denouncing him for his role in its passage. Douglas also became the target of a new political party that sprang from the opposition to his bill.

The "Appeal to the Independent Democrats" had galvanized anti-slavery forces. Many members of the Free Soul Party, and those who identified themselves as Free Democrats, began to rally together with anti-slavery Whigs. On March 20, 1854, in Ripon, Wisconsin, a meeting of those opposed to the Kansas-Nebraska Act proposed the creation of a new party, to be called the Republican Party. New York Tribune editor Horace Greeley gave this idea national publicity, and the new party with surprising speed and force. Anti-slavery Whig senators like Ben Wade abandoned their party to join the Republicans, as did Free Democrats like Senator Charles Sumner. Republicans ran a strong race in the elections of 1854, and Douglas' home state of Illinois elected a Republican senator, Lyman Trumbull (who defeated former Congressman Abraham Lincoln among others). The Democrats retained their majority in the Senate but lost control of the House to the new party.[12]

When the Thirty-Fourth Congress opened on December 3, 1855, opponents of the Kansas-Nebraska Act immediately seized the initiative. New Hampshire Senator John Hale introduced the following resolution on December 6:

> Resolved, That the President of the United States be requested to inform the Senate whether he has received any evidence of such resistance to the execution of the laws in Kansas as to require the interposition of military force for the restoration or preservation of law and order in that Territory; and if he has received such evidence, that he will lay the same before the Senate, and also copies of any order which may have been issued by his authority for the employment of military force in said Territory, if any such order has been issued.[13]

The Senate, however, carried on no substantive business throughout December and into January 1856 because the House was locked in a protracted battle over the election of a speaker. Meanwhile, the situation in Kansas worsened. The Territorial Governor appealed to President Pierce for Federal troops to maintain order. On January 24, Pierce notified Congress that he had decided "it is not the duty of the President of the United States to volunteer interposition by force to preserve the purity of elections either in a State or Territory." Pierce recommended instead that Kansas be permitted to organize into a state government, to "dispose of the question itself/slavery/which constitutes the inducement of occasions of internal agitation and of external interference." Thus the House was disorganized, the Senate paralyzed, the president timid, and the situation grave.[14]

During this period, Senator Stephen Douglas was absent from Washington, suffering from a severe case of bronchitis. He returned still weak and fatigued in early February 1856, but once again tried to seize the leadership on the controversial territorial issue. As chairman of the Committee on Territories, Douglas immediately went to work on a committee report to make Kansas a state. On March 12, he submitted the 40-page report to the Senate, and read it aloud for some two hours. This report, as Douglas' biographer has noted, was "a significant step in the development of Douglas' view of popular sovereignty. No longer satisfied merely to defend it as an expedient, or even as a moral right, he now sought a legal and constitutional basis for his position. Congress' power to create territories derived from the power to admit new states; in organizing a territory, Congress must not impose any limitation that would destroy or impair the equality of the proposed state with the original states." While Douglas and the committee's majority wanted the issue decided by the Kansas settlers, Senator Jacob Collamer of Vermont presented the minority report, which proposed that Kansas be admitted as a free state."[15]

Douglas' report brought oratorical rebuttal from Senators Charles Sumner and William Seward, but it was the Senate's newest member, the junior senator from Douglas' home state—Lyman Trumbull—who drew the greatest attention. All eyes fixed on Trumbull when he rose in the Senate to speak on March 14, 1856. Trumbull dismissed Douglas' theory of popular sovereignty for its "vagueness and uncertainty." He quoted from the Territorial committee's report that Northern settlers had moved west to "abolutionalize" Kansas. "What! *abolutionize* Kansas!" cried Trumbull. "It was said on all sides of the Senate chamber that it was never meant to have slavery go into Kansas. What is meant, then, by abolutionizing Kansas? Is it abolutionizing a territory already free, and which was never meant to be anything but free, for free-State men to settle it? I cannot understand the force of such language." [16] During Trumbull's speech, Senator Douglas entered the chamber and sought recognition. Furious that Trumbull had not notified him in advance of the speech, Douglas explained that he had been absent due to ill health. "I never dreamed that any man in this body would so far forget the courtesies of life, and the well known usages of the Senate, to make an assault in my absence in violation of the distinct understanding of the body when the subject was postponed." Since Trumbull's speech would not be published in the *Congressional Globe* until the following Monday, Douglas announced that he would give his own rebuttal the next week, after he had had the opportunity to read Trumbull's charges.[17]

Thursday, March 20, was the appointed day for Douglas' remarks. As was so often the case during those great nineteenth century debates, it seemed as if the whole populace of Washington sought admittance to the Senate galleries. The doorkeeper, Isaac Bassett, recorded in his diary that "the Ladies from a very early hour filled the Galleries, occupying even that assigned to the Reporters." Douglas had a great reputation as an orator, and on that occasion he did not disappoint his listeners. Dressed in a black suit, with his frock coat buttoned to his chin to protect his ailing throat, Douglas addressed the Senate for some two and a half hours. Douglas began by berating his Illinois colleague, Lyman Trumbull, for having deserted the Democratic Party and allied himself with "Black Republicanism." He defended his report, and his theory of popular sovereignty, and taunted his opponents by noting that the free-State settlers in Kansas wanted to ban the immigration not only of slaves but of free blacks into their territory, at the same time they claimed to be "especial friends of the negro." Popular sovereignty would work, he insisted, but it was being subverted by "two rival and hostile systems of emigration" being organized by extremists in the North and South to capture Kansas. Douglas' remarks, Professor Johannsen concluded, "aroused admiration and praise, if not always agreement." But for all Douglas' efforts, he could not bring the Kansas statehood bill to a quick vote, and the debate went on for months.[18]

The year 1856 was a presidential election year and Douglas was a leading candidate for the Democratic nomination. But he had come to epitomize the Kansas controversy, and had become the target of abuse from both Northern and Southern partisans. "Douglas has brains," wrote a reporter for the *New York Times*, "but so has the Devil, so had Judas and Benedict Arnold." Another detractor was Massachusetts' patrician Senator Charles Sumner. To the tall and haughty Sumner, the short and stocky Douglas was "a brutal vulgar man without delicacy or scholarship/who/looks as if he needed clean linen and should be put under a shower bath." It is hard to imagine two more dissimilar men than Douglas and Sumner, violently opposite in politics, style, and demeanor. But in that year of 1856, both men became national symbols—Douglas of the popular sovereignty approach to the territorial issue, and Sumner of the unyielding free soil approach. Senator Sumner also became a symbol of the violent current bubbling just below the surface of this political controversy.[19]

For two months, Sumner prepared an elaborate speech in defense of the free-State government of Kansas. Moreover, he intended the speech to defend his home state for its support of the free soil movement, and to attack Douglas and the leaders of the South. Senator Sumner was not considered a man of moderation, tact, and conciliation. But even for him his "Crime Against Kansas" speech was extreme in its bitterness and reckless in its denunciations. Again the galleries were packed on May 19, when Sumner addressed the chamber. Sumner denounced the Kansas-Nebraska Act as a "swindle," and claimed that Douglas' popular sovereignty had resulted in "popular slavery." During this speech, Sumner described Douglas as the "Sancho Panza" of slavery, and ascribed the role of "Don Quixote" to South Carolina's Senator Andrew Butler.

Sumner was particularly severe in dealing with the sixty-year-old State Rights Democrat, Butler, who was not present in the chamber during the attack. Here is a portion of his remarks:

> The Senator from South Carolina has read many books of chivalry, and believes himself a chivalrous knight, with sentiments of honor and courage. Of course he has chosen a mistress to whom he has made his vows, and who, though ugly to others, is always lovely to him; though polluted in the sight of the world, is chaste in his sight—I mean the harlot, Slavery. For her, his tongue is always profuse in words. Let her be impeached in character, or any proposition made to shut her out from the extension of her wantonness, and no extravagance of manner or hardihood of assertion is then too great for this Senator. The frenzy of Don Quixote, in behalf of his wench, Dulcinea del Toboso, is all surpassed.[20]

Strong words! Today such remarks would be ruled out of order as a violation of Senate Rule 19, prohibiting senators from imputing the conduct of other senators. In 1856, however, the Senate had no such rule, although *Jefferson's Manual* prohibited speakers from "reviling, nipping, or unmannerly words against a particular member." Charles Sumner had clearly stretched the bounds of decorum to their utmost limit. One of Sumner's admirers, the Senate's principal clerk, Lewis Machen, wrote to his son that Sumner's rhetoric had not been exhibited "since the palmy days of Webster," but that he regretted that the senator had indulged in personal expressions whose only effect would be to "irritate and wound."[21]

Irritate they certainly did. Sumner's words irritated, wounded, and inflamed many in Washington, most notably Senator Butler's nephew, Representative Preston Brooks of South Carolina. Brooks had been among the crowd in the Senate chamber that had heard Sumner's allusions to Butler as Don Quixote. "I felt it to be my duty to relieve Butler and avenge the insult to my State," Brooks wrote to his brother. He chose as his weapon a gutta-percha walking stick with a gold handle. At first, Brooks planned to assault Sumner on the Capitol grounds, but when the senator failed to pass by, the congressman sought him in the Senate chamber.

It was 12:45 p.m. on Thursday, May 22, 1856, when the Senate adjourned, in memory of a recently deceased member of the House. Sumner was seated at his desk in the rear row of the Senate chamber, franking copies of his "Crime Against Kansas" speech to send to his constituents. Brooks approached him from the front aisle and called his name. As Sumner looked up, Brooks said (according to Doorkeeper Isaac Bassett, who witnessed the scene): "I have come over from the House to chastize you for the remarks that you made against my relation, Senator Butler. I have read your speech and it is a libel on South Carolina." As Brooks spoke those words, he raised his cane and brought it down upon Sumner's head, and then again, and again, and again in fury. Sumner, dazed from the blows and blinded by blood, lurched up from his desk, which

was bolted to the floor, ripping it loose as he struggled to stand. Sumner lifted his arms to protect himself, but the blows fell about his head, and neck, and shoulders until the cane has smashed itself to pieces against his body. Witnesses described Sumner "reeling around the seats, backwards and forwards." All this took place within a minute's time, before any of the other senators or staff could come to Sumner's aid.[22]

Senator Cass and Doorkeeper Bassett rushed to assist the injured Sumner, lifting him up and helping him into the reception room. There Bassett got towels and a basin of water and washed his head, which bled profusely. A physician was called for, and at first it was feared that the blows had fractured his skull. Soon it was determined that the wounds were serious but not fatal, and the senator was able to walk down the Capitol steps and take a carriage back to his lodgings.[23]

We can imagine the commotion in the Senate chamber at this time. Brooks had appeared in the chamber with two House members for protection, Representatives Lawrence Keitt of South Carolina and Henry Edmundson of Virginia. Few senators had been present in the chamber, since the Senate had adjourned for the day, and even fewer wished to come to the unpopular Sumner's rescue. Indeed, it was another House member, Ambrose Murray of New York, who grabbed Brooks' arm to prevent him from further striking Sumner. During the melee, Whig Senator John J. Crittenden of Kentucky approached Brooks to denounce the use of force in the Senate chamber. When Congressman Keitt lifted his cane against Crittenden, Georgia Senator Robert Toombs came to the elderly Kentuckian's defense.[24]

During the assault, Senator Douglas had been talking with colleagues in the reception room. When a messenger burst in with the news that Sumner was being attacked, Douglas jumped to his feet, but then thought the better of it. Considering his poor relations with Sumner, he decided against becoming involved. Indeed, Senator Sumner later stated that he thought Douglas had accompanied Congressman Brooks—a mistake he made perhaps because the nearsighted Sumner was not wearing his glasses during the attack. But later, when Sumner had left the Capitol and staff members were picking up the papers that had been scattered throughout the chamber, Douglas approached the staff member who had found the gold handle (all that was left intact of Brooks' cane) and asked to keep it as a momento of the occasion.[25]

Mr. President, it is appalling even to this day to think of such an unprecedented—and fortunately never repeated—attack on a member of the Senate as he sat at his desk in the chamber. The caning of Senator Sumner became a symbol of the rising tide of violence between the North and the South, and of the tensions under which the political leaders of the nation had to deal. Sumner became a hero to the North, just as Brooks became a hero to many in the South. Brooks and his companions walked out of the Senate chamber unhindered that day. The House debated expelling him for his actions, but failed to do so on a straight party-line vote. Brooks then resigned his seat and was immediately reelected by voters in his district. Death, however, cut short this mercurial and hot-tempered young man. Preston Brooks died six months later at the age of thirty-eight. His companions, Keitt and Edmundson, were also brought before the House on charges. The House voted to censure Lawrence Keitt, who then resigned and was reelected. A similar censure vote against Henry Edmundson was unsuccessful. It is amazing that their behavior was so lightly punished. Sumner, in the meantime, began a long and painful recuperation, which kept him absent from the Senate for the next three years. Some of his critics charged that he was afraid to return, and his biographer, Professor David Donald, has suggested there were psychosomatic reasons for this long absence, but the fact is that Sumner's empty chair in the chamber was a powerful reminder to those who felt the day for compromise over slavery had ended.[26]

The Senate appointed a committee of five to investigate the caning of Charles Sumner, and debate over the issue was often heated and furious. Out in Kansas, events turned even more ominous. Word reached Washington that pro-slavery forces had sacked the anti-slavery capital of Lawrence. Thus "Bleeding Kansas" and "Bleeding Sumner" became rallying cries for the North. Nor were acts of atrocity limited to pro-slavery factions. In response to the sack of Lawrence, in which the newspaper presses, hotel, and a few houses were burned, a fanatic named John Brown raised a small posse to wreak vengeance, killing five pro-slavery settlers at Pottawatomie Creek. Civil war had broken out in Kansas. These events worked against the presidential candidacy of Stephen A. Douglas, who had hoped to win recognition for his political compromises to settle the territorial issue. Instead, Douglas was again passed over for the Democratic nomination, which this time went to James Buchanan. Former Senator and Secretary of State Buchanan had the advantage of being absent from the country during the past trying years, as Ambassador to the Court of St. James. Another "Northern man with Southern principles," Buchanan was popular among Southern Democrats.

The new Republican party nominated its first candidate for the presidency, the flamboyant explorer, military man, and former senator from California (as well as the son-in-law of Thomas Hart Benton), John C. Fremont. Although Buchanan defeated Fremont, Fremont's very candidacy as an anti-slavery Republican struck fear in many Southern hearts and talk of secession spread through such states as South Carolina and Virginia. Fremont's strong showing in many Northern states seemed to portend a Republican victory in the not-to-distant future, which Southerners saw as the end of the Union.

As the distinguished historian Roy Nichols has written: "The Democratic victory of 1856 settled nothing." It merely established a four-year truce. President Buchanan began his administration with a vain hope that the territorial issue could be solved not by the Congress or by his administration, but by the Supreme Court. Chief Justice Roger Taney had let the president know that the court would soon hand down a landmark decision on slavery in the territories. On the day that the Senate considered Buchanan's cabinet nominees, one flight below in the Old Supreme Court Chamber, Chief Justice Taney read the majority opinion in the now famous Dred Scott case. No matter what the fuss had been over the Kansas-Nebraska Act, the court ruled that the Missouri Compromise had been unconstitutional to start with, on the grounds that Congress could not deny rights in the territories that were enjoyed in the states. The Republican Party's platform was thus declared unconstitutional. It was folly for the court to believe they could settle such an emotional issue so simply.[27]

In the election of 1856 the Democratic Party regained control of the House of Representatives, and retained its majority in the Senate. But the party had lost an important internal balance. Whereas before the controversy over the Kansas-Nebraska Act the Democrats had been divided roughly equally between North and South, now the Southern Democrats had a commanding lead in both houses: 75 to 53 in the House, and 25 to 12 in the Senate. This erosion of the Northern Democratic bloc weakened the role of Stephen Douglas and correspondingly strengthened the hand of the new president.[28]

Although Douglas was the leader of the Northern Democrats in Congress, we would be mistaken to think he was anti-Southern. Douglas approved of the Dred Scott decision, which held that black people were not citizens of the United States and did not share in its civil rights; he accepted racial inferiority; and through his wife's inheritance he owned slaves in Louisiana.

Douglas spent his years in Congress trying to unite the sections of his party, not divide them. He never ceased appealing to the Southern Democratic constituency. But events kept pressing the sections farther apart, and inflaming issues beyond Douglas' ability to control them.

It was Douglas who had first sponsored Kansas statehood, and it was Douglas who paid the greatest price when Kansas eventually did apply to enter the Union. In 1857, pro-slavery settlers met in Lecompton, Kansas, in a constitutional convention. There they drafted a predictably pro-slavery constitution. But whereas Douglas expected they would submit the constitution to the population of the territory for ratification—the "popular sovereignty" he had long espoused—the convention instead sent the Lecompton Constitution directly to Congress for approval. Douglas considered this act a sham and a violation of popular sovereignty. He commented privately that he could not support the Lecompton Constitution without "repudiating all the acts of my life, and doing a political act that I did not believe was moral and just."[29]

If Stephen Douglas had been solely an ambitious man with his sights set on the White House, he would have endorsed the Lecompton Constitution, demonstrating his loyalty to the Buchanan administration and winning the support of Southern radicals. It is a measure of the man that he did not choose to abandon his principles to satisfy his ambitions. When President Buchanan's first State of the Union message was read to the Senate on December 8, 1857, Senator Douglas was the first to rise in response, saying: "I totally dissent from all that portion of the message which may fairly be construed as approving of the proceedings of the Lecompton convention." The next day, Douglas delivered a major address against the Lecompton Constitution, stating that it did not reflect the will of the people of the territory because it had not been submitted to the inhabitants in a referendum. "I do hold that the people of Kansas have the right to be consulted and decide it," he insisted. "If this constitution is to be forced down our throats, in violation of the principle of free government, under a mode of submission that is a mockery and insult, I will resist it to the last." The *Congressional Globe* records that "at the conclusion of the honorable gentleman's speech loud applause and clapping of hands resounded through the crowded galleries."[30]

On February 2, 1858, the president submitted the Lecompton Constitution to the Senate. By this time, not one but two referendums on the constitution had been held in Kansas. One by pro-slavery forces produced a vote of 6,000 votes in favor and 500 opposed; the other vote, taken by anti-slavery settlers, produced 10,000 opposed to the Lecompton Constitution, with 100 supporting it. If a fair vote had been taken of all settlers throughout the territories, it appears that the pro-slavery constitution would have lost by a wide margin. Still, the Buchanan administration defended it as the will of the people of Kansas. Among those who wholeheartedly supported Buchanan, the Lecompton Constitution, and the extension of slavery into all the territories, was the stately senator from Mississippi, Jefferson Davis. One visitor to the galleries, Miss Mary Jane Windle, who wrote occasional articles on Washington life for the South Carolina papers, described the "profound silence and the fixing of every eye" on Senator Davis when he rose to speak. "Since the days of Mr. Clay, we have never heard any one so powerfully rivet the attention of the spectators as this gentleman (Mr. Jefferson Davis). It is scarcely an exaggeration to say that his keen eye literally blazed as he poured forth a torrent of withering sarcasm and curshing invective."[31]

It soon became clear that while Stephen Douglas commanded great public attention and could fill the galleries for his speeches, he no longer led the Senate Democratic forces. Even on his own committee the pro-Lecompton majority took control of writing the committee report on Kansas away from the chairman, and forced Douglas to file a minority report. During the debate on Lecompton during March, Douglas was too ill to participate, but he rallied his strength to give the concluding speech, speaking to a "prodigious multitude" in the chamber "beyone all precedent." On March 23, the Senate voted 33 to 25 to uphold the Lecompton Constitution. Only three other Democrats and two Whigs joined Douglas in voting with the Republican minority against the measure. The House, however, adopted a different measure, recommending that the Lecompton Constitution be returned to Kansas for a popular vote. This proposal was unacceptable to the majority in the Senate, and finally a conference committee met to reach a compromise. The Lecompton Constitution would be resubmitted to the Kansas voters, but they would vote only on a land grant issue, not on slavery. This compromise was adopted by the Senate and House at the end of April, and the Lecompton Constitution went back to Kansas, where the settlers overwhelmingly rejected it, as Douglas believed they would.[32]

Stephen Douglas' split with the Buchanan administration had clearly jeopardized his position as a national Democratic leader, and there were many who suspected he might switch his allegiance to the new Republican Party, or to work some form of coalition between Northern Democrats and Republicans based on anti-Lecomption sentiments—a strange twist for the man whose Kansas-Nebraska Act had led to the birth of the Republican Party in the first place. But Douglas was not destined to become a Republican, and indeed, in 1858 he faced a challenge for reelection to the Senate from the Republicans of Illinois, who nominated a Springfield lawyer and former congressman by the name of Abraham Lincoln. The Lincoln-Douglas debates of that famous senatorial election are so much a part of our popular history that we may forget that it was Douglas, not Lincoln, who won the election, albeit by a slim margin. But, while the Illinois state legislature returned Stephen Douglas for another term in the Senate, Lincoln's crafty debating had forced Douglas to take stands that would separate him both from Northern Republicans and Southern Democrats. Douglas returned to the Senate for the second session of the Thirty-Fifth Congress in a considerably weakend position.

