SENATE—*Tuesday, September 18, 1984*

(Legislative day of Monday, September 17, 1984)

The Senate met at 11 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 prayer this morning will be offered by the Reverend David J. Dean, senior minister of Grace Congregational United Church of Christ, Rutland, VT. He is sponsored by Senator ROBERT STAFFORD, of Vermont.

PRAYER

The Reverend David J. Dean, senior minister, Grace Congregational United Church of Christ, Rutland, VT, offered the following prayer:

Let us pray.

O God, our Creator, we pause before You this day not to inform You, not to guide You, not to direct Your purposes, but to ask that You will guide, direct, sustain and strengthen the Members of the U.S. Senate with the strength they need for the problems confronting them. May the decisions they make this day benefit all humankind and be acceptable in Your sight.

Thank You for the people of the United States of America: the old and the young, the rich and the poor, the laborers, the managers of industry, the artists, the poets, the factory worker and professionally skilled, for all these contribute to our country's good. We thank You for the divergent backgrounds—for peoples of every tradition, from many nations, of many colors, and of many creeds.

We praise You for a land of abundance. For the mountains and plains, for rivers and lakes, for rich soil and rare minerals, we thank You.

But we also thank You for things unseen. Not for conquests of the sword, but for conquests of the spirit, creating a nation where freedom is enjoyed. For those lives who dreamed of this Nation conceived in liberty and dedicated to the proposition that all people are created equal, we thank You.

And so help us in our responsibilities as U.S. Senators; help us to see with compassion, the suffering and the injustices of our world. Help each of us to seek the approving vote of his or her own conscience, a conscience formed by strict study, accurate analyses, able arguments and persistent prayer.

O God, may this Nation continue to be a beacon of hope to a troubled world because these Senators have been instruments of justice and hope, peace and charity, patience and understanding.

God, bless us all and help us all. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. Under the standing order, the majority leader is recognized.

Mr. BAKER. I thank the Chair.

REV. DAVID J. DEAN, GUEST CHAPLAIN

Mr. BAKER. Mr. President, I wish to take this opportunity to congratulate our colleague, Senator STAFFORD, for his invitation to Reverend Dean to be our guest chaplain today. Reverend Dean is another in a long and distinguished series of guest chaplains who have served the Senate by invitation. We are happy to have him with us this morning. We express our gratitude to Senator STAFFORD for inviting him.

Mr. STAFFORD. Will the distinguished majority leader yield?

Mr. BAKER. Yes, I yield.

Mr. STAFFORD. I appreciate what the majority leader has said. I consider it a distinct privilege that Reverend Dean has been able to come to Washington from the church I attend in Rutland, VT. We are grateful to him for his very fine prayer, which we very much need in this body. I express my thanks also.

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

Mr. BAKER. I am happy to yield to the distinguished junior Senator.

Mr. LEAHY. Mr. President, I wish to express my appreciation also to the distinguished Senator from Vermont. His pastor here has to improve the whole climate of the Senate. I would note that the expression of regard for him is shown by the fact that the entire Vermont congressional delegation is here. Our distinguished and admired colleague from the other body, Mr. JEFFORDS, has joined us. I believe this is an example of the way Vermont feels about this distinguished member of our clergy.

Mr. BAKER. Mr. President, I welcome Congressman JEFFORDS to this Chamber. We are happy to have him.

I might say facetiously to Reverend Dean that I do not know whether it is a great tribute to him that the entire delegation is here or whether they wanted to make sure that they heard the prayer he uttered. In any event, we are delighted that our colleague from the House is here and especially thankful that the Reverend Dean honored us with his prayer.

Mr. STAFFORD. Mr. President, if the leader will yield, this shows the bipartisan feeling among the delegation from Vermont with regard to Reverend Dean.

SENATE SCHEDULE

Mr. BAKER. Mr. President, this morning after the two leaders are recognized and the time for routine morning business is concluded, there will be the usual Tuesday recess so that Members may attend their caucuses until 2 o'clock. The Senate will resume consideration of the trade bill at 2 o'clock.

Mr. President, I hope we can finish that trade bill today. I urge Senators to consider that we are in the last days of this session of this Congress. I urge them to be forbearing in their offering of amendments and in their debate so that the managers of this bill can get on with the matter at hand.

I think our objective should be to try to finish the trade bill by 4 o'clock this afternoon. That is a big order, but it is not impossible.

I urge Senators to consider that in the budgeting of time remaining available to us, that that appears to be the very best resolution. So I hope we can finish the trade bill by 4 o'clock.

At 4 o'clock, by previous order, we will resume consideration of the motion to proceed to the consideration of the TV in the Senate resolution. There will be 2 hours of debate on that. At 6 o'clock, we will have a cloture vote.

Mr. President, I hope cloture will be invoked. If cloture is invoked, I hope we can proceed to lay down the TV in the Senate resolution.

Mr. President, after that matter is disposed of, and after the trade bill is disposed of, it presently appears that the most likely next candidate for legislative consideration will be the highway bill. Senators might take note of the possibility that the highway bill will be scheduled yet sometime this week.

Mr. President, I think that is all I can announce for this moment. I am happy to offer my remaining time under the standing order to the distinguished minority leader.

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

RECOGNITION OF THE MINORITY LEADER

The PRESIDING OFFICER (Mr. MATTINGLY). Under the standing order, the minority leader is recognized.

SENATE SCHEDULE

Mr. BYRD. I thank the distinguished majority leader, Mr. President.

Mr. President, could the distinguished majority leader tell us what the situation is with respect to the conference on the military authorization bill and the conference on the budget resolution at present? In doing that, is it still the majority leader's strong feeling that when the Senate and House adjourn for the elections, that will be an adjournment sine die? That means that we would have to crowd a lot of work into the next 2 weeks on matters that are extremely controversial; for example, the debt limit and the continuing resolution.

Mr. BAKER. Mr. President, the minority leader is absolutely right. We have our work cut out for us. We have 2 weeks plus 3 days in order to do a great deal. And we are not getting on with it very fast. But I continue to hope that we can do all or most of the things that I listed on yesterday and the day before and have announced from time to time as the favorite agenda for the Senate between now and October 4. It is the intention of the leadership on this side to make every effort to adjourn sine die on October 4, and it is the full expectation of the leadership on this side that we will do that.

Now, that may mean leaving many things undone. Two things we cannot leave undone, of course, are the ones to which the minority leader has already referred, that is, the debt limit and the continuing resolution. But absent an extraordinary set of circumstances, it is the intention of the leadership on this side to adjourn sine die. I have consulted with the distinguished Speaker on this subject, and I would not presume to speak for him except to say that he and I agree, and do so emphatically, on the idea that the Congress must adjourn on October 4 and do so sine die.

Mr. President, on the matter of the budget resolution conference report and the defense authorization conference report, I have also stated from this place previously that both the Speaker and I agree we should pass the defense authorization conference report and a defense appropriations bill before the Congress adjourns. I have met with the Speaker on more than one occasion to try to assist in the negotiations underway in compromise of those issues. We have not yet reached a solution, but I expect to meet with the Speaker again. I have made an effort to keep the minority leader advised of the progress of those talks. When we reach the place where we can deal with concrete and specific matters in connection with the defense authorization appropriation, I anticipate we will have a meeting with the principals on both sides of the aisle to discuss that.

But the conference report on the budget resolution and the defense authorization bill at this moment appear to be bound up in those ongoing negotiations, and I hope that after today I can make a better report on the status of those things.

Mr. BYRD. Mr. President, I thank the distinguished majority leader. I compliment him for attempting to work out some resolution of these problems with the Speaker. It is true that the distinguished majority leader has offered and has been willing to keep me informed as to those deliberations and the progress that is made, but when it comes to the specifics, as the distinguished majority leader will remember, he began telling me the specifics the other day during a telephonic conversation and I suggested that instead of my being informed as to the specifics of A, B, and C, whatever, we have our ranking Democrats attend such a meeting and that they be collectively and directly informed. The majority leader willingly proceeded along those lines, but something happened which prevented the meeting, which the distinguished majority leader had arranged from occurring on yesterday and in connection with which I had proceeded to have Mr. CHILES, Mr. NUNN, and Mr. STENNIS present. That meeting, as I understand it, was not called off except by necessity. The majority leader is not to be criticized for the fact that the meeting did not occur. I think it involved some matters that were beyond his control.

I am saying all of this simply to express the concern, with only 2 weeks remaining after this week, that the Senate and the House will be able to complete our business in time to provide for a sine die adjournment on October 4 or October 5, whatever the day will be.

I am expressing this concern for the record. We will have the debt limit and the continuing resolution coming along at some point, and those are vehicles in connection with which, if we allow ourselves to be guided by the light of experience, several amendments will be offered. I am concerned that we not reach those two items just in the last 2, or 3, or 4 days of the session.

I wonder if the majority leader could tell the Senate when the House expects to send the debt limit matter and the continuing resolution to the Senate.

Mr. BAKER. Mr. President, I thank the minority leader. May I say first in respect to the meeting that was scheduled for yesterday and which was canceled with our principals on both sides—incidentally, I had invited Senators TOWER, STEVENS, and DOMENICI to the same meeting which I believe corresponded to those identified by the minority leader—the reason I canceled the meeting was that the specifics that we were going to discuss became pretty unspecific by that time and it seemed to me not productive to have that meeting until we had something concrete we could discuss. I hope that comes from my meeting with the Speaker today. But that was the reason for the cancellation.

On the matter of House action on the debt limit, I have no idea. I have not been advised as to when the House has scheduled any action. I think the House would greatly prefer us to get a budget resolution out so they never had to send us anything on the debt limit, but presumably they will have a backup of some sort, and I will talk to the Speaker about that.

I have a letter from the Secretary of the Treasury saying that we run out of money on September 28, and I will supply a copy of the letter to the minority leader. But I agree with him that we have a difficult situation in respect to the debt limit.

It is my understanding that the House Appropriations Committee reported a continuing resolution last Friday and that the House will act on it this Friday and send it to us. I do not know in what form, however, but we will have it and it will have to go to committee on this side, so beginning next week I assume we can look for action on the continuing resolution.

Mr. BYRD. I thank the majority leader. So it is my understanding from what the distinguished majority leader has said that the continuing resolution will probably be in the Senate by Friday of this week.

Mr. BAKER. Yes.

Mr. BYRD. And that the continuing resolution will in all likelihood—I am reading this into the majority leader's remarks, and also looking at the time and sequence of events—the continuing resolution will in all likelihood come to the Senate before the debt limit reaches the Senate.

Mr. BAKER. I would not be surprised, Mr. President. The House could surprise us; they often do, but the way it looks, we will have the CR before we have the debt limit.

Mr. BYRD. Is it the majority leader's understanding that there are no conferences going on right now between the two Houses on the military authorization bill and the budget resolution?

Mr. BAKER. That is my understanding, Mr. President.

Mr. BYRD. I also infer from what the majority leader has said—I just

simply want to ascertain for the RECORD—that those conferences between the two Houses on the military authorization bill and the budget resolution are not now going forward and will probably not go forward until the negotiations have resulted in a resolving of the defense appropriation figure, and would I be accurate in saying that the MX is also involved?

Mr. BAKER. It certainly is.

I am not certain, though, Mr. President, that the two conferences might not recommence without an agreement. For example, I can visualize—I hope it does not occur, and I hesitate to mention it—a situation in which either the Speaker or I decided that we no longer had a useful role to play in these negotiations and simply disengaged. If that were to happen—and I hope it does not—I would be inclined to ask the Senate conferees to go forward with both conferences.

I think it would greatly facilitate a conference result if the leadership on both sides, in both Houses, could arrive at a consensus agreement on the defense numbers and on defense considerations.

Mr. BYRD. I thank the distinguished majority leader for his responses to my questions.

I must say that I am encouraged to hear the distinguished majority leader say that if the discussions between the Speaker and the Senate majority leader break down without producing some tangible results, the majority leader in the Senate, on his own, will urge the Senate conferees to move forward with the conferences on the military authorization bill and the budget resolution.

Mr. BAKER. I thank the minority leader.

Mr. BYRD. I thank the distinguished majority leader.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 6 minutes.

Mr. BAKER. Mr. President, would the minority leader like additional time? I would be glad to restore the full time.

Mr. BYRD. I thank the majority leader. I believe I have sufficient time.

THE TRADE IMBALANCE: OUR OTHER DEFICIT

Mr. BYRD. Mr. President, yesterday, we began discussion of a trade bill. As the Senate debates major issues and legal fine points of that legislation, we need to be mindful of the fact that our discussion takes place at a time of fundamental challenge to America's leadership in the world marketplace.

In July, America experienced its largest 1-month trade deficit in history—a staggering $14.1 billion. This follows the Commerce Department's announcement that the trade shortfall for the first half of this year exceeded $59 billion. By the end of this year, our trade deficit could reach $140 billion—twice the 1983 record of $70 billion. The July deficit alone translates into 350,000 jobs lost or not created. New figures released yesterday indicate that trade in services—a traditional strength for our economy—also is on a sharp decline.

The July deficit is especially disturbing because American exports in July set a 3-year record, totaling $19.4 billion. Notwithstanding this excellent performance by American companies, a record wave of foreign imports of such basic products as steel overwhelmed the gains posted by American products. Steel imports in July captured nearly one-third of the American market, with a record 2.6 million tons of foreign steel being imported. Economists expressed concern that a large number of finished goods such as high-technology equipment and automobiles made up much of the export surge. Nearly $1.4 billion worth of Japanese autos entered the U.S. market in July, bringing our trade shortfall with Japan to an all time 1-month high of $4.7 billion. Why is the greatest trading nation in the world—the United States—losing out in the international market? After years of leading the world in exports, why are we now running the largest trade shortfall of any nation in history? Economists—including the Secretary of Commerce—agree that the artificially overvalued U.S. dollar is making American goods too expensive for our trading partners, and making their products relatively cheaper in the U.S. market. The dollar has become bloated because America's enormous Federal budget deficit and high interest rates attract foreign capital. Foreign investors now hold an estimated 16 percent of all Federal obligations. As the Journal of Commerce recently noted, "The old saying that Americans shouldn't be too concerned about the huge Federal debt because they owe it to themselves is no longer true."

What happens when foreign investors decide that the current administration is living beyond its means? What happens to our economy when the inevitable readjustment in the dollar begins, and foreign investors decide they should take their money elsewhere?

It is currently in vogue to blast the Democratic Party for sounding themes of "gloom and doom." Perhaps my concern about the trade deficit will be regarded by some as an indulgence in "gloom and doom." But I represent a State that ranks third in the Nation in the percentage of its manufactured goods which go to the export market. I am proud of that leadership, and proud of American leadership in the world market. This has been one of the greatest achievements of Democratic and Republican administrations since World War II. I do not wish to see that leadership eroded by policies that have us living beyond our means. This administration has presided over the largest trade shortfall in history, a first-ever trade deficit with the Communist world, and a loss of traditional U.S. trade advantage with Western Europe and our largest trading partner, Canada.

We can run a budget deficit for a while, and we can sustain a trade deficit for a while. But we cannot take progressively larger losses in the international market without threatening the fundamental health of the American economy.

Mr. President, I ask unanimous consent that an article from the Washington Post of August 30, entitled "Trade Deficit at All-Time High," be printed in the RECORD.

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

TRADE DEFICIT AT ALL-TIME HIGH

(By Stuart Auerbach)

The U.S. merchandise trade deficit soared to an all-time high of $14.1 billion last month as record imports overwhelmed the economy's best export performance in nearly three years, the Commerce Department reported yesterday.

Commerce Secretary Malcolm Baldrige pointed out that the $73.8 billion deficit for the first seven months of 1984 already exceeds the $69.4 billion total for all of last year.

Baldrige blamed the strong growth of the U.S. economy and the high dollar for the record imports. He said a slowdown in American economic growth, as signaled yesterday by the second straight decrease in the nation's index of leading indicators, "should result in some declines or smaller increases in imports."

But, Jerry Jasinowski, chief economist for the National Association of Manufacturers, called the trade deficit "an economic disaster" and predicted it could reach as high as $140 billion for the year. Government economists agreed the deficit will set a record but forecast that it will end up somewhat lower, between $110 billion and $130 billion.

"The trade deficit is going to stay where it is until the dollar declines, which is not imminent," said Michael Evans, president of Evans Economics, a D.C. firm.

A strong dollar, fed by high interest rates and the budget deficit in the United States, lowers the cost of imports to Americans and increases the price of U.S.-made goods overseas. David Lund, senior international economist in the Commerce Department, said the value of the U.S. dollar rose by 5 percent during the summer, further increasing incentives for importers to buy foreign products.

The record trade deficit comes at a time when the Reagan administration is faced with politically sensitive decisions on requests for trade protection from such key industries as steel, copper and textiles. Congress also will be under pressure in its closing weeks to pass bills protecting the same

industries, as well as autos, wine, tuna fish and footwear.

Trade economists blamed some of the surge in imports on the cries for protection, as foreign suppliers raced to beat any possible restrictions.

Steel imports, for example, reached record levels of 2,656 million tons in July, capturing close to one-third of the American market—more than ever before. That is an increase of 871,000 tons from June, when imports amounted to 21.3 percent of the U.S. market.

The record trade deficit exceeded the previous monthly high of $12.2 billion, set in April, by a hefty $1.9 billion, and ended a period of two months when the trade deficits shrank slightly. All figures are seasonally adjusted.

A wide variety of non-petroleum imports—including telecommunications equipment, clothing, iron and steel products, transistors, semiconductors and cars—flooded into the country last month. Oil imports also increased 6 percent. The import total of $33.5 billion was 12.8 percent higher than the previous record, set in April, of $29.7 billion.

The NAM's Jasinowski said the increasing number of capital machinery and high-technology products imported accentuates the seriousness of the trade deficit.

That surge of imports completely eclipsed America's strongest export showing since September 1981. American manufacturers and farmers sold $19.4 billion worth of products overseas last month, a 10.3 percent jump over June and only $200 million less than the previous record.

Exports of manufactured goods increased for the fourth straight month and included heavy overseas sales of car and tractor parts, electric machinery, aircraft, data processing machinery and cars. There also were large increases in exports of wheat, corn and soybeans, although the traditional trade surplus in agricultural sales shrunk to its lowest level ever, $909 million.

The United States ran its largest trade deficit, $4.7 billion, with Japan, up sharply from the $2.8 billion deficit in June. This was caused largely by sharp increases in auto shipments.

Deficits with other major trading partners also grew, totaling $2.04 billion with Western Europe, $1.3 billion with Taiwan, $770 million with Mexico and $1.5 billion with members of the Organization of Petroleum Exporting Countries (OPEC).

STEEL

Mr. BYRD. Mr. President, the September 18 edition of the Washington Post reports that key administration officials are prepared to advise the President with respect to steel imports. The levels of relief reported to be favored by the administration are inadequate.

Steel is vital to the national security of the United States. A comprehensive, long-term strategy that requires investments in modernizations is needed to prevent the involuntary liquidation of America's steel industry.

The Fair Trade in Steel Act is such a proposal. That legislation, of which I am a cosponsor, would provide for a 15-percent quota over a period of 5 years. Yesterday, former Vice President Mondale proposed a similar meaningful long-term strategy—covering 5 years, I believe—to preserve America's steel industry. Mr. Mondale proposed 17-percent quotas over a 5-year period, as I have indicated, coupled with a strong commitment to modernization on the part of the steel industry.

I commend Mr. Mondale for his proposal. I certainly hope that the administration will go further than has been reported and provide meaningful relief for unfairly damaged domestic steel makers. Meaningful relief for steel will benefit West Virginia and other States by providing jobs for thousands of Americans.

Recently, when Mr. Mondale was on the Hill, I took occasion—and he very kindly gave me the occasion—to speak with him briefly about the problems that the steel industry is having, not only throughout the country, but I spoke with particular reference to the problems that the steel industry is having in West Virginia. Meaningful relief for steel will benefit West Virginians and other States by providing jobs for thousands of Americans.

Mr. President, I ask unanimous consent to have printed in the RECORD the Washington Post article to which I have referred, entitled "19% Steel Import Limit Favored," with a subheading, "Key Officials to Advise Reagan."

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

19% STEEL IMPORT LIMIT FAVORED—KEY OFFICIALS TO ADVISE REAGAN

(By Stuart Auerbach)

Key administration officials will advise President Reagan today to force foreign steel suppliers to cut back their imports to about 19 percent of the U.S. market, administration and industry sources revealed yesterday.

That option is one of four that will reach the president as a Saturday deadline nears for a decision on one of the most sensitive political and economic issues confronting him this election year: how much trade protection to give American steel makers. The deadline was forced by an International Trade Commission ruling that American steel makers are suffering substantial harm from imports.

Imports averaged 24.2 percent of the U.S. market for the first six months of this year, but surged to a record 33 percent in July.

None of the options presented by the Cabinet-level task force is likely to satisfy the American steel makers, who called an emergency meeting of their trade asssociation executive committee for this morning to intensify their lobbying efforts. (The industry wants comprehensive 15 percent quotas on imported steel.)

A 19 percent limit on steel imports is being pushed by Commerce Secretary Malcolm Baldrige. Other officials, led by Office of Management and Budget Director David A. Stockman, still were arguing yesterday that such a solution would be too protectionist. High-level administration sources said the Stockman group, which includes Deputy Treasury Secretary R. T. McNamar, would prefer to leave imports at about 24 percent.

Stockman and president assistant Richard G. Darman reportedly met over most of yesterday with steel industry officials. Also in those meetings was Deputy U.S. Trade Representative Robert E. Lighthizer.

Underscoring the political nature of the White House decision (Democratic presidential candidate Walter F. Mondale told Cleveland Steelworkers yesterday that he would cut imports back to 17 percent of domestic consumption for five years to give the industry time to become more competitive internationally.)

The industry, allied in the fight for protection from imports with the United Steelworkers of America, has argued that the votes of the middle America "rust belt" are vital to the Reagan reelection campaign. Farmers, on the other hand, fear that restrictions on steel imports could jeopardize their overseas sales.

Although the Commerce Department's plan to limit imports was reported yesterday to have strong support, sources said the strong disagreement within the administration on the eve of today's meeting of the Cabinet Council on Commerce and Trade made the situation "fluid."

The 19 percent limit on imports has been mentioned to foreign governments, according to representatives of overseas suppliers, however. But other limits, ranging as low as 16 percent, also have been mentioned, administration and industry sources said.

The Commerce plan does not go as far as setting a global quota, which the administration has opposed strongly in the past, and any limits are listed as "targets."

The key to the Commerce option lies in negotiations with key exporting nations to force cuts in their steel sales to the United States.

Chief among these suppliers are the newly industrialized Third World nations of Brazil and Korea, whose steel exports have surged over the past years. Other negotiated orderly marketing agreements are likely to be sought with Spain, another new supplier to the United States, and possibly Sweden, administration sources said.

Korean steel amounts to about 11 percent of all U.S. steel imports, while Brazil accounts for 7 percent.

Under this option, the Reagan administration would use the leverage of the ITC decision in its negotiations with Brazil, Korea and any other nation it wants to include in the OMAs.

The administration already has trade restrictions in force with the European Economic Community and is likely to extend those to cover products such as pipe and tubes, where imports have jumped markedly, sources said.

In an attempt to satisfy the industry, the Commerce plan calls for formalizing voluntary restraints that Canada and Japan already have on their sales to the U.S. market. These could include asking for a rollback from Japan, whose imports this year are almost twice what they were in 1983.

The option favored by the Stockman forces would call for looser arrangements with importing nations and would not rely on the ITC decision for leverage in negotiations, administration sources said. There also would be no way the administration could force suppliers to keep to any negotiated limits.

It does, however, force the steel industry to confront the restructuring needed for it to become internationally competitive—a process that already has started with the

closing of outdated mills and the loss of jobs.

The other two options were given little chance of adoption. They are to do nothing, or to accept the ITC recommendation as it was handed down.

Mr. BYRD. Mr. President, I yield the floor.

APPOINTMENT BY THE VICE PRESIDENT

The PRESIDING OFFICER (Mr. MATTINGLY). The Chair, on behalf of the Vice President, pursuant to 22 U.S.C. 1928a-1928d, as amended, appoints the following Senators as members of the Senate delegation to the North Atlantic Assembly Fall Meeting, to be held in Brussels, Belgium, November 11-16, 1984: The Senator from West Virginia [Mr. RANDOLPH], the Senator from Rhode Island [Mr. PELL], the Senator from Alaska [Mr. STEVENS], the Senator from Missouri [Mr. EAGLETON], the Senator from Delaware [Mr. ROTH], the Senator from Texas [Mr. BENTSEN], the Senator from Nebraska [Mr. ZORINSKY], the Senator from Rhode Island [Mr. CHAFEE], the Senator from Maryland [Mr. SARBANES], the Senator from Utah [Mr. HATCH], the Senator from Alabama [Mr. HEFLIN], the Senator from North Dakota [Mr. ANDREWS], and the Senator from Alaska [Mr. MURKOWSKI].

RECOGNITION OF SENATOR LUGAR

The PRESIDING OFFICER. Under the previous order, the Senator from Indiana [Mr. LUGAR] is recognized for not to exceed 15 minutes.

PROPOSED STEEL QUOTA LEGISLATION

Mr. LUGAR. Mr. President, the United Steelworkers and many major steel companies in the United States have called for urgent consideration and passage of S. 2380, the Fair Trade in Steel Act of 1984. This legislation would place a 5-year quota on imports of steel into the United States, with resulting steel company profits to be reinvested in the steel industry for modernization. S. 2380 calls for a 15-percent overall import quota, requiring allocation by country and by product.

Literature circulated to delegates of the 1984 Republican National Convention by the United Steelworkers states that employment in the steel industry has dropped from 453,000 in 1979 to 243,000 in 1983; that capacity utilization in the industry has dropped from 95.1 percent in 1979 to 65.4 percent in 1983; and that the actual price per net ton of shipped steel has dropped from $514.99 in 1981 to $480 in the first half of 1984. Furthermore, imports as a percentage of steel consumption in the United States have increased from 15.2 percent in 1979 to 25.2 percent in the first quarter of 1984. The steel industry claims that imports have exceeded 35 percent in recent months. The industry argues that foreign imports of steel have led to a sharp decline in employment, in utilization of steel facilities, and in depressed steel prices.

Both steelworkers and various steel companies assert that most foreign imports undercut U.S. steel prices because of governmental subsidies used by foreign steel companies to construct modern steel plants. Additionally, charges are made that a substantial percentage of imported steel is dumped on the U.S. market at prices below cost of production.

U.S. law prohibits dumping, but steelworkers and many steel companies allege that enforcement of antidumping provisions has been grossly inadequate and that only mandatory overall quotas can achieve relief in a timely and efficient manner. The steel industry in the United States suffered total losses of $6.7 billion in the 1982-83 period. Modernization to meet competition is obviously difficult in the face of such losses. Furthermore, the U.S. dollar in relation to other foreign currencies has continued to rise to record levels. These foreign exchange ratios are adverse to U.S. exports and helpful to foreign imports into the United States.

A well-organized effort has been made by steelworkers and certain steel companies to press for the 15-percent quota legislation during the Presidential and congressional campaigns of 1984, with the hope of exerting maximum pressure on the Presidential candidates and Members of Congress. Proponents of the legislation argue that the electoral votes of States which have large steel companies are at stake in the Presidential election and that Members of the Senate and the House of Representatives from States which have steel facilities should be expected to cosponsor S. 2380 and its companion bill H.R. 5081 in order to indicate willingness to help both steelworkers and steel companies at a time of great peril.

A strong and competitive steel industry is vital to our country. Our national defense relies upon adequate steel capacity. The prosperity of many States and regions of this country is dependent on revitalization of the steel industry. In recognition of the need for a strong steel industry, I have supported governmental measures which gave a substantial degree of protection to the U.S. steel industry in the past. I support the most strenuous enforcement of antidumping laws and prompt leveling of penalties and remedies when dumping is proved. I have supported the so-called trigger price mechanism which was designed to bring about easier enforcement of antidumping and unfair shipping procedures. I have supported orderly marketing agreements which have been arranged with Western Europe and Japan and which effectively limit imports from those countries on a voluntary basis which maintains our agreement to abide by international treaties and avoids retaliation by other countries.

After receiving many thousands of letters and petitions from constituents who are employed in the steel industry, listening personally to arguments of many labor and management leaders in the industry, reading strong editorials in some northern Indiana newspapers suggesting that the minimum response that a Senator from Indiana could make is to cosponsor vigorously the 15-percent quota legislation, it is very tempting to say "yes" to these calls for S. 2380.

This is especially true given the lack of well-organized opposition to the legislation and the simple fact that most congressional leaders give the legislation no chance of passage during this Congress.

Nevertheless, I will oppose S. 2380 if it should come before the U.S. Senate. The quota legislation is clearly in violation of our trade agreements and would bring strong retaliation against our agricultural exports and against exports of our manufactured goods. In my judgment, farmers in Indiana who have barely recovered from the disasterous U.S. Government embargo on exports of grain to the Soviet Union in 1979 would face retaliation against our exports which would exceed the losses suffered under the Soviet embargo. During the past few months, the U.S. Government attempted additional protectionism in the textile industry and American farmers suffered the results in direct retaliation by the Chinese Government. Canada has already indicated that strong retaliatory measures will be taken if the steel quota legislation is passed.

Because the issue of more jobs for my State of Indiana is so important to me and to my constituents, I have corresponed with leaders in almost every business sector of Indiana about the steel quote legislation. I have researched the extensive literature on the potential future of the steel industry, including the favorable scenarios in which new breakthroughs in technology are adopted much more rapidly than management and workers have acted in the past.

I am convinced that in the short, intermediate, and long term, more jobs will be lost in Indiana than could possibly be gained by adopting the steel quota legislation. The very modernization which could save the companies will result in fewer steelworkers jobs, leaving aside any effects experienced in other industries. A similar decrease

in the overall number of jobs is occurring in the automobile industry. Much of the most intense collective bargaining has been concerned with the pace of job attrition and provision for workers whose jobs will surely be lost if new competitive supply and production procedures are adopted.

Furthermore, the quote legislation is designed to make it possible for many U.S. steel producers to raise prices or to resist price decreases. A portion of the current steel complaint is that excessive foreign imports have lead to weaknesses in steel prices and thus to lower profits or even to losses. To the extent that steel prices go up, the cost of producing automobiles, farm machinery, and other items which require steel will go up. American industry is locked in a grim struggle with world competitors who have reduced their costs. American industry is in the process of doing the same. A general increase in the price of steel will create substantial loss of jobs in industries which must use higher priced steel.

The argument for the 15-percent quota legislation is often made on the basis that tens of thousands of steelworkers would have the opportunity to return to work. Honest and sophisticated advocates of the legislation admit that under the best of circumstances, 40,000 steelworkers might return to work for a while and not the 210,000 who have lost their jobs since 1979. The stark fact remains that even if 40,000 persons were rehired in the steel industry, many more Americans would lose their jobs due to foreign retaliation against our exports and to higher costs which would make many companies less competitive in world markets.

It is probable that increased modernization of the steel industry in this country will lead to fewer jobs whether the quota legislation is passed or not. It is only fair that citizens in the States and districts most vitally affected should know that steel jobs will be fewer, rather than being led to support quotas in the hope of producing jobs which are simply not going to exist under any circumstances.

An even more unfortunate misunderstanding is the assumption that a 15-percent quota for 5 years could be enforced any better than current antidumpting legislation. Advocates of the 15-percent quota have not explained how estimates are to be made for the precise quantities of each category of steel in a target year to be imported from each steel-making country. Annual estimates of steel usage in the United States vary markedly depending upon the vigor of economic activity in our country.

Failure to estimate correctly the need for specific items from specific countries will lead to bottlenecks and inefficiencies in production and to the loss of American jobs due to the self-imposed quotas. The complexities of estimates, measurements of compliance, and ensuing enforcement procedures are mind boggling. A 15-percent quota bill is not self-enforcing. The case for voluntary agreements is that if all nations involved desire to arrange import-export questions, mutual enforcement is possible without recrimination and retaliation and without the endless enforcement hassles which lack of cooperation will produce.

In coming to my conclusion to oppose S. 2380, I have not argued whether the managers of steel companies in the United States have been adequate, whether labor contracts entered into with the United Steel Workers were wise, or whether more astute marketing efforts could have produced greater demand for steel in this country and around the world. It is now apparent that management of many steel companies did not make the best production and marketing choices in the past. It is apparent that some companies and the United Steel Workers entered into wage and benefit contracts that are now difficult, if not impossible, to sustain in the form of more jobs or continuation of present jobs. Manufacturers have substituted less expensive materials. Without strenuous marketing efforts, these substitutions will continue.

The United Steel Workers and various steel companies will have to take extraordinary measures to maintain remaining jobs and solvency of the companies. It is apparent that productive efficiency has increased substantially in recent months. But it is equally apparent that many steel companies have decided not to invest in additional competitive facilities and have chosen to import steel products that assist their marketing strategies. Many steel workers are not prepared to amend labor contracts, recognizing that even major sacrifices will not guarantee either new jobs or retention of existing jobs.

The reactions of both management and union members are understandable. But it is also understandable that the remainder of American industry that uses steel and American agriculture which would feel the brunt of retaliation against American exports should be reluctant to support strongly protectionist legislation which has only very limited prospects for assisting steel workers.

One of the ironies of the debate on quota legislation has been an extraordinary rush by many American companies to import steel in order to beat the potential imposition of quotas. This surge of imports has been accompanied by steel company announcements that additional workers are being laid off.

The denial of quotas to certain specialty steel companies has led to fears that quotas on carbon steel products would lead to other steel imports flowing into unregulated areas. Finally, in the event that quotas on all kinds of steel should be imposed, fabricators of steel products fear that steel will enter the United States in the form of finished products. Congressional debate on quotas to stop imports of all manufactured products would be an endless and self-defeating process.

The U.S. Congress passed tax legislation in 1981 which was very helpful to the steel industry and to most of the rest of American industry. The strong economic recovery could lead to substantial new orders for steel if steel companies furnished the products which the rest of American industry desired at prices which are competitive. These overall economic policies should be coupled with stringent antidumping enforcement, the strengthening of free trade procedures in the world, and targeted assistance to individual steel workers and steel communities to bring about a humane transition from employment of the past to productive employment in the future.

Whatever may be the economic demerits of S. 2380, it comes before us because over 200,000 American steel workers have lost their jobs and have no reasonable prospect of ever seeing those jobs again. But we must be honest: Blatant protectionism will not restore those jobs. And blatant protectionism will not create long term new jobs in the steel industry. The emotional satisfaction of quotas cannot substitute for sound judgment about how to meet the human suffering which the transition in the steel industry has caused. We will need our very best competitive efforts to ensure the future of a vigorous American steel industry and to meet the needs of persons attempting to surmount a large transition in that industry. I pledge to work with President Reagan and congressional leaders to meet those needs.

RECOGNITION OF SENATOR PROXMIRE

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

LET'S NOT GIVE UP ON ARMS CONTROL AGREEMENTS WITH THE SOVIET UNION

Mr. PROXMIRE. Mr. President, in a Wall Street Journal column on June 15, Suzanne Garment bemoans the lack of quick and indignant reaction in this U.S. Senate to the increasing evidence that an investigation by the Italian state prosecutor concludes that the Bulgarian Communist Govern-

ment hired and controlled the man who shot and tried to kill Pope John Paul. Since the Bulgarian Communist Government has been a consistent and unresisting puppet of the Soviet Union, the clear implication is that the Soviet Union directed the assassination attempt against the Pope. Suzanne Garment says as much. "How," ask Ms. Garment, "do we deal with a regime that no longer fears to commit such a crime?"

Now, Mr. President, the Italian prosecution report makes this charge. What does this reveal that 95 percent of all Americans did not already know and understand about a communist government that through the years has consistently used any means to achieve its ends, and indeed declares to the world that the means—no matter how evil or vicious, violent or destructive—are justified by their end. That end is the international supremacy of the Communist state. Soviet governments have lived by this warped dogma since they first seized power in Russia in 1917. So what is new?

What is new is that Ms. Garment quotes Kenneth Adelman, the Arms control and Disarmament Chief, as finding in the story the basis for beating up on those who advocate arms control agreements with the Soviet Union. Here is the reaction Ms. Garment got from Adelman:

> The Pope's story arouses no self-doubt in true arms controllers. They just keep repeating that we and the Soviets have a common stake in preventing nuclear war. But dialog doesn't moderate Soviet behavior. I've actually made up a chart for the years 1972 through 1979, showing how we keep talking to them and they keep right on doing unpleasant things. We sign SALT I and they ship new weapons to North Vietnam; we sign SALT II they put a brigade in Cuba. Are there any circumstances under which we're finally supposed to say "no"?

If this reaction by the administration arms control chief means anything, it means that as long as Ronald Reagan is President we should write finis to arms control agreements with the Soviet Union.

Mr. President, read and ponder that statement by the man who President Reagan appointed as head of our Arms Control Agency and who still enjoys the President's support as his arms control spokesman, and then tell me that the administration believes in arms control. Oh sure, maybe he believes that we can engage in arms control treaties with Canada or Switzerland.

The Governments of Canada and Switzerland are good and moral and when they make an agreement they live up to it. They are democracies. They are peace loving. They would react in horror to any plot to kill the Pope. But Canada and Switzerland are not nuclear superpowers. There is only one nuclear superpower—other than the United States. And like it or not that nuclear superpower is very possibly the power that is also responsible for shooting and trying to kill the Pope.

Mr. President, this Senator vigorously disagrees with arms control Director Adelman. I say: "yes, indeed." We certainly should try to negotiate arms control with the Soviet Union. We should do so knowing that the Soviets will in the future, as they have in the past, surely violate the agreement any time they get away with it, or even if they cannot get away with it—if the violation is in their interest. Everybody knows we are not dealing with Mother Theresa when we deal with the Soviet Union. So we should never commit the error we committed when we negotiated the biological warfare treaty with the Soviet Union. They are violating that treaty today in Afghanistan. And why do we not do something about it? Because when we negotiated the treaty we failed to provide any verification or any compliance provisions. So why should their violation of such a toothless treaty surprise us? This is like passing a law to reduce the murder and robbery in a crime ridden city but providing for no police, no courts, no penalty for violation, and then wondering why the murders and robberies continue.

Arms Director Adelman complains that "we sign SALT I with the Soviets and they send new weapons to Vietnam. We sign SALT II and they put a brigade in Cuba." Does Adelman simply think that they would not have sent new weapons to Vietnam if we had not signed SALT, or that they would not have put a brigade in Cuba if we had not signed SALT II? Obviously the actions cited by Adelman are totally irrelevant to arms control treaties with the Soviet Union. They have nothing whatsoever to do with it—nothing, Mr. President. The question is whether these treaties on balance have helped keep nuclear peace. If there were violations, were the violations of military significance? If they were of military significance, has this Nation on balance suffered or gained from the treaty? If we have suffered, what can we learn from it? Does it mean that we should refuse to enter any further arms control treaties with the Soviet Union? Or, does it mean that we should only sign these treaties with adequate verification and compliance features, that we should monitor the Soviet Union's compliance painstakingly, that we should call attention publicly and promptly to any violations, and that we should push hard for the violations to cease?

What we need, Mr. President, is arms control that is tough, thorough, and realistic. But we must recognize that the rejection of arms control agreements with the Soviet Union, as Adelman and Garment propose, would place our entire reliance on a nuclear arms race that would sweep out of control and would make nuclear warfare more likely.

Mr. President, I ask unanimous consent that the column by Suzanne Garment from the Wall Street Journal of June 16 to which I have referred be printed at this point in the RECORD.

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

SOVIET CONNECTION: HOW MUCH PROOF DO WE NEED?

(By Suzanne Garment)

"No, I haven't heard anything," said a senator much involved in foreign affairs. "Maybe it's because I've been absorbed in the defense appropriation." An aid to Sen. Claiborne Pell (D., R.I.) allowed, "He hasn't been following this one particularly closely." Stuart Eizenstat, a former high Carter administration official and now a Washington lawyer said, "I've been on the Hill since the story broke. I've been talking to senators and representatives. The staggering thing is that this has not had any major impact."

These local citizens were talking about Washington's reaction to the huge front-page story by free-lance journalist Claire Sterling in last Sunday's New York Times. Ms. Sterling had gotten hold of a still-unreleased report by Italy's state prosecutor concluding that the Bulgarian government had indeed hired and controlled the man who shot the pope.

Her news was a shocker. True, from the day three years ago when a Turkish gunman struck down John Paul II in St. Peter's Square, a few writers and reporters had pursued the "Bulgarian connection." Ms. Sterling was one. So was Marvin Kalb, chief domestic correspondent for NBC News. Mr. Kalb remembers that while he worked, some American intelligence officials undertook "a deliberate, sustained effort to undercut the validity of the story." And the foreigh-policy establishment voiced sophisticated doubt: The Russians would never run such a sloppy operation and risk making a martyr of the pope.

Now, with the prosecutor's report, the Italian judicial system is moving quite deliberately toward confirmation of the worst suspicions about the Bulgarian role. The report leaves little doubt that the Italians also believe the Soviets ultimately pulled the strings. Mind you, this is from Italians—no American hawk paranoids but instead people who live with a new government it seems every 30 days. You simply cannot doubt their word.

For the first time we cannot avoid the full horror of what the Soviets have done. They shot the pope. This was not just stealing an election in some Godforsaken place or jabbing a poor slob in the leg with a poisoned umbrella or slipping a venom cocktail to some miserable Third World leader whom no one would ever miss. This was the actual pope, symbol of God's spirit through time on earth not only in theory but even occasionally in fact. How are we to deal with a regime that no longer fears to commit such a crime?

Washington seems to entertain none of these large worries. Since the report is not yet official the Reagan administration cannot make much of an official response. But as late as this week, Mr. Kalb reports, some American intelligence types were still

saying that the assassin was "controlled" for the purpose of running drugs into Western Europe but shot the pope on his own.

Michael Ledeen, a foreign policy scholar and consultant to the State and Defense departments, is a longtime exponent of the Bulgarian connection. He expressed no surprise this week that parts of our government should resist the implications of the news about the pope. The trouble was not just ideological: Even some hawks had always maintained that the formidable Russians would not run an operation as inept as the one that wounded the pontiff.

For some time, he explained, our government has not been good at gathering the type of information crucial to this case. The shooting was characterized as a domestic matter and investigated by the Italian judicial system, not by an intelligence agency with which our agents have many contacts. Our people did not know enough to be convinced of the Bulgarian plot, and our high government officials are reluctant to challenge the judgment of their own troops. By now our people have developed a stake in their own theories and a typical case of bureaucratic resentment. They've become stubborn customers.

An editor of a national news magazine said he had heard just about nothing in the wake of the Times story and pointed to structural reasons why the press, too, was keeping quiet. There was no conspiracy, but journalists will always denigrate a story they didn't get first. " 'Oh,' they'll say, 'we already knew that.' " There was also an ideological component. The theory of Bulgarian involvement had bloomed mainly in the right-wing press. This devalued the story in the eyes of establishment journalists. "They think it's a version of Redbaiting, and that they're much too sophisticated for such things," the magazine editor said.

Kenneth Adelman, head of the Arms Control and Disarmament Agency, has also come across a lot of silence: "The pope story arouses no self-doubt in true arms controllers. They just keep repeating that we and the Soviets have a common stake in prevent-ing nuclear war. But dialogue doesn't moderate Soviet behavior. I've actually made up a chart for the years 1972 through 1979, showing how we keep talking to them and they keep right on doing unpleasant things. We sign SALT I and they ship new weapons to North Vietnam; we sign SALT II, they put a brigade in Cuba. Are there any circumstances under which we're finally supposed to say 'no'?"

Students of American foreign policy today all read the work by Roberta Wohlstetter telling how America ignored the warning it got about the impending Japanese attack on Pearl Harbor. The information was lost among too many messages and too much clever explaining away. So far, the Bulgarian story here is sinking like a stone, and we can see clearly how our foreign-policy elite's routines and assumptions conspire to keep it at the bottom of the lake.

PRESIDENT REAGAN DISREGARDS DANGERS OF DEFICIT

Mr. PROXMIRE. Mr. President, on another subject, a couple of weeks ago this Senator spoke on the Senate floor about the total eclipse of the Council of Economic Advisers. Since Martin Feldstein, the Chairman of the Council, resigned a couple of months ago, President Reagan has not only failed to nominate a successor, but he has failed to name an Acting Chairman. So the Council must carry on as a nonagency. Obviously, the Council of Economic Advisers has one function. That function is to give economic advice. Only one person can speak with authority for the Council: its Chairman. But what happens when there is no Chairman, and not even an Acting Chairman? No one can speak for the Council. The President had indicated he has no intention of naming a Chairman or even an Acting Chairman until after the election. The President's failure to name an Acting Chairman is virtually without precedent. It means that for all intents and purposes the agency has been abolished. So where does the President go to get his economic advice? The September 24 issue of Newsweek reports that the "closest thing to an economic adviser that President Reagan now has" is Edwin Meese. Now Meese is a lawyer, not an economist. So where does Meese get the economic advice he funnels to the President? Newsweek reports that Meese gets his advice from the so-called supply-side gurus such as Arthur Laffer, Paul Craig Roberts, and Jude Wanniski. And what is the nature of this supply-side guidance? They are telling the President to forget about the views of the bulk of economists. They contend the economy will grow, interest rates will fall, and the deficits will disappear without a tax hike or a spending reduction. Newsweek reports that an administration official says the President is not convinced that anything has to be done about the mammoth deficits.

Let me repeat that. Newsweek reports that an administration official says the President is not convinced that anything has to be done about the mammoth deficits.

Now just stop and think that one over for a long minute. Do you find that as disturbing as I do?

Mr. President, economics is an extraordinarily inexact and unreliable discipline. Even the most accomplished and widely respected economists have often been wrong. Economists cannot predict with any certaintly what will happen to unemployment. prices or interest rates or economic growth next month, next year or 10 years from now. Why is this? Why is it that with all the resources and human intelligence we have concentrated on economics in recent years, with the Nobel Prizes that have been earned by economists, especially American economists, with the impressive adaptation of mathematics to economics, with the vast expansion of statistical knowledge of our economy, with the rush of technology into economics—with computers that can organize and collate infinite relevant data and with worldwide communications that can instantly bring knowledge of economic developments from anywhere in the world to bear on economic problems—why is it that with all this dazzling new advance, modern economists can give us not better predictions on future economic activity and the effect of particular policies on the economy than a gypsy with a crystal ball? And if the best professional economists cannot give us any reliable advice on what effect the policies our Government follows will have on the economy, what difference does it make if the President of the United States gags his professional economists and gets advice from a far-out economic fringe group?

The answer, Mr. President, is that economics is a matter of approximations and probabilities, not of precise determinations and certainties. That means that economists can tell you, as the overwhelming majority of them will, that massive Federal deficits of between $150 billion and $200 billion do matter. They can tell you that as those deficits go on, and the national debt approaches $2 trillion, interest rates will very likely go up—not down. They can tell you that the economy is not self-correcting. They will tell you that no one has repealed the business cycle, and that means we will probably have a recession in the next 2 or 3 years. They can tell you that when that recession comes, the deficit will go to $300 billion or $400 billion, or more. They will tell you that the only reasonable policy to reduce the budget is the painful old-fashioned way: less spending and increased taxes. They will tell you the budget deficit is so severe that we have no choice except to cut spending, raise taxes, and do both in a major and substantial way.

This is what a consensus of competent economists would tell us. Our own common sense would tell us the same thing. All of us know we cannot run a family, a business firm, a city, or a State by spending a great deal more than we take in year after year.

Now, how about that, Mr. President? Here we have the consensus of competent economists agreeing that only the painful, unpopular medicine of both cutting spending and increasing taxes will bring our mammoth Federal deficits under control. We also have our own common sense tempered by all the experience of our lifetime telling us the same thing. Sometimes it seems that this happy coincidence does not occur very often. For once we have the professional economists and our own common sense on the same side.

So whether you believe that professional economists can give useful advice to the President of the United States or whether you believe that common sense is the best guide, President Reagan is making a serious mistake that can have tragic consequences for this country in slapping a

gag on the Council of Economic Advisers and getting his advice from the far-out supply siders.

I ask unanimous consent that the section of the Periscope column from the September 24, 1984, issue of Newsweek, headlined: "A New Portfolio for Meese" be printed in the RECORD.

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

A NEW PORTFOLIO FOR MEESE

Embattled Attorney General-designate Edwin Meese III has quietly become the closest thing to an economic adviser that President Reagan now has. With Reagan pointedly declining to replace deficit-doomsayer Martin Feldstein as chairman of the Council of Economic Advisers, Meese has filled the vacuum on an unofficial basis. He now functions as a back-channel conduit for the recommendations of influential supply-side thinkers such as Jude Wanniski, Arthur Laffer and former Treasury man Paul Craig Roberts. These and other conservative economists are reportedly arguing that all conventional analyses—including those of David Stockman of the Office of Management and Budget—are wrong, and that rapid economic growth and declining interest rates will nearly wipe out the federal deficit by the end of the decade without a tax rise or even spending cuts. Stockman's calculations project a $139 billion deficit by 1989; the Congressional Budget Office foresees $263 billion worth of red ink. "But the president isn't really convinced anything at all has to be done [about the deficit]," says an administration official.

ALLEGED ATROCITIES IN INDONESIA

Mr. PROXMIRE. Mr. President, the August 30 issue of the Washington Post ran an article on alleged atrocities in Indonesia. Included in these allegations are cases of church burning, decapitation, and the raping of nuns.

The Government of Indonesia is allegedly carrying out these horrendous acts in an attempt to discourage dissent in the country. Reprisals by the army are said to have forced over 11,000 people to flee Indonesia and seek refuge in neighboring New Guinea. These alleged acts are some of the most barbarous possible against humanity, and represent a pure, absolute, evil that is unacceptable in any society.

The United States has consistently spoken out against human rights violations throughout the world, and has conscientiously embraced humanitarian values at home. But, it is not enough to simply live up to our ideals. It is time we act positively and back them up with a clear denunciation of crimes against humanity.

The most fundamental and unacceptable of these crimes is genocide, and we in the Senate have an opportunity to take action against this barbaric activity by ratifying the Genocide Treaty.

Genocide is the planned, premeditated, extermination of an entire ethnic, racial, or religious group, such as the killing of 6 million Jews in Europe by Hitler before and during World War II. The purpose of the treaty is to make genocide an international crime.

It is clear, in accordance with the Legal Committee of the United Nations, that Americans still have the right to be tried before American courts if accused of crimes abroad. This right is not threatened by the Genocide Treaty. the only thing that is threatened is the right to commit genocide.

Let us stop being fearful of spurious assumptions and take action to outlaw the act of genocide. Let us allow ourselves to denounce genocide emphatically and without reservations or embarrassment. Let us eliminate the hypocrisy from this area of our foreign policy and join the other developed nations, over 90 in number, who are party to the treaty. Let us outlaw this worst of all crimes and ratify the Genocide Treaty.

WISCONSIN VOTER OPINIONS

Mr. PROXMIRE. Mr. President, each year I send out a questionnaire to over 100,000 Wisconsin residents—inviting them to be the Senator from Wisconsin and take on the difficult questions of the day. On average I receive over 10,000 responses which is a statistically significant return that far overshadows the numerically smaller telephone surveys usually used for national opinion polls.

These questionnaires have shown that attitudes have changed in Wisconsin over the years on several major issues. Take military spending for example. In 1979, 20 percent of the respondents favored increasing defense expenditures while 33 percent wanted a decrease and 47 percent favored holding defense expenditures at the current level. That attitude changed dramatically by 1981 when 67 percent favored an increase compared to 11 percent on the decrease side. Then beginning in 1982 that mood began to shift again. The 67 percent in favor on an increase in 1981 dropped precipitously to 13 percent followed by 9 percent in 1984. Similarly the percentage supporting a decrease in military spending jumped from 11 percent in 1981 to 52 percent in 1982 and 58 percent in 1984.

This message is clear. Many citizens thought that U.S. defenses should be beefed up. But they disapprove of the magnitude of the increase under the Reagan administration and also they do not support the specific types of weapons being funded.

In the August 1984 poll, for example, by margins of about 63 percent to 37 percent, Wisconsin citizens rejected funding for the B–1B bomber, the MX missile and the President's Star Wars ABM plan. They also said we should not sell nuclear reactors or radioactive materials to the Peoples Republic of China nor should we provide them with military equipment.

On the foreign policy front, the proposed economic and military aid package to El Salvador was supported by only 24 percent of the respondents while 34 percent said no assistance should be provided and 38 percent said the President's request was too high. Almost 70 percent opposed the CIA sponsored war against Nicaragua and 64 percent said the intervention in Lebanon was a mistake. But 59 percent, on reflection, thought the intervention in Grenada was a necessary action.

Mr. President, when the Racine Journal-Times editorial board saw this questionnaire, they decided to answer each issue themselves. In almost every case, the Journal-Times responses paralleled the statistical results from the questionnaire.

Mr. President, I ask, unanimously that the questionnaire results and the Racine Journal-Times survey response be printed in the RECORD.

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

LAST MONTH'S QUESTIONNAIRE RESULTS

Don't send U.S. troops to El Salvador! The aid to that country is too high. Charge new fees and raise existing ones for use of federal lands. Don't sell military equipment or nuclear reactors to the People's Republic of China. That's what about 10,000 of you told me loud and clear when I asked you in last month's questionnaire to be the Senator from Wisconsin.

A hefty majority of you opposed the B–1B bomber, the MX missile and the "Star Wars" proposal for a space-based, anti-ballistic missile system. A little over half of you thought that both the Soviet Union and the United States share the blame for the current standstill in arms control negotiations. And a whopping 96 percent think that spending on political campaigns is too high.

Here are the results, item by item, as you saw it.

1. The President has proposed that economic and military assistance to El Salvador be increased to a level of $422 million. Do you think this amount is: Too high, 38%. About Right, 24%. Too Little, 4%. Should provide no assistance, 34%.

2. Do you support the President's policy of conducting a CIA sponsored guerilla war against the Nicaraguan government? Yes, 31%. No, 69%.

3. Should the United States send troops to fight in El Salvador if necessary to keep the government from collapsing there? Yes, 18%. No, 82%.

4. In retrospect, do you believe that sending of U.S. troops to Lebanon was: A mistake, 64%. A necessary action, 36%.

5. In retrospect, do you believe that the sending of U.S. troops to Grenada was: A mistake, 41%. A necessary action, 59%.

6. Arms control negotiations with the Soviet Union seem to be at a standstill. On whom do you primarily place the blame for this? The U.S., 11%. The USSR, 33%. Both, 56%.

7. Do you believe the United States should sell military equipment to the Peoples Republic of China? Yes, 34%. No, 66%.

8. Do you think the United States should sell nuclear reactors and the radioactive materials to run them to the Peoples Republic of China? Yes, 23%. No, 77%.

9. How do you stand on the funding of the following major weapons systems that have been so much in the news lately? B-1B bomber yes, 38%; no, 62%. MX missile yes, 37%; no, 63%. The "Star Wars" plan for a space based ABM yes, 36%; no, 64%.

10. In 1984, those running for political office at the national, state and local level will spend well over $1 billion to pay for their campaign expenses. Based on your experience, do you think that spending on political campaigns is: 96%, too high; 1%, too low; 3%, about right.

11. Would you favor using a small amount of your taxes (about $1) to pay for a part of the cost of Federal political campaigns if, at the same time, Congress set strict limits on the contributions from special interests and on the overall amount of money candidates could spend? Yes, 72%. No, 28%.

12. In order to decrease the budget deficit and increase funds for recreation, the Reagan Administration has proposed charging new fees and raising existing ones for use of federal lands.

Would you favor:

a. Charging entrance fees for wilderness areas, wild and scenic rivers, national recreation areas and national trails? Yes, 59%: no, 41%.

b. Increasing entrance fees for national parks? Yes, 62%: no, 38%.

c. Charging fees for all camping on federal lands? Yes, 73%: no, 27%.

d. Charging entrance fees at national wildlife refuges? Yes, 61%: no, 39%.

13. There are a number of possible approaches to reducing the surplus of dairy products now being stored in government warehouses. Which of the following do you favor?

a. Continuing current law assessing dairy farmers 50 cents per hundred weight and then utilizing the funds derived from the assessments to help pay dairy farmers who voluntarily reduce their marketings? Yes, 33%: no, 67%.

b. Repealing dairy price support laws entirely and letting milk prices fluctuate with the market? Yes, 65%: no, 35%.

c. Eliminating or restricting casein imports as a means of partially reducing our dairy surplus by preventing these imports from displacing our domestic dairy production? Yes, 76%: no, 24%.

d. Restoring the full Special Milk Program (also known as school milk) as a means of partially utilizing our dairy surplus while also contributing to the health and nutrition of our children? Yes, 87%: no, 13%.

[From the Racine Journal-Times, Aug. 26, 1984]

PROXMIRE SEEKS ANSWERS

Wisconsin Sen. William Proxmire's August report to his constituents took the form of a questionnaire, which Proxmire described as offering the voters of Wisconsin an opportunity to "be the senator" and speak out on how they view a number of controversial issues the nation is facing and how they would handle the problems.

Members of the Journal Times Editorial Board, in response to the survey, came up with these observations:

Question: The President has proposed that economic and military assistance to El Salvador be increased to a level of $422 million. Is this too high, about right, too little, or should no assistance be provided?

Response: Too high; the funds apparently would go toward supporting a despotic form of government involving terrorism and death squads aimed at repressing the people.

Question: Do you support the President's policy of conducting a CIA-sponsored guerilla war against the Nicaraguan government?

Response: No; it smacks of depriving citizens of that country of their right to self-determination of government.

Question: Should the United States send troops to fight in El Salvador if necessary to keep the government from collapsing there?

Response: No; the United States should refrain from inflicting its will on other countries, especially if the desires of the U.S. are not the desires of other countries' citizens. We should have learned from Vietnam.

Question: In retrospect, do you believe that sending of U.S. troops to Lebanon was a mistake, or a necssary action?

Response: A mistake; a serious strategic error and, considering the non-stable conditions of that country, the result should not have came as a great surprise.

Question: In retrospect, do you believe that the sending of U.S. troops to Grenada was a mistake, or a necessary action?

Response: Although the idea of sending the troops was not generally favored in light of later revellations of possible infiltration of Grenada by powers unfriendly to the U.S., the military deployment appears to have been a necessary action in order to protect this country's interests.

Question: Arms control negotiations with the Soviet Union seem to be at a standstill. On whom do you primarily place the blame for this—the U.S. the USSR, or both?

Response: Both; neither power appears to be sincerely interested in negotiating this hot potato, which points up an overwhelming lack of trust on the part of both countries.

Question: Do you believe the United States should sell military equipment to the Peoples Republic of China?

Response: No; outside of the money to be reaped, it is not in the best interest of the U.S. in the long run. The Chinese government reflects a tinder keg area; the U.S. should not be responsible for adding to the potential of future military action.

Question: Do you think the United States should sell nuclear reactors and the radioactive materials to run them to the Peoples Republic of China?

Response: No; there is no real guarantee they would be limited to peaceful uses, rather than devoted to constructing nuclear armaments of destruction.

Question: How do you stand on the funding of the major weapons systems—the B1-1B bomber, the MX missile, and the "Star Wars" plan for a space-based AMB—that have been so much in the news lately?

Response: Much further information would be required before an informed and definite stand could be developed.

Question: In 1984, those running for political office at the national, state and local level will spend well over $1 billion to pay for their campaign expenses . . . do you think that spending on political campaigns is too high, too low, or about right?

Response: Too high, because the manner in which the funds are spent is not controllable. An honest presentation of a candidate's qualifications is needed, not hyperbole or rhetoric designed to camouflage the issues and intentions of candidates in an effort to sway the voters.

Question: Would you favor using a small amount of your taxes (about $1) to pay for a part of the cost of Federal political campaigns if, at the same time, Congress set strict limits on the contributions from special interests and on the overall amount of money candidates could spend?

Response: Yes; reducing the influence of special interest groups could only be good in that it would remove the "beholden" aspect of elected officials, making them more responsible to the majority of the citizens they should represent.

Question: In order to decrease the budget deficit and increase funds for recreation, the Reagan Administration has proposed charging new fees and raising existing ones for use of federal lands. Would you favor: 1. Charging entrance fees for wilderness areas, wild and scenic rivers, national recreation areas and national trails? 2. Increasing entrance fees for national parks? 3. Charging fees for all camping on federal lands? 4. Charging entrance fees at national wildlife refuges?

Response: Yes to all four; user fees result in the majority of costs being funded by those persons who actually derive the benefit, rather than saddling all citizens for the benefit of the few.

Question: There are a number of possible approaches to reducing the surplus of dairy products now being stored in government warehouses. Which of these do you favor? 1. Continuing current law assessing dairy farmers 50 cents per hundred weight and then utilizing the funds derived . . . to help pay dairy farmers who voluntarily reduce their marketings. 2. Repealing dairy price support laws entirely and letting milk prices fluctuate with the market. 3. Eliminating or restricting casein imports as a means of partially reducing our dairy surplus by preventing these imports from displacing our domestic dairy production. 4. Restoring the full Special Milk Program (school milk) as a means of partially utilizing our dairy surplus while also contributing to the health and nutrition of our children.

Response: Repeal dairy price support laws. In a free market system the cream should rise to the top: those who can do the job would be determined; those who rely on costly subsidies would be weeded out.

ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I ask unanimous consent that the time for routine morning business be extended until 12:05 p.m. under the same terms and conditions.

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

ADULT ILLITERACY

Mr. LEAHY. Mr. President, one matter, little treated by the media in America, is the problem of adult illiteracy. It should be a mark of concern to all of us in the Senate that in the wealthiest, most powerful Nation on Earth we have more than 25 million Americans functionally illiterate.

Because of this, the work of those who tutor adults is extremely important. I am very proud of the work done by Vermont's Adult Basic Education Program, which was recently described in an extensive article in Newsweek magazine.

I know many of those who selflessly put in uncounted hours to work with adults in Vermont and how much our State has gained from that. I am especially aware of the work done by my sister, Mary Leahy, in that program, and a brother's natural pride is constantly increased as I watch her carry out such a vital and useful function in our society.

Mr. President, I ask unanimous consent that the full article from Newsweek be printed in the RECORD.

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

[From Newsweek, July 30, 1984]

ONE-ON-ONE AGAINST ILLITERACY

The moment of truth comes at different times. For Waldo Gilcris, 47, a junior-high-school dropout and construction worker in Vermont, it came three years ago when he was denied a promotion because he couldn't handle some of the forms. Rose Patterson, also of Vermont, realized as a mother of two in her 30s that "children like to have stories read to them and I wasn't much of a reader." Mary Kay, of Brawley, Calif., who did not want to give her last name, faked her way through high school, got married and had children, but had to face the truth when she got it into her head to become a famous romance writer. Even romance writers have to know how to read.

The problem that each of them confronted is both more common and less often recognized than either cocaine abuse or alcoholism. An estimated 26 million American adults, one in five, are functionally illiterate; they are incapable of reading everyday job applications, balancing a checkbook or decoding a newspaper headline. The problem touches New York's wealthy Westchester County just as it does the rural South, and it has a powerful ally in ignorance. "America doesn't know she can't read," says Bette Fenton, national director of a literacy campaign run by B. Dalton, the bookstore chain.

Increasingly, solutions focus on one-to-one tutoring by volunteers or community agencies. It is more time-consuming than adult-education classes but more effective, proponents argue, for reaching people long disillusioned with school. "Opening classrooms to people who grew up hating the classroom is not going to solve the problem," says Mary Leahy of Vermont's Adult Basic Education Program. Some of that program's students, in fact, are dropouts not only from high school but also from adult reading classes. Embarrassment is a factor. Waldo Gilcris has been studying with his tutor one night a week at his kitchen table because he hadn't wanted to announce to the world, or a class of his peers, that he couldn't read. For others, however, once they've declared that they need help, privacy is less important than getting individual attention. "I'm not ashamed of learning how to read," says Emanuel Demickis, 34, who is tutored each week at the White Plains, N.Y., public library. "It's a shame if you don't."

RECIPES

The Vermont program is one of the more effective because it extends into every corner of the relatively small state. And because the population—especially the illiterate adult population—is so rural, tutoring is the only way to reach many of the 58,000 who need help. The state and federally funded program maintains a staff of 38 part-time and 56 full-time paid tutors who earn a starting salary of $11,000 and travel an average of 800 miles each month to reach their charges. For many who are tutored, the ultimate goal is a high-school equivalency diploma, which can take them as long as five or six years to get. Tutors often begin helping students master practical skills, using household materials as tools and incentives for learning. Rose Patterson, for example, has been learning to read medicine labels, recipes, children's books and the Bible.

Vermont's Leahy insists that volunteers alone can't combat illiteracy—that more programs need paid, full-time help. But so far, volunteers seem to be carrying the tutoring load. The largest and oldest volunteer effort is run by Laubach Literacy Action, which boasts 30,000 volunteers in 600 local affiliate programs in 46 states. Each tutor undergoes 10 to 15 hours of training to use Laubach's structured curriculum of reading skills beginning with the names and sounds of letters. Literacy Volunteers of America (LVA), Inc., based in Syracuse, N.Y., as is Laubach, has 200 programs in 31 states and the support of grants from B. Dalton, the Gannett Foundation and the Federal government. Its national spokesman is cookie mogul Wally (Famous) Amos.

DEDICATION

The program relies on thousands of volunteers such as William Walters, for 34 years a bus driver in Chicago. Walters decided that other people needed help when his route was changed and passengers started rushing off the bus as he turned down a different street. "I finally realized that they couldn't read," he says, "and had been catching a driver, not a bus." Despite the dedication of tutors like Walters, Linda Church, director of field services for Laubach, worries that efforts to solve the problem may amount only to kicking sand against the tide. "We're finding that all the agencies are just hitting the tip of the problem," she says. "With students dropping out and some schools still turning out students who are functionally illiterate, the number of illiterate adults tends to remain static."

Both Laubach and LVA are part of the Coalition for Literacy, which draws together 11 national literacy groups under the auspices of the American Library Association. This fall the coalition will launch a nationwide media campaign to educate the public that the public badly needs more educating. Jean Coleman of the coalition contends, however, that the national approach works best only when triggering local action. "Although it is a national problem," she says, "the solution lies in local community resources."

Illiteracy, after all, is an intensely personal problem. The private burden can be heavy for people like California's Mary Kay, who paid classmates to take notes for her in school and tried to kill herself at 15. It is also a family problem with almost hereditary effects: illiterate adults cannot be expected to give much educational support to their children, who in turn are likely to become poor learners. That is one of the reasons that Linda Tallman, who lives in the hills outside Elmore, Vt., decided to seek help. Having dropped out of school pregnant after the eighth grade, she now wants to become a mechanic—and a better mother. "My children aren't going to quit school like I did," she vows, providing a powerful role model by sitting down with a tutor every Thursday as her children look on. The process worked in reverse for Waldo Gilcris; when he decided he needed to learn to read, he approached the tutor he had watched helping his daughters. Now he no longer has to guard the secret that was shared only by his wife, and he often proudly begins sentences with the phrase, "I was reading just the other day * * *"

GROWING CONCERN OVER INCREASED PCP USE

Mrs. HAWKINS. Mr. President, previously on these pages I have spoken of the special problems of the drug known as PCP. Additional information has since been released regarding this dangerous narcotic, and it seems that the situation continues to worsen.

In a recent Washington Times article, it is reported that use of PCP in the District of Columbia has increased to epidemic proportions. There were, for example, 310 arrests in 1982 for PCP sales, in 1983, arrests jumped to 1,040, and so far this year, arrests have increased 30 to 40 percent. Emergency room admissions for PCP abuse nearly doubled in the District of Columbia from 292 in 1982 to 535 in 1983. Prosecution for offenses involving PCP totaled 397 in 1982, 1,293 last year, and in the first 6 months of this year, 967 of these cases have already been brought to court.

This is all the more frightening because recent reported crime statistics in the District indicate a sharp drop in every category of serious crime, with the single exception of narcotics offenses. In this category, U.S. Attorney Joseph di Genova reports, "The news is not good."

The most troublesome figures were found to be those involving PCP offenses. That drug, officials claim, regularly causes "unpredictable actions" and makes users "superstrong and very dangerous." A PCP user's "senses are distorted and the environment becomes a source of aggravation to him." A Drug Enforcement Administration official states that at times "five large police officers are needed" to subdue a person under the influence of this drug.

Mr. President, use of any kind of "recreational" drug is dangerous and destructive, but the narcotic PCP seems to be the worst of all. And its current popularity makes it that much more dangerous. We must continue in our efforts to educate our youth, in large part the users of this drug, to the dangers of PCP, and in our efforts to eliminate its production.

I ask unanimous consent that the article entitled "PCP Use Growing Prob-

lem," in the Washington Times, be inserted in the RECORD.

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

PCP USE GROWING PROBLEM

(By Charles E. Wheeler)

As PCP use increases in the District, police are learning to cope with increasingly violent drug users who are aggravated by harsh lights and loud noises and often require at least five police officers to restrain them.

"It is not an overstatement to say that PCP and drugs in general are at an epidemic level in the District of Columbia," said the District's Assistant Chief of Police Marty Tapscott, a speaker at a workshop yesterday at Catholic University.

Strategies for handling the epidemic-level abuse of deadly PCP were the focus of the meeting attended by about 400 human service and criminal justice professionals.

"There are 200 to 300 young people standing on corners in the District at any one time buying drugs," he said.

Sixteen District residents died with PCP in their systems in 1982, and 64 in 1983, he said.

PCP, which was originally tested as an anesthetic in the late 1950s, causes "unpredictable actions," and makes users "superstrong and very dangerous," said Chief Tapscott.

In 1982, there were 310 arrests for the sale of PCP. In 1983, arrests jumped to 1,040, Chief Tapscott said.

Arrests so far this year already have increased 30 percent to 40 percent, he said.

A PCP user's "senses are distorted and the environment becomes a source of aggravation" to him, said Thomas M. Browne of the Drug Enforcement Administration.

Other aggravation for a PCP user might be a flashlight in the eyes, a loud radio sound in a police car, crowds, flashing lights on a police car, body searches or loud and aggressive questioning, he said.

Anyone who suspects they are dealing with a person high on PCP should "back off and observe from a distance," he said.

Simply covering an agitated PCP user with a blanket "is useful, but if that doesn't work, turn on your heel and run," Mr. Browne said.

"Five large police officers are needed" to subdue a person high on PCP, he said.

"We noticed a new clientele with a different behavior starting in 1975," said James B. Hendricks, of Second Genesis Inc., a drug abuse treatment facility.

"He looks just like a zombie, he's not responding, he belongs on a mental ward," Mr. Hendricks said.

"From a treatment point of view, it is an insidious problem," said Lonnie Mitchell, administrator of the District's Alcohol and Drug Abuse Administration.

While emergency room admissions for heroin overdose dropped from 874 in 1982 to 811 in 1983, admissions for PCP abuse nearly doubled from 292 in 1982 to 535 in 1983, Mr. Mitchell said.

The emergency room can be a dangerous place for medical personnel because uniforms set them off.

THE EXPLODING POPULATION GROWTH IN THIRD WORLD COUNTRIES

Mr. PERCY. Mr. President, the Christian Science Monitor recently featured a series of five excellent articles by David K. Willis about exploding population growth in Third World countries. One cannot read these articles without being impressed by the awesome dimensions of the problem and, one hopes, without gaining an understanding of the urgent need for assistance to countries grappling with this problem.

To illustrate, I cite the following brief excerpts from the series:

The already overcrowded third world—Asia, Africa, and Latin America, where some 3.6 billion people, or three-quarters of the globe live—is still adding so many people at such a dangerous speed that the quality of life there is seriously threatened.

Each year the world as a whole is adding the equivalent of another Mexico (almost 80 million people)—and 73 million of them are in the third world.

Almost half the urban growth in developing countries today comes from millions of villagers and farmers giving up bleak rural life and hoping to find work and opportunity in the nearest glittering big city . . . Instead of rural areas growing fastest, as they were still doing between 1970 and 1980, cities now lead the way. So tremendous pressure is building to provide new services . . . at a time when world trade has been falling and third world debts mounting. Also being heard are calls for family planning services to be expanded.

A decade ago plenty of donor money was available for family planning, but political misgivings were widespread. Today, misgivings are fewer, especially in the third world, but money is also short.

Long-term economic growth must continue to provide jobs and incomes. World population growth rates fell from 2 percent a year to 1.7 percent in the last decade, but much more needs to be done.

Even if economic growth in developing countries were to reach unprecedented levels—5 or 6 percent a year . . . that would still leave more than 600 million people below the poverty line by the end of the century.

Mr. President, I urge the attention of my colleagues to this timely and sobering report, and ask that it be printed in the RECORD.

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

[From the Christian Science Monitor, Aug. 6, 1984]

PART 1—A TIDAL WAVE OF HUMANITY

(By David K. Willis)

NEW DELHI.—He Li-Lian in Peking knows it. Her daughter has one child, "and if she came to me saying she was to have another," she says flatly, "I would order her not to."

Saroj Bala, a tiny figure in a blue and yellow sari in a New Delhi slum, knows it. Married to a poor picture-framer, she is in her early 20s but has limited her family to two children.

Neneng Nasir in Jakarta, knows it. She has three daughters, "and three is enough," she says.

Yet many people in the affluent Western world still don't know it—or they've heard it so many times that they have tuned out:

The already overcrowded third world—Asia, Africa, and Latin America, where some 3.6 billion people, or three-quarters of the globe live—is still adding so many people at such a dangerous speed that the quality of life there is seriously threatened.

Much has already been done to combine economic development with available family-planning methods and information. Rates of growth for the world as a whole dropped from 2 percent to 1.7 percent a year in the decade to 1984.

Yet that fall was mainly in the Western, developed world and China.

Everywhere else, much, much more remains to be done.

A sheer and growing weight of numbers is combining with other factors to thin out food and water supplies, to swamp schoolrooms, to pour ever more rural illiterates into the teeming shanty-towns of mushrooming cities, to heighten tensions, and to contribute to restlessness and violence.

Each year the world as a whole is adding the equivalent of another Mexico (almost 80 million people)—and 73 million of them are in the third world.

The rate of growth in poorer countries since World War II is unprecedented in history, as the World Bank Development Report for 1984 points out.

By 1990 the globe will be adding another Nigeria (90 million) a year: that means 250,000 daily, or some 10,417 new people every hour.

The population in the third world alone, the World Bank says, is expected to soar to 5 billion by the year 2000 (more than the entire population of the world today) and to 7 billion by 2025.

Already about half of the third world is aged 16 or less. Forty percent (1.4 billion) is under 14. These youngsters will soon be bearing children and looking for jobs.

It took Europe hundreds of years to achieve the kind of growth that is occurring in the third world today. When Europe was building the factories of its industrial revolution, its population was growing at about 1.5 percent a year. It had wide open spaces of land, and those who wanted to emigrate had the world to choose from.

Today, large-scale emigration from the third world is simply not possible: Habitable places in the developed world are crowded too. Fertile land is at a premium.

Nonetheless, the United Nations Fund for Population Activities (UNFPA) in New York is able to point to some encouraging progress since the first World Population Conference in Bucharest, Romania, in 1974:

Millions of women around the world have learned that they can control the size of their families and have done so.

Some 85 countries in the developing world, containing 95 percent of its people, now provide some kind of public support to family planning programs.

China, India, Indonesia, Thailand, Sri Lanka, Tunisia, Mexico, and some other countries have linked economic development, literacy, jobs, and status for women with family-planning programs.

"Yet the distance we have to go is much further than the distance we have come," says an experienced US official.

Excluding China, the third world is still expanding at the rate of 2.4 percent a year: "And if the rate stays at 2.5 percent for the next 100 years, by the year 2100 the third world alone will contain 60 billion people," says Dr. Ansley Coale, Princeton economics professor and demographer.

Ridiculous? US officials point to growth rates already higher than 2.5 percent in key areas today—West and East Africa (above 3

percent a year), Central America (2.8 percent), Mexico (2.6 percent).

Dr. Coale, who is also chairman of the US National Academy of Sciences' Committee on Population and Demography, says that about 800 million people live in areas where family size has not fallen at all: "Bangladesh, Pakistan, Africa, and a belt of Muslim countries."

Some experts see the threat of widespread famine before the end of the century if urgent steps are not taken. Dr. Coale doesn't agree—"but more people will live in poverty," he says, "and there'll be a shameful lack of progress."

Growth rates in the third world excluding China have actually edged up since 1975.

Raphael Salas of the Philippines, the veteran executive director of the UNFPA, hopes that world population might stabilize around the year 2100 at 10.2 billion.

Other, more pessimistic demographers say the world simply won't be able to sustain unchecked growth. Death rates would have to rise, they say, either through famine or wars for resources.

The average family in the Western world has two children. In the third world it has 4.4. Excluding China, it has 5.1. In Kenya, which is growing faster than any other country in the world, the average family has eight children.

"Population" and "family planning" and "development" are abstract nouns that tend to sound remote and dull.

In uncrowded North America, Europe, and Australasia, populations are getting older, not younger. Growth rates are low (0.9 percent in the US , for example).

Yet what is at issue in the third world is far from abstract. The issue is individual lives and decisions.

How many children to have is hardly a dull question.

It involves what people think, and know, about their entire lives—beliefs, values, and traditions as well as health, jobs, and prospects.

Ultimate answers must tackle all these areas, including, but ranging wider than, contraception and health care.

Men and women need access to new information and opportunities before they can decide to have fewer children.

In Africa, tribal families have eight or more children per family because death rates are still high. Fathers want sons to work their land and care for parents in their old age: Female infants are still drowned (in part of China) or starved (in parts of India). In too many countries, the status of women is still low.

Each country has to find its own ways to tell men and women about the benefits of smaller families, and to offer them a choice. There is no single panacea.

On one level, long-term answers must include faster economic development, more schools, more jobs, more housing, higher incomes.

Short-term solutions include expanded, more efficient, and more sustained health and voluntary family planning policies.

On a deeper level, the need is to encourage fundamental changes in thought—the kind of awakenings that lead from ignorance to shifts in the ways rich and poor people alike see their own identities.

The task is finding ways to overcome fear—of illness, of old age, of a seeming lack of virility among men if children are few. In Africa, men fear that women who adopt contraception may be tempted into promiscuity.

Raphael Salas of the UNFPA put it this way in an interview in New York:

"The ultimate decision is in the human mind. We need the type of education that makes citizens of the third world think like people in the developed world . . . the opportunity to have fewer children per family and to treat them like human beings."

"Unless the rate of world population growth slows markedly," says Lester R. Brown of the Worldwatch Institute in Washington, "improving the human condition as a whole will be difficult."

China, (pop.: 1.05 billion), has taken the most radical and controversial step to counter overpopulation so far: enforced limitation of most families in an entire nation to a single child.

"If you Americans had 1 billion people and were growing at the rate of 2 percent a year as we were, you'd do something too," said Mrs. He Li-Lian, a diplomat, defending such drastic measures in an interview in New York.

"Our policy is only for two decades . . . and since 1982 we've got our growth rate down to 1.1 percent. Our people understand . . . my daughter understands . . . individual and national interests must be balanced," she said.

The Chinese method is an extreme example of government control over individual lives. It involves virtual coercion of women, enforced abortions, sometimes in advanced stages of pregnancy, some enforced sterilizations, and tempting incentives.