Symbolic of Douglas' shaky position was his loss of the chairmanship of the Committee on Territories, his power base in the Senate. The Democratic caucus met on December 9, 1858, to assign members to committees and immediately became bogged down in debate over Douglas. Senators Jefferson Davis of Mississippi, John Slidell of Louisiana, and Jesse Bright of Indiana led the fight to remove Douglas, and President Buchanan added his endorsement by passing the word that Douglas was no Democrat and did not deserve a chairmanship. The caucus action in stripping Douglas of his chairmanship reflected a hardening of sentiment among pro-slavery senators. They now rejected popular sovereignty as a half-way measure, and insisted on nothing less than complete equality for the South in expansion into the Western territories.[33]

This was the first time in history that a senator had been removed as a committee chairman. In subsequent years, only one other senator lost his chairmanship: Charles Sumner, who was removed as Foreign Relations chairman in 1871. (In 1913, the Democratic caucus prevented Senator Benjamin Tillman from becoming chairman of the Appropriations Committee because he had suffered a stroke. And in 1924 the Republican conference removed Senator Albert Cummins as chairman of the Interstate Commerce Committee because he was also president pro tempore; the conference also rejected the ranking Republican, Robert La Follette, because of his independent politics—thus although the Republicans held a majority in the Senate, the committee chairmanship went to a Democrat by default.)[34]

Although rejected, Stephen Douglas did not storm out of the Democratic Party; he remained to fight within its ranks. In 1860 Douglas was again a candidate for its presidential nomination. But by then the split in the party was irreparable. At the Charleston convention, the Democratic party divided into two hostile camps. Southern Democrats nominated Vice President John Breckinridge for president; Northern Democrats removed to Baltimore where they nominated Stephen Douglas as their candidate. In that presidential election, Douglas once again faced Abraham Lincoln as his Republican challenger, but with the Democratic Party divided there was no hope for Douglas' election. It is a tribute to Douglas' statesmanship that he devoted his remaining months to supporting President Lincoln and opposing the secessionist movement. He placed the Union over all political considerations. Stephen Douglas died in June 1861, at the age of forty-eight.

Mr. President, I have been speaking today about the Senate in the turbulent 1850s. Without a doubt, this must have been the most difficult of all decades in the Senate's history. When we look back at the deepening divisions between North and South, we marvel that the Senate was able to conduct any business at all during those trying times. It is instructive to note that despite the fiery rhetoric, despite the sectional passions, the Senate's precedents, traditions, and folkways—what political scientists call its "norms"—continued in place and enabled the Senate to function as a body. Professor Dean Yarwood of the University of Missouri has done a content analysis of the *Congressional Globe* for the Thirty-First and Thirty-Sixth Congresses, which frame the 1850s, to study the use of order, decorum, courtesy, and "gentlemanly deportment" in the Senate and found a strikingly high percentage of observance of Senate rules and norms. Legislative norms, he noted, "provided one standard of fair play by which the behavior of unionists and secessionists alike could be judged by people in the border states." Both sides were appealing to this neutral faction, and felt compelled to play within the rules and to present a dignified case. "During the processes leading to disintegration," Professor Yarwood wrote, "Senate norms allowed the articulation of sharp conflict and at the same time limited its scope so as to minimize the chances that physical conflict would break out and bring about the unintentional rupture of the Senate." [35]

Perhaps the weight of history also bore on these men, as they dealt with the nation's affairs on the eve of a terrible civil war. The Senate at that moment made a great change, which drew the attention of its members back for a moment from the issues of the day to its illustrious past. On Tuesday, January 4, 1859, the Senate held its last session in its old chamber, and prepared to move to its new accommodations. The issue of the territories, which had caused the disturbances of the 1850s, was also responsible for this move. For so many new states had been added to the Union in the 1830s, '40s, and '50s that both the Senate and House had outgrown their chambers. In 1851, the cornerstone for the new Senate wing had been laid, and by 1859, the new chamber, in which I stand today, and new committee rooms were ready for occupancy. The *New York Times* described the new chamber—this very chamber—as "an immense oblong apartment with sloping galleries on its four sides, capable of holding about seventeen hundred spectators, and with gilded partitions dropping down from the floor of the galleries aforesaid to the floor. The light comes in from above, through windows richly colored with armorial bearings of the various States; while the remainder of the ceiling is a mass of fresco and gilding, carved cornices and marble ornaments, of a style some little more gaudy and less artistic than could be wished." (It is clear that this chamber has undergone some renovation since the time this description was written.) "On the floor beneath us—which somewhat resembles a richly carpeted cock-pit—"continued the *Times*' account, "there are as many leathern arm-chairs as there are Senators, and opposite to each chair a little rosewood desk supported on their legs. These seats are arranged in semicircular rows, four deep, facing the elevated platform on which the Vice-President sits as presiding officer." [36]

But before the senators marched off to this splendid new chamber, they said a formal farewell to the old chamber which had housed them since 1810. The Old Senate Chamber was always hard to heat in the winter and to cool in the summer. Members complained about the lack of ventilation. The lack of adequate gallery space had crowded up the chamber with visitors on many occasions. But it was, and still is, a beautiful room with splendid acoustics, the perfect setting for the great debates of Webster, Clay, Calhoun, Benton, Douglas, Davis, and many more. "This chamber has been the scene of great events," said Senator John J. Crittenden, that day in 1859. "Here questions of American constitutions and laws have been decided; questions of war and peace have been debated and decided; questions of empire have occupied the attention of this assemblage in times past; this was the great theater upon which these things have been enacted. They give a sort of consecrated character to this Hall." Vice President John Breckinridge echoed Crittenden's sentiments. "The Senate is assembled for the last time in this chamber," he said. "Hereafter, the American and the stranger, as they wander through the Capitol, will turn with instinctive reverence to view the spot on which so many and great materials have accumulated for history. They will recall the image of the great and the good, whose renown is the common property of the Union; and chiefly, perhaps, they will linger around the seats once occupied by the mighty three, whose names and fame, associated in life, death has not been able to sever; illustrious men, who in their generation sometimes divided, sometimes led, and sometimes resisted public opinion—for they were of that higher class of statesmen who seek the right and follow their convictions." [37]

At the conclusion of Breckinridge's remarks he invited the members to accompany him to the new chamber. They formed in procession, with the vice president at the head, followed by the secretary and sergeant-at-arms, the senators, staff, and spectators from out of that grand old chamber and down the corridor to their new home—this chamber. Mr. President, here I shall leave this procession in transit between the old and the new, as I conclude my remarks on the history of the United States Senate during the turbulent 1850s. In my next address I shall discuss the fateful events that awaited these senators when they reached their destination.

NOTES TO "THE SENATE IN THE TURBULENT 1850s"

[1] David M. Potter, *The Impending Crisis, 1848-1861* (New York: Harper and Row, 1876), 145-160.

[2] Ibid., 161-163; *Congressional Globe*, 33rd Congress, 1st sess., 239-240.

[3] *Congressional Globe*, 33rd Congress, 1st sess., 275, 280.

[4] Ibid., 338-340.

[5] Ibid., 341-343.

[6] Robert W. Johannsen, *Stephen A. Douglas* (New York: Oxford University Press, 1973), 424.

[7] *Congressional Globe*, 33rd Congress, 1st sess. 774.

[8] Ibid., 9.

[9] Isaac Bassett Diary, Senate Curator of Art and Antiquities.

[10] Johannsen, *Stephen A. Douglas*, 428-433; also Johannsen, ed., *The Letters of Stephen A. Douglas* (Urbana: University of Illinois Press, 1961), 281-282; *Congressional Globe Appendix*, 33rd Congress, 1st sess., 324-342.

[11] Potter, 199-224.

[12] Hans L. Trefousse, "The Republican Party, 1854-1864" in Arthur M. Schlesinger, Jr., ed., *History of U.S. Political Parties*, Vol. II (New York: R. R. Bowker, 1973), 1141-1148.

[13] *Congressional Globe*, 34th Congress, 1st sess., 8.

[14] Ibid., 296-298.

[15] Johannsen, *Stephen A. Douglas*, 491-493.

[16] Mark M. Krug, *Lyman Trumbull, Conservative Radical* (New York: A. S. Barnes and Company, 1965), 122-125; *Congressional Globe Appendix*, 34th Congress, 1st sess., 200-206.

[17] *Congressional Globe*, 34th Congress, 1st sess., 654.

[18] Isaac Bassett Diary; *Congressional Globe Appendix*, 34th Congress, 1st sess., 280-289; Johannsen, *Stephen A. Douglas*, 496-497.

[19] Johannsen, *Stephen A. Douglas*, 499; David Donald, *Charles Sumner and the Coming of the Civil War* (New York: Alfred A. Knopf, 1961), 278.

[20] *Congressional Globe Appendix*, 34th Congress, 1st sess., 530.

[21] Arthur W. Machen, Jr., *Letters of Arthur W. Machen with Biographical Sketch* (Baltimore: privately printed, 1917), 64-65.
[22] Donald, *Charles Sumner*, 288-295.
[23] Isaac Bassett Diary.
[24] Donald, *Charles Sumner*, 296.
[25] Johannsen, *Stephen A. Douglas*, 504; Isaac Bassett Diary.
[26] Congressional Quarterly, *Guide to Congress* (Washington: Congressional Quarterly, 1976), 692; Donald, *Charles Sumner*, 312-347.
[27] Roy Franklin Nichols, *The Disruption of American Democracy* (New York: Macmillan Company, 1948), 72-73.
[28] Potter, *Impending Crisis*, 238-239.
[29] Johannsen, *Stephen A. Douglas*, 576-582.
[30] Ibid., 582-583; *Congressional Globe*, 35th Congress, 1st sess., 5, 14-18.
[31] Mary J. Windle, *Life in Washington and Life Here and There* (Philadelphia: J. B. Lippincott, 1859), 266.
[32] Johannsen, *Stephen A. Douglas*, 606-613.
[33] Ibid., 685-697.
[34] *Guide to Congress*, 402.
[35] Dean L. Yarwood, "Norm Observance and Legislative Integration: The U.S. Senate in 1850 and 1860," *Social Science Quarterly*, 51 (June 1950), 57-69.
[36] *New York Times*, January 26, 1860.
[37] *Congressional Globe*, 35th Congress, 2nd sess., 202-204.

RECESS UNTIL MONDAY, FEBRUARY 28, 1983

The PRESIDING OFFICER. Under the previous order, the Senate will stand in recess until 10 a.m. Monday.

Thereupon, at 5:21 p.m., the Senate recessed until Monday, February 28, 1983, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate February 24, 1983:

ENVIRONMENTAL PROTECTION AGENCY

Courtney Riordan, of Virginia, to be an Assistant Administrator of the Environmental Protection Agency, vice Stephen John Gage.

CONFIRMATIONS

Executive nominations confirmed by the Senate February 24, 1983:

DEPARTMENT OF TRANSPORTATION

L. Steven Reimers, of North Dakota, to be a Member of the Advisory Board of the Saint Lawrence Seaway Development Corporation.

DEPARTMENT OF THE INTERIOR

J. J. Simmons III, of Oklahoma, to be Under Secretary of the Interior.

The above nominations were approved subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

U.S. POSTAL SERVICE

John R. McKean, of California, to be a Governor of the U.S. Postal Service for the term expiring December 8, 1991.

DEPARTMENT OF DEFENSE

Vincent Puritano, of Virginia, to be an Assistant Secretary of Defense.

IN THE AIR FORCE

The following officers for appointment in the Reserve of the Air Force to the grade indicated, under the provisions of chapter 837, title 10, United States Code:

To be major general

Brig. Gen. William L. Copeland, [redacted]FV, Air Force Reserve.
Brig. Gen. Gerald E. Marsh, [redacted]FV, Air Force Reserve.
Brig. Gen. Edward L. McFarland, [redacted]FV, Air Force Reserve.
Brig. Gen. John D. Moore, [redacted]FV, Air Force Reserve.
Brig. Gen. Joseph L. Shosid, [redacted]FV, Air Force Reserve.
Brig. Gen. James L. Tucker, Jr., [redacted]FV, Air Force Reserve.
Brig. Gen. Jerome N. Waldor, [redacted]FV, Air Force Reserve.

To be brigadier general

Col. Clyde F. Autio, [redacted]FV, Air Force Reserve.
Col. Norman J. Deback, Jr., [redacted]FV, Air Force Reserve.
Col. Ira De Ment, III [redacted]FV, Air Force Reserve.
Col. Ralph D. Erwin, [redacted]FV, Air Force Reserve.
Col. Walter Jajko, [redacted]FV, Air Force Reserve.
Col. Simeon Kobrinetz, [redacted]FV, Air Force Reserve.
Col. Frances I. Mossman, [redacted]FV, Air Force Reserve.
Col. Thomas R. Pochari [redacted]FV, Air Force Reserve.
Col. William C. Roxby, Jr., [redacted]FV, Air Force Reserve.
Col. Rocco R. Sgarro, [redacted]FV, Air Force Reserve.
Col. John G. Sullivan, [redacted]FV, Air Force Reserve.

The following-named officer for appointment to the grade of lieutenant general on the retired list pursuant to the provisions of title 10, United States Code, section 1370:

To be lieutenant general

Lt. Gen. Richard C. Henry, [redacted]FR, U.S. Air Force.

IN THE ARMY

The following-named officer under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. Robert L. Bergquist, [redacted] U.S. Army.

The U.S. Army Reserve officers named herein for appointment as Reserve Commissioned Officers of the Army, under the provisions of title 10, United States Code, sections 593(a), 3371 and 3384:

To be major general

Brig. Gen. Jimmy F. Bates, [redacted].
Brig. Gen. Robert S. Holmes, [redacted].
Brig. Gen. Robert E. Louque, Jr., [redacted].
Brig. Gen. Norman W. Martell, [redacted].
Brig. Gen. James R. Montgomery, [redacted].
Brig. Gen. Donald A. Pearson, [redacted].

To be brigadier general

Col. Joseph G. Gray, [redacted].
Col. James F. Robb, [redacted].
Col. Guilford J. Wilson, Jr., [redacted].
Col. Edward Y. Hirata, [redacted].
Col. Dennis R. Jones, [redacted].
Col. George V. Bauer, [redacted].

The Army National Guard of the U.S. officers named herein for appointment as Reserve Commissioned Officers of the Army, under the provisions of title 10, United States Code, section 593(a), 3385, and 3392:

To be major general

Brig. Gen. John G. Castles, [redacted].

To be brigadier general

Col. Charles F. Blattner, [redacted].
Col. Ralph H. Brown, [redacted].
Col. Samuel E. Fleming, Jr., [redacted].
Col. Alvin D. McArthur, Jr., [redacted].
Col. Harry L. Moore, [redacted].
Col. Kenneth R. Newbold, [redacted].
Col. David L. Nudo, [redacted].
Col. Ervin T. Osbourn, [redacted].
Col. Joseph J. Saladino, [redacted].
Col. James E. Threlfall, [redacted].
Col. Mucio Yslas, Jr., [redacted].

The following-named officer, under the provisions of title 10, United States Code, secton 3019, for a period of 4 years beginning 1 June 1983, to be reappointed as chief, Army Reserve:

Maj. Gen. William R. Berkman, [redacted] U.S. Army Reserve.

The following-named officer to be placed on the retired list in the grade indicated under the provisions of title 10, United States Code, section 1370:

To be general

Gen. Edward C. Meyer, [redacted] (age 54) U.S. Army.

IN THE NAVY

The following-named officer to be placed on the retired list in the grade indicated under the provisions of title 10, United States Code, section 1370.

To be admiral

Adm. Robert L. J. Long, [redacted]/1120, U.S. Navy.

The following-named captains of the various staff corps of the Navy for promotion to the permanent grade of commodore, pursuant to title 10, United States Code, section 624, subject to qualifications therefor as provided by law:

MEDICAL CORPS

To be commodore

Louis Henry Eske
James Joseph Quinn

SUPPLY CORPS

Robert Burke Abele
Daniel Wayne McKinnon, Jr.
Phillip Freeman McNall

CHAPLAIN CORPS

John Richard McNamara

CIVIL ENGINEER CORPS

Arthur William Fort

DENTAL CORPS

Henry John Sazima

NURSE CORPS

Mary Joan Nielubowicz

The following-named captains of the line of the Navy for promotion to the permanent grade of commodore, pursuant to title 10, United States Code, section 624, subject to qualifications therefor as provided by law:

UNRESTRICTED LINE OFFICER

To be commodore

Edwin Knowles Anderson
Clarence Ervin Armstrong, Jr.
Roger Francis Bacon
Bruce Raymond Boland
Jerry Creighton Breast
Charles H. Brickell, Jr.
Paul Donald Butcher
Richard Franklin Butts
Denny Bruce Cargill
David Fessenden Chandler

Guy Haldane Curtis III
Thomas R. M. Emery
Gerard Joseph Flannery, Jr.
Dale Norman Hagen
John Joseph Higginson
Chauncey Frazier Hoffman
Raymond Paul Ilg
Jerome Lamarr Johnson
Wendell Norman Johnson
Robert Joseph Kelly
Robert Kalani Uichi Kihune
Willis Ivan Lewis, Jr.
Henry Herrward Mauz, Jr.
Alvin Simmerman Newman
William Joseph M. O'Connor
William Tyler Pendley
Leonard Gordon Perry
James Guy Reynolds
Dean Reynolds Sackett, Jr.
John Frederick Shaw
Vernon Charles Smith
Robert Jay Steele

ENGINEERING DUTY OFFICER

Malcolm Mackinnon III
Kenneth Cornelius Malley
Thomas Uhlian Seigenthaler

SPECIAL DUTY OFFICER (CRYPTOLOGY)

Charles Francis Clark

IN THE MARINE CORPS

The following-named officer for appointment to the grade of lieutenant general on the retired list pursuant to the provisions of title 10, United States Code, section 1370:

To be lieutenant general

Lt. Gen. Richard E. Carey [redacted], U.S. Marine Corps.

IN THE AIR FORCE

Air Force nominations beginning Carl P Arant, Jr., and ending Charles R. Dorn, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of January 25, 1982.

Air Force nominations beginning Milton B. Baxter, and ending Maritta L. Loo, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of January 25, 1983.

Air Force nominations beginning Richard M. Anders, and ending Joseph K. Criqui, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of January 25, 1983.

Air Force nominations beginning James A. Kee, and ending Vernon L. James, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of January 25, 1983.

Air Force nominations beginning Philip G. Bail, Jr., and ending Susan L. Mehargue, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of January 26, 1983.

IN THE ARMY

Army nominations beginning Richard A. Buckner, and ending Arthur L. Cole, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of January 25, 1983.

Army nominations beginning Donald J. Evans, and ending John T. Digilio, Jr., which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of January 31, 1983.

Army nominations beginning Lois M. Aasland, and ending Karen M. Wesson, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of January 31, 1983.

Army nominations beginning Robert D. Abell, and ending Garland T. Walker, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of January 31, 1983.

Army nominations beginning Ronald P. Abreu, and ending Lawrence A. Smith, which nominations were received by the Senate on February 8, 1983, and appeared in the CONGRESSIONAL RECORD of February 14, 1983.

IN THE NAVY

Navy nominations beginning Ronald Jay Lentz, and ending David Haskell Trump, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of January 25, 1983.

Navy nominations beginning Herb I. Arnold, and ending Randolph M. Stevens, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of January 25, 1983.

Navy nominations beginning Cornelius K. Aaron, and ending Michael H. Zupke, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of January 25, 1983.

Navy nominations beginning Joseph A. Felchko, and ending Robert H. Klenke, which nominations were received by the Senate on February 8, 1983, and appeared in the CONGRESSIONAL RECORD of February 14, 1983.

Navy nominations beginning Lisa C. Barfield, and ending William A. Herndon, which nominations were received by the Senate on February 8, 1983, and appeared in the CONGRESSIONAL RECORD of February 14, 1983.

EXTENSIONS OF REMARKS

PERSONAL JUSTICE DENIED

HON. ROBERT T. MATSUI
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES

Thursday, February 24, 1983

● Mr. MATSUI. Mr. Speaker, today, the Commission on Wartime Relocation and Internment of Civilians will deliver to Congress and release to the public its report setting forth the facts and circumstances surrounding Executive Order 9066 and the impact of the order on Japanese American citizens and resident aliens.

The report, entitled "Personal Justice Denied," sets forth the circumstances surrounding the initiation and implementation of orders from the highest authorities of our land to evacuate and intern American citizens and resident aliens of Japanese ancestry.

The commission, after 1½ years of study and after hearing from over 750 witnesses, has concluded that there was no military or security justification for the mass exclusion and detention. The commission identified the causes of these decisions as race prejudice, war hysteria, and a failure of political leadership.

Mr. speaker, I commend the members of the Commission on Wartime Relocation and Internment of Civilians for their outstanding report. It is a report that for the first time sets forth the tragic and shameful chapter of our history that is unknown to millions of Americans. It is a chapter in which over 120,000 American citizens and resident aliens were denied their freedom without consideration for their constitutional rights.

The grave injustice forced upon these Japanese Americans is truly a case of personal justice denied. I encourage all of my colleagues to read this report.

Mr. Speaker, at this time I would like to include for the RECORD a statement by Joan Z. Bernstein, chairperson of the Commission on Wartime Relocation and Internment of Civilians.

Today the Commission on Wartime Relocation and Internment of Civilians is delivering to Congress and releasing to the public its findings with regard to the promulgation of Executive Order 9066 and the wartime events which followed from it.

On February 19, 1942, President Franklin D. Roosevelt signed Executive Order 9066. Under that Order 120,000 people—American citizens of Japanese ancestry and resident aliens of the immigrant generation from Japan, who were barred by law from becoming American citizens—were prohibited from living and working on the West Coast. Almost all were later sent to "relocation centers"—bleak barrack camps ringed by barbed wire and military guards in isolated areas of the West. Most remained in the camps until the mass exclusion was ended in December 1944, more than two and a half years after the policy of exclusion and detention began. These events are unique in our history.

No program of mass exclusion or detention was imposed on German and Italian aliens nor upon American citizens of German or Italian descent.

The government justified the exclusion from the West Coast of all American citizens of Japanese descent and Japanese resident aliens on the basis of military necessity. The first task of the Commission has been to look at the facts and consider whether military necessity justified this course of action.

The Commission has found that the record does not permit the conclusion that there was any military justification for the mass exclusion and detention of American citizens of Japanese ancestry and their resident alien parents.

There were no documented cases of sabotage, espionage or fifth column activity by Japanese Americans on the West Coast. There was a widespread—but false—belief that the attack on Pearl Harbor had been aided by sabotage and fifth column activities. The President and his cabinet officers did not forcefully dispel these stories and rumors. On the West Coast, where there had been a long history of prejudice and discrimination against the ethnic Japanese, there were sustained and even louder demands for the exclusion of Japanese Americans. These demands were made by organized anti-Japanese interest groups, the press and the West Coast members of Congress—they came from every segment of the political spectrum.

The civilian clamour for exclusion was reflected in the actions of the War Department. Lieutenant General John L. DeWitt, in command of Army forces on the West Coast, recommended to Henry L. Stimson, the Secretary of War, that authority be sought to remove the Japanese Americans from the West Coast. DeWitt made his recommendation on the ground that loyalty was determined by ethnicity. "In the war in which we are now engaged," DeWitt wrote Secretary Stimson, "racial affinities are not severed by migration. The Japanese race is an enemy race and while many second and third generation Japanese born on United States soil possessed of Unites States citizenship, have become 'Americanized,' the racial strains are undiluted." The record shows that DeWitt's views were substantially influenced by the governors and public officials of the West Coast states whose views he sought out before taking his own position.

Secretary Stimson and President Roosevelt did not subject this program to sufficiently close and critical scrutiny. The Attorney General, Francis Biddle, did not believe the program necessary, but acceded to it when proposed by the War Department.

Few Americans were familiar with American citizens of Japanese descent. The opinions of those with intelligence responsibility, such as the FBI, who believed that there was no sound basis for mass exclusion, were ignored or drowned out in the frightened uproar of the time.

The Commission has carefully reviewed the extensive record of events which led to Executive Order 9066. It has found no evidence of a military or security threat from the Japanese Americans. As General DeWitt conceded at the time, no sabotage had taken place. The later justifications offered by DeWitt in his Final Report on the exclusion and by the Justice Department which defended the exclusion in court also fail to demonstrate any military or security threat. In fact the realistic estimates of the time suggested that there was as much or more danger from other segments of the population.

DeWitt's contention that ethnicity determined loyalty was answered as early as May 1942, by a Congressional Committee which examined the impact of the Executive Order in extensive hearings on the West Coast:

"This testimony has impressed upon us in convincing fashion the fundamental fact that place of birth and technical noncitizenship alone provide no decisive criteria for assessing the alinement of loyalties in this world-wide conflict."

True of aliens, that statement can only be more powerful with regard to Amercian citizens. Our legal system is founded on determining guilt or fault on an individual basis, and citizens must be given the presumption of loyalty. Moreover, the conclusion that ethnicity determined loyalty was not a military judgment deserving of any deference. Generals are not experts on race; their views on the political loyalties of civilians are only as good as the facts they can marshal in their support. The lack of any evidence of disloyalty on the part of Americans of Japanese ancestry in 1942 speaks for itself.

The Commission has concluded that the broad historical causes of the Executive Order were race prejudice, war hysteria, and a failure of political leadership. Widespread ignorance about Japanese Americans contributed to a policy conceived in haste and executed in an atmosphere of fear and anger at Japan.

Ending the exclusion was bitterly and forcefully opposed on the West Coast, just as the decision to exclude and detain had effectively been promoted. The Commission's report provides substantial new information on those events.

Secretary Stimson and John J. McCloy, who served as Assistant Secretary of War, approved the original order of exclusion, but they were men who were open to an understanding of the facts and they did not accept General DeWitt's views on race or believe that the Japanese Americans should be excluded from the West Coast for the duration of the war.

McCloy and Stimson opposed professional military opinion in deciding that the Army would seek volunteers among the Japanese

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

Americans, thus opening the door to persuading even the most prejudiced of the loyalty of Japanese Americans who returned from European battlefields loaded with honors won in the service of the United States.

Most importantly, by the spring of 1943, the civilians at the head of the War Department had reached the position that no justification existed any longer for excluding loyal Japanese American citizens from the West Coast. In April 1943, McCloy laid out the basic points very forcefully to General DeWitt, who was on the West Coast. I quote the letter at length because it states succinctly the situation in the spring of 1943 and lays bare the differences of opinion with General DeWitt and those who supported exclusion:

"The threat of Japanese attack is far from what it was. We are better organized to meet such an attack if it occurred. And we know a great deal more about our Japanese population. Furthermore, the War Department has established a combat team for volunteer American citizens of Japanese ancestry . . . [T]he War Department has initiated a process for loyalty investigations of all Japanese Americans to determine their eligibility for work in plants and facilities vital to the war effort. In other words, . . . the policy of the national Government, as well as that of the War Department, is presently looking toward the restoration to all loyal persons of Japanese ancestry of all their normal rights and privileges, to the end that they may be able to make their maximum contribution to the war effort. The very 'entering wedge' which you appear to dread is precisely what must be accomplished.

* * *

"That there is serious animosity of the West Coast against all evacuated Japanese I do not doubt, but that does not necessarily mean that we should trim our sails accordingly. The longer California luxuriates in the total absence of the Japanese the more difficult it will be to restore them to the economy of California. They have a place in California as well as in any other state as long as military considerations do not intervene. I cannot help but feel that social considerations rather than military ones determine the total exclusion policy. The Army, as I see it, is not responsible for the general public peace of the Western Defense Command. That responsibility still rests with the civil authorities. There may, as you suggest, be incidents, but these can be effectively discouraged by prompt action by law enforcement agencies, with the cooperation of the military if they even assume really threatening proportions."

McCloy was entirely correct in his view that the military situation no longer justified exclusion (if indeed it ever could). A program for returning the Japanese Americans to the West Coast needed to be started and McCloy urged the gradual return of Japanese Americans beginning at once.

Unfortunately it did not happen as McCloy told General DeWitt it should. The exclusion was not ended for another eighteen months. General DeWitt continued to support the exclusion with every tactic available until he left the Western Defense Command in the fall of 1943. Anti-Nisei feeling was whipped up by the Dies Committee in the early summer of 1943 when the West Coast newspapers carried hearsay reports of the rift between McCloy and General DeWitt. Throughout 1943 and 1944 there continued to be virulent and widespread opposition in the West Coast press, among West Coast politicians and interest groups to the return of Japanese Americans to the West Coast. These views prevailed. For at least the last six months of that period, immediately before the Presidential election of 1944, the decision to continue the exclusion was that of President Roosevelt.

By any analysis with the least sensitivity to American constitutional values there was no justification for holding loyal American citizens of Japanese descent in detention or prohibiting them from traveling, living and working where they chose.

In his memoirs, Secretary Stimson cogently called the evacuation of "personal injustice" to loyal Japanese Americans. It was a personal injustice precisely because the country failed to apply justice in a personal or individual manner. Men, women and children were uprooted from their homes and their lives shattered because the United States failed to provide personal justice in time of war. It is important to emphasize that we are dealing here with American behavior. It is not a question of how the Japanese or the Nazis treated Americans or other prisoners which is one of the darkest chapters of modern history. What the Commission has examined and taken testimony about is how the United States dealt with American citizens and residents.

The damage done by this country to its own citizens and residents is a mosaic made up of thousands of lives and thousands of personal histories. The Commission's hearing record is replete with searing and painful testimony. There is the economic loss of farms and homes sold in distress circumstances, of elderly people having to start from scratch a second time after the war, of families detained in camps without employment and unable to meet tax and mortgage and insurance payments; of education and careers disrupted.

Over time and with perseverance material losses may be repaired, but the hidden scares of lives damaged by this experience remain. Each individual excluded from the West Coast and sent only with the baggage he could carry to spend two and a half years behind barbed wire carries his own marks from that time. For people who knew their innocence and the injustice of their treatment the burden was not light. They bore the stigma of having been branded potentially disloyal, the deprivation of liberty and the loss of the common decencies of daily life. An essential foundation of our government—the citizens trust that the government will deal with him individually and fairly—was deeply damaged. The injuries inflicted by the country on these citizens were different in kind from the suffering and loss which the Second World War brought to all Americans.

In Hawaii, we did things differently. Despite the Pearl Harbor attack, there was no exclusion or detention of any significant number of Japanese Americans. Calmer minds with a better sense of justice prevailed and today neither the material nor the intangible injuries of the Japanese Americans on the mainland remain to haunt us in Hawaii.

No recommendation which this Commission will make can undo this history. No redress to Japanese Americans can assure that we will not repeat the errors of 1942. What happened after Pearl Harbor is particularly sobering because men of the greatest stature with careers of the most distinguished public service—Democrat and Republican, conservative and liberal, judges, legislators and cabinet members, the President himself—were personally involved in a course of action which today we can only find gravely unjust and deeply injurious. The bulwark of our Constitution did not withstand it. Ignorance was a major contributing factor in these events; knowledge is the surest guardian against their repetition. We can only hope to abide by our better judgement in the future if we have made our past our own and are determined to learn by its lessons.

Ronald Reagan, speaking in 1970 as Governor of California, pointedly and accurately underscored what each American should take from this history:

"A lesson was learned in California during World War II, which should be made a part of the record and the heritage of Americans everywhere who cherish liberty, freedom, and constitutional guarantees."

The Commission's second important task was to review the evacuation of the Aleuts from the Aleutian and Pribilof Islands and their treatment in camps in Southeastern Alaska.

The situation in Alaska was very unlike that on the West Coast. The Japanese attacked the two most western islands in the Aleutian chain in the summer of 1942 and took 42 Aleut prisoners. As part of the reaction to that attack, the military evacuated the Aleuts from the Pribilof islands and from a large part of the Aleutian chain. The evidence shows that the evacuation was a rational response to the danger presented. Both whites and Aleuts, apart from those necessary to defense work, were removed. The protection of an exposed population was the motivating force for the evacuation.

The camps to which the Aleuts were taken are an entirely different matter. Approximately 850 Aleuts were housed in abandoned buildings, typically at gold mines and fish canneries. The conditions and the care were deplorable. In some camps there were inadequate sleeping quarters and sanitation. Health conditions were particularly bad. Epidemics raged throughout the Aleuts' stay in southeastern Alaska; they suffered from influenza, measles and pneumonia along with tuberculosis. Twenty-five died at Funter Bay in 1943 alone, and it is estimated that probably ten percent of the evacuated Aleuts died during their two or three year stay in southeastern Alaska. The standard of care which the government owes to those under its protection was clearly violated by this treatment.

The Aleuts were only returned to their islands in 1944 and 1945. On arriving home, they found that their communities had been vandalized and looted by the military forces. Many homes were uninhabitable and many heirlooms of great spiritual as well as material value, particularly religious icons, had been destroyed. Other possessions, such as furniture, boats and fishing gear, were also gone. The Aleuts rebuilt their homes themselves, being "paid" with free groceries, and military surplus goods. The Aleuts' ancestral treasures can never be replaced. The Aleuts have never received full or fair compensation for their war time losses.

The World War II history of the Aleuts is largely unknown or forgotten. The Commission's report is an important step to provide knowledge and recognition of the treatment of this people under the pressures of war.

In sum, despite the fact that the Aleutians were a theatre of war from which evacuation was sound policy, there was no justification for the manner in which the Aleuts were treated in the camps in south-

eastern Alaska, nor for failing to compensate them fully for their material losses.

As to the Japanese Americans on the West Coast, the promulgation of Executive Order 9066 was not justified by military necessity and the decisions which followed from it—detention, ending detention and ending exclusion—were not driven by analysis of military conditions. The broad historical causes which shaped these decisions were race prejudice, war hysteria and a failure of political leadership. A grave injustice was done to those American citizens and resident aliens of Japanese ancestry, who without individual review or any probative evidence against them, were excluded, removed and detained by the United States during World War II.●

MODIFIED DAIRY PRICE SUPPORT PROGRAM

HON. WAYNE DOWDY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 24, 1983

● Mr. DOWDY. Mr. Speaker, yesterday I was pleased to introduce a bill, along with Mr. FOWLER of Georgia, Mr. SPRATT of South Carolina, and Mr. MOORE of Louisiana, which will give needed relief to dairy farmers and benefit American consumers as well. We have called our proposal the modified dairy price support program.

Enacted in 1949, the dairy price support program was designed to provide an equitable return to dairy farmers while insuring a stable supply of milk to the consumer. The program has come under fire in recent years because of the large surplus of dairy products which has developed and which has been of grave concern to all of us.

In seeking a solution to the problem of overproduction, I do not think it is fair to punish dairy farmers from the southeastern region of the United States, who have not been responsible for the surplus. That is why I voted against the Omnibus Budget Reconciliation Act last year which contained a provision allowing the Secretary of Agriculture to deduct 50 cents per hundredweight from the proceeds of the sale of all milk marketed commercially and remit the proceeds to the Commodity Credit Corporation.

Although the provision has been enjoined by the Federal District Court for the State of South Carolina, the Secretary of Agriculture recently announced his intention to try to collect both the original 50 cents and an additional 50 cents, for a total of $1 on all milk marketed as of April 1 of this year.

The bill we have introduced would repeal the dairy tax enacted in the Omnibus Reconciliation Act and substitute a decrease in the price support for milk. The price support will be lowered $1 from $13.10 per hundredweight to $12.10 per hundredweight for the period beginning April 1, 1983, and ending September 30, 1984. If during that time the Secretary determines that the CCC will purchase less than expected quantities of dairy products, he would have the authority to raise the support price up to a maximum of $1.

Effective October 1, 1984, we would revert to a price support based on the concept of parity. The exact price support level would depend upon the quantity of dairy products that the Secretary expects the CCC to purchase during the forthcoming fiscal year.

The current situation requires prompt and decisive action, for the benefit of both dairy farmers and American consumers. The current tax on dairy production has been rendered unenforceable by the court, and would most likely prove an ineffective solution, since it would only encourage more production to compensate for the loss of the 50-cent tax.

Along with the other cosponsors of this bill, I strongly urge the members of the Committee on Agriculture to give immediate consideration to the modified dairy price support program.●

A STUDY ON IDEAS FROM EUROPE THAT COULD IMPROVE U.S. FIRE SAFETY

HON. DOUG WALGREN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 24, 1983

● Mr. WALGREN. Mr. Speaker, as the chairman of the House Subcommittee on Science, Research and Technology of the Committee on Science and Technology, which has jurisdiction over the Federal Fire Prevention and Control Act, I am concerned about the future of the Nation's fire effort. Last year the Reagan administration proposed to eliminate the U.S. Fire Administration. However, Congress restored $4.1 million to the Federal Emergency Management's fiscal year 1983 budget to keep the U.S. Fire Administration alive. Unfortunately, Congress is faced with the proposed elimination of the Center for Fire Research at the National Bureau of Standards. The Center for Fire Research performs and supports research in all aspects of fire and develops scientific knowledge applicable to the prevention and control of fires. This proposed elimination comes at a time when approximately 8,000 people die annually in fires in this country. The majority of these deaths occur in homes. Well over $5 billion worth of property goes up in smoke each year.

In contrast, Europe has only half the fire death rate of the United States. Death rates in European countries are already below the level set as the goal for the U.S. Fire Administration at its creation, when the long-term objectives was to cut the U.S. fire death rate in half in a generation. Several countries, such as Switzerland and West Germany, have death rates less than a quarter of ours. They achieve this in spite of having smaller fire departments.

Some of the key factors that explain Europe's good track record are described in a recently released study by Philip Schaenman. The study was started in 1980 while he was Associate Administrator of the U.S. Fire Administration, Federal Emergency Management Agency, and has been completed under a grant from the Tobacco Institute to TriData Corp.

Successful fire protection in Europe was found to be less a matter of novel solutions or high technology than persistent, widespread application of basic fire prevention principles. Perhaps the key difference is that the public is aware of the fire problem and provides political support for a wide range of fire prevention efforts.

Most European practices are transferable to the United States, and some are already being used. Others can be adapted. We should consider European practices as a stimulus to our own thinking. The U.S. Fire Administration and the National Fire Academy seem particularly well suited to identify practical ideas that can be disseminated here.

Among the European fire protection practices that contribute to their success are:

PUBLIC AWARENESS AND PUBLIC FIRE EDUCATION

The European public is more aware of the need for fire safety as a result of its history of cities which have burned down and their desire to protect their family and civic heritage. The public knows more about fire safety, teaches it at home, and practices it. They seem to exercise more care with hot objects such as portable heaters, woodburning stoves, cigarettes, and matches.

CODE ENFORCEMENT

Plans for new buildings or alterations to old buildings are more rigorously reviewed by the fire service, insurance agencies, or building departments. A greater percentage of such construction is reviewed by more highly trained personnel than in the United States. Building in rural areas receive almost as much screening as in cities. The fire service has more discretion and is more likely to be backed by the courts both for the initial plans review and subsequent inspections.

CONSUMER PRODUCT SAFETY

All electrical products, heating appliances and systems, and gas-powered appliances and systems must be government tested and approved in some countries. Different countries share

their testing results and abide by them.

INSURANCE AND ARSON

Insurance philosophy is that someone who has a fire should not profit from it and that the purpose of insurance is not only to prevent large losses to individuals but also to preserve the appearance of the community. Thus, insurance is paid in full only when a building that has burned is restored on the same site. This policy provides a disincentive for arson. The ability to obtain insurance is often tied to whether a building is up to code.

CHIMNEY SWEEPS

Chimney sweep visits are mandatory in several countries and strongly encouraged in most others. Most homes are visited from one to four times a year by sweeps. The sweeps often provide advice on woodburning stoves and heating systems, and help test and maintain them. Sometimes the chimney sweeps also perform fire safety inspections. The sweeps often are trained at national fire academies, plus serve an apprenticeship. The result is that there are proportionately far fewer heating-related fires in Europe; in the United States heating is the leading cause of residential fires.

FIRE PREVENTION BUREAUS

Most European fire departments emphasize fire prevention—especially plans review and code enforcement—more so than in the United States. European senior fire officers spend the majority of their time on prevention.

FIREFIGHTER TRAINING

The average European fire officer receives far more training than his U.S. counterpart and also greater technical education. The training is more uniform within a country, and senior officers usually have experience in several cities before assuming command of a large fire department. Firefighters have higher entrance requirements—they often must have a trade, such as mechanics or carpentry—and receive more training, too.

FIREFIGHTER HEALTH AND SAFETY

The European firefighter is generally not better equipped than his American counterpart. However, European firefighters are more uniformly equipped, more likely to use their safety equipment, and receive more safety training. They also are not expected to take high risks to save property. These factors, coupled with a lower fire rate, result in dramatically lower death and injury rates.

These and other issues are described more fully in "International Concepts in Fire Protection: Ideas From Europe Which the U.S. Might Adopt," by Philip S. Schaenman, 1983, available from TriData Corp., 1500 Wilson Boulevard, Arlington, Va. 22209, telephone (703) 841-2975.●

THE CONTINUING PLIGHT OF IDA NUDEL

HON. NORMAN F. LENT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 24, 1983

● Mr. LENT. Mr. Speaker, I am deeply honored to once again speak before the House of Representatives on behalf of Ida Nudel, my "Prisoner of Conscience," a truly remarkable, heroic, and courageous woman. As we begin the 1983 Congressional Call to Conscience Vigil for Soviet Jewry under the able chairmanship of our colleague, TIM WIRTH, of Colorado, I believe special attention should be paid to the plight of Soviet Jews, for at this time, emigration is at its lowest point since 1970. As chairman of the 1982 Vigil, I urge my colleagues, especially our new colleagues, to actively participate in this year's Vigil.

For over 11 years, Ida Nudel has been one of the leaders of the Soviet Jewry movement in the Soviet Union. Ida, affectionately known as the "Guardian Angel" for her activities on behalf of Soviet Jewish Prisoners of Conscience, was charged and convicted in June 1978 of "malicious hooliganism" and sentenced to 4 years of internal exile.

Although Ida Nudel has returned from her 4-year exile in Siberia, the Soviet Union continues to harass and intimidate her in hopes that she will surrender her tireless campaign for the rights of Soviet Jews. The Soviet authorities have denied her legal residence in Moscow and Riga, and she remains homeless, but still committed to securing a visa to Israel.

Today, Ida Nudel needs our help. Although she has been released from internal exile, her dream to emigrate to Israel is unfortunately, still a dream. Our efforts in the past have accomplished a great deal, as Ida Nudel's release points out. But we must not stop short of our goal of freedom for this brave woman. Soviet officials must know that we are very aware of the difference between appeasement and justice. Ida Nudel's struggle continues as long as she is denied the right to emigrate to Israel and is at the mercy of Soviet officials.

We, as Members of Congress, must continue to actively fight for her freedom. The Soviet Union's oppressive tactics should never be tolerated by free-thinking people around the world. I therefore urge the Soviet Union to grant this true champion of liberty an exit visa.

Ida, we are with you all the way. You have continued the fight. We will, too.●

ESTONIAN INDEPENDENCE DAY

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 24, 1983

● Mr. MICHEL. Mr. Speaker, February 24, 1983, marks the 65th anniversary of Estonian Independence.

As you know Estonia is one of those Baltic nations that became a victim of the Hitler-Stalin, Nazi-Communist alliance of 1939-1941. The principles of both totalitarian systems are, of course, the same, so it is no wonder that the people of Estonia are now the victims of a Soviet campaign to deprive them of their very national identity through directives against the Estonian language and culture.

I have learned that Yuri Andropov, the Soviet KGB master who is now the head man in the Kremlin, is the only Russian Communist leader ever to have personally visited Estonia. He came there in 1980 to oversee the suppression of expressions of Estonian nationalism.

People say: Be realistic. Estonia has for over 40 years been enslaved by communism. What can be done? Let us just forget it and go on with business as usual.

Granted, not much can be done directly to regain Estonian lost freedom. But we can at least point out the fact thus freedom has been lost and stop pretending that the people of Estonia are simply "citizens" of the Soviet Union. They are not. They are its victims.●

BARBARA M. WATSON

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 24, 1983

● Mr. RODINO. Mr. Speaker, on February 22, 1983, Ambassadors, Members of Congress, high U.S. Government officials, prominent city and community leaders, and friends attended "A Tribute and Thanksgiving for Barbara M. Watson" at the Washington Cathedral.