The Indian program, the oldest in the third world, has been voluntary, except for a brief period in the mid-1970s when overzealous doctors sterilized some 2,000 men against their will.

The main method in India (pop.: 747 million) has been sterilization of women after they have had four or five children. This accounts for about 85 percent of all Indian contraception so far.

But only 26 percent of adults between the ages of 15 and 49 practice contraception. The official goal is 60 percent by the year 2000. (Now India is about to join with the U.S. Agency for International Development to market contraceptives through a semiprivate organization.)

If the goal is to be reached, younger mothers need to use artifical birth control to space their children more widely before considering sterilization.

Saroj Bala, who lives in the hillside Delhi slum of Anand Parbat, is just the kind of woman the Indian government wants to reach—but so far, she is a tiny minority. She and her husband together made the decision to use contraception.

Mrs. Saroj says, "I'm only 22, and I'm using an IUD. I want to be able to educate our children properly and feed them."

Mrs. Neneng, in Jakarta's Tamansari quarter, is part of a successful Indonesian program to change thought about family size. The county now numbers 160 million people and is expected to grow to 204.5 million by 2000 (and to 255.3 million only 25 years later).

Indonesia stresses literacy, out-in-the-village health care centers, nonmonetary incentives including public recognition and medals for long-term family planning users. It also has an innovative, creative government information program firmly supported by President Shuarto himself and carefully designed to include and persuade local Muslin leaders.

Indonesia's growth rate is down to 1.8 percent a year, below the Southeast Asian average of 2.1.

Worrying the experts most is Africa, whose population is already 536.6 million.

"Africa has the fastest growth rate of any continent in history, and the fastest physical deterioration—deserts spreading, forests deunded, land overgrazed," says Lester Brown.

"Asia has had its green revolution in agriculture, but Africa is slowly losing the ability to feed itself."

Overpopulation, tribal rivalries, and widespread polygamy, together with the current drought south of the Sahara, primitive farming methods, and thin soil mean that 22 countries now face starvation, according to the UN Food and Agriculture Organization in Rome.

A powerful group of "pro-life," antiabortion lobbying organizations, however, in the U.S.—the biggest donor of family planning aid in the world—denies that there is a population crisis.

The group sees people as the globe's ultimate asset. It regards coercion and abortion as a sin. It looks to private industry to provide what it calls the best contraceptive of all—economic development based on capitalism.

These views are on the far right of U.S. politics. The group has used its ties to the Reagan White House in an election year—the Mexico City conference is being held just before the Republican Party convention in Dallas—to shape a new U.S. policy that reduces U.S. funds to private groups which finance any programs abroad that include abortion.

The new White House position at Mexico City—stressing economic development over family planning—comes as a dramatic switch after a decade of pressing the third world to tell its people about family planning.

The group lobbied hard (and successfully) for the US delegation to Mexico City to be led by staunch Roman Catholic antiabortionist, James Buckley, former Republican senator from New York.

"It is a disgrace and the US will be a laughing stock," says Dr. Sharon L. Camp, vice-president of the private Population Crisis Committee in Washington.

"We are very pleased," says Judie Brown, president of the American Life Lobby in Virginia, which claims strong support from blue-collar Roman Catholics. "It's a victory for us."

The UNFPA is confident its own contributions from the US will be untouched, but a question mark now hangs over one-quarter of the $60 million annual budget of the International Planned Parenthood Federation in London. The 25 percent is provided by the US Agency for International Development.

Prominent in the Washington lobby group is Prof. Julian L. Simon of the University of Maryland at Baltimore.

"No. I don't see a population crisis at all," he says. "The ultimate resource is the human spirit, which means people." In the short run, he adds, more people are a burden: They need to be fed and clothed. In the long run, however, they are a benefit.

The way to boost food production, Simon argues, is to give people land and information about the latest methods, then "leave them alone." He blames inefficient third-world governments for mismanaging food supplies.

"Who are we to tell other countries what to do?" he asks.

Judie Brown adds. "We should be educating people how to better clothe and feed

their families instead of using US taxpayers' money to eliminate their children. . . ."

In its just-issued World Development Report 1984, the World Bank discerns "important truths" in the views of both population lobbies and Mr. Simon. But it also calls for intensified family-planning programs to ameliorate development problems which it sees arising from rapid population growth.

The Population Crisis Committee says the need for family planning is evident from even brief visits to villages and slums.

Monitor interviews with more than 50 men and women in slums and villages in eight countries indicate that many would have fewer children if they could.

In the vast Mexico City slum of Netzahualcoyotl, where 4 million people exist on unpaved streets amid uncollected garbage, Sofia Salinas Ugalde, mother of two sons, says: "Yes, it bothers me to disagree with the Church. But to see children born unwanted, and growing up suffering, bothers me even more."

Mrs. Ugalde runs a fly-ridden meat stall in a market with her husband. She practices contraception. "Abortion is wrong," she said. "I agree with that. So it's much better to prevent conception in the first place."

[From the Christian Science Monitor, Aug. 7, 1984]

PART 2—THE SUPERCITIES—PEOPLE, PEOPLE, PEOPLE

(By David K. Willis)

MEXICO CITY.—The morning air sparkles over the sunlit Gulf of Mexico but thickens with grayish smog even on a Sunday morning as the jet swings over the long valley where Mexico City lies.

For what seems an age, one flies over the ocean of pale, concrete urban sprawl that is one of the world's biggest cities.

No new water supplies have been found since 1972. Giant pumps must lift supplies over a 3,000-ft. mountain. In one slum. Netzahuacoyotl, 4 million people breath polluted air on polluted streets. The population of the entire city is 17 million.

Every day some 1,100 rural Mexicans trek into slums such as Netza, as it is called, looking for work.

"If the peasants can read, they become domestics," says Gloria Lopez Paz, mother of four, as a daughter hauls rainwater from a grimy well to wash clothes.

"If they can't, they die. There are no jobs. They don't know how to watch out for cars. They don't know where to go for a doctor. They live on the street. They drink. They abandon their children . . ." in the hundreds of thousands. In Brazil (population 132.6 million) the number of abandoned children is said to be 20 million.

Pollution from 2.8 million automobiles and from industry hangs in the thin, high-altitude air. Lead levels are three to four times above safety levels. "Don't jog while you're here," a friend advises.

Cairo, the biggest city in Africa and in the Arab world, pulsates to the blare of car horns. A taxi changes lanes at a fast clip, ignoring the rear-view mirror. Ahead, a red light, a solid phalanx of cars, and a long wait.

As the minutes tick away, the driver of a nearby car is riveted to his mirror, which reflects the flickering image of a portable television set mounted in the rear window.

Cars in central Cairo park nose-to-tail, forming a virtual fence of aluminum which keeps pedestrians from the road. "I can hardly believe how much the traffic has worsened," says an Egyptian United Nations official just back after eight years abroad.

Designed to hold 2.5 million people, Cairo now is a city of 8.5 million, and another 2 million crowd into the city to work every day.

According to the U.N. 10 million people will scramble for a living here by 1990, and 13 million by the year 2000. This would make Cairo the 13th largest city in the world. But Aziz el-Bendari, chairman of the state Family Planning Committee, says Cairo will enter the next century with 16 million people, twice the number it has today. Tens of thousands of squatters already live among the mausoleums in the Necropolis. Cairo's cemetery area.

When Lennie Kangas, a senior US population official, meets Egyptians he tells them he first came to Egypt in 1963—"20 million people ago."

These are just two examples of third-world cities growing faster than their governments and inhabitants can keep pace.

Others include sprawling Bombay (10 million today, 12 million by 1990, and 17 million by 2000, according to UN figures); Jakarta (7.3 million today, 11.4 million by 1990, perhaps 16 million by 2000); and Sao Paulo (almost 19 million now and almost 26 million by 2000).

These and others are the most visible proof of the impact of rapid population growth. Overheated slums throw together the urban poor and newly arrived immigrants from the villages.

Despite a drop in world growth rates in the decade to 1984 (Mexico fell from 3.5 to 2.5 percent a year in the 10 years to 1982), a number of factors have combined to push up absolute numbers of people in the world faster and faster—especially in the cities.

One factor is better health care, which has lowered death rates, while birth rates have stayed high. Another: Almost half the urban growth in developing countries today comes from millions of villagers and farmers giving up bleak rural life and hoping to find work and opportunity in the nearest glittering big city—Mexico, Cairo, Jakarta, Karachi, Sao Paulo, Delhi.

A new era has begun in the third world. Instead of rural areas growing fastest, as they were still doing between 1970 and 1980, cities now lead the way.

So tremendous pressure is building on city officials to provide new services such as housing, water supplies, and schools—at a time when world trade has been falling and third-world debts mounting.

Also being heard are calls for family-planning services to be expanded in urban as well as rural areas, and for efforts to create smaller urban centers to siphon off the flood to the supercities.

In 1800, only 3 percent of the world's population lived in cities. By 1920 the figure had risen to 20 percent. By 1980 it was 41.3 percent. And by the year 2000 one person in every two will live in a city.

Sao Paulo, which could be the second biggest city in the world by the year 2000, was smaller than Manchester, Detroit, and Naples 30 years ago, the World Bank points out. London was the world's second biggest city in 1950; by the end of the century, London won't rank among the top 25.

One out of every four South Koreans lives in Seoul. Baghdad is home to 35 percent of all Iraqis.

The way cities are exploding is best illustrated in Latin America, where seven out of every 10 people are now urban, according to Robert Fox, noted Inter-American Development Bank sociologist and demographer.

The growth looks likely to continue, Mr. Fox says. In Mexico, Central America, and Brazil the countryside offers little hope or money to the peasant, who doesn't own the land he works.

"The middle class moves to the city to look for opportunity but most immigrants are the landless poor, who go to forage and live off their wits," says UN demographer Dr. T. Krishnan. "They don't give to a city. They take."

What are the major problems to be solved? What is being done about them?

HOUSING

In Cairo, rents are as low as five to 10 Egyptian pounds ($7–$13) per month in the older, crumbling apartment houses. Landlords say they can't afford repairs. Janitors and their families live on the roof, under sheets of iron held in place by stones.

In Lagos, dozens of families cram into the same apartment house, sharing a communal bathroom: The city needs at least 2 million new housing units immediately.

At dawn in Bombay, one sees bundles of rags lined up along narrow bridge parapets, high above the water. It is a shock to realize that the bundles are sleeping people. The rags move and the people sit up, rub their eyes, slowly gather dried cow dung for fuel, and light fires in air already thick with the smoke from others.

It is a tragic sight.

Slum dwellers and squatters account for 46 percent of the people in Mexico City, 79 percent of those in Addis Ababa, 60 percent of Cairo, 67 percent of Calcutta (but only 26 percent of Jakarta.)

City officials try to build more housing. In the legendary beauty of Sri Lanka, Prime Minister Ranasinghe Premadasa is pushing ahead with a plan to build 1 million new dwellings by 1987.

The mayor of West Jakarta, H. Eddy Ruchijat Soheh, says housing and land are his biggest problems. Squaters are hard to evict from vacant land.

His region contains 1.3 million people, he says, and is growing at 10 percent a year. Only 28 percent of homes have piped water.

One solution: to build more high-rise housing—if he can obtain the funds.

In Calcutta, city officials are trying to give as many sidewalks dwellers as possible a single room with hard floor, and access to power and water. They feel it is the best they can do.

JOBS

A surge of young people is on the move in Latin America looking for work.

In 1950 the number of workers in Latin America was 55 million. By 1975 it was 97 million. By the year 2000, it will be 197 million, says the Inter-American Bank.

This means the need to find an extra 4 million jobs a year. "And these figures are firm," says Robert Fox. "The people have already been born."

That is way beyond anything achieved so far. The US itself created 2 million jobs a year through the 1970s. The prospects are for higher unemployment in the hemisphere and more underemployment.

Taken together, the combined labor force in Mexico and Central America will more than double from 22.4 million in 1975 to 52.6 million by the year 2000—and quadruple 25 years later, to 89.4 million. About 1.2 million jobs a year need to be created in this region alone—but the area's economy is only 8 percent as big as the US.

Elsewhere, in countries such as Algeria, the Dominican Republic, Jordan, Lebanon,

Malaysia, Morocco, Nigeria, and Syria, the labor force is expected to double between now and the end of the century.

Jobs depend on new industries as well as on government offices and projects. A number of presidential advisers in Washington say that private industry should be given free rein to create jobs. Third-world officials say it isn't that easy.

"Your Reagan administration tells us to develop our industries and not to expect too much foreign aid," Emil Salim, Indonesia's minister for population and environment, says. "So we use our low-salary workforce to get into textiles—and you put such high import duties on our products that we cannot sell them to you.

"We don't have the roads, power, telephones, or schools to attract enough of your private investment, which perfers Europe."

Mr. Salim and many others in the third world see one effective answer to city and development problems: proper family planning. Smaller families would reduce the population growth that is diverting money to welfare services that might otherwise develop economies and per capita income.

"But now it appears some in your White House are saying that family planning is not as important as development," Mr. Salim says with incredulity, referring to the draft statement leaked in June, proposing to reverse US priorities for family-planning aid.

If jobs are not found, the flow of emigrants, legal and illegal, to the US will grow, Western diplomats in Mexico City say.

Estimates of illegal Mexicans now in the US range from 2 million to 10 million. Congress is concerned enough to pass versions of the Simpson-Mazzoli bill making it illegal to hire such aliens.

CRIME

"You see," says Marshall Green, a State Department consultant on population and a former ambassador, "these are not cities like the ones we know.

"Half the people in them are under 16. They are restless and volatile. They don't go to school. They roam in gangs. They can't find jobs and they drift into crime."

Police forces are not coping well enough in Lagos, Cairo, Bombay, Calcutta, or Delhi. The situation is ripe for exploitation: "Extremism as well as crime takes advantage of slum overcrowding." says an adviser to President Hosni Mubarak in Cairo.

Sri Lanka, outwardly serene, sees a rising crime rate that Brig. Dennis Hupugalle attributes largely to immigrants from the countryside.

Jakarta and Rio are both seeing crime rates jump. Citizens in some areas have formed vigilante squads to protect themselves.

FOOD

The so-called green revolution has taken hold in Asia, producing new strains of rice and other crops. Yet Africa, with poorer soil and primitive farming methods, lags behind. By 1980, third-world countries as a whole were spending $19.5 billion a year to import grain.

Cities in northeast Brazil, in the Andes countries of Bolivia, Peru, Chile, and Ecuador, in Central America, India, and the Mideast have all begun to see food supplies dwindle under the weight of numbers and badly managed farming.

Africa represents the most tragic prospect of all, worsened by the current sub-Saharan drought. Food supplies per head of population are falling, and UN figures show 145 million in 22 countries facing starvation.

In a private clinic 90 miles north of Nairobi, Magdalena Njeri worries: "In my village," she says, "people are hungry because of the drought. People like me see the problems of having too many children now."

Mrs. Njeri has had eight children since 1966. She now takes contraceptive injections.

"If world population was increasing at 1 percent a year instead of almost 2 percent, there would still be ample margin for improving diets, as there was from 1950 to 1973," says Lester R. Brown of the Worldwatch Institute in Washington.

But food production is now about level with population growth. In Africa it is lagging behind.

What about food aid? It has been falling: US aid reached 15 million tons in 1965 (enough to feed 90 million people, Mr. Brown says). By 1982, however, it had dropped to 3.8 million tons.

What else can be done?

One answer is to step up information about family planning in urban slums.

Even in India, where 75 percent of people live in the country's 550,000 villages, Krishna Puri, the head of the New Delhi branch of the private Family Planning Association of India, says the aim now is to contact young urban mothers to show them how to space their children more widely.

Another method is to build new cities, or develop smaller ones, all with new jobs, to divert peasants from major cities. But this takes time.

Egypt has begun work on 10 new cities. The first one, called "Tenth of Ramadan" was started in 1977 some 30 miles outside of Cairo. After seven years of construction, progress is slow: only 5,500 people actually live there, according to chief engineer Hassan Rashidi. Most workers for the 80 factories now operating are driven to and from work by bus. Mr. Rashidi expects 150,000 will live in the city by 1988, and 500,000 by the year 2000.

In China, one plan would develop existing market cities of 200,000 people. And to locate more industries close to raw materials.

In India, some private industry is active: The huge Tata Iron and Steel Works in Jamshedpur, northern India, runs competitions between departments to see which can produce fewer children in one year. Program Chief Dhruva Dey says a trophy is to be awarded.

OVERCROWDING: THE IMPACT AND THE RISKS

(By David K. Willis)

Think, for a moment, about this:

Last year the normally quiet and undemonstrative people of Assam, in northern India, suddenly rose up against poor, newly arrived immigrants from teeming Bangladesh to the south. The newcomers came looking for jobs in Assam's oil fields and tea plantations. Five million had come before them but Assamese patience snapped. About 3,000 people were killed.

A few years earlier, Hanoi ordered a mass eviction of Chinese from Vietnam, amid much bitterness and tension.

Not long ago, the government of Africa's most populous country, Nigeria (92 million) summarily ordered out tens of thousands of Ghanaian workers. The rest of the world watched on television as the workers lined up at their own frontier for days before it opened. Mothers and children lugged suitcases and radios. Others tried to bribe their way out on ships.

After an attempted coup in Indonesia in 1965, young Muslims started a rampage against suspected communists. No one knows how many died, but the United States Embassy in Jakarta estimated 300,000, "plus or minus 200,000."

A 1969 World Cup soccer match between El Salvador and Honduras escalated into war.

All these events had one thing in common:

According to on-scene observers, a strong contributing factor was overcrowding—the pressure of too many people jammed together in miserable conditions.

In separate interviews, neither Robert S. McNamara, former World Bank chief and U.S. secretary of defense, nor Dr. Sharon Camp, vice president of the private Population Crisis Committee, argued that overcrowding was entirely to blame.

Both stress that the causes of violence and unrest are complex and varied.

But both—together with other sources—insist that there is a definite link between rapid population growth and tension and violence, both within and between families, communities and countries.

"A very substantial contribution to unrest is made by imbalances between economic and political advances and resources on the one hand, and rates of population growth on the other," is how Mr. McNamara puts it.

"I don't say that over-population is the primary cause of instability, tension, and violence," says Dr. Camp. "I do say that rapid population is an underlying, intensifying cause."

Adds Marshall Green, former US ambassador to Indonesia and currently a population consultant to the State Department: "Excessive population growth combines with other factors to cause instability in a number of ways. Since the US is usually associated with the status quo, the existing order, around the world, it has much to lose. It has major security interests in a string of countries with high growth rates: South Korea, the Philippines, Indonesia, Thailand, India, Pakistan, Egypt, Turkey, Mexico.

"And remember: the George Ball Commission included overcrowding in south Tehran as one of three major factors behind the overthrow of the Shah in 1979. The other two were over-rapid industrialization and corruption."

In Mexico City, Western diplomats think this case is proved by a look at the five small, desperately poor countries in Central America which generate daily headlines about unrest and revolution.

In 1960, Central America held 11.2 million people, and the US virtually ignored it. Today it bulges with 22 million, is growing at the rapid rate of 3 percent a year—and Washington is preoccupied with it.

Central American families have an average of six children each. Death rates have fallen dramatically. Predictions point to 40 or 50 million people locked into tiny areas of arable land by the year 2010. Half the region is under 15 years of age.

Moreover, the most volatile group in the population—the one aged between 15 and 19—is spiraling upward. From 886,000 in 1950 it has leaped to 2.3 million today and is estimated to hit 5 million in 2010 unless growth rates fall.

A quarter of a million young Central Americans look for new jobs each year. But those jobs are scarcer and scarcer as poverty spreads and conflict continues in Nicaragua and El Salvador.

The result, according to the Kissinger Commission, is "a problem of awesome—and explosive—dimensions."

The Futures Group in Washington, DC, studies the impact of population growth on economic and social development. It sees as one result of overcrowding in Central America more and more refugees streaming northward into Mexico and the US. A potential flow of 100,000 a year is a "distinct possibility," the group told the Kissinger Commission.

A veteran Western diplomat in Mexico comments: "Mexico adds 2 million people every year. Brazil adds 3 million. Both countries owe colossal debts. You can't tell me that doesn't add up to a security problem for the US."

Brazil, the diplomat says, added 26 million people in the decade to 1980—equivalent to another Argentina. The chief of staff of the Brazilian armed forces is reported to have named population growth as the biggest threat to Brazil's internal security.

Those who reject the very concept of a world population crisis also disagree with the McNamara, Camp, and Green views.

Prof. Julian L. Simon of the University of Maryland at Baltimore is a leader of the right-to-life lobby in the US and a senior fellow at the Heritage Foundation in Washington. He has written a book called "The Ultimate Resource" which says that the world needs more people, not less. He is also co-editor of a recent Hudson Institute study called "The Resourceful Earth."

"I absolutely reject the idea that overpopulation leads to war," he said in an interview. "I don't think population is a factor. . . . It simply doesn't happen that one group of people has children and sets out to attack another group next door for more space."

Mr. Simon offered no detailed analysis, but dismissed those who link overpopulation and tensions as "doomsayers."

Replies Mr. McNamara: "People who take such [Simon] views cannot have been in Bangladesh, where 89 million people lived in 1980 in an area about the size of Wisconsin. Two-thirds of the country is either flooded or arid, depending on the time of year.

"By the year 2000, 157 million people will live there. By 2025, 40 years from now, the population will be 260 million. Life is hell for 60 to 70 percent of the people there now."

Mr. McNamara illustrated his concern in an article in the current Foreign Affairs quarterly. He mailed out 15,000 copies and arranged to have more distributed at the UN Population Conference in Mexico City.

Among other implications that worry him: "National programs of coercion" such as the current Chinese drive to limit family size to a single child. Rising growth rates, he thinks, are a major contributor to more authoritarian government and to a movement away from "democratic structures."

"Brutal family practices"—increasing rates of abortion and female infanticide which he says even the Chinese press is acknowledging. All this, he says, increases tensions in families and thus sows the seed of wider frictions in societies.

Other authorities who link rapid growth and instability make these points:

Such growth worsens unemployment. It swallows up economic gains. It makes the task of governing harder. It widens the gap between rich and poor wthin and between countries. It balloons illegal migration cross borders. Guatemalans and Salvadoreans emigrating to Southern Mexico, for instances, and millions of Mexicans finding jobs in the U.S.

Over-rapid growth also breeds crime and tension in third-world slums: "The last conversation I had with [the late president] Anwar Sadat was about overcrowding in Cairo," says Ambassador Green.

"The last words he said to me were that the crowding was an 'absolute nightmare.'"

The ambassador sees third-world cities as "the forcing bed of extremism." One of Egypt's leading experts on extremism, Dr. Saad Eddin Ibrahim of the American University in Cairo, says that young Muslim fundamentalists tend to be recent arrivals in slums from rural areas. Rootless and adrift, they are susceptible to extremist ideas.

In Cairo, the police academy recently held a seminar on the links between overpopulation and security. "Communists, Islamic extremists, and sabotage groups all find it easier to work where population density is high," says Dr. Maher Mahran, population adviser to President Hosni Mubarak. In two pockets in Cairo, density is said to be about 130,000 people per square kilometer.

In Jakarta, Emil Salim, an Indonesian Cabinet minister says, "The world will not be safe with such population densities. Look at our own Java: If its population reaches 120 million by the year 2000. People will be forced to leave: to [go] where? Sumatra or Borneo, where languages and religions are different?"

"When the rural poor come to the cities," says Dr. Pramila David of Hyderabad, India, a physician with years of experience in the population field, "they see what is invisible in their villages: great wealth which is out of their reach. This is particularly true when they find work as domestic servants."

To observers such as the Worldwatch Institute's Lester R. Brown, the litmus test is food supplies.

"Look at the food riots in recent years," Mr. Brown says. "Poland. Tunisia. Supermarket looted in the Dominican Republic, in Rio, and in Sao Paulo. Overpopulation is a large factor."

Even before the current drought in sub-Saharan Africa, almost one African in every four was being fed by imported grain: 130 million out of a total population of 536 million.

Now, grain production in Africa has begun to plummet as the continent suffers the fastest population growth rates in history along with a lack of investment in agriculture, and an overexploitation of poor soil.

Between 1970 and 1982, African grain production fell 12 percent. In 1983 alone output fell another 14 percent, and the UN Food and Agriculture Organization in Rome says 22 countries are facing famine.

Meanwhile, the third world as a whole by 1980 was spending more money importing arms ($19.5 billion) than on importng grain ($19.45 billion), the Worldwatch Institute reported.

Where are the answers?

The rich, "have" nations of North America, Europe, and Australasia need to be much more aware of the potential impact of too-rapid population growth in the "have not" nations of the third world experts say.

The U.S. State Department and Agency for International Development (AID) urge continued public and private support and funds for family-planning services linked to maternal and child health care clinics around the third world. Asia and Latin America show some progress at slowing down growth rates, although little progress is apparent in Africa.

On the far right of US politics, Sen. Jesse Helms (R) of North Carolina, Professor Simon, and some Catholic activists say the answer lies in economic development directed by private industry rather than governments.

Controversial White House policy for the Mexico City conference states that family-planning aid should be de-emphasized. Such policies "cannot be a substitute for economic reforms," it says.

State Department and AID sources agree that economic development is vital. But they also insist that third-world families deserve the right to make the same choices on limiting family size that the developed nations have long taken for granted.

Ambassador Green advocates more family-planning incentives, such as bonuses of either one payment of 500 rupees ($46), or 50 rupees ($4.60) a month for life, offered by one Bombay factory to workers who limit their families to two children.

He sees this as not coercive but as an added inducement to a voluntary decision.

The right-to-life lobby in the US however, sees such incentives as tantamount to coercion, and opening the way to enforced abortion and sterilization. The lobby is trying to stop any direct or indirect US funds going to China or any other country using such incentives.

The AID budget for family-planning projects this year is $240 million. Since 1974 no funds are permitted to go directly to any country where family-planning programs include abortion. The White House this year has added that no funds may go indirectly via international voluntary groups.

The Sri Lankan government offers the considerable incentive of 500 rupees ($23) for every man and woman who chooses sterilization. Presidential adviser Dr. Wickrema Weerasooria in Colombo denies this represents coercion. He calls it compensation for the time people lose in having the operation. The government, he says, has to match private tea plantations offering 700 rupees ($32) to each worker.

Incentives are part of China's campaign to limit its population to 1.2 billion by 2000. One-child families receive priority in housing, child and health care. In some communes one-child parents receive bonuses equal to one-third their annual wages, and an extra plot of land.

India is experimenting with similar incentives in some states.

Indonesia on the other hand has rejected monetary incentives as too open to abuse.

Meanwhile, many experts stress that the answers to overcrowding and unrest lie in a range of other fields such as more schools, better health care, and ways to enhance the status of women.

EDUCATION: FACTS FOR THIRD-WORLD WOMEN

(By David K. Willis)

Bright skeins of wool scattered beside them, two village women work intently at a Japanese knitting machine in a small room in the village of Kafr-Tesfa, 30 miles north of Cairo.

Taking shape on the machine is a green dress with red and white trim. Aziza Gamelat and Samia Mustapha hardly glance up as visitors enter.

They are too busy making dresses, sweaters, cardigans, and caps to sell to the rest of the village.

The clanking machine represents far more than clothes, however: It is the first step for both young women out of their traditional,

rural roles as wives and mothers toward modest earning power, and self-respect.

In a shed outside, the first of 2,000 chickens fuss and feed in new wire cages imported from Italy.

Both dresses and chickens are part of a bigger effort throughout the third world to widen women's horizons beyond child-bearing and the collecting and preparing of food.

"As women get out of the home and find jobs," says Nafis Sadiq, assistant executive director of the United Nations Fund for Population Activities in New York, "both infant mortality and fertility [number of children a mother has during her lifetime] fall."

After questioning almost 350,000 women in 42 developing countries between 1972 and 1984, the London-based, US-supported World Fertility Survey concluded that in general, married women who worked outside the home had smaller families than those who did not.

Isolating 20 countries, one study by World Fertility Survey showed a drop in family size from 6.9 children to 4.2 among women with jobs.

The modest knitting and chicken projects in Kafr-Tesfa in the Nile Valley are supported by Egyptian government population planners eager to achieve two goals:

The first is to give rural mothers like Aziza and Samia interests outside the home. The average Egyptian family still has five children.

The second is to make Egypt's Azizas and Samias happier in the village, so they won't join the flood of rural migrants to Cairo, where 8.5 million people already fight for space in an ancient city designed for 2.5 million.

Jobs are not all that is needed, of course. Education is essential—and government planners mix finance for village industries with efforts to provide contraceptive advice and maternal and child health programs. They want more and more women to be able to choose family planning if they want it.

As women such as Aziza and Samia try to earn enough to buy knitting machines of their own, village doctor Ragab el-Kholi explains that village births dropped from 763 in 1978 to 711 in 1983. Now the village needs a bigger pre-school center to care for the small children of women who want to work, Dr. Ragab says.

Across Egypt, the rural jobs program now includes 2,915 separate villages with a population of about 15 million, says it chief, Muhammad Abdel Salam Salem.

Critics, however, say that Egypt lacks the funds to provide enough jobs in enough villages to reduce population growth (now soaring at 100,000 extra people a month). Much more emphasis on family-planning services is needed as well.

"Many women are still scared to speak up," says the UNFPA's Nafis Sadiq. Herself a Muslim, she adds, "Muslim women are even more scared than the others. But they shouldn't be: Islam actually gives women many rights. We must find ways now to encourage all women not only to seek better health care for themselves and their children, but to go out and win new jobs."

Literacy and education are also vital in freeing women from the drudgery of village and slum life.

In Pakistan, as in Egypt, the illiteracy rate among Muslim village women is above 95 percent. Women's status is low, and birthrates are high.

Pakistan's population of 98.9 million will reach 142.5 million by 2000 and 212.8 million 40 years from now, according to UN estimates.

The average family still has six children, and more than half the country is under 14 years of age. Yet the government of President Zia is only beginning to talk about a serious effort to spread the ideas of family planning. At the same time, some scattered signs of progress are visible, especially in Pakistan's cities.

In a former supermarket building in Karachi, some 400 girls who have graduated from high schools clusters in neat uniforms around long tables learning how to repair television sets, build small electric motors, solder circuit boards, draft architectural plans, and use sophisticated surveying equipment.

Aflak uz-Zia, from North Karachi, machines a door bolt. "What I really like is electronic equipment," she says softly, "and that's the field I want to work in."

To enter this government-supported girls' vocational school, she passed an examination in her final year of high school. The training will take three years. Her sister is married, but she herself wants to get a good job first.

School director Shaheena an-Sari says her first class of graduating students should find jobs in April next year, and can expect to earn above-average salaries of 1,500 to 2,000 rupees ($105 to $140) a month.

Other vocational schools are in Lahore, Peshawar, and Faisalabad.

The islands of Indonesia are also Muslim, but present a very different picture. Literacy among women is much higher (about 64 percent) than in Pakistan (under 10 percent in the villages) and in India (25 percent).

One result: 58 percent of couples between the ages of 15 and 49 use contraception in Indonesia (the rate is nearly 70 percent in parts of Java) compared to Pakistan's overall acceptance rate of less than 10 percent.

Indonesian women have also enjoyed higher status than women in Arab nations and the subcontinent. They have long had a large role in selling rice as well as planting and harvesting it. They wield strong influence in homes. One area of west Sumatra is matriarchal, with inheritance descending through the female line.

The family-planning coordination body known as BKKBN after its Indonesian initials has trained women health workers in the villages. In turn, they have gained the confidence of the other village women.

Siti Nurbaya is married to a chauffeur and lives in a slum area of Jakarta. She practices birth control, and her youngest daughter is 14, which now gives her time for outside interests.

"I've joined PKK [a national women's group]," she says, "and I work as leader of a group visiting other families to tell them about family planning as well."

"More educated women tend to marry later, to be employed outside the home, and to practice contraception effectively," according to the findings of the World Fertility Survey.

This is illustrated in Sri Lanka where the literacy rate for women is up around 90 percent.

Young women now marry as late as 24, and men at 28. One result: More than half of all couples aged between 15 and 49 use some form of contraception. And almost half of those who do, prefer traditional, natural methods other than artificial devices.

The average family in Sri Lanka (population 16.1 million, due to rise to 20.8 million by the year 2000) now contains only three children.

For Nalani Sendanayake, sharp and quick in a spotless white sari, full primary and secondary schooling has meant all kinds of benefits in her Sri Lankan village of Bopette, 40 miles east of Colombo.

The village is at the end of a red-earth road in countryside green with rice fields, brilliant with flowers, and shaded by regimented rows of rubber trees. Mrs. Sendanayake's education allows her to work part-time in local branch post office, and to work as a volunteer with the private Family Planning Association.

Assigned to talk to 14 families in the village, she says 10 of them have adopted family planning.

Meanwhile she has helped the village organize to dig a much-needed well, and to construct 10 new latrines.

Mrs. Sendanayake says she has a three-year-old daughter and intends to have only one more child.

"We can't afford more," she says.

Several miles away in another village tucked into a mountainside, Nalini Hettiarachi says she wished she had known about family planning when she was younger. Instead, she begain using pills only after her youngest was born. He is now 18: The other children are 28, 27, 25, and 21.

She is delighted that three of her daughters have limited their own families: Two have two children each and one has one.

UNICEF executive and writer Tarzie Vittachi (himself a Sri Lankan) sums up in New York: "After 15 years of free education, countries are transformed. Girls decide whether, when, and whom to marry."

In Tribal Africa, women are held back by a lack of education which allows tribal lore, polygamy, superstition, and inertia to rule.

The birth rate in Kenya is the highest in the world—more than 4 percent a year. (The U.S. growth rate by comparison is 0.9 percent.)

The government says the literacy rate is almost 50 percent, but Westerners in Nariobi see that figure as more hopeful than accurate.

One women interviewed in Nyeri had a son at age 13. Another, Teresa Wangeci, was 34 years old and had seven children. She dicided to take contraception injections which last for three months at a time.

At a roadside fruit and vegetable stall on Karanja Road on the Edge of Nairobi, Catherine Wanjiru had a sad tale to tell. She had seven children. Her husband, a poor farmer, had taken a second wife, who had one son of 11. Her husband was often drunk, she said. Although her youngest son (aged 13) had won a place in a good secondary school, the husband said he could not pay the fees.

The boy was sitting on the ground in front of the stall, covered in dust kicked up by passing trucks, eating an orange. Friends of the family said later he would either try to find a place in a no-fee school or drop out.

Tribal pressures are strong. In a Nairobi slum, Grace Wachira says that after her sixth child was born in 1971, she began taking contraceptives by injection. Now she has stopped and hopes for another son.

Why? "One of my children died," she says, "It had my brother's name."

Jennifer Mukolwe of the Kenyan Progress for Women Organization, explains: "In such cases the brother keeps nagging his sister to have another child carry on his name. There are so many forces at work in Africa."

Mrs. Mukolwe's group works to encourage women to create jobs for themselves by forming cooperatives to raise pigs, goats,

and poultry, and to obtain bank credit for brickmaking, water, and other projects.

From a small office in New Delhi works a poised, confident symbol of what education, opportunity, and hard work can do for Indian women.

Rami Chabbra is still very much the exception rather than the rule in her country of 747 million, where a mere 1 percent of women complete university.

However, she is combining two fields—journalism and family planning—in an effort to open new horizons for women, particularly in India's 550,000 villages.

"The heartbreak is that India began it all, with the first government family-planning program in the third world, but that we haven't come nearly far enough.

"China has done very well in lowering growth, but I am opposed to using coercion. In India we must use democratic methods," she says.

Twenty-eight percent of Indian couples between the ages of 15 and 49 practice birth control. The government goal is 60 percent by the year 2000.

In densely populated northern areas, Hindu village girls are promised in marriage at 11 or 12, and go to live with their husband's families at age 14 or 15. They may have had two children by the age of 20.

They have no status until they have had at least one son and preferably more. Baby girls are given less to eat in a number of areas, and many die, Mrs. Chabbra says.

"We must move rapidly to spread knowledge of family planning," she says. "Speed is essential. Forty percent of India is under 14 years old. The number of people entering the 15–49 age bracket is three times the number leaving it," she explains.

"Family-planning services must be linked to needs: health, education, education for women.

"You know, we glamorize the village, the graceful water-pot on the heads of swaying women. . . . But I can't go into the villages now without seeing the misery behind that pot."

Meanwhile, one of the biggest obstacles blocking the progress of third-world women is . . . men.

A senior Kenyan government official was heard to remark recently that he would personally refuse to adopt any method of male contraception. "African men fear that if they use birth control, their wives might be promiscuous," says Dr. Revocatus Nyanyi, a Kenyan doctor trained in Uganda and Israel.

African men also want children to look after them when they're old," says a young woman in Nairobi.

Meanwhile machismo lives on in Mexico, according to Dr. Manuel Urbina Fuentes, the head of the family-planning program in Mexico's Ministry of Health.

"Compare sterilization rates for men and women since 1976," Dr. Urbina says, "and you'll see the male rate staying very low but the female rate more than tripled."

Dr. Urbina is looking for ways to draw more men into the Mexican program. "We've made great strides overall" he says. "Our growth rate is down from 3.2 to 2.4 percent a year since 1976. Now we want to go down to 1.9 percent a year by 1988—which means boosting the number of Mexican family-planning acceptors as a whole from 4.2 million in 1982 to 7.6 million . . . quite a task."

A Sea of People—Can the Tide be Stemmed?

(By David K. Willis)

For Juana de Gadillo, wife of a poor farmer in the Mexican state of Tlaxcala, her fourth child was enough. "How can I have more when we can hardly feed ourselves," she asks. Disobeying her church, she now takes contraceptives by injection in a town 10 miles from her village.

Gladys Mumbi, from the Tumutumu area of Kenya, wanted four children but had seven. She learned about family planning from a volunteer health worker who came to her village. Her husband, a laborer, agrees she should use it.

Slim Sri Lankan Karunatilke Gamage will be married in September. He and his wife want only two children. She intends to use the pill.

Durga Devi, who has four children, had to go against her husband's wishes to seek sterilization in a New Delhi slum five years ago. "I waited until he left for work one morning and went to a local clinic," she said. "Now he's happy and I've recommended 10 other women for sterilizations."

These are just some of the individuals in the third world who are taking their own steps toward limiting the size of their families since the first World Conference on Population in Bucharest, Romania in 1974.

A World Population Plan of Action adopted at Bucharest stressed that couples had the right to choose their own family size. While East-bloc and third world countries resisted family planning then, almost all the third world has since come to adopt it as an essential part of development.

What ideas to spread the word on family planning are working best?

Experts agree that, with the world's population of 4.7 billion shooting up in Mexico (around 80 million people) every year the third world needs a steady flow of better ideas for the next 50 years or so at least.

The most controversial approach is direct, unremitting government and social pressure, combined with a range of incentives, used in China. It has drawn strong criticism from anti-abortion groups in Washington. It arouses misgivings in other democratic countries which recognize China's need to grow more slowly but see the extreme methods used as oppressive and unusable elsewhere.

Using local workers instead of strangers. In Madras, India, 60 newly trained slum women have persuaded 3,000 others to adopt family planning.

Using local networks with an interest in keeping villages prosperous. In 12 poor, cotton-growing villages in the Punjab, the area's new milk cooperative has bought a jeep for a local doctor to spread the word on health—and family planning. He works with, village women trained in rudimentary health care.

"Farmers take for granted 24-hour coop care for their livestock," an organizer says. "They are just beginning to realize that they can improve the care for their own children."

Using public praise and recognition. Six hundred villagers from Java, Sumatra, and other parts of Indonesia were agog last July 11 to find themselves visiting Jakarta for the first time. They were even more overwhelmed to meet President Suharto in person.

Many had never been on an airplane before. Two years ago when the first group was brought in some panicked on the tarmac and refused to board. Others drenched expensive hotel rooms as they tried to take baths in the village way by scooping water out and pouring it over themselves.

But the objective was clear: heaping praise, medals, and publicity on people, not for accepting family planning, but for staying with it for five years or more.

Another form of recognition: a card nailed to the doorway of a home where family planning has been used for five years or more. The first lady of Jakarta, the governor's wife, watched as a green card indicated five years' use of an IUD device was nailed to the doorway or Anthony Juanda and his wife, Jenny, in one slum area. They had three children, the youngest age five.

Education through the news media. In Mexico City millions of women still tune in to highly charged television soap operas every day that hammer home the message that fewer children mean a happier, more productive life.

Other forms of drama: In Bihar State in northern India the Tata Iron and Steel Works has produced, in Hindi and in English, a 45-minute musical play that opens with a clean hut and a slovenly one on stage. The neat home houses a family with only a few children. The dirty one contains six children. The death rate in the village rises. A wise man urges everyone to listen to the social workers.

Lines of men and women dance toward spotlighted booths offering sterlization operations. Music booms out and pro-family-planning banners unfurl. "Corny," says family-planning physician Dr. Pramila David. "but effective."

Getting education, health clinics, and family-planning services out where the people are. In Sri Lankan villages, volunteer workers organize into teams to talk to every single household.

On the island of Bali, every family in many villages has its family-planning habits recorded in a book and discussed at village meetings.

Incentives. In China, one-child families receive "glory certificates" which give them access to more living space (where possible), extra rice rations, wage supplements ranging from $2 a month in cities to $25 a month in villages, and more.

"The problem has no single panacea and no easy answers," says Dr. Lessel David, population consultant with the Administrative Staff College in Hyderabad. In dia. "Each country must work out what works best for its own conditions."

In New York, the executive director of the United Nations Fund for Population Activities (UNFPA), Raphael M. Salas of the Philippines, agrees. "Every culture needs its own approach," he says.

The United States is providing $240 million this year to help countries and private international organizations and the UNFPA with family-planning programs.

The US pressed hard in Bucharest for the third world to limit population growth as an essential part of its economic growth. Since then, almost every third-world country in Asia, and most elsewhere, have adopted family-planning programs. About $2 billion are now spent worldwide on family planning, almost half by developing countries themselves.

China, India, Sri Lanka, Singapore, Tunisia, Mexico, South Korea, Japan, Indonesia, Thailand, and other countries have all managed to lower their growth rates.

Methods have varied. India and Sri Lanka have relied heavily on sterilization. Indone-

sia has used the pill and the IUD as well as male contraceptives.

Yet some general lessons do emerge:

Ask villagers to walk to central clinics, and they will probably stay home, as they have done in parts of India. Pakistan, and Bangladesh. Decentralize and you will prosper: Kerala State in India has scored successes by building health clinics and schools out in the country-side where the people are.

Raise literacy and the status of women, and provide jobs for women and you will do well: Sri Lanka, Indonesia, and Kerala State are prime examples.

Mexico has realized the urgent need to reach its villages: In Mexico City, Dr. Manuel Urbina Fuentes, the government's family-planning chief, says that 26.3 million Mexicans—one in every three—lives in a settlement numbering fewer than 2,500. Eleven million live in hamlets of 500 or less.

By 1988, Dr. Urbina wants a rural health worker, equipped with 13 basic medicines and supplies of contraceptives, in every settlement.

Argue with local Muslim leaders and you may have a Pakistan (97 million people, more than six children per average family), growth rate almost 3 percent a year. Take the time to explain to Muslim leaders (better still, have a more liberal school of Muslim taught) and you may end up like Indonesia—birthrate down to 31 per 1,000 and an annual growth rate of 1.8 percent a year.

A nation's leader needs to be committed to population policies. Where he or she is—India, Indonesia, Tunisia, Sri Lanka, Thailand—progress is marked. When he or she is not—Egypt so far, Kenya, Pakistan areas of West Africa—progress is minimal.

The rules don't always apply. In Bangladesh (population: 98.4 million, due to jump to 145 million by the year 2000) political will exists but administrative and social pressures are so overwhelming that only 15 percent of couples practice family planning. The figure is 26 percent in India; almost 60 percent in Taiwan, South Korea, and Thailand; and now above 40 percent in Mexico.

Foreign aid plays a part, but much work is done by private international groups such as the Population Crisis Committee in Washington, one of about 40 such groups in the US which plan and help carry out family-planning programs abroad.

A paradox is also emerging, which Steven W. Sinding, AID population division chief, sees as "sobering":

A decade ago plenty of donor money was available for family planning, but political misgivings were widespread. Today, misgivings are fewer, especially in the third world, but money is also short.

"We now know that family-planning programs can work effectively," Mr. Sinding says. "And we know that aid from the private sector is critically important for starting up programs and bringing in new ideas."

However:

While aid assistance rose from $160.5 million in 1978 to $204 million in 1983, the 1983 figure measured in constant 1978 dollars was a decline—to $140.4 million.

This is happening just as the London-based, US-supported World Fertility Survey 1972-84 found that 52 percent of women in Asia and 53 percent in Latin America wanted no more children. (In Africa the figure was only 16 percent.)

A powerful and vocal anti-abortion lobby in Washington, part of President Reagan's far-right support, has used election-year political muscle to tighten restrictions on US aid and to downgrade family-planning priorities behind economic development based on private industry.

To population groups such as the Population Crisis Committee, the new White House policy is a "disgrace" to the traditional US commitment to family planning.

"In the long run, effective family planning reduces abortion rates—that's been proved in Mexico, Chile, and elsewhere," says a spokesman for the committee.

To the American Life lobby in Virginia, the new White House strategy is a "triumph." The pro-life lobby says the US has no right to tell other nations how to act. But one effect of the policy statement was to tell other countries that if they include abortion activities in their family-planning programs, they will receive no US aid through private organizations.

Asked if this was not contradictory, Judie Brown, president of the American Life lobby, replied, "It means that countries who want US dollars will have to comply with US policy. It's them who come cap in hand to us."

Third-world spokesmen are concerned that the US, the champion of family planning, is changing course in midstream.

"I am upset," says a senior government official in Mexico City. "You Americans have been pushing us for 10 years to increase family planning. Now are you coming to our capital to say we have it wrong?"

UN sources hope the statement is a political concession to the US far right on the eve of the Republican convention in Dallas. They claim that UN programs, and the US contribution to the UNFPA of $38 million this year, will be unaffected. "We fund no abortion programs at all," says spokesman Ed Kerner.

Meanwhile, if the world's population growth rate is to be slowed, the basic need is more than providing contraceptives, or even more food. Good cropland is becoming scarcer and scarcer. The costs of chemical fertilizer are rising. The basic need is nothing less than changing the ways third-world individuals see themselves, their families, their lives, and their futures.

Awareness is growing that two, or even four, children per family allows more progress and health than six or eight children.

The Mexico City conference has had scores of recommendations before it on enhancing family life, new targets for lowering illness and death rates, finding ways to stop cities growing so fast, the status of women, and many more.

In Bucharest 10 years ago the debate was family planning or economic development. In Mexico City the debate is family planning and economic development.

What is new at Mexico City? Raphael Salas of the UNFPA says one novel element today is growing government intervention in individual lives, as in China. A senior US official agrees: To him, balancing individual and state needs is the crucial family-planning question for the rest of the century.

Long-term economic growth must continue to provide jobs and incomes. World population growth rates fell from 2 percent a year to 1.7 percent in the last decade, but much more needs to be done.

Even if the UNFPA goal of stabilizing population growth by the year 2100 is achieved, world population will still be 2½ times as large as it is today, at 10.2 billion.

Adds Mr. Salas: Even if economic growth in developing countries were to reach unprecedented levels—5 or 6 percent a year * * * that would still leave more than 600 million people below the poverty line by the end of the century."

Mr. Salas, who is widely credited with helping to make family planning a respectable, urgent issue around the world in the last decade, says he remains optimistic.

He keeps his eye on the long term:

"The need now is to put reason behind human desires," he says. The aim is to achieve individual security with equal opportunity to develop in unpolluted, nondegraded environments. And the task, he says, has only just begun:

"All these efforts in population in the last 15 years are but a few short steps in a thousand-mile journey."

RUSSELL RULAU, A DISTINGUISHED WISCONSIN JOURNALIST

Mr. KASTEN. Mr. President, a distinguished journalism career is ending. Russell Rulau is retiring as editor-in-chief of World Coin News & Bank Note Reporter.

Russ Rulau is a numismatist, and has been for 45 years. That means he collects coins, medals, and tokens. He also writes about coins, medals, and tokens, and has been doing so ever since he began as assistant editor of the Token & Medal Society Journal in 1962. Since 1974, he has been an editor for Krause Publications in Iola, WI.

Following that first publication in 1962, Russ has authored several thousand articles on every conceivable facet of coin collecting. Included among his publications is the award winning series "Early American Tokens," "Hard Times Tokens," "U.S. Merchant Tokens," and "U.S. Trade Tokens." This series catalogs American store cards and tokens from 1700 through 1889. Russ is presently working on two other publications, one to cover the years 1890 to 1900, and one on medals of George Washington.

During his editorial career, Russell Rulau has lectured and traveled extensively. He has covered many international coin conferences—he reads seven languages—and almost all of the American Numismatic Association conventions since 1963.

As a coin collector, Russ has dabbled in almost all types of coins. His interest in U.S. tokens, however, has never waivered since he first started collecting in 1939. Although considered an expert in coins generally, Russ is an acknowledged authority on U.S. tokens.

Russ Rulau knows just about everyone connected with coin collecting. If they aren't his personal friends, he has interviewed them for one of his publications.

Distinguished journalists are few. Russell Rulau has proved to be one of the best. His long and successful career is one that he, his fellow journalists, and the many numismatists

who read his publications can all be very proud of.

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

[From Numismatic News, Aug. 4, 1984]

RULAU RETIRES FROM KRAUSE PUBLICATIONS

Chester L. Krause, president of Krause Publications, announced July 24 the retirement of Russell Rulau from full-time employment at Krause Publications as editor in chief of World Coin News and Bank Note Reporter.

Rulau, 57, will cease his staff association with KP Aug. 31 after 10½ years. He will continue to author KP's series of U.S. token catalogs, which he initiated in 1980, Krause said. The award-winning series—*Early American Tokens, Hard Times Tokens, U.S. Merchant Tokens* and *U.S. Trade Tokens*—catalogs American store cards and tokens from 1700 through 1889.

Future catalogs planned will add tokens of 1890-1900 and also medals of George Washington.

Rulau, a 45-year veteran of numismatics, has been a numismatic editor continuously since 1961. He stated that since his cardiac surgery Oct. 31, 1983, he has "wearied of the constant deadline constraints of coin journalism."

He added that he will not be leaving the numismatic field but will be entering a new career within the field.

"My friends may see more of me in the future, not less," he said. "Quite soon there will be an announcement of my assumption of an executive position with an expanding firm—outside the publishing area. I prefer to let my new associates choose this timing."

Rulau first broke into numismatic prominence in 1960, when he invented the word "exonumist" and helped found the Token and Medal Society. He was appointed assistant editor and then (1962) editor of the TAMS Journal, both non-paid positions.

In December 1962 he elected to leave active military service with the Air Force and was appointed a staff editor for Coin World of Sidney, Ohio. In September 1963, CW owner J. Oliver Amos promoted him to editor of World Coins, a new monthly magazine to be launched in January 1964. In early 1968 he was also installed as editor of Numismatic Scrapbook Magazine, which Amos Press had just purchased from the Hewitt family of Chicago.

In April 1974 Rulau resigned his multiple editorial positions with Amos Press and joined Krause Publications in Iola, Wis.

A frequent lecturer and world traveler, Rulau has authored several thousand articles on every conceivable facet of numismatics. "Most people know me as a token expert or as an authority on modern coins of the world," Rulau said, "but I consider myself a true general collector—dabbling in everything and switching specialties with the years. Only U.S. tokens have held my attention constantly since I started collecting in 1939."

Rulau ends a distinguished numismatic journalism career that has included coverage of the International Numismatic congresses in New York in 1973 and Bern in 1979, the International Association of Professional Numismatists assembly in Athens in 1972, the First Numismatic Study Tour of Russia in 1973, and most of the American Numismatic Association conventions from 1963 on.

He has interviewed U.S. Mint directors Eva B. Adams, Mary Brooks, Stella Hackel and Donna Pope and such renowned figures as Howard Ruff, Frankie Laine, Grand Master Angelo de Mojana of the Order of Malta, Paris Mint Master Pierre Dehaye, U.S. senators Jake Garn, Robert Kasten and Robert Taft Jr., every ANA president from Oscar Dodson through Q. David Bowers, and numismatic authors Eduard Kann, Kurt Jaeger, John S. Davenport, Yaakov Meshorer, I.G. Spasskii, Miguel L. Munoz, Jean de Mey, King O. Mao, George Fuld and many others.

He says he counts among his friends U.S. Mint chief engraver Elizabeth Jones and France-based engraver Paul Vincze, Spink's managing director Douglas G. Liddell, and ANA executive vice president Edward Rochette.

He has visited many of the government and private mints of the world. He reads seven languages, including Russian and German, and recently said that he knew personally every major figure in the world of numismatics in the past 25 years.

THE RECORD RENTAL AMENDMENT OF 1984

Mr. MATHIAS. Mr. President, I am pleased to welcome this important piece of legislation, S. 32, back to the Senate, following its consideration and approval by the other body. This bill will make a needed reform in the copyright law to protect copyrights in sound recordings. Although the House has modified this bill slightly through a substitute draft, S. 32 remains a timely and effective response to a growing threat to our copyright system.

I want to take this opportunity to compliment Representative KASTENMEIER, the chairman of the House Subcommittee on Courts, Civil Liberties, and the Administration of Justice; Representative EDWARDS, the chief sponsor of the companion House bill, H.R. 5938; and Representative RODINO, the chairman of the House Judiciary Committee, for their able work in processing this legislation. Their thoughtful consideration of the issues presented by this bill has been crucial to its forward progress.

Let me briefly review the purpose of this legislation. In April 1983, the Subcommittee on Patents, Copyrights, and Trademarks held a hearing on the commercial rental of copyrighted works. At that hearing, we learned that a number of record rental outlets had opened around the country. We also learned about what sort of business these outlets were in: The business of encouraging customers to take records home, tape them, and return them to the rental outlet. The advertisements of some of these outlets made their appeal explicit. One advertised "Never, ever buy another record!". Another touted its "free blank tape policy."

Under the current Copyright Act, these outlets had an arguable defense: the so-called first sale doctrine. Traditionally, this doctrine has insulated the purchaser of a particular copy of a copyrighted work from any copyright liability when he or she disposes of that copy. Although that principle remains a sound one in most instances, the advent of commercial record rental—with its direct link to copying—calls for a modification of that rule. To deal with the dangers posed by record rentals, S. 32 makes a commonsense reform: It requires that one obtain the permission of the copyright owner before one may commercially rent sound recordings.

In most respects, the version of S. 32 approved in the other body is identical to the bill approved by unanimous consent by the Senate in June 1983. However, I want to mention two significant differences between the House and Senate bills. The first is that the House bill contains a sunset provision, making the bill applicable for only 5 years, and requiring reenactment before that time if it is to remain in force. The Senate bill, by contrast, would make a permanent change in the law in this regard. The House committee report states that the sunset provision is designed to "enable the Committee to review and reconsider the appropriateness and justification for this legislation at a later time."

In an age of rapid technological change, the legislative agenda concerning intellectual property issues is a crowded one. Only if it is sufficiently likely that circumstances will significantly change in the record rental area in the next 5 years, should we divert ourselves from this agenda and devote more time and effort to reenacting this important reform. The Senate did not find that likelihood. Indeed, the consistent trend of the past 25 years is that unauthorized copying has become steadily easier and more of a threat to traditional copyright principles. But this disagreement should not hold up enactment of this bill. I wish to emphasize, however, that sunset provisions are not necessarily appropriate in connection with other copyright reforms, and that each future bill will need to be evaluated on an individual basis in this regard.

The second significant House amendment to this bill is a provision that precludes the application of criminal penalties for the violation of this act. Under the Senate-passed bill, the criminal penalties that have historically been available under the Copyright Act would apply with full force to the most egregious violations of the record rental right. The House chose to eliminate criminal enforcement in this area, on the ground that the definition of prohibited rental practices might be insufficiently precise to support criminal prosecution.

It is important to be clear about what the criminal exemption in the House bill means. As I read that provision, it bars the application of criminal penalties for the mere unauthorized rental or lending of copyrighted sound recordings. The amendment does not, however, confer immunity from criminal penalties for independent violations of the Copyright Act, merely because one's activity involved the rental or lending of sound recordings. Thus, to take a dramatic example, one whose role in a massive record piracy conspiracy consisted of lending records to the operation, knowing that they would be used as masters to create thousands of illegal copies, would not be exempt from criminal liability merely because his or her activity consisted of lending the recordings to his or her confederates.

It should not be inferred from the Senate's acceptance of this House amendment that we believe that any general retreat from criminal remedies for copyright infringement is warranted. The Copyright Act makes criminal penalties applicable only against persons who infringe copyrights "willfully" and "for purposes of commercial advantage or private financial gain." Thus, no innocent infringer could ever be liable for criminal copyright infringement. Nor could any individual who simply infringed copyrights for his or her own personal use. Rather, the criminal provisions of the Copyright Act are carefully targeted at "willful infringement for profit." Given this narrow focus on the most egregious violations of the copyright laws, I believe that criminal penalties should continue to play an important role in deterring the outright theft of the labors of creative artists and writers.

The importance of maintaining a meaningful criminal enforcement system is underscored by the fact that, as many have observed, we live in an age in which intellectual property plays an increasingly vital part both in the domestic U.S. economy and in our international trade. Copyrighted works such as books, films, records, and computer software do more than just supply entertainment and needed information—they also provide jobs to millions of Americans. The export of these same goods is an increasingly important part of our international trade. In addition, the United States is a world leader in the creation and marketing of other forms of intellectual property. In particular, American inventors have enriched the world with patented inventions as familiar as farm machinery and as novel as man-made forms of bacterial life. In view of the increasing importance of intellectual property within both the national and world economy, it would be highly inappropriate to begin weakening the penalties for egregious violations of intellectual property rights.

I wholeheartedly urge Senators to support this legislation, and I hope that it will be promptly enacted into law.

APARTHEID: THE CONTINUING TRAGEDY IN SOUTH AFRICA

Mr. CRANSTON. Mr. President, I call to the attention of my distinguished colleagues a resolution introduced by Senator TSONGAS and Senator ROTH that the Senate Foreign Relations Committee passed unanimously on September 12. This resolution, Senate Concurrent Resolution 139, condemns the Government of South Africa for its arbitrary arrests and indefinite detentions of some 200 men and women for their opposition to that Government's new constitutional measures—measures that continue to ignore the legitimate right of the black majority of that nation's citizens to participate fully in shaping the destiny and policies of their own country. It is obscene when a government denies, on the basis of race alone, 70 percent of its people the right to vote, to choose their place to live, to have equal social and economic opportunity, and to express freely and peacefully their political beliefs.

Sadly, there has been no real indication that South Africa is moving toward any substantive change in its practice of racial discrimination against its black majority. Sporadic bloody rioting in the townships ending in tragic violence and loss of life continues. We cannot be silent as the situation worsens and more lives are lost. Generation after generation of black Africans have lived, suffered, and died under the heinous system of apartheid. Is this to be the fate of its next generation?

As a nation founded on the principles of democracy and justice, the United States cannot fail its moral obligation to condemn South African apartheid and to press for civil and political liberties. We must speak out forcefully against South Africa's racism and make clear to Pretoria that its policies offend Americans and all those who cherish justice and freedom. And we must preserve in our condemnation until Pretoria pursues reforms that will involve the active participation of its black majority in its national political and economic affairs.

As a cosponsor of Senate Concurrent Resolution 139, it is my hope that the full Senate will act expeditiously and pass this important resolution without delay.

I also wish to take this opportunity to applaud the efforts of Senator TSONGAS for his leadership in championing human rights not only in South Africa but in so many other countries. It has been an honor and a pleasure to work with him to further the cause of human rights. An eloquent voice for freedom, a voice that has been strong, compassionate, and reasoned, Senator TSONGAS is an inspiration to us all. We in the Senate owe the Senator from Massachusetts a debt of gratitude. We will miss him greatly.

RELEASE OF FIVE AMERICAN CITIZENS BY RUSSIA

Mr. BAKER. Mr. President, I have one other matter before we recess at 12:05 p.m.

I wish to commend the distinguished Senator from Alaska, Senator STEVENS, for his efforts in obtaining the release of the five Americans taken into custody by the Soviet Union on the day before yesterday.

I know both Senators from Alaska have been greatly concerned with this matter and have worked carefully and closely with the State Department and the White House to obtain the release of these American citizens.

But there is one aspect of the matter that I thought should be brought to the attention of the Senate. It is in no way a diminution of the good efforts by the State Department or others.

Our friend, TED STEVENS, had a very novel and unique diplomatic idea yesterday. That is while negotiations were going on with some difficulty with the Soviet Union, TED STEVENS picked up the telephone and placed a call to a hotel in easternmost Siberia where it was reported by the press these five Americans were being held and, lo and behold, he was connected.

He proceeded to have a conversation with the five Americans, which was dutifully reported to the State Department, and obtained a great deal of information which was of great value.

I am sure it contributed greatly to the release of those prisoners.

I questioned Senator STEVENS after I first congratulated him on his mission. I asked whether or not you could direct dial to Siberia. He answered that you could not, that it still required an operator.

So there is still much to be done in the relationships between our two countries.

RECESS UNTIL 2 P.M.

The PRESIDING OFFICER. Under the previous order, the hour of 12:05 p.m. having arrived, the Senate will stand in recess until the hour of 2 p.m.

Thereupon, the Senate, at 12:05 p.m., recessed until 2 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. KASTEN].

MISCELLANEOUS TARIFF, TRADE, AND CUSTOMS MATTERS

The PRESIDING OFFICER. The Senate will now resume consideration of the pending business, H.R. 3398, which the clerk will state by title.

The assistant legislative clerk read as follows:

A bill (H.R. 3398) to change the tariff treatment with respect to certain articles, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Cohen amendment No. 4247, to amend the Tariff Act of 1930, to establish a Trade Remedy Assistance Office.

AMENDMENT NO. 4255

(Purpose: To suspend for a 3-year period the duty on certain metal umbrella frames)

Mr. GLENN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The Chair will inform the Senator from Ohio that there is presently an amendment pending.

Mr. DANFORTH. Mr. President, I ask unanimous consent that the amendment of the Senator from Maine be temporarily laid aside so that the Senator from Ohio may proceed.

The PRESIDING OFFICER. Is there objection?

Mr. COHEN. Mr. President, may I inquire of the Senator from Missouri as to whether he intends to reach my amendment this afternoon.

Mr. DANFORTH. It is the intention of the Senate from Missouri to reach the amendment of the Senator from Maine hopefully in about 15 minutes and to conclude the bill this afternoon.

The PRESIDING OFFICER. Is there objection?

Mr. WILSON. Reserving the right to object, I inquire of the Senator from Ohio what period of time he estimates his amendment will consume.

Mr. GLENN. I would suggest just a couple of minutes. If 1 minute would be acceptable, I would agree to that.

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

The assistant legislative clerk read as follows:

The Senator from Ohio [Mr. GLENN] proposes an amendment numbered 4255.

Mr. GLENN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 23 of the matter proposed to be inserted, after the matter between lines 6 and 7, insert the following:

SEC. . CERTAIN METAL UMBRELLA FRAMES.

Subpart B of part 1 of the Appendix is amended by inserting in numerical order the following new item:

"917.45	Frames for hand-held umbrellas chiefly used for protection against rain (provided for in item 751.20, part 8B, schedule 7)	Free	No change	On or before 6/30/87"

Mr. GLENN. Mr. President, I rise today to add a noncontroversial amendment to the miscellaneous tariff bill currently before the Senate. This amendment is identical to a bill I introduced in August to suspend for a 3-year period the duty on imported rain-umbrella frames. The current 15-percent duty hurts rather than helps domestic manufacturers because hand-held umbrella frames are no longer produced in this country. In fact, with 95 percent of all umbrellas sold in the United States being manufactured overseas, this duty only adds further injury to what remains of an already hardpressed domestic industry.

What does remain, Mr. President, are eight American rain-umbrella manufacturers who rely almost entirely upon frames from Taiwan. In 1983, Taiwan lost its GSP status because it accounted for more than 50 percent of the imports of umbrella frames and its trade exceeded $1.3 million. As a result, a 15-percent duty was imposed on frames imported from Taiwan. Although well intended, this action will have unfortunate consequences for American companies.

If the duty on frames is not suspended, manufacturers will be forced to raise their prices to a point which may well force them out of the business—and this country can ill afford to take that kind of risk. Mr. President, our domestic umbrella manufacturers clearly need our help and this help must come soon.

By suspending the duty on hand-held rain umbrella frames for 3 years, American jobs will be saved and the industry will be given a fighting chance to survive. Mr. President, this is a simple amendment that will offer needed help to a struggling industry. I ask for its immediate consideration and urge my colleagues to join me in supporting this commonsense measure.

FACTSHEET ON UMBRELLA FRAMES

First, 95 percent of all umbrellas sold in the United States are manufactured overseas.

Second, the eight U.S. manufacturers rely almost entirely upon frames from Taiwan.

Third, in 1983, Taiwan lost its GSP status because it accounted for more than 50 percent of the imports and its trade exceeded $1.3 million.

Fourth, consequently, a 15-percent duty was imposed upon frames from Taiwan.

Fifth, the amendment would suspend for a 3-year period the duty on imported rain-umbrella frames.

Sixth, the amendment is noncontroversial and enjoys the support of American manufacturers and their employees, members of the Amalgamated Clothing & Textile Workers Union, AFL-CIO.

Mr. President, this amendment has been discussed with both floor managers of the bill and I believe we have an agreement on this. I move adoption of the amendment.

The PRESIDING OFFICER. Is there further debate?

Mr. DANFORTH. Mr. President, the amendment is acceptable.

Mr. BENTSEN. Mr. President, the amendment is acceptable to this side.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 4255) was agreed to.

Mr. GLENN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DANFORTH. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question recurs on the amendment of the Senator from Maine.

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

Mr. DOMENICI. Mr. President, will the Senator withhold?

Mr. BENTSEN. I withhold.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I wanted to state to the floor managers that I have three amendments with reference to copper. I am trying to work out something with the floor managers and with a number of other Senators who are interested.

I wanted to report that it will take me about 15 or 20 minutes to get back to them. I would like to be protected. I will not take over the amount of time.

AMENDMENT NO. 4256

(Purpose: To amend section 243 of the committee amendment to cover modifications and classifications of the existing United States-European communities pipe and tube agreement)

Mr. BENTSEN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Is there objection to setting aside temporarily the Cohen amendment?

Mr. BENTSEN. Mr. President, I ask unanimous consent that the amendment of the Senator from Maine be temporarily set aside.

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

The clerk will report.

The bill clerk read as follows:

The Senator from Texas [Mr. BENTSEN] proposes an amendment numbered 4256.

Mr. BENTSEN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

Strike from page 34, line 27 through page 36, line 8 of Danforth Amendment No. 4244 and insert a new Section 243 as follows:

"SEC. 243. ENFORCEMENT OF ARRANGEMENT ON EUROPEAN COMMUNITY EXPORT OF PIPES AND TUBES.

(a) In connection with the provisions of the Arrangement on European Communities' Export of Pipes and Tubes to the United States of America, contained in an exchange of letters dated October 21, 1982 between representatives of the United States and the Commission of the European Communities, including any modification, clarification, extension or successor agreement thereto (collectively referred to hereinafter as "the Arrangement"), the Secretary of Commerce is authorized to request the Secretary of the Treasury to take action pursuant to subsection (b) of this section whenever he determines that:

(1) the level of exports of pipes and tubes to the United States from the European Communities is exceeding the average shares of annual United States apparent consumption specified in the Arrangement, or

(2) distortion is occurring in the pattern of United States-European Communities trade within the pipe and tube sector taking into account the average share of annual United States apparent consumption accounted for by European Communities articles within product categories developed by

Any request to the Secretary of the Treasury pursuant to this subsection by the Secretary of Commerce shall identify one or more categories of pipe and tube products with respect to which action under subsection (b) is requested.

(b) At the request of the Secretary of Commerce pursuant to subsection (a), the Secretary of the Treasury shall take such action as may be necessary to ensure that the aggregate quantity of European Communities articles in each product identified by the Secretary of Commerce in such request that are entered into the United States are in accordance with the terms of the Arrangement. The Secretary of the Treasury is authorized to promulgate regulations establishing the terms and conditions under which European Communities articles may be denied entry into the United States pursuant to this subsection."

Mr. BENTSEN. Mr. President, as section 243 now reads, it provides for the enforcement of the 1982 arrangement of pipes and tubes. That is a trade agreement between the United States and European Communities.

Under this amendment, the section would cover enforcement of both the 1982 arrangement and "any modification, classification, extension, or successor agreement thereto."

Quite frankly, Mr. President, I am simply concerned about any possible evasion of section 243, and I want to see that it is carried out.

Mr. President, the President has before him a decision under the escape clause in steel. If he decides, as he may, under the current law, to negotiate "orderly marketing agreements" with the EC, he may substitute an OMA for the 1982 agreement. If he does, section 243 ought to cover the new agreement.

That is what this amendment is all about, what it would accomplish. I urge adoption of the amendment.

The PRESIDING OFFICER. Is there further debate?

Mr. DANFORTH. Mr. President, the amendment is acceptable.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 4256) was agreed to.

Mr. DANFORTH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BENTSEN. Mr. President, I move to lay that motion on the table.

The motion to reconsider was laid on the table.

Mr. CHAFEE. Mr. President, let me begin by expressing my gratitude for the work done by the chairman of the Finance Committee and the managers of H.R. 3398. This bill represents the kind of positive measures Congress can take to enhance the American share of world trade. Rather than succumb to protectionist pressures, we can focus in H.R. 3398 on ways to help open foreign markets for U.S. goods, as well as ways to assist the exporter's competitive position. I believe that these goals can be accomplished in ways that are consistent with our international trading obligations under GATT and in ways that do not hurt consumers and workers.

One such effort is the reciprocity bill—title III of H.R. 3398, originally introduced as S. 144—the International Trade and Investment Act. Enactment of this bill this year is vital to improve our ability to negotiate the removal of foreign trade barriers and restrictive practices, and to improve our export trade in services, high technology goods, and trade related investment. Full implementation of both its letter and its spirit can provide significantly improved access to foreign markets for U.S. goods and services.

Another measure in title V of the bill is the reauthorization of the generalized system of preferences which would help us gain freer access to LDC markets. This reauthorization would help developing countries earn dollars with which to buy U.S. products, and help us obtain protection of U.S. patents and copyrights.

As an original cosponsor of the International Trade and Investment Act, title III of the bill now before us, I am delighted that we have the opportunity today to finally adopt this measure that will surely lead to greater exports—a critical and growing part of our economy.

This bill specifically would mean greater exports in our services sector. Although the misconception lingers, ours is no longer the smokestack economy of the past. The fact is that most of our jobs, and the largest portion of GNP, are generated by the service sector. As critical as services are to our economy, there exists no system of international agreement covering services trade. While the United States has expanded its trade exports over the past decade, foreign barriers to our services exports proliferate. These include restrictions on remittance and repatriation of profits, fees, and royalties; restrictions on market access; restrictions on personnel; discriminatory taxes and licensing procedures; Government subsidies to local service firms; excessive duties and prohibitions on importation of services necessities like computer software; and, discriminatory Government procurement.

We must create an international framework to deal with trade in services problems while we still have a trade surplus in that area instead of waiting until we have a deficit. Trade in services is the fastest growing sector of U.S. trade abroad. We must give services an equal billing with goods in our trade policy, and strive to expand multilateral trade agreements to include services.

These service industries, which include insurance, banking, engineering, consulting, and the whole range of high technology and computer services, account for 7 out of every 10 jobs in the United States, two-thirds of the U.S. gross national product.

I welcome a negotiating mandate to strengthen existing international institutions and to expand international agreements to cover services, investment, and high technology.

Market access for high technology goods and services is crucial to our future trade balance. We must make every effort bilaterally and multilaterally to create market opportunities in these sectors worldwide.

One such effort is embodied in section 308 of title III which would authorize the President to negotiate mutual reduction or suspension of tariffs on certain high technology products— semiconductors—microchips—and parts of computers. Section 308 will confirm an agreement already reached with Japan, to suspend U.S. and Japanese tariffs on semiconductors.

This means mutual reduction of barriers in electronics and other technologically driven industries where the United States can continue to be highly competitive.

Let me just stress that in addition to the obvious benefits of greater market

access on both sides, elimination of tariffs will free up substantial sums for research and development and capital investment. U.S. semiconductor firms currently pay $75 million in duties. It is estimated that 80 percent of these duty savings will go into R&D and new capital equipment. The remainder of the savings would be passed on to purchasers of semiconductors in the form of lower prices.

The Office of Technology Assessment recently reported that many of the fastest growing occupational categories in the economy will be found in the electronics and other high technology industries sector. We must do all we can to preserve these future employment opportunities. Section 308 of title III—tariff cutting authority for semiconductors is one way to do that.

Finally, Mr. President, we have in H.R. 3398 an opportunity to enact trade legislation which improves our world trading system and assists American exporters to gain a greater share of that global trade. Protectionist proposals will kill this bill's chances of passage, hurt the American economy and American jobs, while at the same time help dismantle the international rules by which we are all governed.

The world trading system has been under tremendous pressure since the global recession of 1981 and 1982. We certainly face serious problems in our trade relations with others. Our trading partners have trade barriers which are both unfair and frustrating to Americans. I do not believe that our workers and industries must accept the use of unfair practices by foreign competitors in their efforts to penetrate U.S. markets.

The bill we are considering today contains many elements to counteract those unfair practices and to strengthen our hand in the world trading system. We will merely aggravate the problem by giving in to election year pressures to enact protectionist laws. Potential protectionist amendments to this bill will deprive us of this golden opportunity to provide some real help to the American exporting community.

AMENDMENT NO. 4257

(Purpose: To provide for a public hearing at the request of any interested person on a petition filed with the U.S. Trade Representative requesting that the President take action under section 301 (which provides relief from unfair trade practices)

Mr. LEVIN. Mr. President, it is my understanding that the floor manager is prepared to engage in a colloquy on this bill relating to a couple of points. But before we do that, I would again like to thank the Finance Committee and the Senator from Missouri in particular for his efforts in reaching an earlier agreement with respect to section 303 of the bill. This change makes clear that in the report by the U.S. Trade Representative which would identify and analyze significant barriers to U.S. exports, the U.S. Trade Representative would have to give reasons for not taking action to eliminate those barriers, as well as identifying what actions have been taken. This need to explain inaction may provide an added incentive for the U.S. Trade Representative to take action on those barriers or distortions of trade which he has identified. I believe this addition strengthens the bill, and I appreciate the earlier efforts of the floor manager to include it. Now with respect to other portions of the bill, let me ask the floor manager if he has reviewed my proposed amendment to section 302 that would add the phrase "or other interested person" at the end of line 22 on page 53?

Mr. DANFORTH. Yes, I have.

Mr. LEVIN. The intent behind this amendment is to make clear that any interested person could make a timely request for a hearing on a petition filed with the U.S. Trade Representative requesting that the President take action to eliminate trade barriers. Under the bill as it now stands, it is my understanding that only the petitioner could make such a timely request for a hearing. This change would permit all views to be heard and debated publicly and for all ramifications of eliminating such a trade barrier to be explored. Is that the understanding of the floor manager?

Mr. DANFORTH. Yes, it is.

Mr. LEVIN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Is there objection to setting aside the amendment of the Senator from Maine in order to consider the amendment of the Senator from Michigan?

Mr. BENTSEN. Will the Chair repeat that?

The PRESIDING OFFICER. The Senator from Michigan wishes to submit an amendment. We must set aside the pending amendment, the amendment of the Senator from Maine, in order to do so. Is there objection to setting aside the pending amendment in order to consider the amendment of the Senator from Maine? The Chair hears none, and it is so ordered.

The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN] proposes an amendment numbered 4247:

On page 47, line 22, strike "." and add the following: "or by any interested person."

Mr LEVIN. Mr. President, this amendment has been explained. I think it has been cleared on both sides of the aisle, and I have no further debate on it.

The PRESIDING OFFICER. Is there further debate?

If not, the qustion is on agreeing to the amendment.

The amendment (No. 4257) was agreed to.

Mr. LEVIN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DANFORTH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LEVIN. I thank my friends.

Mr. President, on another point, under current law, before recommending that the President take action against a foreign trade barrier which is the subject of the petition process we just discussed, the U.S. Trade Representative may request the views of the International Trade Commission regarding the probable impact on the economy of the United States of taking that action. I believe that this procedure is specified in section 304(b)(3) of the Trade Act. Although this request for the views of the ITC is left to the discretion of the U.S. Trade Representative, is it the understanding of the floor manager that the U.S. Trade Representative would be well-advised to make such a request when there is a reasonable possibility that the recommended action could have significant adverse ramifications on U.S. industries or the U.S. economy as a whole.

Mr. DANFORTH. That is my understanding.

Mr. LEVIN. Mr. President, is it required at this point that I make unanimous-consent request to lay aside the amendment of the Senator from Maine so that I can offer additional amendments which I understand have been cleared?

The PRESIDING OFFICER. The Senator is correct. It takes unanimous consent. Is there objection?

Mr. BENTSEN. Will the Senator tell me the nature of the amendment?

Mr. LEVIN. There are two more amendments, which I understand have been cleared on both sides of the aisle.

Mr. BENTSEN. I would have to object.

Mr. LEVIN. I will explain them before I make the unanimous-consent request, and I will withhold the request until later.

Mr. President, pages 60 and 61 list the principal negotiating objectives that should be pursued with respect to trade in services and foreign direct investment. I am concerned that these negotiation objectives focus solely on the reduction or elimination of barriers. I believe that it is important for our negotiators to also take into account with respect to U.S. negotiating objectives other interests, such as protection of legitimate health and safety, essential security, the environment and consumer or employment opportunities and laws related to

them. In this way, U.S. negotiators will keep in mind not only the importance of improving the flow of trade and investment, but will also keep in mind the benefits which our current laws and regulations help to bring about. I have prepared two amendments which speak to this point, one dealing with trade in services and one dealing with foreign direct investment.

I was laboring under the assumption that these amendments have been cleared, and perhaps they have not been.

Mr. BENTSEN. I say to the distinguished Senator from Michigan that I have no objection.

Mr. LEVIN. I thank the Senator from Texas.

Mr. DANFORTH. It is acceptable to this Senator.

AMENDMENT NO. 4258

(Purpose: To provide that in pursuing the negotiating objectives, U.S. negotiators shall take into account legitimate domestic objectives and the laws and regulations related thereto)

Mr. LEVIN. In that case, Mr. President, I ask unanimous consent that the pending amendment be laid aside so that the two amendments I have just identified will be in order.

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

Mr. LEVIN. I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Michigan [Mr. LEVIN] proposes an amendment numbered 4258.

Mr. LEVIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

After line 19, page 52, add the following: *"Provided*, That in pursuing these objectives, U.S. negotiators shall take into account legitimate U.S. domestic objectives including, but not limited to, the protection of legitimate health or safety, essential security, environmental, consumer or employment opportunity and the laws and regulations related thereto."

Mr. LEVIN. Mr. President, the amendment is as I have just described it.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 4258) was agreed to.

Mr. LEVIN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DANFORTH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 4259

(Purpose: To provide that in pursuing the negotiating objectives, U.S. negotiations shall take into account legitimate U.S. domestic objectives and the laws and regulations related thereto)

Mr. LEVIN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Michigan [Mr. LEVIN] proposes an amendment numbered 4259.