Barbara Watson, whose last official Government post in 1981 was as Ambassador to Malaysia, died February 17 at George Washington Hospital at the age of 64.

Although her contacts on the Hill were legion, we of the Committee on the Judiciary considered her as a very special person and an especially close friend. She served with the Department of State under Presidents Johnson, Nixon, Ford, and Carter from 1968 to 1980, as Administrator and later Assistant Secretary of State for Consular Affairs. It was in this posi-

tion that we came to know her, through her appearances on numerous occasions as a witness on behalf of the Consular Service, her attendance at international conferences, and, above all, in the informal meetings with the Members and staff concerned with matters of mutual interest.

Barbara was the first woman and first black to achieve the rank of Assistant Secretary of State. She frequently jokingly referred to herself as a "two-fer" minority person. She had tremendous diplomatic talents, a vibrant personality, and a commitment to excellence.

Barbara Watson was born in New York City, the eldest daughter of Judge James S. and Violet Lopez Watson. She graduated from Barnard College and New York Law School. Her desire to render public service was immediately evident when she worked as assistant corporation counsel for the city of New York and later as executive director of the New York City Commission to the United Nations where she represented the mayor and maintained close liaison with various missions in the U.N.

In 1980, President Carter appointed Barbara Watson as U.S. Ambassador to Malaysia where she became an influential and distinguished member of the Diplomatic Corps.

Barbara was largely responsible for enhancing the status of the Consular Service in the Foreign Service, an achievement which has served as a solid foundation for its continued advancement.

Although Barbara had left public life several years ago, she continued to exercise her considerable talents in many humanitarian fields. We shall miss her.

On behalf of her many friends on the Committee on the Judiciary, I express our profound sympathy to her distinguished family, her two brothers, Douglas C. Watson and Judge Samuel Watson of New York, and her sister, Grace Elizabeth Watson, of Washington.●

LET'S GET AMERICA'S ECONOMY GOING AGAIN

HON. CARROLL HUBBARD, JR.

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 24, 1983

● Mr. HUBBARD. Mr. Speaker, Ben Hall, city editor of one of the newspapers in my district, the Madisonville Messenger, Madisonville, Ky., has written an excellent editorial which I would like to share with my colleagues. My constituent's comments about America's economy which President Reagan inherited and his efforts to work the country out of a "monumental morass" are timely and worthy of consideration. Mr. Hall's January 19, 1983, editorial follows:

[From the Madisonville (Ky.) Messenger, Jan. 19, 1983]

PRESIDENT REAGAN DOING THE BEST HE CAN

(By Ben Hall)

At any given time, there are certain things that it is fashionable to be in favor of and another list that it is fashionable to be against, if you are in the writing business.

A man who drives a nine-year-old car is not particularly worried about being fashionable and my car came out of Detroit in 1974.

The President is an example of something, or someone, against whom, to be fashionable, one must write.

I supported Ronald Reagan when he ran for office and I still think that he is doing about as well as anybody could considering the unbelievable mess he inherited when he took office two years ago.

There is nothing party-political about the mess; both Republican and Democratic presidents and congresses had a hand in creating the monumental morass we are trying now to work our way out of.

The remarkable aspect of all this is the widespread feeling expressed by a local woman recently when she said "Reagan could change all this tomorrow if he wanted to."

Nobody could "change all this tomorrow" and everybody does want to. Probably Ronald Reagan more than most.

The hard fact is that the country had been going the way of all flesh for a considerable amount of time and rather than continue to ride the rocket, Reagan is trying to bring the whole thing down to earth.

It is not easy and it is not painless and nobody who thought about it at all ever expected it to be.

But the simple fact is that neither a government nor an individual can consistently spend more than he makes and stay out of trouble indefinitely.

Our trouble finally caught up with us and, as difficult as it is now and is going to be for a while, there shouldn't be anything shocking about it.

Perhaps the shock, if there is any due, should be becasue the recession (or depression if you prefer) is now worse than it is.

Since the days of Franklin D. Roosevelt, we have been building the psychology that "the government" owes everybody something.

Any politicians who could see perfectly well as far as the next election but not much farther, have not only fed this fantasy but made it come true.

The sad fact is that government produces no money (just confusion, someone has said) but must take its funds from those who do produce income.

The upshot is that there has been a great shell game going on for nearly five decades. It is a kind of bureaucratic Robin Hood act with government using various Merry Men to take from those who had and giving to those who have not.

After a while, those had "had not" had as much or more than those who had "had." And they got it a lot easier.

In effect, those who had the git-up-and-go to get up and go to work to make a living found that they were supporting a segment of the population that chose to get up around noon and go out when they felt like it.

The people who got weary supporting the "poor" whose only contribution to the society was to feed and breed, elected Reagan partly to clean up the abuses of the programs that began with the best intentions in the world and wound up as the biggest monument to greed in the world.

Now the President is getting flak from all quarters because he is doing what we elected him to do.

It is unfashionable to be critical of "the poor," of course.

I doubt if there is anyone who is critical of the truly poor who are needy because of cricumstances beyond their control.

But many of us find reason to be critical of the professional poor who live off the fruits of our labor after those rewards are filtered through the hands of the federal and state Merry Men.

I have no objection to giving my mite to feed and clothe some hungry folks in Alabama, or Detroit, or Houston; but I get less than ecstatic over supporting people half my age who simply choose not to support themselves because it is more fun to drink beer and sleep around.

It is not fashionable either to be in favor of a strong defense and against "peace" as if the two were opposite.

In my short but dull life, I have seen enough of wars to have some appreciation of peace.

But neither my limited experience nor a study of history shows examples of nations plunged into war because they were over prepared to defend themselves and make the starting of a war a profitless proposition for an adversary.

Are those who still march the streets of the nation crying "Peace" so naive as to think that the entire western world should throw itself on the mercy of the Soviet Union and say, in effect, "Look, we have disarmed and are helpless. Now, play fair, and destroy your weapons"?

Perhaps they are.

Although it is not fashionable to say so, if I am given a choice, I'll put my faith in the Pentagon with all its boondoggles and empire building, rather than leave myself to the tender mercies of the Kremlin.

Jimmy Carter tried, and apparently succeeded, in impressing the world with the country's weakness and the purity of his motives, until a maniac with a handful of rabble behind him could hold an entire American embassy staff hostage until the captors were good-and-dammed-ready to turn them loose.

That, too, was something we elected Ronald Reagan to correct. But it seems that it had to be done without inconveniencing anybody.

The irony in the present situation is that the President is doing about as well as anybody could to carry out the tasks we set for him when we elected him to office.

If it is more painful than some segments of the society thought that it would be, that is their lack of foresight, not his lack of performance.

After all, Ronald Reagan was elected to the highest executive office in the land, not to the position of chief magician.●

LITHUANIAN INDEPENDENCE

HON. BRUCE A. MORRISON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 17, 1983

● Mr. MORRISON of Connecticut. Mr. Speaker, I am proud to join my colleagues and Lithuanian people everywhere in commerating the 65th anniversary of "Lithuanian Independence Day." It was 65 years ago that Lithuania, after centuries of domination, issued a declaration of independence in the city of Vilnius to form an independent and united nation.

Today, the small country of Lithuania is again forced to fight for its freedom and independence. In June of 1940, using the Nazi-Soviet alliance of Hitler and Stalin, the Soviet Union demanded a Soviet-installed government in Lithuania and held single-party elections. One month later, Lithuania was annexed by the Soviet Union, occupied by German troops until the end of World War II, and then reoccupied by Soviet forces. Our Nation has never recognized this illegal annexation by the Soviet Union and continues to maintain diplomatic relations with representatives of the former independent government.

The history of Soviet occupation has been one of oppression of hundreds of thousands of Lithuanians forced to flee their native land for the strength of their beliefs and their fierce desire for a free Lithuania. Unknown thousands more were imprisoned in Siberia: Those who fought for a sovereign state, for their religious freedom, and for the rich culture and heritage of their homeland dating back more than 700 years to the founding of the Lithuanian state.

This day of commemoration, February 16, 1983, serves as a symbol of our support of the Lithuanians and their heroic struggle for human rights, and I am honored to have the opportunity to show them that we are with them in their quest for a free and independent Lithuania.●

ESTONIAN INDEPENDENCE DAY

HON. BRIAN J. DONNELLY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 24, 1983

● Mr. DONNELLY. Mr. Speaker, I would like to take a few moments to share my thoughts on the importance of Estonian Independence Day. Today marks the 65th anniversary of the declaration of Estonian independence. As we know, the celebration of freedom in Estonia was short-lived as Soviet troops moved with brutal force to occupy and subjugate that nation, and her neighboring Baltic States of Lithuania and Latvia.

We are greatly alarmed by continuing Soviet efforts to remove Estonia's unique national character by a campaign of russification. Estonians are being publicly harassed for speaking their native language, and for observing national customs and culture which predate the illegal Soviet occupation of their land.

I hope it is some relief and support to the embattled people of Estonia that we in Congress join them in commemorating today's anniversary. Our interest, and that of the people we represent, in the rightful cause of renewed independence for Estonia will continue unabated until the dream becomes reality. When that day comes, we will truly celebrate.●

THE 65TH ANNIVERSARY OF ESTONIAN INDEPENDENCE

HON. F. JAMES SENSENBRENNER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 24, 1983

● Mr. SENSENBRENNER. Mr. Speaker, I am honored to join my colleagues today in commemorating the 65th anniversary of the Declaration of Independence by the Estonian people. On February 24, 1918, the proud people of Estonia proclaimed their just right to self-determination. As we know, however, the Soviet Union invaded Estonia before the year was out, and thus denied the Estonians of their freedom.

Despite the signing of a treaty in 1920 in which the Soviets explicitly renounced "voluntarily and forever all rights of sovereignity over the Estonian people and territory," they again violated the sovereignity of Estonia in 1939 when the Soviets signed a pact with Nazi Germany. They forcefully invaded Estonia again, and have continued to occupy this tiny Baltic nation ever since. The Soviets' actions in 1918, 1939, and up to the present day constitute a flagrant violation of the bilateral pact with Estonia, international law which recognizes the rights to self-determination, and the Helsinki accords on human rights, to which the Soviet Union is a signatory.

The plight of the Estonian people, and all other peoples annexed by the Soviet Union, continues to be one of repression and Russification. The effects of Moscow's policies on Estonia are clear. The Estonian culture—a colorful language, and creative literature and rich heritage—is being systematically destroyed. Demographic statistics provide irrefutable evidence that the Russians are succeeding in several aspects of their policies. The percentage of Estonians in Estonia decreases each year while the percentage of great Russians increases.

The availability of periodicals, journals, and school books in the Estonian language continues to decline. Religious persecution is carried on, and the routine violation of basic civil rights is well-known. Still, in spite of these hardships, the Estonian people have not lost their love for basic freedoms and their desire to live as a sovereign nation. The demonstrations which took place in 1980 throughout Estonia are strong witness to this.

As Americans, we must continue to identify with the Estonian people. They carry the flame of freedom in their hearts—the very flame our forefathers carried in founding our Nation, and that for which our Nation stands today. Earlier this year, the European Parliament passed a resolution reiterating the right of all the Baltic nations to self-determination. The resolution also called for their case to be brought up at followup meetings for the Helsinki accords. The U.S. Government has endorsed this resolution, and I am proud to state my support for it here today.

We must continue to recognize the courage of the Estonian people in their fight for freedom and maintain our refusal to legitimize the Soviet annexation. They are a proud people and truly deserve this recognition.●

WORTHLESS AT 65

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 24, 1983

● Mr. LANTOS. Mr. Speaker, I would like to draw my colleagues attention to an article written by Mr. Sheldon Weinig entitled, "Worthless at 65." The article appeared in INC magazine's January 1983 issue.

Mr. Weinig is a close personal friend and his article alerts us to the opportunity before this Congress to "rethink" our attitudes toward mandatory retirement. I think Mr. Weinig's perspective on this issue is innovative and deserving of our serious consideration:

[From INC magazine, January 1983]

SPEAKING OUT WORTHLESS AT 65

(Retirement marks the point at which we cease being overpaid and start being underemployed. What a silly system!)

(By Sheldon Weinig)

Government policymakers—in Congress and the White House—tend to view the Social Security crisis as a choice between two equally unpalatable alternatives: higher taxes and lower benefits.

But the crisis really presents an opportunity, even if politicians aren't imaginative enough to see it that way. It is an opportunity not only to bring government spending on Social Security into line with revenues, but also to solve a lot of problems created, for businesses and for people, by the way we

now go about rewarding and retiring people in this country.

Our reward and retirement policies proceed form the mistaken notion that the U.S. worker operates on a curve of increasing talent and productivity until age 65, when he or she suddenly becomes completely useless, leaves the company, and begins drawing Social Security.

Just about everything is wrong with this system.

First, it is going to bankrupt the government. People are retiring faster than they are entering the work force. In 1950, there were 16 taxpaying workers to support each retiree. Today there are only 3.2. By the early part of the next century, there will be only 2 workers paying taxes fo finance the benefits paid to each Social Security recipient.

Second, and maybe more important, the system is nor fair to employees, and it is terrible for business. I am suggesting that we scrap it. Not immediately. We are used to our current system, even if we don't like it. But over time, we could get used to a new system that better serves companies and employees.

The current system is unfair to employers because it institutionalizes the Peter Principle. When you go to a retirement party, you never see the honored guest smiling. It is always his boss who is smiling, happy to jettison—under honorable circumstances—an employee who has been earning increasingly more than he is worth.

It is true that most people perform better as they spend more time in their careers; they acquire both knowledge and experience. We reward them with more responsibility, more prestige, and more money.

But it is also true that most people reach the peak of their performance well before they reach their 65th birthday. They don't suddenly become useless but their effectiveness and contribution to the company gradually trail off. By the time they actually retire, they are overbearing, overtitled, and overpaid, and we are anxious to see them leave.

Among other things, the practice is cruel. Every year we traumatize millions of retirees with a sense of worthlessness that is tragic and generally unjustified. While most people at age 65 are no longer at their peak, most are certainly able—and usually eager—to continue making a contribution. I would like to open my next plant in some location like Miami or San Diego, where hundreds of thousands of retirees are desperate for the chance to work a couple of hours a day. They would probably pay me for the privilege of enhancing their own self-esteem.

The notion of mandatory retirement at age 65 has thrown millions of Americans into geriatric depression. It has also cost U.S. industry the talents of many experienced workers, contributed to the imbalance between employees entering and leaving the work force, and overwhelmed the Social Security system.

There must be a better way, a system that abandons the expensive myths of the past and compensates employees in accordance with reality. We need a system—call it Potential Lifetime Employment—that reinforces the employee as he travels up the curve to his performance peak but also recognizes when he begins to slide down the other side. Responsibilities, titles, and wages could all begin a slow deceleration, one that involved no loss of face.

The question of who decides when a worker—either in the executive suite or on the production line—has reached his or her peak is obviously troublesome. It would be less so if each of us were not culturally indoctrinated to believe that someone is less of a man (or woman) at 64 than he or she was at 34. There is no reason, other than cultural conditioning, to label a failure the person who, at 55 or 59 or 63, decides he no longer wants to carry the responsibilities of vice-president or shift foreman.

An easy system to design and put into place? Of course not. It flies in the face of much of what we have been taught to expect throughout our lives. It demands new criteria of success, security, and accomplishment.

But I would bet that millions of Americans would jump at the opportunity to remain useful, contributing members of society well into their seventies and beyond. They would love to trade their Social Security checks for a paycheck and a chance to remain involved.

Can we design—and market—a system that recognizes that people, even after peaking, can still contribute? Can we find a way to bring them down slowly, in a culturally acceptance deceleration of working hours, responsibilities, pay, and prestige? Can we do it all without causing loss of self-respect?

We could try. The results couldn't be much more damaging than the effects of our current retirement system.●

THE PLIGHT OF LITHUANIAN CATHOLICS

HON. EDWARD F. FEIGHAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 24, 1983

● Mr. FEIGHAN. Mr. Speaker, I rise today to draw congressional attention to the intensification of antichurch activities in the Soviet Union.

Any Soviet official will tell you that individuals can worship as they please in the U.S.S.R. The Soviet Constitution, he says, guarantees freedom of religion and freedom from religion. A clever phrase, but what does it mean? It means religious sites are razed, religious processions are disrupted, and religious officials are prevented—sometimes violently—from carrying out their functions.

In the wake of the Polish unrest—and the strong role of the Catholic Church in that protest—religious repression has become more widespread and more brutal, particularly in Poland's small but strategic neighbor Lithuania. Since October 1980, three priests have been murdered under suspicious circumstances in Lithuania. Eyewitnesses saw one of the victims, Father Bronius Laurinavicius, thrown beneath the wheels of a speeding truck. The KGB has been implicated in all three deaths and numerous other physical assaults on priests. The young Father Ricardas Cerniauskas was warned by Soviet security police to silence his criticism of the system or face an extraordinary death. And now, for the first time in 10 years, a priest faces imprisonment in Lithuania for religious activity. On January 26, the Soviet news agency Tass reported that Father Alfonsas Svarinskas had been charged with anti-Soviet activity for giving sermons that systematically instigated believers, to wage, an open struggle against Soviet power.

The opening of criminal proceedings against Father Svarinskas coupled with heightened harassment of Catholics in general is a clear sign from Moscow to the Lithuanian Church: It will not enjoy the latitude allowed the Polish Church. At the same time, the unusual announcement of a human rights arrest by Tass may be regarded as an ominous test of Western opinion before a renewed crackdown on human rights activity in Lithuania.

The Soviet Union adheres to a clear double standard on human rights issues. It is fine for the government to profess its commitment to liberty and freedom, but any individual who requests that these promises be kept is subject to intimidation, imprisonment, or even death. We cannot allow this brutal disregard for human dignity to go unnoticed. The people of Lithuania—a nation that has always received steadfast U.S. support—deserve our attention and concern. I urge all of my colleagues to join me in public protest against religious repression in Lithuania.●

LEGISLATION TO DESIGNATE JANUARY 4, 1984 AS ALASKA STATEHOOD DAY

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 24, 1983

● Mr. YOUNG of Alaska. Mr. Speaker, 25 years ago this June, Congress approved the Alaska Statehood Act, paving the way for Alaska's entry into the Union as the 49th State. I am proud to introduce today in the House of Representatives a resolution commemorating the silver anniversary of Alaska statehood.

Alaska's entry into the Union was not easily accomplished. World War II had pointed to the necessity of statehood for Alaska. The Japanese invasion of the Aleutians, lend lease flights across Alaska to the Soviet Union, and later the cold war and its resulting early warning radar stations convinced the Nation that Alaska was vital to the national defense. Even so, the Alaska statehood issue was a hotly contested subject during the 1950's with the chief arguments against statehood being Alaska's alleged inability to pay its own way and the fact that Alaska was not contiguous to the continental United States. In June 1958, after numerous proposals and counterproposals, Congress approved statehood for Alaska. On July 7, 1958,

President Dwight D. Eisenhower signed into law the Alaska Statehood Act. Alaska formally entered the Union as the 49th State 6 months later on January 3, 1959.

Alaskans reacted with unrestrained joy to the news of the signing of the Statehood Act. Bold, half-page headlines declared, "WE'RE IN," residents danced in the streets, and church bells and factory whistles spread the news.

Most citizens of the lower 48 knew very little about the new State of Alaska. Despite the infrastructure buildup resulting from World War II, vast areas of the State were underdeveloped. Basic services, such as roads and schools were in poor condition. When I arrived in Fort Yukon, Alaska, to begin my work as a school teacher, my teaching facilities were located in a one-room log cabin, built around the turn of the century. Even in Anchorage, Alaska's largest city, very few streets were paved.

I can proudly report, however, that Alaska has made impressive progress in all areas over the past 25 years, and for an initial investment of just over $7 million, the Nation has reaped a bonanza in return. Anchorage is now a modern city of 220,000 people, and the State has established a fine system of State universities, and communication and transportation facilities. Alaska produces one-eighth of the Nation's gold; one-fifth of the Nation's oil; and two-fifths of its harvested fish; 74 percent of the Nation's Outer Continental Shelf, containing vast amounts of resources, lies off the coast of Alaska. In sum, Alaskans are proud and productive Americans.

Clearly, the United states has benefited from the inclusion of Alaska as its most northern and western State, just as Alaska has prospered as the 49th State. The Alaska Statehood commission has recently released its findings after a reexamination of Alaska statehood, and has determined that statehood is in the best interest of Alaskans, and to the interest of all the people of the United States.

I therefore respectfully submit this resolution designating January 3, 1984, as Alaska Statehood Day in honor of the 25th anniversary of Alaska's entry into the United States of America.●

PASSENGERS' FLIGHTS INCREASE AT DULLES AIRPORT

HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 24, 1983

● Mr. WOLF. Mr. Speaker, I would like to bring to the attention of my colleagues an editorial in the Northern Virginia Sun edition of February 11, 1983, which comments on an encouraging upward trend in passenger and flight levels at the federally owned Dulles International Airport.

UP, UP, AND . . .

The moral battle over Washington's airports is finally taking on material proportions. Ever since Dulles International Airport was unveiled in 1964, this newspaper and hundreds of thousands of Northern Virginians have known it was better than National Airport for most of the things the area needs from airports. Now, finally, there are signs that common sense is beginning to take hold on people's travel habits.

The Washington Dulles Task Force announced Tuesday that in 1982 the number of flights out of Dulles increased steadily. So did the number of passengers using the airport. The gains are strong and from a large enough base that one can say it is a sustainable trend. That sense is even stronger when one takes into consideration that 1982 was the roughest year for air travel in ages. The recession has taken a real chunk out of people's travel dollar, and the result is they are flying less. Yet, somehow, Dulles enjoyed 2.6 million travelers—12.3 percent more than in 1981.