Mr. LEVIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

After line 32, page 52, add the following: *"Provided*, That in pursuing these objectives including, but not limited to, the protection of legitimate U.S. health and safety, essential security, environmental, consumer or employment opportunity interests and the laws and regulations related thereto."

Mr. LEVIN. Mr. President, this amendment is as I have just described it.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 4259) was agreed to.

Mr. LEVIN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DANFORTH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LEVIN. Mr. President, I thank my friends from Missouri and Texas for their help and consideration on these amendments.

Mr. DANFORTH. Mr. President, I ask unanimous consent that the amendment of the Senator from Maine be set aside.

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

AMENDMENT NO 4260

Mr. DANFORTH. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Missouri [Mr. DANFORTH] proposes an amendment numbered 4260.

Mr. DANFORTH. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 10 of such matter, strike out lines 5 through 20 and insert in lieu thereof the following:

(b)(1) The aggregate quantity of articles provided for in items 118.35, 118.40, or 118.45 of the Tariff Schedules of the United States which may be entered during any 1-year period beginning after the date that is 14 months after the date of enactment of this Act shall not exceed the aggregate quantity of such articles entered during the 1-year period beginning on the date of enactment of this Act.

(2) The Secretary shall allocate the limitation provided in paragraph (1) among foreign countries, group of countrie, or areas in a manner which, to the fullest extent practicable, results in an equitable distribution of such limitation.

(3) The Secretary shall take such actions as may be necessary or appropriate to enforce the provisions of this subsection, including, without limitation, the issuance of orders to customs officers to bar entry of an article if the entry of such article would cause the quantitative limitations established under paragraph (1) to be exceeded.

(4)(A) The Secretary is authorized to issue such implementing regulations, including the issuance of import licenses, as may be necessary or appropriate to effect the purposes of this subsection and to enforce the provisions of this subsection.

(B) Before prescribing any regulations under subparagraph (A), the Secretary shall—

(i) consult with interested domestic parties,

(ii) afford an opportunity for such parties to comment on the proposed regulations, and

(iii) consider all such comments before prescribing final regulations.

Mr. DANFORTH. Mr. President, this is a technical amendment to section 124 relating to quotas on various dairy products, including whey. Section 124, as it is written now, cannot be properly administered. This amendment would make it administrable.

Mr. BENTSEN. Mr. President, there is no objection on the side of the minority to this amendment.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment of the Senator from Missouri.

The amendment (No. 4260) was agreed to.

The PRESIDING OFFICER. The question recurs on the amendment of the Senator from Maine.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. COHEN. Mr. President, as I understand it, the parliamentary situation is that my amendment is now pending. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. COHEN. Mr. President, I yield to the Senator from Maine who has an amendment that he seeks to offer in the second degree.

AMENDMENT NO. 4261

(Purpose: To establish within the Department of Commerce the Small Business International Advocate Office)

Mr. MITCHELL. Mr. President, I send to the desk an amendment to the amendment of my colleague and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Maine [Mr. MITCHELL] proposes amendment numbered 4261 to amendment numbered 4247.

Mr. MITCHELL. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

At the end of Amendment 4247, offered by the Senator from Maine [Mr. COHEN] add the following new section;

"SEC. . SMALL BUSINESS INTERNATIONAL TRADE ADVOCATE.

(a) ESTABLISHMENT OF OFFICE.—The Secretary of Commerce shall establish within the Department of Commerce the Small Business International Trade Advocate Office which shall be headed by the Small Business International Trade Advocate (hereinafter in this section referred to as the "Advocate").

(b) FUNCTIONS OF ADVOCATE.—

(1) IN GENERAL.—The Advocate shall assist small businesses in the preparation for, and participation in, any proceedings relating to the administration of the trade laws of the United States.

(2) INITIATION AND INTERVENTION.—The Advocate—

(A) may, at the request of any person—

(i) initiate an investigation under section 702(a) or 732(a) of the Tariff Act of 1930 in the same manner as the administering authority, and

(ii) intervene in any administrative proceeding under title VII of such Act if the Advocate determines such person is a small business which is unable to finance initiation of, or participation in, such a proceeding, and

(B) shall, for purposes of subparagraph (A)(ii), have all rights under title VII of such Act to which an interested party is entitled.

(3) REQUESTS FOR INVESTIGATIONS.—The Advocate may each fiscal year request the United States International Trade Commission to conduct not more than 3 investigations (similar to investigations under section 332(g) of the Tariff Act of 1930) to assist small businesses in preparing for proceedings under title VII of such Act.

(c) SMALL BUSINESS.—For purposes of this section, the term "small business" means a small business concern (within the meaning of section 3 of the Small Business Act).

(d) REPORT TO CONGRESS.—Each fiscal year the Advocate shall report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives with respect to its activities during the preceeding fiscal year.

(e) AUTHORIZATION.—There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

(f) EFFECTIVE DATE.—The provisions of this section shall apply to fiscal years beginning after September 30, 1984."

Mr. MITCHELL. Mr. President, I offer a perfecting amendment to the pending amendment offered by my colleague from Maine [Senator COHEN]. My amendment would have the effect of accomplishing a goal I have long sought—and a goal I know Senator COHEN shares—which is to make our trade remedy laws more readily accessible to the small business men and women of our Nation.

The amendment proposed by Senator COHEN contains two provisions in particular that provide a beginning in help for smaller firms seeking redress under our trade laws.

They are the small business assistance office and the provision to permit appeals of agency actions to bypass the Court of International Trade and be directed immediately to the Court of Patents and Appeals. The character of Patents Court proceedings is more analagous to an appeals court than the quasi-trial character of proceedings before the Court of International Trade and would more closely fulfill the intention of the law, which is to examine agency actions, not to retry petition cases.

A small business bill I introduced in 1982 contained these provisions and they are also part of S. 50, a small business trade bill that Senator COHEN and I jointly sponsored in this Congress.

I am now proposing that the amendment before us be modified to incorporate another provision of that bill, to establish a Small Business Advocate Office in the Commerce Department to provide direct help to smaller companies. Such an advocate office would be a suitable referral point for the Small Business Access Office, which is in the nature of a clearing house office. Companies most in need of help to formulate and present their petitions would have a source of help in the Advocate's Office that goes beyond the informational function of the Small Business Access Office already in the amendment.

Hearings held in the Finance Committee earlier this year made it clear that one of the major obstacles to the use of our trade laws by smaller firms is the cost, length, and complexity of the process. Our smaller firms should not be denied access to laws that are designed to serve all American business simply because they cannot meet the cost and cannot handle the complexity.

Nor should the outcome of petitions rest upon the inability of smaller industries to compile the detailed and sophisticated data in sufficient quantity to overcome every objection.

I emphasize the perfecting amendment I am now offering would not simplify the process. It would not prejudice the outcome of any trade petition brought before the ITC in a dumping or subsidy case. It wold not give smaller businesses an unfair advantage over the importers of competing goods.

What the amendment would do is to redress, however slightly, the balance in the system that is now so heavily tilted against smaller businesses by providing them with an institutional office sympathetic to their concerns and knowledgeable about the trade laws.

Personnel in the agencies which today handle trade cases offer invaluable advice to many firms seeking help in filing petitions. But in some instances, such advice is contradictory. In some instances the advice offered changes over a period of time.

For example, the Maine Potato Council, which brought an unsuccessful petition had the experience of being advised by one government official to file an antidumping case and being advised by another government official to file a countervailing duty case.

The executive vice president of Maine's Potato Council testified in April that she spent 6 years traveling to Washington in an effort to clarify just what kind of petition the industry should file.

She spent 4 months gathering statistics and documentation for a countervailing duty case—not an easy task, because most agricultural commodities sales are made by phone and smaller farmers simply do not maintain elaborate recordkeeping systems or archives.

Economics professors at the University of Maine found that while evidence of injury to domestic producers was clear, documentation of that evidence was both an expensive and time-consuming business.

The Maine potato industry's costs in its search for import relief have been staggering. Travel costs alone have mounted to over $65,000. The total legal costs are expected to be in the vicinity of a quarter of a million dollars. The cost of transcripts of the proceedings was $960.

Such sums may seem small to larger industries which can afford to pursue trade remedies and which can readily accommodate copying costs and travel overhead. But to a group composed of small family farmers, such costs are too high. And what those costs—and the associated time delays—really mean is that our trade laws have become virtually inaccessible to smaller companies, regardless of the merits of their case, regardless of the damage done by unfair foreign competition, and regardless of the jobs lost and the cost to the economy over the long term.

I wish now to conclude with just some brief remarks about the nature of my amendment.

My amendment will create within the Commerce Department and office

whose primary responsibility will be to actively assist smaller firms in seeking relief under our trade laws. The advocate's office would be empowered to intervene on behalf of small firms which are in financial straits and unable to provide adequate representation for themselves.

The advocate's office would have two additional specific functions: First, the advocate would be authorized to self-initiate cases on behalf of small firms. The Department of Commerce has that power now but has rarely used it. My perfecting amendment builds on the existing power within the Commerce Department and simply authorizes the advocate's office to initiate cases for small businesses.

Second, the advocate's office would be authorized to request a limited number of investigations by the International Trade Commission. Such factfinding investigations could be requested in connection with small business undertaking to prepare their cases.

Investigations such as this have been helpful in the past, and this authority will give the advocate's office a valuable tool in making certain that relief from import injury is not denied for lack of adequate documentation.

I hope my colleague from Maine can accept this modification of his amendment. It would be a help, I believe, and I know he believes, to Maine's small firms and to smaller firms and producers throughout the Nation, I believe it would also fulfill the goal of making certain our trade laws are accessible to all American companies, regardless of their size, if they have a legitimate and substantiated complaint against unfair trade competition.

Mr. COHEN. Mr. President, I want to commend the Senator from Maine, my colleague, for offering this amendment to the underlying amendment. I want to join with him in supporting it and just offer a couple of observations.

Over the years, he and I have both witnessed what has taken place when small industries such as those we represent in the State of Maine have been forced to seek relief under our trade laws. As Senator MITCHELL has indicated, many times they find that the cost is too great for them to bear. It is expensive, it is complex and ultimately the remedies have been illusory. They have been illusory primarily because the attitude on the part of the Commerce Department and other agencies over the years, both Republican and Democratic administrations, have primarily reacted as adversaries.

They have primarily had the attitude that here are these small industries coming in complaining they cannot quite make it in the marketplace, and they have had absolutely no help from these administrations. And by the way, they have insisted that these small businesses bring their own documentation and accumulate massive amounts of information which in my judgment the Government should be in the business of accumulating. So there has been adversarial relationships between our own constituents, our own business firms, our own industries, and the Government which we believe has a responsibility of representing the people of this country.

The nature of the amendment the junior Senator from Maine has offered is to primarily shift the emphasis from being an adversary—and I might add over the past 4 years there has been a significant shift from an adversarial relationship to one of advocate—but in this particular amendment to crux of it is that our Government agencies are no longer going to be adversaries to the people of this country but advocates on their behalf. And that in my judgment is the singular and I think praiseworthy merit of this amendment. I want to join him in urging my colleagues to accept it.

Mr. MOYNIHAN. Mr. President, I rise today as a cosponsor of the amendment offered by my distinguished colleague from Pennsylvania [Mr. HEINZ], a proposal that would significantly reform and improve our trade laws.

Mr. President, the amendment offered today is the product of extensive discussions among concerned Senators and with administration officials. It is a good product; a very good one. The amendment contains a series of necessary changes to our trade relief laws. As one of those who worked to write and pass the Trade Act of 1979, I question whether our trade statutes still do provide American workers reasonable means to secure administrative relief from unfairly traded goods.

The amendment has been endorsed by the Trade Reform Action Coalition, a broad-based group of labor and industry representatives from the textile, apparel, steel, leather, chemical, television, and footware industries, and more. These industries employ 4.5 million American workers and produce goods and services valued at almost $270 billion—almost 10 percent of the Nation's GNP.

Mr. President, when we passed the Trade Agreements Act of 1979, we recognized that under certain circumstances, expanded international trade can have temporary adverse effects on certain U.S. industries. To protect our workers from unfair trade practices by other governments, Congress reaffirmed its commitment to American workers and firms in the 1974 and 1979 Trade Acts: American workers and industries would have access to relief.

During the floor debate on the Trade Agreements Act of 1979, I addressed this need to protect American workers from unfair competition. On July 23, 1979, I said, "But I am here to say that I altogether support the (the Trade act of 1979), but I support it on the condition that the pledges made by the administration that American workers' jobs will be protected from unfair and often dishonest dealings will be kept."

Mr. President, the promises made to American workers and industries by Congress and the administration, to enforce our countervailing duty, antidumping, and other trade statutes, have been kept, by and large—as least as best as possible under the authority currently granted to the executive branch by Congress.

In recent years, however, it has become increasingly evident that we are witnessing fundamental changes in the international trading system, without amending our trade laws to account for these changes. It is an undisputed fact that state-directed economies play an increasingly important role in international trade. The emergence of state-directed economies poses serious problems for American workers and industries that compete in the international marketplace. By deliberate choice, we do not employ the same government-directed strategies that other nations do. As the patterns of world trade have changed, so too have the mechanisms pursued by foreign governments to expand their shares of the world market. In this context, it has become clear that our own trade statutes must be amended to take account of the changing nature of world trade in general, and in particular, sophisticated mechanisms used by our trading partners to unfairly claim a greater percentage of international markets at the expense of American workers and industries.

Mr. President, the United States must continue to affirm its commitment to a free and open trading system, reflecting the notions of trade embodied in the General Agreements on Tariffs and Trade and our other international agreements. It is beyond dispute that a free trade system has served this Nation and the world well. But a free trade system requires that Americans have access to relief from unfair trading practices.

I urge my colleagues to adopt the amendment.

Mr. MITCHELL. Mr. President, I thank the Senator for his support. Unless there is further debate, I hope that the amendment would be agreed to.

Mr. BENTSEN. Mr. President, we will accept the amendment on the minority side. We have no objection to the amendment.

I would like to congratulate both the Senators in what they are doing in trying to expedite the matters for small business.

The PRESIDING OFFICER. Is there further debate? If not, the ques-

tion is on agreeing to the amendment of the Senator from Maine [Mr. MITCHELL].

The amendment (No. 4261) was agreed to.

AMENDMENT NO. 4247

The PRESIDING OFFICER. Is there further debate on the amendment offered by the senior Senator from Maine, Senator COHEN? If not, the question is on agreeing to the amendment of the Senator from Maine [Mr. COHEN].

The amendment (No. 4247) was agreed to.

Mr. DANFORTH. I move to reconsider the vote by which the amendment was agreed to.

Mr. COHEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 4262

(Purpose: To require the President to initiate negotiations for voluntary restraint agreements with respect to copper production)

Mr. DOMENICI. Mr. President, I have an amendment that I am sending to the desk on behalf of myself, Senator BINGAMAN, Senator MELCHER, Senator DECONCINI, Senator GOLDWATER, Senator GARN, Senator LAXALT, Senator LEVIN, Senator HECHT, Senator BAUCUS, and others. It is a very simple amendment.

I think we all know, either by various hearings that have been held in the Congress or from what we have heard about the International Trade Commission hearings, that the copper industry is in trouble in the United States and that the International Trade Commission unanimously found that they were being hurt by unfair competition.

We have been unable to get any relief through that vehicle even though the process went all the way to the President. What we are doing today is outside of the process of the International Trade Commission and the various authorities contained therein. We are offering an amendment which mandates that the U.S. Trade Representative, on order of the President, immediately take action to initiate negotiations with the governments of the principal foreign copper producting countries to conclude voluntary production restraint agreements with these governments for the purpose of effecting a balanced reduction in the total production by all foreign copper producers for a period of between 3 to 5 years. The amendment also states what our goal and objective is.

It had been my original intention to offer three IMF amendments which address another facet of the problem. Instead I will offer the amendment I just described and only discuss the problem with the IMF as it relates to copper.

Mr. President, I would like to discuss the situation in the international copper market and the problems facing the U.S. copper industry.

There are not many significant copper producing countries. The United States, Canada, Chile, Zambia, Zaire, and Peru account for the vast majority of the world's production and the economic interdependence among these producers is an inescapable reality. Unfortunately, the market has become so distorted that profitability has all but disappeared. U.S. producers have lost $1.055 billion in the last 3 years and 18,000 copper workers have lost their jobs.

During the 1979-83 period, imports increased 140 percent. Faced with the economic imperatives of massive losses and a stunning surge of imports, the U.S. copper producers brought a section 201 case before the International Trade Commission. The Commission ruled 5-0 that the industry had been harmed by imports.

Commissioner Sterm pointed out that there is a global supply and demand problem facing the U.S. copper industry.

While I was disappointed in the final outcome of the section 201 case, I feel that the record created by that proceeding emphasized the chaos in the world copper market.

The amendments I will offer today will address this distorted copper market. My amendments would limit the role the multilateral lending institutions could play in underwriting production and export policies of the Third World copper producers. In the past, these policies have also directly contributed to prolonging both the 1974-78 and the present copper recessions.

My amendments address the perversions in the marketplace that is, nationalization, development bank loans, and irrational production policies on the part of the government-owned foreign producers.

The world copper market is very sensitive to the balance between supply and demand. The price for copper this week hit 55 cents a pound because there is an overabundance of copper being produced by foreign producers; 55 cents is the lowest price for copper, in real terms, this century. To put this in perspective, let me tell you that the average price, in constant terms, during the last 84 years has been $1.15 per pound. The oversupply has driven the price down further and further; 40 percent of the free world's copper is government owned. These producers have no incentive to adhere to the law of supply and demand and as a result are wrecking the international copper market.

Despite an oversupply of copper, these countries continue overproduction to maintain employment. Many government producers mine at full capacity even when the market price falls below their costs. At 55 cents a pound, the United States, Canada, Zambia, Zaire, Peru, the Philippines, and Mexico are all losing money.

At a time when U.S. producers were shutting down or curtailing production to bring the market more into balance, the major foreign producers continued a steadfast policy of maintaining production in spite of falling prices.

Chile, for example, increased production by 15 percent in 1982, while Zambia, Zaire, and Peru maintained their operations at 100 percent of existing capability. The U.S. response was to cut production by 25 percent in 1982.

However, in the case of government-owned producers, the profit incentive vital to free enterprise has been replaced by the need for maximum revenue to service their international debt. Ironically, these countries would earn more hard currency if they produced less and earned a fair price for the copper they did produce.

The current situation could have been avoided had the government-owned foreign producers reduced production and exports to correspond to demand.

During 1982 when U.S. producers were closing down and the foreign producers made their decision to increase production, the IMF passed out over $1 billion under the Compensatory Financing Facility to six LDC, copper producing countries. This is a substantial amount of money in relation to the size of the copper industry. These six countries accounted for almost 50 percent of the production of copper in 1982. Five of these countries voted to maintain and increase production inspite of reduced demand and major U.S. curtailment.

We have given these countries a crutch that cripples. I am referring to the Compensatory Financing Facility with its stated purpose of assisting members when they experience balance of payment problems attributable to temporary shortfalls in merchandise exports.

It is a crutch because it is supposed to help, but it cripples. It cripples because these government-owned producers are encouraged by the IMF to keep on producing, thereby driving the price down further. The countries lose more and more money and they therefore need more and more assistance. They are crippled.

Countries that export large amounts of copper are very dependent on copper. They have been characterized as monoproduct economies because copper is their only significant export. For the period 1970-82 copper exports as a percentage of total exports were 91 percent for Zambia, 59 percent for Chile, 50 percent for Zaire, and 20 percent for Peru. When the price of

copper drops 1 cent it costs Chile $26 million.

As I mentioned, the historical average price for copper this century has been $1.15 per pound. Today's price is 55 cents. For countries depending on copper sales to finance their international debt the 55 cent price means that these countries have to sell twice as much copper to earn the same amout of exchange. This is not a good policy for economic growth for these countries.

These policies of maximizing output and exports have not only caused excessive imports into the United States, doing serious damage to a long-established and efficient industry here, but has also resulted in the exploitation of their own natural resources to their own detriment.

The effect of the compensatory financing facility has been to underwrite excess production of copper and to encourage a self-perpetuating cycle of greater production and lower prices. In fact, the amount of the entitlement to the Compensatory Financing Facility, under its rules, has been enhanced by the low cost of copper. By requiring that a borrowing country demonstrate that their earnings shortfall is beyond their control, the IMF has ruled out production management as a means of optimizing foreign exchange.

A country producing as fast as it can, and selling regardless of price is being very shortsighted. The result has been a windfall from developing countries to the industrialized countries where most of the copper is consumed.

Privately owned companies could not pursue such a course of action. Privately owned companies would go broke.

The production policies followed by these government-owned producers are possible only because of infusion of funds from the IMF. The use of IMF funds by the principal copper exporting countries, Chile, Peru, Zaire, and Zambia, has been very large, totaling nearly $4.4 billion during the period 1975–83. Chile received just under $407 million in compensatory financing facility funds during the 1975–83 period; $315 million of that amount was borrowed in 1983.

The central thrust behind my amendment is to require the United States to insist on reforming the compensatory financing facility so that it would work more like our PIK Program. Under such a reformed CFF, the IMF would be authorized to enter into agreements with cipper producing countries in appropriate cases, to draw from the CFF an amount equivalent to the revenues deemed foregone by not producing a stipulated amount of copper. Such agreements would be formulated on a case-by-case basis. This would be in contrast to the present rules which penalize a member when production is curtailed, because such action is deemed intentional and not beyond the control of the producing country.

Another amendment addresses a longer term issue—the project loans made by the World Bank and other development banks for mines, smelters, and refining plants. The purpose of these loans is to increase the production capacity for surplus commodities like cipper. These are loans to produce more of something the world has too much of already. The availability of this credit stimulates new capacity, contributing to the imbalance that already exists between supply and demand.

In January 1983, the International Finance Corporation, a subsidiary of the World Bank, had under consideration participation in a $400 million loan to expand the Cananena copper mine owned by the Mexican Government.

In May 1983, the Inter-American Development Bank approved a $268 million loan to Chile's Codelco as part of a $670 million plan for the modernization and expansion of two of the lowest cost mines in the world. This loan is at a concessionary rate of interest with a 5-year grace period. Why should the lowest-cost producer receive this type of assistance?

All of this occurred during a year when the market was greatly oversupplied. The copper industry in the United States was in deep distress, and the outlook for growth in consumption was discouraging at best.

1983 was the year 16 of the 25 largest mines in the U.S. industry lost 16 cents, Chile, Peru, Panama, Brazil, and Argentina announced 15 copper projects they would like to open or expand by the end of the century. If they finance these like they have their other projects, it will be with the help of the World Bank and the International Finance Corporation. I don't know who these countries think will need all this new production capability.

Current law requires that Congress be advised once a year of loans pending before the development banks. That reporting requirement is not a timely enough of a requirement to be meaningful. Congress needs this information every 90 days so that we can be aware of what projects are before the banks. The Senate passed a 90-day reporting requirement when we considered the IMF quota increase. It was changed to an annual requirement in conference. I have an amendment that will reinstate the 90-day requirement.

My amendments call attention to the distortions in the world copper marketplace. However, what is really needed is a government-to-government negotiation for some sane production policies in the form of a voluntary produciton restraint agreement. The goal should be an agreement for Chile, Zambia, Zaire, and Peru to agree to reduce production from their current, excessive levels by an amount sufficient to correct the present artificial depression levels. Negotiations should seek to obtain a commitment from these countries to adust their production levels over the next 3 to 5 years to track changes in world copper consumption—thereby reversing the historical trend of merely ignoring cyclical downturns.

If this amendment is accepted I would be willing to withdraw the IMF amendments.

As I said, about 40 percent of the world's copper is being produced by countries, rather than companies and some of the government-owned producers continue to produce while there is a copper glut. In addition they receive financial assistance from the International Monetary Fund for producing more at lower price and bigger losses—all to the detriment of the copper industry.

Most of the copper caucus have cosponsored this amendment. We are actually fearful that we will not have a domestic copper industry left, that soon the remaining workers will be out of work unless something is done. We have only 9 of 25 copper mines that are operative today. The cosponsors of this amendment think that if our country would sit down at the table with the principal foreign producers and just talk plain common sense we think there could be an agreement reached to reduce the world's supply. It would not have to be reduced a lot, only a little bit, to cause the price of copper to go up not a lot just a few percentage points. We think that has a chance of saving this industry and letting our few mines stay alive, and operative and put some of our people back to work.

I will outline the minimum effect of such a compromise between the world producers on American consumers. We have every indication that if there was a 19-percent increase in copper prices that the average automobile would go up $4.30; the average $90,000 house would go up $43; a dishwasher would go up 32 cents.

We think that the effect on our consumers has been completely overstated by the opponents of the copper industry. We would save a vital industry and thousands of jobs. Those who fabricate copper have opposed quotas and tariffs and while I disagree I tend to understand their concern. But they could not oppose a negotiated agreement because it would not cause two prices for copper to exist in the world. It would merely mean that the price of copper would rise slightly for everyone, foreign fabricators and Americans.

We think this is the best approach. We are sorry it did not get worked out pursuant to the International Trade Commission recommendations and order. The President chose otherwise. Now we would like to mandate that our government go to the negotiating table. We think it would work. We think it is the best relief we could get for the copper industry at this time. It has a real chance of success without hurting any other sector of the economy in the United States in the process. So I send the amendment to the desk in behalf of myself and the others that I have mentioned. Before we finish this discussion, I will add several other Senators who have a genuine interest that I am in touch with that I am sure are going to be cosponsors.

Mr. HEINZ. Mr. President, a point of order.

The PRESIDING OFFICER. The Senator will state the point of order.

Mr. HEINZ. What is the pending business of the Senate? Is there an amendment that is pending?

The PRESIDING OFFICER. The amendment has just been delivered to the desk.

Mr. DOMENICI. I say to my friend from Pennsylvania that I gave my few comments before I tendered the amendment, having indicated that I would. The reason for that is that I was completing the list of cosponsors and for that reason it was not at the desk. It is now.

Mr. HEINZ. I understand. My concern is if there was an amendment pending that was laid aside.

The PRESIDING OFFICER. That amendment has been disposed of.

Mr. HEINZ. I thank the Chair. So only the bill is pending?

The PRESIDING OFFICER. For everybody's information the bill is pending, the committee substitute is pending, and the clerk will report the amendment of the Senator from New Mexico.

The assistant legislative clerk read as follows:

The Senator from New Mexico [Mr. DOMENICI], for himself, Mr. BINGAMAN, Mr. MELCHER, Mr. DECONCINI, Mr. GOLDWATER, Mr. LAXALT, Mr. GARN, Mr. LEVIN, Mr. HECHT, and Mr. BAUCUS proposes an amendment numbered 4262.

Mr. DOMENICI. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment reads as follows:

On page 41 of the matter proposed to be inserted, between lines 18 and 19, insert the following:

SEC. . NEGOTIATIONS ON RESTRAINT OF COPPER PRODUCTION.

The President, acting through the United States Trade Representative, shall immediately take action to initiate negotiations with the governments of the principal foreign copper-producing countries to conclude voluntary restraint agreements with those governments for the purpose of effecting a balanced reduction of total annual foreign copper production for a period of between 3 and 5 years in order to—

(1) allow the price of copper on international markets to rise modestly to levels which will permit the remaining copper operations located in the United States to attract needed capital, and

(2) achieve a secure domestic supply of copper.

Mr. DOMENICI. Mr. President, I have discussed this amendment with the distinguished Senator from Missouri. I believe he is willing to accept it.

Mr. President, I yield the floor at this point.

The PRESIDING OFFICER. Is there further debate on the amendment?

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. BINGAMAN. Mr. President, let me say a few words in support of this amendment by my colleague from New Mexico. I want to commend my colleague for preparing the amendment, and offering it. I want to indicate my great willingness to cosponsor the effort. Clearly, the situation in the domestic copper industry is extremely serious. We are all, I believe—at least those of us from copper-producing States—disappointed by the decision of the President not to go along with proposals or recommendations made by the International Trade Commission with regard to copper. But clearly, the real solution to the problem lies in the reduction of production worldwide. We have more supply today than we have demand for copper.

Something must be done to bring supply into line with demand. I believe the negotiations which are called for in this amendment would accomplish that. I urge my colleagues to support the amendment.

Thank you, Mr. President.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. MELCHER addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. MELCHER. Mr. President, the amendment that is before us is the least we could do for the copper industry in this country. The results are the President's decision of a few days ago—a very damaging blow in not following the recommendations, at least one of the recommendations, made by the International Trade Commission.

What we have before us in this country—it is sad to say—is a dying industry. That is pretty tough for a lot of us to take. Those of us who come from areas of the country where copper is produced know what it means in heartaches for those families who no longer have jobs, or whose jobs are made very insecure. But it is extremely important for the United States that we retain the domestic copper industry for the benefit of all of us in this country. We are right at the crossroads of losing the last remnants of the domestic copper industry in our country.

What the amendment suggests is that an effort be made for negotiations between the President through the International Trade Commission, and the individual countries. I do not think it is enough. I do not think any of us who come from copper areas here in the United States believe that it is enough, but it is the least we can do in this particular bill.

I hope it is accepted by the entire Senate. I hope the results of it—after it is passed and enacted into law—are beneficial for us.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. BENTSEN. Mr. President, on behalf of the minority, I say that there is no objection to the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. DOMENICI. Mr. President, I ask unanimous consent that I be granted leave to add additional cosponsors to the original amendment prior to the adoption of the bill by the Senate.

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

Mr. BINGAMAN. Mr. President, I am pleased to join my colleagues in sponsoring this amendment which mandates the Special Trade Representative to enter into negotiations with foreign copper producers to arrive at voluntary restraint agreements. It is regrettable the Senate is forced to take this action. I am disappointed that the President has chosen to ignore the recommendations of the International Trade Commission that relief should be provided to our domestic copper producers. I think the copper industry has made a very convincing case that relief is necessary to revive a very depressed industry. The President's actions are terribly misguided. Allowing foreign nations to dump subsidized copper on our U.S. market is contrary to the best interests of our Nation. As long as our Government continues to ignore the unfair competition from abroad, the long-term outlook for areas such as my home of Grant County, NM, is very bleak.

I will not allow our copper industry to be abandoned. It appears the administration is more interested in showing concern for Chile's debt to American banks than for the Ameri-

can copper workers. This lack of concern makes it imperative that the Congress act swiftly to provide assistance to this very important American industry.

Dramatic changes in the past few years have significantly altered the structure of the world copper industry and led to the current plight of the U.S. industry. The problem in the industry is one of supply and demand. Supply far exceeds demands in the world market. This is primarily due to the fact that 40 percent of the free world's copper mines capacity is under the ownership or effective control of the governments of less developed nations. These governments operate at full production in order to maintain full employment. This over production has forced our domestic producers to curtail their own production, thus leading to the current shutdown and layoffs. This serves to make it impossible for our domestic producers to compete against foreign produced copper here in the United States. What is needed is a reduction in worldwide production. We must achieve this reduction through tough negotiations at the highest levels of our Government. This amendment mandates those negotiations. We must bring supply and demand into line if the domestic copper producers are to have a chance to participate in a fair and competitive marketplace.

The facts are clear with respect to copper. The operating losses in the copper industry nationwide in 1983 were more than $318 million. About 42 percent of its 1979 work force is now unemployed.

Copper production in my State dropped from 164,235 to 67,693 metric tons between 1979 and 1982. Total dollar value in the State during these years fell from $337 million to $97 million. During that 3-year period, employment plummeted by 37 percent, from 3,503 employees to 2,248—a loss of 1,255 jobs. Only 9 of the country's largest 25 mines were operating at the end of 1983. Copper prices have fallen well below the costs of production for all but a handful of mines. Only 5 of 24 smelters are in operation. These statistics demonstrate very clearly the seriousness of the problems facing our domestic copper producers.

It is time to put into law a mechanism by which we can help restore a proper supply—demand relationship to the world copper market. I strongly believe this amendment provides the opportunity for negotiations to begin to accomplish our demand/supply objectives.

Mr. DOMENICI. Mr. President, I thank the managers for their cooperation, and for helping us with this amendment.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from New Mexico [Mr. DOMENICI].

The amendment (No. 4262) was agreed to.

Mr. DOMENICI. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DANFORTH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WILSON addressed the Chair.

The PRESIDING OFFICER. The Senator from California is recognized.

Mr. WILSON. Mr. President, I have an amendment for which I will seek recognition. However, I understand that my colleagues from Hawaii and California have agreed-upon amendments. I am happy to yield briefly to them for that purpose.

Mr. INOUYE addressed the Chair.

The PRESIDING OFFICER. The Senator from Hawaii is recognized.

AMENDMENT NO. 4263

(Purpose: To authorize the collection of data on international trade in services)

Mr. INOUYE. Mr. President, I send my amendment to the desk, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Hawaii [Mr. INOUYE], proposes an amendment numbered 4263.

Mr. INOUYE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 41 of the matter proposed to be inserted, between lines 18 and 19, insert the following:

SEC. . DATA ON INTERNATIONAL TRADE IN SERVICES.

(a) The International Investment Survey Act of 1976 (Public Law 94-472; 22 U.S.C. 3101, et seq.) is hereby redesignated the "International Investment and Trade in Services Survey Act".

(b)(1) Subsection (a) of section 2 of the International Investment and Trade in Services Survey Act (22 U.S.C. 3301) is amended—

(A) by striking out "and" at the end of paragraph (6),

(B) by inserting "and trade in services" after "international investment" in paragraph (7),

(C) by redesignating paragraph (7) as paragraph (9), and

(D) by inserting after paragraph (6) the following new paragraphs:

"(7) United States service industries engaged in interstate and foreign commerce account for a substantial part of the labor force and gross national product of the United States economy, and such commerce is rapidly increasing;

"(8) international trade in services is an important issue for international negotiations and deserves priority in the attention of governments, international agencies, negotiators, and the private sector; and", (2) Subsection (b) of section 2 of such Act is amended—

(A) by inserting "and United States foreign trade in services, whether directly or by affiliates, including related information necessary for assessing the impact of such investment and trade," after "international investment" the first place it appears; and

(B) by inserting "and trade in services" after "international investment" the second place it appears.

(3) Subsection (c) of section 2 of such Act is amended by striking out "or United States investment abroad" and inserting in lieu thereof ", United States investment abroad, or trade in services".

(c) Section 3 of such Act (22 U.S.C. 3102) is amended—

(1) by striking out "and" at the end of paragraph (10),

(2) by striking out the period at the end of paragraph (11) and inserting in lieu thereof a semicolon, and

(3) by adding at the end thereof the following new paragraphs:

"(12) 'trade in services' means the payment to, or receipt from, any person (whether affiliated or unaffiliated) of funds for the purchase or sale of a service; and

"(13) 'services' means the rental or leasing of tangible property, the transfer of intangible assets, tourism, construction, wholesale and retail trade, and all economic outputs other than tangible goods.".

(d)(1) Subsection (a) of section 4 of such Act (22 U.S.C. 3103(a)) is amended—

(A) by striking out "presentation relating to international investment" in paragraph (3) and inserting in lieu thereof "presentation",

(B) by inserting "and trade in services" after "international investment" each place it appears in paragraphs (1), (2), and (3),

(C) by striking out "and" at the end of paragraph (3),

(D) by redesignating paragraph (4) as paragraph (5), and

(E) by inserting after paragraph (3) the following new paragraph:

"(4) conduct (not more frequently than once every five years and in addition to any other surveys conducted pursuant to paragraphs (1) and (2)) benchmark surveys with respect to trade in services betwen unaffiliated United States persons and foreign persons; and".

(2) Subparagraph (C) of section 4(b)(2) of such Act is amended by inserting "(including trade in both goods and services)" after "regarding trade".

(3) Subsection (f) of section 4 of such Act is amended by inserting "and trade in services" after "international investment".

(e) Subsection (b) of section 5 of such Act (22 U.S.C. 3104) is amended by striking out "international investment" each place it appears.

Mr. INOUYE. Mr. President, today, I would like to offer an amendment to H.R. 3998 that has been cleared on both sides of the aisle, and is supported by the administration.

The amendment would redesignate the International Investment Survey Act of 1976 as the International Investment and Trade in Services Survey Act.

This redesignation would grant the Bureau of Economic Analysis at the Department of Commerce, with the participation of other data-gathering

agencies, mandatory authority to collect data on service transactions between U.S. firms and unaffiliated foreign firms. Under the terms of the 1976 law, they are only required to report on transactions with affiliated foreign firms.

Amending the act will enable the Department of Commerce to collect as complete data as possible on the service sector by extending this authority to nonaffiliated foreign firms.

This will complete our efforts to compile comprehensive data on the service sector, which is comprised of three parts—domestic data, which includes foreign affiliates, and finally unaffiliated foreign entities which conduct transactions with the United States.

I have supported the efforts of our data-gathering agencies in this area on the Appropriations Committee, and I feel strongly that amending the International Investment Survey Act of 1976 to become the International Investment and Trade in Services Survey Act of 1984 is an essential, and noncontroversial means of ensuring that our data-collection efforts on the service sector are as complete and accurate as possible.

I ask the support of my colleagues in supporting my amendment which would simply permit us to do the most thorough and comprehensive data collection possible. Although amending the law will place additional reporting requirements on U.S. firms in the service sector, I believe the benefits to be accrued from correcting what is now a dearth of information on the service sector will far outweigh the costs.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Hawaii [Mr. INOUYE].

The amendment (No. 4263) was agreed to.

Mr. CRANSTON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HEINZ. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 4264

Mr. CRANSTON. Mr. President, I send my amendment to the desk, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from California [Mr. CRANSTON], proposes an amendment numbered 4264.

Mr. CRANSTON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 60, line 24, after the word "Canada" strike the period and insert the following, "provided that the negotiation of such eliminations or reductions takes fully into account any product that benefits from a discriminatory preferential tariff arrangement between Israel and a third country, if the tariff preference on such product has been the subject of a challenge by the U.S government under the authority of Section 301 of the Trade Act of 1974 and the General Agreement on Tariffs and Trade."

Mr. CRANSTON. Mr. President, this amendment has been cleared, too, on both sides of the aisle.

Mr. President, the amendment I am offering with my colleague from California would urge the U.S. Trade Representative, in negotiating duty reductions and eliminations on exports and imports between the U.S. and Israel, to take into account those products which benefit from discriminatory preferential trading arrangements between Israel and third countries. This is an issue of particular importance to citrus producers in my State of California as well as the rest of the country because of the longstanding problems that have been presented by one such discriminatory tariff arrangement between the European Economic Community [EC] and Israel.

In 1969 and 1970, the EC extended tariff preferences to Israel and other Mediterranean nations on a range of imports, including citrus and citrus products. As a result, U.S. citrus exports to the EC have been curtailed. In fact, since the introduction of the tariff preferences, EC imports of fresh oranges and lemons from the United States each have dropped by more than 30 percent. These losses prompted our domestic citrus industry to request that the Federal Government initiate proceedings under the General Agreement on Tariffs and Trade [GATT] to eliminate the EC-Israeli preferences. The U.S. Government accepted the petition and has been pursuing the case for over 13 years.

Mr. President, granting duty-free status to Israeli citrus which benefits from discriminatory preferential trading arrangements would undermine ongoing U.S. efforts in the pending GATT case. Moreover, such action would provide a trade benefit in the U.S. market to another country's citrus industry which has caused economic losses to our own citrus industry due to tariff discrimination in the EC market.

The amendment I have just offered addresses this situation. But I want to emphasize that it is narrow in scope and to the best of my knowledge would cover only the citrus and citrus products involved in the U.S. GATT complaint. The limited nature of the amendment assures GATT consistency. Under GATT article XXIV, a free trade area must include the elimination of duties on "substantially all" trade between the countries involved. My amendment would not preclude this requirement from being satisfied.

Mr. President, I urge my colleagues to join me in supporting the adoption of this amendment.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from California [Mr. CRANTSON].

The amendment (No. 4264) was agreed to.

Mr. CRANSTON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HEINZ. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WILSON addressed the Chair.

The PRESIDING OFFICER. The Senator from California is recognized.

Mr. WILSON. Mr. President, I understand the Senator from Pennsylvania similarly has agreed-upon amendments.

I yield briefly to the Senator for that purpose.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. HEINZ. Mr. President, I thank my friend, the Senator from California.

AMENDMENT NO. 4265 TO AMENDMENT NO. 4247

Mr. HEINZ. Mr. President, I send an amendment to the desk, and ask for its immediate consideration.

The assistant legislative clerk read as follows:

The Senator from Pennsylvania [Mr. HEINZ] proposes an amendment numbered 4265 to amendment numbered 4247.

Mr. HEINZ. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

In amendment No. 4247:
Strike section 604.
Strike section 618.
Strike section 621(c).
Renumber succeeding sections accordingly.

Mr. HEINZ. Mr. President, this amendment strikes from the Cohen amendment the following sections:

First, section 604, which prohibits interlocutory appeals.

Second, section 618, which changes the standard for related parties from 5 percent to 20 percent.

Third, section 621(c), relating to determination of foreign market value.

Section 604—the elimination of interlocutory appeals—would provide for complete elimination of intermediate appeals in antidumping and countervailing duty proceedings. The chief reason put forth for elimination of interlocutory appeals in trade cases is

cost savings, an important goal in trade-law reform which we support. However, I believe petitioners should have the right to determine whether to incur the additional cost of an intermediate appeal to protect themselves from further injury. Moreover, in view of the availability of interlocutory appeals in other legal proceedings, there is no sound basis for denying parties in international trade actions similar rights. We see value to intermediate review of decisions made during the investigatory process. Such review has been particularly helpful in effectively implementing the intent of Congress regarding the 1979 act.

Section 618—definition of related parties—would change the definition of what is or is not an arm's-length relationship between related parties, by raising the level of permitted equity ownership from 5 to 20 percent in certain instances. I support retention of the 5-percent level as the appropriate level of equity ownership in defining an interest between related parties. In today's economic world, 20 percent is simply too high.

Section 621—foreign market value—seeks, among other things, to clarify the criteria for determining viability of the home market. One of its provisions would require that sales in the home-market be proportionate to sales to the United States in order for the Home-market price to be used to determine fair value. This could be disadvantageous to domestic industries, especially in those cases where foreign plants are built in relatively small countries with output far beyond requirements of local demand. Often in such instances, the United States is the primary sales target, and the amounts of the product sold in the home-market constitute only a small portion of total production. Typically, relatively high prices are used in the protected home-market, but the product is sold both in the United States and in third countries at lower prices. If section 21 is adopted, the normally higher home-market prices could not be used in these circumstances, and instead low-priced sales to third countries would be the basis for fair value. In view of this potential adverse impact, I believe this provision should be deleted and studied further.

Mr. President, a moment ago, we adopted the Cohen amendment No. 4247. This amendment would make certain changes in the Cohen amendment that have been discussed with Senator COHEN, Senator DANFORTH, and all of the parties, and is acceptable to all. I did not, due to some confusion in the parliamentary situation, offer it when the Cohen amendment was up. I would therefore ask unanimous consent that notwithstanding the previous action taken by the Senate, the provisions of this amendment be incorporated into the Cohen amendment.

Mr. BENTSEN. Mr. President, I would have to say to my friend that we have not as yet cleared it.

We would be delighted to take a look at it.

Mr. HEINZ. Mr. President, I withdraw the amendment, and will offer it at a later time.

The PRESIDING OFFICER. The amendment is withdrawn.

AMENDMENT NO. 4266

(Purpose: to impose U.S. trade laws)

Mr. HEINZ. Mr. President, I send another amendment to the desk, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Pennsylvania (Mr. HEINZ), for himself, Mr. MOYNIHAN, Mr. MITCHELL, and Mr. FORD, proposes amendment numbered 4266.

Mr. HEINZ. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

At the end of amendment No. 6244, add the following new title:

TITLE —TRADE LAW REFORM

SECTION 1. REFERENCE.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a title, subtitle, part, section, or other provision, the reference shall be considered to be made to a title, subtitle, part, section, or other provision of the Tariff Act of 1930 (19 U.S.C. 1202 et seq.).

SEC. 2. BURDEN OF PERSUASION.

Section 751 of the Tariff Act of 1930 (19 U.S.C. 1675) is amended by adding at the end of subsection (b)(1) the following:

"During an investigation by the Commission, the party seeking revocation of an antidumping order shall have the burden of persuasion with respect to whether there are changed circumstances sufficient to warrant revocation of the antidumping order."

SEC. 3. CONSIDERATION OF CUMULATIVE IMPACT OF IMPORTS.

Subparagraph (E) of section 771(7) (19 U.S.C. 1677(7)(E)) is amended by adding at the end thereof the following new clause:

"(iii) CUMULATION.—In determining material injury or threat of material injury under sections 703, 705, 733, or 735 of this subtitle, the Commission shall consider the cumulative impact of imports from two or more countries subject to investigation under sections 701 or 703 or subject to final orders under sections 706 or 736, as appropriate, if, after reviewing the factors and conditions of trade, the Commission determines that:

(I) the marketing of such imports is reasonably coincident, and

(II) imports from each source have contributed to the overall material injury to the industry resulting from imports.".

SEC. 4. THREAT OF MATERIAL INJURY.

Paragraph (7) of section 771 (19 U.S.C. 1677(7)) is amended by inserting after subparagraph (E) the following new subparagraph:

"(F) THREAT OF MATERIAL INJURY.—

"(i) IN GENERAL.—In determining whether an industry in the United States is threatened with material injury by reason of imports (or sales for importation) of any merchandise, the Commission shall consider, among other relevant economic factors—

"(I) if a subsidy is involved, such information as may be presented to it by the administering authority as to the nature of the subsidy (particularly as to whether the subsidy is an export subsidy inconsistent with the Agreement),

"(II) any increase in production capacity or existing unused capacity in the exporting country likely to result in a significant increase in imports of the merchandise to the United States,

"(III) any rapid increase in United States market penetration and the likelihood that the penetration will increase to an injurious level,

"(IV) the probability that imports of the merchandise will enter the United States at prices that will have a depressing or suppressing effect on domestic prices of the merchandise,

"(V) any substantial increase in inventories of the merchandise in the United States,

"(VI) the presence of underutilized capacity for producing the merchandise in the exporting country, and

"(VII) any other demonstrable adverse trends that indicate the probability that the importation (or sale for importation) of the merchandise (whether or not it is actually being imported at the time) will be the cause of actual injury.

"(VIII) the potential for product-shifting if production facilities owned or controlled by the foreign manufacturers, which can be used to produce products subject to investigation(s) under sections 701 or 731 or to final orders under sections 706 or 736, are also used to produce the merchandise under investigation."

"(ii) BASIS FOR DETERMINATION.—Any determination by the Commission under this title that an industry in the United States is threatened with material injury shall be made on the basis of evidence that the threat of material injury is real and that actual injury is imminent. Such a determination may not be made on the basis of mere conjecture or supposition.

SEC. 5. VERIFICATION OF AMOUNT OF NET SUBSIDY.

Section 771(6) (19 U.S.C. 1677) is amended by inserting "verified" before "amount".

SEC. 6. NO COMPROMISES OF COUNTERVAILING OR ANTIDUMPING DUTY CASES.

Section 617 (19 U.S.C. 1617) is amended—

(1) by striking out "Upon" and inserting in lieu thereof "(a) Upon",

(2) by adding at the end thereof the following new subsection:

"(b) This section shall not apply to any claim arising with respect to any duty imposed by title VII of this Act.".

SEC. 7. REVOCATION OF COUNTERVAILING DUTY ORDERS.

(a) Paragraph (2) of section 104(b) of the Trade Agreements Act of 1979 (19 U.S.C. 1671, note) is amended by adding at the end thereof the following new sentence: "A negative determination by the Commission under this paragraph shall not be based, in

whole or in part, on any export taxes, duties, or other charges levied on the export of merchandise to the United States specifically intended to offset the subsidy received.".

(b) Section 751 (19 U.S.C. 1675) is amended by adding, "The administering authority shall not revoke, in whole or in part, a countervailing duty order or terminate a suspended investigation on the basis of any export taxes, duties, or other charges levied on the export of merchandise to the United States specifically intended to offset the subsidy received." after the first sentence of subsection (c).

SEC. 8. INDUSTRY AND LABOR ASSOCIATIONS TREATED AS INTERESTED PARTIES.

(a) Paragraph (9) of section 771 (19 U.S.C 1677(9)) is amended—

(1) by striking out "and" at the end of subparagraph (D);

(2) by striking out the period at the end of subparagraph (E) and inserting in lieu thereof ", and"; and

(3) by adding at the end thereof the following new subparagraph:

"(F) an association, a majority of whose members is composed of interested parties described in subparagraph (C), (D), or (E) with respect to a like product.".

(b) Title VII is amended by striking out "subparagraph (C), (D), or (E) of section 771(9)" each place it appears and inserting in lieu thereof "subparagraph (C), (D), (E), or (F) of section 771(9)".

SEC. 9. SIMULTANEOUS INVESTIGATIONS.

Section 705(a)(1) is amended to read as follows:

"(1) IN GENERAL.—Within 75 days after the date of the preliminary determination under section 703(b), the administering authority shall make a final determination of whether or not a subsidy is being provided with respect to the merchandise; except that when an investigation under this subtitle is initiated simultaneously with an investigation under subtitle B, which involves imports of the same class or kind of merchandise from the same or other countries, the administering authority, if requested by the petitioner, shall extend the date of the final determination under this paragraph to the date of the final determination of the administering authority in such investigation initiated under subtitle B.".

SEC. 10. SUBSIDIES.

Section 771 (19 U.S.C. 1677) is amended by adding at the end thereof the following new paragraph:

"(18) UPSTREAM SUBSIDY.—

"(A) IN GENERAL.—The term 'upstream subsidy' means any subsidy described in subparagraph (A) or (C) of paragraph (5) which—

"(i) is paid or bestowed by the government of a country with respect to a product that is used in the manufacture or production in such country of merchandise which is the subject of an investigation under subtitle A,

"(ii) results in a price for the product for such use that is lower than the generally available price of the product in such country, and

"(iii) has a significant effect on the cost of manufacturing or producing the merchandise.

In applying this paragraph, an association of 2 or more foreign countries, political subdivisions, dependent territories, or possessions of foreign countries organized into a customs union outside the United States shall be treated as one country if the subsidy is provided by the customs union.

"(B) ADJUSTMENT OF GENERALLY AVAILABLE PRICE IN CERTAIN CIRCUMSTANCES.—If the administering authority decides that the generally available price for a product within the country of the manufacture, production, or export of the merchandise under investigation is artificially depressed by reason of any subsidy, or because of sales thereof in such country at less than fair value, the administering authority shall adjust such generally available price so as to offset such depression before applying subparagraph (A)(ii).

"(C) INCLUSION OF AMOUNT OF SUBSIDY.—If the administering authority decides, during the course of an investigation under subtitle A or B, that an upstream subsidy is being or has been paid or bestowed with respect to the merchandise under investigation, the administering authority shall include in the amount of any countervailing duty or antidumping duty imposed under that subtitle on the merchandise an amount equal to the difference between the prices referred to in subparagraph (A)(ii), adjusted, if appropriate, for artificial depression.".

SEC. 11. COUNTERVAILING DUTIES APPLY ON COUNTRY-WIDE BASIS.

Subsection (a) of section 706 (19 U.S.C. 1671e(a)) is amended—

(1) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively; and

(2) by adding after paragraph (1) the following new paragraph:

"(2) shall presumptively apply to all merchandise of such class or kind exported from the country investigated, except that if—

"(A) the administering authority determines there is a significant differential between companies receiving subsidy benefits, or

"(B) a State-owned enterprise is involved,

the order may provide for differing countervailing duties,".

SEC. 12. SPECIAL RULES REGARDING DOWNSTREAM DUMPING.

(a) Section 771 of the Tariff Act of 1930 (19 U.S.C. 1677) is amended by adding a new paragraph (18) to read as follows:

"(18) DOWNSTREAM DUMPING.—

"(1) DEFINITION.—Downstream dumping occurs when—

"(A) a material or component incorporated in merchandise subject to investigation under subtitle B is purchased from another country by the manufacturer or producer at a price that is below its foreign market value (as determined under subtitle B without regard to this subsection),

"(B) that purchase price—

"(i) is lower than the generally available price of the material of component in the country of manufacture or production, or

"(ii) if in the judgment of the administering authority the generally available price of the material or component in the country of manufacture or production is artificially depressed by reason of other sales at below foreign market value, is lower than the price at which the material or component would be generally available in such country but for such depression, and

"(C) the amount of the downstream dumping with respect to that component or material, as defined in section 773(e)(2), has a significant effect on the cost of manufacturing or producing the merchandise under investigation."

(b) Section 773 of the Tariff Act of 1930 (19 U.S.C. 1677(b)) is amended as follows:

(1) By amending paragraph (a) to insert a new subparagraph (3) to read as follows:

"(3) Whenever the administering authority determines that 'downstream dumping,' as defined in section 771(18), of a material or component used in the manufacture of the final export product is occurring or has occurred, then notwithstanding paragraph (1), the foreign market value may be the constructed value of the merchandise as determined under subsection (e) of this section."

(2) By amending paragraph (a)(2) by striking out "under subsection (e) of this section" and inserting "under subsection (e)(1) of this section."

(c) Section 773 of the Tariff Act of 1930 (19 U.S.C. 16776) is amended as follows:

(1) By renumbering subsection (b) as paragraph (b)(1) and inserting a new paragraph (b)(2) to read as follows:

"Whenever the administering authority has reasonable grounds to believe or suspect that "downstream dumping," as defined in section 771(18), of a material or component incorporated in final export product is occurring or has occurred, the administering authority shall determine whether "downstream dumping" of such material or component has in fact occurred, and if so, shall determine the constructed value of the merchandise under investigation pursuant to subsection (e)."

(2) By renumbering subsection (e) as subsection (e)(1) and by adding a new paragraph (e)(2) to read as follows:

"(2) If the administering authority determines that the downstream dumping of a material or component incorporated in the final export product is occurring or has occurred, the administering authority shall, in calculating the cost of the material or component pursuant to subsection (e)(1), include an amount equal to the difference between—

"(A) the price referred to in paragraph (1)(A) at which the material or component was purchased, and

"(B) either—

"(i) the generally available price, referred to in paragraph (1)(B)(i), of the material or component or

"(ii) the price, referred to in paragraph (1)(B)(ii), of the material or component that would pertain but for artificial depression,

whichever is appropriate, except that in no event shall the amount be greater than the amount by which the foreign market value of the material or component exceeds its purchase price."

(d) Section 733. The Tariff Act of 1930 (19 U.S.C. 1673(b)) is amended by adding as the and hereof. The following new subsection:

"(f)(1) Whenever the administering authority concludes, prior to a preliminary determination under section 733(b), that there is a reasonable basis to believe or suspect that downstream dumping is occurring, the time period within which a preliminary determination must be made shall be extended to 250 days after the filing of a petition under section 732(b) or commencement of an investigation under section 732(a) (310 days in cases declared extraordinarily complicated under section 733(c)), if the administering authority concludes that such additional time is necessary to make the required determination concerning downstream dumping.

"(2) Whenever the administering concludes, after a preliminary determination under section 733(b), that there is a reasonable basis to believe or suspect that downstream dumping is occurring:

"(A) in cases in which the preliminary determination was negative, the time period within which a final determination must be made shall be extended to 165 days under section 735(a)(1) or 225 days under section 735(a)(2), as appropriate; or,

"(B) in cases in which the preliminary determination is affirmative, the determination concerning downstream dumping;

(i) need not be made until the conclusion of the first annual review of any eventual Antidumping Duty Order under section 751, or, at the option of the petitioner,

(ii) will be made in the investigation and the time period within which a final determination must be made shall be extended to 165 days under section 735(a)(1) or 225 days under section 735(a)(2), as appropriate, except that the suspension of liquidation ordered in the preliminary determination shall terminate at the end of 120 days from the date of publication of that determination and not be resumed unless and until the publication of an Antidumping Duty Order under section 736(a).

There may be an extension of time for the making of a final determination under this subsection only if the administering authority determines that such additional time is necessary to make the required determination concerning downstream dumping.".

SEC. 13. QUANTITATIVE RESTRICTIONS AGREEMENTS.

(a) Subsection (c) of section 734 (19 U.S.C 1673c(c)) is amended by adding at the end thereof the following new paragraph:

"(3) QUANTITATIVE RESTRICTIONS AGREEMENTS.—The administering authority may accept an agreement with—

"(A) the government of the country in which the merchandise which is the subject of the investigation was produced, or

"(B) the exporters of such merchandise who account for substantially all the imports of such merchandise,

to restrict the volume of imports of such merchandise into the United States if the agreement will eliminate completely the injurious effect of the exports of the merchandise to the United States.".

(b) Subsection (d) of section 734 (19 U.S.C. 1673c(d)) is amended by adding at the end thereof the following new paragraph:

"(3) REGULATIONS GOVERNING ENTRY OR WITHDRAWALS.—In order to carry out an agreement concluded under subsection (b) or (c) of this section, the administering authority is authorized to prescribe regulations governing the entry, or withdrawal from warehouse, for consumption of merchandise covered by such agreement.".

SEC. 14. SECURITY IN LIEU OF ESTIMATED DUTY.

(a) Paragraph (1) of section 736(c) (19 U.S.C. 1673c(c)) is amended to read as follows:

"(1) CONDITIONS FOR WAIVER OF DEPOSIT OF ESTIMATED DUTIES.—The administering authority may permit, for not more than 90 days after the date of publication of an order under subsection (a), the posting of a bond or other security in lieu of the deposit of estimated antidumping duties required under subsection (a)(3) if—

"(A) the case has not been designated as extraordinarily complicated by reason of—

"(i) the number and complexity of the transactions to be investigated or adjustments to be considered,

"(ii) the novelty of the issues presented, or

"(iii) the number of firms whose activities must be investigated,

or the final determination has not been postponed under section 735(a)(2)(A);

"(B) on the basis of information presented to it by any manufacturer, producer, or exporter in such form and within such time as it may require, it is satisfied that it will be able to determine, within 90 days after the date of publication of an order under subsection (a), the foreign market value and the United States price for all merchandise of such manufacturer, producer, or exporter described in that order which was entered, or withdrawn from warehouse, for consumption on or after the date of publication of—

"(i) an affirmative preliminary determination by the administering authority under section 733(b), or

"(ii) if its determination under section 733(b) was negative, an affirmative final determination by the administering authority under section 735(a),

and before the date of publication of the affirmative final determination by the Commission under section 735(b);

"(C) the party submitting the information provides credible evidence that the weighted average of the amount by which the foreign market value of the merchandise exceeds the United States price of the merchandise is significantly less than the amount of such excess specified in the antidumping duty order published under subsection (a); and

"(D) the data concerning the foreign market value and the United States price apply to sales in the usual wholesale quantities and in the ordinary course of trade and the number of such sales are sufficient to form an adequate basis for comparison.".

(b) Paragraph (2) of section 736(c) (19 U.S.C. 1673e(e)(2)) is amended by designating the current text of paragraph (2) as subparagraph (B) and by inserting prior thereto the following new subparagraph:

"(A) PROVISION OF CONFIDENTIAL INFORMATION; WRITTEN COMMENTS.—Before determining whether to permit the posting of bond or other security in lieu of the deposit of estimated antidumping duties under paragraph (1), the administering authority shall—

"(i) make all confidential information supplied to the administering authority under paragraph (1) available under protective order to all interested parties described in subparagraph (C), (D), (E), or (F) of section 771(9) who are parties to the proceeding, and

"(ii) afford all interested parties an opportunity to file written comments on whether the posting of bond or other security in lieu of the deposit of estimated antidumping duties under paragraph (1) should be permitted.".

SEC. 15. EXPORT VALIDATION REQUIREMENT FOR STEEL PRODUCTS.

Section 626 (19 U.S.C. 1626) is amended to read as follows:

"SEC. 626. STEEL PRODUCTS TRADE ENFORCEMENT.

"In order to monitor and enforce export measures required by a foreign government or customs union, the Secretary of the Treasury may, upon receipt of a request by the President of the United States and by a foreign government or customs union, require the presentation of a valid export license or other documents issued by such foreign government or customs union as a condition for entry into the United States of steel products specified in the request. The Secretary may provide by regulation for the terms and conditions under which such merchandise attempted to be entered without an accompanying valid export license or other documents may be denied entry into the United States.".

SEC. 16. SALES FOR IMPORTATION.

(a)(1) Subsection (a) of section 701 (19 U.S.C. 1671(a)) is amended—

(A) by inserting ", or sold (or likely to be sold) for importation," after "imported" in paragraph (1);

(B) by inserting "or by reason of sales (or the likelihood of sales) of that merchandise for importation" immediately after "by reason of imports of that merchandise" in paragraph (2); and

(C) by adding at the end thereof the following new sentence: "For purposes of this subsection and section 705(b)(1), a reference to the sale of merchandise includes the entering into of any leasing arrangement regarding the merchandise that is equivalent to the sale of the merchandise.".

(2) Section 705(b)(1) (19 U.S.C. 1671(b)(1)) is amended by inserting ", or sales (or the likelihood of sales) for importation," immediately after "by reason of imports".

(b) Section 731 (19 U.S.C. 1673) is amended (1) by inserting "or by reason of sales (or the likelihood of sales) of that merchandise for importation" immediately after "by reason of imports of that merchandise" in paragraph (2), and (2) by adding at the end thereof the following new sentence: "For purposes of this section and section 735(b)(1), a reference to the sale of foreign merchandise includes the entering into of any leasing arrangement regarding the merchandise that is equivalent to the sale of the merchandise.".

(c) Section 735 (19 U.S.C. 1673d) is amended by adding ", or sales (or the likelihood of sales) for importation," after "by reason of imports" in paragraph (1) of subsection (b).

(d) Subsection (a) of sections 703 and 733 (19 U.S.C. 1671b) and 1673b) are amended by adding "or sales (or the likelihood of sales) for importation," after "by reason of imports".

SEC. 17. SALES FOR FUTURE DELIVERY AND IRREVOCABLE OFFERS.

Sections 702 and 732 (19 U.S.C. 1671a and 1673a) are each amended by adding at the end thereof the following new subsection:

"(c) SPECIAL RULES.—In making determinations under paragraph (1) of subsection (c), the existence of sales for future delivery or irrevocable offers to sell the merchandise that is the subject of the petition may be a basis for an affirmative determination.".

SEC. 18. Sections 702 and 732 (19 U.S.C. 1671a and 1673a) are each amended by adding at the end thereof the following new subsection:

"(c) SPECIAL RULES.—In making determinations under paragraph (1) of subsection (c), the absence of a history of imports in sufficient volume to be a present cause of material injury shall not be a basis for a decision not to initiate an investigation if a sufficient allegation of threat of material injury is made.".

Mr. HEINZ. Mr. President, I offer this amendment on behalf of myself, Mr. MOYNIHAN, Mr. MITCHELL, and Mr. FORD.

Mr. President, this is a package of small, but necessary, corrections to our antidumping and countervailing duty statutes that we enacted in 1979. They are, in many cases, things that the administration has already endorsed. They are also largely items that we have discussed at one time or another in the Finance Committee. While I would be happy to discuss

them more, they have already been discussed at some length, it is my understanding, with the Trade Subcommittee and its staff. I understand there is no objection to them.

Mr. President, the Congress has not passed significant trade reform legislation since 1979, when we enacted the landmark Trade Agreements Act of 1979 which codified the changes agreed upon in the Multilateral Trade Agreements.

Since that time the agency administering these laws has changed from the Treasury Department to the Commerce Department, largely due to congressional dissatisfaction with the former's lax administration. In addition, the Congress, as well as domestic industries and foreign producers and importers have had 5 years' experience with the statute and 5 years to uncover its flaws.

Regrettably, but not surprisingly, there were flaws. In any law that long mistakes are inevitable. In working with the act during the past 5 years we have discovered some omissions, some provisions that have not worked as smoothly as intended, and some provisions that various parties have been able to exploit to their own narrow advantage, contrary to our intent in enacting the legislation.

These concerns, Mr. President, have led to a thorough review of our current trade laws in the past 2 years and to numerous proposals for change. The most extensive review was in the House, where Congressman GIBBONS, the chairman of the Subcommittee on International Trade, held literally weeks of hearings reviewing the law in great detail. His efforts culminated in House passage of H.R. 4784, on the whole a thoughtful and constructive effort, though there are portions of it that concern me. I regret that the Finance Committee has not yet taken that bill up.

Despite not having reported trade reform legislation, the Finance Committee nevertheless has held some hearings, and a number of us have done considerable work behind the scenes in trying to fashion some amendments to the bill before us today that will address some of the flaws in existing law I have alluded to. One such amendment is the one I am offering today.

My amendment, Mr. President, grows out of S. 2139, the Comprehensive Trade Law Reform Act of 1983, which I introduced, along with Senator MOYNIHAN and Senator MITCHELL, last November. That bill was developed and endorsed by the Trade Reform Action Coalition, known as TRAC, a broad-based labor-industry coalition of companies and associations that have had considerable experience with our trade laws. Mr. President, I ask that a list of TRAC members be printed at this point in the RECORD.

The list follows:

MEMBERS OF THE TRADE REFORM ACTION COALITION (TRAC)

An alliance of U.S. companies, trade associations, unions and workers in the automotive parts, chemicals, coal, color televisions, fiber/textile/apparel, footwear, furniture, leather goods, metalworking, nonferrous metals, and steel industries.

AMERICAN FIBER, TEXTILE, APPAREL COALITION (AFTAC)

AFTAC is a coalition of 18 trade associations and two labor unions representing the fiber/textile/apparel complex of the United States. It evolved for the purpose of representing these industries in issues of international trade.

The coalition is representative of an industry with facilities in 50 states, with employment totaling 2.4 million and sales accounting for $105 billion.

AFTAC members:

Amalgamated Clothing & Textile Workers Union.
American Apparel Manufacturers Association.
American Textile Manufacturers Institute.
American Yarn Spinners Association.
Carpet & Rug Institute.
Clothing Manufacturers Association of America.
International Ladies' Garment Workers' Union.
Knitted Textile Association.
Luggage & Leather Goods Manufacturers of America.
Man-Made Fiber Producers Association, Inc.
National Association of Hosiery Manufacturers.
National Association of Uniform Manufacturers.
National Cotton Council of America.
National Knitwear Manufacturers Association.
National Knitwear & Sportswear Association.
National Wool Growers Association.
Neckwear Association of America.
Northern Textile Association.
Textile Distributors Association, Inc.
Work Glove Manufacturers Association.

AMERICAN FURNITURE MANUFACTURERS ASSOCIATION (AFMA)

The American Furniture Manufacturers Association (AFMA) is the largest furniture industry trade association in the United States.

The Association is representative of home offices and facilities in 40 states, with employment over 225,000 and a total sales of $10 billion.

AMERICAN IRON & STEEL INSTITUTE (AISI)

AISI is the principal trade association representing the United States steel industry. Its 57 domestic member companies produce 86 percent of the raw steel in the United States at facilities in 39 states.

In 1983, with respect to member companies providing financial data, total sales were $52.9 billion and employment was 384,000.

AUTOMOTIVE SERVICE INDUSTRY ASSOCIATION (ASIA)

ASIA represents the automative aftermarket parts industry, including wholesalers/distributors and manufacturers. Member companies total over 8,500 and represent 50 states.

Total sales for 1983 wholesale and distribution were about $8 billion and employment was 57,000.

GROUP OF 33 (AD HOC LABOR INDUSTRY TRADE COALITION)

The Group of 33 is an hoc labor-industry trade coalition formed in 1978 to advocate changes in import trade remedy laws, with particular focus on the Multilateral Trade Negotiations, subsidies code and 1979 Trade Agreement Act.

The 28 industry trade associations and five labor unions that make up the Group of 33 represent a wide diversity of industries which include footwear, leather products, chemicals, lead and zinc, textile machinery, industrial equipment, various textile and apparel products, and agricultural products.

Group of 33 members:

Amalgamated Clothing & Textile Workers Union, AFL-CIO.
American Apparel Manufacturers Association.
American Brush Manufacturers Association.
American Federation of Fishermen.
American Mushroom Institute.
American Pipe Fittings Association.
American Textile Machinery Association.
American Textile Manufacturers Institute.
American Yarn Spinners Association.
Association of Synthetic Yarn Manufacturers.
Bicycle Manufacturers Association of America, Inc.
Cast Iron Soil Pipe Institute.
Clothing Manufacturers Association.
Copper and Brass Fabricators Council, Inc.
Footwear Industries of America, Inc.
International Ladies' Garment Workers' Union, AFL-CIO.
International Leathers Goods, Plastics & Novelty Workers Union, AFL-CIO.
Lead-Zinc Producers Committee.
Luggage & Leather Goods Manufacturers of America, Inc.
Man-Made Fiber Producers Association.
National Association of Chain Manufacturers.
National Association of Hosiery Manufacturers.
National Cotton Council.
National Knitwear & Sportswear Association.
National Knitwear Manufacturers Association.
Northern Textile Association.
Scale Manufacturers Association, Inc.
Synthetic Organic Chemical Manufacturers Association.
Textile Distributors Association.
United Food and Commercial Workers International Union, AFL-CIO.
Valve Manufacturers Association.
Work Glove Manufacturers Association.

METALWORKING FAIR TRADE COALITION (MFTC)

The MFTC is a coalition of 36 trade associations representing the U.S. metal parts industries that joined together in 1982 to seek government cooperation and action to assure fair trade between the United States and its world trading partners.

MFTC members have operations in 43 states with employment totaling 2.02 million and sales of $96.3 billion.

MFTC members:

Alliance of Metalworking Industries.
American Chain Association.
American Cutlery Manufacturers Association.
American Die Casting Institute.

American Gear Manufacturers Association.
American Institute of Steel Construction, Inc.
American Pipe Fitting Association.
American Metal Stamping Association (Washer Div.)
American Wire Producers Association.
Anti-Friction Bearing Manufacturers Association.
Association of Die Shops International.
Brass and Bronze Ingot Institute.
Cast Metals Federation.
Cutting Tool Manufacturers Association.
Expanded Metal Manufacturers Association.
Forging Industry Association.
Hand Tools Institute.
Industrial Fasteners Institute.
Industrial Perforators Association, Inc.
Investment Casting Institute.
Iron Castings Society.
Metal Cutting Tool Institute.
Metal Treating Institute.
National Association of Pattern Manufacturers.
National Screw Machine Products Association.
National Tooling and Machining Association.
National Foundry Association.
National Association of Chain Manufacturers.
Non-Ferrous Founders' Society.
Plumbing Manufacturers Institute.
Steel Founders' Society.
Steel Plate Fabricators Association, Inc.
Tool & Die Institute.
U.S. Fastener Manufacturing Group.
Valve Manufacturers Association.
Welded Steel Tube Institute.

NATIONAL COAL ASSOCIATION (NCA)

The NCA represents 150 companies in the coal industry. Its principle companies represent the nations coal producer and a small number of coal transporters and coal industry suppliers.

The association represents an industry with facilities in 25 states with total employment of 130,000 and total sales of $12-$15 billion.

STEEL SERVICE CENTER INSTITUTE (SSCI)

SSCI is a trade association representing almost 500 North American companies in the steel industry, with 900 service centers in industrial areas. Service centers are divided into three types: industrial steel service centers, merchant products distributors and oil country jobbers. Approximately 124 steel producers are associate members.

With total sales of $20-22 billion, SSCI members employ 120,000 people in 49 states.

Mr. HEINZ. Mr. President, in offering this amendment I would not want to speak further without mentioning my own gratitude and appreciation to TRAC members for all the work they have done, both on the bill and in fashioning this amendment. TRAC has no staff and no office of its own. Its resources are the time and talent that can be contributed by its member staffs outside their normal duties. In that regard, many people too numerous to mention here have devoted literally hundreds of hours to the creation of a competent and effective product—in drafting, in meetings with my staff, with me, and amongst themselves—to identify current trade law problems and to develop equitable remedies for them. This amendment is the culmination of that effort, and I am grateful to TRAC members for their work in producing it.

The original TRAC bill, S. 2139, contained 54 amendments to current trade law, including a major rewrite of sections 201 through 204 of the Trade Act of 1974, the so-called escape clause provisions of law, used recently by the footwear, copper, and steel industries, among others, as well as some major revisions to the section 301 process, which is the U.S. Trade Representative's authority to attack unfair trade practices of other nations in the GATT forum and through direct action in this country.

The amendment I offer today, however, contains only 17 provisions, all of them focusing on antidumping and countervailing duty law changes. This does not, however, imply any lack of interest on my part in the other provisions of S. 2139, and I intend to press them at another time; in one case, perhaps on this bill. I would note in passing, however, that the Senator from Missouri, the chairman of the subcommittee, has his own bill amending section 201, S. 2845, which I support and am cosponsoring. That addresses some of the problems with the 201 process, and I hope Senator DANFORTH will offer that bill as an amendment to the pending legislation. In addition, I have previously proposed S. 849, the Industrial Revitalization Act, which would link the import relief provided through the escape clause process directly to adjustment commitments made by the domestic industry. That is an idea—also reflected in other legislation proposed by Members of this body, notably the Senator from Massachusetts [Mr. KENNEDY]—whose time is rapidly coming but appears not to be quite here yet. The recent parade of 201 cases through the bureaucracy has helped to convince Members of Congress as well as a number of key people in the administration that import relief ought not to be provided in these cases without an appropriate quid pro quo. That can be done without getting into the concept of industrial policy in its most intrusive sense, which I oppose. Nevertheless, we need to do some more educating about this concept, particularly its details, and I have decided not to press forward with it on the pending bill. At a later time, however, it will reappear, and, I am confident, will ultimately be approved.

That brings us, Mr. President, to the 18 sections of my amendment. These provisions are intended to deal with problems with current law that have developed since 1979. In most cases the provisions address specific incidents that have occurred. In discussing these provisions with the administration, they have periodically made the point that the proposed changes correct abuses which occurred in the past but which are not practices of the present administrators of the law. That is largely true, Mr. President, and I want to commend the Commerce Department's Deputy Assistant Secretary for Import Administration, Alan Holmer, for his responsiveness to these concerns. The fact remains, however, that responsive though Mr. Holmer may be, his predecessors were not, and there is no guarantee his successors will be either. Therefore, I reiterate my belief that it is better policy to put into the law some clarifications that will ensure that past practices everyone agrees were abuses will not be repeated by different administrators in the future.

Before describing the provisions in detail, I would also mention that most of them are not controversial and reflect agreements with administration spokesmen. In that regard I am grateful to Mr. Holmer, and to Claud Ginrich, USTR's general counsel, for their efforts on this amendment. While this package by no means contains everything I wanted or TRAC proposed, it is a solid beginning that contains a number of important items. Since the Commerce Department has consistently stated its support for comprehensive trade law review and reform next year, I will be looking forward to working with the admininstration and the committee again at that time to tackle some of the issues that have fallen by the wayside this year.

Now, Mr. President, let me briefly describe the contents of this amendment.

Section 2 (burden of persuasion) would make clear that in seeking revocation of an antidumping duty order, the burden of persuasion of showing that changed circumstances exist that would warrant the revocation is on the party seeking the revocation.

Section 3 (cumulation) would require cumulation of imports from multiple sources when considering injury when the Commission determines that the marketing of the imports in question is coincident, and when imports from each source have contributed to the overall material injury to the industry resulting from the imports. That, of course, is a lower standard than requiring that the imports from each source themselves be causing material injury. This does not go as far as I would like, Mr. President, or as far as the House bill, H.R. 4784, but it is a reasonable beginning on which a good compromise can be constructed in conference.

Section 4 (threat of material injury) would provide specific criteria for ITC Commissioners to consider when determining if a threat of material injury exists. It would not require action by Commissioners, but it would give them some specific guidelines to

consider with respect to threat that are entirely lacking under current law. Section 4 does not contain a number of additional criteria related to threat which are included in S. 2139 (such as those dealing with reference time periods), but it still represents a worthwhile improvement over the existing statute.

Section 5 (verification of amount of net subsidy) would address the serious problem of acceptance of export taxes as offset to a subsidy, when it is difficult to determine whether or not such taxes are fully collected in a timely manner. Particularly when the company in question is owned by the Government, there is a serious concern as to whether such a tax is simply transferring funds from one pocket to another and not offsetting the subsidy in any meaningful way. Requiring that such offsets be verified will give the Commerce Department a better means of determining whether a suspension agreement involving one is actually being implemented as promised.

Section 6 (compromise of outstanding duties owed) would prohibit the compromise of outstanding duties owed, such as occurred in 1980 in a dumping case involving color TV's that was settled on the basis of 10 cents on the dollar. While that took place under a previous administration, I believe that Congress never intended AD or CVD duties to be compromised in this fashion by any administration.

Section 7 (negative CVD injury determinations based on export taxes) would preclude the ITC from reaching negative injury determinations in CVD cases where there were outstanding orders in effect before 1980 (that is, under the old law), and where the foreign government (under the new law) seeks revocation based on a promise to apply an export tax. This occurred in a 1983 ruling involving Brazilian footwear, and resulted in import surges and related injury to the domestic industry. The amendment also precludes revocation of current cases by the Commerce Department for the same reason. Mr. President, this is a modest amendment which, unfortunately, deals with only part of the problem. For example, in two 1982 CVD suspensions involving Brazilian steel, the Commerce Department subsequently discovered that the Brazilian Government failed even to collect the tax for more than 8 months. Mandatory verification of collection would help but, even then, foreign governments could still refunnel money back into the pockets of their subsidized, government-owned firms. That is why S. 2139, the TRAC bill, would preclude the Department of Commerce from suspending CVD investigations or revoking CVD orders based on the export tax. At the very least, the Commerce Department should be prohibited form using the export tax (as an offset, as a settlement device or as a basis for revocation) with respect to foreign government owned or regulated entities. Nevertheless, I am not proposing that reform at this time.

Section 8 (interested parties) would ensure that ad hoc labor/industry coalitions such as Compact (the Committee to Preserve American Color Television) have the opportunity to initiate and participate in AD and CVD proceedings, and would thus correct an oversight in the Trade Agreements Act of 1979. Since Congress never intended to deny standing to ad hoc labor/industry coalitions formed specifically to enforce the rights of companies and workers under the trade laws, this ovesight should now be corrected.

Section 9 (simultaneous investigations) would extend final CVD terminations to the date of final AD determinations for AD and CVD petitions which are filed simultaneously and which involve like imports from the same or other countries. This would not be injurious to petitioners since it would not extend the date for preliminary Commerce Department determinations, and would not be burdensome to the Department of Commerce because it would not shorten AD time lines. Instead, the likely effect of section 9 would be to reduce costs for petitioners, respondents and the Commerce Department in those situations where it would be invoked.

Section 10 (clarification of countervailable subsidies) section 10 would clarify that foreign government-subsidized inputs (that is, upstream subsidies) are countervailable when their effects are passed through to the producers of the end product. This language is taken from Congressman GIBBONS trade bill, H.R. 4784. It would codify what the Commerce Department itself says is present practice, and would ensure that the Department not interpret countervailable subsidies in such a narrow way as to contravene congressional intent. I emphasize, Mr. President, that this is not the so-called natural resources provision in H.R. 4784.