The reasons are many. Community leaders have pounded home the airport's superior qualities for nearly 20 years. The Air Florida crash last January revealed the tenuous safety of National Airport. The air controllers strike forced a limitation of flights at National. And the completion of a Washington to Dulles roadway devoid of traffic lights came very close to reality. All these factors combined in people's minds to say, "Hey, why not fly out of Dulles this time?"

At 2.6 million passengers a year Dulles remains a distant third in Washington area airport use. National drew about 14 million, and Baltimore Washington International drew about half that. The fact remains that Dulles is fighting an uphill battle. National enjoys the benefits of being located on a Metro line and at a central location. BWI boasts the aggressive support of the State of Maryland, complete with a huge advertising budget and its own Amtrak rail stop. Dulles, by contrast, has struggled ahead with the minimal support of the Commonwealth of Virginia and an ugly duckling attitude from the Federal Aviation Authority, which owns both National and Dulles.

In the absence of powerful help from government, private citizens like those in the Washington Dulles Task Force have taken the responsibility to lobby airlines for more and better flights out of Dulles. They are providing an invaluable service. We thank them for their efforts and hope that someday the federal government can be persuaded to listen to common sense—just like 2.6 million people did last year.●

ESTONIAN INDEPENDENCE DAY

HON. WILLIAM J. HUGHES

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 24, 1983

● Mr. HUGHES. Mr. Speaker, February 24, 1983 marks the 65th anniversary of the formation of the free and independent Republic of Estonia. On this occasion, let us call attention to the proud history of the Estonian nation.

The struggle for independence that has characterized Estonia's history began in 1918. The Estonian people, aided by England, Finland, Sweden, and Denmark, threw off the yoke of Communist rule. In 1920, the Soviet Union renounced all claim over Estonia. For the next 20 years, the independent Republic of Estonia flourished, developing a rich national culture and a prosperous economy.

But the liberty was not to last. In flagrant violation of the peace treaty of 1920, the Soviets signed the Molotov-Ribbentrop Pact, condemning Estonia and its Baltic neighbors, Latvia and Lithuania, to the harsh burden of Soviet rule. The Soviet forcibly annexed the territory of Estonia in 1940 and subjugated a free people.

Today, the culture of Estonia is in peril. Russification is rampant, and the Estonian language and culture are threatened with extinction. Fundamental freedoms have been virtually abolished: human rights violations are commonplace, and dissidence is punished swiftly by arrest, deportation, or even execution.

The Estonian people, however, refuse to this day to succumb to Soviet tyrrany and oppression. In the struggle for independence, Estonian youth continue to resist subjugation through their demonstrations and appeals to the free world. In support of this quest for freedom, the United States refuses to recognize the annexation of the Republic of Estonia by the Soviet Union. We who live free urge the government of the Soviet Union to comply with the provisions of the Helsinki accords, and grant the citizens of Estonia their basic individual liberties and human rights.

The brave people of Estonia deserve international recognition today for their never-ending struggle for liberty and emancipation from Soviet control. I join Estonians and Estonian-Americans in their hope that their quest for independence will end in victory, and the Independent Republic of Estonia will again take its deserved place among the free nations of the world.●

ESTONIAN INDEPENDENCE

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 24, 1983

● Mr. ANDERSON. Mr. Speaker, today I would like to honor a people who, in the face of great danger, are struggling to keep their identity as a nation intact. I am speaking of the people of Estonia, long a proud and accomplished nation, but now a Russian colony under the shadow of Soviet oppression. Today is their independence day, which cannot be celebrated in Es-

tonia, but serves to remind Estonians worldwide of their identity.

The Estonians have lived on the same land for over 2,000 years, developing a rich Estonian tradition from a culture that is neither Slavic nor Germanic. Although, since the 13th century, the Estonians have often been ruled by others, an independent Estonian state was declared on February 24, 1918, and freely ruled until 1940, when it was invaded and annexed by the Soviet Union. Currently, Estonians are facing the greatest threat ever to their language, culture, and their very existence as a nation.

Ever since Estonia unwillingly became part of the Soviet empire, Estonian culture and identity have been repressed. Although nominally an independent state in the Union of Soviet Socialist Republics, Estonia is, in reality, totally controlled by Moscow, which does not tolerate any autonomy in its subject states. The Soviet Union is now attempting to destroy the Estonian, and replace him with the "new Soviet man", who, schooled to believe in the tenants of Soviet communism, would reject the culture of his ancestors, and embrace that of the Soviet Union. In reality, this is a policy aimed at crushing any culture other than the precribed Russian Communist model.

In Estonia, this policy has already had many serious consequences, including the suppression of the Estonian mother tongue. Russian language is granted preferential status at all official, educational, and even cultural levels, whereas the status of Estonian has diminished.

The Soviet Union is also attempting to destroy Estonian culture by flooding the area with Russian workers. This has upset the demographics of the region, as well as the Estonian national identity. Russians now make up almost half of the population of the capital city of Tallinn, and may outnumber native Estonians after the completion of the new harbor there. Currently only about two-thirds of the country's population is Estonian, and that ratio is falling as increasing numbers of Russian workers are brought in.

There are signs of hope, such as the student anti-Russian protests in 1980. On January 13 of this year, the European Parliament passed a resolution reiterating the right of the Baltic States of Estonia, Latvia, and Lithuania, to self-determination, and called for their case to be brought up at the followup meetings for the Helsinki accords, and to be submitted to the U.N. Subcommittee on Decolonization, inasmuch as these countries are, in effect, Soviet colonies. Every sign of encouragement that the West did not abandon the Baltic States at Helsinki will help keep hope alive for Estonians, both in this land, and in Estonia itself. Let us hope that some day soon, Estonian Independence Day can have real meaning again.●

STATE COLLEGES AND UNIVERSITIES TAKE NATIONAL STAND

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 24, 1983

● Mr. FORD of Michigan. Mr. Speaker, the board of directors of the American Association of State Colleges and Universities (AASCU) has taken a position of leadership within the higher education community by viewing the problems of higher education in the broad context of national policy. The AASCU board of directors called for a delay in the 10-percent tax reduction scheduled for this July and for no further reductions in Federal aid to States. AASCU represents 354 State colleges and universities which enroll more than 2 million students. The text of the resolutions follows, and I call it to the attention of my colleagues:

RESOLUTION ADOPTED BY THE BOARD OF DIRECTORS OF THE AMERICAN ASSOCIATION OF STATE COLLEGES AND UNIVERSITIES

Whereas the growth rate in funding for domestic programs, including higher education, has been slowed and, in some cases, has been cut; and

Whereas defense spending has increased dramatically; and

Whereas tax cuts have reduced available revenues; and

Whereas the federal deficit is projected to be $185 billion in FY 83, over $200 billion in FY 84, and in excess of $288 billion in FY 88; and

Whereas further cuts in domestic spending cannot offset the revenue losses resulting from the tax cuts, provide the revenue necessary for planned increases in defense spending, and therefore will not have a significant impact on the size of the deficit; therefore be it

Resolved, That the Board of Directors of the American Association of State Colleges and Universities, representing 354 public colleges and universities in the United States, urges the delay of the 10 percent tax cut scheduled for implementation in July of 1983.

RESOLUTION ADOPTED BY THE BOARD OF DIRECTORS OF THE AMERICAN ASSOCIATION OF STATE COLLEGES AND UNIVERSITIES

Whereas the recession has resulted in substantial losses of state revenues, including more than $8 billion lost since revenue estimates were made last spring; and

Whereas the federal government will have cut over $57 billion in aid to the states by the end of fiscal year 1983; and

Whereas State expenditures already have been cut substantially in the last two years and are estimated to have fallen by $5 billion since last spring; and

Whereas cuts in expenditures by state governments have had a significant and damaging impact on public higher education institutions; therefore be it

Resolved, That the Board of Directors of the American Association of State Colleges and Universities, representing 354 public colleges and universities, urges that no further cuts be made in aid to state governments; and be it further

Resolved, That the Board of Directors of AASCU urges that programs which are currently the responsibility of the federal government not become the responsibility of the states, unless the federal government provides the necessary funding.●

PLIGHT OF THE SPERM WHALE

HON. WILLIAM R. RATCHFORD

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 24, 1983

● Mr. RATCHFORD. Mr. Speaker, in 1975, the sperm whale was designated as the State animal of Connecticut, not only for its special contribution to the State's history, but in recognition of its current plight as an endangered species. It is estimated that even if all hunting of sperm whales was to cease immediately, some populations would continue to decline for another 20 years. Commercial catch limits imposed on the remaining whaling industry are more a reflection of the dwindling numbers of whales in existence than of serious conservation efforts. For these reasons, I applaud the recent passage of a ban on all commercial whaling by the International Whaling Commission (IWC) effective in 1985. I address you here today, however, because this spectacular victory is gravely threatened.

Japan, Norway, the Soviet Union, and Peru, all member nations of the IWC, have filed objections to the IWC ban. Since the IWC is without the power to enforce its own rulings, these nations will ultimately become exempt from the ban if their objections are not withdrawn. The tragedy and the irony is that it is these nations that harbor the last vestiges of the archaic whaling industry.

Many conservation and environmentalist groups were urging Congress to put pressure on these nations by denying the approval of their U.S. fishing rights. Under the Fishery Conservation and Management Act, countries wishing to fish within our 200-mile fishery conservation zone must have a Governing International Fishing Agreement, or GIFA. Japan, who depends heavily on the fish they obtain from U.S. waters, was seeking reauthorization of their GIFA last year. Japan's GIFA was, in fact, approved during the lameduck session as a part of a larger package of fisheries matters. Their agreement is effective for 5 years.

While the GIFA was passed, it is only the first step. Subsequent determination must be made regarding how many and what types of fish may be taken under the GIFA. The U.S. Department of State conducts a quarterly review of these allocations during

each year the GIFA is in effect. The first review of Japan's GIFA will be conducted next month. It is here that the United States can still bring pressure to bear on nations to withdraw their objections to the whaling ban.

To this end, I am introducing a concurrent resolution expressing the sense of Congress that the U.S. Department of State should give consideration to whether or not a nation has filed an objection to the IWC ban when determining the level of allocations a nation is to receive under a GIFA. While the Fishery Conservation and Management Act contains two amendments—the Packwood-Magnuson and the Pelly amendments—through which unilateral sanctions can be leveled against countries who violate IWC rulings, these provisions will not be triggered into effect until the ban, which takes effect in 1985, is actually violated. My resolution is intended to affect the quarterly reviews of allocation levels being set under the GIFA beginning next month and continuing for the duration of the agreement.

This resolution gives Congress an opportunity to reaffirm the U.S. policy of preventing the continuing decline in the world's whale populations through the conservation and protection of whale species. It sends a strong message to the nations who have filed an objection to the IWC ban that the United States finds the cruel and unnecessary slaughter of whales unacceptable.

I must point out that the continuation of whaling by these nations is hardly justifiable from an economic standpoint. Japan, which has the largest of the remaining industries, is the only market for whale meat in the world. Most important, the market for this meat accounts for a mere 0.3 percent of the total annual Japanese protein consumption. It is clearly not a staple of the diet. We are looking at the potential annihilation of the greatest and most intriguing of nature's marine marvels for the production of such items as pet food, fertilizer, and industrial lubricants. Adequate substitutes for these products are readily available at reasonable cost. Not one need that is being met through the extermination of whales cannot be met in a less drastic way. The products derived from whales are either disposable or replaceable. The whales themselves are not.

These purely economic considerations, which alone are a compelling argument in favor of the ban, do not even touch on the scientific and humanitarian concerns at stake. The administration has endorsed the imposition of the legislative sanctions against the nations refusing to withdraw their objections to the IWC ban in 1985. It is my hope that these objections will be withdrawn before more vigorous actions contained in the Fisheries Conservation and Management Act are triggered, and I urge my colleagues to join with me in conveying this message.●

LEGISLATION TO AVERT UTILITY SHUTOFFS IN WINTER MONTHS

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 24, 1983

● Mr. CONYERS. Mr. Speaker, today, I have introduced the "Home Heating Protection and Utility Regulation Act of 1983" (H.R. 1594). This bill would amend the Public Utility Regulatory Policies Act of 1978 to provide for uniform, mandatory Federal standards governing terminations of natural gas and electric home heating service by the utilities.

The legislation seeks to prevent the involuntary termination of utility service in households that are unable to pay their bills on time and in cases that would endanger the health of individuals. The bill establishes standards and procedures for State regulatory authorities to avert shutoffs during the winter period and requires arrangements between affected households and the utilities for the scheduling of deferred payment and repayment of past bills. The legislation builds on the voluntary standards set in the 1978 law, which in many instances have proved inadequate, and incorporates key features of the best State regulations currently in force.

The record number of utility shutoffs this winter, along with the steep increase in gas prices and the insufficient funding of the low-income energy assistance program, have produced a crisis for tens of thousands of low-income households. Across the Nation, the Citizen Labor Energy Coalition estimates, more than 300,000 households have experienced gas shutoffs this winter. Preliminary data collected by the National Consumer Law Center indicate that the number of shutoffs this winter far exceeded the average in the past few years, and low-income families are disproportionately affected. Since there are no Federal or State reporting requirements on terminations, the data collected is likely to understate the dimensions of the problem. Associated with utility shutoffs is the dramatic increase in the number of households that have fallen into arrears. The increase in unpaid utility bills has reached critical levels in several States.

Under the pressure of the situation, some progress has been made to establish reasonable standards and procedures to assist households to avert shutoffs. Often these standards rest upon voluntary compliance. In too few cases have State regulatory authorities protected individuals whose health can be affected by terminations. For example, only 17 States permit utility customers to request a formal hearing before a regulatory body. Only 10 States have procedures to protect young children and elderly persons. Only a handful of States compel utilities to enter into repayment or deferred payment agreements. The disparities in State regulations and indifferent enforcement of existing standards present sufficient reasons to propose uniform, mandatory Federal standards. The alarming increase in illness and death attributable to loss of body heat points to the inadequacy of existing standards.

The legislation I have introduced provides for: First, the adoption and enforcement by State regulatory authorities of standards to protect against termination of service of households who lack financial resources and can demonstrate a danger to health; second, standards and procedures to require the reinstatement of service to households that meet certain criteria; third, standards and procedures permitting customers to have hearings before a State regulatory authority; fourth, procedures to encourage agreements on deferred payment or repayment of past bills, and to compel such arrangements if voluntary efforts fail; fifth, standards and procedures to protect tenants in buildings whose landlords are in arrears, and to permit direct payment by tenants through the use of escrow accounts; sixth, collection of comprehensive data on utility service shutoffs by each State regulatory authority, and the filing of such reports with the Secretary of Energy for public use; and seventh, an authorization of funds to cover the additional costs and responsibilities imposed on State regulatory authorities under this legislation.

Sooner or later—if not this winter, then next—uniform, mandatory Federal standards have to be adopted to protect citizens against heating shutoffs during the winter months. Access to heating, like access to food, should not be treated as a privilege. Too many households already confront life-threatening choices between paying for food and paying fuel bills.

This legislation provides safeguards to insure that the utility companies are paid for the services they provide. It also calls upon the utilities to act responsibly in emergency situations, and strengthens the role of State regulatory authorities in fulfilling their public obligations.●

ONE BILLION DOLLARS SPENT IN STEEL CREATES 52,000 JOBS

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 24, 1983

● Mr. GAYDOS. Mr. Speaker, in my recent special orders on the Buy American amendment to the Surface Transportation Act I said that an estimated $918 million will be spent on manufactured goods a year under the bill; the correct estimate is that $918 million will be spent on manufactured goods over the life of the plan.

Nevertheless, it still would be a significant blow to the intent of Congress and the plan to exempt nearly $1 billion in manufactured goods from the Buy American provisions, which the Federal Highway Administration is considering.

This $1 billion would lead to substantial activity.

Information recently developed by the Congressional Research Service indicates that every $1 billion spent on steel generates 52,000 jobs; and that every $1 spent on steel leads to $2.20 in economic activity.

This means the Federal Highway Administration—by exempting manufactured goods from Buy American—would waive almost 52,000 jobs and $2.2 billion in economic activity.

These jobs and this activity should remain in the United States, and I say again that creating jobs in the United States was what Congress intended in passing the bill and in passing the Buy American amendment.●

FINDING A CURE FOR NEUROFIBROMATOSIS

HON. DOUG WALGREN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 24, 1983

● Mr. WALGREN. Mr. Speaker, today I am introducing a bill to establish a National Commission on Neurofibromatosis (NF). This disorder received national attention several years ago by the Broadway play, "The Elephant Man," a remarkable saga of a man struggling with this disorder.

Neurofibromatosis is a genetic disorder of the central nervous system occurring in 1 out of every 3,000 births.

It afflicts approximately 100,000 people in the United States and occurs in both sexes and in all ethnic and racial groups. Each child of an affected parent has a 50-percent chance of inheriting the gene and developing NF. Dr. Frederick von Recklinghausen first published medical literature on the disorder in 1882.

Manifestations of the disorder usually appear in childhood or adolescence, though they can appear later in life. Children with NF can frequently be identified shortly after birth by the appearance of a number of light brown spots. NF patients may develop a number of problems, including many small tumors under or on the skin, large tumors just under the skin, curvature of the spine, enlargement and deformation of bones, and tumors of the auditory, and optic nerves. These problems can lead to other problems like deafness and blindness which then create severe educational, economic, and social problems.

Presently there is no cure for NF and medical opinions on treatment vary tremendously. In my view, we need to bring into focus what we are doing as a Nation to find a cure for NF and identify what more we need to do. I am hopeful that my bill will lead us in that direction.

The bill I am introducing today will establish a national commission that will have 2 years to assess the nature and extent of public and private research into neurofibromatosis and to develop a plan to identify the research needed to develop a cure for NF. The Commission would be composed of 12 members, including representatives of the National Institute of Neurological and Communicative Disorders and Stroke, the Director of the National Cancer Institute, the National Institute of General Medical Sciences, the National Institute of Child Health and Development, and the Department of Education. These representatives would be joined by three scientists or health professionals, and three individuals who have experience with the disorder. This approach is modeled after the National Commission established by the Congress for Huntington's disease in 1977.

In the last Congress, we took a big step by enacting the Orphan Drug Act which offers hope to many people afflicted with rare diseases. I hope that my colleagues will join me in pressing the Nation to combine its resources to eradicate the many diseases for which we have not found a cure.

The text of my bill follows:

A bill to establish a National Commission on Neurofibromatosis

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "National Commission on Neurofibromatosis Act".

FINDINGS

SEC. 2. The Congress makes the following findings:

(1) Neurofibromatosis (also known as Von Recklinghausen's Disease) is a genetic disorder of the nervous system. Fifty percent of all cases of neurofibromatosis are inherited from one of the victims' parents. The other 50 percent are a result of a spontaneous change or mutation of a gene. The cause of this mutation is unknown.

(2) While the exact incidence of neurofibromatosis in unknown, it is estimated that the disorder affects one in every three thousand persons.

(3) Neurofibromatosis occurs equally in both sexes and in all racial and ethnic groups. It often imposes severe economic, social, and emotional hardships on individuals and on the families of individuals affected by the disorder.

(4) Neurofibromatosis is one of the world's most serious genetic disorders.

(5) Characteristic signs of neurofibromatosis may be present at birth. Manifestations usually appear in early childhood or adolescence, but can occur later, particularly at times of increased hormonal activity.

(6) There is a critical shortage of specialized programs and properly trained professionals in the United States for neurofibromatosis research, treatment, care, education, and rehabilitation.

(7) The training of health and educational professionals in the treatment of neurofibromatosis deserves the highest national priority.

(8) The people of the United States have an inadequate understanding of the nature of the personal, medical, social, and economic impact of neurofibromatosis.

(9) There is a great potential for making advances in the treatment of neurofibromatosis and other genetic disorders through the National Institutes of Health and other research centers.

ESTABLISHMENT

SEC. 3. The Secretary of Health and Human Services (hereinafter in this Act referred to as the "Secretary"), in consultation with the Director of the National Institutes for Health, shall within sixty days after the date of the enactment of this Act establish a National Commission on Neurofibromatosis (hereinafter in this Act referred to as the "Commission").

DUTIES OF COMMISSION

SEC. 4. (a) The Commission shall assess the nature and extent of public and private research into neurofibromatosis and shall develop a plan to identify the research needed to develop an effective treatment and a cure for neurofibromatosis. In formulating such plan the Commission shall consider the incidence of neurofibromatosis, its epidemiology, its economic and social consequences, and the most effective application of scientific and health care resources.

(b) The plan developed under subsection (a) shall provide for—

(1) research into the epidemiology, etiology, prevention, and control of neurofibromatosis which shall include studies involving the disorder's social, environment, nutritional, biological, and genetic determinants and influences;

(2) research into the development, evaluation, and application of techniques and drugs used in, and approaches to, the treatment and prevention of neurofibromatosis and its consequences;

(3) the education and training of scientists, clinicians, educators, and allied health personnel in the fields and specialties requisite to the conduct of programs concerning neurofibromatosis; and

(4) development of a system for collection analysis, and dissemination of all data useful in the prevention, diagnosis, and treatment of neurofibromatosis.

MEMBERSHIP

SEC. 5. (a) Commission shall be composed of twelve members as follows:

(1) The Secretary of Health and Human Services (or his delegate).

(2) The Director of the National Institute of Neurological and Communicative Disorders and Stroke (or his delegate).

(3) The Director of the National Cancer Institute (or his delegate).

(4) Director of the National Institute of General Medical Sciences.

(5) Director of the National Institute Child Health and Human Development.

(6) The Secretary of Education (or his delegate).

(7) Three individuals appointed by the Secretary of Health and Human Services who are not officers or employees of the Federal Government, who are scientists or health professionals representing the various behavioral, biomedical, and educational specialties concerned with the research, treatment, and remediation of neurofibromatosis.

(8) Three individuals appointed by the Secretary of Health and Human Services from the general public with personal experience with neurofibromatosis.

A vacancy in the Commission shall be filled in the same manner as the original appointments was made.

(b) If any member of the Commission who was appointed to the Commission by virtue of such individual's office leaves that office, or if any member of the Commission who was appointed from individuals who are not officers or employees of the Federal Government becomes an officer or employee of the Federal Government, such individual may continue as a member of the Commission for not longer than the thirty-day period beginning on the date such individual leaves that office or becomes such an officer or employee, as the case may be.

(c) Members shall be appointed for the life of the Commission.

(d)(1) Except as provided in paragraph (2), members of the Commission shall each be entitled to receive the daily equivalent of the maximum annual rate of basic pay in effect for grade GS-18 of the General Schedule for each day (including travel-time) during which they are engaged in the actual performance of duties vested in the Commission.

(2) Members of the Commission who are full-time officers or employees of the Federal Government shall receive no additional pay, allowances, or benefits by reason of their service on the Commission.

(e) The Chairman of the Commission shall be elected by the members of the Commission.

(f) The Commission shall first meet on a date specified by the Secretary, not later than thirty days after the Commission is established, and thereafter shall meet at the call of the Chairman or a majority of its members, but on at least three occasions during the life of the Commission.

DIRECTOR AND STAFF OF COMMISSION

SEC. 6. (a) The Commission shall have an Executive Director who shall be appointed by the Commission and paid at a rate not to exceed the rate of basic pay payable for level 5 of the Executive Schedule.

(b) With the approval of the Commission, the Executive Director may appoint and fix the pay of such additional personnel as the Executive Director considers appropriate.

(c) The Executive Director and staff of the Commission may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(d) Subject to such rules as may be prescribed by the Commission, the Executive Director may procure temporary and intermittent services under section 3109(b) of title 5 of the United States Code, but at rates for individuals not to exceed $200 per day.

(e) Upon request of the Commission, the head of any Federal agency is authorized to detail, on a reimbursable basis, any of the personnel of such agency to the Commission to assist the Commission in carrying out its duties under this Act.

(f) The Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

POWERS OF COMMISSION

SEC. 7. (a) The Commission may, for the purpose of carrying out this Act, hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission considers appropriate. The Commission may administer oaths or affirmations to witnesses appearing before it.

(b) Any member or agent of the Commission may, if so authorized by the Commission, take any action which the Commission is authorized to take by this section.

(c) The Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out this Act. Upon request of the Chairman of the Commission, the head of such department or agency shall furnish such information to the Commission.

REPORT

SEC. 8. The Commission may transmit to the President and to each House of the Congress such interim reports as it considers appropriate and shall transmit a final report to the President and to each House of the Congress not later than twenty-four months after the date the Commission is duly organized. The final report shall contain a detailed statement of the findings and conclusions of the Commission, together with its recommendations for such legislation and administrative actions as it considers appropriate.

TERMINATION

SEC. 9. The Commission shall cease to exist three months after the submission of the final report under section 8.●

PUT AMERICA BACK TO WORK AND SAVE ENERGY

HON. BOB EDGAR

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 24, 1983

● Mr. EDGAR. Mr. Speaker, I am deeply concerned about the large-scale unemployment across the United States. In 1982, I orchestrated a discussion on the floor of the House of Representatives on the positive impacts of renewable energy development on our Nation's employment. I believe we must put the American people back to work in occupations with high future growth potential. The employment title of the Solar Energy National Security and Employment Act (SENSE) is a rational step in this direction. I would like to submit the article by the Christian Science Monitor published February 7, 1983, titled "A Way to Help Put America Back to Work—and Save Energy."

[From the Christian Science Monitor, Feb. 7, 1983]

A WAY TO HELP PUT AMERICA BACK TO WORK—AND SAVE ENERGY

(By Leon Lindsay)

One of the best job-producing moves government could make, according to energy-conservation advocates, would be an investment in weatherization and solar-energy devices for homes and businesses across the United States.

People involved in such conservation activities say their potential for producing new jobs, business expansion, and energy savings has been demonstrated. A much larger commitment than has been proposed either by the Reagan administration or congressional Democrats is justified, the conservationists argue.

A $5.4 billion Democratic jobs bill, passed by the U.S. House late last year but not acted upon by the Senate, would have provided $250 million for weatherproofing homes and apartments occupied by low-income residents.

Although Department of Energy funding for conservation projects is cut almost in half in President Reagan's proposed fiscal 1984 budget—from $670 million in fiscal '83 to $383 million in the budget year beginning next July 1—statistics gathered over the past several years by agencies involved in weatherization and solar energy projects indicate these activities are very efficient employment stimulators.

The Solar Lobby in Washington, D.C., will announce later this month a "Solar Energy, National Security, and Employment Act." The measure would provide major impetus to the energy conservation effort. It will not require any new funding in fiscal 1984, according to Scott Sklar, the lobby's political director.

The bill has four parts, explains Mr. Sklar, dealing with small business, national security, employment, and consumer information. "Basically they either protect or broaden certain programs to help renewable energy or extend programs that are due to be cut off in the future," he says. Energy tax credits for small businesses and homeowners, due to expire in 1985, would be extended to 1990. Under the bill, skill training for workers in renewable energy and conservation activities, such as solar and weatherization, would be allowable in all federal jobs programs.

A bipartisan group of 20 U.S. senators and representatives, several of them chairmen of key committees, are sponsoring the legislation.

Ted Rauh, chief of the Division of Conservation of the California Energy Commission, points out that conservation activities are a close second to highway construction in providing jobs and stimulating business activity—with the added benefit of cutting energy consumption and costs. Energy efficiency programs and businesses in California provided $750 million worth of jobs and investments in 1982, Mr. Rauh reports.

Representatives for the AFL-CIO's Industrial Union Department project that energy conservation activities could create 600,000 jobs by 1990.

Michael Gordon, program director of The Institute for the Human Environment in San Francisco, says: "An expanded effort to 'button up our homes' would provide many thousands of jobs in both the public and private sectors—through production of home weatherization materials; retail sales of insulation, weatherstripping, caulk, water-heater blankets, low-flow shower heads, and other products; and the organization, administration, and implementation of coordinated local weatherization programs throughout the United States."

He cites Santa Clara County, Calif., as an example. It is estimated, Mr. Gordon says, that "if even 25 percent of homes in the county needing weatherization were made energy-efficient, almost $30 million in local sales of material could be realized."

Portland, Ore., which began an ambitious weatherization and energy-conservation program in 1979, provides impressive evidence of what it can mean to a local economy.

According to Jeanne McCormick, director of the Portland [Ore.] Energy Office, that city's weatherization and energy-conservation program has produced many benefits in terms of residential and business savings—and jobs saved as well as created. "We have found," she says, "that, generally, investment of $15 million by local businesses in such projects such as insulating buildings, or changing to more energy-efficient ways of making their products, create—directly—525 jobs.

"There's not only the contractor who comes in to do the job, there are engineers who perform energy audits and architects who design changes. They there's what we call the "leveraging effect," where you have the secretary who works for the contractor, and so forth.

"We have done energy audits for 146 small businesses, which have been able to cut energy consumption (an average of) 19½ percent as a result. Even though energy costs in Portland are lower than in many other areas of the country, those firms collectively are saving $525,000 a year. They can reinvest that money in expansion.

"So it's not just the number of jobs created by the weatherization itself, but how much money that business saves that can be used to diversify or expand or spend on training or use it to keep people on the job."

Mrs. McCormick and others point out that little retraining of workers is involved in these energy-conservation activities. Most come from the existing pool of unemployed skilled workers—carpenters, pipefitters, boilermakers, and plumbers, and other in light construction and light manufacturing. Other direct and indirect positions are created in marketing, retail sales, business management, lending, and the appraisal and real estate fields.●

INTRODUCING THE NEIGHBORHOOD DEVELOPMENT DEMONSTRATION ACT

HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 24, 1983

● Mr. GARCIA. Mr. Speaker, today I am introducing, along with Congressman BILL COYNE and 26 cosponsors, the Neighborhood Development Demonstration Act of 1983. We drafted this legislation because of the urgency of augmenting existing housing and community development programs. With proposed budget cuts in economic development, assisted housing, and community development block grants, we must turn to new avenues to promote business, jobs, and adequate housing for the needy.

The act would authorize the Secretary of Housing and Urban Development to establish a 3-year demonstration program to provide Federal matching funds to private nonprofit neighborhood organizations. For each participating organization, the Secretary would establish a ratio by which voluntary charitable contributions made by individuals and businesses would be matched by Federal funds. Depending on the economic conditions and the number of households and businesses in the neighborhoods involved, this ratio would be set no lower than 3 Federal dollars for every dollar of voluntary contribution, nor higher than 10 Federal dollars for every dollar of voluntary contribution. Perhaps the most significant objective of this legislation is to encourage a stronger financial base, for neighborhood groups through increased private sector donations.

Neighborhood organizations often provide the most successful programs in depressed urban areas, such as my congressional district, the Bronx. Neighborhood groups can serve as a unifying force around which concerned citizens can work for the betterment of their communities. During a time marked by decreases in social spending and aid to urban regions, it is vital to augment the neighborhood development organizations that strive for the revitalization of our cities. I urge your support of the Neighborhood Development Demonstration Act of 1983 so that we can assist community groups in their effort to revive urban America.●

MAUMEE BAY STATE PARK

HON. MARCY KAPTUR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 24, 1983

● Ms. KAPTUR. Mr. Speaker, I am introducing legislation to authorize a shoreline erosion protection project at Maumee Bay State Park in northwest Ohio.

Maumee Bay State Park is a multiuse facility located in Lucas County, Ohio, on the south shore of Lake Erie near Toledo. The park covers 1,700 acres and adjoins the federally owned Cedar Point National Wildlife Refuge. The shoreline protection project is critical to the future of this parkland. Shoreline erosion is occurring at the rate of 12 feet each year. Without the shoreline protection project, the beach will continue to erode. Until the shoreline is stabilized, the State of Ohio cannot go forward with its major development plans for the park. The State is committed to significant capital improvements for the park. To date, the State has already contributed $440,000 for purchase of the property and $1,500,000 for campground development. A recent $60,000 study has been funded to design a lodge complex. The State of Ohio's investment in the Maumee Bay State Park is already in excess of $2 million.

The estimated current cost of the shoreline project is $10,396,000, with the State of Ohio providing approximately a third of that amount. In addition to its contribution to the shoreline project, the State has expressed its intent to complete the overall development of Maumee Bay State Park currently estimated at $36 million.

The revitalization of the Maumee Bay State Park would provide much needed short- and long-term employment opportunities in a region suffering from high unemployment. During the span of the park's construction, 2,000 new jobs are expected to be generated. In addition, permanent jobs will be created in the park and in related industries. The permanent jobs that will result can be filled by area residents lacking specific job skills. The overall park investment is expected to generate $3 per visitor. With an estimated 1 million visitors per year, this would yield $3 million in new annual revenues for the Toledo area. The park will also serve to attract industry and provide for new Toledo convention trade. The park, the only major State park in northwest Ohio and the only one in close proximity to a major metropolitan area, will directly serve five congressional districts. It will capture local tourism and recreation dollars which are being spent out of the State.

Given the tremendous national development potential of Lake Erie, a fresh water lake, and the need for a major State park to serve northwest Ohioans, I believe that the jobs and dollars that would be generated by the Maumee Bay State Park warrant its immediate development. An indispensable first step is to halt the shoreline erosion. Ohioans have already made a significant investment in the park. It is time they receive a return on their investment.●

TRIBUTE TO COUNCILMAN NORMAN REEVES

HON. PARREN J. MITCHELL

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 24, 1983

● Mr. MITCHELL. Mr. Speaker, my entire city of Baltimore still mourns

the death of Norman V. A. Reeves who was serving on the Baltimore City Council at the time of his passing. He was such a remarkable human being that as much of his life history as possible must be shared with as many as possible.

I urge my colleagues to read the story of this man, a victim of muscular dystrophy, who lived a life much more full than many of us.

NORMAN V. A. REEVES

(By Langston Hughes)

Norman V. A. Reeves' life is a statement that is both profound and simple. His role as a father, husband, freedom fighter, city councilman, businessman, educator are all variations on a single theme—the burning desire to succeed. His family life, his reaction to his physical handicap, and his successful pursuit of public office are elements that provide a study in the positive expression of the black experience.

He was born on April 27, 1935. His mother, Lucy Mason Reeves Jones, is one of Baltimore's first black women podiatrists. His father, Norman V. A. Reeves, Sr., died when Norm was five-years-old. When Norm was three-years-old, it was determined that he had musclular dystrophy. His doctor predicted that he would be in a wheelchair or dead by the time he was 13, and advised Norman's mother to restrict his physical activities. Norm's reaction was to become even more active and he was able to participate in sports as a fierce competitor up until age 13. His old doctors marveled at his general good health as the disease slowly took its toll. Not until several years before his death was he confined to a wheelchair, from which he continued to pursue an active public life.

He attended Douglass High School, graduating in 1953. Later, at Lincoln University, Norm majored in psychology and minored in economics and philosophy, graduating with honors in 1957. His active involvement in college life is chronicled in the 1957 edition of "Who's Who in American Colleges and Universities". Upon graduating from Lincoln, he joined the Baltimore City Department of Social Services as a caseworker. Here he met Walter P. Carter, a local leader in the Congress of Racial Equality (CORE), who was later to become known as Baltimore's "Mr. Civil Rights". The two started Howard University together in 1961 to pursue a Masters degree in Social Work. This was during a period when Walter was heavily involved in the Route 40 demonstrations and other CORE campaigns. Walter and Norm discussed strategy and tactics on the daily trip between Baltimore and Washington, D.C. Newspaper headlines during the height of the Maryland fight against segregated public accommodations was an indirect result of some of these discussions and Norman's commitment to an ongoing involvement in efforts to effect change deepened. At Howard, Norm met Iris Gant of North Carolina who was also studying for an MSW. The couple exchanged vows in August of 1962. "Little Norm" was born in 1963, and daughter Traci in 1969.

Norm was the first black supervisor serving the Baltimore County Department of Welfare in the late 1960's. During this time, black militancy was generating fear and confusion among whites. Norm conducted race relations seminars and pointed up numerous areas of racism within the County department, providing many whites with their first real glimpse into the black ethos. It was also during this period that Norm headed up the William L. Moore Foundation and its Center for Afro-American Studies. The Foundation headquarters was established in the former home of the late William Moore, the Baltimore postman gunned down while on a freedom walk through Alabama. During the hectic 1960's, the Foundation was a frequent and important meeting place of community organizations and activist groups. The Center maintained an extensive library on black history and sponsored annual symposiums during Black History Week focussing on the historical and cultural aspects of the Black Movement. It was the first local group to demand that the City of Baltimore and the State of Maryland declare a Black History Week.

Norman worked as a counselor at the University of Maryland Baltimore County Campus in 1969, where he founded the Black Caucus of Faculty and staff. Within a year the Caucus became the basis for a larger organization, the Black Coalition of University of Maryland Campuses. Norm served as co-chairman of the coalition, along with Howard "Pete" Rawlings, a UMBC instructor who is now a delegate from the 40th district. The coalition's efforts resulted in an increase of black faculty and students on the undergraduate and graduate level, and integration of the Board of Regents.

In 1971, Norm accepted the position of principal of the Ralph Young School for Boys, a Catholic school. It was during this period that he decided to run for political office. His first try in 1971 produced a spirited grassroots effort, but no victory. A second try in 1975 brought together an even greater community based organization and victory seemed within reach. However, the opposition also recognized the threat, and the use of the same name ploy—an unemployed truck driver named "Reeves"—cost the Fifth District their first Black city councilman.

There was never any question in Norm's mind as to whether he should run again for the prize that had twice eluded him. He had proven that he could build a political organization and that his community involvement could translate into political action. He had also answered the often unspoken question in the minds of many—whether he could withstand the rigors of the campaign trail. The stage was set for a history-making victory and Norm did just that, leading the Fifth District field of candidates by a wide margin.

One of the remarkable aspects of Norm's election was the diversity of his vote, which included a sizable percentage of Jewish and white liberal voters. His appeal as a candidate experienced in the problems of race relations and urban blight was seen by many as a bridge across the gap of race and class that often inhibits community progress. Norm promised to represent the needs of all his constituents and considered the diversity of his vote a mandate to promote a new era of political cooperation in the Fifth District. And because the district was itself a microcosm of Baltimore—ranging from lower Park Heights to Roland Park—Norm saw it as a basis for a citywide attack on urban problems.

The range of issues Norm became involved in during his brief tenure on the City Council reflected his broad interests and concerns. He passed consumer protection legislation setting safety standards for the installation of woodburning stoves. He passed housing legislation designed to keep out-of-state property owners from evading their responsibility for housing conditions by requiring that they appoint a local residential agent to respond to notices. He passed a bill requiring for the first time the registration of single family and duplex rental units. The bill will raise $600,000 to a million dollars a year and should bolster the housing inspection services for the City of Baltimore.

He passed other resolutions calling for a study of the feasibility of using City pension funds for home mortgages (before a similar State program was announced) and a study of the City Civil Defense program. His work on the Budget and Finance Committee and Urban Affairs Committee has resulted in commitments of several thousand jobs for blacks and assistance to a number of black businesses. He also passed a resolution calling for a task force to study the problem of black economic development and black unemployment in the City of Baltimore, which he chaired.

As a community activist, Norm had been a strong advocate for peace and asserted that a world view is necessary to combat the forces impacting on people at the local level. He successfully sponsored resolutions for the condemnation of South Africa and the role of the United States in El Salvador, and co-sponsored a resolution urging a nuclear weapons freeze.

Councilman Reeves was in full stride at the time of his death. He had become recognized as a hard-working, effective legislator who did his homework and attempted to represent his district with integrity and compassion. At a salute held for him on April 25, 1982, it was clear that a future in the City Council was assured. No one knew better than he how short that future was to be. He is quoted in one news account shortly after his 1979 election as saying: "I want to see that my agenda is finished before I am finished." There is no question that Norm's agenda, viewed as a statement which speaks eloquently of the aspirations of a man and his people, is complete.

Norman V. A. Reeves died in Provident Hospital on February 13, 1983. He was 47 years old. He is survived by wife, Iris; son, Norman III, 19; daughter, Traci, 13, and mother, Dr. Lucy Mason Reeves Jones.●

HARRIS COUNTY PHYSICIANS PROVIDE SHINING EXAMPLE OF VOLUNTARISM

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 24, 1983

● Mr. PAUL. Mr. Speaker, in these hard economic times, millions of American workers are facing unemployment and, as a consequence, loss of their health care benefits. Some would have us believe that the best way to deal with this kind of personal hardship is for the Federal Government to step in with various welfare programs.

But there is another kind of solution—a solution that is a proud tradition in America. This solution comes through the private, voluntary efforts of individual Americans.

This course of action—voluntary help on an individual basis—has been chosen by over 1,000 physicians in the Houston area. These doctors, members of the Harris County Medical Society, are providing free medical care to those in the Houston area who are temporarily unemployed, or lack medical insurance.

I believe this effort on the part of Harris County physicians and the Harris County Medical Society is an inspiring example of the spirit of generosity and community that characterizes our great Nation and our people.

We are often told that it is necessary for the Federal Government to provide help to the needy and the unfortunate, because people will not choose to help others voluntarily. This recent action by Harris County doctors proves just how wrong that attitude is. I salute these fine physicians for their willingness to help those in need.

[From the Houston Chronicle, Feb. 14, 1983]

MORE THAN 1,000 PHYSICIANS OFFERING FREE CARE TO UNEMPLOYED

(By Ruth Sorelle)

More than 1,000 of the Harris County Medical Society's 4,500 members began offering free care today to area residents temporarily out of work or without health insurance.

"We have long maintained that no person in Harris County should ever go without care because of an inability to pay," Dr. Joel Reed, society president, said. "This voluntary effort is designed to provide physician care to that segment which finds itself temporarily out of work and in many cases out of health care coverage.

"We are aware that some individuals and families have fallen through the cracks of the system and we are ready, willing and able to augment the existing city, county and state assistance programs by addressing the recession-distressed segment of our population."

This month Reed asked all physicians in Harris County to consider volunteering their time in their private offices or at one of the many free clinics through the area.

Many physicians were already volunteering their services to patients unable to pay, he said, but many still volunteered to help others.

The volunteer physicians' names have been entered into a special computer at the medicial society by physician specialty and zip code so patients and their families will not have to travel far to obtain care.

"While we believe we will be able to handle almost any professional need, we do not have the ability to cover the hospital, drug or lab costs," Reed added.

However, he said, the physician group is working with drug companies and the Greater Houston Hospital Council to obtain their support in these areas.

Reed said Mayor Kathy Whitmire has authorized the city Health Department to provide some lab tests.

A medical society spokesman said the effort is not designed to cover indigents who have traditionally obtained their health care through city, county or federal programs.

"We are attempting to address those who because of the economic climate need temporary help," Reed said.

Referral to a doctor participating in this program can be obtained by calling 790-1838 Monday through Friday from 9 a.m. to 5 p.m.

The medical society spokesman said patients should first call their personal physicians to determine if they are participating in the program.●

ESTONIAN INDEPENDENCE DAY

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 24, 1983

● Mr. PORTER. Mr. Speaker, today is the 65th anniversary of Estonian Independence day. In honoring this day it is important to remember that Estonia was once a free and independent sovereign democracy. It was forcefully absorbed into the U.S.S.R. in 1940 along with its sister states in the Baltic.

The Soviets have tried to create a "new Soviet man." They have done this by systematically attempting to suppress the culture, religion, and existence of these former states. This program of Russification has been resisted vigorously by the people of Estonia. Its purpose is clear: to crush the individuality of the many nationalities within the Soviet Union, and to subjugate them to the dominance of the Russian majority.

The proud people of Estonia have fought to be independent, and will surely continue their fight until they have achieved their goal of rejoining the free and independent nations of this world.