Section 11 (countrywide CVD determinations) would require a presumption of countrywide (rather than company-specific) CVD determinations, except where significant subsidy differentials exist between companies securing benefits or in the case of state-owned companies receiving direct cash infusions. This would allow the Department of Commerce to presume a weighted average subsidy margin with respect to different companies within the same country that export like products under investigation (except where it is clearly unfair to do so), and would hopefully address also the concerns expressed in a pending appeal before the Court of International Trade. In this pending appeal, LTV Steel and other plaintiffs have urged the application of a countrywide CVD margin with respect to three Brazilian steel producers affected by final CVD rulings (with margins ranging from 17 to 62 percent), because the holding company which owns the three companies has announced that it plans to redirect its exports of the affected product to the company with the lowest margin. This provision is intended to ensure against such trade law evasion and also ease the administrative burden on the Commerce Department.

Section 12 (preferential pricing of inputs and constructed value) would direct the Department of Commerce to take preferential pricing of inputs into account in both AD and CVD cases where the price of inputs into the finished product is found to be unreasonable (that is, discounted or below the cost of production). By establishing a definition of downstream dumping to include the full value of costs (rather than the purchase price paid by the importer), section 12 would prevent the kind of trade law evasion which recently occurred when the Department of Commerce found a zero dumping margin in a case involving Italian forged undercarriage components for tractors. In that case, the Department ruled that present law did not allow it to consider whether the steel sold to Italian forgers had been sold at preferential prices, and therefore ruled that the forged undercarriage parts had not been dumped in the U.S. market. This provision would close the loophole which enable foreign producers of inputs to sell their products at preferential prices to exporters of finished goods in the same or third countries without fear of trade law consequences in the U.S. market.

Section 13 (AD suspension agreements by quantitative restriction) would allow the Commerce Department to accept and enforce quantitative restriction [QR] suspension agreements with foreign governments or exporters in AD cases (provided they eliminate the injurious effects of dumping), as is presently allowed for CVD suspensions. In most cases, petitioners would prefer dumping (as well as subsidy) cases to go to term but, in some cases, QR agreements are preferred by foreign respondents and the U.S. Government. This provision would provide the flexibility to act accordingly in such cases. Since foreign government subsidies frequently allow nominally private foreign companies to continue to dump indefinitely, it makes no sense to allow QR suspension agreements in CVD investigations and to deny them in AD cases. Section 13 would correct this anomaly in U.S. law, and merely provide the same option that already exists for other governments (for example, the EC, which frequently settles dumping

cases on the basis of both QR agreements and price undertakings).

Section 14 (the 90-day fast-track review procedure) would add three new criteria for the institution of expedited reviews of antidumping orders, and allow for written comments by interested parties before the decision is made to conduct such a review. By requiring, first, normal AD time lines, second, evidence of a significant anticipated margin differential, and third, representative sales as the basis for review, section 14 would ensure that this procedure does not cause further injury to petitioners. While many would prefer the complete elimination of the 90-day review period (since it has been gravely abused by respondents who have used sham sales and exchange rate manipulation to reduce or eliminate final dumping margins), this amendment represents a good beginning.

Section 15 (steel products trade enforcement) would modify an already existing U.S. law in order to ensure effective monitoring and enforcement of foreign government measures which involve the issuance of steel product export licenses.

Section 16, 17, and 18 (sales for importation, sales for delivery and irrevocable offers) are intended to clarify that likely sales (or irrevocable offers) as well as equivalent-of-sales leasing arrangements are, first, sufficient to proceed with a dumping or subsidy investigation, second, sufficient to find that goods are being dumped or subsidized, and third, sufficient to find injury or the threat thereof. These provisions are intended to resolve the analytical and procedural uncertainty which existed in the 1982 CVD rail car case involving Budd and Bombardier. In that case, there were offers for sale, lost domestic business, but no actual imports.

Mr. BENTSEN. Mr. President, I say to the Senator from Pennsylvania that we also have had an opportunity to examine his first amendment. We have no objection to that amendment, nor do we have any objection to the second one.

Mr. DANFORTH. Mr. President, I have no objection to either amendment.

I want to express my appreciation to Senator HEINZ for his work on the amendment, which is just being offered. I think this is a step forward in the trade area.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Pennsylvania [Mr. HEINZ].

The amendment (No. 4266) was agreed to.

Mr. HEINZ. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BENTSEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 4265 TO AMENDMENT NO. 4247

Mr. HEINZ. Mr. President, I renew my request that my previous amendment be called up and be incorporated by unanimous consent.

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

The amendment is before the Senate. Is there further debate? If not, the question is to agreeing on the amendment.

The amendment (No. 4265) was agreed to.

AMENDMENT NO. 4267

Mr. HEINZ. Mr. President, I send a third and last amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Pennsylvania [Mr. HEINZ] proposes an amendment numbered 4267.

Mr. HEINZ. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

At the end of amendment No. 4244, add the following new title:

TITLE .—TRADE WITH NONMARKET ECONOMIES

SECTION 1. CREATION OF ARTIFICIAL PRICING INVESTIGATION REMEDY.

(a) AMENDMENT OF TITLE VII.—Title VII of the Tariff Act of 1930 (19 U.S.C. 1671 et seq.) is amended by redesignating subtitles C and D as subtitles D and E, respectively, and by inserting after subtitle B the following new subtitle:

"Subtitle C—Imposition of Artificial Pricing Duties

"SEC. 741. ARTIFICIAL PRICING DUTIES IMPOSED.

"(a) IN GENERAL.—If—

"(1) the administering authority determines that a class or kind of merchandise which is the product of a nonmarket economy country is being, or is likely to be, sold in the United States at an artificial price, and

"(2) in the case of a country which is a party to the General Agreement on Tariffs and Trade, or which is a country under the Agreement pursuant to section 701(b), the Commission determines that—

"(A) an industry in the United States—

"(i) is materially injured, or

"(ii) is threatened with material injury, or

"(B) the establishment of an industry in the United States is materially retarded, by reason of imports of such merchandise,

then there shall be imposed upon such merchandise an artificial pricing duty in an amount equal to the amount by which the minimum allowable import price exceeds the actual price for such merchandise.

"(b) DUTY IN ADDITION TO OTHER DUTIES.—Any duty imposed under this section shall be in addition to any other duty other than a countervailing or antidumping duty.

"SEC. 742. PROCEDURES FOR INITIATING AN ARTIFICAL PRICING DUTY INVESTIGATION.

"(a) INITIATION BY ADMINISTERING AUTHORITY.—An artificial pricing duty investigation shall be commenced whenever the administering authority determines, from information available to it, that a formal investigation is warranted into the question of whether the elements necessary for the imposition of a duty under section 741 exists. If the investigation concerns a country which is a party to the General Agreement on Tariffs and Trade, or which is a country under the Agreement pursuant to section 701(b), the administering authority shall immediately notify the Commission in the manner prescribed in subsection (d).

"(b) INITIATION BY PETITION.—

"(1) PETITION REQUIREMENTS.—

"(A) FILING OF PETITION.—An artifical pricing duty proceeding shall be commenced whenever an interested party described in subparagraph (C), (D), or (E) of section 771(9) files a petition with the administering authority, on behalf of an industry, which—

"(i) alleges the elements necessary for the imposition of the duty imposed by section 741, and

"(ii) is accompanied by information reasonably available to the petitioner supporting the allegations.

"(B) AMENDMENT OF PETITION.—Any petition under this paragraph may be amended at such time, and upon such conditions, as the administering authority and the Commission may permit.

"(2) SIMULTANEOUS FILING WITH COMMISSION.—The petitioner shall file a copy of the petition with the Commission on the same day as it is filed with the administering authority, if the allegations are made against a country which is a party to the General Agreement on Tariffs and Trade, or which is a country under the Agreement pursuant to section 701(b).

"(c) PETITION DETERMINATION.—Within 20 days after the date on which a petition is filed under subsection (b), the administering authority shall—

"(1) determine whether the petition alleges the elements necessary for the imposition of a duty under section 741 and contains information reasonably available to the petitioner supporting the allegations,

"(2) determine whether the subject of the petition is a nonmarket economy country,

"(3) if the determinations under paragraphs (1) and (2) are affirmative—

"(A) commence an investigation to determine whether the class or kind of merchandise described in the petition is being, or is likely to be, sold in the United states at an artificial price, and

"(B) provide for the publication of notice of the determinations in the Federal Register,

"(4) if the determination under paragraph (1) is negative, dismiss the petition, terminate the proceeding, notify the petitioner in writing of the reasons for the determination, and provide for the publication of notice of the determination in the Federal Register, and

"(5) if the determination under paragraph (2) is negative, terminate the proceeding, notify the petitioner in writing that the petition should be filed under section 702 or 732, as appropriate, and provide for the publication of notice of the determination in the Federal Register.

"(d) NOTIFICATION TO COMMISSION OF DETERMINATION.—In the case of a petition making allegations against a country that is a party to the General Agreement on Tariffs and Trade, or which is a country under the Agreement pursuant ot section 701(b), the administering authority shall—

"(1) notify the Commission immediately of any determination made under subsection (a) or (c) by the administering authority, and

"(2) if the determination is affirmative, make available to the Commission such information as the administering authority may have relating to the matter under investigation.

Information shall be made available under paragraph (2) under such procedures as the administering authority and the Commission may establish to prevent unauthorized disclosure of any information to which confidential treatment has been given by the administering authority.

"(e) NO DUPLICATION OF INVESTIGATION.—Except as provided in section 748(b), the administering authority shall not initiate an artificial pricing investigation pursuant to a petition filed by an entity with respect to the artificial pricing of an article from a nonmarket economy country with respect to which that entity has filed a petition for a countervailing duty or antidumping duty investigation under section 303 of the Trade Act of 1974 (19 U.S.C. 2413) or this title if—

"(1) the countervailing duty or antidumping duty proceeding is in process, or

"(2) a countervailing duty or antidumping duty is in effect with respect to such article.

"SEC. 743. PRELIMINARY DETERMINATIONS.

"(a) DETERMINATIONS BY COMMISSION OF REASONABLE INDICATION OF INJURY.—Except in the case of a petition dismissed by the administering authority under section 742(c)(4) or (5), the Commission within 45 days after the date on which a petition is filed under section 742(b)(2) or on which the Commission receives notice from the administering authority of an investigation commenced under section 742(a), shall make a determination, based upon the best information available to the Commission at the time of the determination, of whether there is a reasonable indication that—

"(1) an industry in the United States—

"(A) is materially injured, or

"(B) is threatened with material injury, or

"(2) the establishment of an industry in the United States is materially retarded.

by reason of imports of the merchandise which is the subject of the investigation by the administering authority. If that determination is negative, the investigation shall be terminated.

"(b) PRELIMINARY DETERMINATION BY ADMINISTERING AUTHORITY.—Within 85 days after the date on which a petition is filed under section 742(b), or an investigation is commenced under section 742(a), but not before an affirmative determination by the Commission under subsection (a) if such a determination is required, the administering authority shall make a determination, based upon the best information available to such administering authority at the time of the determination, of whether there is a reasonable basis to believe or suspect that the merchandise is being sold, or is likely to be sold, at an artificial price. If the determination of the administering authority is affirmative, the determination shall include the estimated average amount by which the minimum allowable import price exceeds the actual price for such merchandise.

"(c) EXTENSION OF PERIOD IN EXTRAORDINARILY COMPLICATED CASES.—

"(1) IN GENERAL.—If—

"(A) the petitioner makes a timely request for an extension of the period within which the determination must be made under subsection (b), or

"(B) the administering authority concludes that the parties concerned are cooperating and determines that—

"(i) the case is extraordinarily complicated by reason of—

"(I) the number and complexity of the transactions to be investigated, or adjustments to be considered,

"(II) the novelty of the issues presented, or

"(III) the number of firms whose activities must be investigated, and

"(ii) additional time is necessary to make the preliminary determination,

then the administering authority may postpone making the preliminary determination under subsection (b) of this section until not later than the 150th day after the date on which a petition is filed under section 742(b), or an investigation is commenced under section 742(a).

"(2) NOTICE OF POSTPONEMENT.—the administering authority shall notify the parties to the investigation, not later than 20 days before the date on which the preliminary determination would otherwise be required under subsection (b), if the administering authority intends to postpone making the preliminary determination under paragraph (1). The notification shall include an explanation of the reasons for the postponement, and notice of the postponement shall be published in the Federal Register.

"(d) EFFECT OF DETERMINATION BY ADMINISTERING AUTHORITY.—If the preliminary determination of the administering authority under subsection (b) is affirmative, the administering authority—

"(1) shall order the suspension of liquidation of all entries of merchandise subject to the determination which are entered, or withdrawn from warehouse, for consumption on or after the date of publication of the notice of the determination in the Federal Register,

"(2) shall order the posting of a cash deposit, bond, or other security, as the administering authority deems appropriate, for each entry of the merchandise concerned equal to the estimated average amount by which the minimum allowable import price exceeds the actual price of such merchandise, and

(3) in the case of an investigation in which a determination under section 741(b) is required, shall make available to the Commission all information upon which determination was based and which the Commission considers relevant to the injury determination of the Commission.

Information shall be made available under paragraph (3) under such procedures as the administering authority and the Commission may establish to prevent unauthorized disclosure of any information to which confidential treatment has been given by the administering authority.

"(e) CRITICAL CIRCUMSTANCES DETERMINATIONS.—

"(1) IN GENERAL.—If a petitioner alleges critical circumstances in the original petition, or by amendment at any time more than 20 days before the date of a final determination by the administering authority, then the administering authority shall promptly determine, on the basis of the best information available to the administering authority at that time, whether there is a reasonable basis to believe or suspect that—

"(A)(i) there is a history of dumping or artificial pricing in the United States or elsewhere of the class or kind of merchandise which is the subject of the investigation, or

"(ii) the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the merchandise which is the subject of the investigation at an artificial price, and

"(B) there have been massive imports of the class or kind of merchandise which is the subject of the investigation over a relatively short period.

"(2) SUSPENSION OF LIQUIDATION.—If the determination of the administering authority under paragraph (1) is affirmative, then any suspension of liquidation ordered under subsection (d)(1) shall apply, or, if notice of such suspension of liquidation is already published, be amended to apply, to unliquidated entries of merchandise entered, or withdrawn from warehouse, for consumption on or after the date which is 90 days before the date on which suspension of liquidation was first ordered.

"(f) NOTICE OF DETERMINATIONS.—Whenever the Commission or the administering authority makes a determination under this section, the petitioner, other parties to the investigation, and the other agency shall be notified by the Commission or the administering authority of the determination and of the facts and conclusions of law upon which the determination is based, and such notice of the determination shall be published in the Federal Register.

"SEC. 744. TERMINATION OR SUSPENSION OF INVESTIGATION.

"(a) TERMINATION OF INVESTIGATION ON WITHDRAWAL OF PETITION.—An investigation under this subtitle may be terminated by either the administrative authority or, if appropriate, the Commission after notice to all parties to the investigation, upon withdrawal of the petition by the petitioner. The Commission may not terminate an investigation under the preceding sentence before a preliminary determination is made by the administering authority under section 743(b).

"(b) AGREEMENTS TO ELIMINATE ARTIFICIAL PRICING OR TO CEASE EXPORTS OF ARTIFICIALLY PRICES MERCHANDISE.—The administering authority may suspend an investigation if the exporters of the merchandise which is the subject of the investigation who account for substantially all of the imports of that merchandise agree—

"(1) to cease exports of the merchandise to the United States within 6 months after the date on which the investigation is suspended, or

"(2) to revise the prices to eliminate completely any amount by which the minimum allowable import price of the merchandise which is the subject of the agreement exceeds the actual price of such merchandise.

"(c) AGREEMENTS ELIMINATING INJURIOUS EFFECT.—

"(1) GENERAL RULE.—If the administering authority determines that extraordinary circumstances are present in a case, the administering authority may suspend an investigation upon the acceptance of an agreement from the government of the nonmarket economy country under investigation, or from exporters described in subsection (b), if the agreement will eliminate completely the injurious effect of exports to the United

States of the merchandise which is the subject of the investigation.

"(2) CERTAIN ADDITIONAL REQUIREMENTS.—Except in the case of an agreement by a foreign government to restrict the volume of imports of the merchandise which is the subject of the investigation into the United States, the administering authority may not accept an agreement under this subsection unless—

"(A) the suppression or undercutting of price levels of domestic products by imports of such merchandise will be prevented, and

"(B) for each entry of each exporter the amount by which the estimated minimum allowable import price exceeds the actual price will not exceed 15 percent of the weighted average amount by which the estimated minimum allowable import price exceeded the actual price for all artificially priced entries of the exporter examined during the course of the investigation.

"(3) QUANTITATIVE RESTRICTIONS AGREEMENTS.—The administering authority may accept an agreement with a foreign government under this subsection to restrict the volume of imports of merchandise which is the subject of an investigation into the United States, but the administering authority may not accept such an agreement with exporters.

"(4) DEFINITION OF EXTRAORDINARY CIRCUMSTANCES.—

"(A) EXTRAORDINARY CIRCUMSTANCES.—For purposes of this subsection, the term 'extraordinary circumstances' means circumstances in which—

"(i) suspension of an investigation will be more beneficial to the domestic industry than continuation of the investigation, and

"(ii) the investigation is complex.

"(B) COMPLEX.—For purposes of this paragraph, the term 'complex' means—

"(i) there are a large number of transactions to be investigated or adjustments to be considered,

"(ii) the issues raised are novel, or

"(iii) the number of firms involved is large.

"(d) ADDITIONAL RULES AND CONDITIONS.—

"(1) PUBLIC INTEREST; MONITORING.—The administering authority shall not accept an agreement under subsection (b) or (c) unless—

"(A) the administering authority is satisfied that suspension of the investigation is in the public interest, and

"(B) effective monitoring of the agreement by the United States is practicable.

"(2) EXPORTS OF MERCHANDISE TO UNITED STATES NOT TO INCREASE DURING INTERIM PERIOD.—The administering authority may not accept any agreement under subsection (b) unless that agreement provides a means of ensuring that the quantity of the merchandise covered by that agreement exported to the United States during the period provided for elimination of the artificial pricing or cessation of exports does not exceed the quantity of such merchandise exported to the United States during the most recent representative period determined by the administering authority.

"(3) REGULATIONS GOVERNING ENTRY OR WITHDRAWALS.—In order to carry out an agreement concluded under subsection (b) or (c), the administering authority is authorized to prescribe regulations governing the entry, or withdrawal from warehouse, for consumption of merchandise covered by such agreement.

"(e) SUSPENSION OF INVESTIGATION PROCEDURE.—Before an investigation may be suspended under subsection (b) or (c) the administering authority shall—

"(1) notify the petitioner of, and consult with the petitioner concerning, its intention to suspend the investigation, and notify the other parties to the investigation and, if appropriate, the Commission not less than 30 days before the date on which it suspends the investigation,

"(2) provide a copy of the proposed agreement to the petitioner at the time of notification, together with an explanation of how the agreement will be carried out and enforced (including any action required of foreign governments), and of how the agreement will meet the requirements of subsections (b) and (d) or (c) and (d), and

"(3) permit all parties to the investigation to submit comments and information for the record before the date on which notice of suspension of the investigation is published under subsection (f)(1)(A).

"(f) EFFECTS OF SUSPENSION OF INVESTIGATION.—

"(1) IN GENERAL.—If the administering authority determines to suspend an investigation upon acceptance of an agreement described in subsection (b) or (c), then—

"(A) the administering authority shall suspend the investigation, publish notice of suspension of the investigation, and issue an affirmative preliminary determination under section 743(b) with respect to the merchandise which is the subject of the investigation, unless such a determination in the same investigation has been previously issued,

"(B) the Commission shall suspend any investigation of the Commission is conducting with respect to that merchandise, and

"(C) the suspension of investigation shall take effect on the day on which such notice is published.

"(2) LIQUIDATION OF ENTRIES.—

"(A) CESSATION OF EXPORTS; COMPLETE ELIMINATION OF ARTIFICIAL PRICING.—If the agreement accepted by the administering authority is an agreement described in subsection (b), then—

"(i) notwithstanding the affirmative preliminary determination required under paragraph (1)(A), the liquidation of entries of merchandise which is the subject of the investigation shall not be suspended under section 743(d)(1).

"(ii) if the liquidation of entries of such merchandise was suspended pursuant to a previous affirmative preliminary determination in the same case with respect to such merchandise, that suspension of liquidation shall terminate, and

"(iii) the administering authority shall refund any cash deposit and release any bond or other security deposited under section 743(d)(1).

"(B) OTHER AGREEMENTS.—If the agreement accepted by the administering authority is an agreement described in subsection (c), then the liquidation of entries of the merchandise which is the subject of the investigation shall be suspended under section 743(d)(1), or, if the liquidation of entries of such merchandise was suspended pursuant to a previous affirmative preliminary determination in the same case, that suspension of liquidation shall continue in effect, subject to subsection (h)(3), but the security required under section 743(d)(2) may be adjusted to reflect the effect of the agreement.

"(3) WHERE INVESTIGATION IS CONTINUED.—If, pursuant to subsection (g), the administering authority and, if appropriate, the Commission, continue an investigation in which an agreement has been accepted under subsection (b) or (c), then—

"(A) if the final determination by the administering authority or the Commission under section 745 is negative, the agreement shall have no force or effect and the investigation shall be terminated, or

"(B) if the final determinations by the administering authority and the Commission under such section are affirmative, the agreement shall remain in force, but the administering authority shall not issue an artificial pricing duty order in the case so long as—

"(i) the agreement remains in force,

"(ii) the agreement continues to meet the requirements of subsections (b) and (d) or (c) and (d), and

"(iii) the parties to the agreement carry out their obligations under the agreement in accordance with its terms.

"(g) INVESTIGATION TO BE CONTINUED UPON REQUEST.—If the administering authority, within 20 days after the date of publication of the notice of suspension of an investigation, receives a request for the continuation of the investigation from—

"(1) the government of the nonmarket economy country under investigation,

"(2) an exporter or exporters accounting for a significant proportion of exports to the United States of the merchandise which is the subject of the investigation, or

"(3) an interested party described in subparagraph (C), (D), or (E) of section 771(9) which is a party to the investigation,

then the administering authority and, if appropriate, the Commission shall continue the investigation.

"(h) REVIEW OF SUSPENSION.—

"(1) IN GENERAL.—Within 20 days after the suspension of an investigation under subsection (c), an interested party which is a party to the investigation and which is described in subparagraph (C), (D), or (E) of section 771(9) may, by petition filed with the Commission and with notice to the administering authority, ask for a review of the suspension.

"(2) COMMISSION INVESTIGATION.—Upon receipt of a review petition under paragraph (1), the Commission shall, within 75 days after the date on which the petition is filed, determine whether the injurious effect of imports of the merchandise which is the subject of the investigation is eliminated completely by the agreement. If the Commission determination under this subsection is negative, the investigation shall be resumed on the date of publication of notice of such determination as if the affirmative preliminary determination under section 743(b) had been made on that date.

"(3) SUSPENSION OF LIQUIDATION TO CONTINUE DURING REVIEW PERIOD.—The suspension of liquidation of entries of the merchandise which is the subject of the investigation shall terminate at the close of the 20-day period beginning on the day after the date on which notice of suspension of the investigation is published in the Federal Register, or, if a review petition is filed under paragraph (1) with respect to the suspension of the investigation, in the case of an affirmative determination by the Commission under paragraph (2), the date on which notice of the affirmative determination by the Commission is published. If the determination of the Commission under paragraph (2) is affirmative, then the administering authority shall—

"(A) terminate the suspension of liquidation under section 743(d)(1), and

"(B) release any bond or other security, and refund any cash deposit, required under section 743(d)(2).

"(i) VIOLATION OF AGREEMENT.—

"(1) IN GENERAL.—If the administering authority determines that an agreement accepted under subsection (b) or (c) is being, or has been, violated, or no longer meets the requirements of such subsection (other than the requirement, under subsection (c)(1), of elimination of injury) and subsection (d), then, on the date of publication of such determination, the administering authority shall—

"(A) suspend liquidation under section 743(d)(i) of unliquidated entries of the merchandise made on or after the later of—

"(i) the date which is 90 days before the date of publication of the notice of suspension of liquidation, or

"(ii) the date on which the merchandise, the sale or export to the United States of which was in violation of the agreement, or under an agreement which no longer meets the requirements of subsection (b) and (d) or (c) and (d), was first entered, or withdrawn from warehouse, for consumption,

"(B) if the investigation was not completed, resume the investigation as if the affirmative preliminary determination under section 743(b) were made on the date of the determination under this paragraph,

"(C) if the investigation was completed under subsection (g), issue an artificial pricing duty order under section 746(a) effective with respect to entries of merchandise the liquidation of which was suspended, and

"(D) notify the petitioner, interested parties who are or were parties to the investigation, and, if appropriate, the Commission of the action under this paragraph.

"(2) INTENTIONAL VIOLATION TO BE PUNISHED BY CIVIL PENALTY.—Any person who intentionally violates an agreement accepted by the administering authority under subsection (b) or (c) shall be subject to a civil penalty assessed in the same amount, in the same manner, and under the same procedure, as the penalty imposed for a fraudulent violation of section 592(a) of this Act.

"(j) DETERMINATION NOT TO TAKE AGREEMENT INTO ACCOUNT.—In making a final determination under section 745, or in conducting a review under section 751, in a case in which the administering authority has terminated a suspension of investigation under subsection (i)(1), or has continued an investigation under subsection (g), the Commission and the administering authority shall consider all of the merchandise which is the subject of the investigation, without regard to the effect of any agreement under subsection (b) or (c).

"SEC. 745. FINAL DETERMINATIONS.

"(a) FINAL DETERMINATION BY ADMINISTERING AUTHORITY.—

"(1) IN GENERAL.—Within 75 days after the date of the preliminary determination under section 743(b), the administering authority shall make a final determination of whether the merchandise which is the subject of the investigation is being, or is likely to be, sold in the United States at an artificial price.

"(2) CRITICAL CIRCUMSTANCES DETERMINATIONS.—If the final determination of the administering authority is affirmative, then that determination, in any investigation in which the presence of critical circumstances has been alleged under section 743(e), shall also contain a finding as to whether—

"(A)(i) there is a history of dumping or artificial pricing in the United States or elsewhere of the class or kind of merchandise which is the subject of the investigation, or

"(ii) the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the merchandise which is the subject of the investigation at an artificial price, and

"(B) there have been massive imports of the class or kind of merchandise which is the subject of the investigation over a relatively short period.

"(b) FINAL DETERMINATION BY COMMISSION.—

"(1) IN GENERAL.—If the Commission has made an affirmative preliminary determination under section 743, then the Commission shall make a final determination of whether—

"(A) an industry in the United States—

"(i) is materially injured, or

"(ii) is threatened with material injury, or

"(B) the establishment of an industry in the United States is materially retarded,

by reason of imports of the merchandise with respect to which the administering authority has made an affirmative determination under subsection (a).

"(2) PERIOD FOR INJURY DETERMINATION FOLLOWING AFFIRMATIVE PRELIMINARY DETERMINATION BY ADMINISTERING AUTHORITY.—If the preliminary determination by the administering authority under section 743(b) is affirmative, then the Commission shall make the determination required by paragraph (1) before the later of—

"(A) the 120th day after the day on which the administering authority makes the affirmative preliminary determination under section 743(b), or

"(B) the 45th day after the day on which the administering authority makes the affirmative final determination under section (a).

"(3) PERIOD FOR INJURY DETERMINATION FOLLOWING NEGATIVE PRELIMINARY DETERMINATION BY ADMINISTERING AUTHORITY.—If the preliminary determination by the administering authority under section 743(b) is negative, and the final determination under subsection (a) is affirmative, then the final determination by the Commission under this subsection shall be made within 75 days after the date of that affirmative final determination.

"(4) CERTAIN ADDITIONAL FINDINGS.—

"(A) If the finding of the administering authority under subsection (a)(2) is affirmative, then the final determination of the commission shall include findings as to whether—

"(i) there is material injury which will be difficult to repair, and

"(ii) the material injury was by reason of such massive imports of the artificially priced merchandise over a relatively short period.

"(B) If the final determination of the Commission is that there is not material injury but that there is threat of material injury, then the determination shall also include a finding as to whether material injury by reason of imports of the merchandise with respect to which the administering authority has made an affirmative determination under subsection (a) would have been found but for any suspension of liquidation of entries of that merchandise.

"(c) EFFECT OF FINAL DETERMINATIONS.—

"(1) EFFECT OF AFFIRMATIVE DETERMINATION BY THE ADMINISTERING AUTHORITY.—If the determination of the administering authority under subsection (a) is affirmative, then—

"(A) the administering authority, in a case in which a determination by the Commission is required, shall make available to the Commission all information upon which such determination was based and which the Commission considers relevant to the determination, under such procedures as the administering authority and the Commission may establish to prevent unauthorized disclosure of any information to which confidential treatment has been given by the administering authority, and

"(B) in cases where the preliminary determination by the administering authority under section 743(b) was negative, the administering authority shall order under paragraphs (1) and (2) of section 743(d) the suspension of liquidation and the posting of a cash deposit, bond, or other security.

"(2) ISSUANCE OF ORDER; EFFECT OF NEGATIVE DETERMINATION.—If the determinations of the administering authority and, if required, the Commission under subsections (a)(1) and (b)(1) are affirmative, then the administering authority shall issue an artificial pricing duty order under section 746(a). If either of such determinations is negative, the investigation shall be terminated upon the publication of notice of that negative determination and the administering authority shall—

"(A) terminate the suspension of liquidation under section 743(d)(1), and

"(B) release any bond or other security and refund any cash deposit required under section 743(d)(2).

"(3) EFFECT OF NEGATIVE DETERMINATIONS UNDER SUBSECTIONS (a)(2) AND (b)(4)(A).—If the determination of the administering authority or the commission under subsections (a)(2) and (b)(4)(A), respectively, is negative, then the administering authority shall—

"(A) terminate any retroactive suspension of liquidation required under section 743(e)(2), and

"(B) release any bond or other security, and refund any cash deposit required under section 743(d)(2) with respect to entries of the merchandise the liquidation of which was suspended retroactively under section 743(e)(2).

"(d) PUBLICATION OF NOTICE OF DETERMINATIONS.—Whenever the administering authority or the Commission makes a determination under this section, the petitioner, other parties to the investigation, and the other agency shall be notified of the determination and of the facts and conclusions of law upon which the determination is based, and notice of the determination shall be published in the Federal Register.

"SEC. 746. ASSESSMENT OF DUTY.

"(a) PUBLICATION OF ARTIFICIAL PRICING DUTY ORDER.—Within 7 days after being notified by the Commission of an affirmative determination under section 745(b), or within 7 days after an affirmative determination by the administering authority under section 745(a), if its determination by the Commission is required, the administering authority shall publish an artificial pricing duty order which—

"(1) directs customs officers to assess an artificial pricing duty equal to the amount by which the minimum allowable import price of the merchandise exceeds the actual price of such merchandise, within 6 months after the date on which the administering authority received satisfactory information upon which the assessment may be based, but in no event later than 12 months after the end of the annual accounting period of

the manufacturer or exporter within which the merchandise is entered, or withdrawn from warehouse, for consumption.

"(2) includes a description of the class or kind of merchandise affected, in such detail as the administering authority deems necessary, and

"(3) requires the deposit of estimated artificial pricing duties along with the deposit of estimated normal customs duties on the merchandise pending liquidation of entries of such merchandise.

"(b) IMPOSITION OF DUTIES.—

"(1) GENERAL RULE.—If the Commission, in the final determination under section 745(b), finds material injury or threat of material injury which, but for the suspension of liquidation under section 743(d)(1), would have led to a finding of material injury, then entries of the merchandise subject to the artificial pricing duty order, the liquidation of which has been suspended under section 743(d)(1), shall be subject to the imposition of artificial pricing duties under section 741(a).

"(2) SPECIAL RULE.—If the Commission, in the final determination under section 745(b), finds threat of material injury (other than threat of material injury described in paragraph (1)) or material retardation of the establishment of an industry in the United States, then merchandise subject to an artificial pricing duty order which is entered, or withdrawn from warehouse, for consumption on or after the date of publication of notice of an affirmative determination of the Commission under section 745(b) shall be subject to the imposition of artificial pricing duties under section 741(a), and the administering authority shall release any bond or other security, and refund any cash deposit made, to secure the payment of artificial pricing duties with respect to entries of the merchandise entered, or with drawn from warehouse, for consumption before that date.

"SEC. 747. TREATMENT OF DIFFERENCE BETWEEN DEPOSIT OF ESTIMATED ARTIFICIAL PRICING DUTY AND FINAL ASSESSED DUTY UNDER ARTIFICIAL PRICING DUTY ORDER.

"(a) DEPOSIT OF ESTIMATED ARTIFICIAL PRICING DUTY UNDER SECTION 743(d)(2).—If the amount of a cash deposit, or the amount of any bond or other security, required as security for an estimated artificial pricing duty under section 743(d)(2) is different from the amount of the artificial pricing duty determined under an artificial pricing duty order issued under section 746, then the difference for entries of merchandise entered, or withdrawn from warehouse, for consumption before notice of the affirmative determination of the Commission under section 745(b) is published shall be—

"(1) disregarded, to the extent that the cash deposit, bond, or other security is lower than the duty under the order, or

"(2) refunded or released, to the extent that the cash deposit, bond or other security is higher than the duty under the order.

"(b) DEPOSIT OF ESTIMATED ARTIFICIAL PRICING DUTY UNDER SECTION 746(a)(3).—If the amount of an estimated artificial pricing duty deposited under section 746(a)(3) is different from the amount of the artificial pricing duty determined under an artificial pricing duty order issued under section 746, then the difference for entries of merchandise entered, or withdrawn from warehouse, for consumption after notice of the affirmative determination of the Commission under section 745(b) is published shall be—

"(1) collected, to the extent that the deposit under section 706(a)(3) is lower than the duty determined under the order, or

"(2) refunded, to the extent that the deposit under section 706(a)(3) is higher than the duty determined under the order.

together with interest as provided by section 778.

"SEC. 748. CHANGE FROM ARTIFICIAL PRICING DUTY INVESTIGATION TO ANTIDUMPING DUTY OR COUNTERVAILING DUTY INVESTIGATION; CHANGE FROM ANTIDUMPING DUTY OR COUNTERVAILING DUTY INVESTIGATION TO ARTIFICIAL PRICING DUTY INVESTIGATION.

"(a) CHANGE FROM ARTIFICIAL PRICING DUTY INVESTIGATION TO ANTIDUMPING DUTY OR COUNTERVAILING DUTY INVESTIGATION.—

"(1) If in the course of an artificial pricing duty investigation, the administering authority determines that—

"(A) the industry or sector of the nonmarket economy country under investigation is market-oriented, and

"(B) there is sufficient verifiable information to permit the investigation to be conducted as an antidumping duty or countervailing duty investigation.

then the administering authority shall treat the investigation as if the investigation had been commenced as an antidumping duty or countervailing duty investigation, whichever the administering authority determines to be appropriate.

"(2) Whenever the administering authority determines under paragraph (1) that an artificial pricing investigation will be treated as an antidumping duty or countervailing duty investigation, the administering authority shall terminate the artificial pricing investigation and begin to conduct the antidumping duty or countervailing duty investigation at the same time period as such investigation would have been had such investigation been originally commenced as an antidumping duty or countervailing duty investigation, except that—

"(A) if the administering authority had not previously made a preliminary artificial pricing duty determination—

"(i) the administering authority shall have an additional 30 days in which to make a preliminary antidumping duty or countervailing duty determination, and

"(ii) any determination made under section 743(c) to postpone a preliminary artificial pricing duty determination shall apply as if such determination had been made under section 703(c) or 733(c), whichever is appropriate, or

"(B) if the administering authority had previously made a preliminary artificial pricing duty determination the administering authority shall make a preliminary antidumping duty or countervailing duty determination within 30 days of the date on which the artificial pricing duty investigation is terminated (but any suspension of liquidation and any deposit, bond, or other security requirement previously imposed under paragraphs (1) and (2) of section 743(d) shall remain in effect until the administering authority makes a preliminary antidumping duty or countervailing duty determination).

"(3) No later than 10 days before making a determination under paragraph (1), the administering authority shall notify the petitioner of, and consult with the petitioner concerning, the intention of the administering authority to treat an artificial pricing duty investigation as an antidumping or countervailing duty investigation.

"(b) CHANGE FROM ANTIDUMPTING DUTY OR COUNTERVAILING DUTY INVESTIGATION TO ARTIFICIAL PRICING DUTY INVESTIGATION.—

"(1) If in the course of an antidumping duty or countervailing duty investigation, the administering authority determines that—

"(A) the industry or sector of the nonmarket economy country under investigation is not market-oriented, and

"(B) there is insufficient verifiable information to permit the investigation to be conducted as an antidumping duty or countervailing duty investigation,

then the administering authority shall treat the investigation as if the investigation had been commenced as an artificial pricing duty investigation.

"(2) Whenever the administering authority determines under paragraph (1) that an antidumping duty or countervailing duty investigation will be treated as an artificial pricing duty investigation, the administering authority shall terminate the antidumping duty or countervailing duty investigation and begin to conduct an artificial pricing duty investigation at the same time period as such investigation would have been had such investigation been originally commenced as an artificial pricing duty investigation, except that—

"(A) if the administering authority had not previously made a preliminary antidumping duty or countervailing duty determination—

"(i) the administering authority shall have an additional 30 days in which to make a preliminary artificial pricing duty determination, and

"(ii) any determination made under section 703(c) or 733(c) to postpone a preliminary countervailing duty or antidumping duty determination shall apply as if such determination had been made under section 743(c), or

"(B) if the administering authority had previously made a preliminary antidumping duty or countervailing duty determination, the administering authority shall make a preliminary artificial pricing duty determination within 30 days of the date on which the antidumping duty or countervailing duty determination is terminated (but any suspension of liquidation and any deposit, bond, or other security requirement previously imposed under paragraphs (1) and (2) of section 703(d) or paragraphs (1) and (2) of section 733(d) shall remain in effect until the administering authority makes a preliminary artificial pricing duty determination).

"(3) No later than 10 days before making a determination under paragraph (1), the administering authority shall notify the petitioner of, and consult with the petitioner concerning, the intention of the administering authority to treat an antidumping duty or countervailing duty investigation as an artificial pricing duty investigation.

"(c) NOTICE OF DETERMINATION.—Whenever the administering authority makes a determination under subsection (a)(1) or (b)(1), the petitioner, other parties to the investigation, and the other agency shall be notified of the determination and of the facts and conclusions of law upon which the determination is based, and notice of the determination shall be published in the Federal Register.".

SEC. 749. DEFINITIONS; TECHNICAL AND CONFORMING AMENDMENTS.

(a) ADDITIONAL DEFINITIONS.—Section 771 of the Tariff Act of 1930 (19 U.S.C. 1677) is

amended by adding at the end thereof the following new paragraphs:

"(18) NONMARKET ECONOMY COUNTRY.—(A) The term 'nonmarket economy country' means a country which is on a list of such countries published annually by the administering authority beginning on the ninetieth day after the date of enactment of this Act.

"(B) In general, countries shall be included on such list if their economy does not operate on market principles of cost or pricing structures so that sales or offers of sale of merchandise in that country do not reflect the fair value of the merchandise.

"(C) In determining whether an economy operates on market principles the administering authority shall take into account the following as well as other factors he may deem appropriate—

(i) the extent to which the country's currency is convertible;

(ii) the extent to which wage rates are determined by free bargaining between labor and management; and

(iii) the extent to which joint ventures or other investments by foreign firms are permitted.

"(D)(i) The administering authority shall establish a procedure whereby countries that have been placed on the list may request that they be removed. Such procedure, as well as the procedure relating to the annual publication of the list, shall provide ample opportunity for public comment prior to a decision by the Secretary.

(ii) The administering authority may, at its discretion, add or delete countries from the list, subject to the same procedures for public comment specified in subparagraph (ii).

"(E) Only countries on the list published by the administering authority shall be nonmarket economy countries for purposes of petitions filed or investigations initiated under section 742 of this Act. The question of whether a country is properly included on the list shall not be an issue in an investigation begun pursuant to section 742."

"(19) MINIMUM ALLOWABLE IMPORT PRICE.—The term 'minimum allowable import price' means—

"(A) the trade-weighted average price of eligible market economy foreign producers in arms-length sales to customers in the United States during the investigatory period; or

"(B) if there are no eligible market economy producers, the constructed value of such or similar merchandise in a market economy country or countries as determined under section 773(e); or

"(C) if the administering authority cannot determine the trade-weighted average price of eligible market economy foreign producers under subparagraph (A), the prices, determined in accordance with section 773(a), at which such or similar merchandise is sold by an eligible market economy foreign producer to—

"(i) the United States; or

"(ii) if there are no sales to the United States, other countries.

"(20) ELIGIBLE MARKET ECONOMY FOREIGN PRODUCERS.—The term 'eligible market economy foreign producers' means producers in countries other than the United States that are not nonmarket economy countries as defined in paragraph (18) who—

"(A) produce the article, or a like article, that is the subject of the investigation,

"(B) export the article, or a like article, to the United States, and

"(C) are not subject to an antidumping or countervailing duty order under sections 736 or 706 respectively against the article, or a like article, that is the subject of the investigation during the period of the investigation.

(b) ADMINISTRATIVE AND JUDICIAL REVIEW OF DETERMINATIONS.—

(1) ADMINISTRATIVE REVIEW.—

(A) PERIODIC REVIEW.—Paragraph (1) of section 751(a) of the Tariff Act of 1930 (19 U.S.C. 1675(a)(1)) is amended—

(i) by inserting "an artificial pricing duty order under this title" after "1921,",

(ii) by striking out "and" at the end of clause (B),

(iii) by adding "and" at the end of clause (C),

(iv) by inserting "or at artificial prices" after "fair value" in clause (C), and

(v) by inserting after clause (C) the following new clause:

"(D) review and determine (in accordance with paragraph (3)), the amount of any artificial pricing duty,".

(B) DETERMINATION OF ARTIFICIAL PRICING DUTIES.—Subsection (a) of section 751 of the Tariff Act of 1930 (19 U.S.C. 1675(a)) is amended by adding at the end thereof the following new paragraph:

"(3) DETERMINATION OF ARTIFICIAL PRICING DUTIES.—For the purpose of paragraph (1)(D), the administering authority shall determine—

"(A) the minimum allowable import price and the actual price of each entry of merchandise subject to the artificial pricing duty order and included within that determination, and

"(B) the amount, if any, by which the minimum allowable import price of each such entry exceeds the actual price of the entry.

The administering authority, without revealing confidential information, shall publish notice of the results of the determination of artificial pricing duties in the Federal Register, and that determination shall be the basis for the assessment of artificial pricing duties on entries of the merchandise included within the determination and for deposits of estimated duties.".

(C) REVIEWS.—

(i) IN GENERAL.—Paragraph (1) of section 751(b) of the Tariff Act of 1930 (19 U.S.C. 1675(b)(1)) is amended—

(I) by striking out "or 734" and inserting in lieu thereof "734, or 744",

(II) by striking out "or 735(b)" and inserting in lieu thereof "735(b), 744(h)(2), 745(a), or 745(b)",

(III) by striking out "or 734(h)(2)" and inserting in lieu thereof "734(h)(2), or 744(h)(2)", and

(IV) by striking out "or 734(c)" and inserting in lieu thereof "734(c), or 744(c)".

(ii) LIMITATIONS.—Paragraph (2) of section 751(b) of the Tariff Act of 1930 (19 U.S.C. 1675(b)(2)) is amended—

(I) by striking out "or 735(b)" in clause (A) and inserting in lieu thereof "735(b), or 745(b)",

(II) by striking out "or 735(a)" in clause (B) and inserting in lieu thereof "735(a), or 745(a)", and

(III) by striking out "or 734" and inserting in lieu thereof "734, or 744".

"(D) SUSPENSIONS.—Subsection (e) of section 751 of the Tariff Act of 1930 (19 U.S.C. 1675(e)) is amended by striking out "or 734(i)" and inserting in lieu thereof "734(i), or 744(i)".

"(2) JUDICIAL REVIEW.—

"(A) IN GENERAL.—Paragraph (1) of section 516(a) of the Tariff Act of 1930 (19 U.S.C. 1516a) is amended—

"(i) by striking out "or 702(c)" in subparagraph (A)(i) and inserting in lieu thereof "702(c), or 742(c)",

"(ii) by striking out "or 733(a)" in subparagraph (A)(iii) and inserting in lieu thereof "733(a), or 743(a)",

"(iii) by striking out "or 733(c)" in subparagraph (B)(i) and inserting in lieu thereof "733(c), or 743(c)", and

"(iv) by striking out "or 733(b)" in subparagraph (B)(ii) and inserting in lieu thereof "733(b), or 743(b)".

"(B) REVIEWABLE DETERMINATIONS.—Paragraph (2) of section 516A(a) of the Tariff Act of 1930 (19 U.S.C. 1516(a)(2)) is amended—

"(i) by striking out "or countervailing" in subparagraph (A)(ii) and inserting in lieu thereof "countervailing, or artificial pricing",

"(ii) by striking out "or 735" in clauses (i) and (ii) of subparagraph (B) and inserting in lieu thereof "735, or 745",

"(iii) by striking out "or 734" in subparagraph (B)(iv) and inserting in lieu thereof "734, or 744",

"(iv) by striking out "duty or a countervailing" in subparagraph (B)(iv) and inserting in lieu thereof ", countervailing, or artificial pricing", and

"(v) by striking out "or 734(h)" in subparagraph (B)(v) and inserting in lieu thereof "734(h), or 744(h)".

(d) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Subsection (c) of section 773 of the Tariff Act of 1930 (19 U.S.C. 1677b(c)) is repealed.

(2) Subsection (f) of section 303 of such Act (19 U.S.C. 1303(f)) and subsection (c) of setion 701 of such Act (19 U.S.C. 1671(c)) are each amended—

(A) by inserting "(1)" before "For", and

(B) by inserting at the end thereof the following new paragraph:

"(2) For provisions of law applicable in the case of a product of a nonmarket economy country, see subtitle C of title VII of this Act.".

(3) Section 731 of such Act (19 U.S.C. 1673) is amended—

(A) by inserting "(a) IN GENERAL.—" before "If", and

(B) By adding at the end thereof the following new subsection:

"(b) CROSS REFERENCE.—

"For provisions of law applicable in the case of a product of a nonmarket economy country, see subtitle C of title VII of this Act.".

(e) CLERICAL AMENDMENT.—The table of contents for title VII of the Tariff Act of 1930 is amended by redesignating subtitles C and D as subtitles D and E, respectively, and by inserting after the items relating to subtitle B the following new items:

"Subtitle C—Imposition of Artificial Pricing Duties

"Sec. 741. Artificial pricing duties imposed.
"Sec. 742. Procedures for initiating an artificial pricing duty investigation.
"Sec. 743. Preliminary determinations.
"Sec. 744. Termination or suspension of investigations.
"Sec. 745. Final determinations.
"Sec. 746. Assessment of duty.
"Sec. 747. Treatment of difference between deposit of estimated artificial pricing duty and final assessed duty under artificial pricing duty order.
"Sec. 748. Treatment of artificial pricing investigations as antidumping

duty or countervailing duty investigations and the treatment of antidumping duty or countervailing investigations as artificial pricing investigations.".

SEC. 2. EFFECTIVE DATE.

The amendments made by section 1 shall apply with respect to petitions filed, requests made, and resolutions adopted after the date of the enactment of this Act.

Mr. HEINZ. Mr. President, the purpose of this amendment is to provide a new means of dealing with unfair trade practices by socialist countries. Growing trade with the People's Republic of China will make this increasingly important.

PRESENT LAW

First, theoretically one can presently bring a dumping case against a nonmarket economy [NME], except it is hard to establish since prices and costs do not reflect real market values and can be difficult to construct if there are not other comparable producers to extrapolate from—this was the problem in the Polish golf cart case.

Second, section 406 of the Trade Act of 1974 provides for a 201-like process against Communist countries, where the injury test is lower, and the President has somewhat more latitude in the event of a positive ITC funding. There have only been 9 or 10 of these cases, and none really provided satisfactory relief.

S. 1351, on which this amendment is based, is an effort to recognize: First, that an NME does not necessarily have to be a Communist country—in other words that the definition should be economic rather than political; and second, that there should be an unfair practices track for NME's just as there is for market economies.

DETAILS OF BILL

The bill's procedures are designed to parallel those of current unfair trade practice laws. An interested party—as defined in current law—could file a complaint against a nonmarket economy alleging artificial pricing. A nonmarket economy would be defined as those countries appearing on a list published annually by the Secretary of Commerce. Inclusion on the list would be based on a variety of economic criteria specified in the bill. Countries could seek to be removed from the list, but that would be a decision separate from any unfair trade practice complaint. The question of whether or not a country is a nonmarket economy would not be a debatable issue in any unfair trade practice petition. Procedures and time limits for the ensuing investigation are the same as in a countervailing duty investigation under title VII of the Tariff Act of 1930 as amended by the Trade Agreements Act of 1979.

During the course of the investigation, the Commerce Department would consult with the nonmarket economy's Government and solicit from it information that might enable the Department to determine dumping or the presence of a subsidy subject to the standards of current law for free market economies. Such information would probably seek to show that the economy of the industry in question is, in fact, free market oriented. Such information may or may not be adequate, depending on the nature of the economy or the particular industry in question. In the Polish golf cart case, for example, much of the cost and pricing data provided by the Polish exporter could be meaningful in our terms if the Poles also made available the true exchange rate applied to that particular industry's exports.

If, in the Department's judgment, sufficient verifiable information is provided to permit the case to be treated as a normal antidumping or countervailing duty case, then the Department shall do so, moving the investigation to the appropriate track at the same point in time. Of course, the provisions of those statutes permitting suspension of the investigation would also apply, as would all other provisions of current law.

In those cases where the nonmarket economy will not or cannot provide the necessary information, preventing the complaint from being handled in a normal way, a different standard would be employed. In most cases the standard would be the trade weighted average price of foreign market economy producers—excluding those who have been found to be dumping or benefiting from subsidies. U.S. producers are omitted from this average. This is a higher standard than originally proposed in S. 1351. In cases where there are no foreign market producers or where the average price standard cannot be determined, the constructed value and actual sale price of market economy countries provisions of current law, respectively, will apply. Even in this case, however, the petition would be treated pursuant to the time frames and procedures applicable to countervailing duty investigations in existing law.

The injury test would be provided to GATT members or countries under the agreement pursuant to section 701(b) of the Tariff Act of 1930, as amended.

These procedures and standards will provide the greater equity and certainty of administration for both petitioner and respondent. It will facilitate the treatment of nonmarket economies in ways similar to market economies, and it will solve a serious growing problem the Commerce Department has with administration of its current regulations.

Mr. President, this is a modified version of S. 1351, the nonmarket economy bill of the committee which the administration and I and others have been working on for some 5 years. My understanding is that it is acceptable to all Members.

After 5 years, it is possible to achieve all things.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 4267) was agreed to.

Mr. HEINZ. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DANFORTH. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HEINZ. Mr. President, I want to thank the chairman of the subcommittee and the distinguished ranking member, Senator BENTSEN, for their courtesy and help in this matter.

I might say, Mr. President, that the amendments to the Trade Agreement Act of 1979 will perfect that legislation which we spent so many months working on in 1978 and 1979. It will make it a more effective and more efficient statute. It will be fair to all concerned. I thank my colleagues as well for their cooperation, their suggestions, their ideas, their amendments, in effect, to the nonmarket economy bill, which is very much a joint effort of the Trade Subcommittee, Senator DANFORTH in particular, together with the administration which has been seeking legislation on this subject for 2 years, not as long as the present company but nearly as long as the present company. I thank all my colleagues.

The PRESIDING OFFICER. The Senator from California.

AMENDMENT NO. 4268

(Purpose: To equalize tariffs on canned tuna)

Mr. WILSON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Sentator from California [Mr. WILSON] for himself, Mr. CRANSTON, Mr. STEVENS, and Mr. INOUYE, proposes an amendment numbered 4268.

Mr. WILSON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

At the appropriate place in the bill, insert the following:

"SECTION . (a) Subpart C of part 3 of Schedule 1 of the Tariff Schedules of the United States (19 U.S.C. § 1202) is amended as follows:

"(1) Immediately following item 112.2400, strike out 'Tuna:' and all that follows up to, but not including, item 112.36;

"(2) In Item 112.3640, insert immediately after 'other', '(not including articles described in item 112.9000)';

"(3) In the heading immediately before item 112.4000, insert immediately after 'oil', 'unless otherwise specified'; and

"(4) In item 112.9000, insert immediately after 'tuna', ', prepared or preserved in any manner, in oil and not in oil'.

"(b) The amendments made by subsection (a) shall apply to articles entered or withdrawn from warehouse for consumption, on or after the date of enactment of this Act."

Mr. WILSON. Mr. President, a few moments ago the two distinguished Senators from Maine collaborated in an effort to secure a remedy that they felt realistic. They are concerned quite rightly with the number of small American businesses which cannot readily avail themselves of statute book remedies. Those processes are not available to them as a practical matter.

The amendment that I bring before us is a similar effort to provide a realistic remedy.

Mr. President, I submit this amendment, along with my colleagues, the Senator from Alaska [Mr. STEVENS], the Senator from Hawaii [Mr. INOUYE], and my good colleague from California [Mr. CRANSTON]. Together we seek the support of our colleagues in an effort to equalize tariffs on oil and water-packed tuna.

Mr. President, I cannot emphasize too strongly how important this effort is not just to stabilizing the U.S. tuna industry, whose existence is now jeopardized by mounting imports.

Let me say imports have increased 128 percent in 5 years.

The failure to respond to this need will further jeopardize the very existence of the U.S. tuna industry.

As items, let me discuss the following: Despite wage concessions by factory workers in July, there came to be the closing of the Van Camp cannery in San Diego. Its closing in July brought to 5,200 the number of workers laid off in the processing industry. The Star Kist cannery in San Diego has announced that it will close in October, just a few days from now, if tariff relief is not granted. This will mean the loss of 800 more jobs, jobs held for generations by people who really know nothing else.

The San Pedro cannery is also the last major tuna processing facility in the continental United States, and it is not just the cannery workers but it is those who go down to the sea in ships and seek to harvest this crop of tuna who are imperiled by the present anomaly in the tariff law; 27 vessels with a replacement value of between $200 million and $250 million are now tied up. Other vessels are on the brink of bankruptcy.

Why, Mr. President? To understand this problem one must know that the tuna market is divided between two very similar products, tuna packed in oil and tuna packed in water. The sole difference between a can of oil-packed tuna and a can of water-packed tuna is the substance in which the fish is packed, except current American tariff law draws another fundamental distinction and one that imposes a peril on this industry—unfairly—not through any fault of the industry but through a historical anomaly, a negotiation that took place when the industry was not itself represented.

Imports of tuna canned in oil are subject to a duty of 35 percent, while imports of water-packed tuna are subject to a duty of only 6 percent; 35 percent for oil-packed and 6 percent for water-packed.

These different tariff rates are the source of the problem. There is no clear reason for the two tariff levels. The United States is the only country in the world with two levels. The history of the tariff reveals that it is a historical accident resulting from tariffs written before water-packed tuna became a significant item in international trade.

These different tariff rates are not, I repeat, the product of any conscious trade strategy. They reflect historical anomaly. And simply, and I repeat this because it is important to understand this, when the need for a tariff was established, water-packed tuna was not a significant amount of trade. Today, water-packed tuna accounts for 60 percent of the market. The United States receives imports in this category of tuna, clearly indicating that exporters are taking advantage of the disparity in tariffs. They do not send us their oil-packed tuna. Mr. President, imports have been successful in taking 20 percent of all the tuna sales in this country within a very, very brief period of the recent past.

Mr. President, this gigantic influx of imports would not warrant legislation in my mind if the domestic industry were one that was outdated, one unaccustomed to new technology, or one that has been unresponsive to the need for modernization or efficiency.

I can say without equivocation that the United States tuna industry has been the leader, not the follower. It has provided the model. None of the conditions that I spoke of is applicable to our industry. Indeed, the U.S. fishing fleet is a model to all the world for its efficiency and for techniques which it has pioneered. It represents the engine for modernization developing the state of the art technology which other nations have sought to match.

Mr. President, I will conclude by noting that this action will pose no serious problem to our international trade position. More simply stated, it does not risk retaliation that will injure other U.S. exporters, a concern that is a very real one with regard to other efforts to mitigate tariff treatment. The reason, Mr. President, is because U.S. tuna imports come from four principal sources, two of which, Thailand and the Philippines, impose tariffs far in excess of the level at which we seek to equalize U.S. duties. Indeed, once equalized, U.S. tariffs will be far below the tariffs of the principal exporting nations. Thailand imposes a tariff on U.S. products of 50 percent. Taiwan imposes a tariff of 75 percent. The Philippines impose a tariff of 50 percent. Japan, whose duty level on most all imports is a bone of serious contention with the United States, is not a significant player in this drama. Taiwan, which is indeed a serious player, is not a signatory to the General Agreement on Tariffs and Trade, which means that they have no GATT remedy. If that point is of concern, I can address it at further length.

But, Mr. President, in summary there simply is no logical reason for the United States to maintain two distinct tariff classifications. There is no requirement of the GATT that we do so. This artificial distinction yields two duty rates for canned tuna. There is no logical reason for allowing tuna to come in at one-fifth the normal duty because the cannery adds water to the can rather than oil.

Mr. President, the tuna industry is calling for help to correct an anomaly created not by them but by an historical accident caused by Government officials. The cost of our inaction in the wake of this request is not just severe; it is critical. Thousands of jobs, millions of dollars in investment and, most importantly, the entire modern United States tuna industry and fishing fleet is at stake. This loss can be avoided. It must be avoided. I urgently request the conscientious support of each and every Senator for this amendment which will simply equalize tariffs and as such bring an end to that historical anomaly. Equity demands that we rid the tariff laws of this manifestly unjustifiable distinction, this anomaly, this unhappy historical accident. It is no exaggeration, Mr. President, to say that survival of the U.S. tuna industry and all of its employment depends upon this simple change. Delay will be fatal. We must act now because the last of the major canneries will close in less than a month if we are not successful today in bringing about this equity.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. DOLE. Will the Senator withhold that request?

Mr. WILSON. Yes.

Mr. CRANSTON addressed the Chair.

The PRESIDING OFFICER. The question is withheld. The Senator from California is recognized.

Mr. CRANSTON. I rise in support of the amendment offered by my colleague from California, an amendment that I am pleased to cosponsor along with other Senators. It offers relief to the domestic tuna industry from increasing imports of canned tuna.

Our State of California is the home of the domestic tuna fleet. Historically, more tuna has been canned in California than in any other area of the world. The tuna industry is a vital part of the California economy.

Recently, however, the rapidly increasing level of canned tuna imports has seriously injured our domestic tuna industry. In the key private label and institutional pack markets imports now account for almost 39 percent of all sales. Sales of imported products are made at prices 40 percent below those charged by the domestic industry. As a result the domestic industry sustained heavy losses in 1982 and 1983, including the closing of two major processing facilities, the temporary shutdown of other facilities, wage freezes, and the recently announced shutdown of the Van Camp cannery in San Diego effective July 1.

In addition, much of the industry's modern purse seine fleet is unable to cover operating costs or meet debt service requirements. Some 24 vessels, with a replacement value of between $200 and $250 million, are now tied up. Some are in formal bankruptcy proceedings and others are on the brink of bankruptcy.

Imports of tuna canned in oil are subject to a duty of 35 percent while imports of tuna canned in water are subject to a duty on only 6 percent. This anomalous duty structure was caused by pure accident. When the duty rates were first fixed, no tuna was then packed in water, and all canned products were thus dutiable at the higher rate. With the subsequent development of the water packed market, however, this tariff structure has had the effect of inviting into the United States imports of low-priced tuna packed in water in ever increasing quantities. In the past 5 years, canned tuna imports have jumped 128 percent.

The U.S. tuna industry must have relief from low-priced imports. This is the only way to restore industrywide profitability and to generate sufficient capital from which new products can be introduced and the financial posture of the U.S. tuna fleet can be restructured.

Senator WILSON's amendment would provide for this relief by equalizing the duty rate on imports of canned tuna in water with the rate on imports of canned tuna in oil, 35 percent ad valorem.

Mr. President, this approach is consonant with that of the European Community, which does not differentiate for duty purposes between imports packed in oil and imports packed in water, and which has a duty rate applicable to imports packed in water substantially in excess of the U.S. rate.

Mr. President, for these reasons, I urge support of the Wilson amendment.

(Mr. COHEN assumed the Chair.)

Mr. LAUTENBERG. Mr. President, I rise in opposition to the Wilson/Stevens amendment. The amendment would impose, by legislation, a 35-percent tariff on canned tuna in water. It is an attempt to reverse a recent decision by the International Trade Commission, which found, unanimously, that such a tariff is not in order, is not warranted, and would not be in the public interest.

Mr. President, it is worth taking some time today to understand exactly what this amendment would do and how broad-ranging are its possible consequences.

On July 25, 1984, the ITC rejected a U.S. tuna industry petition to impose a 35-percent tariff on all imports of canned tuna in water. The decision followed an exhaustive 5-month investigation, including a full public hearing, into all relevant aspects of the U.S. and foreign tuna industries.

The ITC denied the petition by a 4-to-1 vote. Even the one dissenting vote rejected the imposition of the tariff, recommending that trade adjustment assistance be made available to displaced boat operations and cannery workers. The Commission, therefore, unanimously denied the tariff sought by certain segments of the U.S. tuna industry.

The Commission found that the basic cause of the U.S. tuna industry's problems is that the fish have moved. The best tuna fishing is now in the eastern Pacific. The explanation is not hard to find. A change in major ocean currents has apparently resulted in a warming of western Pacific waters, and the tuna prefer the cold water.

The U.S. industry, in fact, is responding to this new reality. U.S. processors have been shifting their operations offshore to American Samoa and Puerto Rico where labor, transportation and other costs are lower.

For this and perhaps other reasons, not all the U.S. producers supported the tuna foundation's 201 petition. Van Camp, Bumble Bee, and Caribe, in fact, voted to withdraw it.

This amendment seeks to overturn the Commission's decision and raise the tariff on water-packed tuna from 6 percent to 35 percent.

Mr. President, I know it is not unheard of for the Congress to reverse the decision of an executive agency of our Government. We have done it before, and we will do it again.

However, in this case, it would seem that extra caution would be in order. Before overturning an ITC decision, which was the product of months of investigation, and could have an enormous impact on consumers, other industries, and our national interest in fair and open trade, the arguments should be overwhelmingly against the agency on the merits. I submit that this test is not met with respect to the ITC's decision on tuna tariffs. Before taking this step after a few minutes of debate on the Senate floor, with no hearings, or any consideration by the Finance Committee, we need to stop and look at the possible consequences.

In this case, it appears that the remedy offered in the Wilson/Steven amendment would, at best, marginally slow the process of change in the tuna industry. It will not reverse this process. Much of the American tuna processing capacity has already been transferred to facilities in Puerto Rico and American Samoa.

This reality cannot be ignored. The Wilson/Stevens amendment will not prevent it. But let us look at the impacts the amendment of the Senators from California and Alaska could have, impacts which are adverse for the consumer; for other industries, and for U.S. trade policy.

The direct impact on consumers would be significant. The Federal Trade Commission, in testimony to the ITC opposing the tuna petition, estimated that consumers would pay at least $800 million more over 5 years if the tariff on water-packed tuna were increased to 35 percent. An economic analysis by the ICF Corp., done at the request of the ITC, projected an increase in the price of tuna of over 21 percent. Industry sources have admitted that the tariff would mean at least another 10 cents in the price of a 6½ ounce can of water-packed tuna.

The risks to American workers and firms in other industries are a little harder to predict. But they will not be inconsequential. This is because the existing tariff is GATT-bound. An increase in the tariff would thus entitle the affected countries to "compensation." This means that we would either have to make some offsetting concessions or face the possibility of higher tariffs or other restrictions on our exports to such source countries as Japan and the Philippines.

So the questions is: Who is going to pay for the relief this amendment is intended to provide? Will it be the telecommunications industry which is just now getting a toehold in the Japanese market? Will it be U.S. farmers and ranchers who have worked so hard to get the Japanese to lower their barriers against agricultural commodities? Or will the fallout hit some other industry whose trade with Japan, the Philippines, or Thailand is less visible. The answer is: We do not know for certain. But this is the risk we run if this amendment is accepted.

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

Mr. LAUTENBERG. I yield.

Mr. WILSON. Will the Senator from New Jersey tell me precisely what American exports to Thailand and to the Philippines, and at what volume, would suffer retaliation? We are not talking about Taiwan or about the Japanese. We are talking about the Philippines and Thailand. What exports do these two countries have and in what volume?

Mr. LAUTENBERG. The fact is that we do not know exactly. We do know, however, that there are signatories to these tariff agreements.

Mr. WILSON. What exports are presently being made and in what volume?

Mr. LAUTENBERG. If I may finish my presentation, I will be happy to respond to any question the Senator from California has.

I also point out, Mr. President, that there are a number of important and sensitive issues in our trade relations with the nations of the Pacific rim. They range across the spectrum from product counterfeiting to all sorts of tariffs and nontariff barriers. The U.S. position has consistently emphasized the need for trade liberalization and better access to those markets for U.S. exports. The general aim is to encourage the newly industrializing countries of that region—and elsewhere—to assume more responsibility for progress toward a fairer and more open world trading system. This amendment is directly at odds with our objectives in this regard. It will give those who want to continue keeping our business out of their markets a perfect weapon against us.

If the U.S. reneges on its multilateral agreements, why should a developing country or Japan be expected to abide by fairer trading rules?

Not surprisingly, the U.S. Trade Representative [USTR] opposes this amendment. I have here a letter from Ambassador Brock, explaining his objections to the amendment.

The letter reads in part:

I believe that we must avoid trading increased protection for one industry in return for reduced tariff protection or decreased export opportunities for another industry. It is unfair to ask companies and workers in one industry to bear the burden of paying for benefits to firms and workers in a wholly separate industry.

I am also concerned because the proposed amendment would undercut the statutory procedures for import relief investigations contained in section 201 of the Trade Act of 1974 . . . Section 201 was intended by the Congress to be the sole and exclusive procedure for resolving requests for emergency import protection and I oppose any attempt to circumvent this procedure with a legislative solution.

I ask unanimous consent that the letter be printed in the RECORD in its entirety.

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

THE U.S. TRADE REPRESENTATIVE,
Washington, DC, September 17, 1984.

Hon. FRANK R. LAUTENBERG,
U.S. Senate, Washington, DC.

DEAR FRANK: I'm writing to express my strong opposition to an amendment that would raise the tariff on canned waterpacked tuna from six percent to 35 percent. I understand that this amendment may be offered to H.R. 3398.

As a matter of policy, I must oppose any attempt to increase duties bound under the General Agreement on Tariffs and Trade (GATT) outside the procedures of section 201 of the Trade Act of 1974. Under Article XXVIII of the GATT, a country which raises its duties on a bound item is obliged to pay compensation to trading partners disadvantaged by the tariff increase or face retaliation in the form of higher tariffs on its exports. I believe that we must avoid trading increased protection for one industry in return for reduced tariff protection or decreased export opportunities for another industry. It is unfair to ask companies and workers in one industry to bear the burden of paying for benefits to firms and workers in a wholly separate industry.

I'm also concerned because the proposed amendment would undercut the statutory procedures for import relief investigations contained in section 201 of the Trade Act of 1974. As you know, the domestic tuna industry filed a petition for import relief under section 201. The U.S. International Trade Commission conducted an extensive investigation and on July 25, 1984 determined in a 4 to 1 vote that tuna is not being imported into the United States in such quantities to be a substantial cause of serious injury. Therefore, the petition was dropped. Section 201 was intended by the Congress to be the sole and exclusive procedure for resolving requests for emergency import protection and I oppose any attempt to circumvent this procedure with a legislative solution.

For the above reasons, I urge that the proposed amendment not be included in H.R. 3398.

Very truly yours,

WILLIAM E. BROCK.

Mr. LAUTENBERG. In sum, Mr. President, this amendment is questionable on several grounds. It substitutes a legislative remedy, which has not been examined by the Congress at all, for the decision of the ITC. It will increase prices for consumers. It could well result in retaliation that will penalize workers and firms in other industries. And it jeopardizes important U.S. national trade interests in the rapidly developing markets of East Asia.

I do not believe the Senate should adopt this amendment given the likely consequences imposition of such a tariff would bring.

Mr. President, I urge my colleagues to oppose the amendment of the Senators from California and Alaska.

The PRESIDING OFFICER (Mr. GRASSLEY). The Senator from Kansas.

Mr. DOLE. Mr. President, I just want to indicate to my colleagues that, with the leadership of Senator DANFORTH and Senator BENTSEN, we have made some progress on this bill. In this legislation; there are three or four provisions, or at least a couple, for every Senator. I know everything deserves careful scrutiny and study, but I hope we can reach some judgment on these amendments very soon. I know that the leaders are now discussing whether we might get another hour after 4 o'clock. I understand that some Senators may object to that.

I believe it is in the interest of all of us to complete action on the trade bill and go to conference. I hope we might vote on this amendment very quickly.

The PRESIDING OFFICER (Mr. COHEN). The Senator from New Jersey.

Mr. BRADLEY. Mr. President, I rise in opposition to the amendment offerred by the Senator from California. I think it is bad trade policy. It directly overlooks a recent ITC decision. It would cost the American consumer hundreds of millions of dollars.

On July 25, 1984, the ITC soundly rejected a U.S. tuna industry petition to impose a 35-percent tariff on all imports of canned tuna in water. The decision followed an exhaustive 5-month investigation. The ITC ruled against the industry.

Mr. President, the major sponsor behind the petition was Star Kist Foods, which already holds a dominant 40-percent share of the U.S. retail tuna market. Significantly, the next three leading U.S. market tuna companies did not support the tariff petition.

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

Mr. BRADLEY. I should like to finish.

The ITC denied the petition by a 4-to-1 vote. Even the one dissenting vote rejected the imposition of the tariff recommending that the trade-adjustment assistance be made available to displaced both operators and cannery workers. The Commission, therefore, unanimously denied the tariff sought by certain segments of the U.S. tuna industry.

The ITC found that the economic difficulities of the industry were not caused by imports but by U.S. tuna fleet overexpansion and the shift of tuna fishing grounds from the eastern to the western Pacific.

The ITC found that imports were not an important cause of injury, noting that import penetration in 1984 was less than 16 percent of the total market.

The amendment offered by the distinguished Senator from California circumvents the Pacific decision in this case and would allow future tariff seekers to bypass the ITC and impose tariffs through a purely political process.

If a tariff is imposed, GATT [the General Agreement on Trade and Tariffs] requires that other tariff concessions be given to affected countries. If those concessions are not accepted, retaliatory action may legally be taken against U.S. exports. Trade in U.S. farm products, for example, and other articles could be substantially disrupted.

Mr. President, the Federal Trade Commission estimates that the imposition of the tariff would cost the American consumer approximately $800 million over the next 5 years. The price of the protected domestic tuna would immediately rise over 20 percent.

Mr. President, this amendment is one of those classic cases where a small segment of an industry loses through the administrative process and then comes to Congress seeking to protect their share of the market by increasing the cost on every consumer in this country.

Mr. President, this is bad policy. If you go to the shopping mall, and you go to the grocery store, and buy a can of tuna as a result of this amendment, you will be paying 25 to 30 percent more for the tuna as will every consumer across this country.

In addition to that, Mr. President, this makes a mockery of the International Trade Commission process, and it invites retaliation. It invites retaliation from countries that are affected. It invites retaliation on farm products, on machine tools, on even capital goods.

So, Mr. President, I think that this is a bad amendment that as usual to protect a very narrow interest will leave the American consumer paying more for every can of tuna that the consumer purchases.

Mr. President, in the Los Angeles Times on June 10 there was an editorial that I think discussed the issue in some detail and I ask unanimous consent that the editorial from the Los Angeles Times be printed in the RECORD.

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

A WALL IS NOT IN OUR INTEREST

The American tuna industry is in trouble beset by increased foreign competition and rising costs. Like a lot of other besieged businesses, tuna canners and fishermen have turned to the International Trade Commission seeking increased tariffs to protect them. If they have their way, American consumers will be paying an estimated $178 million a year in increased tuna prices to keep the industry alive.

There is no doubt about the crisis faced by the industry, about the effect that this is already having; particularly in Southern California. Sen. Pete Wilson (R-Calif.) estimates that 5,000 jobs are in jeopardy in this state. Most of the jobs are in the unskilled category, many of them filled by minority workers with limited options for other work.

But the remedy proposed is unreasonable. The multimillion-dollar program of tariff protection might slow the process of decline and change in the American industry, but nothing can reverse what is happening. There is no way that the United States can compete with Taiwan, the Philippines and Thailand, which among them now provide three-quarters of the imports coming into the American market. The labor differential—$3 a day in Thailand, $8 an hour in San Pedro—and the lower cost of tuna in Manila and Bangkok have driven prices to a level that Americans say they can't profitably meet. Imports have increased 128% in the last five years, and now supply about 20% of the domestic market.

The frustration of the American tuna industry is understandable. The world's most modern packing plant faces closure in San Diego. The world's most technologically sophisticated fleet of purse seiners is overwhelmed with bankruptcy, almost one-third of the fleet inactive.

Adjustments have been under way for years, however. Much of the American tuna-processing capacity has been transferred to facilities in Puerto Rico and American Samoa, where labor costs are half what they are in California. This year American Samoa will replace California as the place with the largest American canning production. The capacity of the American industry has fallen an estimated 16% in recent years.

But to deny developing nations the right to compete is to condemn them to deeper poverty and the global insecurity inherent in widening the gap between rich and poor. There will be an increasing number of things that the poor nations can do or make better or more economically than the industrialized societies can. The challenge for Americans is to redirect their economy to areas in which it is best fitted to succeed, to compete, allowing American consumers to benefit from the lower costs inherent in open global competition.

The tuna industry has every right to ask for protection from dumping—the onslaught of imports priced below cost. But that is not an issue in this case. The tuna industry has sought instead the extension of a 35% tariff to all tuna imports, which would add 8 cents to the price of the standard can of water-packed tuna. The industry argues that the increase in imports is a substantial cause of serious injury to it. But that ignores what the President must ultimately decide, and that is whether such a tariff wall would be in the national economic interest. It would not.

Mr. BRADLEY. Mr. President, in my view this comes down to a very clear choice, a choice between protecting the interest of the consumer in this country and the administrative process by which we can rationally judge whether injury has been incurred as a result of foreign imports, or it simply says short circuit everything, bail out the one company or the two companies, and let the American consumer pay for it, and in the process invite all those countries out there that are affected to, under the terms of GATT, respond by placing tariffs on goods that we try to sell to their country.

Mr. President, this amendment does not make sense. I hope that the distinguished Senator from California would withdraw the amendment. The amendment boggles the imagination as to what the rationale is for this, absent a protection for a very small segment of the industry. I understand that the industry has had some problems. I understand that the area where tuna is now fished has moved more to the western Pacific. I understand that there are other problems related to the industry. But these problems are not caused by imports of tuna, and they should not be paid for by the American consumer.

The PRESIDING OFFICER. The Senator from California is recognized.

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

Mr. WILSON. I yield to the Senator from Pennsylvania.

Mr. HEINZ. Mr. President, I have not to date sought to enter the debate on this amendment and I do not seek to do so now for what I suspect may be obvious reasons to my colleagues.

Under rule XXXVII, paragraph 4, it states:

No member . . . shall knowingly . . . aid the progress of passage of legislation, a principal purpose of which is to futher . . . the pecuniary interest of a limited class of persons or enterprises, when he, or his immediate family, or enterprises controlled by them, are members of the affected class.

Mr. President, in my judgment the amendment of the Senator from California [Mr. WILSON] poses for this Senator a clear case of the conflict of interest envisioned by rule XXXVII.

I happen to believe that the principle behind rule XXXVII is an excellent one that should guide our behavior whether or not we had ever seen fit to include it in the standing rules of the Senate. And I have observed it on previous similar occasions, precedent to its adoption by the Senate.

Accordingly, I will vote "present" on the amendment by the Senator from California [Mr. WILSON].

I thank the Senator for yielding.

Mr. WILSON. Thank you.

Mr. President, this seems to be a case between the Senators from the West and two Senators from New Jersey.

I want to make clear that I have some sympathy for the jobs which they are trying to protect. I understand there is an importer of imported tuna in New Jersey who employs New Jersey residents and I for that reason understand fully their efforts to try to see to it that their jobs are protected.

But let us not get too righteous about protectionism.

I also understand the fact that my good friends were off the floor when I explained the real cause of this import sensitivity. Perhaps being from New Jersey and not being from that part of the United States where the tuna industry is located it is understandable that there are many things about the industry that they do not understand.

First, let me explain to them that tuna are a migratory species. The fact

is that the problem does not exist because they are now being fished in the western Pacific. They had been fished for a long time in the southern Pacific just as far away as the waters in which they are now found. That clearly is not the problem.

The problem is one that is recognized as Senator BRADLEY has said by one major processor, Star Kist, because there is only one major processor left. The others have gotten out of the business. They have been driven out by a succession of things that would beleaguer anyone of lesser strength than the people in this industry. But the fact is that there have been increases of 128 percent in imports over the past 5 years, and why? Are these imports in oil-packed tuna? No. Strangely enough they are exclusively in water-packed tuna, and the reason is that water-packed has a duty at 6 percent while there is a duty of 35 percent upon oil-packed. That is why. It is a very simple, easily understood, distinction. Why that distinction exists is beyond comprehension. It is one of those strange sort of throwaways that occurred about 36 years ago before water-packed tuna was a significant market element.

Now, what I will tell my good friends with respect to all their pleading about GATT is that that is simply not relevant here. First, Taiwan is not a signatory to GATT. Second, Japan is not a player, and I do say with all due respect to both of my friends from New Jersey that I think I have a good deal more credibility worrying about California beef and citrus being accepted in the Japanese market than they do. I spend a great deal of my time worrying about farm exports to the Pacific rim, largely because so many of my constituents have livelihoods depending upon the success of that export traffic. Indeed, I have given far more time to that than we are to the consideration of the survival of this small indeed but justifiably proud and embattled industry.

With respect to the specific arguments made about GATT, let me just say that even for those which are GATT signatories, the policy of the United States quite rightly has been that where a GATT signatory has such an uneven trade barrier against the United States and where the country adversely affected by any increase in our tariff treatment has trade barriers of its own, we quite rightly said U.S. policy is to avoid making compensation.

I repeat, because they were off the floor, that even after this amendment is adopted and we have equalized the tariff treatment for water-packed, bringing it to what is now levied on oil-packed, that will be a 35-percent duty. Do you know what it is in Thailand and the Philippines? It is 50 percent against U.S. products; it is 75 percent in Taiwan.

There is no GATT violation here. We will be a long way—even when we have achieved this equalization—we will be a very long way from having equalized the burden.

Now, what is at stake here is quite simple. It is the survival of an industry. In October, the Star-Kist plant will close as did the Van Camp cannery with some 1,500 jobs in San Diego in June.

Mr. President, if we are interested in equity and if we are concerned about retaliation, I will tell you we do not risk retaliation. They cannot retaliate. We are giving them a free ride at the expense of a generation's old industry that has earned its place, that is not seeking to be subsidized because of its own inefficiency. It is one of the most efficient, it is the most efficient fishing operation in the world. If we are going to lose that let us all understand it will be because this Congress did not have what it took to take action to cure a simple anomaly in the tariff law for which there is no justification.