There are hopeful signs on the horizon in the future. The European Parliament on January 13 passed a resolution reiterating the right of the Baltic states of Latvia, Lithuania, and Estonia to self-determination. This resolution called for their case to be brought up at followup sessions of the Helsinki accords, and to be submitted to the U.N. Subcommittee on Decolonization, because these countries are Soviet colonies. The United States has endorsed this in a Voice of America editorial. The 1983 Defense appropriations bill insisted that all maps of the U.S.S.R. clearly print the names of each Baltic state, as if they were sovereign nations.

The United States has refused to legitimize the Soviet seizure of the Baltic states. I am hopeful that this policy has given strength to dissidents in Estonia to continue their brave struggle against the tyranny of their Soviet masters. Estonian Independence Day gives Americans who cherish their freedom an opportunity to remind the Russians that we have not forgotten Estonia. We will never forget the cause of Estonian independence and will continue to fight for its restoration along with all the other subjugated nations of the U.S.S.R.●

EFFECTIVENESS OF CHAIRMAN CHUCK MANATT

HON. TONY COELHO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 24, 1983

● Mr. COELHO. Mr. Speaker, I would like to draw attention to two recent articles that were published in the Washington Post.

I hope that all the Members will take a minute to look them over, because they provide an excellent overview of the great strides taken by our party under the able leadership of Chuck Manatt.

During his 2 years as chairman of the Democratic National Committee, Chuck Manatt has worked closely with the Democratic House and Senate leadership to rebuild our party from the ground up.

While the GOP got lazy, Chairman Manatt took the DNC back to basics after 1980. There has been renewed emphasis on fundraising and grassroots party building. And there are many other accomplishments as well, most notably our tremendous success in the 1982 elections.

Perhaps the strongest testimony to Chairman Manatt's effectiveness is a recent statement made by the new Republican National Committee chairman, who said that his goal is to catch up to Chairman Manatt.

Mr. Speaker, thanks in large part to the fine stewardship of Chuck Manatt, our party has experienced a revival at all levels.

As we prepare for 1984 and beyond, we can be confident that the DNC and Chuck Manatt will continue to take a leading role in the effort to rebuild our party.

I ask unanimous consent that the Post articles be printed in the CONGRESSIONAL RECORD.

[From the Washington Post, Feb. 5, 1983]

MANATT REBUILDING DEMOCRATS, STEP BY STEP, FOR 1984 BATTLES

(By David S. Broder, Washington Post Staff Writer)

He came to town two years ago, a bespectacled, largely unknown Los Angeles lawyer-banker. If people wondered anything about Charles T. (Chuck) Manatt, it was why a successful, self-made millionaire would have worked as hard as Manatt did after the 1980 election to outdistance four rivals for the dubious honor of taking over the debt-ridden Democratic Party in the wake of its worst defeat in a generation.

Today, with the Democratic National Committee in the midst of its annual winter meeting here this weekend, its chairman remains largely anonymous in the capital, but he is no longer inconsequential.

Manatt, 46, has consolidated his grip on the Democratic headquarters and has put himself in a position to play a major role in what happens to his party and its candidates at least through convention time in the summer of 1984.

From the "down-draft" he says he felt when he took over in February, 1981, "a time when we had no idea who we were or what we were up against," until today, Manatt has witnessed a revival of his party's political prospects, which many party activists attribute in part at least to his stewardship.

Among the accomplishments for which he receives a share of the credit from Democratic governors, members of Congress and state party officials:

A midterm election rebound, including a strikingly successful demonstration project in state party-building that will serve as a model for the 1984 contest.

A healthy start on a direct-mail fund-raising mechanism that could, in time, cut down the Republicans' still-growing financial advantage.

Negotiation of the formal return of organized labor as a participating and contributing part of the Democratic Party and partial repair of the Carter-era breach with business and the Jewish community.

The peaceful acceptance by the party's women, minority and liberal caucuses of a substantial revision in the delegate-selection system, which will set aside one-seventh of the seats at the 1984 convention for members of Congress and other elected and party officials, whose voices may dilute the influence of the grass-roots activists.

A thin but reasonably noncontroversial outline of a Democratic policy alternative, given public exposure in a harmonious midterm conference, campaign ads and the coordinated responses to President Reagan's television and radio speeches.

To cap off this effort to reassemble the elements of the Democratic coalition that fell to quarreling in the 1970's, Manatt expects to announce within a month firm plans for financing and constructing a long-sought Democratic headquarters building on Capitol Hill, the first permanent home in the long history of the nation's oldest party.

"Little by little," said one Democratic congressional leadership aide, "Chuck has accomplished quite a lot, maybe more than he gets credit for."

One reason for the lack of credit may be Manatt's stiffness as a spokesman for the party. His speeches, though earnest, rarely soar, and his style interviews and news conferences is pallid when compared with that of his two Texas predecessors in the chairmanship, John C. White and Robert S. Strauss.

Strauss' continued high-profile presence on the Washington scene is a particular problem for Manatt, who contested the flamboyant Texan for the party chairmanship a decade ago and lost.

Paradoxically, Manatt's public statements over the last two years rank among the most consistent and strongly worded indictments of the record and intentions of the Reagan administration.

On Jan. 23, 1981, three days after Reagan was inaugurated and while Manatt was still campaigning for his job, he told the Democratic state chairmen that "there can be no honeymoon era for Ronald Reagan Republicanism," which he characterized as "people who dress their wives in minks and $10,000 dresses cutting programs for the aged and the children."

He never relented, nor he did he mince words when many other Democrats were granting Reagan that honeymoon.

At the National Press Club, less than a week after the assassination attempt on Reagan, Manatt moved in seven paragraphs from expressing his wishes for a "speedy recovery" to voicing his conviction that "Republicans have a hidden agenda. In the name of fighting inflation and stimulating the economy, they are attempting to roll back 50 years of progressive tax and social policy. They want more for the rich and less for the average American family.

"I knew these people," Manatt says now of the Reaganites, "and I knew where they were coming from, even if other people didn't back then. I had seen them operate in California, and their view is that 'we got ours,' and everyone else ought to shift for themselves. They think if you go to the government for help, you're not as strong and not as virtuous as they were."

This kind of populism came naturally to the Iowa farm boy who worked his way through George Washington Law School with a job at the Democratic National Committee as executive secretary of the Young Democrats and once was fired from its staff in an economy move.

But it sounds strange to many people coming from a Century City bank president and senior partner in an aggressively expanding law firm with lots of high-powered clients.

Manatt insists there is no paradox.

"I never got the GI bill or a VA loan for myself," he says, "but I believe in government as a way in which we help each other cooperate in this country. In my mind, I'm an Iowa farmer, and when the American Banking Association voted in 1981 on endorsing the Reagan tax bill, I was outvoted 400 to 6.'"

Despite opposition by Senate Minority Leader Robert C. Byrd (D-W.Va.) to formation of a DNC policy arm, Manatt has been able to work cooperatively with Hill Democrats in orchestrating an effective Democratic propaganda attack on such issues as Social Security and the recession, using some paid advertising but relying mainly on the free response time the networks have granted Democrats to answer Reagan speeches. The line, "It isn't fair—it's Republican," came out of one of the Manatt-financed ads.

Every couple of months, he presides at a meeting of the House and Senate Democratic leadership. Participants say that Manatt sets the agenda and moves the discussion along, usually on what one called "safe topics," like the plans for the mini-convention or the next big fund-raiser.

"He comes in with his flip-charts, just like a Harvard MBA," said one participant, "and that's unusual enough up here, so they all listen."

Manatt has had some failures outside the policy area. His effort to shorten the presidential campaign season was overwhelmed by the ambitions of contenders to get a head start and of individual states to get to the head of the line in staging primaries, caucuses and straw votes.

The strength of his chairmanship, almost all those who have watched him agree, has been in the basics: fund-raising and grass-roots party-building. And he has been helped mightily in both areas by the alarm traditional Democratic constituencies have felt at some Reagan policies.

Organized labor ended an eight-year estrangement even as he took over, gaining 15 seats on the Democratic National Committee and contributing about 20 percent of its budget. Manatt pushed the party into vocal opposition to Reagan's sale of Airborne Warning and Control System (AWACS) planes to Saudi Arabia, reaping a reward from revived Jewish support.

His biggest potential fund-raising success is in direct mail, where aides say the DNC has gone from 25,000 contributors to 230,000. The startup costs of that drive mean that Republicans have continued during the last two years to increase their lead in both receipts and expenditures. But as time goes on, aides say, the expanded contributor base will put the Democrats back into a more competitive position.

Similarly, in organizing efforts: Manatt took one small state, New Mexico, and used it as a laboratory for a coordinated voter registration, targeting and turnout effort, using national funds to pay consultant Matt Reese to pull together the efforts of individual campaigns.

The payoff was spectacular: Democrats held the governorship against a serious challenge, captured a Senate seat and a newly created House district, and other offices. Next year, Manatt says, the program will be expanded to as many as 10 states.

Probably the biggest compliment to Manatt's work came this week from the new Republican national chairman, Frank J. Fahrenkopf Jr. Manatt had come to office in 1981 saying publicly that he wanted to emulate what Bill Brock did at the RNC in the period from 1977 though 1980. Fahrenkopf said Thursday that his goal was to catch up to Manatt. "We made a mistake in reading our press reviews," he said, "and thinking that we were so technologically advanced over the Democrats they'd never catch up * * *. We have to get back to the basics * * *."

Manatt is moving into a position where he has goodies to hand out. He will have the controlling voice in the decision where the Democrats meet and in the arrangements for the convention, giving him leverage with the aspirants.

He told the state chairmen Thursday night, "The next two years will be more fun." For Manatt, they probably will be.

[From the Washington Post, Feb. 9, 1983]

THE INVALIDS ARE SITTING UP

(By David S. Broder)

The Republican and Democratic national committees have met in Washington during the past two weeks, and the news is that both parties are in pretty good shape.

The Republicans control two-thirds of the national government—the presidency and the Senate. The Democrats control two-thirds of the state and local governments. Each is prepared to defend what it has and raid the other's territory, in the kind of healthy competition that makes for good government and lively politics.

There would be no news in this, except that we are accustomed to thinking that every institution in America is either going to hell or is already there. Having written at considerable length on the weakness of the parties myself, at various times past, I am personally delighted to see that the invalids are sitting up and taking nourishment.

Just how this came about is not entirely clear, but, it is certain that for both Republicans and Democrats, catastrophe was one mother of recovery.

For the GOP, that calamity came in the form of Richard Nixon, who drove his party deeper than ever into minority status with his Watergate crimes and then cost it the presidency via the pardon he obtained from Jerry Ford.

The revival of the GOP organization, under the 1977-80 chairmanship of Bill Brock, began only after everyone in the

party had a vivid demonstration of the danger of letting it become a wholly owned subsidiary of a particular president. When he wrecked, the party had no lifeboats of its own.

Though his failings were political, not criminal, Jimmy Carter provided the same lesson to the Democrats, costing them the White House, the Senate and a slew of House seats in 1980.

In both cases, the effect was to revive interest in the party machinery from officeholders, constituencies and interest groups that had deluded themselves into thinking they could make it on their own in Washington—or with just a friend in the White House to lend them a hand.

Since 1980, the Democrats, under their chairman, Charles T. Manatt, have been doing what the Republicans did under Brock; raising money and pumping it back into party-building projects at the state and local level, while cementing relationships with mayors, governors, state legislators and members of Congress.

The Democrats' progress has been less dramatic so far, than the GOP's under Brock, but it is sufficient to make the Republicans nervous about their financial-organizational edge. After two years in which the Republican National Committee was afraid even to burp without a signal from the Reagan White House, it has a new chairman, Frank J. Fahrenkopf Jr., of Nevada, who at least says he is going back to Brock-style basics, without waiting for Ronald Reagan to decide his own 1984 plans.

The result is a healthy aura of competition, centering around not just the presidency but control of the Senate in 1984 and a multitude of state and local contests—and the constituencies that decide them.

Manatt was down in Florida last week, pitching for money to the biggest bunch of businessmen the Democrats have been able to corral in years. Fahrenkopf is going to Florida in a couple of weeks to tell the AFL-CIO leadership why it would be a mistake for them to sign up early with the Democrats for 1984.

Democrats are finally building an effective direct-mail fund-raising program for themselves, moving into an area where the Republicans have had a virtual monopoly. Republicans, in turn, are finally getting serious about listening to the gripes working women have with the Reagan administration, ending an ostrich policy that was costing the party dearly.

All this comes under the heading of good news, because healthy, competitive parties make for better government. As a case in point, look how the Republicans in Congress, who showed extraordinary cohesion in support of the Reagan program in 1981, have been exerting steady, strong and effective pressure on Reagan for the past year to modify his policies to meet the changed economic and political realities.

That is what should happen in a healthy part. One reason those Republican legislators can do what they are doing is that they know the party will support them strongly—with money and organization—whatever Reagan thinks or does in 1984.

The Democrats are not at that point yet, but they are moving toward it. And that promises that if and when they come back to power, they will not have to suffer the vagaries of another Jimmy Carter—or the dire consequences of his kind of insulated presidency.

It's good news—just what the White House has been begging us reporters to give you. So even if you don't buy a new car or house this week to celebrate the Reagan Recovery, at least send a few bucks to the party of your choice.●

DOMESTIC CONTENT AND HIGH TECHNOLOGY

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 24, 1983

● Mr. DINGELL. Mr. Speaker, for some years workers in the auto, steel, rubber, electrical, and other basic industries have been suffering widening layoffs and unemployment as jobs and investment in these industries have moved abroad. A number of people have viewed this as perfectly natural and, indeed, desirable, arguing that the American economy should shift away from these "old smokestack industries" and into new "high tech industries." The problem is that the same forces which are undermining our heavy industries also affect the new technologies. Unless we understand our role in the evolving world economy and develop pragmatic policies to deal with the new realities, we may lose both old and new industries.

I invite the attention of my colleagues to an article which appeared in the Washington Post business section yesterday. It should be noted that in moving to East Asia, Atari is joining one of its principal competitors, Apple, which already does much of its manufacturing in Hong Kong.

The article follows:

ATARI TO FIRE 1,700, SHIFT PLANTS TO ASIA

(By Martha M. Hamilton)

Atari Inc., the video game and home computer manufacturer that has sometimes been used to symbolize America's employment future in high-technology jobs, said yesterday it will fire nearly a quarter of its U.S. work force in a shift of Atari's manufacturing operating overseas.

Atari said that 1,700 workers in California will lose their jobs as a result of the company's decision to shift production from Sunnyvale, Calif., to Hong Kong and Taiwan. The layoffs will be phased in from now to June or July with 600 workers out of a job yesterday.

The production move comes only weeks after Atari's parent, Warner Communications, reported lower-than-expected earnings for 1982 for its consumer electronics division.

Analysts said the production shift, which follows the pattern of consumer electronics items such as watches and television, results from economic pressures in the highly competive home computer and video games industries. Atari said yesterday it is designed "to reduce escalating manufacturing costs"—such as labor, the value of the dollar and regulatory costs.

The announcement of the move and the large layoff is bound to raise questions about projections that jobs lost in the foundaries and auto plants can be replaced easily by jobs in high technology industries and that high-tech industries can preserve the U.S. position in international trade.

"It clearly indicated that the high-tech firms are also moving abroad and that they are no guarantee for absorbing the nation's jobless," said Rudy Oswald, director of research for the AFL-CIO.

The value of high technology in America's future has been espoused by a group that has been dubbed the "Atari Democrats," who advocate shifting resources away from declining industries, such as steel and automobile manufacturing, into the high technology and service industries where growth is expected to occur.

President Reagan, too, echoed some of those sentiments in his State of the Union speech, earning for himself the label "Atari Republician"—a label likely to be revised as a result of yesterday's announcement.

Atari has said that financial considerations dictate that some of its production be moved abroad. "Our computer production costs will go down dramatically in 1983," John Cavalier, president of Atari's Home Computer division, is quoted in Electronic News, a trade publication.

Atari already manufactures some video games in Taiwan and in Limerick, Ireland.

Interviewed by that magazine at the Consumer Electronics Show, Cavalier noted that "there were no [Atari] computers manufacturered offshore in 1982. There will be a significant percentage manufactured offshore in 1983." In fact, an Atari spokesman said yesterday, virtually all its home computers will be manufactured abroad.●

ESTONIAN INDEPENDENCE DAY

HON. HAL DAUB

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 24, 1983

● Mr. DAUB. Mr. Speaker, today marks the 65th anniversary of the Declaration of Estonian Independence. While Estonian-Americans today observe this anniversary, Estonians in their homeland continue to face serious threats to their language, their culture, and their very existence as a nation.

The United States, to this day, refuses to recognize the Soviet seizure of the Baltic States which took place nearly 40 years ago. Concern for human rights plays a major role in the foreign policy of the United States, and we should take this opportunity to assure the people of Estoniz, as well as the people of Latvia and Lithuania, that their struggle for self-determination is not forgotten.

I encourage my colleagues to continue their support for the cause of freedom on this anniversary of Estonian Independence.●

NEEDLES HIGH SCHOOL AWARDS RECEPTION

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 24, 1983

● Mr. LEWIS of California. Mr. Speaker, on March 2, 1983, the San Bernardino County schools and the Constitutional Rights Foundation will be sponsoring an awards reception and dinner honoring the finalists in the California State mock trial competition. I would like to take this opportunity to recognize and commend the team from Needles High School who will be representing the county of San Bernardino.

Over 2,500 students from 14 counties statewide participated in the mock trial program this year. The competition involved 15-member teams working with a teacher, Mr. Sonny DeMarto and attorneys John and Louise Closs, to prepare a criminal case which was presented in courtrooms before municipal and superior court judges. Through the mock trial program, students of varied ability levels increased their proficiency in communication skills, developed self confidence and furthered their knowledge of the content and process of the legal system. Approximately 200 students will compete for the State championship and participate in activities which will familiarize them with the workings of State government from March 1 to 3, 1983.

Mr. Speaker, I take great pride in commending to my colleagues not only the team of Needles High School, but also the attorneys, judges, and teachers for their countless hours of work and preparation that were volunteered to make this mock trial competition such a success.●

ESTONIAN INDEPENDENCE DAY

HON. SAMUEL S. STRATTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 24, 1983

● Mr. STRATTON. Mr. Speaker, today marks the 65th anniversary of the Estonian Declaration of Independence. I am pleased to join my colleagues in Congress and the members of the Estonian-American community in showing my support for their fight for freedom from Soviet domination and to state that we in the United States shall support their cause until they are once again free.

Independent Estonia emerged from the turmoil of World War I and the Russian revolution, when the small country proclaimed its independence on February 24, 1918. Although Estonia was soon invaded by Soviet armies, the small country was able to repulse them in 1920 and win freedom for 20 years. Estonia enjoyed a generation of independence and economic and cultural growth, until 1940 when the Soviet Union annexed Estonia, Latvia, and Lithuania in the wake of the infamous Hitler-Stalin pact.

During the last 40 years of foreign rule, the Estonian people have bravely and stoutly resisted Soviet efforts at Russification, or the subjugation of their language, culture, and religion to Russian practices. The importation of foreign workers and the often brutal industrialization of their country have made this a tough fight.

The plight of Estonia and the other captive nations becomes more urgent every year, as the Soviets continue to pursue a massive military buildup to tighten their hold on the countries under their rule, and to discourage other free nations from challenging their empire. As a longtime advocate of a strong defense for the United States to meet the Soviet threat, I hope that this will serve to undermine their hold on other, smaller nations.

With admiration and respect, I salute the people of Estonia and their friends and families in the United States and throughout the world in their struggle to regain their independence from the Soviets. I reaffirm my support for their fight and renew my conviction that Estonia will soon be free again.●

DILLONITES RAISE SCHOLARSHIP FUNDS

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 24, 1983

● Mr. RODINO. Mr. Speaker, this Saturday night, February 26, a very special event will be held in Newark—the third annual dinner dance held by an organization known as the Dillonites.

These dedicated individuals are originally from Dillon, S.C., and the proceeds from the event will be donated to a scholarship fund for high school students in that town.

The distinguished guests will include Mayor Kenneth Gibson and members of the city council and the featured speaker will be Dr. Fred Means from Jersey State College. Among those being honored by the Dillonites are Joseph Benucci, Newark's postmaster; Dorothy Gould, the assistant executive superintendent of the Newark schools; Carl Jones, president of the Bridge Club; Verdell Roundtree, the New Jersey director of the United Negro College Fund; Miles Berger, president of the Berger Hotel Corp.; Eutha Grier, historian for the Garden State Chapter of the Dillonites; and Louise Epperson, director of patient relations of the University of Medicine and Dentistry, who will receive the 1983 Health Education Award.

I am extremely proud of this chapter of the Dillonites, and president Thomas Carmichael, for their generous spirit and hard work assisting these young people of Dillon in obtaining an education.●

SOCIAL SECURITY CARDS SOLD TO ILLEGAL ALIENS

HON. G. WILLIAM WHITEHURST

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 24, 1983

● Mr. WHITEHURST. Mr. Speaker, earlier this month I introduced H.R. 1272, the Social Security Alien and Foreign Resident Limitations Act. The intent of this measure is to reform certain aspects of the social security system's overseas program, as well as prohibiting people who have worked unlawfully in this country from collecting benefits.

The introduction of my legislation coincided with the release of a General Accounting Office study I requested on this subject nearly 2 years ago, the findings of which are highlighted in the CONGRESSIONAL RECORD of February 3, 1983, on E306.

Mr. Speaker, I testified a few weeks ago before the Subcommittee on Social Security, which is conducting hearings on the long-term financing problems facing the social security system. Observing that "we need to correct this," Chairman J. J. PICKLE announced that his subcommittee will conduct hearings on this issue as soon as possible.

In the few weeks since I introduced H.R. 1272, I have received letters in support of this measure from citizens throughout the country.

One of the major problem areas associated with this issue is the relative ease in which individuals can obtain social security cards.

A few days ago, WLS-TV in Chicago ran a series of stories compiled by its team of investigators on the illegal alien issue. One segment was particularly enlightening in showing what lengths people will go to in obtaining and providing social security cards. The following transcript of that segment details how a Federal employee engaged in selling social security cards at $75 apiece to illegal aliens. The employee has since been arrested and charged with in connection the sale of the cards. The transcript follows:

ILLEGAL ALIENS: ABUSE ON BOTH SIDES

ROSA CHAVEZ (illegal alien). When you go to apply for a job, they ask you for a social security card.

ROBERTA BASKIN. Rosa Chavez is an illegal alien. But she now has a real, American

social security card. She needed it last April so she could work . . . so she could support her seven children.

This is Eduardo Medina. Inside the Social Security Administration, he makes it possible for people in Rosa's situation to get a card.

ROSA CHAVEZ. The man came with the applications. He filled them out. And all I did was sign them. After about six weeks, the cards arrived.

ROBERTA BASKIN. This social security card cost Rosa $175. The card is supposed to be free. Social Security officials are supposed to ask for certain documents.

Did you show any documents at all to get the social security card?

ROSA CHAVEZ. No. Nada.

ROBERTA BASKIN. And social security also requires an interview . . . in person . . . in the social security office. But Rosa never had to show up.

ROBERTA BASKIN. This is the alley behind the social security office on North California. At the end of the alley is a Chicago police station. This is the spot that Eduardo Medina chooses to sell social security cards . . . out the back door.

Target 7 sent in Tony Prince. He told Medina he needed three social security cards for friends.

TONY PRINCE (target 7 researcher). He looks kind of nervous, you know. And he goes to me, the price will be $75 each, which equal $225. Can you make sure you bring the money tomorrow, and I give you the receipts.

ROBERTA BASKIN. We paid the money, and filled out applications in the names of three illegal aliens, people Medina never met. He did check this box to say that he interviewed them, and he falsified our applications, claiming he'd seen some documents that don't even exist.

He got away with it because of a flaw in the social security system.

JIM STOKES (Office of Inspector General). The current social security enumeration system did not have a sufficient safeguard. This lack of safeguard allowed the employee to process numerous social security card applications without bringing an alert to the social security management.

ROBERTA BASKIN. We gave Tony more money to make one last buy from Eduardo Medina. They met near the social security office and went inside a doorway to do business. Tony counted out the money to buy the social security cards. As soon as he got the receipts, we caught up with Medina to introduce him to those illegal aliens he'd gotten cards for.

Have you ever seen these people before?

EDUARDO MEDINA (Federal employee). No ma'am.

ROBERTA BASKIN. Did you ever see him?

EDUARDO MEDINA. No ma'am.

ROBERTA BASKIN. And did you ever see her?

EDUARDO MEDINA. No ma'am.

ROBERTA BASKIN. Well, you sold two social security cards in their name last week, and you put down—here it is—on the application for her, you put down that you did an, that you did an in-person interview again.

EDUARDO MEDINA. Right.

ROBERTA BASKIN. Yeah, and what about this health card, the green card, and the library card? She doesn't have those things.

EDUARDO MEDINA. Okay, so that I put down.

ROBERTA BASKIN. So why'd you put that down?

EDUARDO MEDINA. That's a, that's just Tony told me to help him out.

ROBERTA BASKIN. And how much money did you make?

EDUARDO MEDINA. That's only $75 I pay there, that's all.

ROBERTA BASKIN. $75 for each social security card you sell.

EDUARDO MEDINA. That's the only one.

ROBERTA BASKIN. This person, Rosa Chavez is in the country illegally. You sold a social security card to somebody on her behalf.

EDUARDO MEDINA. No. I didn't make no.

ROBERTA BASKIN. So that she could work.

EDUARDO MEDINA. I didn't make no arrangement for that. The only think I say was with Mr. Tony.

ROBERTA BASKIN. Do you know want a serious crime it is to put down that you did an in-person interview with somebody when you didn't?

EDUARDO MEDINA. Yes.

ROBERTA BASKIN. Tell me, because I don't know if you do.

EDUARDO MEDINA. Yes, I understand it's jail sentence, that you can get.

ROBERTA BASKIN. Then why'd you do it? For money?

EDUARDO MEDINA. Well, I just did that for money. That's all I did. But not any more.●

A FAIR ADJUSTMENT TO IMPROVE SELECTIVE SERVICE REGISTRATION

HON. STEVE GUNDERSON

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 24, 1983

● Mr. GUNDERSON. Mr. Speaker, the recent debate and controversy concerning the implementation of the Solomon amendment, which prevents distribution of Federal student aid to any individual who has failed to register with the Selective Service, has once again opened the entire debate surrounding registration. The failure of some 6 percent of those required to register to do so causes one to examine the opposition to such a simple procedure. However, what is relatively simple in practical implementation may cause severe emotional stress for some Americans. While approximately half of the nonregistered population is attributed to administrative difficulties, the remaining young American men have failed to do so intentionally for personal reasons.

Today, I am introducing legislation which will both facilitate complete registration while also giving young men the opportunity to indicate their intent to apply for conscientious objector status. This legislation is based upon the presumption that a high percentage of those who intentionally fail to register do so on the basis of conscientious objector principles.

Under current law, an individual may apply for such status only at the time the draft is actually implemented. The application may be made to his local Selective Service board which will determine the acceptability of his case. In order to qualify for classification as a conscientious objector, a person must be conscientiously opposed to participation in any war. Beliefs must be religious, moral, or ethical in nature, as opposed to those based solely on politics, expediency, or self-interest.

In addition, a conscientious objector is not relieved of the obligation to serve. Two types of service may be performed, depending upon the individual's specific beliefs: First, the person who is opposed to any form of military service (Class 1-0) performs a period of civilian service in a job which contributes to the national health, safety, or interest; or, second, the person whose beliefs will allow him to serve in the Armed Forces in a noncombatant capacity (Class 1-A-0) becomes a member of the Armed Forces but does not receive any training in the use of weapons. Many of these serve in the medical corps.

This legislation would simply add two questions to the Selective Service registration form which would allow the registrant to indicate his preference to be considered for classification as a conscientious objector serving in either noncombatant military service or available for alternate service. Notice shall also be provided on the forms that this indication is not binding on the United States and that the marking of such an indication does not assure that the registrant will be so classified.

It should be emphasized that this is not an attempt to circumvent registration, but to facilitate it. These changes in the registration form will not harm the intent of draft registration—early preparation and organization in case conscription should be required—but, in fact, will improve and economize the entire system by indicating to the Selective Service System those individuals who are likely to apply for conscientious objector status in either a noncombat or alternate service role.

At the same time, these changes will also facilitate the complete registration of the eligible population by removing the stigma that registration leads to immediate participation in a draft, without an opportunity to indicate ones desire to apply for conscientious objector status.●

ESTONIAN INDEPENDENCE

HON. JAMES J. HOWARD

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 24, 1983

● Mr. HOWARD. Mr. Speaker, 65 years after the official declaration of Estonian independence, this proud Baltic nation is fighting for its very existence under the cruel jackboot of Soviet tyranny. The drive for Russification of this ethnically distinct people is characteristic of the Soviet

terror mechanism in one of its many contemporary forms.

In the individual human dimension, the death of Prof. Juri Kukk 2 years ago in a Volga labor camp represents both the perseverance and the tragedy so typical of the Estonian struggle. Even as Juri Kukk rests in peace, his codefendant, Mart Niklus, struggles on, serving a 5-year sentence in a Soviet labor camp. These two men are symbols of a much larger atrocity. The relative proportion of Baltic nationals to other ethnic groups in Soviet labor camps demonstrates the magnitude of this injustice.

It has been four decades since the Soviet empire swallowed Estonian and the other Baltic nations in perhaps the most repugnant act of blatant hegemony in our century. The hopes of these nations, the hopes of an Estonian people so capable of fulfilling their potential as a country, have been subverted to the wishes of a Soviet elite which differs little in essence from its progenitors. It is up to us in the free world to keep the light of publicity on the Estonian struggle—their hopes are our hopes, their dreams our dreams—the fate of the human community rests with the solidarity of its defenders.●

SERIOUS RISK OF RAPID DEFENSE BUILDUP

HON. MARCY KAPTUR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 24, 1983

● Ms. KAPTUR. Mr. Speaker, the administration's proposed rapid defense buildup poses serious risks both to our national security and to the health of our economy. Congress, in considering the President's massive rearmament program, must weight its costs to the American people.

In his budget for fiscal year 1984, President Reagan proposed the continuation of the 5-year military buildup that he initiated 2 years ago at a cost of $1.8 trillion, roughly a cost of $20,000 in taxes per household over the next 5 years. This constitutes the largest peacetime defense spending program in the history of our Nation, at a real rate of increase after inflation of 7 percent. Yet, despite estimates of wasteful Pentagon spending ranging from $30 to $100 billion, the President's budget provides for no savings based on elimination of wasteful spending.

The President's military budget gives top priority to the development of new strategic nuclear weapons, a 37-percent increase in nuclear force funding in this year's budget. I fear that adding to our nuclear arsenal will only trigger another dangerous escalation in the balance of terror between the United States and the Soviet Union. The administration's arms control policy, based as it is on arms increases, is a bankrupt policy. We need a President who will assume the leadership role in arms control negotiations with the Soviets. Congress must take its own lead on arms control by passing the resolution calling for a bilateral, verifiable freeze on nuclear weapons production, development, testing, and delivery systems.

The greater share of our defense budget should be spent on conventional systems, although streamlined, to insure readiness and sustainability, and to educate our service personnel. We now have complex weapons systems with personnel lacking the expertise to use them. In addition, I believe it is time for our allies to assume their fair share of their own defense, rather than relying solely on the American people to finance their defense-related expenditures. The President's budget includes no initiative for cost sharing with our allies.

At the same time that the military budget is being increased, spending on human needs program is being drastically reduced. In my estimation, our natural resources should be invested in activities which would put Americans back to work and put the United States on the road to prosperity. Our economic recovery must not be jeopardized by excessive defense spending.

Studies have documented that every dollar spent on military programs creates far fewer jobs than the same dollar spent in any other sector of the economy. Jobs in the defense industry are more highly skilled than in other sectors and thus open to fewer American workers. Furthermore, some influential economists have voiced concern that the planned rate of increase for military spending is too fast and might strain some sectors of the economy, thereby contributing to another inflationary spiral similar to those which occurred when the United States expanded its arsenals as rapidly in the past.

Excessive military spending also contributes to declining productivity. Concentrating scientific work on military projects reduces the share available for productivity that increases innovation in other sectors. With so much money and skilled labor diverted to military programs and away from civilian production, America's competitive advantage over Japan and other industrialized nations is bound to suffer.

Defense spending is one of the most regionally unbalanced categories of Federal spending. More than any other other Federal program, defense spending drains resources and jobs out of the industrial Midwest and transfers them to economically healthier areas of the country. According to Department of Defense figures, $93.4 billion of the fiscal 1983 defense budget—excluding procurement—will go to States in the South and West, while only $28.6 billion will be spent in the Northeast-Midwest region.

This amounts to $278 per capita in the Northeast and Midwest compared to $739 in the South and West. Ohio receives $3 billion less in Pentagon spending than it contributes in tax moneys which are channeled to the defense budget. Current military spending is contributing to idle capacity and unemployment in our area.

The costs of the proposed weapons systems, once approved, will grow dramatically in succeeding years and contribute to even greater deficits. Now is the time to rein in the administration's military spending proposals. A strong national defense cannot be minimized, but scarce Federal funds must be spent wisely. If we cannot create jobs for the unemployed, revitalize our basic industries, educate the next generation or care for the members of our society who depend on the Government for their basic needs, we will not be contributing to our Nation's security.●

ESTONIAN INDEPENDENCE DAY

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 24, 1983

● Mr. FORD of Michigan. Mr. Speaker, it is with great pride and admiration that I join in the commemoration of the 65th anniversary of Estonian Independence Day. The remarkable strength and proud heritage of the Estonian people in the Soviet Union, who face a never-ending quest to regain their freedom, has established a model for the world.

Today we mark the proclamation of independence for the Republic of Estonia. The Estonians made significant economic, educational, and cultural progress until their freedom and independence came to an end in 1940 when they were forcibly annexed by the Soviet Union. On a day-to-day basis in the Soviet Union, the Estonians are facing serious attacks to rid them of their strong sense of heritage. They face serious threats to their language and culture. This is yet another example of the Soviet attempt to Russianize these people out of existence.

Free nations of the world must continue to speak out against this Soviet aggression. We will never recognize their seizure of Estonia. As a signatory of the Helsinki accords, the Soviet Union continues to deny these individuals their basic human rights—the free exercise of political, cultural, and religious freedoms.

Mr. Speaker, I am very moved by the strength and conviction of these brave people. I am thankful for this oppor-

tunity to pay tribute to these courageous people and their overwhelming commitment to human rights and freedom that free nations of the world cherish so deeply.●

FTC OVERSIGHT OF PROFESSIONS BACKED BY PUBLIC ACCOUNTANTS

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 24, 1983

● Mr. DINGELL. Mr. Speaker, since renewed attempts will be made in the 98th Congress to restrict the authority of the Federal Trade Commission over professions, my colleagues should be aware that professional associations continue to line up in opposition to efforts by the American Medical Association to exempt the professions from regulation by the FTC. The 33 national organizations and their 800 affiliated organizations representing 17 million individuals formed a coalition to save the jurisdiction of the FTC over professions in the last Congress. I have been recently notified by the National Society of Public Accountants that their Board of Governors had unanimously adopted a resolution stating the National Society's opposition to any legislation which would exempt professionals from FTC jurisdiction and resolving support and assistance for continued FTC regulation and investigation of the activities of professionals. A copy of their correspondence follows along with a list of the member organizations of the Coalition to Save the Jurisdiction of the Federal Trade Commission Over Professions.

NATIONAL SOCIETY OF
PUBLIC ACCOUNTANTS,
January 14, 1983.

Hon. JOHN D. DINGELL,
Chairman, Energy and Commerce Committee, Rayburn House Office Building, Washington, D.C.

DEAR MR. DINGELL: At its regular meeting in November, the Board of Governors of the National Society of Public Accountants unanimously adopted a resolution stating the National Society's opposition to any legislation which would exempt professionals from Federal Trade Commission jurisdiction, and resolving support for FTC to continue to regulate and investigate the activities of state-regulated professionals.

The National Society of Public Accountants is an individual membership professional association consisting of 17,000 members throughout the United States, who are vitally concerned with the issues and problems facing small accounting firms and the more than four million small businesses which they serve.

The members of the National Society firmly believe that the antitrust laws should be applied to state regulated professionals in order to ensure competition and fully competitive markets, regardless of the product, occupation or service provided.

The members of the National Society appreciate your efforts in behalf of a free-market system, and the position which you took and maintained as Chairman of the Energy and Commerce Committee.

Should renewed attempts be made in the 98th Congress to restrict the authority of the FTC over professions, I hope that you or the members of the Committee's staff will call upon the National Society for whatever assistance we can provide.

Sincerely,

LOUIS MIRMAN,
President.

COALITION TO SAVE THE JURISDICTION OF THE FEDERAL TRADE COMMISSION OVER THE PROFESSIONS

American Nurses' Association.
American Society for Medical Technology.
American Association of Pastoral Counselors.
American Academy of Physican Assistants.
Association for the Advancement of Psychology.
American Psychological Association.
American Dental Hygienists' Association.
American Speech-Language-Hearing Association.
American College of Nurse-Midwives.
American Public Health Association.
International Chiropractors Association.
National Association of Optometrists and Opticians.
National Association of Chain Drug Stores.
American Chiropractic Association.
Women's Equity Action League.
American Association for Clinical Chemistry.
American Medical Technologists.
American Association of Bioanalysts.
International Society for Clincial Laboratory Technology.
American Society of Allied Health Professions.
National Rehabilitation Counseling Association.
National Women's Health Network.
Women and Health Roundtable.
American Association of Retired Persons.
American Retail Federation.
Congresswatch.
U.S. Women's Health Coalition.
National Consumers League.
Consumers Union of America.
Consumers Federation of America.
American Association of Nurse Anesthetists.
United Automobile, Aerospace, and Agricultural Implement Workers of America.
United Steelworkers of America.●

DISC REVISION ACT OF 1983

HON. GUY VANDER JAGT

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 24, 1983

● Mr. VANDER JAGT. Mr. Speaker, I am today introducing H.R. 1673, the DISC Revision Act of 1983. Briefly stated, the purpose of the bill is to revise the existing Domestic International Sales Corporation (DISC) provisions of the Internal Revenue Code so as to make them consistent with the General Agreements on Tariffs and Trade (GATT) while at the same time preserving significant export incentives similar to those contained in the existing DISC provisions.

The United States is currently faced with a significant international trade problem because the General Agreements on Tariffs and Trade have concluded that the existing DISC provisions violate GATT. In addition, the U.S. Trade Representative has assured representatives to the GATT that the United States will soon modify the existing DISC provisions to bring them into compliance with GATT. In the meantime, DISC has been a continuing thorn in our side as we attempt to further other important trade-related matters before the GATT, including many of those that were discussed at the GATT Ministerial in November 1982. The progress on these important initiatives will be stymied until a GATT legal DISC alternative has been presented. Although it is necessary to modify the existing DISC provisions, at the same time it is very important that the modified version continue to provide export incentives to our various domestic manufacturers, especially for those small manufacturers who may have only recently become exporters or who are in the process of considering to become exporters. The importance of encouraging export of products domestically in the United States cannot be underscored, because the alternative is to encourage manufacturers to locate manufacturing plants outside the United States, thus removing valuable jobs from our shores. The DISC solution also should not attempt to use gimmicks which will only temporarily avoid a GATT challenge. Rather, it should attempt to arrive at a solution which will be GATT defensible for the long term, thus avoiding another disruptive period in our trade policy similar to that which has accompanied the DISC dispute. Many proposals have been floated in the last year which would generally only modify the existing DISC provisions to require the use of a foreign corporation rather than a domestic corporation. This alternative presents many problems including the prospect of not being able to sustain a GATT challenge. From a tax policy standpoint, the use of a foreign alternative is also questionable because it is inconsistent with the administration's tax treaty negotiating policy which attempts to discourage the use of foreign tax havens by U.S. taxpayers. The modification of DISC so as to require incorporation in a foreign jurisdiction will only provide a sufficient economic benefit to the exporter if the foreign corporation is located in a jurisdiction which imposes little or no tax, in other words, a foreign tax haven.

The bill which I have introduced today attempts to address the problems identified above with the existing

DISC and with respect to the various foreign solutions which have been proposed in the last couple of months. As such, it attempts to achieve three important policy goals. First, the bill sufficiently modifies the existing DISC provisions so as to make them GATT defensible. Second, the proposal avoids the use of a foreign corporation as the solution to the existing DISC problem. By doing so, it avoids a significant inconsistency with our tax treaty negotiating policy. More importantly, it insures that small businesses will be able to continue to benefit from the DISC provisions. Modifying DISC to require the use of a foreign corporation would make it very unlikely that small exporters would be able to utilize the provisions due to the complexities of doing business in a foreign jurisdiction, especially if a substantial foreign presence is required. Third, the proposal insures that trade incentives provided for exporters, especially small exporters, will continue.

DESCRIPTION OF THE PROPOSAL

The DISC Revision Act makes several significant changes in the existing DISC provisions. First, it provides for the imposition of an interest charge on the accumulated DISC income which has been subject to deferral. The interest charged for small exporters—those with less than $250,000 of DISC taxable income—is 4 percent while the interest charge for larger exporters is the average Federal funds rate, that is, the rate at which banks in the Federal Reserve System borrow money from other banks in the system. Second, rules controlling the amount of income which is subject to deferral are significantly simplified. The complicated incremental rule is eliminated. The amount of deferral which is permitted annually is increased to 100 percent for DISC taxable income up to $250,000. The amount of deferral permitted for DISC taxable in excess of $250,000 is 45 percent. Third, all accumulated DISC income existing for taxable years beginning on or before December 31, 1983, will be permanently deferred. This provision is clearly sensible because many companies by following the rules of DISC under existing law could effectively achieve this result by simply avoiding a distribution of the accumulated income and investing in qualified assets. By statutorily providing that the income is permanently deferred it eliminates significant financial accounting problems while at the same time preserving the likely tax result which would occur under existing law. An added benefit of this change is that it effectively results in a liberalization of the DISC asset test because the substantial pool of capital consisting of accumulated deferred DISC income which must be invested in specified assets will have been reduced. Many companies both large and small have indicated a concern with meeting the qualified assets test under the existing law because of the large pool of deferred income which must be invested in a limited range of assets in order to satisfy the existing qualified asset test. By reducing the size of that pool of capital which must be so invested, the problems of meeting the qualified assets test will also be substantially eliminated. Fourth, the bill permits the use of excess investment tax credits to be used to pay the interest charge which is imposed on accumulated DISC income. In addition, excess net operating losses may be used to reduce the amount of accumulated DISC income which is subject to the interest charged. Finally, the bill provides that accumulated DISC income which has been subject to the interest charge will qualify for a permanent deferral at the end of 10 years and cease to be subject to the interest charge. It should be noted, however, that this provision would not have any effect if the parent of the DISC had made the election to utilize its excess net operating losses to reduce the accumulated DISC income subject to the interest charge prior to the expiration of 10 years.

The bill does not modify the gross receipts test to expand the use of DISC for the service sector of our economy. Because this is a matter of growing concern in view of the increasing portion of our economy which consists of service-type industries, it is my hope that the enacted legislation will direct the Treasury to study the advisability of extending DISC-type treatment to the service sector.

On balance, I believe that the bill provides the most workable solution to a complex problem facing us both with respect to U.S. tax policy and U.S. trade policy in a way that will continue important export incentives which are necessary for the United States to compete in the world trading markets.●