There are 6,000 jobs at stake here at the very least concerning just cannery workers; many, many more in the fishing fleet and many more in the associated industries.

Finally, ask yourself this question: How much will the price of tuna go up when the American tuna industry no longer exists, when we are entirely dependent upon foreign imports? I suggest that we will face a time when tuna is no longer available to the American housewife except at a cost that we really are going to be unwilling to pay.

Mr. President, I ask for the yeas and nays.

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

The yeas and nays were ordered.

Mr. CHAFEE. Mr. President, this amendment gives us all difficulty, I know. It is presented by a distinguished Member of this body who has given thoughtful consideration to it and whose native State is home to many of those affected or potentially affected by the absence of such legislation.

However, it does seem to me that we have an ITC, an International Trade Commission, that is set up for a purpose. That is the mechanism ordained by law to look into these matters.

As has been previously mentioned, by a vote—there are five people on the ITC—and by a vote of 4 to 1, the solution sought by this amendment was rejected. Indeed, even the one dissenting vote rejected the imposition of the tariff but instead took another alternative route to solving the problem.

I think it is interesting to note that the ITC found that the economic difficulties of the industry were not caused by imports but by the U.S. tuna fleet's overexpansion and by the fact that the tuna fishing grounds had shifted from the eastern to the western Pacific. The ITC found that imports were not an important cause of injury, noting that the import penetration in the current year is less than 16 percent of the total market.

The amendment, it seems to me, circumvents the specific decision in this case. If we should adopt this amendment, we then run into the problem that everybody who was either rejected by the ITC for its cause, the solution it sought, or did not even bother to go to the ITC feeling they would not prevail there would merely come directly to the Congess and seek a political, in fact it is, a political solution on the floor of the Senate and the House of Representatives.

If a tariff is imposed, I think there are GATT implications, despite that the distinguished Senator from California noted. And the GATT would require that other tariff concessions be given to affected countries. If those concessions are not accepted. For example, trade in U.S. farm products or other articles could be substantially disrupted.

What is the effect on the consumer? I think we have got to look at that. We have had some discussion here this afternoon about the effect on those who work in the canneries and other areas. I think on the other side, we have got to look at the effect on the consumer. FTC estimates that the imposition of the tariff would cost the American consumer approximately $800 million—that is nearly $1 billion—over the next 5 years. The price of the protected domestic tuna would immediately rise over 20 percent. So despite the eloquence of the Senator from California in presenting his amendment and despite the immediate appeal of it—and I can understand the problem he is confronted with—I think it is important that there is another side to this.

Again, let me briefly reiterate, the ITC rejected this by a vote of 4-to-1 and even the one vote in favor did not espouse the cause as sought by the Senator from California.

Second, the retaliatory actions are imminent and could well take place and take place against some of our largest exports to Japan, namely our farm products. And everyone here knows the condition of the farm situation in the United States now and the farm industry.

Finally, the cost to the American consumer of some $800 million nearly $1 billion over the next 5 years.

So based on those reasons, Mr. President, it would be my hope that the amendment of the Senator from California would not be accepted.

Mr. DOLE. Mr. President, again, let me urge my colleagues that we have now been on this amendment over an hour. I think we know the issue. I think we ought to vote on it and try to finish. We are going to sink the entire trade bill if we do not get moving here.

Mr. BRADLEY. Mr. President, I can assure the distinguished chairman of the committee I will be very brief.

I would like to make two further points on the issue before us. One is that this proposed increase in tariff is opposed by our U.S. Trade Representative, Mr. Brock. He has stated in a letter to the Ambassador of Thailand the following statement:

Now that the USITC has made a negative injury determination of the 201 tuna case, I will continue to oppose any legislative effort to raise the tariff on canned tuna in water.

I ask unanimous consent that the letter of Ambassador Brock be printed in the RECORD at this point.

U.S. TRADE REPRESENTATIVE,
Washington, DC, September 4, 1984.

His Excellency KASEM S. KASEMSRI,
Ambassador, Embassy of Thailand, Washington, DC.

DEAR AMBASSADOR KASEMSRI: Thank you for your August 16 letter opposing H.R. 5939, a bill to raise the import duty on canned tuna packed in water.

You may be interested to know that my office opposed similar legislation to raise the tariff on tuna packed in water when it was offered as an amendment to H.R. 3398. At that time I felt that it would, as indicated in your letter, circumvent the 201 import relief petition which was under review by the United States International Trade Commission (USITC). I believe that the statutory procedure contained in Section 201 of the Trade Act of 1974 is the appropriate procedure for determining whether imports are a cause of serious injury to the domestic industry. Now that the USITC has made a negative injury determination on the 201 tuna case, I will continue to oppose any legislative effort to raise the tariff on canned tuna in water.

I appreciated receiving the views of the Government of Thailand on this legislation.

Very truly yours,

WILLIAM E. BROCK.

Mr. BRADLEY. Mr. President, the distinguished Senator from California suggested this was an East-West dispute. This is not an East-West dispute. I would like to quote from the Los Angeles Times, which is clearly not one of the large metropolitan Eastern newspapers. The Los Angeles Times says in its editorial:

The tuna industry has every right to ask for protection from dumping—the onslaught of imports priced below cost. But that is not an issue in this case. The tuna industry has sought instead the extension of 35% tariff to all tuna imports, which would add 8 cents to the price of the standard can of water-packed tuna. The industry argues that the increase in imports is a substantial cause of serious injury to it. But that ignores what the President must ultimately decide, and that is whether such a tariff wall would be in the national economic interest. It would not.

Mr. President, again, this is a clear choice between serving the narrow interest or the general interest—whether we are going to raise the tariff, and at the same time raise the price for every consumer of a can of tuna. I hope the Senate will reject this amendment.

Mr. LAUTENBERG addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

Mr. LAUTENBERG. Mr. President, in respect to the manager of the bill, I, too, will be brief. But I feel that the record ought to be clear in terms of lining up the parties. It is not New Jersey against the rest of the West. Consumers are consumers, wherever they are. I am sure that my distinguished colleague from California knows there are a lot of consumers in California who will be affected if, in fact, the predictions that we see here do come true.

There is all kinds of evidence to suggest that this is, in fact, part of the GATT. We can read from a letter which is from the USTR which I will paraphrase. As a result of concessions granted by the United States in the sixth round of trade negotiations under GATT, the Kennedy round duty rate of 12.5 percent ad valorem on imports of canned tuna were not in excess of 20 percent of the preceding year. The U.S. tax was reduced in five States to 6 percent ad valorem.

So it was obviously part of the negotiation.

I will take the liberty, if I might, to ask the distinguished chairman of the Finance Committee how many tariff amendments were offered to this bill.

Mr. DOLE. Quite a few—about 60.

Mr. LAUTENBERG. How many succeeded, if I may ask?

Mr. DOLE. That is how many succeeded.

Mr. LAUTENBERG. That number succeeded? I should ask how many fell.

Mr. DOLE. I think we voted down two in the committee. I do not suggest they are the same as the one being offered. But there are different variations.

Mr. LAUTENBERG. Should the committee have had an opportunity to hear this, and is this the proper way to legislate? Should the committee have had an opportunity to hear this proposal?

Mr. DOLE. The committee has not had a hearing on this. But I myself have heard from a lot of lobbyists on both sides. I have had my own hearing.

Mr. LAUTENBERG. Is this the proper way to legislate?

Mr. BRADLEY. If I could ask my colleague to yield, as I understand it—the chairman can correct me if I am wrong—I think what we did mostly on the tariff finance committee was cut them. This amendment proposes to raise them.

Mr. DOLE. There are about 30 items that I might say—I am guessing 20 to 30—we objected to. I do not want to leave the impression that everyone came in with an amendment, and we grabbed it and ran. I think two were turned down, and the other 30 were discouraged. Sixty were agreed to.

Mr. LAUTENBERG. Is this one of those that was agreed to?

Mr. DOLE. It was not offered in committee.

Mr. LAUTENBERG. Is this in the judgment of the distinguished chairman—and the chairman's objectivity is unquestioned—a good way to legislate tariff changes?

Mr. DOLE. No, not under normal circumstances. But we are sort of under the gun. I am not getting into the merits of the amendment. We are supposed to go to something else at 4 o'clock. If there is a chance to complete this bill today, we would like to do so. Maybe there is not. I understand there may be an objection to proceeding beyond 4 o'clock. We are in the last stages of the session. It is my hope that we can have a vote on some of these amendments, and then, depending on what happens, we can also have a look at some in conference. But it is not the best way to legislate. But I think you are doing it the correct way. We are going to have a vote in a minute up or down. That will determine it.

Mr. MATTINGLY. Mr. President, I rise today in support of H.R. 3398, a bill dealing with miscellaneous tariff, trade, and customs matters. I will be brief in my remarks Mr. President, as I am aware of the busy schedule before this body.

The United States, more than ever, is faced with an increasingly complicated world trade arena. No longer can the United States sit back and take its perceived competitive advantage for granted. International trade has been complicated by bilateral concerns that conflict with multilateral concerns: by lesser developed nations whose debt problems have shaken the very financial foundations of our international trading system; by economic recessions in countries that have traditionally enjoyed unparalleled economic growth and stability; and by increasingly restrictive trade policies as the world's nations scramble for slices of what seems to be an ever-shrinking world economic pie.

The trade policies of the United States have often been criticized as unreliable or, at best, confusing. The Congress itself has been accused of succumbing to a peculiar form of paralysis due to its inability to formulate and enact legislation that would encourage the establishment of clear cut

trade policies. To my colleagues in the Senate, I point out that you have before you a bill that takes a vital first step toward modernizing U.S. trade policy and that takes positive action toward assuring a more equitable trade climate for U.S. goods and services.

H.R. 3398 contains important tariff changes, many of which I consider vital to several U.S. industries. Among these are domestic honey, citrus, textile, glove, and metal castings producers. Also contained in H.R. 3398 is S. 144, the reciprocity bill. S. 144 would allow the United States to negotiate the elimination of foreign trade barriers to U.S. goods and services. S. 144, or title 3 of the bill currently before you, is crucial in that it attempts to address the problems of the high technology and services industries, areas that have become the newest focus of the international trade scene, in addition to a continued awareness of the problems of the basic industries that have so long been the backbone of the economic strength of this country. I would like to commend S. 144's principal sponsor, the distinguished Senator from Missouri. Senator DANFORTH has consistently sought to astutely address the inadequacies of our world trade order. I thank him for his persistence.

H.R. 3398 also contains two other important provisions. One is a proposal to renew the U.S. generalized system of preferences, a program that provides duty-free treatment for certain imports from eligible developing nations. The renewal of this program is particularly important to those lesser developed nations. Imports under the GSP represent only 3 percent of total U.S. imports yet this program provides participating developing nations with the foreign exchange necessary to service their enormous foreign debt, a large portion of which is owed to the U.S. taxpayer. In addition, GSP benefits can, could, and should be used to negotiate trade concessions for U.S. goods and services. H.R. 3398 contains a provision that would authorize the President to seek expedited congressional consideration of any possible free-trade agreements with Israel and Canada; 90 percent of Israeli exports to the United States already enter duty free.

Currently, the United States enjoys a trade surplus of $465 million with Israel out of a total trade of $3 billion. About 40 percent of U.S. exports to Israel remain subject to tariffs. It is thus apparent that a mutual elimination of remaining tariff barriers by the two nations would greatly benefit U.S. exports while not significantly increasing the scope of Israeli imports that enter the United States duty free. I urge my colleagues to support this provision in its entirety and to refrain from calling for product-specific exclusions from such arrangements.

Mr. President, I conclude my remarks by urging my colleagues to act expeditiously on the legislation now before them in H.R. 3398. I also ask my colleagues to refrain from approaching this bill, which contains the beginnings of trade reform, with a Christmas tree mentality. I, too, have amendments which I would like to offer to this legislation. However, this Congress needs to pass this trade bill. U.S. manufacturers, farmers, and services need a positive signal from the Congress that we are aware of their problems and are willing to put partisan differences aside to enact policies to help keep the United States economically strong by working for a free and fair world trading system.

Mr. INOUYE. Mr. President, the U.S. tuna industry, internationally recognized as one of the most modern and efficient fishing industries in the world, is in the midst of a serious economic crisis. The crisis was caused by an abrupt increase of imported canned tuna products from nations who shelter their markets and subsidize their producers.

The impact of the imports has been increasingly felt during the past 5 years as industry profits have plunged to unprecedented lows. The industry has responded with drastic cost cutting measures including the closure of several tuna processing facilities and the tie-up of $200 million worth of tuna vessels. Nevertheless, during 1982 and 1983, the industry experienced losses of 19.3 percent and 4.6 percent respectively. Approximately 6,000 American jobs have been lost so far, and thousands more are in jeopardy unless something is done to slow the import surge.

The massive import penetration is a result of a tariff loophole contained in a 1943 treaty between the United States and Iceland. This treaty established a 6 to 12½ percent duty rate for fish packed in water. Tuna was not affected by the treaty at the time as it was then packed exclusively in oil and dutied at a much higher rate. Since then, however, the market for tuna packed in water has increased dramatically and tuna exporting nations have shifted almost exclusively to water-packing their exports in order to avoid the 35 percent tariff the United States imposes on tuna packed in oil.

The magnitude of the increase in imports has been dramatic. Since 1979, imports have increased in excess of 128 percent and, in 1983 alone, they increased by 40 percent. The rapid increase of imports threatens to force the domestic industry to relocate outside of the United States, thus causing a loss of between 25,000 and 30,000 American jobs.

To remedy the situation, Senator WILSON is introducing, with my support, this amendment which would place all light meat tuna products into one tariff category—35 percent. This tariff rate is substantially below the rates charged by the major importing countries. These countries, the Philippines, Thailand, and Taiwan, have protective tariffs on canned tuna products ranging from 50 to 70 percent.

I do not believe that this is a free trade versus protectionism issue. It is a fair trade issue which should be dealt with on its own merit. The U.S. tuna industry should be given the opportunity to compete on even terms with foreign tuna industries which receive strong support from their governments. I urge my colleagues to join me in supporting this amendment, and giving our tuna industry that opportunity.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. STEVENS. Mr. President, I want to support the Senators from California on their amendment, and ask the Senate to give it favorable consideration.

I am quite worried, as a Senator from a State that is very much involved in the fishing industry, about the trend we see in the tuna industry with regard to the way that the Japanese are avoiding—literally evading—our existing tariff structure. We have had a situation where the canned tuna imports have increased 120 percent, and they are now bringing in their tuna in water which is a way to avoid the tariff structure that existed at the time of the last round of negotiations.

If they are successful in destroying the tuna fish canning industry, the next industry that is going to be attacked is ours which has already suffered a great deal.

I do believe that the Senator's amendment is necessary in order to reestablish the tariff rates that were created by the last round in developing the tariff structure that we had before. We have taken action recently to establish duty-free treatment from the Caribbean Basin. I think it is entirely possible that Congress can make changes in these structures without disturbing the intent of the whole process. I believe that the Senators from California are correct—the canning sector of our industry must remain healthy if we are to have a healthy harvesting industry. If we are not capable of canning this tuna, we are going to find the time when the Senators who are complaining about the nonproducing States, the consuming States, are going to find that this tuna is going to go elsewhere in the world as does the product that comes from our shores. Most of it comes back, but more and more is being distributed to meet the needs of the world without regard to the U.S. market.

If we do not take action to prevent this destruction of our canning industry, the time is going to come when we will not have it in the tuna field. If we do not have it very soon, we will not have the tuna fleets to catch the tuna to be packed to bring to our markets.

I do believe that they are on the right track. I hope the Senator succeeds in his goal to bring back an equity situation, as far as tuna, in water in particular.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from California. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. DANFORTH (when his name was called). Present.

Mr. HEINZ (when his name was called). Present.

Mr. STEVENS. I announced that the Senator from Alabama [Mr. DENTON] is necessarily absent.

Mr. CRANSTON. I announced that the Senator from West Virginia [Mr. RANDOLPH] and the Senator from Massachusetts [Mr. TSONGAS] are necessarily absent.

I further announce that, if present and voting, the Senator from West Virginia [Mr. RANDOLPH] would vote "nay."

The PRESIDING OFFICER (Mr. ABDNOR). Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 22, nays 73, as follows:

[Rollcall Vote No. 239 Leg.]

YEAS—22

Cohen	Hollings	Mitchell
Cranston	Inouye	Murkowski
DeConcini	Johnston	Stevens
Dole	Kasten	Symms
Domenici	Laxalt	Thurmond
Garn	Long	Wilson
Gorton	Matsunaga	
Hatch	McClure	

NAYS—73

Abdnor	Ford	Nunn
Andrews	Glenn	Packwood
Armstrong	Goldwater	Pell
Baker	Grassley	Percy
Baucus	Hart	Pressler
Bentsen	Hatfield	Proxmire
Biden	Hawkins	Pryor
Bingaman	Hecht	Quayle
Boren	Heflin	Riegle
Boschwitz	Helms	Roth
Bradley	Huddleston	Rudman
Bumpers	Humphrey	Sarbanes
Burdick	Jepsen	Sasser
Byrd	Kassebaum	Simpson
Chafee	Kennedy	Specter
Chiles	Lautenberg	Stafford
Cochran	Leahy	Stennis
D'Amato	Levin	Tower
Dixon	Lugar	Trible
Dodd	Mathias	Wallop
Durenberger	Mattingly	Warner
Eagleton	Melcher	Weicker
East	Metzenbaum	Zorinsky
Evans	Moynihan	
Exon	Nickles	

ANSWERED "PRESENT"—2

Danforth Heinz

NOT VOTING—3

Denton Randolph Tsongas

So the amendment (No. 4268) was rejected.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. BRADLEY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

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

The PRESIDING OFFICER (Mr. ABDNOR). The Senate will be in order.

FREE TRADE AREA WITH ISRAEL

Mr. CRANSTON. Mr. President, the legislation now before the Senate would authorize the creation of a free-trade area with Israel. Under the General Agreement on Tariffs and Trade [GATT], a free-trade area is created by the reduction or elimination of tariffs on substantially all exports and imports between two countries. A free-trade area with Israel would help to equalize duty-free trade between our two countries. While 90 percent of all products imported by the United States from Israel are duty free, only about 55 percent of those products exported to Israel by the United States enjoy duty-free status. In addition, given the free-trade area already negotiated between the European Economic Community and Israel, a United States-Israeli free-trade area would enable U.S. exports to compete more effectively against EC exports in Israel. I have long supported increased United States-Israeli trade, and I support the creation of a free-trade area with Israel.

At the same time, I am deeply concerned about possible economic harm to import-sensitive California specialty crops posed by a blanket free-trade area.

I would like to see the U.S. Trade Representative in negotiating tariff reductions or eliminations take into account the U.S. International Trade Commission [ITC's] determination that certain U.S. products would suffer significant adverse effects from such tariff reductions or eliminations.

I believe exclusions should be reviewed every 5 years. So long as the ITC determines that a commodity would continue to suffer significant adverse effects, the exclusion should remain in effect. If the ITC at some point determines that an industry would no longer be adversely affected, then the U.S. Trade Representative should have the authority to negotiate the reduction or elimination of the duty.

Mr. President, the ITC has studied the likely economic effects the proposed free-trade area with Israel would have on U.S. businesses and consumers. Although the conclusions drawn by the ITC study are classified "confidential," it is my understanding that a number of U.S. products including several California agricultural commodities, indeed have been found by the ITC to be subject to economic damage from the elimination or reduction of tariffs now in place. I am concerned, however, that the ITC report may not include a complete accounting of those California specialty crops which I am convinced would suffer economically if not exempted from the free-trade area. Specifically I'm concerned about the effect of tariff reductions or eliminations on tomatoes, dehydrated onions, and garlic, fresh-cut roses, artichokes, olives, citrus, and avocados.

TOMATOES

Since Israel currently has a competitive advantage in U.S. markets even with the tariff, I don't see any justification for allowing California tomatoes to be priced further out of the U.S. market. In east coast markets, one case of pizza sauce produced in Israel sells for $12.25—including the current tariff—as compared to $16 per case for California-produced pizza sauce. Since 1978, U.S. imports of tomato products from Israel have increased dramatically—99.3 percent in canned tomatoes, 159.6 percent in tomato sauce and 6,865.1 percent in tomato paste. During this same period, domestic sales have remained static at 7 million tons annually. Of this total, California markets about 6 million tons, far less than the 10 million tons California growers could produce if market conditions warranted. A study of Israel's tomato processing industry indicates that Israel has the potential to expand production and displace 1 out of every 6 tons of tomatoes produced in California; 85 percent of Israel's tomato crop is now marketed in the United States.

DEHYDRATED ONIONS AND GARLIC

The dehydrated onion and garlic industry is a small, highly specialized industry which produces ample supplies for the U.S. market. In fact, the industry has an annual carryover of about 10 percent and claims excess industrial capacity. Although there are virtually no imports by the United States of Israeli-produced dehydrated onions and garlic, a real potential for such imports exists. First, Israel produces twice the amount of onions and garlic it uses and has the capacity to produce a good deal more. Second, Israeli-produced dehydrated onions cost $1.45 per pound, including the present duty. This price would be reduced to $1.19 without the duty. The U.S. product costs between $1.19 and $1.37. Thus, without the duty now in place, the Israeli product could undersell the domestic product. Should it become profitable for Israel to export dehydrated onions and garlic to the United States, domestic producers are concerned that

Israel's processing facilities would also be used to reprocess Egypt's presently low-quality dehydrated products for export to the United States.

FRESH-CUT ROSES

This is another situation where Israel currently can undersell the U.S. commodity and where Israel does not need the additional advantage of a free-trade zone. California is the top rose-producing State in the country. Israel, on the other hand, is a principal source of fresh-cut roses imported by the United States. In 1983, foreign roses captured 25 percent of the domestic market, up from just 8 percent in 1980. This increase occurred despite the 8-percent tariff on all imported roses and the additional 22.5-percent ad valorem countervailing duty which is now assessed to offset the net benefit of subsidies to rose growers in Israel. Upon arrival in the United States, Israeli-grown roses sell for about 14 cents a bloom, including the 22.5-percent ad valorem countervailing duty rate and the 8-percent tariff. The comparable price for California roses is about 40 cents to 44 cents per bloom.

ARTICHOKES

Ninety percent of all artichokes grown in the United States are produced within a 15-mile radius of Castroville, CA, a community of 4,500 people. Castroville is also the location of the three fresh artichoke packing plants and the sole processing plant remaining in the United States. There were six processing plants operating in 1960 but foreign competition helped cause the bankruptcy of the other five. Israel's production though has not been a factor in the domestic marketing of the California crop—Israel has only about 300 acres compared to California's 11,400 acres. Domestic growers and the processor nonetheless are concerned that free trade status will lead to Israel's becoming a clearinghouse for artichokes grown in other countries. Spain, France, and Italy all have artichoke acreage far in excess of California's. Right now only Spain competes in the U.S. market—selling processed artichokes for between $1 and $1.50 less per case than the same California product. France and Italy could also compete if able to market through a duty-free trade area in Israel. Israel's insignificant artichoke production can hardly justify the creation of a free-trade zone in artichokes which could open the door to European artichokes forcing California artichoke growers out of business.

OLIVES

Here again, Israel currently has a competitive edge over the U.S. product and does not need to have the tariff lifted. Olive production in the United States is unique to California. Due to surpluses and foreign competition, however, acreage has decreased from 40,000 to 32,000 acres—down 20 percent from 1980. Despite the current tariffs on imported olives, California growers and processors cannot now compete in east coast or midwest markets. Instead, the U.S. market for domestic olives is confined to the West. In addition, the domestic industry's surplus amounts to about 25 percent of its annual sales or 20,000 tons. Given the forecasted 1984 crop, olive growers and processors may face 1985 with over 1 year's supply of olives on hand—perhaps indicative of the fact that olive consumption in the United States is lower now than it was 5 years ago. Clearly the trend is unfavorable to the California olive industry. I can't see that any purpose is served by giving Israeli olives any additional advantage over the California crop.

CITRUS

Preferential trade agreements on citrus imports between the European Economic Community and Israel as well as other Mediterranean countries have already cost our domestic industry considerable reductions in lost EC sales. EC imports of fresh oranges and lemons from the United States have decreased by over 30 percent since the introduction of the preference schemes in 1969 and 1970. Losses are largely attributable to the EC-tariff preference enjoyed by Israel, one of the leading Mediterranean citrus suppliers to the Community. These preferential-trade arrangements are the subject of the oldest outstanding U.S. trade complaint under section 301 of the Trade Act of 1974, as amended, and the predecessor section, section 252.

The case has been pending for more than 14 years and is now being prosecuted under the dispute settlement provisions of the General Agreement on Tariffs and Trade [GATT]. To now grant duty-free status to Israeli citrus which benefits from discriminatory preferential-trading agreements would undercut the ongoing U.S. efforts in the pending GATT case. Such action would grant a trade benefit in our domestic market to a citrus industry which has caused economic losses to our own citrus industry.

AVOCADOS

U.S. production of avocados has grown enormously in the past 10 years—from 147 million pounds in 1973–74 to 500 million pounds in 1983–84. Add to this domestic production the 3 million pounds of avocados that the Dominican Republic ships into this country annually, and the vast number of avocados that must be marketed principally in the United States becomes apparent. California producers, for instance, cannot compete with Israeli avocados in the European Economic Community and point to the estimated 75-percent ad valorum value at which Israeli production is subsidized as the critical advantage in the delivered price of Israeli avocados. The entire export market for California avocados is less than 5 percent of volume or below unless Israel suffers a complete crop failure. Hence, California producers remain heavily dependent upon the domestic market. Largely as a result of the tremendous domestic supply, the California avocado industry, with 8,500 growers, has not received a profitable return in nearly 5 years. Prices to growers again this season are to be about 15 cents below the level which would return a 15-percent profit. Eliminating Israel from the present 6 cents per pound duty on imported avocados simply would aggravate California avocado growers continuing losses, likely forcing out of business a number of farmers and workers dependent upon avocado production for their livelihood.

I intend to continue my efforts to see that each of these California commodities—especially those which may not be included in the ITC report—is exempted from tariff reductions or eliminations.

Mr. CHAFEE. Mr. President, title IV of H.R. 3398 contains authority for the negotiation of a free trade area with Israel. This authority is timely and quite appropriate for United States-Israel trade. Right now almost 90 percent of goods from Israel enter the United States duty free either because of zero-duty rates or because of the generalized system of preferences. So Israel already enjoys substantial duty free access for its exports into our market.

Despite the healthy trade surplus the United States enjoys with Israel, 40 percent of our exports to Israel are subject to tariffs of 10 percent or more. So a mutual elimination of duties would be a great benefit to U.S. exporters.

I support this grant of authority to negotiate a free trade area. Israel lacks access to its natural markets in the Middle East. A free trade area with the United States, Israel's single largest trading partner, would help assure a market for Israeli exports.

My concern about the free trade area had to do with its impact on the jewelry industry in Rhode Island. But I am assured that the condition of the jewelry industry, and perhaps others identified by the ITC as sensitive, will be taken into careful consideration during these negotiations.

The U.S. Trade Representative has the flexibility to shield very sensitive items from severe market disruption. Those who have concerns about specific industries need not therefore resort to specific exemptions—protection—in the legislation in order to support it.

The International Trade Commission completed its study of the trade impact of the free trade area in May and concluded that a number of prod-

ucts are very sensitive and would be subject to serious market disruption if immediately included in the free trade area with Israel. I believe gold chain was one such item included in the ITC's findings. With this knowledge, the administration can consider various alternatives for phasing in duty free treatment for those sensitive products. I would venture to say that the Government of Israel has some sensitive items also which it will want to phase in over the long term. My support of this negotiating authority is therefore unconditional.

I believe in free trade and I support the negotiation of a free trade agreement with Israel. But as in any such trade negotiation, there are products reserved for special consideration by both parties. I trust that the U.S. Trade Representative in the course of these negotiations will continue to give full recognition to the ITC's findings on gold chain.

Mr. GRASSLEY. Mr. President, at a time when many countries have adopted protectionist policies, it is rare to find a nation that is willing to open its doors to free trade. As we face a burgeoning trade deficit, it is important to seek means of increasing opportunities for U.S. exports.

Although 90 percent of Israeli exports to this country already enter duty-free either because of zero-duty rates or because of the generalized system of preference [GSP], the United States consistently enjoys a trade surplus with Israel, even excluding military shipments. The 1983 surplus was about $465 million out of $3 billion in total trade.

The U.S. exports six times more in agricultural products to Israel than Israel exports to the United States; 70 to 80 percent of U.S. agricultural exports to Israel are in grains: wheat; corn; and sorghum. During a trip to Israel in February, Agricultural Secretary John Block expressed support for this bill and noted that it provides a possibility for increased U.S. grain sales to Israel. The elimination of Israeli duties is sure to result in increased sales for U.S. manufacturers exporting to Israel as well. Another side benefit that I see with this proposal is that it is critical to the viability of the Israeli economy, burdened as it is by the enormous defense requirements; the proposed free-trade area would provide essential opportunities for economic growth that will lessen Israel's need for aid.

We should take advantage of the close relations with Israel and take this opportunity to increase our trade and tighten the close bonds which exist between our two nations. An economically strong Israel is better able to defend itself and thus protect both its own and U.S. interests.

The free trade area with Israel would advance the economic and political goals of both of our countries. It is for that reason that I am pleased to offer my support for the legislation, ask that this body vote favorably upon its consideration, and ask that I be listed as a cosponsor.

Mr. INOUYE. Mr. President, I rise to speak in support of the services provisions of H.R. 3398. In a year in which we are saddled with a huge trade deficit, I think that it is appropriate for the Senate to pass legislation which will enhance the competitiveness of the U.S. service industries.

Mr. President, the service sector is usually overlooked whenever analyses of the American economy are made. In a large part, this indifference is due to the heterogeneous nature of this sector and the public's lack of understanding of how dramatically the U.S. economy has changed within the last few decades. Services now account for fully two-thirds of the GNP and according to the Department of Commerce statistics, 7 out of 10 working Americans are now employed in service industries.

In addition to its crucial significance to our domestic economy, services are a significant component in our international trade. Over the last several years, the service industries have consistently produced a services trade surplus, often offsetting our large and growing merchandise trade deficit. Recently, however, our services trade surplus had diminished. Since 1981 our services trade surplus has shrunk by 25 percent, from an estimated $39 billion in 1981 to an estimated $30 billion last year.

There are many reasons for this decline. At the heart of the matter, however, lie two converging trends. First, increasing foreign competition in services trade is rapidly reducing U.S. market shares. According to the U.S. Trade Representative's office the U.S. share of world trade in services shrank from 25 percent in 1972 to 20 percent in 1981. Increasingly, U.S. service exporters face keen competition in the fields we have traditionally dominated such as telecommunications, finance, construction, engineering, and transportation. The second trend contributing to the decline in our service trade surplus consists of growing foreign protectionism against U.S. services exports. Today increasing numbers of nations seek to protect their emerging service sectors from foreign competition through a myriad of nontariff barriers. Unfortunately, U.S. service firms have little recourse under existing trade law to overcome or reduce these barriers to international trade in services.

I think it is important to point out that a vigorous service sector stimulates a demand for U.S. products and vice versa. There is a natural linkage between tangible production and intangible activities. An American engineering firm working on a project in Saudi Arabia, for example, is likely to order the heavy equipment and supplies it needs from U.S. manufacturers. Thus, one should not ignore the close relationship that exists between the manufacturing sector and the service sector, and the distinctions between the two should not lead us into formulating economic policy in a vacuum without thinking through the ramifications of such policies on other parts of our economy.

Services are for the majority of Americans, including policymakers, still not thought of in terms of advance technology-intensive industries, which many of them are, but rather in terms of labor-intensive and often menial tasks. The sector includes widely divergent industries, ranging from the most technologically progressive industries such as data processing and computer services to more mundane personal services.

The term is generally defined as "invisibles," or industries which do not produce tangible manufactured or processed goods. Much of the concern about the growth of a service-dominated economy has derived from the public's outmoded concept of services as being low-paid industries rather than the modern high-technology services such as communications, insurance, transportation, and banking. Such services are the sinews and nerves of commerce and trade. It is inconceivable, for example, to think of commerce without transportation or telecommunications.

Moreover, these modern service industries are, by their nature, international in their capability and orientation. Satellites connect New York and London just as easily as New York and San Francisco. Vast amounts of capital can be transferred between branches of international banks in a matter of minutes. Tourism, involving transportation, hotels, and finance, is the world's second largest international industry. There is, in short, rarely a neat dichotomy between purely international and domestic service activities.

The absence and comprehensive U.S. Government strategies toward the service sector is seen and felt most acutely in the international trade area. The disastrous attention to international competition which has led to the crippling of many of our manufacturing industries must not be allowed to dissipate our lead in the services trade.

We need an integrated set of national policies toward the service industries which recognizes their economic significance and also actively promotes domestically based service firms and, through them the national welfare. We need a clear set of priorities which accords services the attention they merit. One can be certain that other

industrial countries give their service firms far greater support than does our Government.

In many countries, for example, U.S. insurance firms are prevented from establishing affiliates capable of competing against national companies, or their competitiveness is reduced by other measures such as capital or personnel controls. American banks, transportation companies, and telecommunications firms are also victims of investment and trade curbs in many countries. The barriers to the export of U.S. services and the spread of U.S. investments are multitudinous.

The legislation we are debating takes an important step in the direction of insuring open markets for services trade. The bill charges the President with placing a high priority on, and developing a work program for, negotiations to reduce services trade barriers. In addition, the legislation would clarify and expand the coverage of U.S. trade law to deal more effectively with trade in services problems by ensuring that the President can take action to remedy services trade problems under section 301 of the Trade Act.

The legislation would establish a service sector development program, providing for much-needed collection and analysis of domestic and international services information. Although the United States has undertaken efforts to understand further the role of services in the international economy, more work remains to be done to understand, quantify, and take into account services' full impact on trade and national accounts.

I believe this legislation is crucial in our efforts to expand our export performance in the services sector. It is time we stopped treating services as an afterthought and begin to consider what international rules would best promote free trade in the ever growing service sector.

I would also like to express my support for the high technology tariff negotiating authorization contained in title III, section 308 of the bill.

This section gives the President new authority to negotiate mutual reductions or suspension of tariffs on certain high technology products—semiconductors and parts of computers.

This authority will confirm an agreement that has already been reached with Japan to suspend United States and Japanese tariffs on semiconductors, and is a vital step that must be taken if we are to maintain a competitive international position in electronics and other high technology industries. Due to its status as a fragile, newly emerging industry, other nations, particularly Japan, have protected their high technology endeavors. The United States must promptly respond to such protectionism by negotiating its elimination. We must send a clear signal to Japan that we are committed to obtaining mutual tariff reductions in the high technology industry. The Japanese Cabinet has already issued a directive to its customs service to admit U.S. semiconductors free of duty as soon as the United States has taken reciprocal action. We must do our part in this process by enacting the appropriate legislative authority which is contained in H.R. 3398.

Mr. EXON. Mr. President, I am pleased that the Finance Committee included the substance of S. 2428, a bill affecting the tariff classification of tapered tubes and pipes of steel primarily used in lampposts. This legislation will reduce the risk of future costly litigation regarding the classification of imported lampposts.

This legislation affects over 600 Nebraska workers.

Mr. President, for the purpose of establishing a clear legislative history, I ask unanimous consent that a letter dated September 18, 1984, addressed to me from Robert P. Schaffer, Assistant Commissioner, Department of the Treasury, U.S. Customs Service, be printed at this point in the RECORD.

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

DEPARTMENT OF THE TREASURY,
U.S. CUSTOMS SERVICE,
Washington, DC, September 18, 1984.

Hon. J. JAMES EXON,
U.S. Senate,
Washington, DC.

DEAR SENATOR EXON: Thank you for your letter of August 27, 1984, concerning the revised version of S. 2428 which will be considered by the full Senate as part of the Omnibus Miscellaneous Tariffs bill.

The revised language in S. 2428 for proposed tariff item 653.43 would provide for tapered steel pipes or tubes that are chiefly used as parts of illuminating articles. This language would include supports that are tapered steel pipes or tubes.

"Chief use" is statutorily defined in General Interpretative Rule 19(e)(i), Tariff Schedules of the United States (19 U.S.C. 1202), as that use which exceeds all other uses (if any) combined. Use is determined by the use in the United States, at or immediately prior to the date of importation, of articles of that class or kind to which the imported articles belong.

If we can provide further assistance, please do not hesitate to call us.

Sincerely,

ROBERT P. SCHAFFER,
Assistant Commissioner
(Commercial Operations).

Mr. EXON. Mr. President, I thank the chair and the managers of the bill for their assistance on this matter.

Mr. President, as we consider this major piece of trade legislation, it is important to note that yesterday the dollar made its largest single-day advance in recent years. The dollar hit an 11½-year high against the West German mark, a new high against the French franc, a new high against the British pound and a 7-year high against the Swiss franc.

In the last 2 weeks along, the U.S. dollar has appreciated an incredible 6.7 percent against the mark and 5.8 percent against the British pound.

While the President labels the strength of the dollar as the "American miracle" and the Secretary of the Treasury is untroubled by the hypervalued dollar, I must express my grave concern.

This year the American balance-of-trade will be a record $130 billion in deficit. America's standing in the international marketplace cannot improve until the value of the dollar returns to traditional levels.

U.S. exporters especially American farmers are daily seeing foreign markets close due to the high-valued dollar.

The current state of affairs in America is a direct result of the irresponsible budgetary practices of the last few years. Some would have the American public believe that the deficit-financed recovery comes at no price. The price of the uneven recovery is high interest rates, high values of the dollar and the loss of international competitiveness.

When the Senate completes its work on this legislation, many will proclaim the benefits this bill will have on America's international trade position. I submit that all of the tariff bills in the world will not significantly affect our Nation's trade balance until we forthrightly address the budget issue. The trade balance figures signal a warning that must be heeded.

Massive Federal borrowing increases the demand for credit: Thereby increasing nominal and real interest rates. High real interest rates act as a magnet for foreign investment which in turn increases the value of the dollar. Low domestic savings create a dependence on foreign investment and the need for attractive interest rates. High interest rates place additional demands on the budget. This seamless web must be torn down.

International tariff schedules pale in comparison to the unmentioned tax imposed on American exports by an over-valued dollar which has increased over 50 percent in the last 3 years. Similarly, the hyper-valued dollar subsidizes foreign products sold in the United States.

The loss of foreign markets and the flow of imports creates the demand for reactionary policy rather than long-term strategies. A mood of protectionism is beginning to take hold across America. This week, we have heard the cries of the textile, auto, steel, and footwear industries.

Unwilling to address the root problem in a manner that will help all sectors of the economy, the administration has made several short-sighted, politically expedient actions. Most

recent was the administration's actions on behalf of the textile industry when it radically altered the country of origin regulations. Instead of taking broad-based actions to address the problems of the textile industry, and there are serious problems facing the domestic textile industry, the President reponded to calls to do something. In the process, the administration injured American retailers facing the crucial holiday season and placed at risk the American farmers' most promising hopes for new markets in China.

For the record, I would like to again call on the President to reconsider his actions. Prior to the implementation of the interim country of origin regulations, I joined with the junior Senator from Kansas and several farm State Senators in an appeal to the President to delay implementation of the new regulations until after the first of the year. Then, the full economic impact could be evaluated. At this time, I ask unanimous consent that the attached two letters be incorporated into the RECORD.

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

U.S. SENATE,
Washington, DC, August 10, 1984.

The PRESIDENT,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: we are deeply concerned over the potential impact of proposed U.S. Customs Service modifications to its current regulations governing the importation of textiles and textile products. These proposed modifications, as outlined in the August 3, 1984, Federal Register, could potentially cause major problems for retailers, importers, and consumers and could further jeopardize U.S. agricultural and forest product exports to the Far East for years to come.

We can ill afford another interruption of our agricultural exports to the Far East, in particular the People's Republic of China, as occurred last year due to the controversy over textile and apparel imports. The subsequent halt in Chinese purchases of U.S. wheat alone due to that controversy resulted in a loss in export earnings of over $500 million. We feel that the potential loss in export revenues as a result of the proposed customs changes could be even greater than our losses in 1983 due to the fact that more countries will be affected by this action.

The Asian markets present perhaps the most promising opportunity for the United States to expand its exports of both raw and value-added agricultural and forestry products in the world. We have seen an amazing growth in demand for our products over the past several years, and we are committed to working for continued growth in these markets as we know your administration is. However, if we expect to realize this growth, we must demonstrate to our trading partners our willingness to maintain pragmatic trade relations. The proposed customs regulation changes, which are set to go into effect on September 7, will clearly transmit a less-than-pragmatic approach to our trading partners.

World trade, and in particular world agricultural trade, is at present an extremely competitive business and one in which the protectionist trade practices of some of our competitors inhibit our ability to compete. We feel that if this administration does not stand firm now in resisting protectionist pressure from within the United States, we may be in for a long and devastating period of international trade disruption. The U.S. economy, and in particular our strong agricultural export industry, would stand to be big losers during such a period.

We strongly urge you to change the effective date of these interim regulations to January 1, 1985, so that ample time may be allowed for affected parties to comment on the changes. We also call on you to take the necessary measures needed to allow for the formulation of a regulatory impact analysis which we hope would pay particular attention to the effect these regulations would have on U.S. agricultural and forest product exports to affected countries.

We hope that you share our concern over the urgency of this matter and that you will see fit to act upon our above-stated request as soon as possible.

Sincerely,

Senators David L. Boren, J. James Exon, Rudy Boschwitz, Edward Zorinsky, Dave Durenberger, Mark Andrews, Larry Pressler, John H. Chafee, Nancy Landon Kassebaum, Steven D. Symms, William L. Armstrong, Don Nickles, John Tower, Mark Hatfield, Quentin Burdick, Pete Wilson.

U.S. SENATE,
Washington, DC, August 28, 1984.

The PRESIDENT,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: We are writing once again to urge you to take steps to delay, in all respects, the effective date of regulations proposed by the U.S. Customs Service which govern the importation of textiles and textile products into the United States. As we noted in our earlier letter, the modifications proposed by the Customs Service would have a profound impact on U.S. agricultural and forest product exports to the Far East for years to come.

On Thursday, August 23, it was announced that the effective date for a minor portion of the proposed regulations would be delayed until October 31, 1984. However, the effective date for the remainder of the regulations, including the most important provision dealing with the "country of origin" of textile products, was maintained. Unless additional action is taken before September 7, new and unduly restrictive textile import rules will be implemented.

We are certain you understand the impact of these rules on all aspects of American international trade. Retaliation is a probability, not merely a possibility. Recent history provides ample evidence that our trading partners will not idly stand by as we attempt to limit their access to American markets. Recent history also shows that the disproportionate impact of any retaliation will fall on the U.S. agricultural industry, aggravating already severe economic problems throughout America's heartland.

Any action short of a comprehensive delay of the effective date of these regulations will not prove acceptable to American farmers, retailers, or consumers. These regulations dramatically change the United States' rules for textile imports. Indeed, upcoming meetings of the Textile Committee of the General Agreement on Tariffs and Trade will indicate worldwide concern about this unilateral action. We hope you will agree that a postponement of the effective date and a thorough review of the implications of these regulations are necessary. The interests of many industries are at stake. It would be extremely unfortunate if we were to sacrifice once again America's potential agricultural export markets for short-term domestic gains.

If you would deem it helpful, we would welcome the opportunity to discuss this matter with you. Your consideration of this matter is appreciated.

Warmest regards,

Senators David L. Boren, John H. Chafee, Charles H. Percy, Don Nickles, Steven D. Symms, John Melcher, Quentin N. Burdick, Dave Durenberger, Nancy Landon Kassebaum, Mark O. Hatfield, Mark Andrews, William L. Armstrong, Roger W. Jepsen, Rudy Boschwitz, J. James Exon.

Mr. EXON. Mr. President, an incredible challenge faces Americans in the next several years. We talk about new markets for agriculture, high technology and manufactured goods, but thus far, we have refused to reduce our own self-imposed barrier to U.S. trade—the string of $200 billion budget deficits. We have also refused to take a comprehensive view of our trade objectives. The problems of domestic steel, textiles, footwear, and auto industries are real and must be addressed. However, they must be addressed in a comprehensive rational manner. We cannot continue to take last ditch actions which trade the health of one sector of the economy for another.

I hope that my colleagues will read today's news of historically high exchange rates for the U.S. dollar and reflect on the soundness of our Nation's policies of spend and spend, borrow and borrow. It seems to me, that the first step to lower interest rates, a healthy domestic economy and increasing export markets lies in courageously attacking the budget deficits. Freed of that shackle, we can better evaluate the special problems facing import and export sensitive industries.

At this time, Mr. President, I ask unanimous consent that the following excellent article, "Trade Deficit Punishes Farm Economy," by Susan Futterman of the Omaha World-Herald be entered into the RECORD. Ms. Futterman outlines the importance of world trade issues to agriculture and nicely addresses the intricacies of international economics.

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

TRADE DEFICIT PUNISHES FARM ECONOMY

(By Susan Futterman)

U.S. exports totaled $125.7 billion in the first seven months of 1984, a 5.5 percent increase from the comparable period last year.

That sounds like good news. But in the same period, imports rose 33 percent, from

$149.6 billion through July 1983 to $199.6 billion in 1984.

The nation's merchandise trade deficit—the gap between import dollars flowing out of the country and export dollars coming in—reached $73 billion in the first seven months of the year. That number may surge to a record $130 billion by the end of the year, according to U.S. Department of Commerce estimates.

"The reason there is a foreign trade deficit is because of the ($200 billion) federal deficit," said Dennis R. Starleaf a professor of economics at Iowa State University. "To cover this deficit it (the government) has to borrow funds, and it is borrowing a lot of those funds abroad. When you are a net borrower, abroad, you must import more than you export.

BORROWING ABROAD

"Because we are borrowing so heavily abroad within approximately one year, we will be a net debtor nation for the first time since before World War I," he said.

To meet the continuing demand for credit by consumers, business and the federal government, interest rates must remain high enough to draw foreign investors into U.S. markets.

"Argiculture, particularly Midwestern agriculture, is being hurt," Starleaf said. "Midwest agriculture is primarily export oriented. Any industry that relies upon foreign markets is being impacted."

Every year since 1976 foreign manufacturers have sold an average of $25 billion more merchandise in U.S. markets than Americans have sold abroad.

In four of the eight years since 1976, the merchandise trade deficit (the excess of imports over exports of steel, textiles, machinery, agricultural products and other goods) was largely offset by money returning to the United States from American investments abroad and from the sale of services such as engineering and architecture.

Since 1981, however, the current account balance, which measures both goods and services, has been in the red.

Last year's merchandise trade deficit was a record $60.6 billion, nearly twice the size of any deficit the United States has experienced since World War I. It also was more than double the $28.5 billion received in income from investment and services. But it is less than half of the deficit the Commerce Department forecasts for 1984.

STRONG DOLLAR HURTS

The dollar, which continues to set new highs, is buoyed by the federal budget deficit, said Richard Gady, vice president of commodity research for ConAgra, an agricultural commodities company.

"The high budget deficit helps cause high interest rates, which cause foreigners to be more willing to hold their dollars in the United States," Gady said. "That makes our dollars strong, which hurts our exports."

The dollar's high value increases the prices of U.S. products abroad. It also means U.S. buyers can buy imported products for fewer dollars than they can purchase comparable American goods.

The recovering international economy should reduce the U.S. trade deficit—or at least keep it from widening—by increasing demand for American products abroad and by strengthening foreign currencies in relation to the dollar, Gady said.

For 1984, the Commerce Department estimates total U.S. agricultural exports at $38.5 billion, up from $36.5 billion last year, said David C. Lund, senior research economist for the Commerce Department.

"We would expect a more sustained pickup for the rest of the year," he said.

Grain exports were lower this year than they might have been in part because the Department of Agriculture's payment-in-kind program resulted in less grain available for export, Gady said.

"The outlook is for exports to pick up again, almost entirely because of a higher level of Russian purchases of U.S. grain," he said.

Gady puts the figure for total agricultural exports in 1984 "a little higher" than the Commerce Department's $38.5 billion.

"A lot of the increase is due to Russian buying, part due to poor crops in Canada, and some to recovery in the overall world economy," he said.

EMBARGO EFFECTS LINGER

"Even though our Russian exports will be up sharply, we still won't have more than a third of their total market, compared to 70 to 75 percent prior to the (1979-1980) embargo. In 1982-1983, we had 20 percent of the Russian market.

The Russian embargo has caused them to be unwilling to ever rely on us for the majority of their grain imports."

Loss of market share is an increasingly serious problem for American exports, Gady said.

"Over the last three years we have lost about 10 percent of the world grain market. Much of the gain has gone to the European (Economic) Community, which subsidizes their prices heavily to undercut the United States."

The United States tried a similar subsidy program only once, he said.

"We exported 1 million tons of flour to Egypt and subsidized it because that was a market that the EEC had taken away from us. It was a signal to them that we may have had enough of losing markets to their higher-cost products.

"It might have had some impact," he said, "but we haven't followed through on it. There really hasn't been much willingness to go head to head with the EEC to get back market share."

Although wholesale subsidies are probably counterproductive, Gady said, "They can be effective if used selectively at target markets that have been taken away from us."

Agriculture is not the only industry plagued by import-export problems. The American Iron and Steel Institute reported that imports accounted for 33 percent of the American market in July, the same month that the trade deficit reached a record monthly high of $14.1 billion.

Steel imports in July were 88 percent higher than in July 1983, when they totaled 1.4 million tons. So far this year, 76 percent more steel has been imported than in the first seven months of 1983, when 8.6 million tons of steel were shipped to the United States.

Rising imports recently prompted the International Trade Commission, an independent federal agency, to propose a series of quotas and tariffs on imported steel products. President Reagan is required by law to accept or reject the proposal by Sept. 24. He decided against similar restrictions on copper imports Thursday.

TARIFFS PRODUCE RETALIATION

Trade restrictions, designed to protect American industries from foreign imports, "would be completely ineffective and a disaster for agriculture," Gady said.

"Agriculture is one of our major sources for exports, one of the few that generates a surplus balance of trade (internally). If we put limits on imports from other countries, they would most likely retaliate by reducing exports from us, which would fall most heavily on the farm sectors," he said.

A recent study prepared for the Council on U.S. International Trade Policy, a nonpartisan research group, indicates that tariffs and quotas have even more far-reaching implications.

The study notes that 30 to 40 percent of the exports of non-oil developing nations have been subjected to import restraints. Without export growth, the study concluded, those countries will be unable to earn enough through foreign trade to service their international loans, hurting American lenders as well as U.S. businesses with markets in developing countries.

U.S. exports to Brazil and Mexico, the two largest debtor nations, have dropped almost 50 percent since 1981, representing 30 percent of the total decline in American exports during this period. Both countries restricted imports because of diminishing foreign trade.

The study estimates that the lost exports to Brazil and Mexico have cost the United States about 250,000 jobs.

The Senate continued with the consideration of the bill.

AMENDMENT NO. 4275

(Purpose: To reinstate the duty on tetraamino biphenyl if it is introduced in the United States)

Mr. BAKER. Mr. President, I have consulted with the minority leader, and the distinguished chairman of the Judiciary Committee on this matter. I send to the desk an amendment on behalf of the distinguished senior Senator from Virginia [Mr. WARNER], and I ask that it be stated by the clerk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Tennessee [Mr. BAKER], for Mr. WARNER, proposes an amendment numbered 4275.

Mr. BAKER. Mr. President, I ask unanimous consent that further reading of the amendment be disposed with.

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

The amendment is as follows:

On page 22 of the matter proposed to be inserted, line 12, strike out "Subpart B" and insert in lieu thereof "(a) Subpart B".

On page 22 of such matter, in the matter after line 13, strike out "12/31/88" and insert in lieu thereof "the termination date".

On page 22 of such matter, at the end of the page, add the following:

(b) The headnotes to subpart B of part 1 of the Appendix is amended by adding at the end thereof the following new headnote:

"7. For purposes of item 907.32, the term 'termination date' means the earlier of—

"(i) December 31, 1988, or

"(ii) the date that is 15 days after the date on which the Secretary of the Treasury publishes in the Federal Register notice of the production of tetraamino biphenyl in the United States".

Written statement by any person declaring that such person is producing tetra-

amino biphenyl in the United States, the Secretary of the Treasury shall publish within 30 days in the Federal Register notice of such production and termination of the suspension of duty under item 907.32.

Mr. WARNER. Mr. President, the amendment I offer today would provide for the reimposition of the tariff rescinded in section 182 of the committee substitute amendment prior to 1988 if a domestic producer of tetra-amino-biphenyl [TAB] were to come online.

At the present time there is no domestic producer of the chemical intermediary.

However, there are interests which hope to produce TAB if a more stable trade and commercial environment can be achieved.

This amendment would allow for that stability.

Mr. President, at the present time TAB is imported from West Germany by the Celanese Corp., to produce PBI, a fire retardant material used in the manufacture of firemen's coats and other fabrics used for heat protection purposes.

Celanese Corp., has successfully sought, until 1988, relief from a 13.5-percent tariff levied on TAB.

This move has produced significant concern on the part of du Pont, a major competitor of Celanese, because of what they perceive as the inequity of tariffs imposed by West Germany on products imported from the United States, and because of the effect this tariff relief would have on the price of Celanese products which compete with products from du Pont.

Further, du Pont feels that it is unfair for Celanese to receive tariff relief for importing chemical intermediaries while du Pont has invested millions of dollars to produce their own chemical intermediaries in the United States.

The amendment I offer today is both fair and equitable to the extent that it enables Celanese to obtain its long-sought tariff relief while providing domestic chemical manufacturers a certain incentive to produce TAB in the United States.

I urge its adoption.

In addition, Mr. President, I am today writing to Secretary Shultz, Secretary Regan, Secretary Baldrige, and U.S. Special Trade Representative Brock requesting that, in light of the Senate's action affecting the tariff on TAB, every effort be made to negotiate a more equitable tariff on chemical products imported to West Germany from the United States.

Mr. THURMOND. Mr. President, let me state that I share the concerns of the distinguished Senator from Virginia in this matter.

I, too, would like to see a domestic producer of the chemical TAB.

However, it is not economically feasible for any domestic manufacturer to produce this chemical at this time, and it does not appear that a domestic supplier will be available in the near future.

For this reason, I feel that it is extremely important that the users of TAB in the United States have an adequate, high quality supply of this chemical.

I would also like to emphasize that this duty suspension is temporary and will expire on December 31, 1988.

While I do not oppose the concept of this amendment, I do feel that it may be unnecessary at this time.

In fact, I would be pleased to pledge to the senior Senator from Virginia that I would strongly support a legislative measure to reinstate the duty on TAB if an adequate, high-quality domestic supply of that chemical should be made available at a competitive price.

For these reasons, I would hope that the distinguished Senator from Virginia would reconsider pressing this amendment with a full assurance from me that I will support legislation to reinstate a duty on TAB if a domestic producer should begin to manufacture this chemical.

Mr. WARNER. Mr. President, I appreciate the expression of concern on the part of the distinguished Senator from South Carolina.

Indeed, our trade policies should encourage domestic production while, at the same time, not promote unnecessary trade barriers.

The amendment I offer is an amendment to language supported by the Senator from South Carolina, and I understand both his interest and concern in the language I have proposed.

What the Senator has suggested is in keeping with the intent and letter of my amendment, and with the Senator's full commitment to monitoring this situation with me, I have no difficulty accepting his suggestion.

We must strive to maintain a stable environment in which our industries may operate.

By imposing, rescinding and reimposing tariffs without any apparent change in commercial conditions, it is difficult for industry to plan and operate.

By sending a clear signal as my distinguished colleague has offered, I believe we can achieve basically the same objectives my amendment seeks to obtain.

With those assurances, Mr. President, I ask that my amendment be withdrawn.

Mr. THURMOND. Mr. President, I am grateful to the distinguished Senator from Virginia for his understanding in this matter, and I look forward to working with him in the future if a domestic source of TAB should be made available.

Mr. BAKER. Mr. President, the amendment having been explained by the statement of the distinguished Senator from Virginia [Mr. WARNER], and having elaborated that with the colloquy of the distinguished chairman of the committee, on behalf of Senator WARNER, I withdraw the amendment.

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

Mr. BAKER. I thank the Chair.

TELEVISION AND RADIO COVERAGE OF THE SENATE

The PRESIDING OFFICER. Under the previous order, the hour of 4 p.m. having arrived, there will now be 2 hours of debate on the motion to proceed to the consideration of Senate Resolution 66, as if it were before the Senate, with the time to be equally divided between and controlled by the Senator from Maryland [Mr. MATHIAS] and the Senator from Louisiana [Mr. LONG] or their designees.

The Senate resumed consideration of the motion to proceed to consider the resolution (S. Res. 66) to establish regulations to implement television and radio coverage of proceedings of the Senate.

The PRESIDING OFFICER. Who yields time?

The Senate will be in order.

Mr. MATHIAS. Mr. President, I suggest the absence of a quorum, and I ask unanimous consent that the time not be counted against either side.

Mr. LONG. Mr. President, reserving the right to object, in view of the fact that the vote is expected at 6 o'clock, I suggest that we count the time equally against both sides.

Mr. MATHIAS. I have no objection.

Mr. BUMPERS. Mr. President, I did not hear that.

Mr. MATHIAS. I asked for a quorum call.

Mr. BUMPERS. I have no objection to a quorum call, but I do not see why.

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

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. MATHIAS. Mr. President, I am advised by the distinguished chairman of the Finance Committee that there is a possibility of making some significant progress on the trade bill, and he has requested that we might delay for 30 minutes the debate on the motion to take up the matter of TV in the Senate, so that he can continue for that period of time on the trade bill.

So I ask unanimous consent that we go for another 30 minutes on the trade

bill and then, at 4:45, proceed to the debate on the motion to take up TV in the Senate.

Mr. LONG. Mr. President, if the Senator will yield, the request should include the fact that the time will then be reduced to an hour and 15 minutes, to be equally divided between and controlled by the Senator from Maryland [Mr. MATHIAS] and myself.

Mr. BYRD. Mr. President, reserving the right to object, it is my understanding that the President is going to make some decision this afternoon, or is going to announce his decision, in connection with a matter involving steel imports.

So at this point I wish to object on the part of others—and if not others, on my own part—because I would like to know what the President is going to recommend.

The PRESIDING OFFICER. Objection is heard.

Mr. MATHIAS. Mr. President, first, I inquire of the Senator from Louisiana whether he would like to make some remarks at the outset or whether he would like me to go forward. I will be happy to go forward.

Mr. LONG. I suggest that the Senator proceed, and I will follow him.

The PRESIDING OFFICER. The Senate will be in order.

Mr. MATHIAS. Mr. President, today, as we debate whether or not to televise the proceedings of the U.S. Senate, there is one important fact that we should keep in mind, one fact that I think is vitally important, and that fact is that information about Congress and about the Federal Government is of vital concern to every citizen of the United States of America; and it is not too much to say that not only is it of vital interest to every citizen of the United States, but also, it is of very high level of interest to citizens in almost every other country of the world.

Deliberations on the Senate floor, decisions that are made with respect to legislation,

Information about what is happening in Congress, what is happening in the Federal Government, is of vital concern. The decisions that are made here with respect to legislation, the decisions that are made with respect to regulations of Federal agencies, the oversight of Federal agencies in the implementation of legislation, these are matters that touch every single American. The deliberations and the decisions that are made in this Chamber day after day, from gavel to gavel, week after week, month after month, year after year, touch every aspect of the daily lives of American citizens.

How much of the fruits of this daily labor are we going to be able to retain for our own use and for the benefit of our families? This is the vital question of taxation. How much should the Government take in taxes? How much should be left to be spent as a result of individual and family decisions all over this country? The rate of taxation, the method of taxation—subjects that are decided here in this Chamber touch every family in the country.

The question of whether or not it is going to be hard to find a job or whether it is going to be easy to find a job is a matter which is affected by decisions that are made in the U.S. Senate.

The question of whether or not we are going to be able to go out and realize the American dream of someday owning a rose-covered cottage with a white picket fence around the garden is a question which will be affected by decisions made in the Senate. The question of whether or not the farmers of this country are going to be able to put out a full crop or whether they simply will not be able to borrow the money to get the seed, the fertilizer, and the gasoline is a question that is affected by decisions made here in the U.S. Senate.

The question of whether or not the small businessman can take on an extra employee or add an extra line to his business or extend his shop that is a question affected by decisions made here. Whether or not a young man or young woman is able to go to college will be affected by decisions made here.

Whether or not Social Security will continue to contribute as it has in the past to the retirement years of senior citizens, whether or not medicare and medicaid will be available—these are all questions that are affected by the decisions made in the U.S. Senate.

Whether or not young men and young women who registered for selective service will in fact be inducted is a matter or vital importance to each of them and to every family, and that again is touched by decisions made in the U.S. Senate.

I think we are all aware of the kind of sense of frustration which exists among many Americans who sense that their lives are being shaped by forces that they simply do not understand, that their faith is being forged by influences that they do not perceive. If they go out to buy a car and find out that they cannot afford it because interest rates are too high, they know that something is wrong but they may not be able to quite understand what it is that is wrong. Or if in the county newspaper they see that the farmers of the county are advertising distress sales, page after page, then they know that something is wrong but they may not be able to understand exactly what it is. I think there really is a sense that there are forces at work that to many people seem mysterious and malevolent but which are not fully understood.

When I hear from some of my constituents in Maryland they often express to me their concern about the impersonal forces that are making almost automatic decisions about which they have very little information but they know that these are decisions that will affect their jobs and their business. They know that millions of men and women have their lives not only shaped but sometimes misshaped by these forces. The truth is that the forces that shape the lives of all Americans tend to be the result of decisions, events, and factors that can be understood, can be explained, can be changed on occasion, and I believe that we have some responsibility to help alleviate this state of frustration, this condition of feeling hopeless and nearly helpless in the face of unseen and unknown forces, and one of the ways that we can do it is by making it possible for the average citizen to participate in the proceedings of the U.S. Senate and to understand that if a decision is being made which may adversely affect his life or her life that it is not being done for some exotic reason, that it is not being done for no reason at all, that in fact it has a basis in rationality and if citizens can see the opposing arguments made, the opposing interest advocated, if they can see that both results cannot be achieved and that there has to be a choice between one or the other, then they will be able to understand why it is that these things are happening.

They will be able to understand that what they do here in the Senate day after day is to balance the equities, to make hard choices, and that if we make one choice that helps one group of Americans or if we make another choice that will be beneficial to a different group of Americans, it is impossible in making such choices to equally benefit everyone at the same time but at least they will understand the reasons that these decisions are made.

Now, even though people may not like what they see, even though they may not agree with the decisions that we make, even if they would not have made the same choices themselves, at least they can understand that we were acting in a reasonable way, in a way which reflects the difficulties of the times, or the difficulties of the economy or the difficulties of the international situation. And this certainly is one of our duties. We have a responsibility not only to bring the best of ourselves to this effort but to inform the country of what we do and the reasons for doing it.

And if the modern technology which is now available and which is familiar to almost every citizen of the country will help us to discharge this responsibility, then I say we should employ that technology. The time has come for television in the Senate and the vehicle to make that happen is at hand in Senate Resolution 66 which I hope

we will vote to call up as a result of the rollcall at 6 o'clock this evening.

I do not want to recount in detail all of the things that have happened which bring us to today's consideration of Senate Resolution 66 because such a repetition would be time consuming and I think unnecessary. Every Member of the Senate knows the history of this measure very well. Suffice it to say, that during the last Congress we made studies, we compiled expert testimony, we held hearings, we participated in extensive floor debate; at that time we had before us Senate Resolution 20, which provided for radio and television coverage of debates in the Senate.

Senate Resolution 20 was approved with an amendment that would only become effective upon the approval of another resolution containing regulations and/or rules needed for implementation.

In accordance with the direction of the Senate, we then engaged in still further studies and further hearings to determine how such coverage could be implemented, whether or not there would be any necessity for rules changes, and we came again to the floor of the Senate with the new findings. This was Senate Resolution 436. But, unfortunately, the 97th Congress adjourned sine die without having taken action with respect to Senate Resolution 436.

However, we were not discouraged and in the beginning of the current Congress we picked up where the 97th Congress had finished with the introduction of Senate Resolution 66. Again, we had hearings. We were asked to postpone a markup of the resolution until after the hearings had been held on the Pearson and Ribicoff report. And so the markup was delayed.

The Senate Rules Committee, since 1981, has convened seven times for the purposes of holding hearings on the issue. The committee has received some 50 different statements on the advisability of televising Senate proceedings.

I might say that that included 20 statements that were submitted by 12 Members of the Senate. We have had statements from 12 members of the media, from Members of the other body, from members of the cable TV industry and a number of distinguished citizens who offered their opinions to us.

In 1982, televising the Senate was the pending business of the Senate for 13 days; 21 Senators during that period arose, I think on some 40 occasions, to debate the merits of opening the proceedings to a wider audience. And other Senators have given their views to the Rules Committee in the interim.

So this is an idea that has been discussed, the implications have been weighed, the issues are known, and we now have Senate Resolution 60 before us.

We will not please everyone with this resolution, but we have made a sincere and genuine effort to accommodate the opposing views that have been expressed in the prior proceedings. After such a long and protracted study of this subject, we think it is now time to act. We have studied and taken testimony and talked about it long enough. The decision we are to make involves a fundamental right, the right of citizens to know what their Government is doing—what one of the most important elements of the U.S. Government is doing. Citizens want to know not only what the Government is doing, they want to know how it is being done. I think these are citizens to whom we owe a vote in favor of the motion which is now pending in the Senate.

I know that in the next hour someone will, without doubt, hold up the CONGRESSIONAL RECORD and say, "You do not need to televise the proceedings of the Senate; all you have to do is read the CONGRESSIONAL RECORD."

Well, there might have been a time when that was an adequate statement. There might have been a time when reading the CONGRESSIONAL RECORD would have told you what was happending in the Senate. At that time, a year's subscription to the CONGRESSIONAL RECORD would have cost you $2.50, too, a sum which was within the reach of most citizens—$2.50 for a year's subscription.

However, if Senators will consult the copy of the CONGRESSIONAL RECORD which is presently on their desks, they will find that you can no longer obtain a year's subscription of the RECORD for $2.50. It now costs over $200 a year. It costs a $1 per issue. And that is pricing out a number of citizens.

In addition to excluding citizens from knowledge about the proceedings of the Senate on economic grounds, I think there is a historical and factual question which arises. The RECORD does not always reflect what happened in the Senate. Additional statements are included, statements actually made are deleted, and so we do not have in any place a historical and accurate record of what occurred in the Senate.

This is a disservice not only to the citizens of our own generation, but it is a disservice to the future. Mr. President, that is a disservice that we can remedy today by voting to approve the motion and by adopting Senate Resolution 66.

I reserve the remainder of my time.

Mr. LONG. Mr. President, today we are again discussing the question of television in the U.S. Senate. This issue was last considered by the Senate in April 1982 when the Senate approved Senate Resolution 20. This resolution authorized television and radio coverage for the action in the Senate Chamber subject to the approval of the Senate by a separate resolution outlining the regulations which would govern the television and/or the radio coverage that would be appropriate in that situation.

Keep in mind, Mr. President, that resolution was adopted in a previous Congress. But it was clearly contemplated that if we are to have television in the Senate we should consider the changes that would be necessary in order to assure fairness, in order to preserve the traditions of the Senate, in order to accommodate the problems and pitfalls that one could anticipate in the event that we made that decision.

We have such a proposal before us here, Mr. President, and the motion is to proceed to it. I regret to say that there is nothing in the measure or the committee report to suggest what changes in our procedure or in our way of doing business would be indicated in the event that this body should decide that the debates here should be telecast live to the people of the United States.

The committee report indicates that after some consideration it was concluded that no change of the Senate rules or the Senate precedents would be indicated to handle the problem. Now that is clearly contrary to what the Senate had in mind. Those who insisted that this provision about the changes in the rules or precedents and whatever additional measures might be necessary clearly had in mind that they felt that there would be a need to change certain aspects of the Senate to conform to the problems that would be created.

There are some of them that occur to the Senator from Louisiana just off the top of my head. Surely those able Senators serving on the Rules Committee must have thought of some of them even if they thought of them only to conclude that nothing should be done about it. But nothing of that sort has been made available to me to indicate that we have before us even a suggestion by the majority on the Rules Committee as to how the TV coverage might suggest a different approach in meeting a problem.

While my opposition to gavel-to-gavel coverage of the Senate—that is what we are talking about, gavel-to-gavel coverage—has been well-known, I did vote for the compromise version to S. 20. I was willing to allow the Committee on Rules to present the Senate a more detailed proposal on implementing TV and/or radio coverage of the Senate. In the past, as an opponent of the TV coverage, I felt that I could not truly evaluate a TV-coverage proposal until we had a specific proposal specifying regulation and rule

changes that would be necessary to implement the television and radio coverage. Mr. President, I believe there is no reason that the Senate should take its valuable time as of now, in the limited time we have available to us in the remainder of this Congress, to proceed with this resolution.

When the Senate asked for a specific change of recommendations and rules changes, there was much discussion on the Senate floor outlining questions that Senators wanted analyzed in discussing the scope of the committee rules mandate. This exchange took place between Senator DANFORTH and the chairman of the Rules Committee. Let me make clear, Mr. President, what I am quoting here happened in the previous Congress. The Senate is a continuing body. Most of us are still here. It would seem to the Senator from Louisiana that members of the Rules Committee would certainly—many of whom still serve on that committee—respect the wishes of the Senate, and try to carry out whatever mandate the Senate had in mind when they undertook to proceed to carry out their responsibility.

Let me quote what certain Senators said at the time we considered this matter previously.

MR. DANFORTH. We would consider such matters as whether there should be any changes in the rules relating to unlimited debate; whether quorum calls will serve the same function when television comes in as they do now; whether the printed RECORD will be considered as a primary source of ascertaining legislative intent; if that is in conflict with the television record; changes relating to the scheduling of Senate business when committee meetings are held; voting procedures; floor conduct; where people speak from; how time is allocated between the proponents and opponents of amendments, and so on. Is it the intention of the majority leader and the chairman of the Rules Committee that the inquiry to be undertaken pursuant to this amendment would be broad in scope or narrow in scope?

The majority leader when he testified before the Rules Committee over 1 year ago stated in part:

Indeed, I believe that the television will bring changes in the Congress, in the Senate. It will necessarily bring changes in the scheduling of the great debates that must occur. It may perhaps change the way we conduct ourselves on the floor, maybe even change some of the provisions of the Manual of Procedure that was written by Thomas Jefferson.

That indicates that at least it was anticipated by the majority leader a year ago that some very far-reaching changes would be considered. On the other hand, when the resolution was adopted by the Rules Committee, the committee, as I understand it, indicated in its report that no major changes in rules would be required and the committee recommends no changes whatever to the best of my understanding, not even a change in procedure. Therefore, I hope that during the 60-day period of time the committee would at least analyze whether broader changes than simply the placement of cameras and so forth would be required." Quoting Mr. Mathias:

I think it is very clear that it is the desire of the Senate to have that done. I have every confidence that the Rules Committee will do just that. Then quoting from Senator DODD. "Like the Senator from Missouri, I am deeply concerned that the study should be broad in its analysis and not a narrow study so that we will fully look at the effect of television in this institution. I should like to raise another point or two. Under the amendment as proposed."

I am looking at the last two lines, and the key text reads, "60 days from the adoption of this resolution containing such regulations and/or radio coverage of the Senate."

In the language that was proposed by the Senator from Missouri and myself, which is extremely similar to the proposed amendment, we include not only rules and regulations, but we also mention "The precedents and traditional practices of the Senate." What I am thinking of is illustrated by rule XIX dealing with recognition. The rule itself is only eight lines long in the Senate Procedure book. However, the precedents take up an additional 10 pages. There are some 82 footnotes to support and interpret the eight lines of that rule. Can we limit the study or the analysis just to the rules, and not take a serious look at the precedents which, if changed as a result of television, would actually require a rules change? I ask if the authors of this amendment might be willing to modify their present amendment to include the words "precedents and traditions" as well as that we have the assurance that this study would include an analysis of things other than just rules hurdles that would be surmounted to implement television.

MR. MATHIAS. Let me suggest to the Senator from Connecticut that it is an old rule of law that the calf goes with the cow. And I think that you cannot look at the rules without looking at the practical application of the rules through precedents. We will clearly do that. I give every Senator every assurance that that will be done. The resolution to which the majority leader has moved to proceed is a resolution which seeks to implement TV coverage in the Senate.

Mr. President, Senate Resolution 66 contains many of the same features that led me to oppose the original proposal to televise the Senate proceedings. Senate Resolution 66 calls for gavel-to-gavel coverage of actions on the Senate floor. It states that no change to Senate rules or practices are in order. Senate Resolution 66 was reported by the Committee on Rules and Administration without recommendation. Let me stress that—this resolution was reported to the Senate without a recommendation that it be passed. It was merely reported by a vote of 6 to 3 without recommendation. The decision to report out the resolution without recommendation was reported by Senators MATHIAS, BAKER, HATFIELD, MCCLURE, WARNER, and DECONCINI. Senators BYRD, PELL, and HELMS voted against reporting Senate Resolution 66.

In addition, Senators FORD, PELL, BYRD, and INOUYE filed minority views opposing television coverage. The committee report on Senate Resolution 66 which the leadership seeks to place before the Senate to consider is no more enlightening.

It dismisses in a similar manner questions about control over the germaneness of amendments, rules for the sequence of speakers, length of individual speeches and debates, and the preservation of the rights of the minority or Members who take a minority position on any given issue. The committee report simply states:

There is no reason to believe that the system now followed by the Senate which governs each of these matters and provides elaborate safeguards for the rights of each Member will be weakened by the event of television. Therefore, no changes of Senate rules will be necessary.

Mr. President, just one problem comes to mind at that point which to me is very important to be considered. No committee is better qualified, or has the jurisdiction to make a recommendation, than the Committee on Rules. Let me just talk about that one point which to me would have to be considered in any proper consideration of this issue; that is, the recognition of speakers by the Chair.

Mr. President, I do not wish to suggest that the Republican Party or members of the majority party of this Senate alone have been guilty of playing politics in that Chair. Good Lord, forbid that I would suggest such a thing. I am thoroughly familiar with the fact that there have been occasions when the occupant of that chair has been very partisan favoring the Democrats in this body. In fact, I cannot recall when I ever had the view that you could count on that Chair to be completely impartial, particularly if they had very significant political impact.

That Presiding Officer, be he the Vice President, the President pro tempore, or an individual Senator, is a human being; he is part of one party or the other. He has traditions before him and he looks at those traditions. And if you will look, you will notice who was in the chair when those rulings were first laid down.

When John Adams was Vice President of the United States, he said that his friends had contrived for him the most useless job that the mind can imagine. That is how the job of the Presiding Officer of the Senate looked to the Vice President, a great Vice President and a future President of the United States, a man on one of the small committees that drafted the Declaration of Independence and brought this great Nation into being.

Well, Mr. President, subsequent Presiding Officers found that there is just a great deal of significance to that Presiding Officer's job, especially if he is willing to rule the way that would help the side which he favored. And I must say, Mr. President, there have been times when just a change in the

Presiding Officer of the Senate made a great difference in what a ruling might be from the chair.

Now, I can recall the time in this body when we had no unanimous consent that the majority leader would be recognized first or the minority leader would be recognized second, and yet I recall an occasion when the majority leader, a member of my party, stood up and chastised the Chair for failure to recognize him when he was on his feet at the same time as someone else. That majority leader undertook to instruct the Chair that the majority leader should be recognized first although the rule clearly says the first person to address the Chair should be recognized.

Now, if we are going to have television and if we are to have a great debate and the public out there is to be viewing it live, it would seem to the Senator from Louisiana that we ought to have some arrangement to assure that both sides would have an equal opportunity to be heard. If one side is recognized to start the debate on an issue, those who do not agree with it would be recognized immediately thereafter; that one side could not dominate the debate up until after the evening news and then make it available to the others at a time when people had turned it off or were looking at something else.

Now, there is not a word of discussion as to any of that type of thing either in the committee report or anything in the resolution to contend with it, only a statement that nothing of that sort is necessary; the rules are adequate the way they are.

I must say, Mr. President, I have put my mind to work to think how could we go about achieving fairness in this matter, how could we go about assuring fairness in the recognition of speakers. Now, those on the majority side might not be concerned about that at the moment but, Mr. President, they will not always be in the majority. There will be times when those in the majority today will be in the minority. We are talking about how should this Senate conduct itself for all times in the future. We have a right to urge and expect the committee to think about those types of things and to make recommendations with regard to them, not merely to tell us that everything is great, no changes need be made.

Mr. President, it appears that the committee's thesis is a conclusion that is not shared by individuals who have delved into the workings of this body. It is important to note that the Pearson-Ribicoff report on Senate practices and procedures stated, "The study group feels that broadcasting the entire legislative procedures of the Senate would not be helpful to either the Senate or the public."

Mr. President, let me quote that again. This is a group appointed by the majority leader, Mr. BAKER, and you could not pick two more statesmanlike former Senators, Senators Pearson and Ribicoff. What did they say about this matter? "The study group feels that broadcasting the entire legislative procedures of the Senate would not be helpful to either the Senate or the public."

These able men along with our former Parliamentarian, Parliamentarian emeritus Floyd "Doc" Riddick, donated their expertise to examine not only the rules that we have written on paper but the practices by which we actually operate. The purpose of their efforts was to provide the Senate with suggestions on ways to improve the operations of the Senate. As always, our ultimate goal is to ensure that the Senate is operating in ways that best fulfill our duty to the country and our unique role under the Constitution.

The report goes on to specify that "Televising major issues one or two times each week for a period of 2 or 3 hours each time may be a very good idea." I think we should remember that this recommendation is made in the context of the full report which suggests many changes in the operation of the Senate. Senators may agree with some of these recommendations. However, some will be considered a major departure from the current operation of the Senate and will require careful examination. The recommendation of television coverage under the limited circumstances provided in the report states, "This would give Senators an opportunity to present their views to the country on issues debated and for the Senate as a whole to provide further leadership for the country without altering the fundamentally unique nature of the U.S. Senate."

This caveat clearly indicates that additional coverage, especially gavel-to-gavel coverage as recommended by this resolution, would have an effect on the fundamental and unique nature of the Senate. Rules changes may be a way to preserve the features of the Senate that are important.

What is the evidence that the committee has that there is no reason to believe rules changes may be in order? It seems to be the assumption that any changes in our behavior under television will be changes for the better. That has to be tantamount to any assumption, that any change would be a change for the better.

Mr. President, there seems to be a growing agreement that TV will, in the words of the Senator from Missouri (Mr. DANFORTH) "not merely record events, it will influence them." That is truly the question we are debating. How would live television coverage change the operation and the character of the Senate? Would the changes improve on the Senate's ability to conduct its important business?

It is quite obvious that the answers given by supporters of this resolution to these very vital questions differ from mine. I do believe that there is more of an understanding that television is not a mere observer and recorder of events.

It can and does help shape events, and in some cases it alters the way they are conducted.

Mr. President, I was interested in some remarks made by the distinguished majority leader during an interview with the Cable News Network at the Republican Convention. It is available in the public domain and I would like to share with my colleagues an excerpt from this interview of Senator HOWARD BAKER by a reporter in the transcript identified as Mr. Shaw which took place on August 22 of this year.

Mr. SHAW. But if what you say is true about your party being organized together, why is the script for the convention day after day? Why the scenario?

Mr. BAKER. Television. I began going to conventions in 1952 in the Taft-Eisenhower campaign. I was with Ev Dirksen the afternoon Bob Taft came to him and asked him to make that famous speech where he wagged his finger at Tom Dewey and said, 'You took us down the road to defeat.' And I watched firsthand those events develop spontaneously and there was no script. There was a convention of people, the Democratic Convention in San Francisco, and this one really is a convention of television.

I presided for two nights and I had a script. I had a time paper there, down to the minute.

Mr. SHAW. How did you do? Did you stay on time?

Mr. BAKER. I stayed on time.

Mr. SHAW. But didn't that repulse you at all? You are a spontaneous man. Didn't that cause you to know that you could sense the mood of the people down there but yet you knew that you had 2 more minutes and you had to disappear?

Mr. BAKER. I guess so. It bothers me because you are right. I am a spontaneous person. But that is the way it runs. And that is the way both parties are doing it, and that may be the way it is for a long time.

Mr. SHAW. But what do these delegates have to do down here on the floor this week?

Mr. BAKER. Well——

Mr. SHAW. They are just sitting there.

It goes on:

Mr. BAKER. Let me say in response to that, one way or the other this is it—

A great and able statesman, Senator BAKER.

Mr. BAKER. Let me say in response to that, one way or another we have to reinvolve the delegates of this convention. You have got to take it away from television a little bit. We have got to put it back into the home.

He goes on:

Mr. BAKER. Let me tell you what happened to me the other night. I was making

my speech as temporary chairman and I wasn't going to run but 8 or 10 minutes and I began to speak. I was doing my best and my voice was dry. I looked down to the audience and I listened to the audience and everyone was buzzing around and walking around. So I thought I will just deliver the speech to the fellow in the front row. So I tried to talk to him. And pretty soon he got up and left. It suddenly dawned on me that there is nothing left for me to do but talk to these cameras up there. So for the rest of that speech all I could do was try to talk to your camera and everybody else's camera. But that is a sort of hallmark of a television convention. I don't know whether it is good or bad, but it sure is different.

Mr. President, that is our majority leader, one of the greatest enthusiasts for TV coverage in the Senate I have ever in my life known, and the great advocate of this resolution.

He said, "I don't know whether it is good or bad, but it is sure different."

Can anybody really dispute the fact that just as television changed that Republican National Convention to where it proceeded on a script, a time operation, it proceeded like clockwork, and where those delegates at that convention became almost automatons performing by prearranged script—can anybody really doubt that that type of thing might very well happen in the U.S. Senate? If that is the case, should we not be thinking about it before we get involved in it? Should we not be looking ahead to see what our problems are going to be before we lock ourselves in?

I know what happens when you vote cloture in the Senate. I suppose that is something we will be facing someday. if you vote cloture in the Senate, you no longer have the potential to make the leadership accept an amendment that they might just prefer not to consider. When cloture is voted in the Senate, the advocates of those amendments have the bit in their mouths.

Mr. President, I believe the Senator from Nebraska is anxious to make an insertion into the RECORD and explain his position. I ask unanimous consent that I might yield to him for 3 minutes and that this interruption might not appear in my text but appear elsewhere in the RECORD.

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

Mr. EXON. I thank my friend from Louisiana and I thank the Chair.

Mr. President, the first remark that I make would be properly inserted after my distinguished colleague from Louisiana completes his presentation.

I have been listening with great interest to the debate on television in the U.S. Senate. I notice that one slight unintended error, I think, that my friend from Louisiana would agree to.

In the days of yesteryear, this Senator from Nebraska use to spend considerable time in that chair, and, to my recollection, I never, ever was unfair or partial to any of my colleagues in the Senate.

Having said that, I think that what the Senator from Louisiana was trying to say was that the other 99 of my colleagues have been partial and unfair in the chair from time to time but certainly not the Senator from Nebraska.

Would my friend from Louisiana agree with that judicious observation?

Mr. LONG. Mr. President, I have no doubt. If the Senator said it, I know it would be true. I have never known him to say anything that he was not positive in his own mind that he was absolutely correct.

Let me say that while I heard what the Senator said and I accept it, I do not quarrel with it for a moment, I say that as a Senator sitting here on the floor, knowing that the rules say that the Presiding Officer shall recognize the first person to address the Chair, during my 36 years in the Senate I must have seen, let us say, failure to comply with that rule at least 1,000 times. But I would be the last to say that that was ever done by the Senator from Nebraska. I am sure if he said it, it has to be true.

Every time more than one Senator is on the floor, he carefully listened and without fail, whichever Senator demanded recognition, even one-one-hundredth of a second before the other Senator, he recognized that Senator.

Mr. EXON. I thank my friend from Louisiana.

Mr. MATHIAS. Will the Senator yield to me for 30 seconds on my own time? I have to observe that this interesting human colloquy which has taken place between these two Members of the Senate under unanimous consent will be put after the Senator from Louisiana has completed. That is historical distortion. That is fiction and it is a fiction that I think is a matter of great regret.

What they have just undergone is a human exchange, and that will be lost to the American people with the history.

Mr. LONG. Mr. President, I ask unanimous consent that that part of the Senator's statement appear immediately where it was stated.

Mr. MATHIAS. Hurray, we are winning the battle for truth. [Laughter.]

Mr. EXON. I thank my friend, and I think the colloquy we just had will indicate more than anything else that we all are human, and we have some jest on the floor of the Senate from time to time, which does not hurt to break the tension.

Mr. LONG. Mr. President, a parliamentary inquiry. Under the agreement, are we going to vote at 6 o'clock?

The PRESIDING OFFICER [Mr. RUDMAN]. The Senator is correct. Under the previous order, the vote has been scheduled to occur at 6 o'clock this evening.

Mr. LONG. Therefore, in view of the fact that the debate commenced at 15 minutes after 4 o'clock, the time to be divided would be an hour and 45 minutes, equally divided.

The PRESIDING OFFICER. Again, the Senator is correct.

Mr. LONG. Will the Chair advise me how much time remains of the time available to the opponents, led by the Senator from Louisiana?

The PRESIDING OFFICER. The Senator from Louisiana has approximately 17½ minutes remaining, and the other side has approximately 32 minutes remaining.

Mr. LONG. Mr. President, I am going to abbreviate my remarks, because I want the Senator from Connecticut to speak; so I am going to talk less time than I had planned, so that I can yield to the Senator. I hope that the proponents will use some of their time at the conclusion of my statement.

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

Mr. LONG. I yield.

Mr. PROXMIRE. Mr. President, we are being asked to consider a resolution which would authorize gavel-to-gavel coverage of the Senate by radio and television. It raises a number of issues which go to the fundamental nature of this institution.

Proponents of this legislation recognize this fact and have tried to compensate for it. This resolution provides for radio-TV coverage—but only under carefully controlled conditions. Senate employees—not reporters—will control the cameras. These cameras will cover only the Senator speaking—not the Senate Chamber. Use of the broadcast tapes will be controlled—political or commercial use will be a no-no.

These restrictions mean that this resolution is neither fish nor fowl nor good red herring. It cannot be justified as either a free press or an open Government issue—Senate employees will control what is shown and how it can be used. But television coverage will not be neutral. It will change the way this institution operates. In this Senator's opinion, those changes will not be for the better.

Why do I say that? To answer that question, Mr. President, we need to look at the function of the Senate. The Federalist Papers discuss the rationale behind a number of constitutional provisions dealing with the Senate—equality of representation, the right to ratify treaties, to sit as a court for impeachment and to confirm appointments.

One theme dominates this discussion—the Senate as a stable institution. The founding fathers saw the Senate as an institution which would be able to lean into the wind—not hold

up a finger to see which way the wind was blowing.

Mr. President, stability has many benefits but one huge drawback when seen through the lens of a TV camera—stability is as drab and dull as dishwater. Television thrives on the dramatic, the exciting, the image. Every media-wise interest group knows that to get on the evening news, you have to stage an event. A protest march will be seen around the country while a well-reasoned paper will sink into oblivion.

Will this fondness for the dramatic influence the operation of the Senate? The answer is "yes" without doubt, although to what extent is open to debate.

Let us take a look at what happens when the Senate considers a controversial and complicated piece of legislation. Assume that we have jumped all the possible procedural hurdles and that we are on the bill. Then the proponents make speeches extolling the virtues of the bill. I believe it is fair to say that these speeches accentuate the positive, to say the least. Opponents next take the floor and do the opposite. They try to paint the bill as the biggest danger to western civilization since the plague.

Those speeches will make good television. Those who are most clever or most obdurate will likely see themselves on the evening news because here is the drama of confrontation.

Next, both sides leave the floor and begin to negotiate. That will not be shown. Instead, the clerk will call the roll. Those rollcalls sometimes go on for hours. How exciting can you get? The roll clerks may end up being the most televised people in this country.

The negotiators will normally compromise on some points—others will require a vote. When they return to the floor, both sides will explain their positions and the Senate will work its will.

Consider the potential for mischief. Suppose a television producer selects a clip of a Senator saying "never" in his opening statement. He then pulls another clip of the same Senator explaining the compromise. In between, some literate correspondent quotes Alexander Pope in "Rape of the Lock": "He would have ravished her but for a timely compliance site prevented."

In practice, Mr. President, many of these negotiations produce not a win or a loss, but a draw. You win on some points and lose on others. The late, great Vince Lombardi—a man with a genius for the dramatic—often said that ties were like kissing your sister. They are not dramatic—bad television.

My feeling is that televising the Senate will make it harder for Senators to reach these compromises. Senators will find that the positions they took in their opening statements have been engraved in film. Any compromising can easily be portrayed as a loss and the Senator who does it as a loser.

If this scenario comes to pass, the Senate may well grind to a halt. Senators are not by nature shrinking violets, and any additional incentives to confrontation can only mean more argument—and probably worse legislation.

This resolution may influence not only how we legislate but also how some campaign. It contains a prohibition against using the film for political purposes.

That prohibition rings hollow to this Senator. What happens if a challenger uses some of this film in his campaign? Who takes the offender to court? What penalties will be imposed? Or, to complicate the situation even more, suppose that a news program uses some clips to put a Senator in an unfavorable situation and a challenger tapes and uses some of that spot in his campaign? What happens then?

Mr. President, I do not know of anyone who can answer these questions. But if this resolution passes, I expect that the Senate counsel's office will be doing a land-office business in first amendment cases. And the Senate will be on the wrong side of the issue.

Finally, we come to a question near and dear to my heart—cost. This resolution authorizes $3 million to purchase and install the broadcasting system. The Senate will have to pay another $600,000 a year to operate the system.

I grant that these sums are small in relation to the total size of the budget. But with deficits around $200 billion, many Americans are going to pay higher taxes or see their benefits reduced as we work to control these deficits. Under these circumstances, we should not be spending even small sums to put the Senate on television.

Mr. LONG. Mr. President, the Senate would be different under gavel-to-gavel coverage, and I believe that is a central question we should focus on when we take up the matter of television in the Senate.

Let me just mention one objection which I will discuss at greater length later on.

Those who propose this resolution have suggested on occasion that this measure will not require a great deal of additional hours of meeting of the Senate or a great deal of additional discussion. I have been here for 36 years, and I know something about the Senate. I have discussed this matter with other Senators.

There is no doubt in my mind that if we are to have gavel-to-gavel coverage of the U.S. Senate, it will require a great deal of additional Senate oratory and Senate discussion.

One of my distinguished colleagues, whom I admire greatly, whom all of us admire, a very good Senator, who has not entered into the debate so far—but I hope he will engage in it later on—said that if this measure goes into effect and the Senate is to be on television gavel to gavel, while today he makes only about one speech a month, he would have to make at least one speech a week.

Why is that? Well, the reason is that the folks back home will be asking: "Why don't we hear from our Senator? Where is he? Where is the guy? Why isn't he up there talking?" Even if the TV camera shows that he is in his seat while others in that area are speaking and they know he is there, they will say, "Why doesn't my Senator get up and say something? He just sits there like a bump on a log. I want the Senator up on his feet, talking, and getting into the thick of things, saying something."

A friend of mine, a friend of all of us, a thoughtful, and scholarly, and studious Senator, said he thinks he will have to vote for TV in the Senate, reluctantly. I said, "Why?"

He said, "Because the people back home don't think I'm doing anything. One of my colleagues in the House is on TV all the time. They see him every time they turn on the TV. There he is. He is working, they say. They don't think I'm doing anything. I have to get on that boob tube, and the only way I know how to do it is to vote for this thing and be on TV."

I have no doubt that there is merit to his suggestion, but although the Senator may be correct in that, that is not the end of his problem. Knowing this very able, thoughtful, quiet, studious, and hard-working Senator, he is going to have to do more than just put himself on television. He will have to jazz it up. He will have to make it a little more flamboyant. He will have to be more colorful; because, to attract and keep an audience, he will have to excite the listeners more than he ordinarily would in his careful, studious style, which all of us much admire.

We will all have to be colorful Senators, in one respect or another, when we are before the TV. We will have to do a lot of talking out here, to let the people back home know we are on the job and working, because they will not be seeing us much in the committees. They will be seeing us on television, especially when the live coverage becomes available to a great deal more homes than is the case today.

I think I can predict with confidence the area where my support will be the strongest. It will be among the doorkeepers. They know what to expect when the Senate is on television. They know they can expect Senators to be talking a great deal longer and the Senate to be here for longer hours.

When we see the estimates in the committee report about the cost of

this matter to the taxpayers, it fails to take into account the big items. What are the big items of expense? Not the cost of installing those cameras. That will not be the big item of expense. Nor the cost of operating the cameras.

All these additional speeches will have to be taken down and printed in the CONGRESSIONAL RECORD, and those RECORDS will be mailed out to people in the country. It will increase the cost of printing, and that additional cost will exceed everything in the estimate—just the cost of printing and distributing the CONGRESSIONAL RECORD alone. That is just one part of it.

When the doorkeepers find that they have to work longer hours—and I think I am strongest among the doorkeepers—when they see all these additional hours the Senate is meeting, without additional pay—one of the arguments people make is that doorkeepers are paid anyhow—when they have to work 50 percent or 100 percent longer maintaining those doors, maybe they will not bellow about it, but they are going to get the word through to the Senators: "It isn't fair. We are working longer hours, and we should be paid more."

You either have to hire more doorkeepers or pay them overtime for the additional hours they will be working. That is not in the estimate.

Furthermore, when Senators are making the TV speeches once a week instead of once a month, they will have to rehearse those speeches. They will not be using prepared text. The majority leader has indicated that we should get away from prepared text. They will rehearse that speech, practice it, work on elocution and diction, so that they will be great and classy when they make it.

When they do all that, they will need additional assistance, somebody who is a makeup expert, to prepare them for television. They will need the assistance of somebody who is good about television, to show them how to get these things off, so that it can be picked up in 10 seconds or 20-second film clips to be replayed on the evening news. The cost of those additional employees does not appear in that estimate.

The estimate also does not take into account the fact that the Capitol Police will have to work much longer hours, and they will have to hire more police. When the Senate is not in session, a skeleton force is enough. When the Senate is in session, they have to have a lot more people available here for security. What is the cost of the additional Capitol Police? There is nothing in the estimate to mention all that.

Mr. President, I have seen estimates in the social welfare area where the cost exceeded the estimate by as much as 100 to 1, running into billions of dollars.

This is another example where the cost will exceed the estimate by more than 100 to 1.

Mr. President, these matters deserve further thoughtful study and in these closing moments of this session, these matters should not be before the Senate. We should include the must legislation that must be before us and then next year we should go to work and thoughfully consider the various aspects of this and the other matters that would properly involve the change of the rules.

Mr. President, I reserve the remainder of my time.

Mr. MATHIAS. Mr. President, before I yield to the distinguished Senator from Idaho, let me make two very brief comments on two points that were raised by the Senator from Louisiana while they are still fresh in my mind.

In the first place, the Senator from Louisiana made a rather serious indictment against the Chair. Let me hasten to insure the incumbent it was not against him personally. But the Senator from Louisiana indicted the Chair as an institution because from time to time over the history of the Senate the Chair has shown partiality in the matter of recognition.

No Member of the Senate is more versed in the lore and tradition of the Senate than is the Senator from Louisiana. But I think he misreads this question. If he wants the Chair to be more fair then he should support Senate Resolution 66 because the Senator from Louisiana, I am sure, is very familiar with works of that great English moralist and philosopher, Dr. Samuel Johnson, who died just 200 years ago, and Dr. Samuel Johnson said: "Sir, nothing is more conducive to a good conscience than the suspicion of being watched."

If the occupant of that chair is being watched by the whole American people, the whole 225 million of them, he is going to have good conscience in this matter of recognition.

So turn on those cameras and we will have fairness from the Chair.

Mr. President, the other point I make before I yield to the Senator from Idaho is this: The Senator from Louisiana read from the Pearson-Ribicoff report, and he read with great accuracy. He read beautifully. His elocution was perfect. The only problem was he did not read quite far enough because the last paragraph of that report which dealt with this subject of television is this:

> This would give the Senators an opportunity to present their views to the country on the issues debated and for the Senate as a whole to provide further leadership for the country without altering the fundamental and unique nature of the U.S. Senate.

So Senators Ribicoff and Pearson had something good to say about television in the Senate.

Now, Mr. President, I yield 10 minutes to the Senator from Idaho.

Mr. McCLURE. I thank the Senator for yielding.

Mr. President, let me first read into the RECORD a letter which was circulated under the date of September 18, 1984, and submit it for the RECORD together with its signatures. This letter is as follows:

U.S. SENATE,
Washington, DC, September 18, 1984.

DEAR COLLEAGUE: In every civilized society, throughout all of recorded history, the testimony of an eyewitness has been valued above all other sources of information. Neither printed words nor the oral account can substitute for what the eyes can see.

Through the miracle of television, the American people have been—for nearly four decades—eyewitnesses to momentous events. From the surface of the moon to the battlefields of Vietnam, American eyes have watched and judged the deeds which steep our times.

In all the free world, however, one great citadel remains closed, for the most part, to the public eye: the United States Senate.

Despite the example set by the great democracies of Canada, New Zealand, Australia, Sweden, West Germany, Denmark and Austria; despite the experience of the U.S. House of Representatives, now in its fifth year of direct electronic coverage; despite the fact that 49 out of 50 state legislatures welcome radio and television coverage at their proceedings, the U.S. Senate continues to restrict its chamber to a privileged few.

As the 98th Congress draws to a close, it is time that the Senate join the 20th century by promptly adopting Senate Resolution 66.

This resolution would provide gavel-to-gavel radio and television coverage of Senate floor proceedings. The resolution has been carefully crafted, after many hours of committee work, to ensure the dignity of the Senate and its prized freedom of debate while giving the American people a firsthand look at their democracy in action.

S. Res. 66 has languished on the legislative calendar since June 28, 1983. We strongly urge you to support the cloture vote this afternoon, so all Senators will have a chance to consider the merits of the proposal in a free and open debate.

We believe there is no greater pledge the Senate could give, of its faith in the wisdom of the American people and its confidence in itself, than to open the doors of the chamber to the eyes of America.

Because "seeing is believing," we urge you to join us in meeting that pledge.

Sincerely,

Gordon Humphrey, Steven Symms, Lowell Weicker, Nancy Landon Kassebaum, Paula Hawkins, Ted Stevens, John Warner, Strom Thurmond, Alan J. Dixon, Alfonse M. D'Amato, Jim McClure, Bill Roth, Orrin Hatch, Slade Gorton, Bill Cohen, Bob Packwood, Jake Garn, Mark Andrews, Charles McC. Mathias, Jr.

I hope that our colleagues will today vote cloture so that we can proceed to the motion that will allow us to consider this resolution and hopefully and confidently pass that resolution and get this issue resolved.

Mr. President, public access to Senate deliberations is an argument as old as the Senate itself. Remarkably, during its first 7 years, the Senate functioned behind closed doors.

But public resentment and suspicion mounted with every passing year. The National Gazette, a leading newspaper of the day, decried the Senate's secrecy in an editorial written in 1792. "Upright intentions and upright conduct," the paper said, "are not afraid or ashamed of publicity."

In 1794, the Senate acquiesced and added a public gallery to its Chamber in Philadelphia.

The Senate, we may note here, did not cease to be a deliberative body by becoming a public forum. This forum has contributed the most stirring and memorable addresses in our history.

The Chamber of the Senate still rings with words of the great Americans who have spoken within it:

To the efficacy and permanency of your union, a government of the whole is indispensable—Washington.

We are all Republicans; we are all Federalists . . .—Jefferson.

The people, sir, erected this government—Webster.

The cry of Union! Union! the glorious Union! can no more prevent disunion, than the cry of Health! Health! glorious health!—Calhoun.

With malice toward none, with charity for all, with firmness in the right as God gives us to see the right . . .—Lincoln.

There must not only be a balance of power, but a community of power; not organized rivalries, but an organized common peace—Wilson.

The oratory of Washington, Jefferson, Webster, Calhoun, Lincoln, and Wilson was not given for the entertainment of the public or the Senators present. Great and eloquent words have clothed great principles and concepts of free government spoken in debate or in counsel here in the Senate.

If, Mr. President, by permitting television and radio coverage of our proceedings, we become more conscious of our words and spoken thoughts, we may surely count Senate Resolution 66 a blessing.

We need not shun eloquence; it is our heritage. Eloquence will not serve—as some have suggested—the designs of the demogog, nor shield the incompetent. As Emerson has pointed out, "there is no eloquence without a man behind it." Or to put it another way, as the grace of man is in the mind, so the beauty of the mind is eloquence.

Mr. President, I have joined the distinguished majority leader, and many of my colleagues in this Chamber, in urging the adoption of this resolution for the sake of the people we are here to serve. Today, I urge adoption of the resolution for the sake of our posterity.

Just as lifting the veil of secrecy proved in 1974 to be the inauguration of a golden age of eloquence in the Senate, I am confident that by opening the Senate to radio and television in 1984, we can raise the level of public discourse to a station befitting a great and wise people.

Would that we had the technology in 1850 to record the "Great Compromise" debates, what a priceless resource for historians and students of government.

Today, technology exists to preserve a living record of the deliberations of this body. We have it within our power to bestow a gift on our posterity for which our colleagues in the 100th Congress and, God willing, the 200th Congress will thank us.

Let us therefore admit that technology to this Chamber is not as a hostile intruder—but as a dispassionate neutral witness. If we are just and faithful to our duty, we can—when our work is done—take our leave of this august body confident that our words and deeds will be justified in the true perspective of history.

Mr. MATHIAS. Mr. President, I thank the Senator from Idaho. He has given a great deal of attention to this subject and I know it is a subject with which he has been intimately familiar since the days when he served in his own State as a member of the legislature.

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

Mr. MATHIAS. I yield.

Mr. McCLURE. I thank the Senator for yielding.

Mr. MATHIAS. I think we are still on the Senator's time as a matter of fact.

Mr. McCLURE. Mr. President, I note, as he did, that it was 20 years ago as I was serving in the Idaho Legislature that we went through this same debate as to whether or not we should admit television coverage to the halls of the legislature of my State. We heard much of the same argument being made about what would happen to the character of the debate and what would happen to the nature of the body.

Mr. President, with 20 years of experience behind us those who fear the advent of the new age have been disproven; those who confidently predicted that it would elevate the public consciousness of what happened within that body have been proven right.

I hope we will follow the same example and 20 years from now we can point to that record of experience as well.

Mr. MATHIAS. Mr. President, if the Senate follows the advice the Senator from Idaho has just given I think we will be able to come back in 20 years and see exactly that result.

Mr. McCLURE. I thank the Senator from Maryland for yielding this time and for his leadership on this issue.

Mr. MATHIAS. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Maryland has approximately 22 minutes remaining.

Mr. MATHIAS. I reserve the balance of my time.

Mr. DODD. Mr. President, how much time remains for the opponents?

The PRESIDING OFFICER. The opponents have approximately 7 minutes and 40 seconds.

Mr. LONG. How much time remains for the proponents

The PRESIDING OFFICER. Approximately 22 minutes.

Mr. LONG. Mr. President, I suggest the proponents use some of their time, unless they want to suggest a quorum.

Mr. MATHIAS. Mr. President, I would be happy to do that. I was just deferring to the opponents. But I am happy to go forward because the Senator from Louisiana, in his long and interesting statement, raised a number of points that I think need to be touched.

Mr. LONG. Mr. President, while the Senator is discussing that, might I just suggest to the Senator——

Mr. MATHIAS. On your time.

Mr. LONG. Well, Mr. President, I am asking to do it on the Senator's time. He is the one who has the time. We only have 7 minutes left over here. Would the Senator yield to me for that purpose?

Mr. MATHIAS. I yield to the Senator for that purpose, to comment briefly.

Mr. LONG. Let me just say to the Senator that if the Senator's resolution required that the cameras be on the persons who are seeking recognition rather than on the one that has recognition, that might be somewhat different, or if the resolution said that the networks will operate the cameras, I should think the networks would put the camera on someone seeking recognition and you would have an opportunity to see whether he had been recognized or not. But under the resolution it does not require that and, therefore, I submit that the resolution does not help to solve the problem.

As a matter of fact, the resolution would have the cameras on the speaker and it would not show who is in the galleries. Now, the Senator knows what happened in the House about that matter, because it was contended for years that that was not a proper showing.

Mr. MATHIAS. I understand what the Senator is saying. I think I have considered that as a possibility. Of course, let me just observe, Mr. President, that we have really tried very hard to look at every possible aspect of this problem.

For example, after we had our debate on Senate Resolution 20 in the 97th Congress, we went back and, as

the Senator from Louisiana said, we made some very positive commitments at that time. And in the discharge of those commitments we further studied this problem and we introduced Senate Resolution 436.

As the Senator from Louisiana, who has followed this matter very closely, is well aware, Senate Resolution 436 not only reflected the feeling of the Rules Committee that there was no need to change the rules, but it provided for a period in which we would record on video tape the proceedings of the Senate; the cameras would be turned on but that signal would not be broadcast to the world so that the very kind of problems that the Senator from Louisiana has expressed concern about could be tested.

We made that as a proffer in the last Congress. We said we will put the cameras up there. We will videotape the proceedings on the Senate and then the Senator from Louisiana can go look at it and see and if it does not look fair we can forget about it or we can do something else. But we were not permitted an opportunity to bring Senate Resolution 436 to a point of decision by the Senate. Now here we are again and the same kind of objections are being made at the end of the 98th Congress.

What did we do pursuant to the commitments that were made by the majority leader and myself when we disposed of Senate Resolution 20? Well, we looked at the question of rules. And it was the serious considered judgment of the Rules Committee that there would need to be no changes in the rules.

We looked at the question of the extent of coverage. And as the committee report reflects we concluded that the coverage would be gavel-to-gavel, except, of course, during those sessions of the Senate in which the doors were closed and the galleries were cleared for reasons of security at which time the cameras would not be in operation.

We considered the kind of coverage. The coverage would be intended to provide a complete, unedited record of what is said on the floor of the Senate. The coverage is intended to be an informative documentary, not some kind of a stage performance, not a theatrical event. And this would be the one place where the proceedings of the Senate would be reflected and recorded without any editorial analysis or intervention.

During debates, the recommended procedure was that the person actually speaking would be covered by the cameras during the debate. During colloquies, different cameras would cover the speaking Senators. I think that if the Senator reflects on that point, it answers his concern. Will someone who is not only speaking but someone who is challenging the recognition be covered? That is taken care of. And I would like the Senator to note that, that during colloquies different cameras will cover the speaking Senators.

So if the Senator from Louisiana seeks and obtains recognition and I want to say, "no, I was on my feet and asking for recognition first," the cameras are able to handle that kind of situation. Both speakers during a colloquy or during a challenge would be covered. So that answers the concern that has been expressed so eloquently by the Senator from Louisiana.

The cameras will not, in the language of the trade, pan the Chamber, but they will be able to focus on more than one person.

Mr. LONG. Will the Senator yield at that point?

Mr. MATHIAS. Well, if I could just finish advising the Senate what we did in the discharge of our duty, then I will be happy to yield.

During rollcalls, recesses, and votes, we thought very hard about what should be done. It was concluded that during quorum calls and votes the cameras would cover the Presiding Officer and the official clerks, but that during recesses there was no point to continuing the coverage when there is not anyone in the chair, so at that point the cameras would be turned off. All of this, Mr. President, is in the report that was filed by the Committee on Rules and Administration.

We thought about how will the public know? Now, everybody knows that RUSSELL LONG is RUSSELL LONG. They are not going to really have to wonder who is that speaking because they are going to know that that is the distinguished Senator from Louisiana. But for those of us who are lesser mortals, not so well known, why we would provide a little tag, as is frequently done, as I believe they do in the other body, in which it would say our name, our party affiliation and State that we represent so that we might also be at least recognized and responsible for what we have said.

We thought, since we are videotaping, does that alter the view of the Senate as far as still photography is concerned? We thought about that. We went that deeply into it. And the view of the Rules Committee was that the ban on taking photographs in the Chamber should remain in effect and that the videotaping would be the only exception to that particular rule.

Now, I just cite this, and I have asked the Senator from Louisiana to defer his question, just to show you that the concerns that he has raised have been considered, they have been weighed, they have been addressed, and I think they have been answered.

I believe, Mr. President, that is the situation, and the Senate in the discharge of its simple duty to the country—to provide information about what it is doing—should move forward on this resolution.

Mr. LONG. Would the Senator yield at that point, Mr. President?

Mr. MATHIAS. I will yield. But let me say this further: The objections are Senators' objections. The objections are institutional objections. The arguments for moving forward are the benefits that it would bring to the people of the United States. It seems to me that on balance we have to move forward.

Yes; I yield.

Mr. LONG. The Senator made the statement that there would be more than one camera. Is it not true that only one camera will be feeding into the outlet at one time so when people seek to address the Chair, even if you did have more than one camera, you would have only one of them, and that would be picked up by the person at the switchboard to go out across the country?

Mr. MATHIAS. The Senator, I know, spent so much time on the Senate floor, so much time in committee, and so much time reading committee reports and other Senate business that he may not watch television as much as the rest of us. But if he did, he would know that the television industry can now do remarkable things. You can, in fact, have on the same screen a split screen in which you would show both of us having this colloquy. If they cannot get both of us in the same camera, they will have a camera on you and a camera on me. Both of them will appear on the screen. I am not saying that is precisely how it would be done because there may be a better technical means of doing it. But I say that is technically possible, and I see it done all the time.

Mr. LONG. Does it say in that resolution that will be done?

Mr. MATHIAS. It states that the cameras and in questions of colloquy—let me read from the committee report—"During colloquies, different cameras will cover speaking Senators."

They have the ability, just as the audio amplification ability now in switching your microphone on and my microphone off and vice versa. They have the ability to move those cameras so that both of us are equally, equitably, and fairly covered. I know that is the bottom line of the Senator. He wants equity and fairness in this matter. I think this will provide equity and fairness. I really, honestly believe that.

Mr. LONG. Mr. President, this resolution says that there will be no commentary, and no comment. I am not quarreling with that. But if one is to assure that there will be an adequate opportunity for both sides to be recognized, it would seem to the Senator from Louisiana that there should be language here to say that in a situa-

tion where more than one Senator is addressing the Chair the cameras should show more than one Senator addressing the Chair even if it does require that two or three be shown on the screen simultaneously so the audience can judge for themselves whether the person who had addressed the Chair first would be recognized.

Mr. MATHIAS. Mr. President, I think if there is a question of equity and fairness in the action of the Chair in recognizing the Senators, that is an independent problem we should deal with without respect to whether or not we are going to televise proceedings. I think if we televise proceedings it will put every presiding officer, including a Vice President of the United States, on his mark to be fair. But even if we are not televising, if the Senator from Louisiana honestly believes that the Chair is being partial and biased, then we had better do something about that whether or not we televise the proceedings.

I reserve the balance of my time.

The PRESIDING OFFICER. Who yields time?

Mr. LONG. Mr. President, I yield such time as I may need.

Let me say on that issue, Mr. President, we do have a way of achieving fairness. Usually we do it by unanimous consent, and there is nothing in here about achieving unanimous-consent agreements to see that both sides will have equal opportunity to be recognized by the Chair.

Mr. GOLDWATER. Would the Senator yield?

The PRESIDING OFFICER. Who yields time?

Mr. LONG. I yield the floor at the moment.

Does the Senator want some of my time?

Mr. GOLDWATER. I am with you.

Mr. LONG. One minute.

The PRESIDING OFFICER. Does the Senator from Louisiana yield time to the Senator from Arizona?

Mr. LONG. How much time does the Senator desire?

Mr. GOLDWATER. Maybe 4 or 5 minutes.

Mr. LONG. Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator has 6 minutes 58 seconds.

Mr. LONG. I yield to the Senator 3 minutes and 58 seconds.

Mr. GOLDWATER. Three?

Mr. LONG. Four minutes.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. GOLDWATER. Thank you.

Mr. President, originally I was opposed to televising the Senate. Then when I learned of the various ways you can manipulate the CONGRESSIONAL RECORD, I came out in favor of televising. But after watching what happened in the House through the efforts of the House leader, I turned against televising it because it can happen here.

Mr. President, in the debate that was just going on between my friend from Maryland and my friend from Louisiana relative to the camera. Yes, there can be a camera located someplace in here that can pick up each individual Member. But it is going to be an ungainly thing. It is going to be a big affair. I do not know where they are going to put it. They have the technical problem of getting the Senator from New Mexico way over in that corner, and getting the majority or minority leader right down here. That can be done. But we have some other things to consider, Mr. President. I do not think we have taken them into consideration. I see my friend from West Virginia coming in. We do not have any order in this Senate. When we have votes here, they are all gathered down there in the well. How are we going to educate the American people about what goes on here when you have got a mob scene going on? Do we want the American people to think that we run this country by a mob scene? I have sat in that chair and begged, and begged, and begged my colleagues to sit down and be quiet. But they will not do it. Until we pass a resolution or a rule change as suggested by my friend from West Virginia, we are not going to get order. He merely suggests that we vote from our desks, which I always thought was the order when I came here. But after my cliff-hanging election back in 1964, when I came back I discovered they had changed everything. Now it is the rule by mob down here. That is not going to look good to the American people. A lot of the other things we do in this body like running up and putting our speech in the RECORD, or saying, "Mr. President, I ask unanimous consent," after reading one line, "that this appear as if I read it"; is that the kind of education we want to give the American people? They will think this is the phoniest bunch of people they have ever seen. They might not be far from wrong. But we do not want them to think that.

So, Mr. President, I am in opposition to this. I do not think we are ready for it. I think we have to get this Senate back in some kind of order in the way we operate before we can talk about showing the American people how we operate. Then there is another question. Who is going to carry it? Cable News Network, one network is going to carry this. The three big networks, God bless their little no-good souls, they are not going to carry it. So we are confined to a fine system. I like Cable News Network. It is probably the best thing in the country. But it is only one. We talk about that. That is monopoly. So the first thing you know we have a lawsuit going on because Cable News is the only one that will do it.

So, Mr. President, I very reluctantly dislike opposing my leader on his last official duty. But I think as he sits down there in the hills of Tennessee and watches what he would watch on television, he would say, "My God, was I in that outfit at one time?" [Laughter.]

The PRESIDING OFFICER. The time of the Senator from Arizona has expired.

Mr. GOLDWATER. It just ran out. Thank you.

The PRESIDING OFFICER. Who yields time?

Mr. MATHIAS. Mr. President, I yield 1 minute to the distinguished Senator from Delaware.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. ROTH. Mr. President, as one who sponsored one of the earliest resolutions to open the Senate floor to TV, I congratulate the distinguished Senator from Maryland as well as our majority leader for their efforts to modify the rules. I think it is an important reform. I listened with great care to the distinguished Senator from Arizona. There is much truth in some of the criticisms he made. However, it is my opinion that if we open the Senate to public viewing, perhaps the kind of debate we will witness on the Senate floor will be more meaningful and perhaps the decorum more along the lines of what he would hope to see.

In any event, I think television is a most important means of informing the American people, and I hope that the Senate will have the good sense to support the resolution offered by Senator Baker and others.

We are elected to represent the people of our State. I know of no reason why our service to them should not be open to the fullest observation and scrutiny.

The issues with which we are concerned are the most vital of the day. On this floor this year we have discussed control of nuclear arms, the freedom of our Central American neighbors, the protection of finite natural resources, and generally the rights of all of us to enjoy the bountiful wealth of this country.

Mr. President, every American has the right to watch us at work and to hold us accountable for how we represent them. Televising Senate debates enhances these opportunities.

There are many arguments made or implied that the quality of debate will be affected by television; that Senators will play to the grandstands and exploit the exposure for personal gain. It has been suggested that the image of the Senate will suffer because people will see how we work. I believe that all of these arguments serve only to preserve a comfortable way of doing

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business. They also tend to demean or underestimate the public's ability to judge our ability and sincerity as individuals. They imply that the average man on the street can't recognize baloney for what it is.

In the past whenever the most important issues of the day have been given extensive scrutiny by the broadcast media there has always been a more thorough understanding or comprehension of the issue. Television covered Vietnam and Watergate. America faced critical situations. The crises were resolved and the Nation is stronger because of the experience.

Mr. President, it is time for the Senate to open its doors to the eyes of the American voters. The strength of this Nation and the effectiveness of its Government are dependent on an informed electorate not threatened by it.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. MATHIAS. Mr. President, I thank the Senator from Delaware. I yield 1 minute to the Senator from Washington.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mr. GORTON. Mr. President, I thank my friend from Maryland.

It seems to me that Senators should vote in favor of this cloture motion simply so that we can discuss on its merits a matter of great importance. I will, however, as others have, go beyond that to say it seems to me many of the criticisms which have been made of the way in which the public would view the Senate should it see proceedings carried on as they are today would not continue if the Senate itself were televised. I believe that debate on issues would be more sharp, more to the point, and would occupy more of the time during which the Senate is in session than it does at the present time.

I began my career in the Senate almost 4 years ago on the side of the Senator from Louisiana, feeling that something would be lost by the Senate should its proceedings be televised. I have now changed my views on that subject. I feel that much would be gained, not just by the general public but by the Senate itself, in respect to its place in the political status of the United States of America. As a consequence, I urge a vote in favor of cloture and a vote in favor of the resolution.

I thank the Senator from Maryland.

Mr. MATHIAS. I thank the Senator from Washington.

Mr. President, I yield myself 2 minutes.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

Mr. MATHIAS. Mr. President, the Senator from Arizona, as he always does, raises some very interesting points. He asked who will carry this signal.

C-SPAN presently feeds the television signal from the other body to many cable service companies, and they in turn put the signal on cable that goes into millions of homes all over this country.

Now, I understand that C-SPAN coverage is growing so that every month more American households have an opportunity to watch the proceedings in the other body, but it is a total blank as far as the Senate is concerned. So that is who will carry the signal.

But in addition to that, I think the Senator raises a point that needs to be made. As I listen to my FM radio, I often hear a voice that will be familiar to the distinguished Senator from Texas, the voice of an old friend of his, none other than the Prime Minister of Great Britain, Margaret Thatcher, because the proceedings in the British Parliament are recorded and broadcast. It is very revealing to hear the live debate that goes in the British Parliament and Mrs. Thatcher making a telling point which comes across not only to that handful of people who hear her in the House of Commons but to people all over the world who now understand better exactly the point she has been making. All of us I think go home and watch the news, but we do not see the gavel-to-gavel proceedings of the House of Representatives. We see the interesting high points of the debate which the networks, who have benefited by the blessing from the Senator from Arizona this afternoon, are broadcasting, and that is a revealing and interesting kind of cameo that comes across.

The PRESIDING OFFICER. The 2 minutes yielded by the Senator from Maryland to himself have expired.

Mr. MATHIAS. Mr. President, does the Senator from Louisiana wish to proceed at this time?

Mr. LONG. I yield my remaining time, Mr. President, to the Senator from Connecticut.

Mr. DODD. How much time remains, Mr. President?

The PRESIDING OFFICER. The Senator has 2 minutes and 20 seconds.

Mr. DODD. How much remains for the proponents?

The PRESIDING OFFICER. Approximately 2 minutes 13 seconds remain on the side of the proponents.

Mr. DODD. Mr. President, I will wait until tomorrow to go into greater detail as to the reasons why I oppose the cloture motion and also the substance of the present resolution that will be coming before us.

I point out to my colleagues that these arguments are certainly interesting ones, particularly when we have heard them on numerous occasions this afternoon, in that our real interest is the public and that it is not the interests of Senators or the interests of the institution. I embrace that idea. I think our interests obviously should be the public, and in serving the public interests it becomes vitally important that we preserve the unique nature of the U.S. Senate.

There are a lot of definitions of what the Senate is and what its rules are designed to do which make it different from the House of Representatives. As a Member of the House of Representatives, I supported televising proceedings in the House. The rules of the House absolutely guarantee the rights of a majority; that the rule of the majority should prevail.

The rules of the Senate are specifically designed to guarantee the rights of a minority, including a minority of one. To suggest somehow that the influence of television is not going to bring additional pressures when the rights of a minority are trying to be protected I think is to not be cognizant of what goes on in our society—clearly the influence of a television camera. Take, for instance, the proceedings of just last week during the consideration of the banking bill. A good day went by when nothing transpired, quite frankly. We had extended rollcalls because one Member who had a particular point of view wanted to delay the proceedings somewhat to get a better vote count, to get a better sense of what was going on. His view was a minority view quite clearly at the time, and yet he used that vehicle and the rules which the Senate provides in order to try to protect himself and the rights of a minority which he was trying to defend.

I can imagine having the cameras covering an institution during 6 or 7 hours when nothing more than a very slow and deliberate rollcall was going on. Clearly, then, I presume the public would be saying, "Why should one person be able to tie up the entire U.S. Senate for 7 hours just because he wants to protect his amendment or a small group of people?"

The PRESIDING OFFICER. The time allotted the Senator from Connecticut and the opponents has expired. The proponents have 2 minutes 13 seconds remaining.

Mr. MATHIAS. Mr. President, I yield to the Senator from Texas.

Mr. TOWER. Mr. President, I was very interested in the observation of the Senator from Maryland about the House of Commons. I would like to ask this question of the Senator concerning the House of Commons, and I am sorry to ask the question. Does he not think that the decorum in the House of Commons is even worse than the decorum in the U.S. Senate?

Mr. MATHIAS. I will say to the Senator from Texas that I may not have spent as much time in London as he

has, but both of us know that they do get unruly in the House of Commons.

I want to assure the Senator from Arizona that the public understands what goes on and this is real life. All we are trying to do is to let the American people know what real life is all about. We are not hiding behind these walls of the Senate. We are not in some cloistered situation where we are trying to prevent the public from knowing what really goes on here. They ought to know what goes on here because it affects their lives, it affects their future, it affects their interests. They ought to know what happens here. They have the right to know what happens here. And it ought to be more than just these few people who are gathered here. So let us agree to this cloture motion.

● Mr. LEVIN. Mr. President, I am voting in favor of invoking cloture on the motion to proceed to consideration of Senate Resolution 66, which would authorize television coverage of Senate floor proceedings. While I am willing to move to debate this resolution, I do have serious concerns about the resolution and about the impact television could have on this body's proceedings, concerns which are not adequately addressed in the resolution before us. I must be convinced that the rights of the minority will be protected and that potential abuses will be controlled before I can vote for this resolution.●

CLOTURE MOTION

The PRESIDING OFFICER. The hour of 6 p.m. having arrived, under the previous order the clerk will report the motion to invoke cloture.

The assistant 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 the motion to proceed to the consideration of S. Res. 66, a resolution to establish regulations to implement television and radio coverage of the Senate.

Senators Howard Baker, Ted Stevens, Steve Symms, Jake Garn, Paul Trible, Strom Thurmond, Warrren Rudman, Pete Domenici, Thad Cochran, Slade Gorton, Charles McC. Mathias, James Abdnor, Lowell Weicker, Dan Quayle, Mark Andrews, Pete Wilson, John H. Chafee, and Gordon Humphrey.

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

The question is: Is it the sense of the Senate that debate on the motion to proceed to the consideration of Senate Resolution 66 shall be brought to a close. The yeas and nays are required. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Massachusetts [Mr. TSONGAS], is necessarily absent.

The PRESIDING OFFICER (Mrs. KASSEBAUM). Are there any other Senators in the Chamber who desire to vote?

The yeas and nays resulted—yeas 73, nays 26, as follows:

[Rollcall vote No. 240 Leg.]

YEAS—73

Abdnor	Glenn	Packwood
Andrews	Gorton	Pell
Armstrong	Hart	Percy
Baker	Hatch	Pressler
Baucus	Hawkins	Pryor
Biden	Heflin	Quayle
Bingaman	Heinz	Riegle
Bradley	Humphrey	Roth
Bumpers	Jepsen	Rudman
Byrd	Kassebaum	Sarbanes
Chafee	Kasten	Sasser
Chiles	Kennedy	Simpson
Cochran	Lautenberg	Specter
Cohen	Leahy	Stafford
Cranston	Levin	Stevens
Danforth	Lugar	Symms
DeConcini	Mathias	Thurmond
Denton	Matsunaga	Trible
Dixon	McClure	Wallop
Dole	Melcher	Warner
Domenici	Metzenbaum	Weicker
Durenberger	Mitchell	Wilson
Evans	Moynihan	Zorinsky
Exon	Murkowski	
Garn	Nickles	

NAYS—26

Bentsen	Goldwater	Laxalt
Boren	Grassley	Long
Boschwitz	Hatfield	Mattingly
Burdick	Hecht	Nunn
D'Amato	Helms	Proxmire
Dodd	Hollings	Randolph
Eagleton	Huddleston	Stennis
East	Inouye	Tower
Ford	Johnston	

NOT VOTING—1

Tsongas

The PRESIDING OFFICER. On this vote there are 73 yeas and 26 nays. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

Mr. BAKER. Madam President, cloture having been invoked, the rule requires that we remain on this issue until it is disposed of.

I have consulted with the minority leader, however, and there is a wish on the part of many Senators to set the vote on the motion itself for tomorrow rather than continue on it tonight.

So I have two requests that I wish to put at this time, and I am not now putting them.

The second one, however, that I would propose to put is that, while the first one would be that we put the vote over to tomorrow at 12 noon on the motion to proceed, for a little while this afternoon we might continue with the trade bill.

That is the result of the request by the distinguished chairman and distinguished manager of the bill on this side. That requires unanimous consent however, and before I put either of those requests, might I inquire of the minority leader if he wishes to comment on either one.

Mr. BYRD. Madam President, I cannot speak for all Senators on this side at this point because I have not had a chance to canvass them, but as far as I know and with respect to my own concerns I would have no objection to setting the vote on the motion to proceed at 12 o'clock tomorrow.

As to the second request, I think there will be a little problem because some of us from steel-producing States are not very happy with the President's rejection of the ITC recommendations.

And so we would not want to see final action on the trade measure tonight. As a matter of fact, some of our people have to go, some have gone, and I hope we can just go ahead with the unanimous consent on the cloture matter and then go back into morning business and take up the trade bill at some other point.

Mr. DANFORTH. Mr. President, there are some noncontroversial items on the trade bill. I wonder if we could stay to do the noncontroversial items without finishing the bill.

Mr. BAKER. Mr. President, let me make an alternative suggestion if I may. As I say, cloture having been invoked it would require unanimous consent to get on the bill tonight, or in the morning for that matter. But it seems clear to me, based now on the remarks of the minority leader and, indeed, based on the remarks on this side of the aisle, Senators here having expressed a concern about going on trade tonight, that we are not going to be able to do that.

But what I would suggest is if we come in early in the morning and try to get unanimous consent, let us say, at 10:30 tomorrow, we could get on the trade bill and then stay on it until 12 o'clock or 11:30 and at 12 o'clock we would have the vote on the motion to proceed and then be back on TV in the Senate.

That would give us a good hour, hour-and-a-half, in the morning to work on the trade bill if we could get unanimous consent to do that. We would have to do one other thing, though that I would hope we would be able to do if we are going to come in early tomorrow. I have a standing request of the distinguished chairman of the Judiciary Committee to come in at 11 tomorrow. I would hope we would get unanimous consent that the Judiciary Committee could meet until 1 o'clock, notwithstanding that we come in at 9:30 in the morning.

Mr. BYRD. Madam President, I think that the majority leader's proposal is the better one at this point. I do not know what people will be saying and thinking in the morning, but it might be that we could very well agree to going back to the trade measure tomorrow morning. I do not think we could do that tonight.

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

Mr. DANFORTH. Madam President, I am happy to take anything I can get on the trade bill. I would observe that sometimes early in the day it is difficult to get Senators to show up on the floor to offer amendments and I think that time is of the essence. As I understand the desire of the majority leader in working out the scheduling of the Senate, he does not intend to stay on the trade bill for an indefinite period of time. So I hope we can wrap up the bill at an early time and that Senators will be available to offer amendments at 10:30 provided we can get unanimous consent.

ORDER FOR WEDNESDAY

VOTE ON MOTION TO PROCEED AT 12 NOON

Mr. BAKER. Madam President, under these circumstances, then, let me make one request at this point. I ask unanimous consent that the vote on the motion to proceed occur at 12 noon on tomorrow.

The PRESIDING OFFICER. Is there objection? Hearing no objection, it is so ordered.

REQUEST FOR JUDICIARY COMMITTEE TO MEET UNTIL 1 P.M.

Mr. BAKER. Madam President, I ask unanimous consent that on tomorrow, regardless of the hour at which the Senate may convene, the Judiciary Committee be permitted to meet until the hour of 1 p.m.

Mr. BIDEN. Would the majority leader repeat that request?

Mr. BAKER. Yes. Madam President, the request was that the Judiciary Committee be permitted to meet until 1 p.m. The reason for that is I have a request to convene the Senate tomorrow at 11 o'clock. I am trying to move that time back so we can do the trade bill at, say, from 10 o'clock on. In order to do that, I have to make that additional unanimous-consent request.

Mr. KENNEDY. I object.

ORDER FOR RECESS UNTIL 11 A.M. TOMORROW

Mr. BAKER. Madam President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 11 a.m. tomorrow.

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

ORDER OF PROCEDURE

Mr. BAKER. Madam President, let me say that it is still the intention of the leadership to seek consent to go to the trade bill at sometime tomorrow, because the leadership now feels that we should try to finish the trade bill. It is clear we cannot do that tonight and we cannot do it in the morning, but we will continue to make an effort to find the time to get back on the trade bill tomorrow.

Just for the information of Senators, the schedule for the rest of this week looks like TV in the Senate, the trade bill, and the highway bill. Those are the three items that appear to be the ones that will command our attention for the balance of this week. I would urge Senators to consider that it will be a full week and we will be in on Friday. I do not expect us to be in on Saturday, but I would warn Senators that after this weekend there is a high likelihood that we will be in session on weekends, at least on Saturday, trying to finish the must legislation, including the CR and the budget resolution.

ROUTINE MORNING BUSINESS

Mr. BAKER. Madam President, I expect now it would be in order to make this request. I ask unanimous consent that there now be a period for the transaction of routine morning business until the hour of 7 p.m. in which Senators may speak for not more than 2 minutes each.

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

Mr. BAKER. Madam President, there will be no more votes tonight.

ROUTINE MORNING BUSINESS

(Routine morning business transacted and statements submitted during the day follow:)

MESSAGES FROM THE PRESIDENT

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

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGE FROM THE HOUSE

At 6:39 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 38) entitled the "Longshoremen's and Harbor Workers' Compensation Act."

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2463) to authorize appropriations of funds for certain fisheries programs, and for other purposes.

The message further announced that the House agrees to the amendments of the Senate to the bill (H.R. 71) to authorize and direct the Secretary of the Interior to engage in a special study of the potential for ground water recharge in the High Plains States, and for other purposes.

The message also announced that the House has passed the following bills, without amendment:

S. 598. An act to authorize a land conveyance from the Department of Agriculture to Payson, Arizona; and

S. 2155. An act to designate certain national forest system lands in the State of Utah for inclusion in the National Wilderness Preservation System to release other forest lands for multiple-use management, and for other purposes.

The message further announced that the House has passed the following bill, with an amendment, in which it requests the concurrence of the Senate:

S. 1102. An act to provide authorization of appropriations for title III of the Marine Protection, Research, and Sanctuaries Act of 1972, and for other purposes.

The message also announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 4567. An act to reauthorize and amend the Indian Health Care Improvement Act, and for other purposes.

MEASURES REFERRED

The following bill was read the first and second times by unanimous consent, and referred as indicated:

H.R. 5644. An act to provide greater discretion to the Supreme Court in selecting the cases it will review; to the Committee on the Judiciary.

MEASURE PLACED ON THE CALENDAR

The following bill was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 4567. An act to reauthorize and amend the Indian Health Care Improvement Act, and for other purposes.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. ANDREWS, from the Select Committee on Indian Affairs, with an amendment in the nature of a substitute:

S. 1151: A bill to compensate heirs of deceased Indians for improper payments from trust estates to States or political subdivisions thereof as reimbursements for old age assistance received by decedents during their lifetime (Rept. No. 98-605).

By Mr. ANDREWS, from the Select Committee on Indian Affairs, with amendments:

S. 2480: A bill to declare that the mineral rights in certain lands acquired by the

United States in connection with the Garrison Dam and Reservoir project are held in trust for the Three Affiliated Tribes of the Fort Berthold Reservation, and for other purposes (Rept. No. 98-606).

S. 2663: A bill pertaining to the inheritance of trust or restricted land on the Lake Traverse Indian Reservation, North Dakota and South Dakota, and for other purposes (Rept. No. 98-607).

S. 2823: A bill to provide for the use and distribution of funds appropriated in satisfaction of judgments awarded to the Saginaw Chippewa Tribe of Michigan in dockets numbered 59 and 13E before the Indian Claims Commission and docket numbered 13F before the U.S. Claims Court, and for other purposes (Rept. No. 98-608).

S. 2824: A bill to provide for the use and distribution of certain funds awarded the Wyandotte Tribe (Rept. No. 98-609).

By Mr. HELMS, from the Committee on Agriculture, Nutrition, and Forestry, with an amendment in the nature of a substitute and an amendment to the title:

S. 2256: A bill to exempt restaurant central kitchen from Federal inspection requirements (Rept. No. 98-610).

S. 2773: A bill to designate certain National Forest System lands in the State of Georgia to the National Wilderness Preservation System, and for other purposes (Rept. No. 98-611).

By Mr. HELMS, from the Committee on Agriculture, Nutrition, and Forestry, with an amendment in the nature of a substitute:

S. 2805: A bill to designate certain public lands in Virginia as additions to the National Wilderness Preservation System (Rept. No. 98-612).

S. 2808: A bill to designate certain National Forest System lands in the State of Mississippi as wilderness, and for other purposes (Rept. No. 98-613).

H.R. 3788: A bill to designate various areas as components of the National Wilderness Preservation System in the national forests in the State of Texas (Rept. No. 98-614).

H.R. 4263: A bill to designate certain lands in the Cherokee National Forest, Tennessee, as wilderness areas, and to allow management of certain lands for uses other than wilderness (Rept. No. 98-615).

H.R. 5076: A bill to designate certain areas in the Allegheny National Forest as wilderness and recreation areas (Rept. No. 98-616).

H.R. 5221: A bill to designate through September 30, 1988, the period during which amendments to the U.S. Grain Standards Act contained in section 155 of the Omnibus Budget Reconciliation Act of 1981 remain effective, and for other purposes (Rept. No. 98-617).

By Mr. THURMOND, from the Committee on the Judiciary, with amendments:

S. 2625: A bill to permit the payment of rewards for information concerning terrorist acts (Rept. No. 98-618).

By Mr. HELMS, from the Committee on Agriculture, Nutrition, and Forestry, without amendment:

S. Res. 445: An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of H.R. 5076; referred to the Committee on the Budget.

S. Res. 446. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of H.R. 5221; referred to the Committee on the Budget.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. HELMS, from the Committee on Agriculture, Nutrition, and Forestry:

Melvin A. Ensley, of Washington, to be a member of the Federal Farm Credit Administration for a term expiring March 31, 1990;

Crete B. Harvey, of Illinois, to be a member of the Federal Farm Credit Board, Farm Credit Administration, for a term expiring March 31, 1990; and

Robert R. Davis, of Illinois, to be a Commissioner of the Commodity Futures Trading Commission for the term expiring April 13, 1989.

(The above nominations were reported from the Committee on Agriculture, Nutrition, and Forestry with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. PERCY (for himself and Mr. PELL):

S. 3000. A bill to authorize the provision of foreign assistance for agricultural activities in Poland; to the Committee on Foreign Relations.

By Mr. DOMENICI:

S. 3001. A bill permitting American prisoners of war held by the Japanese after the Bataan death march to sue in the U.S. Court of Claims; to the Committee on the Judiciary.

By Mr. JEPSEN:

S. 3002. A bill to require the Secretary of Agriculture under certain conditions to establish a temporary program to reduce the effective interest rates paid by farmers and ranchers on agricultural operating loans made by legally organized lending institutions, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. THURMOND (for himself, Mr. BIDEN, and Mr. LAXALT) (by request):

S. 3003. A bill to strengthen and improve the operations of the U.S. Bureau of Prisons; to the Committee on the Judiciary.

By Mr. KASTEN:

S. 3004. A bill for the relief of Tirouhi Marcarian; to the Committee on the Judiciary.

By Mr. HUDDLESTON (for himself and Mr. FORD):

S. 3005. A bill to designate the Federal Building and U.S. Courthouse in Ashland, KY, as the "Carl D. Perkins Federal Building and United States Courthouse"; to the Committee on Environment and Public Works.

By Mr. EVANS:

S. 3006. A bill to amend the Federal Power Act; to the Committee on Energy and Natural Resources.

By Mr. TRIBLE (for himself and Mr. WARNER):

S. 3007. A bill to require a cost-benefit analysis of a Government program of furnishing workday care benefits for dependent children of Federal employees; to the Committee on Governmental Affairs.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. HELMS from the Committee on Agriculture, Nutrition, and Forestry:

S. Res. 445. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of H.R. 5076; to the Committee on the Budget.

S. Res. 446. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974, with respect to the consideration of H.R. 5221; to the Committee on the Budget.

By Mr. MATHIAS:

S. Con. Res. 144. A concurrent resolution authorizing the rotunda of the U.S. Capitol to be used on January 21, 1985, in connection with the proceedings and ceremonies for the inauguration of the President-elect and the Vice President-elect of the United States; to the Committee on Rules and Administration.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. PERCY (for himself and Mr. PELL):

S. 3000. A bill to authorize the provision of foreign assistance for agricultural activities in Poland; to the Committee on Foreign Relations.

U.S. ASSISTANCE TO POLISH AGRICULTURE

Mr. PERCY. Mr. President, ever since the beginning of the suppression of the Solidarity movement in Poland in December 1981, Americans have been wrestling with the problem of how to help the Polish people without bailing out their discredited government.

At the time of Pope John Paul II's June 1983 visit to Poland, there was talk of Western church, private, and government assistance to private Polish agriculture through a foundation managed by the Polish church. Now finally, after 18 months of negotiations between the Polish church and Government, a law has been passed which allows the establishment of private charitable foundations for the first time in postwar Poland. Negotiations on a separate statute specifically governing the church-affiliated agricultural foundation are nearing conclusion. The church hopes formally to establish the foundation in the fall of 1984.

The foundation's purpose will be to administer Western assistance to strengthen private agriculture in Poland, enhance the church's role in the countryside, and increase food supplies. Poland is the only country in Eastern Europe where farms remain largely—75 percent—in private hands. The program would make available

supplies and services which are not now available in sufficient quantities in Poland and which Poles do not have sufficient hard currency to import from abroad. The program would not supplant current Polish Government domestic or foreign expenditures on agriculture.

This private foundation will be established and controlled by the Polish church. The Polish Government will not be represented on any of the foundation's governing bodies. A counterpart foundation is to be set up in Brussels to coordinate Western assistance and purchase equipment and supplies for shipment to the foundation in Poland. No hard currency will enter Poland. The imported goods will be sold by the Polish foundation at fair market prices to private farmers for zloties. A byproduct of the program, the zloties will be used primarily to cover the Polish foundation's administrative expenses and to finance rural infrastructure improvements, with a small amount used to support charitable works by the church.

To test the foundation's competence and autonomy, and the worth of specific proposed agriculture assistance projects, the Polish church is planning a pilot project to run through at least 1985 and to cost about $28 million. The pilot project would test the feasibility of helping key sectors of Polish agriculture identified by Polish and German specialists and a 1982 Rockerfeller Foundation report. These sectors include milk handling, tractor tires, local workshops, food processing, and water supply. The Polish church is soliciting contributions to the $28 million pilot project from churches and governments in Western Europe and North America. Last month, President Reagan announced that the United States was prepared to contribute $10 million to the pilot project, and today I am introducing a bill on behalf of myself and Senator PELL to authorize that $10 million of assistance that would directly benefit private agriculture in Poland and the Polish people.

The Polish church has sought to ensure that its foundation would have sufficient autonomy vis-a-vis the Polish Government to function effectively. The church thinks that the following factors would help safeguard foundation autonomy: First, the Polish-based foundation, working with the Brussels-based foundation, would control the rate at which goods purchased in the West entered Poland; second, all imported goods would remain solely the property of the foundation until sold; third, the foundation alone would determine to whom it sold the goods; fourth, monitoring units would be established on the level of local communes, utilizing local parish structures, to ensure effective church oversight at the local level. The church could terminate or suspend the program at any time that it deemed such action necessary because of interference by the Polish Government.

Mr. President, this looks like a viable proposition to me. We can make a protected pilot investment in the people and nation of Poland, and I think it is in our own national interests to seize that opportunity.

Mr. PELL. Mr. President, despite the tragedy of Soviet-backed Communist repression in Poland, two underlying realities offer hope for the Polish future. First—and primary—is the continuing religious faith of the Polish people. Communist tyranny has been unable to dissolve the powerful bond that joins Poland's families to the Catholic Church and its teachings. The church has infused strength in the Solidarity union movement which has so nobly manifested the continuing struggle of the Polish people to be free.

The second underlying Polish reality is that, notwithstanding the imposition of a Communist regime in Warsaw, agricultural life in Poland continues to be dominated by family farms. Indeed, Poland is the only country in Eastern Europe where farms remain largely—75 percent—in private hands. This Polish infrastructure of private, family based enterprise represents a residential infrastructure of Polish freedom.

I am pleased today to join with the distinguished chairman of the Foreign Relations Committee in cosponsoring a bill designed to fortify these two significant realities in Polish life. The bill would authorize the funneling of American aid—in conjunction with other Western aid—to Polish family farmers, through a mechanism that strengthens Poland's private agriculture while enhancing the church's role in the countryside. Not incidentally, the bill would also buttress a Polish food supply which has dwindled as a result of the economic chaos produced by Polish Communist rule. Such aid represents the distinction we must draw between our disapproval of the Polish regime and our sympathetic support for the Polish people who suffer at its hands.

This Polish assistance program would provide supplies and services which are not now available in sufficient quantities in Poland and which Poles lack sufficient hard currency to import from abroad. This aid, I should underscore, would not supplant current Polish Government domestic or foreign expenditures on agriculture. Instead, the assistance will be administered by a private foundation established and controlled by the Polish church; the Polish Government will have no representative on any of the foundation's governing bodies. In Brussels, a counterpart foundation will be created to coordinate Western assistance and to purchase equipment and supplies for shipment to the foundation in Poland.

It bears emphasis that the ability of a church-sponsored foundation to operate in Poland is unprecedented, and results from 18 months of negotiation between the Polish church and the Jaruzelski government. The church hopes to establish the foundation formally this autumn and to launch a $28 million pilot project that would last through 1985. The pilot project will draw upon assistance from a variety of Western sources: churches, governments, and private foundations. During the pilot project period or thereafter, the church will be in a position to terminate or suspend the program in the event of undue interference by the Polish Government.

Mr. President, I urge my colleagues to support this bill. It represents American foreign aid in an ideal form—devised to operate in concert with other Western aid, targeted to serve a worthy humanitarian purpose, and well calculated to further the American interest in sustaining the aspirations for freedom of a struggling and valiant people.

By Mr. DOMENICI:

S. 3001. A bill permitting American prisoners of war held by the Japanese after the Bataan death march to sue in the U.S. Court of Claims; to the Committee on the Judiciary.

DEATH MARCH SURVIVORS CLAIMS LEGISLATION

● Mr. DOMENICI. Mr. President, I am pleased and honored to have this opportunity to introduce legislation on behalf of those surviving American veterans held by the Japanese as prisoners-or-war following the Bataan death march.

All of us, I'm certain, are all too familiar with the accounts of this infamous 60-mile march in which approximately 1,000 American servicemen lost their lives. However, the accounts of the labor camps which proceeded this episode were just as terrible. Of the nearly 9,000 Americans who managed to survive the death march, more than half of them perished in Japanese camps where they were either starved or worked to death in the interest of Japanese companies who profited from slave labor.

The legislation I am sponsoring will allow the few remaining survivors of these labor camps to petition the claims court to determine whether or not reparations is due them by the Japanese companies in question. I do not believe these brave men who were treated so unjustly and so inhumanely should be denied this basic right.●

By Mr. JEPSEN:

S. 3002. A bill to require the Secretary of Agriculture under certain con-

ditions to establish a temporary program to reduce the effective interest rates paid by farmers and ranchers on agricultural operating loans made by legally organized lending institutions, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

TEMPORARY AGRICULTURAL INTEREST RATE REDUCTION ACT

Mr. JEPSEN. Mr. President, 12 days ago on September 6, I introduced the Agricultural Credit Assistance Act of 1984. That legislation is designed to aid financially stressed farmers, ranchers, and small agribusinesses through Government-assisted debt restructuring. I am confident, that when enacted, the Agricultural Credit Assistance Act of 1984 will help in the economic revitalization of tens of thousands of family farm and ranch operations and rural agribusinesses.

Economic recovery in agriculture, however, necessitates a combination of a financial shot-in-the-arm and financial stability. For without programs to promote financial stability, we are destined to repeat programs like those announced today by the President.

The legislation I introduce today, Mr. President, is designed to provide such financial stability. This legislation, the Temporary Agricultural Interest Rate Reduction Act of 1984, or, as I call it, Iowa Plan II, is a companion and complements the earlier Agricultural Credit Assistance Act of 1984.

This bill requires the Secretary of Agriculture to establish a temporary program to reduce the effective interest rates paid by farmers and ranchers on agricultural loans if, on March 1, 1985, operating loan interest rates are greater than 10 percent. The program will be in effect for 1 year; farmers are required to repay any assistance; and the Secretary of Agriculture is to prescribe eligibility requirements.

Mr. President, we are all hopeful that interest rates will decline to single digit levels within the next 6 months making it unnecessary to implement the bill I introduce today. But an ounce of financial prevention is worth a pound of financial cure. As President Reagan has noted and acknowledged, economic recovery lags in rural and agricultural America. While no sector of our economy or society is more resilient than agriculture, its inherent sacrificial limits are being tested. Our farmers and ranchers have led the fight in reducing the rate of inflation, they have created millions of jobs through their exports and their contribution to the stability of our society is beyond measurement. Passage of the bill I introduce today will give America's farmers and ranchers a much needed and desired renewal of hope and confidence.

I ask unanimous consent that a copy of the bill be printed in the RECORD at this point. Also I request that an outline of the plan be placed in the RECORD.

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

S. 3002

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 "Temporary Agricultural Interest Rate Reduction Act of 1984".

DEFINITIONS

SEC. 2. As used in this Act:

(1) The term "operating loan" means a loan made by a legally organized lending institution to a farmer or rancher for a term of not to exceed one year and for a purpose authorized for a loan under section 312(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1942(a)).

(2) The term "Secretary" means the Secretary of Agriculture.

AGRICULTURAL INTEREST RATE REDUCTION

SEC. 3. (a) If the Secretary determines on March 1, 1985, that the rate of interest on operating loans offered by legally organized lending institutions to farmers and ranchers is 10 percent or more, the Secretary shall, in accordance with this Act, establish a program to reduce the effective rate of interest paid by such farmers and ranchers on such loans.

(b) To be eligible to receive assistance under this section, a farmer or rancher must—

(1) incur indebtedness on an operating loan during the period beginning March 1, 1985, and ending March 1, 1986, for which the rate of interest is more than 10 percent per annum; and

(2) agree to repay such assistance to the Secretary, in accordance with such terms and conditions as the Secretary shall prescribe, the amount of any assistance provided under this Act.

(c) The amount of assistance provided under this section to a borrower of an operating loan shall be an amount necessary to reduce the effective rate of interest payable by such borrower on such loan to the greater of (1) 10 percent, or (2) the rate of interest payable on such loan less 5 percent.

(d) The Secretary may prescribe eligibility requirements for assistance under this Act, establish other terms and conditions for such assistance, determine the form of such assistance, and take such other actions as are necessary to carry out this Act.

THE "IOWA PLAN II" FOR REDUCED INTEREST RATES ON OPERATING LOANS

Iowa Plan II is legislation which requires the Secretary of Agriculture to prepare and present to the Congress by February 1, 1985 a program or programs which provides to farmers and ranchers interest payment assistance on operating loans if commercial interest rates are not at, or below, 10 percent on March 1, 1985. Should commercial interest rates be greater than 10 percent on March 1, 1985, the government shall implement a program to effectively "buy-down" those interest rates to a 10 percent level or a maximum of 5 percentage points, whichever is greater. (That is, if commercial operating loan interest rates on March 1, 1985 are 16 percent, the interest rate to be paid by the farmer would be 11 percent; if commercial interest rates are 13 percent, the interest rate to be paid by the farmer is 10 percent.) Farmers would be required to pay back any Federal assistance at some future time.

The specific mechanics of this program (qualifications, loan limits, payback provisions, etc.) will be determined by the Secretary of Agriculture.

An example: In March a farmer goes to his banker to secure a $100,000 operating loan. The market interest rate applicable to that loan on that day is 14 percent. As a result the farmer could expect to pay interest charges amounting to $14,000 a year. The effect of Iowa Plan II would have the government "buy-down" that interest rate from 14 percent to 10 percent thus reducing the farmer's annual interest payments from $14,000 to $10,000 improving the farmer's cash-flow position by $4,000. As virtually all operating loans are variable interest rate loans, this 10 percent rate will be allowed to increase but the original 4 percentage point differential would be maintained. (If interest rates go up from 14 percent to 14½ percent, the 10 percent rate will go up to 10½ percent.) If interest rates decline, however, the 10 percent rate will not be reduced proportionately. Should commercial rates actually decline to a 10 percent level, the government assistance will, of course, be terminated.

By Mr. THURMOND (for himself, Mr. BIDEN, and Mr. LAXALT) (by request):

S. 3003. A bill to strengthen and improve the operations of the U.S. Bureau of Prisons; to the Committee on the Judiciary.

CORRECTIONAL IMPROVEMENTS ACT

Mr. THURMOND. Mr. President, I am introducing today, at the request of the administration, the Correctional Improvements Act of 1984. The Ranking Minority Member of the Committee on the Judiciary, Senator JOSEPH R. BIDEN, Jr., and the Chairman of the Subcommittee on Criminal Law of the Judiciary Committee, Senator PAUL LAXALT, join me as original cosponsors of this legislation.

Most of the proposals in this measure have been previously developed in the context of the criminal code reform legislation or the comprehensive omnibus crime bills considered by the Senate in the 97th Congress and in this Congress. This proposal serves the purpose of presenting to the Congress a separate initiative limited to those problem areas unique to the Federal correctional system.

I ask unanimous consent that the bill be printed in the RECORD, along with the letter of submission from the Department of Justice and the section-by-section analysis, at the conclusion of my remarks.

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

S. 3003

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 "Correctional Improvements Act of 1984."

SEC. 2. Section 751 (a) of 18 United States Code is amended by inserting "is the result

of a finding of contempt pursuant to section 1826 of Title 28, United States Code," after "extradition or" and before "or by".

SEC. 3. Providing or possessing contraband in prison, summary seizure of same.

(a) Section 1791 of title 18, United States Code is amended to read as follows:

"1791. Providing or possessing contraband in prison.

"(a) OFFENSE.—A person commits an offense if, in violation of a statute, or a regulation, rule, or order issued pursuant thereto—

"(1) he provides, or attempts to provide, to an inmate of a Federal penal or correctional facility—

"(A) a firearm or destructive device;

"(B) any other weapon or object that may be used as a weapon or as a means of facilitating escape;

"(C) a narcotic drug as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802);

"(D) a controlled substance, other than a narcotic drug, as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802), or an alcoholic beverage;

"(E) United States currency; or

"(F) any other object; or

"(2) being an inmate of a Federal penal or correctional facility, he makes, possesses, procures, or otherwise provides himself with, or attempts to make, possess, procure, or otherwise provide himself with, anything described in paragraph (1).

"(b) GRADING.—An offense described in this section is punishable by—

"(1) imprisonment for not more than ten years, a fine of not more than $25,000, or both, if the object is anything set forth in paragraph (1)(A);

"(2) imprisonment for not more than five years, a fine of not more than $10,000, or both, if the object is anything set forth in paragraph (1)(B) or (1)(C);

"(3) imprisonment for not more than one year, a fine of not more than $5,000, or both, if the object is anything set forth in paragraph (1)(D) or (1)(E); and

"(4) imprisonment for not more than six months, a fine of not more than $1,000, or both, if the object is any other object.

"(c) DEFINITIONS.—As used in this section, 'firearm' and 'destructive device' have the meaning given those terms, respectively, in 18 U.S.C. 921(a) (3) and (4).

(b) Section 1792 of title 18, United States Code, is amended to read as follows:

"§ 1792. Mutiny and riot prohibited.

"Whoever instigates, connives, willfully attempts to cause, assists, or conspires to cause any mutiny or riot, at any Federal penal or correctional facility, shall be imprisoned not more than ten years or fined not more than $25,000, or both.";

(c) The analysis at the beginning of chapter 87 of title 18, United States Code, is amended to read as follows:

"CHAPTER 87"

"Sec."

"1791. Providing or possessing contraband in prison."

"1792. Mutiny and riot prohibited."

(d) Chapter 301 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 4012. Summary seizure and forfeiture of prison contraband.

"An officer or employee of the Bureau of Prisons may, pursuant to rules and regulations of the Director of the Bureau of Prisons, summarily seize any object introduced into a Federal penal or correctional facility or possessed by an inmate of such a facility in violation of a rule, regulation or order promulgated by the Director, and such object shall be forfeited to the United States."; and

(e) The analysis at the beginning of chapter 301 of title 18, United States Code, is amended by adding after the item relating to section 4011 the following:

"4012. Summary seizure and forfeiture of prison contraband."

SEC. 4. TRESPASS ON BUREAU OF PRISONS RESERVATIONS AND LAND.

(a) Chapter 87 of title 18, United States Code, is amended by inserting after section 1792 the following new section:

"§ 1793 Trespass on Bureau of Prisons Reservations and Land.

"Whoever willfully and knowingly, without lawful authority or permission or in violation of lawful regulation of the Attorney General, goes upon a reservation, land, or a facility of the Bureau of Prisons shall be fined not more than $500 or imprisoned not more than six months or both."

(b) The sectional analysis of Chapter 87, of title 18, United States Code is amended by adding after the item relating to section 1792 a new item to read as follows:

"§ 1793. Trespass on Bureau of Prisons reservations and land."

SEC. 5. ARREST AUTHORITY.

The first sentence of chapter 203, section 3050 of title 18, United States Code, is amended to read as follows:

"An officer or employee of the Bureau of Prisons of the Department of Justice may

"(1) execute a warrant for the arrest of a parolee;

"(2) make arrests on or off of Bureau of Prisons property without warrant for violations of the following provisions regardless of where the violation may occur: sections 111 (assaulting officers), 751 (escape), and 752 (assisting escape) of title 18, United States Code;

"(3) make arrests on Bureau of Prisons premises or reservation land of a penal or correctional facility without warrant for violations occurring thereon of the following provisons: sections 1361 (malicious mischief), 1363 (destruction of property), 1791 (contraband), 1792 (mutiny and riot), and 1793 (trespass) of title 18, United States Code; and

"(4) arrest without warrant for any other offense described in Titles 18 or 21 of the United States Code, if committed on the premises or reservation of a penal or correctional facility of the Bureau of Prisons if necessary to safeguard security, good order, or government property, and if he has reasonable grounds to believe that the arrested person is guilty of such offense, and if there is likelihood of his escaping before a warrant can be obtained for his arrest."

SEC. 6. CONTRACTING WITH PRIVATE ORGANIZATION.

Chapter 301, Section 4002 of title 18, United States Code, is amended by inserting "or with private organizations or entities," after "or political subdivision thereof," and before "for the imprisonment".

SEC. 7. DISCHARGE PAYMENTS.

Paragraph two of Chapter 315, Section 4281 of title 18, United States Code, shall be amended by deleting "$100" and inserting in lieu thereof "$500".

SEC. 8. AUTHORITY TO EXCHANGE INMATES WITH STATES.

Paragraph (a), Chapter 401, Section 5003 of title 18, United States Code, is amended to read as follows:

"(a) The Director of the Bureau of Prisons when proper and adequate facilities and personnel are available, is hereby authorized to contract with proper officials of a State, or Territory, or the Indian Tribes, for the custody, care, subsistence, education, treatment, and training of persons convicted of criminal offenses in the courts of such State or Territory: *Provided*, That any such contract shall provide

"(1) for reimbursing the United States in full for all costs or other expenses involved; or

"(2) for receiving in exchange persons convicted of criminal offenses in the courts of the United States, to serve their sentence in approprate institutions or facilities of the State or Territory by designation as provided in Section 4082(b) of this Title, this exchange to be made according to formulas or conditions which may be negotiated in the contract; or

"(3) for compensating the United States by means of a combination of monetary payment and of receipt of persons convicted of criminal offenses in the courts of the United States, according to formulas or conditions which may be negotiated in the contract."

SEC. 9. DONATIONS ON BEHALF OF THE BUREAU OF PRISONS.

(a) Chapter 303 of title 18, United States Code, is amended by inserting after section 4042 the following new sections:

"§ 4043. Donations on behalf of the Bureau of Prisons.

"The Attorney General may accept in the name of the Department of Justice any form of devise, bequest, gift or donation where the donor intends to donate property for use by the Bureau of Prisons or Federal Prison Industries, Inc. The Attorney General may take all appropriate steps to secure possession of such property and may sell, assign, transfer, or convey such property other than money.

"§ 4044. Accepting Voluntary Services.

(a) Notwithstanding section 1342 of Title 31, the Bureau of Prisons may accept voluntary service for the United States if the service

(1) is to be uncompensated; and

(2) will not be used to displace any employee.

(b) Any person who provides voluntary service under subsection (a) of this section shall not be considered a Federal employee for any purpose other than for purposes of chapter 81 of this title (relating to compensation for injury) and section 2671 through 2680 of title 28 (relating to tort claims).

"§ 4045. Authority to Conduct Autopsies.

"A chief executive officer of a federal penal or correctional facility may, pursuant to rules and regulations of the Director, order an autopsy and related scientific or medical tests to be performed on the body of a deceased inmate of the facility in the event of homicide, suicide, fatal illness or accident, or unexplained death when it is determined that such autopsy or test is necessary to detect a crime, maintain discipline, protect the health or safety of other inmates, remedy official misconduct, or defend the United States or its employees from civil liability arising from the administration of the facility. To the extent consist-

ent with the needs of the autopsy or of specific scientific or medical tests, provisions of local law protecting religious beliefs with respect to such autopsies shall be observed. Such officer may also order an autopsy or other post-mortem operation, including removal of tissue for transplanting, to be perfomed on the body of a deceased immate of the facility, with the written consent of a person authorized to permit such an autopsy or post-mortem operation under the law of the State in which the facility is located."

(b) The sectional analysis of chapter 303, of title 18, United States Code is amended by adding after the item relating to 4042 the following new items:

"4043. Donations on Behalf of the Bureau of Prisons."

"4044. Accepting Voluntary Services."

"4045. Authority to Conduct Autopsies."

U.S. DEPARTMENT OF JUSTICE,
OFFICE OF LEGISLATIVE AND INTERGOVERNMENTAL AFFAIRS,
Washington, DC, August 9, 1984.

The VICE PRESIDENT,
U.S. Senate,
Washington, DC.

DEAR MR. VICE PRESIDENT: Enclosed for your consideration and appropriate reference is a legislative proposal entitled the "Correctional Improvements Act of 1984," which would amend Title 18, United States Code, to strengthen and make more efficient the operations of the Federal Bureau of Prisons (BOP).

Today, the BOP operates an integrated system of 43 institutions ranging from minimum security camps to maximum security penitentiaries, which provide custody and programs based on the individual needs of offenders.

The primary responsibility of the BOP is to humanely incarcerate individuals who have committed Federal offenses, while trying to strike a balance which recognizes that retribution, deterrence, incapacitation and rehabilitation are all valid reasons for incarceration.

Within the limits which resources allow, the BOP is constantly developing as a professional, effective service. However, from an operational and management perspective, there are a few problem areas which continually disrupt the operations and/or create needless friction in the system. The enclosed proposal is directed to these issues.

While most of these recommendations have been previously endorsed in the context of either criminal code reform legislation of the past or the present Administration omnibus crime bill, the legislative proposal submitted herewith represents a comprehensive separate initiative directed at rectifying those problem areas unique to the Federal Prison System.

Attached is a copy of the draft bill with a section-by-section analysis. Your prompt and favorable consideration of this legislative proposal is strongly recommended.

The Office of Management and Budget has advised this Department that there is no objection to the submission of this draft bill to the Congress and that its enactment would be consistent with the Administration's program.

Sincerely,

ROBERT A. MCCONNELL,
Assistant Attorney General.

Enclosures.

SECTIONAL ANALYSIS

Section 2.—Escape From Civil Contempt:

The purpose of this amendment is to broaden the definition of escape to include persons in custody as a result of findings of contempt under Section 28 U.S.C. 1826 in addition to those already covered under 18 U.S.C. 401. A similar provision was passed by the Senate in S. 1762 Title X, part L (Section 1013) on February 2, 1984.

Section 3.—Providing or Possessing Contraband in Prison; Summary Seizure of Same:

Section 3(a) amends 18 USC 1791 to establish the offense of possession of contraband in prison and does away with the previous requirement that it be introduced so that an inmate's attempt to make, procure, or possess contraband will consititute the offense. It also incorporates from 18 USC 1791 the possession or conveyancing of weapons in prison. The absolute sentence of 10 years imprisonment is eliminated and a graduated scale established based on severity.

Section 3(b) amends 18 USC 1792 to deal only with the instigation of a mutiny or riot at a Federal penal or correctional facility and provides for a sentence of up to 10 years or a $25,000 fine or both. The provisions about conveying weapons is eliminated because it is now covered in subsection (a)'s amendment to 18 USC 1791.

Section 3(c) amends the sectional analysis to include the new code sections.

Section 3(d) creates a new code section to be found at 18 U.S.C. 4012 which clearly authorizes the forfeiture and seizure of contraband items found in the possession of prisoners.

Section 4.—Trespass on Bureau of Prisons Reservation and Land:

Currently there is no provision to prosecute those who trespass on Bureau of Prisons property unless they do some damage pursuant to 18 U.S.C. 1361. This provision would allow for arrest, prosecution and punishment of those who willfully and knowingly trespass and threaten the orderly operation of Bureau of Prisons facilities.

Section 5.—Arrest Authority:

This proposed version of 18 USC § 3050 will give Federal Bureau of Prisons' employees the authority to arrest off of Bureau of Prisons property only in cases where an officer is assaulted, and when there is an escape or someone assists in an escape. This would authorize any officer transporting an inmate to arrest the parties involved in any assault or escape occurring in his presence. The balance of the arrest authority is confined to Federal Bureau of Prisons property for actions such as damage to property, trespass, contraband and disruptive type violations. All such violations require arrest authority and have been the subject of confusion in the past due to jurisdictional questions arising on the federal reservation properties between local law enforcement and the Federal Bureau of Investigation. This granting of a limited arrest authority when necessary to protect security or government property or to insure the orderly operation of Bureau facilities will avoid any future problems occasioned by the unavailability of a local FBI agent.

Section 6.—Contracting with Private Organizations:

The Bureau of Prisons has broad authority under 18 U.S.C. 4042 to designate any suitable facility for service of sentence, including private facilities (e.g., privately run community treatment centers) for concurrent service of sentence. This amendment expands contracting authority to the same extent. While we believe current law authorizes this, it is desirable to resolve any doubt by clarifying legislation. Private contracting is an important option for an expanding prison population and special needs of some offenders.

Section 7.—Discharge Payments:

The present gratuity carries a maximum of $100. While a gratuity even approaching $500 will be rare, it is desirable for staff to have this discretion to make higher awards for deserving inmates with special needs. The dollar amount was last amended in 1962. Five-hundred dollars was the amount in the Department's Revised Criminal Code, in the version which passed the Senate.

Section 8.—Authority to Exchange Inmates with States:

The current law requires reimbursement of the United States in full for all costs and expenses of boarded state prisoners, and precludes such flexible arrangements as prisoner exchanges, which this proposal would allow.

Section 9.—Donations on Behalf of the Bureau of Prisons:

From time to time, federal institutions receive offers of property donations from nongovernment sources. In the past the Bureau of Prisons has had requests from institutions to authorize them to accept offers of such items as pianos, clothing, library books, automobiles for inmate vocational training, and other similar items.

Currently, there is no authority to accept donated property. There is a Comptroller General's decision (36 C.G. 268, October 2, 1956) which included the following statement: "It is well established that in the absence of specific legislation, there is no authority for an official of the government to accept on behalf of the United States voluntary donations or contributions to augment appropriations."

The Attorney General is authorized by 31 U.S.C. § 725s–4 to accept gifts or bequests of money for credit to the "Commissary funds Federal Prisons," but this does not cover items of property. This proposed 18 U.S.C. § 4043 would authorize the Attorney General to accept gifts on behalf of the Bureau of Prisons, and to utilize these gifts as deemed best.

Accepting Voluntary Services:

Under present law, the Bureau of Prisons lacks authority to accept voluntary and uncompensated services (31 U.S.C. 665(b)). Highly qualified members of the community are willing to provide education, training, counseling and other services to federal prisoners on a voluntary basis. Under proposed § 4044, the Bureau could improve correctional programs, with considerable savings, if specifically enabled to accept such services.

Authority to Conduct Autopsies:

Federal authority in this area, as provided by proposed § 4045, would fill a void whenever an incarcerated person dies under circumstances which warrant autopsy. Generally, the laws of the states where Federal facilities are located provide by statute for autopsy without consent of next of kin where circumstances of death warrant the examination. Although local authorities usually are cooperative and will conduct autopsies, local laws are not in fact applicable to exclusive Federal reservations. We have encountered difficulty in obtaining autopsies where they were needed in some instances.

By Mr. HUDDLESTON (for himself and Mr. FORD):

S. 3005. A bill to designate the Federal Building and United States Courthouse in Ashland, Kentucky, as the "Carl D. Perkins Federal Building and

United States Courthouse"; to the Committee on Environment and Public Works.

CARL D. PERKINS FEDERAL BUILDING AND U.S. COURTHOUSE

Mr. HUDDLESTON. Mr. President, I am today, along with my distinguished colleague Senator FORD, introducing legislation to designate the new Federal building and U.S. courthouse in Ashland, KY, as the "Carl D. Perkins Federal Building and United States Courthouse." The House today unanimously passed identical legislation.

Mr. President, no monument, no structure, no temporal symbol can adequately reflect the love and respect all of us shared for Carl Perkins. The truest monument to his life and work will be the manner in which he shaped the direction of our Nation. One measure of the moral fiber of a nation is the manner in which it treats its least fortunate citizens. By this measure, Carl Perkins was our Nation's conscience.

Yet as he molded the legislation of the war on poverty, as he shepherded into law the education, nutrition, and economic programs that have become an integral part of our social fabric, he always remained the U.S. Representative from the Seventh District of Kentucky.

While he worked on writing laws that would make dramatic changes in our American society, he returned home every week to Knott County. He was never too busy to talk to a constituent and to offer a personal helping hand. No problem in the Seventh Congressional District of Kentucky was too small to warrant his personal attention.

Carl Perkins always viewed the world and the Nation from the vantage point of his mountain home, knowing in the most intimate way that the problems of his constituents were the problems of the Nation.

Memorials have been erected in Washington to lesser men than Carl Perkins. But if there is to be a memorial at all, beyond his mark on our society, Carl Perkins would have wanted it to be in eastern Kentucky.

Thus, I urge the Environment and Public Works Committee to adopt this legislation at the earliest possible date.

Mr. FORD. Mr. President, I rise in support of a bill my distinguished colleague, Senator WALTER (DEE) HUDDLESTON, and I are introducing today in honor of the late Carl D. Perkins, who represented Kentucky's Seventh Congressional District in the U.S. House of Representatives for nearly 36 years before his death August 3, 1984.

H.R. 6255, which passed the House by unanimous consent this morning, would designate the Federal building and U.S. courthouse in Ashland, KY, as the "Carl D. Perkins Federal Building and United States Courthouse." Our bill is identical to that.

I cannot stress how appropriate this gesture would be. Carl Perkins represented the mountain hollows, the towns and cities like Ashland with a devotion and affection of near-legendary proportions. He loved his people, and never stopped fighting for them.

Those of us who had the privilege of serving with Congressman Perkins know of his unyielding dedication to improving the quality of life, both in Appalachia and around the Nation.

Children across America have been able to rise above the poverty and deprivation of their surroundings through some of the educational programs which he fought long and hard for, particularly vocational training.

As a member, and later chairman, of the House Education and Labor Committee, Representative Perkins was a key force behind the Elementary and Secondary Education Act of 1965, which created remedial help for disadvantaged children and provided aid for school libraries.

He was also one of the fathers of the Appalachian Regional Commission, which has helped some of the poorest sections of eastern Kentucky and other States obtain badly needed hospitals and roads.

But Carl Perkins never forgot where he came from. He went home often, sometimes traveling the backroads of his district, chatting with—and listening to—his constituents.

Such commitment is not easily forgotten. And recognition of Carl Perkins, through passage of this bill, would be a fitting tribute to his strength and character.

I urge the Committee on Environment and Public Works to take immediate action on this legislation.

Mr. KENNEDY. Mr. President, it is an honor for me to join in supporting this richly deserved tribute to Carl Perkins.

No one who knew Carl Perkins will ever forget him. He was a giant of the Kentucky earth, and all of us in Congress who respected his genius and valued his friendship will miss him dearly. He was especially close to both my brothers, and his loss was deeply mourned by all the members of my family.

Carl Perkins had a unique ability to touch the conscience of Congress and the country. His legacy of excellence will endure so long as Americans anywhere carry on his lifelong struggle against the ancient evils of poverty, ignorance, and disease. And this legislation will, in some small measure, create a lasting monument to his memory and a reminder of his good works to the generations yet to come.

By Mr. TRIBLE (for himself and Mr. WARNER):

S. 3007. A bill to require cost-benefit analysis of a Government program of furnishing workday-care benefits for dependent children of Federal employees; to the Committee on Governmental Affairs.

FEDERAL EMPLOYEES' DAY CARE BENEFITS STUDY ACT

Mr. TRIBLE. Mr. President, in the last three decades, American society has undergone a striking transformation. There has been a dramatic increase in the number of families whose adult members work outside the home.

In 1950, fathers worked and mothers stayed at home raising children in 88 percent of American families. However, this has become less and less typical as a growing number of households are headed by single parents and as more and more women pursue careers outside the home.

1970 census figures revealed that 21 percent of women with children under age 6 worked and 50 percent of women with children between age 6 and 17 were employed. By 1980, 45 percent of mothers with children under age 6 and nearly 63 percent of mothers with school age children worked outside the home. And, by 1982, the proportion of mothers with children under age 6 working outside the home increased to 50 percent.

This significant trend is expected to continue. Predictions are that by 1990, two out of three mothers will be in the labor force; 50 percent of mothers with children under age 6 will be employed—an 80-percent increase since 1970. By the end of the decade, one in every four children under age 10 will be in a single-parent household with that parent either employed or looking for work.

Clearly, women and single parents have become an important factor in the workplace and their requirements and those of their families must be recognized. For working parents, child-care benefits may be at least as important as other more traditional employment benefits such as health insurance or retirement plans. Employers wishing to recruit or retain quality personnel will find child-care benefits to be increasingly important.

Recognizing this, the White House Office of Private Sector Initiatives has established a program to inform businesses or employer options for working families and of the tax and productivity advantages of child-care benefits.

A growing number of employers now provide child-care benefits and have realized substantial savings in doing so. Reduced employee turnover, reduced subsequent training costs, higher retention, less absenteeism, and lower tardiness lead to lower business cost. Research shows that for every $1 invested in a child-care benefit, the

employer received anywhere from $4 to $20 return on the investment. Nonprofit organizations can also realize cost savings. A recent case study of a nonprofit organization identified a $3 to $1 investment return for offering child-care benefits.

Mr. President, if substantial savings are realized by the private sector, it is probable that similar savings could be made by the Federal Government. Therefore, I am introducing legislation today which would authorize the General Accounting Office to conduct a cost/benefit analysis on offering child-care benefits to Government workers.

I believe that as the Nation's largest employer, the Federal Government should investigate the possibility of providing child-care benefits for its employees and cost savings for taxpayers. This study would consider child-care benefit options which provide the best investment for the Government and taxpayer, while meeting with the needs of employees and their families.

The Senior Executive Association, Federal Managers' Association, Federal-employed women, and the Professional Managers Association support this study and I urge my colleagues to do so as well.

ADDITIONAL COSPONSORS

S. 1407

At the request of Mr. EXON, the name of the Senator from Wisconsin [Mr. KASTEN] was added as a cosponsor of S. 1407, a bill to protect purchasers of used automobiles from fraudulent practices associated with automobile odometer modifications, and for other purposes.

S. 2139

At the request of Mr. HEINZ, the name of the Senator from North Carolina [Mr. HELMS] was added as a cosponsor of S. 2139, a bill to improve the operation of the countervailing duty, antidumping duty, import relief, and other trade laws of the United States.

S. 2339

At the request of Mr. INOUYE, the name of the Senator from Alabama [Mr. HEFLIN] was added as a cosponsor of S. 2339, a bill to amend titles XVIII and XIX of the Social Security Act to provide that the services of a mental health counselor shall be covered under part B of medicare and shall be a required service under medicaid.

S. 2407

At the request of Mr. PROXMIRE, the name of the Senator from Illinois [Mr. DIXON] was added as a cosponsor of S. 2407, a bill to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to establish certain requirements with respect to hazardous substances released from Federal facilities, and for other purposes.

S. 2456

At the request of Mr. BRADLEY, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 2456, a bill to establish a commission to study the 1932-33 famine caused by the Soviet Government in Ukraine.

S. 2751

At the request of Mr. KASTEN, the names of the Senator from Indiana [Mr. QUAYLE], the Senator from Illinois [Mr. PERCY], the Senator from Michigan [Mr. LEVIN], and the Senator from Illinois [Mr. DIXON] were added as cosponsors of S. 2751, a bill to provide for coordinated management and rehabilitation of the Great Lakes, and for other purposes.

S. 2821

At the request of Mr. STEVENS, the name of the Senator from Minnesota [Mr. DURENBERGER] was added as a cosponsor of S. 2821, a bill to amend title 5, United States Code, to improve protections for former spouses of Government officers and employees under the Civil Service retirement system and the Federal Employees Health Benefits Program, and for other purposes.

S. 2894

At the request of Mr. MELCHER, the name of the Senator from Pennsylvania [Mr. SPECTER] was added as a cosponsor of S. 2894, a bill to amend the Internal Revenue Code of 1954 to clarify the application of the imputed interest and interest accrual rules in the case of sales of residences, farms, and real property used in a trade or business.

S. 2946

At the request of Mr. D'AMATO, the names of the Senator from Montana [Mr. MELCHER], the Senator from Arizona [Mr. GOLDWATER], the Senator from Illinois [Mr. DIXON], the Senator from Mississippi [Mr. COCHRAN], the Senator from Indiana [Mr. LUGAR], and the Senator from Minnesota [Mr. BOSCHWITZ] were added as cosponsors of S. 2946, a bill to require the Secretary of Health and Human Services to coordinate and support research concerning Alzheimer's disease and related disorders, and for other purposes.

S. 2959

At the request of Mr. BRADLEY, the name of the Senator from Maine [Mr. COHEN] was added as a cosponsor of S. 2959, a bill to reauthorize the Superfund and for other purposes.

S. 2982

At the request of Mr. DIXON, the name of the Senator from Michigan [Mr. RIEGLE] was added as a cosponsor of S. 2982, a bill to correct imbalances in certain States in the Federal tax to Federal benefit ratio by reallocating the distribution of Federal spending.

S. 2995

At the request of Mr. MOYNIHAN, the name of the Senator from Florida [Mr. CHILES] was added as a cosponsor of S. 2995, a bill to amend the Tax Reform Act of 1984 to provide a transitional rule for the tax treatment of certain air travel benefits provided to employees of airlines.

SENATE JOINT RESOLUTION 5

At the request of Mr. THURMOND, the name of the Senator from Nebraska [Mr. EXON] was added as a cosponsor of Senate Joint Resolution 5, a joint resolution proposing an amendment to the Constitution relating to Federal budget procedures.

SENATE JOINT RESOLUTION 97

At the request of Mr. D'AMATO, his name was added as a cosponsor of Senate Joint Resolution 97, a joint resolution to authorize the erection of a memorial on public grounds in the District of Columbia, or its environs, in honor and commemoration of members of the Armed Forces of the United States and the allied forces who served in the Korean war.

SENATE JOINT RESOLUTION 277

At the request of Mr. THURMOND, the name of the Senator from Michigan [Mr. LEVIN] was added as a cosponsor of Senate Joint Resolution 277, a joint resolution to authorize the Armed Force Monument Committee, the U.S. Armor Association, the World Wars Tank Corps Association, the Veterans of the Battle of the Bulge, and the 1st, 4th, 8th, 9th, 11th, 14th, and 16th Armored Division Associations jointly to erect a memorial to the "American Armored Force" on U.S. Government property in Arlington, VA, and for other purposes.

SENATE JOINT RESOLUTION 351

At the request of Mr. SASSER, the name of the Senator from Illinois [Mr. DIXON] was added as a cosponsor of Senate Joint Resolution 351, a joint resolution designating the week beginning February 17, 1985, as a time to recognize volunteers who give their time to become Big Brothers and Big Sisters to youth in need of adult companionship.

SENATE JOINT RESOLUTION 352

At the request of Mr. DANFORTH, the names of the Senator from Illinois [Mr. DIXON], and the Senator from Hawaii [Mr. INOUYE] were added as cosponsors of Senate Joint Resolution 352, a joint resolution designating October 1984 as "National Head Injury Awareness Month."

SENATE CONCURRENT RESOLUTION 101

At the request of Mr. D'AMATO, the name of the Senator from Massachusetts [Mr. TSONGAS] was added as a cosponsor of Senate Concurrent Resolution 101, a concurrent resolution to commemorate the Ukrainian famine of 1933.

SENATE CONCURRENT RESOLUTION 120

At the request of Mrs. HAWKINS, the name of the Senator from Ohio [Mr. GLENN] was added as a cosponsor of

Senate Concurrent Resolution 120, a concurrent resolution expressing the sense of the Congress that the legislatures of the States should develop and enact legislation designed to provide child victims of sexual assault with protection and assistance during administrative and judicial proceedings.

SENATE CONCURRENT RESOLUTION 139

At the request of Mr. ROTH, the name of the Senator from New Jersey [Mr. BRADLEY] was added as a cosponsor of Senate Concurrent Resolution 139, a concurrent resolution condemning South Africa's arrests and detentions of political opponents.

SENATE RESOLUTION 139

At the request of Mr. ZORINSKY, the name of the Senator from Oregon [Mr. HATFIELD] was added as a cosponsor of Senate Resolution 139, a resolution disapproving the recommendation of the Study Group on Senate Practices and Procedures to abolish the Senate Committee on Veterans' Affairs.

SENATE RESOLUTION 410

At the request of Mr. BOREN, his name was added as a cosponsor of Senate Resolution 410, a resolution to designate the week of October 14, 1984, through October 20, 1984, as "National Honey Week."

SENATE RESOLUTION 431

At the request of Mr. DIXON, the name of the Senator from Arizona [Mr. DECONCINI] was added as a cosponsor of Senate Resolution 431, a resolution relating to Canadian pork imports.

SENATE RESOLUTION 436

At the request of Mr. PELL, the names of the Senator from Maine [Mr. MITCHELL], the Senator from Maine [Mr. COHEN], the Senator from Maryland [Mr. MATHIAS], the Senator from Maryland [Mr. SARBANES], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Minnesota [Mr. BOSCHWITZ], the Senator from Alabama [Mr. DENTON], the Senator from Indiana [Mr. QUAYLE], the Senator from Kentucky [Mr. FORD], the Senator from Massachusetts [Mr. KENNEDY], the Senator from Iowa [Mr. JEPSEN], the Senator from New Mexico [Mr. DOMENICI], the Senator from North Carolina [Mr. EAST], the Senator from New Hampshire [Mr. HUMPHREY], the Senator from Mississippi [Mr. STENNIS], the Senator from Pennsylvania [Mr. HEINZ], the Senator from South Carolina [Mr. THURMOND], the Senator from Tennessee [Mr. SASSER], the Senator from Utah [Mr. HATCH], and the Senator from Virginia [Mr. TRIBLE] were added as cosponsors of Senate Resolution 436, a resolution to commemorate the 100th anniversary of the Naval War College in Newport, RI.

SENATE RESOLUTION 440

At the request of Mr. BOREN, the names of the Senator from Louisiana [Mr. LONG], and the Senator from North Dakota [Mr. ANDREWS] were added as cosponsors of Senate Resolution 440, a resolution to express the sense of the Senate that the President should immediately notify the Soviet Union that additional purchases of U.S. grain, above the maximum level specified in the Long-Term Grain Agreement, may be made by the Soviet Union during the second year of the agreement and to seek to modify the agreement by establishing higher minimum and maximum supply guarantees.

SENATE CONCURRENT RESOLUTION 144—AUTHORIZING USE OF THE CAPITOL ROTUNDA IN CONNECTION WITH THE CEREMONIES OF INAUGURATION

Mr. MATHIAS submitted the following concurrent resolution; which was referred to the Committee on Rules and Administration:

S. CON. RES. 144

Resolved by the Senate (the House of Representatives concurring), That the rotunda of the United States Capitol is hereby authorized to be used on January 21, 1985, by the Joint Congressional Committee on Inaugural Ceremonies in connection with the proceedings and ceremonies conducted for the inauguration of the President-elect and the Vice President-elect of the United States. Such Committee is authorized to utilize appropriate equipment and the services of appropriate personnel, of departments and agencies of the Federal Government, under arrangements between such Committee and the heads of such departments and agencies, in connection with such proceedings and ceremonies.

SENATE RESOLUTION 445—ORIGINAL RESOLUTION REPORTED WAIVING CONGRESSIONAL BUDGET ACT

Mr. HELMS, from the Committee on Agriculture, Nutrition, and Forestry, reported the following original resolution; which was referred to the Committee on the Budget:

S. RES. 445

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of H.R. 5076, a bill to designate certain areas in the Allegheny National Forest as wilderness and recreation areas.

The waiver of section 402(a) is necessary to permit consideration of provisions authorizing the enactment of new budget authority to acquire lands and interests in lands, including oil, gas, and other mineral interests, in the areas designated as wilderness by the bill.

SENATE RESOLUTION 446—ORIGINAL RESOLUTION REPORTED WAIVING CONGRESSIONAL BUDGET ACT

Mr. HELMS, from the Committee on Agriculture, Nutrition, and Forestry, reported the following original resolution; which was referred to the Committee on the Budget:

S. RES. 446

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of H.R. 5221, an Act to extend through September 30, 1988, the period during which amendments to the United States Grain Standards Act contained in section 155 of the Omnibus Budget Reconciliation Act of 1981 remain effective, and for other purposes.

The waiver of section 402(a) of the Congressional Budget Act of 1974 is necessary to permit Senate consideration of H.R. 5221, since the bill was not reported on or before May 25, 1984, as required under section 402(a) of the Congressional Budget Act of 1974. H.R. 5221, among other things, authorizes the enactment of new budget authority for fiscal year 1985 to carry out the United States Grain Standards Act.

AMENDMENTS SUBMITTED

APPLICATION OF IMPUTED INTEREST AND INTEREST ACCRUAL RULES IN CERTAIN SALES

MELCHER AMENDMENTS NOS. 4253 AND 4254

(Ordered referred to the Committee on Finance.)

Mr. MELCHER submitted two amendments intended to be proposed by him to the bill (S. 2894) to amend the Internal Revenue Code of 1954 to clarify the application of the imputed interest and interest accrual rules in the case of sales of residences, farms, and real property used in a trade or business; as follows:

AMENDMENT No. 4253

At the end of the bill, add the following new Section.

SEC. 3. CLARIFICATION THAT 1984 AMENDMENTS NOT TO APPLY TO ASSUMPTIONS OF PRE-EFFECTIVE DATE LOANS.

Notwithstanding any other provision of law, sections 1274 and 483 of the Internal Revenue Code of 1954, as amended by the Tax Reform Act of 1984, shall not apply to any debt instrument by reason of an assumption of such instrument.

AMENDMENT No. 4254

On page 4, strike out lines 23 through 25 and on page 5, strike out lines 1 and 2 and insert in lieu thereof the following:

"(A) SALES OF FARMS AND REAL PROPERTY USED IN A TRADE OR BUSINESS.—Any debt instrument arising from the sale or exchange of property to which paragraph (2)(b) or (C) of Section 483(e) applies."

On page 5, insert between lines 2 and 3 the following:

"(C) Subparagraph (B) of section 1274(c)(4) (relating to sales of principal residences) is amended to read as follows:

"(B) SALE OF PRINCIPAL RESIDENCE.—Any debt instrument arising from the sale or exchange of any property used as the princi-

pal residence of the obligor under such instrument."

Mr. MELCHER. Mr. President, it is a good thing that some of the proposals in the recently passed Tax Act will not go into effect until January 1. That gives us a chance to head off the most devastating of some of those proposals.

Mr. President, today I am offering two amendments to S. 2894, my bill to amend the treatment of the sale or exchange of real property under the new original issue discount and imputed interest rules of the 1984 Tax Act.

The first amendment will insure that the changes made to original issue discount and imputed interest rules in the 1984 Tax Act will not apply to any debt instrument by reason of assumption of such instrument. A Washington Post article of September 15, 1984 stated that "Treasury officials confirmed last week that, as of next January 1, any real estate investment sale or exchange involving assumption of an existing mortgage and a sale price for the property of $250,000 or more will be subject to the government's controversial new rules on 'imputed interest'."

Mr. President, it is those new rules on imputed interest that we must head off because they are devastating to the future of our economy. I am sure we will have an opportunity during the next couple of weeks before we adjourn to make the corrections that are necessary.

I do not believe that it was, or is, the Senate's intent that assumable loans for real property should have their interest rates pushed as high as 15 percent in order to avoid the seller paying an even higher tax penalty. This is just one more example of the problems caused by the new OID and imputed interest rate rules. My first amendment to S. 2894 will insure that assumed loans will not be hit by these new rules.

Mr. President, I ask unanimous consent that the entire Washington Post article by Mr. Harney be printed in the record at this point.

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

[From the Washington Post, Sept. 15, 1984]

"IMPUTED INTEREST" RULES HIT INVESTOR LOAN ASSUMPTIONS

(By Kenneth R. Harney)

Real estate investors who didn't read the fine print of the 1984 tax legislation have a new financial worry looming on the horizon.

Treasury officials confirmed last week that, as of next Jan. 1, any real estate investment sale or exchange involving assumption of an existing mortgage and a sale price for the property of $250,000 or more will be subject to the government's controversial new rules on "imputed interest."

Top tax lawyers and accountants say the net effect will be to extend the Treasury's tax arm into far larger numbers of real estate transactions than originally thought.

One prominent Philadelphia accountant, Steven A. Braun of Alexander Grant & Co., called the coming new system a "rolling financial disaster" for thousands of unsuspecting, often-small-scale owners and buyers of investment real estate.

It will mean, for example, that the seller of a relatively modest-sized rental property carrying 9 or 10 percent bank financing probably will have to take a lower price in 1985 than he or she expected to get.

It also will mean that purchasers of anything from rental condominiums to office buildings will be hit by a stark reality: They no longer will be able to take over someone else's attractive cut-rate mortgage and write off depreciation deductions based on the full, negotiated contract price of the property. Instead, they will be faced with an unpleasant choice: either to disregard the favorable financing attached to the piece of real estate they're buying and offer a rock-bottom price to the seller, or simply to buy real estate that comes with no cut-rate financing entanglements whatsoever—if they can afford today's high market rates.

Here's what's behind the latest flap over imputed interest, and what it means for buyers and sellers planning to use loan assumptions.

A key section of the 1984 tax legislation sought to clear up the often-fluid relationship between the price paid for real estate and the nature of the financing offered by sellers in connection with the sale.

A purchaser of a small rental property, for instance, might have been willing earlier this year to pay $300,000 for the building if the seller offered no special help with the mortgage or deed of trust. The same purchaser, however, might have been willing to pay $375,000 if the seller agreed to "take back" a note at a discount rate—say a 10 percent mortgage for the next 10 years.

Buyers and sellers found the traditional system of negotiating price and financing to be a highly flexible, valuable way of balancing their respective interests. The Treasury Department, however, didn't like the traditional system, and convinced Congress to restrict it severely starting next January.

The Treasury objected to the tax consequences of seller-financed real estate deals. In the case of the $300,000 rental property that should sell for $375,000, for instance, the seller pocketed an extra $75,000 in capital gains by offering cut-rate financing.

The purchaser also made out well: He or she got to depreciate the property using a price level $75,000 higher than it otherwise would have been.

The buyer and seller both profited, but the government lost revenue in the process, Treasury argued. The $75,000 "extra" price should be recharacterized as interest income on the seller's ledger, taxable at regular income-tax rates, not capital-gains rates, Treasury said.

The $75,000 also should be chopped off the depreciation basis or tax cost reported by the buyer. The $75,000 was for interest on the seller's take-back note, not for brick and mortar, Treasury's lobbyists argued.

They said that, to calculate the "true" financing and bricks-and-mortar costs in a seller-assisted deal such as this in the future, the mortgage financing should be subjected to the following test: The true cost of money in the sale should be 110 percent of the average rate on long-term Treasury securities (which works out to about 15 percent at current rate levels). If a sale carries a rate below the federally mandated minimum, however, the government should define the true rate in the deal even more harshly. For income-tax purposes, the government should say the seller received interest payments at 120 percent of the federal rate—closer to 16 percent.

The Treasury convinced Congress to write all this into the 1984 tax legislation. Real estate investors have been unhappy about it for the past two months.

What large numbers of them haven't realized yet, according to tax experts at the National Reality Committee, is that, in the closing hours of the tax bill negotiations on Capitol Hill last summer, Treasury lobbyists inserted language expanding the scope of the rules beyond traditional seller financing.

The imputed-interest rules will cover "assumptions of obligations to third-party lenders" after Dec. 31, 1984, said the final draft of the House-Senate conference committee report on the law, "even though such obligations were first issued prior to that date."

Translated from legalese, that means: All those attractive, low-interest assumable mortgages on investment real estate won't be worth their weight in gold anymore, once the clock hits midnight next New Year's Eve.

The only potential bright spot on the horizon is Treasury's forthcoming regulations, which may offer more lenient application of the law to sellers and third-party lenders than to purchasers in real estate transactions involving loan assumptions.

Sellers and third-party lenders with existing mortgages, for example, might be able to compute their capital-gain and income-tax liabilities in 1985 just as they would have before the 1984 tax law went into effect. Buyers of investment properties, on the other hand, will be subject to the full force of the 1984 changes.

Most sellers of homes, by the way, won't run afoul of these complex new provisions unless their property is selling for more than $250,000 and has assumable cutrate financing. Then the new imputed interest system will apply proportionally to that part of the sales price in excess of $250,000.

Mr. MELCHER. The second amendment eliminates the taxing of "phantom income" under the new original issue discount rules in the 1984 Tax Act.

My continuing examination of the imputed interest rate and original issue discount rules enacted in June found that the 1984 Tax Act creates a tax liability for some sellers of property before the seller actually receives the income on which the tax is imposed and before he or she receives cash to pay the tax. S. 2894 eliminates this taxing of "phantom income" in the resale of residential property. However, the seller of newly-built homes would still be subject to the taxing of income they simply have not received. There is no mismatching of deductions and income between the buyer and seller in this situation because the buyer of a principal residence cannot depreciate it or take investment tax credits. Nor can the builder qualify for capital gains treatment of income under the tax code. Rather than remedying a tax inequity in the cases of sales of new homes, the 1984 Tax Act itself creates an inequity

because the seller will be taxed on income that has not been received while the buyer will not be allowed any deduction at all for the payment made to the seller.

The amendment I am submitting today remedies this defect in the 1984 Tax Act by removing the "phantom income" provisions on any debt instrument arising from the sale or exchange of principal residences of the obligor under the instrument.

OMNIBUS TRADE ACT

GLENN AMENDMENT NO. 4255

Mr. GLENN proposed an amendment to the bill (H.R. 3398) to change the tariff treatment with respect to certain articles, and for other purposes; as follows:

On page 23 of the matter proposed to be inserted, after the matter between lines 6 and 7, insert the following:

SEC. . CERTAIN METAL UMBRELLA FRAMES.

Subpart B of part 1 of the Appendix is amended by inserting in numerical order the following new item:

"917.45	Frames for hand-held Unbrellas chiefly used for protection against rain (provided for in item 751.20 part AA schedule 7).	Free.....	No charge.	On or before 6/30/81".

BENTSEN AMENDMENT NO. 4256

Mr. BENTSEN proposed an amendment to the bill H.R. 3398, supra; as follows:

AMENDMENT NO. 4256

Strike from page 34, line 27 through page 36, line 8 of Danforth amendment No. 4244 and insert a new Section 243 as follows:

"SEC. 243. ENFORCEMENT OF ARRANGEMENT ON EUROPEAN COMMUNITY EXPORT OF PIPES AND TUBES

(a) In connection with the provisions of the Arrangement on European Communities' Export of Pipes and Tubes to the United States of America, contained in an exchange of letters dated October 21, 1982 between representatives of the United States and the Commission of the European Communities, including any modification, clarification, extension or successor agreement thereto (collectively referred to hereinafter as "the Arrangement"), the Secretary of Commerce is authorized to request the Secretary of the Treasury to take action pursuant to subsection (b) of this section whenever he determines that:

(1) the level of exports of pipes and tubes to the United States from the European Communities is exceeding the average share of annual United States apparent consumption specified in the Arrangement, or

(2) distortion is occurring in the pattern of United States-European Communities trade within the pipe and tube sector taking into account the average share of annual United States apparent consumption accounted for by European Communities articles within product categories developed by

Any request to the Secretary of the Treasury pursuant to this subsection by the Secretary of Commerce shall identify one or more categories of pipe and tube products with respect to which action under subsection (b) is requested.

(b) At the request of the Secretary of Commerce pursuant to subsection (a), the Secretary of the Treasury shall take such action as may be necessary to ensure that the aggregate quantity of European Communities articles in each product category identified by the Secretary of Commerce in such request that are entered into the United States are in accordance with the terms of the Arrangement. The Secretary of the Treasury is authorized to promulgate regulations establishing the terms and conditions under which European Communities articles may be denied entry into the United States pursuant to this subsection."

LEVIN AMENDMENTS NOS. 4257 THROUGH 4259

Mr. LEVIN proposed three amendments to Amendment No. 4244 proposed by Mr. DANFORTH to the bill H.R. 3398, supra; as follows:

AMENDMENT No. 4257

On page 47, line 22, strike "." and add the following: "or by any interested person."

AMENDMENT No. 4258

After line 19, page 52, add the following: "provided that in pursuing these objectives, U.S. negotiators shall take into account legitimate U.S. domestic objectives including, but not limited to, the protection of legitimate health or safety, essential security, environmental, consumer or employment opportunity and the laws and regulations related thereto."

AMENDMENT No. 4259

After line 32, page 52, add the following: "provided that in pursuing these objectives including, but not limited to, the protection of legitimate U.S. health and safety, essential security, environmental, consumer or employment opportunity interests and the laws and regulations related thereto."

DANFORTH AMENDMENT NO. 4260

Mr. DANFORTH proposed an amendment to amendment No. 4244 proposed by him to the bill H.R. 3398, supra; as follows:

On page 10 of the matter proposed to be inserted in the matter between lines 4 and 5, strike out "any milk protein concentrate" and insert in lieu thereof "any complete milk protein (casein plus albumin) concentrate".

On page 10 of such matter, strike out lines 5 through 20 and insert in lieu thereof the following:

(b)(1) The aggregate quantity of articles provided for in items 118.35, 118.40, or 118.45 of the Tariff Schedules of the United States which may be entered during any 1-year period beginning after the date that is 14 months after the date of enactment of this Act shall not exceed the aggregate quantity of such articles entered during the 1-year period beginning on the date of enactment of this Act.

(2) The Secretary shall allocate the limitation provided in paragraph (1) among foreign countries, group of countries, or areas in a manner which, to the fullest extent practicable, results in an equitable distribution of such limitation.

(3) The Secretary shall take such actions as may be necessary or appropriate to enforce the provisions of this subsection, including, without limitation, the issuance of orders to customs officers to bar entry of an article if the entry of such article would cause the quantitative limitations established under paragraph (1) to be exceeded.

(4)(A) The Secretary is authorized to issue such implementing regulations, including the issuance of import licenses, as may be necessary or appropriate to effect the purposes of this subsection and to enforce the provisions of this subsection.

(B) Before prescribing any regulations under subparagraph (A), the Secretary shall—

(i) consult with interested domestic parties,

(ii) afford an opportunity for such parties to comment on the proposed regulations, and

(iii) consider all such comments before prescribing final regulations.

MITCHELL AMENDMENT NO. 4261

Mr. MITCHELL proposed an amendment to amendment No. 4247 proposed by Mr. COHEN to the bill H.R. 3398, supra; as follows:

At the end of Amendment 4247, offered by the Senator from Maine [Mr. COHEN] add the following new section;

"Section . SMALL BUSINESS INTERNATIONAL TRADE ADVOCATE.

(a) ESTABLISHMENT OF OFFICE.—The Secretary of Commerce shall establish within the Department of Commerce the Small Business International Trade Advocate Office which shall be headed by the Small Business International Trade Advocate (hereinafter in this section referred to as the "Advocate").

(b) FUNCTIONS OF ADVOCATE.—

(1) IN GENERAL.—The Advocate shall assist small businesses in the preparation for, and participation in, any proceedings relating to the administration of the trade laws of the United States.

(2) INITIATION AND INTERVENTION.—The Advocate—

(A) may, at the request of any person—

(i) initiate and investigation under section 702(a) or 732(a) of the Tariff Act of 1930 in the same manner as the administering authority, and

(ii) intervene in any administrative proceeding under title VII of such Act if the Advocate determines such person is a small business which is unable to finance initiation or, participation in, such a proceeding, and

(B) shall, for purposes of subparagraph (A)(ii), have all rights under title VII of such Act to which an interested party is entitled.

(3) REQUESTS FOR INVESTIGATIONS.—The Advocate may each fiscal year request the United States International Trade Commission to conduct not more than 3 investigations (similar to investigations under section 332(g) of the Tariff Act of 1930) to assist small businesses in preparing for proceedings under title VII of such Act.

(c) SMALL BUSINESS.—For purposes of this section, the term "small business" means a small business concern (within the meaning of section 3 of the Small Business Act).

(d) REPORT TO CONGRESS.—Each fiscal year the Advocate shall report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of

Representatives with respect to its activities during the preceding fiscal year.

(e) AUTHORIZATION.—There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

(f) EFFECTIVE DATE.—The provisions of this section shall apply to fiscal years beginning after September 30, 1984."

DOMENICI (AND OTHERS) AMENDMENT NO. 4262

Mr. DOMENICI (for himself, Mr. BINGAMAN, Mr. LAXALT, Mr. LEVIN, Mr. MELCHER, Mr. DECONCINI, Mr. GOLDWATER, Mr. GARN, Mr. HECHT, and Mr. BAUCUS, proposed an amendment to amendment 4244 proposed by Mr. DANFORTH to the bill H.R. 3398, supra; as follows:

On page 41 of the matter proposed to be inserted, between lines 18 and 19, insert the following:

SEC. . NEGOTIATIONS ON RESTRAINT OF COPPER PRODUCTION.

The President, acting through the United States Trade Representative, shall immediately take action to initiate negotiations with the governments of the principal foreign copper-producing countries to conclude voluntary restraint agreements with those governments for the purpose of effecting a balanced reduction of total annual foreign copper production for a period of between 3 and 5 years in order to—

(1) allow the price of copper on international markets to rise modestly to levels which will permit the remaining copper operations located in the United States to attract needed capital, and

(2) achieve a secure domestic supply of copper.

INOUYE AMENDMENT NO. 4263

Mr. INOUYE proposed an amendment to amendment No. 4244 proposed by Mr. DANFORTH to the bill H.R. 3398, supra; as follows:

On page 41 of the matter proposed to be inserted, between lines 18 and 19, insert the following:

SEC. . DATA ON INTERNATIONAL TRADE IN SERVICES.

(a) The International Investment Survey Act of 1976 (Public Law 94-472; 22 U.S.C. 3101, et seq.) is hereby redesignated the "International Investment and Trade in Services Survey Act".

(b)(1) Subsection (a) of section 2 of the International Investment and Trade in Services Survey Act (22 U.S.C. 3301) is amended—

(A) by striking out "and" at the end of paragraph (6),

(B) by inserting "and trade in services" after "international investment" in paragraph (7),

(C) by redesignating paragraph (7) as paragraph (9), and

(D) by inserting after paragraph (6) the following new paragraphs:

"(7) United States service industries engaged in interstate and foreign commerce account for a substantial part of the labor force and gross national product of the United States economy, and such commerce is rapidly increasing;

"(8) international trade in services is an important issue for international negotiations and deserves priority in the attention of governments, international agencies, negotiators, and the private sector; and",

(2) Subsection (b) of section 2 of such Act is amended—

(A) by inserting "and United States foreign trade in services, whether directly or by affiliates, including related information necessary for assessing the impact of such investment and trade," after "international investment" the first place it appears; and

(B) by inserting "and trade in services" after "international investment" the second place it appears.

(3) Subsection (c) of section 2 of such Act is amended by striking out "or United States investment abroad" and inserting in lieu thereof ", United States investment abroad, or trade in services".

(c) Section 3 of such Act (22 U.S.C. 3102) is amended—

(1) by striking out "and" at the end of paragraph (10),

(2) by striking out the period at the end of paragraph (11) and inserting in lieu thereof a semicolon, and

(3) by adding at the end thereof the following new paragraphs;

"(12) 'trade in services' means the payment to, or receipt from, any person (whether affiliated or unaffiliated) of funds for the purchase or sale of a service; and

"(13) 'services' means the rental or leasing of tangible property, the transfer of intangible assets, tourism, construction, wholesale and retail trade, and all economic outputs other than tangible goods.".

(d)(1) Subsection (a) of section 4 of such Act (22 U.S.C. 3103 (a)) is amended—

(A) by striking out "presentation relating to international investment" in paragraph (3) and inserting in lieu thereof "presentation",

(B) by inserting "and trade in services" after "international investment" each place it appears in paragraphs (1), (2), and (3),

(C) by striking out "and" at the end of paragraph (3),

(D) by redesignating paragraph (4) as paragraph (5), and

(E) by inserting after paragraph (3) the following new paragraph:

"(4) conduct (not more frequently than once every five years and in addition to any other surveys conducted pursuant to paragraphs (1) and (2)) benchmark surveys with respect to trade in services between unaffiliated United States persons and foreign persons; and".

(2) Subparagraph (C) of section 4(b)(2) of such Act is amended by inserting "(including trade in both goods and services)" after "regarding trade".

(3) Subsection (f) of section 4 of such Act is amended by inserting "and trade in services" after "international investment".

(e) Subsection (d) of section 5 of such Act (22 U.S.C. 3104) is amended by striking out "international investment" each place it appears.

CRANSTON (AND WILSON) AMENDMENT NO. 4264

Mr. CRANSTON (for himself and Mr. WILSON) proposed an amendment to amendment No. 4244 proposed by Mr. DANFORTH to the bill H.R. 3398, supra; as follows:

On page 60, line 24, after the word "Canada" strike the period and insert the following, "provided that the negotiation of such eliminations or reductions takes fully into account any product that benefits from a discriminatory preferential tariff arrangement between Israel and a third country, if the tariff preference on such product has been the subject of a challenge by the U.S. government under the authority of Section 301 of the Trade Act of 1974 and the General Agreement on Tariffs and Trade."

HEINZ AMENDMENT NO. 4265

Mr. HEINZ proposed an amendment to amendment No. 4247 proposed by Mr. COHEN to the bill H.R. 3398; as follows:

In amendment No. 4247:
Strike section 604.
Strike section 618.
Strike section 621(c).
Renumber succeeding sections accordingly.

HEINZ (AND OTHERS) AMENDMENT NO. 4266

Mr. HEINZ (for himself, Mr. MOYNIHAN, Mr. MITCHELL, and Mr. FORD) proposed an amendment to amendment No. 4244 proposed by Mr. DANFORTH to the bill H.R. 3398, supra; as follows:

At the end of amendment No. 4244, add the following new title: TITLE —— TRADE LAW REFORM

SECTION 1. REFERENCE.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a title, subtitle, part, section, or other provision, the reference shall be considered to be made to a title, subtitle, part, section, or other provision of the Tariff Act of 1930 (19 U.S.C. 1202 et seq.).

SEC. 2. BURDEN OF PERSUASION.

Section 751 of the Tariff Act of 1930 (19 U.S.C. 1675) is amended by adding at the end of subsection (b)(1) the following:

"During an investigation by the Commission, the party seeking revocation of an antidumping order shall have the burden of persuasion with respect to whether there are changed circumstances sufficient to warrant revocation of the antidumping order."

SEC. 3. CONSIDERATION OF CUMULATIVE IMPACT OF IMPORTS.

Subparagraph (E) of section 771(7) (19 U.S.C. 1677(7)(E)) is amended by adding at the end thereof the following new clause:

"(iii) CUMULATION.—In determining material injury or threat of material injury under sections 703, 705, 733, or 735 of this subtitle, the Commission shall consider the cumulative impact of imports from two or more countries subject to investigation under sections 701 or 703 or subject to final orders under sections 706 or 736, as appropriate, if, after reviewing the factors and conditions of trade, the Commission determines that:

(I) the marketing of such imports is reasonably coincident, and

(II) imports from each source have contributed to the overall material injury to the industry resulting from imports.".

SEC. 4. THREAT OF MATERIAL INJURY

Paragraph (7) of section 771 (19 U.S.C. 1677(7)) is amended by inserting after subparagraph (E) the following new subparagraph:

"(F) THREAT OF MATERIAL INJURY.—

"(i) IN GENERAL. In determining whether an industry in the United States is threatened with material injury by reason of im-

ports (or sales for importation) of any merchandise, the Commission shall consider, among other relevant economic factors—

"(I) if a subsidy is involved, such information as may be presented to it by the administering authority as to the nature of the subsidy (particulary as to whether the subsidy is an export subsidy inconsistent with the Agreement),

"(II) any increase in production capacity or existing unused capacity in the exporting country likely to result in a significant increase in imports of the merchandise to the United States,

"(III) any rapid increase in United States market penetration and the likelihood that the penetration will increase to an injurious level,

"(IV) the probability that imports of the merchandise will enter the United States at prices that will have a depressing or suppressing effect on domestic prices of the merchandise,

"(V) any substantial increase in inventories of the merchandise in the United States,

"(VI) the presence of underutilized capacity for producing the merchandise in the exporting country, and

"(VII) any other demonstratable adverse trends that indicate the probability that the importation (or sale for importation) of the merchandise (whether or not it is actually being imported at the time) will be the cause of actual injury.

"(VIII) the potential for product-shifting if production facilities owned or controlled by the foreign manufacturers, which can be used to produce products subject to investigation(s) under sections 701 or 731 or to final orders under sections 706 or 736, are also used to produce the merchandise under investigation."

"(ii) BASIS FOR DETERMINATION.—Any determination by the Commission under this title that an industry in the United States is threatened with material injury shall be made on the basis of evidence that the threat of material injury is real and that actual injury is imminent. Such a determination may not be made on the basis of mere conjecture or supposition.

SEC. 5. VERIFICATION OF AMOUNT OF NET SUBSIDY

Section 771(6) (19 U.S.C. 1677) is amended by inserting "verified" before "amount".

SEC. 6. NO COMPROMISES OF COUNTERVAILING OR ANTIDUMPING DUTY CASES.

Section 617 (19 U.S.C. 1617) is amended—

(1) by striking out "Upon" and inserting in lieu thereof "(a) Upon",

(2) by adding at the end thereof the following new subsection:

"(b) This section shall not apply to any claim arising with respect to any duty imposed by title VII of this Act.".

SEC. 7. REVOCATION OF COUNTERVAILING DUTY ORDERS

(a) Paragraph (2) of section 104(b) of the Trade Agreements Act of 1979 (19 U.S.C. 1671, note) is amended by adding at the end thereof the following new sentence: "A negative determination by the Commission under this paragraph shall not be based, in whole or in part, on any export taxes, duties, or other charges levied on the export of merchandise to the United States specifically intended to offset the subsidy received.".

(b) Section 751 (19 U.S.C. 1675) is amended by adding, "The administering authority shall not revoke, in whole or in part, a countervailing duty order or terminate a suspended investigation on the basis of any export taxes, duties, or other charges levied on the export of merchandise to the United States specifically intended to offset the subsidy received." after the first sentence of subsection (c).

SEC. 8. INDUSTRY AND LABOR ASSOCIATIONS TREATED AS INTERESTED PARTIES.

(a) Paragraph (9) of section 771 (19 U.S.C. 1677(9)) is amended—

(1) by striking out "and" at the end of subparagraph (D);

(2) by striking out the period at the end of subparagraph (E) and inserting in lieu thereof ", and"; and

(3) by adding at the end thereof the following new subparagraph:

"(F) an association, a majority of whose members is composed of interested parties described in subparagraph (C), (D), or (E) with respect to a like product.".

(b) Title VII is amended by striking out "subparagraph (C), (D), or (E) of section 771(9)" each place it appears and inserting in lieu thereof "subparagraph (C), (D), (E), or (F) of section 771(9)".

SEC. 9. SIMULTANEOUS INVESTIGATIONS.

Section 705(a)(1) is amended to read as follows:

"(1) IN GENERAL.—Within 75 days after the date of the preliminary determination under section 703(b), the administering authority shall make a final determination of whether or not a subsidy is being provided with respect to the merchandise; except that when an investigation under this subtitle is initiated simultaneously with an investigation under subtitle B, which involves imports of the same class or kind of merchandise from the same or other countries, the administering authority, if requested by the petitioner, shall extend the date of the final determination under this paragraph to the date of the final determination of the administering authority in such investigation initiated under subtitle B.".

SEC. 10. SUBSIDIES.

Section 771 (19 U.S.C. 1677) is amended by adding at the end thereof the following new paragraph:

"(18) UPSTREAM SUBSIDY.—

"(A) IN GENERAL.—The term 'upstream subsidy' means any subsidy described in subparagraph (A) or (C) of paragraph (5) which—

"(i) is paid or bestowed by the government of a country with respect to a product that is used in the manufacture or production in such country of merchandise which is the subject of an investigation under subtitle A,

"(ii) results in a price for the product for such use that is lower than the generally available price of the product in such country, and

"(iii) has a significant effect on the cost of manufacturing or producing the merchandise.

In applying this paragraph, an association of 2 or more foreign countries, political subdivision, dependent territories, or possessions of foreign countries organized into a customs union outside the United States shall be treated as one country if the subsidy is provided by the customs union.

"(B) ADJUSTMENT OF GENERALLY AVAILABLE PRICE IN CERTAIN CIRCUMSTANCES.—If the administering authority decides that the generally available price for a product within the country of the manufacture, production, or export of the merchandise under investigation is artificially depressed by reason of any subsidy, or because of sales thereof in such country at less than fair value, the administering authority shall adjust such generally available price so as to offset such depression before applying subparagraph (A)(ii).

"(C) INCLUSION OF AMOUNT OF SUBSIDY.—If the administering authority decides, during the course of an investigation under subtitle A or B, that an upstream subsidy is being or has been paid or bestowed with respect to the merchandise under investigation, the administering authority shall include in the amount of any countervailing duty or antidumping duty imposed under that subtitle on the merchandise an amount equal to the difference between the prices referred to in subparagraph (A)(ii), adjusted, if appropriate, for artificial depression.".

SEC. 11. COUNTERVAILING DUTIES APPLY ON COUNTRY-WIDE BASIS.

Subsection (a) of section 706 (19 U.S.C. 1671e(a)) is amended—

(1) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively; and

(2) by adding after paragraph (1) the following new paragraph:

"(2) shall presumptively apply to all merchandise of such class or kind exported from the country investigated, except that if—

"(A) the administering authority determines there is a significant differential between companies receiving subsidy benefits, or

"(B) a State-owned enterprise is involved, the order may provide for differing countervailing duties,".

SEC. 12. SPECIAL RULES REGARDING DOWNSTREAM DUMPING

(a) Section 771 of the Tariff Act of 1930 (19 U.S.C. 1677) is amended by adding a new paragraph (18) to read as follows:

"(18) DOWNSTREAM DUMPING.—

"(1) DEFINITION.—Downstream dumping occurs when—

"(A) a material or component incorporated in merchandise subject to investigation under subtitle B is purchased from another country by the manufacturer or producer at a price that is below its foreign market value (as determined under subtitle B without regard to this subsection),

"(B) that purchase price—

"(i) is lower than the generally available price of the material or component in the country of manufacture or production, or

"(ii) if in the judgment of the administering authority the generally available price of the material or component in the country of manufacture or production is artificially depressed by reason of other sales at below foreign market value, is lower than the price at which the material or component would be generally available in such country but for such depression, and

"(C) the amount of the downstream dumping with respect to that component or material, as defined in section 773(e)(2), has a significant effect on the cost of manufacturing or producing the merchandise under investigation."

(b) Section 773 of the Tariff Act of 1930 (19 U.S.C. 1677(b)) is amended as follows:

(1) By amending paragraph (a) to insert a new subparagraph (3) to read as follows:

"(3) Whenever the administering authority determines that "downstream dumping," as defined in section 771(18), of a material or component used in the manufacture of the final export product is occurring or has occurred, then notwithstanding paragraph (1), the foreign market value may be the constructed value of the merchandise as determined under subsection (e) of this section."

(2) By amending paragraph (a)(2) by striking out "under subsection (e) of this section" and inserting "under subsection (e)(1) of this section."

(c) Section 773 of the Tariff Act of 1930 (19 U.S.C. 16776) is amended as follows:

(1) By renumbering subsection (b) as paragraph (b)(1) and inserting a new paragraph (b)(2) to read as follows:

"Whenever the administering authority has reasonable grounds to believe or suspect that "downstream dumping," as defined in section 771(18), of a material or component incorporated in final export product is occurring or has occurred, the administering authority shall determine whether "downstream dumping" of such material or component has in fact occurred, and if so, shall determine the constructed value of the merchandise under investigation pursuant to subsection (e)."

(2) By renumbering subsection (e) as subsection (e)(1) and by adding a new paragraph (e)(2) to read as follows:

"(2) If the administering authority determines that the downstream dumping of a material or component incorporated in the final export product is occurring or has occurred, the administering authority shall, in calculating the cost of the material or component pursuant to subsection (e)(1), include an amount equal to the difference between—

"(A) the price referred to in paragraph (1)(A) at which the material or component was purchased, and

"(B) either—

"(i) the generally available price, referred to in paragraph (1)(B)(i), of the material or component or

"(ii) the price, referred to in paragraph (1)(B)(ii), of the material or component that would pertain but for artificial depression.

whichever is appropriate, except that in no event shall the amount be greater than the amount by which the foreign market value of the material or component exceeds its purchase price."

(c) Section 733 of the Tariff Act of 1930 (19 U.S.C. 1673(b)) is amended by adding at the end thereof, the following new subsection:

(f)(1) Whenever the administering authority concludes, prior to a preliminary determination under section 733(b), that there is a reasonable basis to believe or suspect that downstream dumping is occurring, the time period within which a preliminary determination must be made shall be extended to 250 days after the filing of a petition under section 732(b) or commencement of an investigation under section 732(a) (310 days in cases declared extraordinarily complicated under section 733(c)), if the administering authority concludes that such additional time is necessary to make the required determination concerning downstream dumping.

(2) Whenever the administering concludes, after a preliminary determination under section 733(b) that there is a reasonable basis to believe or suspect that downstream dumping is occurring:

(A) in cases in which the preliminary determination was negative, the time period within which a final determination must be made shall be extended to 165 days under section 735(a)(1) or 225 days under section 735(a)(2), as appropriate; or,

(B) in cases in which the preliminary determination is affirmative, the determination concerning downstream dumping:

(i) need not be made until the conclusion of the first annual review of any eventual Antidumping Duty Order under section 751, or, at the option of the petitioner,

(ii) will be made in the investigation and the time period within which a final determination must be made shall be extended to 165 days under section 735(a)(1) or 225 days under section 735(a)(2), as appropriate, except that the suspension of liquidation ordered in the preliminary determination shall terminate at the end of 120 days from the date of publication of that determination and not be resumed unless and until the publication of an Antidumping Duty Order under section 736(a).

There may be an extension of time for the making of a final determination under this subsection only if the administering authority determines that such additional time is necessary to make the required determination concerning downstream dumping.

SEC. 13. QUANTITATIVE RESTRICTION AGREEMENTS.

(a) Subsection (c) of section 734 (19 U.S.C. 1673c(c)) is amended by adding at the end thereof the following new paragraph:

"(3) QUANTITATIVE RESTRICTIONS AGREEMENTS.—The administering authority may accept an agreement with—

"(A) the government of the country in which the merchandise which is the subject of the investigation was produced, or

"(B) the exporters of such merchandise who account for substantially all the imports of such merchandise,

to restrict the volume of imports of such merchandise into the United States if the agreement will eliminate completely the injurious effect of the exports of the merchandise to the United States.".

(b) Subsection (d) of section 734 (19 U.S.C. 1673c(d)) is amended by adding at the end thereof the following new paragraph:

"(3) REGULATIONS GOVERNING ENTRY OR WITHDRAWALS.—In order to carry out an agreement concluded under subsection (b) or (c) of this section, the administering authority is authorized to prescribe regulations governing the entry, or withdrawal from warehouse, for consumption of merchandise covered by such agreement.".

SEC. 14. SECURITY IN LIEU OF ESTIMATED DUTY.

(a) Paragraph (1) of section 736(c) (19 U.S.C. 1673e(c)) is amended to read as follows:

"(1) CONDITIONS FOR WAIVER OF DEPOSIT OF ESTIMATED DUTIES.—The administering authority may permit, for not more than 90 days after the date of publication of an order under subsection (a), the posting of a bond or other security in lieu of the deposit of estimated antidumping duties required under subsection (a)(3) if—

"(A) the case has not been designated as extraordinarily complicated by reason of—

(i) the number and complexity of the transactions to be investigated or adjustments to be considered,

(ii) the novelty of the issues presented, or

(iii) the number of firms whose activities must be investigated.

or the final determination has not been postponed under section 735(a)(2)(A);

"(B) on the basis of information presented to it by any manufacturer, producer, or exporter in such form and within such time as it may require, it is satisfied that it will be able to determine, within 90 days after the date of publication of an order under subsection (a), the foreign market value and the United States price for all merchandise of such manufacturer, producer, or exporter described in that order which was entered, or withdrawn from warehouse, for consumption on or after the date of publication of—

"(i) an affirmative preliminary determination by the administering authority under section 733(b), or

"(ii) if its determination under section 733(b) was negative, an affirmative final determination by the administering authority under section 735(a),

and before the date of publication of the affirmative final determination by the Commission under section 735(b);

"(C) the party submitting the information provides credible evidence that the weighted average of the amount by which the foreign market value of the merchandise exceeds the United States price of the merchandise is significantly less than the amount of such excess specified in the antidumping duty order published under subsection (a); and

"(D) the data concerning the foreign market value and the United States price apply to sales in the usual wholesale quantities and in the ordinary course of trade and the number of such sales are sufficient to form an adequate basis for comparison".

(b) Paragraph (2) of section 736(c) (19 U.S.C. 1673c(c)(2)) is amended by designating the current text of paragraph (2) as subparagraph (B) and by inserting prior thereto the following new subparagraph:

"(A) PROVISION OF CONFIDENTIAL INFORMATION; WRITTEN COMMENTS.—Before determining whether to permit the posting of bond or other security in lieu of the deposit of estimated antidumping duties under paragraph (1), the administering authority shall—

"(i) make all confidential information supplied to the administering authority under paragraph (1) available under protective order to all interested parties described in subparagraph (C), (D), (E), or (F) of section 771(9) who are parties to the proceeding, and

"(ii) afford all interested parties an opportunity to file written comments on whether the posting of bond or other security in lieu of the deposit of estimated antidumping duties under paragraph (1) should be permitted.".

SEC. 15. EXPORT VALIDATION REQUIREMENT FOR STEEL PRODUCTS.

Section 626 (19 U.S.C. 1626) is amended to read as follows:

"SEC. 626. STEEL PRODUCTS TRADE ENFORCEMENT.

"In order to monitor and enforce export measures required by a foreign government or customs union, the Secretary of the Treasury may, upon receipt of a request by the President of the United States and by a foreign government or customs union, require the presentation of a valid export license or other documents issued by such foreign government or customs union as a condition for entry into the United States of steel products specified in the request. The Secretary may provide by regulation for the terms and conditions under which such merchandise attempted to be entered without an accompanying valid export license or other documents may be denied entry into the United States.".

SEC. 16. SALES FOR IMPORTATION.

(a)(1) Subsection (a) of section 701 (19 U.S.C. 1671(a)) is amended—

(A) by inserting ", or sold (or likely to be sold) for importation," after "imported" in paragraph (1);

(B) by inserting "or by reason of sales (or the likelihood of sales) of that merchandise for importation" immediately after "by

reason of imports of that merchandise" in paragraph (2); and

(C) by adding at the end thereof the following new sentence: "For purposes of this subsection and section 705(b)(1), a reference to the sale of merchandise includes the entering into any leasing arrangement regarding the merchandise that is equivalent to the sale of the merchandise.".

(2) Section 705(b)(1) (19 U.S.C. 1671(b)(1)) is amended by inserting ", or sales (or the likelihood of sales) for importation," immediately after "by reason of imports".

(b) Section 731 (19 U.S.C. 1673) is amended—(1) by inserting "or by reason of sales (or the likelihood of sales) of that merchandise for importation" immediately after "by reason of imports of that merchandise" in paragraph (2), and (2) by adding at the end thereof the following new sentence: "For purposes of this section and section 735(b)(1), a reference to the sale of foreign merchandise includes the entering into of any leasing arrangement regarding the merchandise that is equivalent to the sale of the merchandise.".

(c) Section 735 (19 U.S.C. 1673d) is amended by adding ", or sales (or the likelihood of sales) for importation," after "by reason of imports" in paragraph (1) of subsection (b).

(d) subsection (a) of sections 703 and 733 (19 U.S.C. 1671(b) and 1673b) are amended by adding "or sales (or the likelihood of sales) for importation," after "by reason of imports".

SEC. 17. SALES FOR FUTURE DELIVERY AND IRREVOCABLE OFFERS.

Sections 702 and 732 (19 U.S.C. 1671a and 1673a) are each amended by adding at the end thereof the following new subsection:

"(c) SPECIAL RULES.—In making determinations under paragraph (1) of subsection (c), the existence of sales for future delivery or irrevocable offers to sell the merchandise that is the subject of the petition may be a basis for an affirmative determination.".

SEC. 18. Sections 702 and 732 (U.S.C. 1671a and 1673a) are each amended by adding at the end thereof the following new subsection:

"(e) SPECIAL RULES.—In making determinations under paragraph (1) of subsection (c), the absence of a history of imports in sufficient volume to be a present cause of material injury shall not be a basis for a decision not to initiate an investigation if a sufficient allegation of threat of material injury is made.".

HEINZ AMENDMENT NO. 4267

Mr. HEINZ proposed an amendment to amendment No. 4244 proposed by Mr. DANFORTH to the bill H.R. 3398, supra; as follows:

At the end of amendment No. 4244, add the following new title:

TITLE .—TRADE WITH NONMARKET ECONOMIES

SECTION 1. CREATION OF ARTIFICIAL PRICING INVESTIGATION REMEDY.

(a) AMENDMENT OF TITLE VII.—Title VII of the Tariff Act of 1930 (19 U.S.C. 1671 et seq.) is amended by redesignating subtitles C and D as subtitles D and E, respectively, and by inserting after subtitle B the following new subtitle:

"Subtitle C—Imposition of Artificial Pricing Duties

"SEC. 741. ARTIFICIAL PRICING DUTIES IMPOSED.

"(a) IN GENERAL.—If—

"(1) the administering authority determines that a class or kind of merchandise which is the product of a nonmarket economy country is being, or is likely to be, sold in the United States at an artificial price, and

"(2) in the case of a country which is a party to the General Agreement on Tariffs and Trade, or which is a country under the Agreement pursuant to section 701(b), the Commission determines that—

"(A) an industry in the United States—

"(i) is materially injured, or

"(ii) is threatened with material injury, or

"(B) the establishment of an industry in the United States is materially retarded, by reason of imports of such merchandise,

then there shall be imposed upon such merchandise an artificial pricing duty in an amount equal to the amount by which the minimum allowable import price exceeds the actual price for such merchandise.

"(b) DUTY IN ADDITION TO OTHER DUTIES.—Any duty imposed under this section shall be in addition to any other duty other than a countervailing or antidumping duty.

"SEC. 742. PROCEDURES FOR INITIATING AN ARTIFICIAL PRICING DUTY INVESTIGATION.

"(a) INITIATION BY ADMINISTERING AUTHORITY.—An artificial pricing duty investigation shall be commenced whenever the administering authority determines, from information available to it, that a formal investigation is warranted into the question of whether the elements necessary for the imposition of a duty under section 741 exist. If the investigation concerns a country which is a party to the General Agreement on Tariffs and Trade, or which is a country under the Agreement pursuant to section 701(b), the administering authority shall immediately notify the Commission in the manner prescribed in subsection (d).

"(b) INITIATION BY PETITION.—

"(1) PETITION REQUIREMENTS.—

"(A) FILING OF PETITION.—An artificial pricing duty proceeding shall be commenced whenever an interested party described in subparagraph (C), (D), or (E) of section 771(9) files a petition with the administering authority, on behalf of an industry, which—

"(i) alleges the elements necessary for the imposition of the duty imposed by section 741, and

"(ii) is accompanied by information reasonably available to the petitioner supporting the allegations.

"(B) AMENDMENT OF PETITION.—Any petition under this paragraph may be amended at such time, and upon such conditions, as the administering authority and the Commission may permit.

"(2) SIMULTANEOUS FILING WITH COMMISSION.—The petitioner shall file a copy of the petition with the Commission on the same day as it is filed with the administering authority, if the allegations are made against a country which is a party to the General Agreement on Tariffs and Trade, or which is a country under the Agreement pursuant to section 701(b).

"(c) PETITION DETERMINATION.—Within 20 days after the date on which a petition is filed under subsection (b), the administering authority shall—

"(1) determine whether the petition alleges the elements necesssary for the imposition of a duty under section 741 and contains information reasonably available to the petitioner supporting the allegations,

"(2) determine whether the subject of the petition is a nonmarket economy country,

"(3) if the determinations under paragraphs (1) and (2) are affirmative—

"(A) commence an investigation to determine whether the class or kind of merchandise described in the petition is being, or is likely to be, sold in the United States at an artificial price, and

"(B) provide for the publication of notice of the determinations in the Federal Register,

"(4) if the determination under paragraph (1) is negative, dismiss the petition, terminate the proceeding, notify the petitioner in writing of the reasons for the determination, and provide for the publication of notice of the determination in the Federal Register, and

"(5) if the determination under paragraph (2) is negative, terminate the proceeding, notify the petitioner in writing that the petition should be filed under section 702 or 732, as appropriate, and provide for the publication of notice of the determination in the Federal Register.

"(d) NOTIFICATION TO COMMISSION OF DETERMINATION.—In the case of a petition making allegations against a country that is a party to the General Agreement on Tariffs and Trade, or which is a country under the Agreement pursuant to section 701(b), the administering authority shall—

"(1) notify the Commission immediately of any determination made under subsection (a) or (c) by the administering authority, and

"(2) if the determination is affirmative, make available to the Commission such information as the administering authority may have relating to the matter under investigation.

Information shall be made available under paragraph (2) under such procedures as the administering authority and the Commission may establish to prevent unauthorized disclosure of any information to which confidential treatment has been given by the administering authority.

"(e) NO DUPLICATION OF INVESTIGATION.—Except as provided in section 748(b), the administering authority shall not initiate an artificial pricing investigation pursuant to a petition filed by an entity with respect to the artificial pricing of an article from a nonmarket economy country with respect to which that entity has filed a petition for a countervailing duty or antidumping duty investigation under section 303 of the Trade Act of 1974 (19 U.S.C. 2413) or this title if—

"(1) the countervailing duty or antidumping duty proceeding is in process, or

"(2) a countervailing duty or antidumping duty is in effect with respect to such article.

"SEC. 743. PRELIMINARY DETERMINATIONS.

"(a) DETERMINATIONS BY COMMISSION OF REASONABLE INDICATION OF INJURY.—Except in the case of a petition dismissed by the administering authority under section 742(c)(4) or (5), the Commission, within 45 days after the date on which a petition is filed under section 742(b)(2) or on which the Commission receives notice from the administering authority of an investigation commenced under section 742(a), shall make a determination, based upon the best information available to the Commission at the time of the determination, of whether there is a reasonable indication that—

"(1) an industry in the United States—

"(A) is materially injured, or

"(B) is threatened with material injury, or

"(2) the establishment of an industry in the United States is materially retarded.

by reason of imports of the merchandise which is the subject of the investigation by the administering authority. If that deter-

mination is negative, the investigation shall be terminated.

"(b) PRELIMINARY DETERMINATION BY ADMINISTERING AUTHORITY.—Within 85 days after the date on which a petition is filed under section 742(b), or an investigation is commenced under section 742(a), but not before an affirmative determination by the Commission under subsection (a) if such a determination is required, the administering authority shall make a determination, based upon the best information available to such administering authority at the time of the determination, of whether there is a reasonable basis to believe or suspect that the merchandise is being sold, or is likely to be sold, at an artificial price. If the determination of the administering authority is affirmative, the determination shall include the estimated average amount by which the minimum allowable import price exceeds the actual price for such merchandise.

"(c) EXTENSION OF PERIOD IN EXTRAORDINARILY COMPLICATED CASES.—

"(1) IN GENERAL.—If—

"(A) the petitioner makes a timely request for an extension of the period within which the determination must be made under subsection (b), or

"(B) the administering authority concludes that the parties concerned are cooperating and determines that—

"(i) the case is extraordinarily complicated by reason of—

"(I) the number and complexity of the transactions to be investigated, or adjustments to be considered,

"(II) the novelty of the issues presented, or

"(III) the number of firms whose activities must be investigated, and

"(ii) additional time is necessary to make the preliminary determination.

then the administering authority may postpone making the preliminary determination under subsection (b) of this section until not later than the 150th day after the date on which a petition is filed under section 742(b), or an investigation is commenced under section 742(a).

"(2) NOTICE OF POSTPONEMENT.—The administering authority shall notify the parties to the investigation, not later than 20 days before the date on which the preliminary determination would otherwise be required under subsection (b), if the administering authority intends to postpone making the preliminary determination under paragraph (1). The notification shall include an explanation of the reasons for the postponement, and notice of the postponement shall be published in the Federal Register.

"(d) EFFECT OF DETERMINATION BY ADMINISTERING AUTHORITY.—If the preliminary determination of the administering authority under subsection (b) is affirmative, the administering authority—

"(1) shall order the suspension or liquidation of all entries of merchandise subject to the determination which are entered, or withdrawn from warehouse, for consumption on or after the date of publication of the notice of the determination in the Federal Register,

"(2) shall order the posting of a cash deposit, bond, or other security, as the administering authority deems appropriate, for each entry of the merchandise concerned equal to the estimated average amount by which the minimum allowable import price exceeds the actual price of such merchandise, and

"(3) in the case of an investigation in which a determination under section 741(b) is required, shall make available to the Commission all information upon which determination was based and which the Commission considers relevant to the injury determination of the Commission.

Information shall be made available under paragraph (3) under such procedures as the administering authority and the Commission may establish to prevent unauthorized disclosure of any information to which confidential treatment has been given by the administering authority.

"(e) CRITICAL CIRCUMSTANCES DETERMINATIONS.—

"(1) IN GENERAL.—If a petitioner alleges critical circumstances in the original petition, or by amendment at any time more than 20 days before the date of a final determination by the administering authority, then the administering authority shall promptly determine, on the basis of the best information available to the administering authority at that time, whether there is a reasonable basis to believe or suspect that—

"(A)(i) there is a history of dumping or artificial pricing in the United States or elsewhere of the class or kind of merchandise which is the subject of the investigation, or

"(ii) the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the merchandise which is the subject of the investigation at an artificial price, and

"(B) there have been massive imports of the class or kind of merchandise which is the subject of the investigation over a relatively short period.

"(2) SUSPENSION OF LIQUIDATION.—If the determination of the administering authority under paragraph (1) is affirmative, then any suspension of liquidation ordered under subsection (d)(1) shall apply, or, if notice of such suspension of liquidation is already published, be amended to apply, to unliquidated entries of merchandise entered, or withdrawn from warehouse, for consumption on or after the date which is 90 days before the date on which suspension of liquidation was first ordered.

"(f) NOTICE OF DETERMINATIONS.—Whenever the Commission or the administering authority makes a determination under this section, the petitioner, other parties to the investigation, and the other agency shall be notified by the Commission or the administering authority of the determination and of the facts and conclusions of law upon which the determination is based, and such notice of the determination shall be published in the Federal Register.

"SEC. 744. TERMINATION OR SUSPENSION OF INVESTIGATION.

"(a) TERMINATION OF INVESTIGATION ON WITHDRAWAL OF PETITION.—An investigation under this subtitle may be terminated by either the administrative authority or, if appropriate, the Commission after notice to all parties to the investigation, upon withdrawal of the petition by the petitioner. The Commission may not terminate an investigation under the preceding sentence before a preliminary determination is made by the administering authority under section 743(b).

"(b) AGREEMENTS TO ELIMINATE ARTIFICIAL PRICING OR TO CEASE EXPORTS OF ARTIFICIALLY PRICED MERCHANDISE.—The administering authority may suspend an investigation if the exporters of the merchandise which is the subject of the investigation who account for substantially all of the imports of that merchandise agree—

"(1) to cease exports of the merchandise to the United States within 6 months after the date on which the investigation is suspended, or

"(2) to revise the prices to eliminate completely any amount by which the minimum allowable import price of the merchandise which is the subject of the agreement exceeds the actual price of such merchandise.

"(c) AGREEMENTS ELIMINATING INJURIOUS EFFECT.—

"(1) GENERAL RULE.—If the administering authority determines that extraordinary circumstances are present in a case, the administering authority may suspend an investigation upon the acceptance of an agreement from the government of the nonmarket economy country under investigation, or from exporters described in subsection (b), if the agreement will eliminate completely the injurious effect of exports to the United States of the merchandise which is the subject of the investigation.

"(2) CERTAIN ADDITIONAL REQUIREMENTS.—Except in the case of an agreement by a foreign government to restrict the volume of imports of the merchandise which is the subject of the investigation into the United States, the administering authority may not accept an agreement under this subsection unless—

"(A) the suppression or undercutting of price levels of domestic products by imports of such merchandise will be prevented, and

"(B) for each entry of each exporter the amount by which the estimated minimum allowable import price exceeds the actual price will not exceed 15 percent of the weighted average amount by which the estimated minimum allowable import price exceeded the actual price for all artificially priced entries of the exporter examined during the course of the investigation.

"(3) QUANTITATIVE RESTRICTIONS AGREEMENTS.—The administering authority may accept an agreement with a foreign government under this subsection to restrict the volume of imports of merchandise which is the subject of an investigation into the United States, but the administering authority may not accept such an agreement with exporters.

"(4) DEFINITION OF EXTRAORDINARY CIRCUMSTANCES.—

"(A) EXTRAORDINARY CIRCUMSTANCES.—For purposes of this subsection, the term 'extraordinary circumstances' means circumstances in which—

"(i) suspension of an investigation will be more beneficial to the domestic industry than continuation of the investigation, and

"(ii) the investigation is complex.

"(B) COMPLEX.—For purposes of this paragraph, the term 'complex' means—

"(i) there are a large number of transactions to be investigated or adjustments to be considered,

"(ii) the issues raised are novel, or

"(iii) the number of firms involved is large.

"(d) ADDITIONAL RULES AND CONDITIONS.—

"(1) PUBLIC INTEREST; MONITORING.—The administering authority shall not accept an agreement under subsection (b) or (c) unless—

"(A) the administering authority is satisfied that suspension of the investigation is in the public interest, and

"(B) effective monitoring of the agreement by the United States is practicable.

"(2) EXPORTS OF MERCHANDISE TO UNITED STATES NOT TO INCREASE DURING INTERIM PERIOD.—The administering authority may not accept any agreement under subsection

(b) unless that agreement provides a means of ensuring that the quantity of the merchandise covered by that agreement exported to the United States during the period provided for elimination of the artificial pricing or cessation of exports does not exceed the quantity of such merchandise exported to the United States during the most recent representative period determined by the administering authority.

"(3) REGULATIONS GOVERNING ENTRY OR WITHDRAWALS.—In order to carry out an agreement concluded under subsection (b) or (c), the administering authority is authorized to prescribe regulations governing the entry, or withdrawal from warehouse, for consumption of merchandise covered by such agreement.

"(e) SUSPENSION OF INVESTIGATION PROCEDURE.—Before an investigation may be suspended under subsection (b) or (c) the administering authority shall—

"(1) notify the petitioner of, and consult with the petitioner concerning, its intention to suspend the investigation, and notify the other parties to the investigation and, if appropriate, the Commission not less than 30 days before the date on which it suspends the investigation,

"(2) provide a copy of the proposed agreement to the petitioner at the time of the notification, together with an explanation of how the agreement will be carried out and enforced (including any action required of foreign governments), and of how the agreement will meet the requirements of subsections (b) and (d) or (c) and (d), and

"(3) permit all parties to the investigation to submit comments and information for the record before the date on which notice of suspension of the investigation is published under subsection (f)(1)(A).

"(f) EFFECTS OF SUSPENSION OF INVESTIGATION.—

"(1) IN GENERAL.—If the administering authority determines to suspend an investigation upon acceptance of an agreement described in subsection (b) or (c), then—

"(A) the administering authority shall suspend the investigation, publish notice of suspension of the investigation, and issue an affirmative preliminary determination under section 743(b) with respect to the merchandise which is the subject of the investigation, unless such a determination in the same investigation has been previously issued,

"(B) the Commission shall suspend any investigation the Commission is conducting with respect to that merchandise, and

"(C) the suspension of investigation shall take effect on the day on which such notice is published.

"(2) LIQUIDATION OF ENTRIES.—

"(A) CESSATION OF EXPORTS; COMPLETE ELIMINATION OF ARTIFICIAL PRICING.—If the agreement accepted by the administering authority is an agreement described in subsection (b), then—

"(i) notwithstanding the affirmative preliminary determination required under paragraph (1)(A), the liquidation of entries of merchandise which is the subject of the investigation shall not be suspended under section 743(d)(1).

"(ii) if the liquidation of entries of such merchandise was suspended pursuant to a previous affirmative preliminary determination in the same case with respect to such merchandise, that suspension of liquidation shall terminate, and

"(iii) the administering authority shall refund any cash deposit and release any bond or other security deposited under section 743(d)(1).

"(B) OTHER AGREEMENTS.—If the agreement accepted by the administering authority is an agreement described in subsection (c), then the liquidation of entries of the merchandise which is the subject of the investigation shall be suspended under section 743(d)(1), or, if the liquidation of entries of such merchandise was suspended pursuant to a previous affirmative preliminary determination in the same case, that suspension of liquidation shall continue in effect, subject to subsection (h)(3), but the security required under section 743(d)(2) may be adjusted to reflect the effect of the agreement.

"(3) WHERE INVESTIGATION IS CONTINUED.—If, pursuant to subsection (g), the administering authority and, if appropriate, the Commission, continue an investigation in which an agreement has been accepted under subsection (b) or (c), then—

"(A) if the final determination by the administering authority or the Commission under section 745 is negative, the agreement shall have no force or effect and the investigation shall be terminated, or

"(B) if the final determinations by the administering authority and the Commission under such section are affirmative, the agreement shall remain in force, but the administering authority shall not issue an artificial pricing duty order in the case so long as—

"(i) the agreement remains in force,

"(ii) the agreement continues to meet the requirements of subsections (b) and (d) or (c) and (d), and

"(iii) the parties to the agreement carry out their obligations under the agreement in accordance with its terms.

"(g) INVESTIGATION TO BE CONTINUED UPON REQUEST.—If the administering authority, within 20 days after the date of publication of the notice of suspension of an investigation, receives a request for the continuation of the investigation from—

"(1) the government of the nonmarket economy country under investigation,

"(2) an exporter or exporters accounting for a significant proportion of exports to the United States of the merchandise which is the subject of the investigation, or

"(3) an interested party described in subparagraph (C), (D), or (E) of section 771(9) which is a party to the investigation,

than the administering authority and, if appropriate, the Commission shall continue the investigation.

"(h) REVIEW OF SUSPENSION.

"(1) IN GENERAL.—Within 20 days after the suspension of an investigation under subsection (c), an interested party which is a party to the investigation and which is described in subparagraph (C), (D), or (E) of section 771(9) may, by petition filed with the Commission and with notice to the administering authority, ask for a review of the suspension.

"(2) COMMISSION INVESTIGATION.—Upon receipt of a review petition under paragraph (1), the Commission shall, within 75 days after the date on which the petition is filed, determine whether the injurious effect of imports of the merchandise which is the subject of the investigation is eliminated completely by the agreement. If the Commission determination under this subsection is negative, the investigation shall be resumed on the date of publication of notice of such determination as if the affirmative preliminary determination under section 743(b) had been made on that date.

"(3) SUSPENSION OF LIQUIDATION TO CONTINUE DURING REVIEW PERIOD.—The suspension of liquidation of entries of the merchandise which is the subject of the investigation shall terminate at the close of the 20-day period beginning on the day after the date on which notice of suspension of the investigation is published in the Federal Register, or, if a review petition is filed under paragraph (1) with respect to the suspension of the investigation, in the case of an affirmative determination by the Commission under paragraph (2), the date on which notice of the affirmative determination by the Commission is published. If the determination of the Commission under paragraph (2) is affirmative, then the administering authority shall—

"(A) terminate the suspension of liquidation under section 743(d)(1), and

"(B) release any bond or other security, and refund any cash deposit, required under section 743(d)(2).

"(i) VIOLATION OF AGREEMENT.—

"(1) IN GENERAL.—If the administering authority determines that an agreement accepted under subsection (b) or (c) is being, or has been, violated, or no longer meets the requirements of such subsection (other than the requirement, under subsection (c)(1), of elimination of injury) and subsection (d), then, on the date of publication of such determination, the administering authority shall—

"(A) suspend liquidation under section 743(d)(i) of unliquidated entries of the merchandise made on or after the later of—

"(i) the date which is 90 days before the date of publication of the notice of suspension of liquidation, or

"(ii) the date on which the merchandise, the sale or export to the United States of which was in violation of the agreement, or under an agreement which no longer meets the requirements of subsections (b) and (d) or (c) and (d), was first entered, or withdrawn from warehouse, for consumption,

"(B) if the investigation was not completed, resume the investigation as if the affirmative preliminary determination under section 743(b) were made on the date of the determination under this paragraph,

"(C) if the investigation was completed under subsection (g), issue an artificial pricing duty order under section 746(a) effective with respect to entries of merchandise the liquidation of which was suspended, and

"(D) notify the petitioner, interested parties who are or were parties to the investigation, and, if appropriate, the Commission of the action under this paragraph.

"(2) INTENTIONAL VIOLATION TO BE PUNISHED BY CIVIL PENALTY.—Any person who intentionally violates an agreement accepted by the administering authority under subsection (b) or (c) shall be subject to a civil penalty assessed in the same amount, in the same manner, and under the same procedure, as the penalty imposed for a fraudulent violation of section 592(a) of this Act.

"(j) DETERMINATION NOT TO TAKE AGREEMENT INTO ACCOUNT.—In making a final determination under section 745, or in conducting a review under section 751, in a case in which the administering authority has terminated a suspension of investigation under subsection (i)(1), or has continued an investigation under subsection (g), the Commission and the administering authority shall consider all of the merchandise which is the subject of the investigation, without regard to the effect of any agreement under subsection (b) or (c).

"SEC. 745. FINAL DETERMINATIONS.

"(a) FINAL DETERMINATION BY ADMINISTERING AUTHORITY.—

"(1) IN GENERAL.—Within 75 days after the date of the preliminary determination under section 743(b), the administering authority shall make a final determination of whether the merchandise which is the subject of the investigation is being, or is likely to be, sold in the United States at an artificial price.

"(2) CRITICAL CIRCUMSTANCES DETERMINATIONS.—If the final determination of the administering authority is affirmative, then that determination, in any investigation in which the presence of critical circumstances has been alleged under section 743(e), shall also contain a finding as to whether—

"(A)(i) there is a history of dumping or artificial pricing in the United States or elsewhere of the class or kind of merchandise which is the subject of the investigation, or

"(ii) the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the merchandise which is the subject of the investigation at an artificial price, and

"(B) there have been massive imports of the class or kind of merchandise which is the subject of the investigation over a relatively short period.

"(b) FINAL DETERMINATION BY COMMISSION.—

"(I) IN GENERAL.—If the Commission has made an affirmative preliminary determination under section 743, then the Commission shall make a final determination of whether—

"(A) an industry in the United States—

"(i) is materially injured, or

"(ii) is threatened with material injury, or

"(B) the establishment of an industry in the United States is materially retarded,

by reason of imports of the merchandise with respect to which the administering authority has made an affirmative determination under subsection (a).

"(2) PERIOD FOR INJURY DETERMINATION FOLLOWING AFFIRMATIVE PRELIMINARY DETERMINATION BY ADMINISTERING AUTHORITY.—If the preliminary determination by the administering authority under section 743(b) is affirmative, then the Commission shall make the determination required by paragraph (1) before the later of—

"(A) the 120th day after the day on which the administering authority makes the affirmative preliminary determination under section 743(b), or

"(B) the 45th day after the day on which the administering authority makes the affirmative final determination under section (a).

"(3) PERIOD FOR INJURY DETERMINATION FOLLOWING NEGATIVE PRELIMINARY DETERMINATION BY ADMINISTERING AUTHORITY.—If the preliminary determination by the administering authority under section 743(b) is negative, and the final determination under subsection (a) is affirmative, then the final determination by the Commission under this subsection shall be made within 75 days after the date of that affirmative final determination.

"(4) CERTAIN ADDITIONAL FINDINGS.—

"(A) If the finding of the administering authority under subsection (a)(2) is affirmative, then the final determination of the Commission shall include findings as to whether—

"(i) There is material injury which will be difficult to repair, and

"(ii) the material injury was by reason of such massive imports of the artificially priced merchandise over a relatively short period.

"(B) If the final determination of the Commission is that there is not material injury but that there is threat of material injury, then the determination shall also include a finding as to whether material injury by reason of imports of the merchandise with respect to which the administering authority has made an affirmative determination under subsection (a) would have been found but for any suspension of liquidation of entries of that merchandise.

"(c) EFFECT OF FINAL DETERMINATIONS.—

"(1) EFFECT OF AFFIRMATIVE DETERMINATION BY THE ADMINISTERING AUTHORITY.—If the determination of the administering authority under subsection (a) is affirmative, then—

"(A) the administering authority, in a case in which a determination by the Commission is required, shall make available to the Commission all information upon which such determination was based and which the Commission considers relevant to the determination, under such procedures as the administering authority and the Commission may establish to prevent unauthorized disclosure of any information to which confidential treatment has been given by the administering authority, and

"(B) in cases where the preliminary determination by the administering authority under section 743(b) was negative, the administering authority shall order under paragraphs (1) and (2) of section 743(d) the suspension of liquidation and the posting of a cash deposit, bond, or other security.

"(2) ISSUANCE OF ORDER; EFFECT OF NEGATIVE DETERMINATION.—If the determinations of the administering authority and, if required, the Commission under subsections (a)(1) and (b)(1) are affirmative, then the administering authority shall issue an artifical pricing duty order under section 746(a). If either of such determinations is negative, the investigation shall be terminated upon the publication of notice of that negtative determination and the administering authority shall—

"(A) terminate the suspension of liquidation under section 743(d)(1), and

"(B) release any bond or other security and refund any cash deposit required under section 743(d)(2).

"(3) EFFECT OF NEGATIVE DETERMINATIONS UNDER SUBSECTIONS (a)(2) AND (b)(4)(A).—If the determination of the administering authority or the Commission under subsections (a)(2) and (b)(4)(A), respectively, is negative, then the administering authority shall—

"(A) terminate any retroactive suspension of liquidation required under section 743(e)(2), and

"(B) release any bond or other security, and refund any cash deposit required under section 743(d)(2) with respect to entries of the merchandise the liquidation of which was suspended retroactively under section 743(e)(2).

"(d) PUBLICATION OF NOTICE OF DETERMINATIONS.—Whenever the administering authority or the Commission makes a determination under this section, the petitioner, other parties to the investigation, and the other agency shall be notified of the determination and of the facts and conclusions of law upon which the determination is based, and notice of the determination shall be published in the Federal Register.

"SEC. 746. ASSESSMENT OF DUTY.

"(a) PUBLICATION OF ARTIFICIAL PRICING DUTY ORDER.—Within 7 days after being notified by the Commission of an affirmative determination under section 745(b), or within 7 days after an affirmative determination by the administering authority under section 745(a), if its determination by the Commission is required, the administering authority shall publish an artificial pricing duty order which—

"(1) directs customs officers to assess an artificial pricing duty equal to the amount by which the minimum allowable import price of the merchandise exceeds the actual price of such merchandise, within 6 months after the date on which the administering authority received satisfactory information upon which the assessment may be based, but in no event later than 12 months after the end of the annual accounting period of the manufacturer or exporter within which the merchandise is entered, or withdrawn from warehouse, for consumption.

"(2) includes a description of the class or kind of merchandise affected, in such detail as the administering authority deems necessary, and

"(3) requires the deposit of estimated artificial pricing duties along with the deposit of estimated normal customs duties on the merchandise pending liquidation of entries of such merchandise.

"(b) IMPOSITION OF DUTIES.—

"(1) GENERAL RULE.—If the Commission, in the final determination under section 745(b), finds material injury or threat of material injury which, but for the suspension of liquidation under section 743(d)(1), would have led to a finding of material injury, then entries of the merchandise subject to the artificial pricing duty order, the liquidation of which has been suspended under section 743(d)(1), shall be subject to the imposition of artificial pricing duties under section 741(a).

"(2) SPECIAL RULE.—If the Commission, in the final determination under section 745(b), finds threat of material injury (other than threat of material injury described in paragraph (1)) or material retardation of the establishment of an industry in the United States, then merchandise subject to an artificial pricing duty order which is entered, or withdrawn from warehouse, for consumption on or after the date of publication of notice of an affirmative determination of the Commission under section 745(b) shall be subject to the imposition of artificial pricing duties under section 741(a), and the administering authority shall release any bond or other security, and refund any cash deposit made, to secure the payment of artificial pricing duties with respect to entries of the merchandise entered, or withdrawn from warehouse, for consumption before that date.

"SEC 747. TREATMENT OF DIFFERENCE BETWEEN DEPOSIT OF ESTIMATED ARTIFICIAL PRICING DUTY AND FINAL ASSESSED DUTY UNDER ARTIFICIAL PRICING DUTY ORDER.

"(a) DEPOSIT OF ESTIMATED ARTIFICIAL PRICING DUTY UNDER SECTION 743(d)(2).—If the amount of a cash deposit, or the amount of any bond or other security, required as security for an estimated artificial pricing duty under section 743(d)(2) is different from the amount of the artificial pricing duty determined under an artificial pricing duty order issued under section 746, then the difference for entries of merchandise entered, or withdrawn from warehouse, for consumption before notice of the affirma-

tive determination of the Commission under section 745(b) is published shall be—

"(1) disregarded, to the extent that the cash deposit, bond, or other security is lower than the duty under the order, or

"(2) refunded or released, to the extent that the cash deposit, bond or other security is higher than the duty under the order.

"(b) DEPOSIT OF ESTIMATED ARTIFICIAL PRICING DUTY UNDER SECTION 746(a)(3).—If the amount of an estimated artificial pricing duty deposited under section 746(a)(3) is different from the amount of the artificial pricing duty determined under an artificial pricing duty order issued under section 746, then the difference for entries of merchandise entered, or withdrawn from warehouse, for consumption after notice of the affirmative determination of the Commission under section 745(b) is published shall be—

"(1) collected, to the extent that the deposit under section 706(a)(3) is lower than the duty determined under the order, or

"(2) refunded, to the extent that the deposit under section 706(a)(3) is higher than the duty determined under the order.

together with interest as provided by section 778.

"SEC. 748. CHANGE FROM ARTIFICIAL PRICING DUTY INVESTIGATION TO ANTIDUMPING DUTY OR COUNTERVAILING DUTY INVESTIGATION: CHANGE FROM ANTIDUMPING DUTY OR COUNTERVAILING DUTY INVESTIGATION TO ARTIFICIAL PRICING DUTY INVESTIGATION.

"(a) CHANGE FROM ARTIFICIAL PRICING DUTY INVESTIGATION TO ANTIDUMPING DUTY OR COUNTERVAILING DUTY INVESTIGATION.—

"(1) If in the course of an artificial pricing duty investigation, the administering authority determines that—

"(A) the industry or sector of the nonmarket economy country under investigation is market-oriented, and

"(B) there is sufficient verifiable information to permit the investigation to be conducted as an antidumping duty or countervailing duty investigation.

then the administering authority shall treat the investigation as if the investigation had been commenced as an antidumping duty or countervailing duty investigation, whichever the administering authority determines to be appropriate.

"(2) Whenever the administering authority determines under paragraph (1) that an artificial pricing investigation will be treated as an antidumping duty or countervailing duty investigation, the administering authority shall terminate the artificial pricing investigation and begin to conduct the antidumping duty or countervailing duty investigation at the same time period as such investigation would have been had such investigation been originally commenced as an antidumping duty or countervailing duty investigation, except that—

"(A) if the administering authority had not previously made a preliminary artificial pricing duty determination—

"(i) the administering authority shall have an additional 30 days in which to make a preliminary antidumping duty or countervailing duty determination, and

"(ii) any determination made under section 743(c) to postpone a preliminary artificial pricing duty determination shall apply as if such determination had been made under section 703(c) or 733(c), whichever is appropriate, or

"(B) if the administering authority had previously made a preliminary artificial pricing duty determination the administering authority shall make a preliminary antidumping duty or countervailing duty determination within 30 days of the date on which the artificial pricing duty investigation is terminated (but any suspension of liquidation and any deposit, bond, or other security requirement previously imposed under paragraphs (1) and (2) of section 743(d) shall remain in effect until the administering authority makes a preliminary antidumping duty or countervailing duty determination).

"(3) No later than 10 days before making a determination under paragraph (1), the administering authority shall notify the petitioner of, and consult with the petitioner concerning, the intention of the administering authority to treat an artificial pricing duty investigation as an antidumping or countervailing duty investigation.

"(b) CHANGE FROM ANTIDUMPING DUTY OR COUNTERVAILING DUTY INVESTIGATION TO ARTIFICIAL PRICING DUTY INVESTIGATION.—

"(1) If in the course of an antidumping duty or countervailing duty investigation, the administering authority determines that—

"(A) the industry or sector of the nonmarket economy country under investigation is not market-oriented, and

"(B) there is insufficient verifiable information to permit the investigation to be conducted as an antidumping duty or countervailing duty investigation.

then the administering authority shall treat the investigation as if the investigation had been commenced as an artificial pricing duty investigation.

"(2) Whenever the administering authority determines under paragraph (1) that an antidumping duty or countervailing duty investigation will be treated as an artificial pricing duty investigation, the administering authority shall terminate the antidumping duty or countervailing duty investigation and begin to conduct an artificial pricing duty investigation at the same time period as such investigation would have been had such investigation been originally commenced as an artificial pricing duty investigation, except that—

"(A) if the administering authority had not previously made a preliminary antidumping duty or countervailing duty determination—

"(i) the administering authority shall have an additional 30 days in which to make a preliminary artificial pricing duty determination, and

"(ii) any determination made under section 703(c) or 733(c) to postpone a preliminary countervailing duty or antidumping duty determination shall apply as if such determination had been made under section 743(c), or

"(B) if the administering authority had previously made a preliminary antidumping duty or countervailing duty determination, the administering authority shall make a preliminary artificial pricing duty determination within 30 days of the date on which the antidumping duty or countervailing duty determination is terminated (but any suspension of liquidation and any deposit, bond, or other security requirement previously imposed under paragraphs (1) and (2) of section 703(d) or paragraphs (1) and (2) of section 733(d) shall remain in effect until the administering authority makes a preliminary artificial pricing duty determination).

"(3) No later than 10 days before making a determination under paragraph (1), the administering authority shall notify the petitioner of, and consult with the petitioner concerning, the intention of the administering authority to treat an antidumping duty of countervailing duty investigation as an artificial pricing duty investigation.

"(c) NOTICE OF DETERMINATION.—Whenever the administering authority makes a determination under subsection (a)(1) or (b)(1), the petitioner, other parties to the investigation, and the other agency shall be notified of the determination and of the facts and conclusions of law upon which the determination is based, and notice of the determination shall be published in the Federal Register.".

SEC. 749. DEFINITIONS; TECHNICAL AND CONFORMING AMENDMENTS.

(a) ADDITIONAL DEFINITIONS.—Section 771 of the Tariff Act of 1930 (19 U.S.C. 1677) is amended by adding at the end thereof the following new paragraphs:

"(18) NONMARKET ECONOMY COUNTRY.—(A) The term 'nonmarket economy country' means a country which is on a list of such countries published annually by the administering authority beginning on the ninetieth day after the date of enactment of this Act.

"(B) In general, countries shall be included on such list if their economy does not operate on market principles of cost or pricing structures so that sales or offers of sale of merchandise in that country do not reflect the fair value of the merchandise.

"(C) In determining whether an economy operates on market principles the administering authority shall take into account the following as well as other factors he may deem appropriate—

(i) the extent to which the country's currency is convertible;

(ii) the extent to which wage rates are determined by free bargaining between labor and management; and

(iii) the extent to which joint ventures or other investments by foreign firms are permitted.

"(D)(i) The administering authority shall establish a procedure whereby countries that have been placed on the list may request that they be removed. Such procedure, as well as the procedure relating to the annual publication of the list, shall provide ample opportunity for public comment prior to a decision by the Secretary.

(ii) The administering authority may, at its discretion, add or delete countries from the list, subject to the same procedures for public comment specified in subparagraph (ii).

"(E) Only countries on the list published by the administering authority shall be nonmarket economy countries for purposes of petitions filed or investigations initiated under section 742 of this Act. The question of whether a country is properly included on the list shall not be an issue in an investigation begun pursuant to section 742."

"(19) MINIMUM ALLOWABLE IMPORT PRICE.—The term 'minimum import price' means—

"(A) the trade-weighted average price of eligible market economy foreign produces in arms-length sales to customers in the United States during the investigatory period.; or

"(B) if there are no eligible market economy producers, the constructed value of such or similar merchandise in a market economy country or countries as determined under section 773(e); or

"(C) if the administering authority cannot determine the trade-weighted average price of eligible market economy foreign producers under subparagraph (A), the prices, determined in accordance with section 773(a),

at which such or similar merchandise is sold by an eligible market economy foreign producer to—

"(i) the United States; or

"(ii) if there are not sales to the United States, other countries.

"(20) ELIGIBLE MARKET ECONOMY FOREIGN PRODUCERS.—The term 'eligible market economy foreign producers' means producers in countries other than the United States that are not nonmarket economy countries as defined in paragraph (18) who–

"(A) produce the article, or a like article, that is the subject of the investigation,

"(B) export the article, or a like article, to the United States, and

"(C) are not subject to an antidumping or countervailing duty order under sections 736 or 706 respectively against the article, or a like article, that is the subject of the investigation during the period of the investigation.

(6) ADMINISTRATIVE AND JUDICIAL REVIEW OF DETERMINATIONS.—

(1) ADMINISTRATIVE REVIEW.—

(A) PERIODIC REVIEW.—Paragraph (1) of section 751(a) of the Tariff Act of 1930 (19 U.S.C. 1675(a)(1)) is amended—

(i) by inserting "an artificial pricing duty order under this title" after "1921,",

(ii) by striking out "and" at the end of clause (B),

(iii) by adding "and" at the end of clause (C),

(iv) by inserting "or at artificial prices" after "fair value" in clause (C), and

(v) by inserting after clause (C) the following new clause:

"(D) review and determine (in accordance with paragraph (3)), the amount of an artificial pricing duty,".

(B) DETERMINATION OF ARTIFICIAL PRICING DUTIES.—Subsection (a) of section 751 of the Tariff Act of 1930 (19 U.S.C. 1675(a)) is amended by adding at the end thereof the following new paragraph:

"(3) DETERMINATION OF ARTIFICIAL PRICING DUTIES.—For the purpose of paragraph (1)(D), the administering authority shall determine—

"(A) the minimum allowable import price and the actual price of each entry of merchandise subject to the artificial pricing duty order and included within that determination, and

"(B) the amount, if any, by which the minimum allowable import price of each such entry exceeds the actual price of the entry.

The administering authority, without revealing confidential information, shall publish notice of the results of the determination of artificial pricing duties in the Federal Register, and that determination shall be the basis for the assessment of artificial pricing duties on entries of the merchandise included within the determination and for deposits of estimated duties.".

(C) REVIEWS.—

(i) IN GENERAL.—Paragraph (1) of section 751(b) of the Tariff Act of 1930 (19 U.S.C. 1675(b)(1)) is amended—

(I) by striking out "or 734" and inserting in lieu thereof "734, or 744",

(II) by striking out "or 735(b)" and inserting in lieu thereof "735(b), 744(h)(2), 745(a), or 745(b)",

(III) by striking out "or 734(h)(2)" and inserting in lieu thereof "734(h)(2), or 744(h)(2)", and

(IV) by striking out "or 734(c)" and inserting in lieu thereof "734(c), or 744(c)".

(ii) LIMITATIONS.—Paragraph (2) of section 751(b) of the Tariff Act of 1930 (19 U.S.C. 1675(b)(2)) is amended—

(I) by striking out "or 735(b)" in clause (A) and inserting in lieu thereof "735(b), or 745(b)",

(II) by striking out "or 735(a)" in clause (B) and inserting in lieu thereof "735(a), or 745(a)", and

(III) by striking out "or 734" and inserting in lieu thereof "734, or 744".

"(D) SUSPENSIONS.—Subsection (e) of section 751 of the Tariff Act of 1930 (19 U.S.C. 1675(e)) is amended by striking out "or 734(i)" and inserting in lieu thereof "734(i), or 744(i)".

"(2) JUDICIAL REVIEW.—

"(A) IN GENERAL.—Paragraph (1) of section 516A(a) of the Tariff Act of 1930 (19 U.S.C. 1516(a)) is amended—

"(i) by striking out "or 702(c)" in subparagraph (A)(i) and inserting in lieu thereof "702(c), or 742(c)",

"(ii) by striking out "or 733(a)" in subparagraph (A)(iii) and inserting in lieu thereof "733(a), or 743(a)",

"(iii) by striking out "or 733(c)" in subparagraph (B)(i) and inserting in lieu thereof "733(c), or 743(c)", and

"(iv) by striking out "or 733(b)" in subparagraph (B)(ii) and inserting in lieu thereof "733(b), or 743(b)".

"(B) REVIEWABLE DETERMINATIONS.—Paragraph (2) of section 516A(a) of the Tariff Act of 1930 (19 U.S.C. 151a(a)(2)) is amended—

"(i) by striking out "or countervailing" in subparagraph (A)(ii) and inserting in lieu thereof "countervailing, or artificial pricing",

"(ii) by striking out "or 735" in clauses (i) and (ii) of subparagraph (B) and inserting in lieu thereof "735, or 745",

"(iii) by striking out "or 734" in subparagraph (B)(iv) and inserting in lieu thereof "734, or 744",

"(iv) by striking out "duty or a countervailing" in subparagraph (B)(iv) and inserting in lieu thereof ", countervailing, or artificial pricing", and

"(v) by striking out "or 734(h)" in subparagraph (B)(v) and inserting in lieu thereof "734(h), or 744(h)".

(d) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Subsection (c) of section 773 of the Tariff Act of 1930 (19 U.S.C. 1677b(c)) is repealed.

(2) Subsection (f) of section 303 of such Act (19 U.S.C. 1303(f)) and subsection (c) of section 701 of such Act (19 U.S.C. 1671(c)) are each amended—

(A) by inserting "(1)" before "For", and

(B) by inserting at the end thereof the following new paragraph:

"(2) For provisions of law applicable in the case of a product of a nonmarket economy country, see subtitle C of title VII of this Act.".

(3) Section 731 of such Act (19 U.S.C. 1673) is amended—

(A) by inserting "(a) IN GENERAL.—" before "If", and

(B) By adding at the end thereof the following new subsection:

"(b) CROSS REFERENCE.—

"For provisions of law applicable in the case of a product of a nonmarket economy country, see subtitle C of title VII of this Act.".

(e) CLERICAL AMENDMENT.—The table of contents for title VII of the Tariff Act of 1930 is amended by redesignating subtitles C and D as subtitles D and E, respectively, and by inserting after the items relating to subtitle B the following new items:

"Subtitle C—Imposition of Artificial Pricing Duties

"Sec. 741. Artificial pricing duties imposed.

"Sec. 742. Procedures for initiating an artificial pricing duty investigation.

"Sec. 743. Preliminary determinations.

"Sec. 744. Termination or suspension of investigations.

"Sec. 745. Final determinations.

"Sec. 746. Assessment of duty.

"Sec. 747. Treatment of difference between deposit of estimated artificial pricing duty and final assessed duty under artificial pricing order.

"Sec. 748. Treatment of artificial pricing investigations as antidumping duty or countervailing duty investigations and the treatment of antidumping duty or countervailing duty investigations as artificial pricing investigations.".

SEC. 2. EFFECTIVE DATE.

The amendments made by section I shall apply with respect to petitions filed, requests made, and resolutions adopted after the date of the enactment of this Act.

WILSON (AND OTHERS) AMENDMENT NO. 4268

Mr. WILSON (for himself, Mr. CRANSTON, Mr. STEVENS and Mr. INOUYE proposed an amendment to amendment No. 4244 proposed by Mr. DANFORTH to the bill H.R. 3398, supra; as follows:

Viz: At the appropriate place in the bill, insert the following:

"SECTION . (a) Subpart C of part 3 of Schedule 1 of the Tariff Schedules of the United States (19 U.S.C. §1202) is amended as follows:

"(1) Immediately following item 112.2400, strike out 'Tuna:' and all that follows up to, but not including, item 112.36;

"(2) In Item 112.3640, insert immediately after 'other', '(not including articles described in item 112. 9000)';

"(3) In the heading immediately before item 112.4000, insert immediately after 'oil', 'unless otherwise specified'; and

"(4) In item 112.9000, insert immediately after 'tuna', ', prepared or preserved in any manner, in oil and not in oil'.

"(b) The amendments made by subsection (a) shall apply to articles entered or withdrawn from warehouse for consumption, on or after the date of enactment of this Act."

PENALTIES FOR MALICIOUS OR WILLFUL INTERFERENCE WITH COMMUNICATIONS

GOLDWATER AMENDMENT NO. 4269

(Ordered referred to the Committee on Commerce, Science, and Transportation.)

Mr. GOLDWATER submitted an amendment intended to be proposed by him to the bill (S. 2975) to amend the Communications Act of 1934 to eliminate willful or malicious interfer-

ence with communications, and for other purposes; as follows:

On page 2, strike Section 3 between lines 5 and 25 and substitute the following new Section:

SEC. 3. Section 510(a) of the Communications Act is amended by inserting "(1)" before the word "Any" and adding at the end thereof a new paragraph "(2)" as follows:

"(2) Any electronic, electromagnetic, radio frequency, or other device or component thereof within the control of any person accused by the Commission of an alleged criminal violation of section 333 of this Act or rules prescribed thereunder, and capable of emitting the radiation alleged to violate such section or rules, may, after issuance of written notice delivered by certified or registered mail or in person of such alleged violation, be seized by the United States when there exists reasonable belief that seizure is necessary to prevent continued willful or malicious interference to any radio communication. Such equipment is subject to forfeiture to the United States upon conviction of such person rendered in United District Court for violation of section 333. For purposes of this paragraph 'reasonable belief' shall be deemed to exist in, but not limited to, instances where continued interference is caused by use of the same or similar equipment by any person after that person has been issued such written notice from the Commission alleging violation of section 333 and requesting that the person cease the actions alleged to constitute violation of such section until a final determination is made."

OMNIBUS TRADE ACT

GOLDWATER AMENDMENT NO. 4270

(Ordered held at the desk.)

Mr. GOLDWATER submitted an amendment intended to be proposed by him to amendment No. 4244 proposed by Mr. DANFORTH to the bill H.R. 3398, supra; as follows:

At the end of Title IV, add the following:

SEC. 403. CITRUS AND CITRUS PRODUCTS

It is the sense of the Senate that no trade agreement entered into under this Title should provide for the elimination or reduction of duties with respect to any citrus or citrus product that benefits from a discriminatory preferential tariff arrangement which is the subject of a pending challenge by the United States under section 301 of the Trade Act of 1974 and the General Agreement on Tariffs and Trade.

DOMENICI AMENDMENT NO. 4271

(Ordered to lie on the table.)

Mr. DOMENICI submitted an amendment intended to be proposed by him to amendment No. 4244 proposed by Mr. DANFORTH to the bill H.R. 3398, supra; as follows:

At the end of amendment No. 4244 insert the following new title:

TITLE IV—DUTIES ON SUBSIDIZED HYDRAULIC CEMENT, CEMENT CLINKER, AND CONCRETE BLOCK AND BRICK

SEC. 401. SHORT TITLE.

This title may be cited as the "Cement, Cement Clinker, and Concrete Block and Brick Fair Trade Act of 1983".

SEC. 402. DUTY ON SUBSIDIZED HYDRAULIC CEMENT AND CEMENT CLINKER.

Subpart A of part 1 of schedule 5 of the Tariff Schedules of the United States (19 U.S.C. 1202) is amended—

(1) by inserting after headnote 1 the following new headnote:

"2. For the purpose of item 511.12, hydraulic cement and cement clinker found by the administering authority (as defined in section 771(1) of the Act), under the procedures set forth in section 405 of the Cement, Cement Clinker, and Concrete Block and Brick Fair Trade Act of 1983, to be manufactured with the use of fuel or energy provided by a government or a State-owned or controlled enterprise at a price or cost that is less than the true value of such fuel or energy (as determined by the administering authority in accordance with headnote 4), is subject to duty in the amount of the reduction in the cost of manufacturing hydraulic cement and cement clinker attributable to the difference between the price or cost of the fuel or energy provided and such true value."; and

(2) by inserting in numerical sequence the following new item:

"511.12	Hydraulic cement and cement clinker (other than white, nonstaining portland cement), determined by the administering authority to be manufactured with the use of fuel or energy provided by a government or State-owned or controlled enterprise at a price or cost that is less than the true value of the fuel or energy provided	See headnote 2.	See headnote 2.".

SEC. 403. DUTY ON SUBSIDIZED CONCRETE BLOCK AND BRICK.

Subpart A of part 1 of schedule 5 of the Tariff Schedules of the United States (19 U.S.C. 1202) (as amended by section 402 of this Act) is further amended—

(1) by inserting after headnote 2 the following new headnote:

"3. For the purpose of item 511.55, concrete block and brick found by the administering authority under the procedures set forth in such section 405 of such Act of 1983 to be manufactured using cement made with the use of fuel or energy provided by a government or a State-owned or controlled enterprise at a price or cost that is less than the true value of such fuel or energy (as determined by the administering authority in accordance with headnote 4) is subject to duty in the amount of the reduction in the cost of manufacturing cement block and brick attributable to the difference between the price or cost of the fuel or energy used in producing the cement and such true value. In determining the amount of the concrete block and brick manufacturing cost reduction attributable to the provision of fuel or energy to cement producers at less than its true value, the administering authority shall apply a rebuttable presumption that the full value of the benefit received by the cement producers is passed through to the manufacturers of concrete block and brick,"; and

(2) by inserting in numerical sequence the following new item:

"511.55	Concrete block and brick determined by the administering authority to be manufactured with cement made with the use of fuel or energy provided by a government or State-owned or controlled enterprise at a price or cost that is less than the true value of the fuel or energy provided	See headnote 3.	See headnote 3.".

SEC. 404. DETERMINATION OF TRUE VALUE.

Subpart A of part 1 of schedule 5 of the Tariff Schedules of the United States (19 U.S.C. 1202) (as amended by sections 402 and 403 of this Act) is further amended by inserting after headnote 3 the following new headnote:

"4. For the purpose of headnotes 2 and 3, the true value of fuel or energy shall be the first of the following that can be determined:

"(a) the price at which the fuel or energy is freely sold or, in the absence of sales, offered for sale to unrelated purchasers for exportation; or

"(b) an arm's-length price consisting of the amount that was charged or would have been charged in independent transactions with or between unrelated parties in a relevant and uncontrolled market.".

SEC. 405. PROCEDURES.

The duty imposed under headnote 2 or 3 to subpart A of part 1 of schedule 5 of the Tariff Schedules of the United States (19 U.S.C. 1202) (as added by sections 402 and 403 of this Act) shall be imposed, under regulations prescribed by the administering authority, in accordance with the provisions of sections 702(b)(1) and (c), 703(b), (d)(1), (d)(2), and (f), 705(a)(1), (c)(1)(B), (c)(2), and (d), 706(a), 707, and 751(a)(1), (b), (c), and (d) of the Tariff Act of 1930, except that a petition shall allege the elements necessary for the imposition of the duty under such headnote, all references to a countervailing duty shall be considered to refer to the duty under such headnote, all references to a net subsidy shall be considered to refer to the amount of the manufacturing cost reduction attributable to the provision of fuel or energy at less than its true value (as determined in accordance with headnote 4 to such subpart A), and no determination by the United States International Trade Commission shall be required.

SEC. 406. JUDICIAL REVIEW.

Subparagraph (B) of section 516A(a)(2) of the Tariff Act of 1930 (19 U.S.C. 1516a (a)(2)) is amended by inserting after clause (v) thereof the following new clause:

"(vi) A final determination by the administering authority under section 405 of the Cement, Cement Clinker, and Concrete Block and Brick Fair Trade Act of 1983.".

SEC. 407. EXCEPTION FROM GENERALIZED SYSTEM OF PREFERENCES.

Paragraph (1) of section 503 (c) of the Trade Act of 1974 (19 U.S.C. 2463 (c)) is amended—

(1) by striking out "and" at the end of subparagraph (F);

(2) by redesignating subparagraph (G) as subparagraph (I); and

(3) by adding immediately after subparagraph (F) the following:

"(G) Cement and cement clinker specified in item 511.12 of the Tariff Schedules of the United States,

"(H) Concrete block and brick specified in item 511.55 of the Tariff Schedules of the United States, and".

SEC. 408. EFFECTIVE DATE.

(a) Except as provided in subsection (b) of this section, the amendments made by this Act shall take effect on the date of enactment of this Act.

(b) With respect to cement, cement clinker, or concrete block or brick imported from a country as to which an investigation under section 303 of title VII of the Tariff Act of 1930 regarding an alleged subsidy on the production or exportation of cement, cement clinker, or concrete block or brick involving the provision by a government or a State-owned or controlled enterprise of fuel or power at less than its true value, or an appeal of a final determination on order in such an investigation, is pending on the date of enactment of this Act, the provisions of this Act shall be effective with respect to unliquidated entries entered, or withdrawn from warehouse for consumption, on or after the date of the filing of the petition in such investigation, if a petition under section 405 of this Act is filed with respect to such merchandise within 90 days after such date of enactment.

GORTON (AND OTHERS) AMENDMENT NO. 4272

(Ordered to lie on the table)

Mr. GORTON (for himself, Mr. EVANS, Mr. ROTH, Mr. HEINZ, Mr. ANDREWS, Mr. TRIBLE, and Mr. BOSCHWITZ) submitted an amendment intended to be proposed by them to the bill H.R. 3398, supra; as follows:

Add at the end of amendment No. 4244 insert the following:

TITLE IV—SPACE TAX EQUALIZATION

SEC. 401. SHORT TITLE.

This title may be cited as the "Space Tax Equalization Act of 1984".

SEC. 402. TREATMENT OF CERTAIN SPACE ACTIVITIES.

For purposes of—

(1) the tax credit determined under section 46(a) of the Internal Revenue Code of 1954 and allowed by section 38 of such Code,

(2) the provisions contained in part 1 of subchapter N of chapter 1 of such Code (relating to the determination of sources of income),

(3) the provisions of the Tariff Schedules of the United States, and

(4) any other provision of any tax or customs law of the United States,

activities performed in space for United States persons on any spacecraft which is predominantly used or operated in space and is controlled from locations within the United States, articles produced in space primarily for sale or use within the United States upon any such spacecraft, and assets used or operated in space upon any such spacecraft (including such spacecraft) shall be treated as activities performed within, articles produced within, and assets used or operated within, the United States.

SEC. 403. SPECIFIC IMPLEMENTING AMENDMENTS.

(a)(1) Subparagraph (B) of paragraph (2) of section 48(a) of the Internal Revenue Code of 1954 (relating to exceptions to the rule with respect to section 38 property used predominantly outside the United States) is amended by inserting after clause (xi) the following new clause:

"(xii) any tangible personal property—

"(I) which is predominantly used or operated in space, and

"(II) which either is a qualified spacecraft within the meaning of section 861(g)(3) or is used or operated upon such a qualified spacecraft.".

(2) Such subparagraph (B) is amended—

(i) by striking out "and" as the end of clause (x), and

(ii) by striking out the period at the end of clause (xi) and inserting in lieu thereof "; and".

(3) The amendments made by this subsection shall apply with respect to property placed in service after December 31, 1984.

(b)(1) Paragraph (2) of section 168(c) of the Internal Revenue Code of 1954 (relating to rules for the type of property which qualifies for the accelerated cost recovery system as recovery property) is amended by adding at the end thereof the following new subparagraph (G):

"(G) PROPERTY USED IN SPACE.—Any tangible property used in space shall be treated as 5-year property of a character subject to the allowance for depreciation.".

(2) The amendments made by this subsection shall apply with respect to property placed in service after December 31, 1984.

(c)(1) Section 861 of the Internal Revenue Code of 1954 (defining income from sources within the United States) is amended by adding at the end thereof the following new subsection:

"(g) CERTAIN INCOME DERIVED FROM COMMERCIAL ACTIVITY IN SPACE TREATED AS INCOME FROM SOURCES WITHIN THE UNITED STATES.—

"(1) IN GENERAL.—Amounts includible in gross income of the taxpayer which are attributable to income received by the taxpayer—

"(A) from the disposition of an interest in property produced aboard a qualified spacecraft for the taxpayer primarily for sale or use within the United States,

"(B) for the use, or the privilege of using, property or an interest in property of the taxpayer aboard a qualified spacecraft, or

"(C) as compensation for services performed by the taxpayer aboard a qualified spacecraft, shall be treated as income from sources within the United States in the manner provided in paragraph (2).

"(2) TREATMENT OF INCOME DESCRIBED IN PARAGRAPH (1).—Income described in paragraph (1) shall be treated as income from sources within the United States in the same manner and to the same extent as such income would be so treated if—

"(A) in the case of income referred to in paragraph (1)(A), the property described in such paragraph had been produced within the United States,

"(B) in the case of income referred to in paragraph (1)(B), the property or interest in property described in such paragraph had been located or used within the United States, or

"(C) in the case of income referred to in paragraph (1)(C), the services described in such paragraph had been performed within the United States.

"(3) QUALIFIED SPACECRAFT DEFINED.—For purposes of this subsection, the term 'qualified spacecraft' means any craft which—

"(A) is predominantly used or operated in space, and

"(B) is controlled from locations within the United States.

The Secretary shall publish regulations describing the circumstances under which a spacecraft shall be treated as controlled from locations within the United States.".

(2) The amendment made by this subsection shall apply to taxable years beginning after December 31, 1984.

(d)(1) Headnote 5 of the general headnotes of the Tariff Schedules of the United States (19 U.S.C. 1202) is amended—

(A) by striking out "media; and" in subdivision (e) and inserting in lieu thereof "media,";

(B) by adding after subdivision (e) the following new subdivision:

"(f) articles returned from space within the purview of section 484a of this Act; and"; and

(C) by redesignating subdivision (f) as subdivision (g).

(2) Part III of title IV of the Tariff Act of 1930 (19 U.S.C. 1481 et seq.) is amended by adding the following new section:

"Sec. 484a. ARTICLES RETURNED FROM SPACE NOT TO BE CONSTRUED AS IMPORTATION.

"The return of articles from space shall not be considered an importation, and an entry of such articles shall not be required, if:

"(1) such articles were previously launched into space from the customs territory of the United States aboard a spacecraft operated by, or under the control of, United States persons and owned—

"(A) wholly by United States persons, or

"(B) in substantial part by United States persons, or

"(C) by the United States;

"(2) such articles were maintained or utilized while in space solely on board such spacecraft or aboard another spacecraft which meets the requirements of paragraph (1)(A) through (C) of this section; and

"(3) such articles were returned to the customs territory directly from space aboard such spacecraft or aboard another spacecraft which meets the requirements of paragraph (1)(A) through (C) of this section;

without regard to whether such articles have been advanced in value or improved in condition by any process or manufacture or other means while in space."

(3) The amendments made by this subsection shall apply with respect to articles launched into space from the customs territory of the United States on or after December 31, 1984.

TELEVISION AND RADIO COVERAGE OF SENATE PROCEEDINGS

RANDOLPH AMENDMENT NO. 4273

(Ordered to lie on the table.)

Mr. RANDOLPH submitted an amendment intended to be proposed by him to the resolution (S. Res. 66) to establish regulations to implement television and radio coverage of the Senate; as follows:

At the end of the resolution add the following:

It is a standing order of the Senate that during yea and nay votes in the Senate, each Senator shall vote from the assigned desk of the Senator.

APPLICATION OF EDUCATION AMENDMENTS OF 1972, THE REHABILITATION ACT OF 1973, THE AGE DISCRIMINATION ACT OF 1975, AND THE CIVIL RIGHTS ACT

HEINZ AMENDMENT NO. 4274

(Ordered referred to the Committee on Labor and Human Resources.)

Mr. HEINZ submitted an amendment intended to be proposed by him to the bill (S. 2568) to clarify the application of title IX of the Education Amendments of 1972, section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, and title VI of the Civil Rights Act of 1964; as follows:

On page 10, after line 2, add the following:

TITLE II—EQUAL EMPLOYMENT OPPORTUNITY COMMISSION SHORT TITLE

SEC. 201. That this title may be cited as the "Equal Employment Opportunity Reorganization Act".

TRANSFER OF EQUAL PAY ENFORCEMENT FUNCTIONS

SEC. 202. All functions related to enforcing or administering section 6(d) of the Fair Labor Standards Act, as amended (29 U.S.C. 206(d)), are hereby transferred to the Equal Employment Opportunity Commission. Such functions include, but shall not be limited to, the functions relating to equal pay administration and enforcement now vested in the Secretary of Labor, the Administrator of the Wage and Hour Division of the Department of Labor, and the Office of Personnel Management (formerly the Civil Service Commission) pursuant to sections 4(d)(1); 4(f); 9; 11 (a), (b), and (c); 16 (b) and (c); and 17 of the Fair Labor Standards Act, as amended (29 U.S.C. 204(d)(1); 204(f); 209; 211 (a), (b), and (c); 216 (b) and (c); and 217) and section 10(b)(1) of the Portal-to-Portal Act of 1947, as amended (29 U.S.C. 259).

TRANSFER OF AGE DISCRIMINATION ENFORCEMENT FUNCTIONS

SEC. 203. All functions vested in the Secretary of Labor or in the Office of Personnel Management (formerly the Civil Service Commission) pursuant to sections 2, 4, 7, 8, 9, 10, 11, 12, 13, 14, and 15 of the Age Discrimination in Employment Act of 1967, as amended (29 U.S.C. 621, 623, 626, 627, 628, 629, 630, 631, 632, 633, and 633a), are hereby transferred to the Equal Employment Opportunity Commission. All functions related to age discrimination administration and enforcement pursuant to sectons 6 and 16 of the Age Discrimination in Employment Act of 1967, as amended (29 U.S.C. 625 and 634), are hereby transferred to the Equal Employment Opportunity Commission.

TRANSFER OF EQUAL OPPORTUNITY IN FEDERAL EMPLOYMENT ENFORCEMENT FUNCTIONS

SEC. 204. (a) All equal opportunity in Federal employment enforcement and related functions vested in the Office of Personnel Management (formerly the Civil Service Commission) pursuant to section 717 (b) and (c) of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000e-16 (b) and (c)), are hereby transferred to the Equal Employment Opportunity Commission.

(b) The Equal employment Opportunity Commission may delegate to the Merit Systems Protection Board (formerly the Civil Service Commission) or its successor the function of making a preliminary determination on the issue of discrimination whenever, as a part of a complaint or appeal before the office of Personnel Management (formerly the Civil Service Commission) on other grounds, a Federal employee alleges a violation of section 717 of the Civil Rights Act of 1964; as amended (42 U.S.C. 2000e-16), provided that the Equal Employment Opportunity Commission retains the function of making the final determination concerning such issue of discrimination.

TRANSFER OF FEDERAL EMPLOYMENT OF HANDICAPPED INDIVIDUALS ENFORCEMENT FUNCTIONS

SEC. 205. All Federal employment of handicapped individuals enforcement functions and related functions vested in the Office of Personnel Management pursuant to section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791), are hereby transferred to the Equal Employment Opportunity Commission. The function of being cochairman of the Interagency Committee on Handicapped Employees now vested in the Chairman of the Office of Personnel Management pursuant to section 501 is hereby transferred to the Chairman of the Equal Employment Opportunity Commission.

TRANSFER OF PUBLIC SECTOR 707 FUNCTIONS

SEC. 206. Any function of the Equal Employment Opportunity Commission concerning initiation of litigation with respect to State or local government, or political subdivisions under section 707 of title VII of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000e-6), and all necessary functions related thereto, including investigation, findings, notice, and an opportunity to resolve the matter without contested litigation, are hereby transferred to the Attorney General, to be exercised by him in accordance with procedures consistent with said title VII. The Attorney General is authorized to delegate any function under section 707 of said title VII to any officer or employee of the Department of Justice.

TRANSFER OF FUNCTIONS AND ABOLITION OF THE EQUAL EMPLOYMENT OPPORTUNITY COORDINATING COUNCIL

SEC. 207. All functions of the Equal Employment Opportunity Coordinating Council, which was established pursuant to section 715 of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000e-14), are hereby transferred to the Equal Employment Opportunity Commission. The Equal Employment Opportunity Coordinating Council is hereby abolished.

SAVINGS PROVISION

SEC. 208. Administrative proceedings including administrative appeals from the acts of an executive agency (as defined by section 105 of title 5 of the United States Code) commenced or being conducted by or against such executive agency will not abate by reason of the taking effect of this Act. Consistent with the provisions of this Act, all such proceedings shall continue before the Equal Employment Opportunity Commission otherwise unaffected by the transfers provided by this Act. Consistent with the provisions of this Act, the Equal Employment Opportunity Commission shall accept appeals from those executive agency actions which occurred prior to the effective date of this Act in accordance with law and regulations in effect on such effective date. Nothing herein shall affect any right of any person to judicial review under applicable law.

INCIDENTAL TRANSFERS

SEC. 209. So much of the personnel, property, records, and unexpended balances of appropriations, allocations, and other funds employed, used, held, available, or to be made available in connection with the functions transferred under this Act, as the Director of the Office of Management and Budget shall determine, shall be transferred to the appropriate department, agency, or component at such time or times as the Director of the Office of Management and Budget shall provide, except that no such unexpended balances transferred shall be used for purposes other than those for which the appropriation was originally made. The Director of the Office of Management and Budget shall, as necessary, provide for terminating the affairs of the Council abolished herein and for such further measures and dispositions as such Director deems necessary to effectuate the purposes of this Act.

EFFECTIVE DATE

SEC. 210. This Act shall take effect on July 1, 1979.

● Mr. HEINZ. Mr. President, I submit a printed amendment to S. 2568. This amendment is designed to reestablish the Equal Employment Opportunity Commission's authority to enforce the Age Discrimination in Employment Act [ADEA]. This amendment, which would also restore authority for enforcing the Equal Pay Act and other Federal enforcement provisions of the Civil Rights Act and the Rehabilitation Act, was made necessary by an August 28 decision in the Second Circuit Court of Appeals, EEOC against CBS, Inc. The second circuit's decision stated that the transfer of authority for the ADEA was unconstitutional because it was authorized by the Reorganization Act of 1977, a statute which contained a "one-house legislative veto" provision. The court was not taking issue with the merits of the transfer, nor was it commenting on the effectiveness of the EEOC in carrying out its enforcement activities. Rather, the court merely drew upon the precedent established in the Supreme Court's Chadha decision and rules that the transfer was unconstitutional because of a legislative veto provision.

It should be noted, Mr. President, that there have been two recent decisions, one in the fifth circuit and one in the sixth circuit, affirming that the EEOC may enforce the ADEA. This amendment is not intended to send a signal that Congress now believes all of the statutes containing legislative veto provisions are invalid. Rather, I believe that the opinions of the fifth and sixth circuits which I just mentioned are accurate and that if appealed, the decision by the second circuit would be overturned.

The necessity of my amendment, Mr. President, is measured in human terms. If we wait for the judicial process to take its course, the 21 ADEA cases now pending in the second cir-

cuit are jeopardized. Each of those cases involves the employment rights of older Americans, who by law are guaranteed the opportunity to have their grievances heard in a court of law. Furthermore, the second circuit's decision could have negative consequences on the 150 ADEA cases pending in other circuit courts nationwide. Ultimately, failure to restore the EEOC's enforcement authority means that 23 million older Americans would be without legal protection against age discrimination in employment. I might add, Mr. President, that the court recognized the potential harm that could result from its decision and, therefore, stayed filing its decision until December 31, 1984, suggesting that this would give Congress an opportunity to enact corrective legislation. That is the reason for this amendment: To reaffirm the EEOC's authority to enforce the ADEA and other statutes.

Mr. President, as you know, the Senate Aging Committee has had a longstanding interest in policies and legislation that promote continued employment opportunities for older persons who are willing and able to work. Age discrimination in employment continues to be a major reason why middle-aged and older workers are systematically excluded from the opportunity to work. The first legislative response to this concern was the ADEA.

During the first 10 years after its enactment, enforcement of the ADEA was the responsibility of the Department of Labor. In 1979, by Executive order, enforcement responsibility for the ADEA shifted from DOL to the EEOC. Age discrimination charges now constitute a significant portion of the EEOC's caseload. Indeed, the age-related jurisdiction is the fastest growing of all civil rights enforcement statutes. A report by the EEOC placed the number of age-related charges filed during fiscal year 1983 at 15,303. The magnitude of the problem of age discrimination, as well as the increasing importance of enforcement measures designed to combat such discriminatory practices, underscores the necessity for the EEOC to have clear authority to enforce the ADEA.

I urge my colleagues to join me in support of this amendment.●

OMNIBUS TRADE ACT

WARNER AMENDMENT NO. 4275

Mr. BAKER (for Mr. WARNER) proposed an amendment to amendment No. 4244 proposed by Mr. DANFORTH to the bill H.R. 3398, supra; as follows:

On page 22 of the matter proposed to be inserted, line 12, strike out "Subpart B" and insert in lieu thereof "(a) Subpart B".

On page 22 of such matter, in the matter after line 13, strike out "12/31/88" and insert in lieu thereof "the termination date".

On page 22 of such matter, at the end of the page, add the following:

(b) The headnotes to subpart B of part 1 of the Appendix is amended by adding at the end thereof the following new headnote:

"7. For purposes of item 907.32, the term 'termination date' means the earlier of—

"(i) December 31, 1988, or

"(ii) the date that is 15 days after the date on which the Secretary of the Treasury publishes in the Federal Register notice of the production of tetraamino biphenyl in the United States."

* * * * *

written statement by any person declaring that such person is producing tetraamino biphenyl in the United States, the Secretary of the Treasury shall publish within 30 days in the Federal Register notice of such production and termination of the suspension of duty under item 907.32.

NOTICES OF HEARINGS

SUBCOMMITTEE ON AGRICULTURAL RESEARCH AND GENERAL LEGISLATION

Mr. LUGAR. Mr. President, I wish to announce that the Subcommittee on Agricultural Research and General Legislation of the Committee on Agriculture, Nutrition, and Forestry has scheduled a hearing on S. 2190, a bill to amend the Agriculture and Food Act of 1981 to provide protection for agricultural purchasers of farm products.

The hearing will be held on Wednesday, September 26, 1984, at 9:30 a.m., in room 328-A, Russell Senate Office Building.

For further information please contact the Agriculture Committee staff at 224-0014 or 224-0017.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON PUBLIC LANDS AND RESERVED WATER

Mr. BAKER. Mr. President, I ask unanimous consent that the Subcommittee on Public Lands and Reserved Water, of the Committee on Energy and Natural Resources, be authorized to meet during the session of the Senate on Tuesday, September 18, at 9:30 a.m., to hold a hearing to consider S. 2916, to designate certain additional National Forest lands and National Park lands in the State of Colorado as components of the National Wilderness Preservation System, and for other purposes; S. 2032, to designate certain additional forest lands in the State of Colorado as components of the National Wilderness Preservation System; and H.R. 5426, to designate certain National Forest System lands in the State of Colorado for inclusion in the National Wilderness Preservation System, and for other purposes.

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

SUBCOMMITTEE ON AGRICULTURAL RESEARCH AND GENERAL LEGISLATION

Mr. BAKER. Mr. President, I ask unanimous consent that the Subcommittee on Agricultural Research and General Legislation, of the Committee on Agriculture, Nutrition, and Forestry, be authorized to meet during the session of the Senate on Tuesday, September 18, at 2 p.m., to hold a hearing on S. 2857, the Honey Research, Promotion, and Consumer Information Act.

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

SUBCOMMITTEE ON EAST ASIAN AND PACIFIC AFFAIRS

Mr. BAKER. Mr. President, I ask unanimous consent that the Subcommittee on East Asian and Pacific Affairs of the Committee on Foreign Relations, be authorized to meet during the session of the Senate on Tuesday, September 18, at 10:15 a.m., to hold a hearing on the situation in the Philippines for implications for U.S. policy.

The PRESIDING OFFICER. Without objection it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. BAKER. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Tuesday, September 18, at 10 a.m., to receive a briefing on intelligence matters.

The PRESIDING OFFICER. Without objection it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Tuesday, September 18, 1984, in order to receive testimony concerning S. 2417, a bill to amend the Sherman Act with regard to rail carriers.

The PRESIDING OFFICER. Without objection it is so ordered.

ADDITIONAL STATEMENTS

THE HONORABLE JOHN M. MAURY, JR.

● Mr. GOLDWATER. Mr. President, earlier this year, Jack Anderson published an article in the Washington Post titled "CIA Official Returned Favor to Hill Critics." In this article, Anderson wrote about the late John M. Maury, Jr., a distinguished Virginian who served as a Marine Corps officer in World War II, was the CIA station chief in Athens in the 1960's, later served in the Congressional Liaison Offices of both the CIA and the Department of Defense, and was twice president of the Association of Former Intelligence Officers.

John Maury was well known to me and to the Senate Select Committee on Intelligence. When he died last

year, the late Senator Henry "Scoop" Jackson, a distinguished Member of our committee and of the Senate, had the following to say about him:

For many years, I knew Jack Maury as a reliable friend and effective public servant. He gave the greater part of his life to aid the cause of freedom and a just peace—and he died at the age of 71 still active in the service of his country. We shall miss him. He represents the kind of patriot we need today more than every before.

In his article, Jack Anderson referred to an essay which John Maury wrote over a decade ago, and stated that this essay proved Maury's disdain for the Congress. Anderson went on to say that this essay was "a sort of guideline for CIA employees trying to 'handle' Congress," and that the "blistering appraisal is contained in a 14-page report, 'CIA and the Congress,' which was disseminated in one of the Agency's secret publications."

Mr. President, I usually do not try to correct Jack Anderson's articles for the record. However, the allegations he makes with regard to John are more than I can ignore, especially since John is no longer around to defend himself.

In 1974, John Maury wrote an article titled "CIA and the Congress" for an Agency publication called "Studies in Intelligence." This article, which was classified confidential at the time, was declassified on July 15, 1980. Like many of the things that Maury said and wrote, it is an insightful and accurate analysis of the subject. This piece does not show any disdain for the Congress, nor does it show that Maury's opinion of Members of Congress is uncharitable, as Jack Anderson claims. I do not consider it a "blistering appraisal" even though it was written in the mid-1970's; a period of time when anyone working for the CIA had good reason to feel angry at the activities of the Congress toward the intelligence family.

Mr. President, as is so often the case, Jack Anderson has sacrificed fact for fiction, has misrepresented an honest man's words, and has impugned the honor of an honorable man in order to make a bigger splash and a better story. I think the record should be corrected on this matter, especially since the late John Maury is no longer around to defend himself.

On this basis, I ask that the complete essay by John Maury be printed in the RECORD. I also ask that a memorial tribute to John Maury by former Secretary of Defense, James R. Schlesinger, also be printed in the RECORD.

The material follows:

CIA AND THE CONGRESS

(John M. Maury)

Beaumarchais' appraisal of politicians is widely shared these days, and perhaps nowhere more than among members of Executive Agencies who have come to look upon Congressmen and their endless investigations and criticisms as irreconcilable enemies of the bureaucratic establishment. In the case of agencies involved in sensitive questions of national security, the problem is intensified by concern among the bureaucrats that Congress will, perhaps inadvertently, lack proper discretion in the handling of highly classified material to which it demands access. On the other hand, the Congress instinctively suspects that whenever an Executive Agency pleads national security as an excuse for withholding information, the purpose is merely to cover up mischief or inefficiency.

In the case of an agency involved in foreign intelligence, the problem is further complicated by traditional American squeamishness about the morality of spying in peacetime—reading other people's mail, or subverting other people's loyalties. And sometimes our own poor judgment or clumsy tradecraft have contributed to Congressional suspicions that many of our activities are counter-productive or create unnecessary irritants in the nation's foreign relations.

Our problem then is whether an organization like CIA can operate in American society without being so open as to be professionally ineffective, or so secret as to be politically unacceptable.

In the early days of the Agency this problem rarely arose. The Agency was created at a time when the nation was haunted by the disastrous lack of warning of the Pearl Harbor attack, when we were becoming dimly aware of the nature and scope of the post-war Soviet threat and implications of the Cold War, and when, for the first time in our history, we found ourselves with no staunch and strong ally standing between us and a possible major adversary. All of this, coupled with our worldwide security commitments—military, economic, and political—made it obvious that if we were to bear our newly acquired responsibilities in the world and defend our national interests, we would need a far more sophisticated set of eyes and ears abroad than anything we had enjoyed in the past.

In the view of the general public, and of the Congress which in the main reflected the public attitude, a national intelligence service in those days was more or less a part and parcel of our overall defense establishment. Therefore, as our defense budget went sailing through Congress under the impact of the extension of Soviet power into Eastern Europe, Soviet probes into Iran and Greece, the Berlin blockade, and eventually the Korean War, the relatively modest CIA budget in effect got a free ride, buried as it was in the Defense and other budgets. When Directors appeared before the Congress, which they did only rarely, the main concern of the members was often to make sure we had what we needed to do our job.

All of this now seems long ago. In recent years the intelligence community, and particularly CIA, have, along with the Defense and State Departments, borne the brunt of Congressional suspicion and frustration resulting from unpopular and burdensome foreign involvements. In the old days we lived in a black and white world. We knew we were the good guys, and we knew who the bad guys were. And it was widely recognized that we needed a good intelligence service to take care of ourselves. It was also widely assumed that, in addition to intelligence, we needed a covert arm to fight Communist subversion and give the Communists some of their own medicine in the area of political and psychological warfare. In the early Fifties there was much talk about how something called the "international Communist conspiracy" had been the main instrument for spreading Soviet influence throughout Eastern Europe and paving the way for Communist takeovers in other parts of the world. Accordingly, it was suggested by eminent Washington statesmen that we should fight fire with fire and develop a subversive capability of our own which would roll back the Iron Curtain to pre-war Soviet frontiers, and perhaps stimulate nationalist uprisings among the peoples of the Baltic States, Byelorussia, and the Ukraine. The late Chip Bohlen has noted the fallacy in this thesis by pointing out that the Kremlin has not gained effective control of a foot of territory since 1917 without the use of threat of superior force, and that covert action, while a useful supplement to overt military and diplomatic measures, can never be a substitute for them. In the early days of the Agency, however, a general failure to appreciate this point led to a certain amount of excessive and romantic zeal, and a corresponding amount of concern and suspicion among those who feared that ill-considered political action ventures might get out of hand.

More recently the pendulum has swung the other way. We no longer see the world as black and white, but in numerous shades of gray. It is no longer clear that we are good guys or that any others in particular are especially bad guys. We have learned that neither military might, economic aid, earnest diplomacy, nor political or psychological gimmicks can make the world behave as we would like it to behave. In the resulting popular disillusionment, scapegoats must be found. Americans have been brought up to believe that they are not supposed to suffer setbacks, and if they do there must be a scoundrel amongst them, or perhaps several scoundrels. In Joe McCarthy's day, the chief scoundrels included General Marshall, a few hapless Foreign Service officers, and an Army dentist. More recently, the scoundrels have been the people that got us into the "illegal" war in Indochina, or who have somehow been vaguely associated with one or another aspect of the Watergate affair. But whatever the immediate popular frustration may be, whether directed at the generals in the Pentagon, or the diplomats in the State Department, or the architects of the Watergate in the administration, chances are someone will find a way to implicate CIA. We are an easy target, first, because nearly everyone is prepared to believe wild stories about "spy agencies"; second, because the media can't tolerate an organization that refuses to share with them all of its secrets; and, third, because we cannot refute the allegations against us without revealing sensitive details about our organization, our activities, and especially our "sources and methods" which the Director is enjoined by law to protect.

Therefore, the Agency still operates under something of a cloud of suspicion. Unless we can publicly prove our innocence of the charges leveled against us, doubts persist. But it now is clear that we are here to stay. We are no longer viewed by the public and politicians as an intriguing Cold War innovation which would soon go the way of other committees, boards, administrative organizations, and so forth, that temporarily prospered in times of crises, but eventually were gobbled up or pushed aside by the entrenched bureaucracies of the old-line departments. In the past several years, CIA has indeed acquired a clear identity on the

national scene. For better or worse, we are in the news almost daily. In the public eye we are no longer obscure, and indeed hardly mysterious, although we do apparently remain somewhat sinister. But in any event we are very much a part of the national establishment and, as such, we must sink or swim in the same political currents as the other elements of the Executive Branch.

I see no reason why we should shrink from this prospect. Both Dick Helms and Bill Colby have made the point before Congressional committees that we are in every sense a part of the American scene, and as such must be guided by American traditions, mores, and morals. And in spite of the doubts and suspicions about some of our real or alleged activities which have been voiced on the Hill, the fact is that to date we have fared quite well at the hands of the Congress. Indeed, it is difficult to recall a case in which the Congress has passed legislation seriously opposed by the Agency, or failed to pass legislation which the Agency judged necessary for its effective discharge of responsibilities. The reason, I think, is that all of our Directors have subscribed to the view that the Congress was entitled to know as much about the Agency and its activities as it thought necessary to carry out its responsibilities. The extent of the information which Congress felt it needed, and the procedures through which it has obtained this information, have varied over the years with changing world conditions and domestic political attitudes. But I know of no case where a Director has attempted to mislead or withhold information from a Congressional committee on any matter within the Agency's competence and within the committee's jurisdiction.

In talking to various Agency groups about our Congressional relations in recent years, I have found that even many old hands are startled, and often disturbed, to learn of the extent of our current involvements with the Congress. Few seem to know that over the past several years we've received an average of over a thousand written communications annually from individual members or committees. Perhaps half of these are routine letters endorsing an applicant for employment. Probably the bulk of the remainder are also more or less routine, involving letters from constituents inquiring about why Congress does not exercise tighter oversight over the Agency, why our budget cannot be made public, whether some of the press stories about assassination and derring-do are accurate, and so forth. But a week rarely passes that we don't have a couple of real lulus—perhaps a request from the Foreign Relations Committee for copies of certain National Estimates; a demand for a detailed reply to allegations by Jack Anderson implying Agency involvement in the narcotics traffic; queries about whether some Foreign Service officer mentioned in the press was actually an Agency employee; questionnaires covering any and all relations we might have with various universities and educational institutions or foundations; and sometimes rather moving appeals for Agency assistance in locating missing persons who may have fallen victim to foul play abroad, or interceding with local authorities to arrange the release of American citizens incarcerated for one or another offense in foreign countries.

Many requests from individual members of the Congress are quite straight-forward intelligence requests—they simply want to be brought up to date on a problem in which the Agency has some competence. It may concern the political situation in a certain foreign country, or how certain Soviet weapons performed during the recent Mid-East fighting, or the prospects for the spring wheat crop in Eastern Europe. Their questions may arise as a result of something that's come up before their respective committees, or it may be connected with a forth-coming trip which they are planning to make to certain foreign areas. On the average, Agency officers give perhaps a hundred individual briefings a year in response to such specific requests.

Our most important business on the Hill, however, is conducted with the several committees. In recent years the Director or Deputy Director has averaged some 30 to 35 committee appearances annually. Most of these have been before the Agency Oversight Committees—or rather Subcommittees—of the Appropriations and Armed Services Committees of the House and Senate. However, increasingly the Director is being called on to give world round-up intelligence briefings to the full Armed Services Committees of each House and to the Defense Subcommittees of the Appropriations Committees of each House, all of which are considerably larger than the Intelligence Subcommittee alone.

The Agency also makes several appearances each year before other committees, such as Foreign Relations in the Senate, Foreign Affairs in the House, and the Joint Committee on Atomic Energy. In the case of Foreign Relations and Foreign Affairs, there are usually a couple of general world round-up briefings each year before the full Committee and, in addition, there are often more specialized briefings, sometimes for only subcommittees. For example, in the Senate Foreign Relations Committee, Senator Muskie might request a special briefing on Soviet weapons developments for his subcommittee on arms control, or in the House, Representative Fascell may want a briefing on developments in Latin America for his Subcommittee on Inter-American Affairs.

In addition to committee briefings, the Agency is frequently called upon to brief individual members on various intelligence and related subjects. During calendar year 1973, for example, we responded to 175 such requests.

Now a few words about the ground rules for dealing with these committees, subcommittees, and individuals. For some years, and in fact ever since we became involved in routine Congressional briefings of the kind I've described, it has been Agency policy to respond to the request of any Congressional committee on any matter within the Agency's competence and within the committee's jurisdiction. So far as the Agency's Subcommittees of the Appropriations and Armed Services Committees of the two Houses are concerned, no holds are barred. These small subcommittees are generally made up of the senior members of the full committees and have free access to any information they wish, not only of an intelligence nature, but about the inner workings of the Agency, including specific operations, budgets, personnel strength and so forth. Also, one or two key staff members of these subcommittees have all of the clearances necessary for similar access. The members themselves are not formally cleared, their access to various categories of classified information being based on their membership on the committee rather than formal clearance procedures by the Executive Branch.

Thus there are no problems with regard to what material to provide to our Oversight Subcommittees. The problems arise in dealing with other committees, especially where things that we consider internal Agency matters impinge on problems which the committees feel legitimately concern them. For example, the Foreign Relations Committee, in its overview of the State Department and the Foreign Service, may feel that it should know what embassy slots abroad are occupied by Agency officers. The Inter-American Affairs Subcommittee of the House Foreign Affairs Committee may call for an Agency explanation of allegations of Agency involvement with certain multi-national corporations. Or Senator Fulbright may want to know whether the Agency has contact with Soviet emigré groups to an extent that might jeopardize détente.

Where operational details are involved—especially those relating to sensitive sources and methods—the Agency has followed guidelines laid down by the Chairmen of our Oversight Subcommittees, and generally no exceptions are made to the strict rule against passing operational information except with the approval of the Chairman of these Subcommittees. However, like everything else in the real world of politics in a democratic society, there are no absolutes. Rules are usually flexible, and where disagreements occur, compromise is always considered preferable to confrontation. Thus, should a particular Senator express special concern over an allegation that a diplomatic incident in some foreign capital was the result of the misfire of an Agency operation, it is entirely possible that the Chairman of one of our Oversight Subcommittees might call him aside and, relying on his honor as a Senator to be discreet, explain to him the facts. Or the Subcommittee Chairman might arrange, on the basis of his colleague's assurances to respect confidences, for an Agency officer to brief him in full detail on the matter in question. There have, of course, been cases where such confidences have been broken, probably more often by inadvertence than design, but perhaps this is not too high a price to pay to avoid the kind of confrontation that would help nobody, at least of all the Agency. For, as the late Senator Russell once cautioned an Agency official, "There isn't a single member of this Senate that's so lowly that he can't make life unbearable for you fellows if he decides he wants to do it."

There are, of course, occasions when activities which start out as strictly clandestine operations end up as subjects of legitimate concern to other than members of the Intelligence Oversight Subcommittees. For example, when covert Agency assistance to the Meo tribes in Laos was first initiated, it appeared both necessary and feasible to maintain a posture of plausible denial. But, as often happens, what started out as a strictly covert program had more and more requirements heaped upon it by higher authority. As more and more people became involved, the U.S. media and other curious bystanders became more and more interested in what was going on, and gradually uncovered virtually the whole story. In these circumstances it would have been quite unrealistic for the Agency to insist that this was only a normal clandestine operation of no concern to the Senate Foreign Relations Committee.

In fact, the Foreign Relations Committee's interest was recognized at an early stage, and Committee members were briefed on the operation as early as 1962. During the ensuing years, the Foreign Relations and Armed Services Committees of the

Senate were briefed on the matter on a total of 28 occasions, and some 57 members were, at one time or another, informed of what the Agency was doing in Laos. This didn't entirely solve the problem, however, because all of these briefings were in Executive Session, and what the members really wanted was something they could use in public debate about the "endless escalation of the illegal war in Indo-China." As the story of the Agency role in Laos gradually seeped out through the media, some members developed the line that they had never known anything about it, and if they had, they would have put a stop to it long ago. This was for public consumption, however, and some of these same members privately congratulated the Agency for having done such an effective job in helping the Meo tribes to tie down such a large number of Communist troops on a budget that, in terms of the costs of the overall U.S. involvement in Southeast Asia, was infinitesimal.

Our most serious problems with Congress generally revolve around major action programs such as the Laos operation. There is a widely held feeling, shared not only by members of the Foreign Relations and Foreign Affairs Committees, but also by our friends on the Agency Oversight Committees, that such operations should not properly be the responsibility of a covert intelligence organization. The charge has been in recent years that the Agency's special legal authorities and clandestine capabilities have been misused by one after another administration to circumvent the will of congress, and that such operations have often done more harm than good in serving the national interests.

This Congressional concern about covert political action and paramilitary operations is not limited to programs of a strategic nature such as the one in Laos. Even relatively minor covert action efforts are viewed with suspicion—for example, the training of foreign police or security services has raised questions about whether we can guarantee that the recipients of such assistance will scrupulously observe due process of law, American-style. And there is a particular Congressional sensitivity to any sort of effort to influence the outcome of foreign elections—even in situations where there is a real and imminent threat that manipulation by Communist nations may lead to a Communist take-over. Meddling with the media—even in unfriendly countries—also creates Congressional uneasiness.

It's hard to generalize about the basis for this persistent Congressional sensitivity. Perhaps it springs in part from a gut feeling that any attempt to influence the course of events abroad should be under close and continuing Congressional scrutiny, and that the President and his immediate staff should not have at their disposal politically potent instruments which they can use without Congressional knowledge and approval, and the misuse of which might produce serious consequences or embarrass the national image.

This Congressional concern about the morality of covert action, and about whether it is compatible with our professed desire to maintain friendly relations abroad, is shared generally by the more liberal members of Congress. They are quick to suspect, for example, that any Agency contact with private American corporations operating abroad, or any Agency assistance to foreign police or security forces is a reflection of imperialistic purpose. The basic attitude among the liberal membership seems to be that any legitimate interest the U.S. has abroad can best be served by the State Department or other overt agencies, and that any resort to clandestine means is proof of sinister purposes.

The more conservative members, on the other hand, usually have no quarrel in principle with covert action, recognizing that chiefs of state even in the most democratic countries have for centuries felt the need of a covert capability of some kind in the conduct of their foreign relations. But many of these more conservative members, and particularly those on the Agency Oversight Subcommittees, often question whether covert action should be the responsibility of an agency whose primary purpose, in their view, is the collection and analysis of intelligence. Several of these members have, in subcommittee hearings, expressed a strong view that Agency involvement in such activities as the war in Laos, the Cuban invasion, the National Students' Association, or Radio Liberty and Radio Free Europe are far too unwieldy and inherently insecure to be properly made the responsibility of an organization which depends for its effectiveness on its secrecy and anonymity. These members feel that the Agency was created primarily to provide reliable national intelligence for the guidance of our policymakers in dealing with critical problems of foreign policy and national security. And they feel that the undertaking of additional burdens in the covert action field diverts us from this objective and erodes and corrupts the discipline and commitment which the successful accomplishment of our intelligence mission requires.

Various arguments have been advanced on the Hill in support of legislation to restrict our covert action authority or to require that Congress be kept more fully informed regarding covert action programs. Along with these have been proposals that the Agency's budget be made public. Such proposals vary in the extent to which they would require a detailed breakdown of the budget, but doubtless one purpose is to give to the Congress as a whole some sort of a handle on the funding of the more ambitious and expensive political and paramilitary programs. In addition there have been legislative proposals restricting, or making us more fully accountable to the Congress for, programs supporting foreign police and security forces, and any Agency association with American commercial enterprises operating overseas.

Another area of Congressional concern, which has reached acute proportions within the past year or so, involves Agency domestic activities. This all started as a tempest in a teapot when a certain political figure discovered that the Agency had provided some quite innocuous briefings to a metropolitan police force in a large American city. From the press accounts that emerged from this discovery, one would assume that the Agency was training local police forces in the more sophisticated techniques of brutality, torture, and terror. In fact, all we were doing was giving them the benefit of our experience with the handling of information, and passing on to them a few tips about how to identify and deal with the foreign weapons and explosives that were being used by alien terrorists. But even the more rational members of Congress have recently been expressing some concern about how carefully the Agency observes its statutory restriction against any sort of police, subpoena, law enforcement, or internal security functions. They apparently feel there is something essentially unhealthy about any agency involved in foreign intelligence carrying on operational activity within the United States.

While critical or suspicious regarding the Agency's covert action and paramilitary activities, uneasy about suspected domestic involvements of the Agency, and increasingly frustrated over the secrecy which protects the Agency's budget, the Congress generally seems to respect the Agency's record in the collection and analysis of intelligence information. They have noted increasingly in recent years the candor and professionalism of the Agency's intelligence briefings, and the scrupulous care exercised by the Agency in maintaining its objectivity in handling highly controversial subjects of major political significance.

It therefore seems clear that where collection and production of intelligence is concerned, the Congressional concern is not so much to clip the Agency's wings, but rather to get access to the Agency's intelligence product, and several legislative proposals have recently been introduced to serve this purpose. Some of these have gone so far as to propose that all intelligence produced by the Agency be made freely available to the full membership of the Congress through the facilities of the Armed Services and Foreign Relations Committees. Others have simply sought to impose upon the Agency a statutory obligation to keep certain committees fully informed on matters within the committees' purview. But the fact that more and more concern is being expressed on the Hill to get the benefit of the Agency's intelligence output is proof of the Agency's growing reputation for competence and credibility.

When such controversial issues as the ABM program, the world oil situation, SALT, and Mutual Balanced Force Reductions are at issue, it is only natural that a number of members of Congress other than those who are members of the Agency's Oversight Subcommittees should want up-to-date intelligence. In general it has been our policy to provide this information as freely as security considerations permit. There is, of course, the ever-present hazard that in doing so a member with strong partisan interests will use information obtained from the Agency out of context in support of one or another side of the argument. There is also, of course, the hazard that in the heat of debate a participant will reveal too much of the details of the information which we have provided. On the other hand, it can be argued that the Congress certainly is now exercising, for better or worse, a vital and frequently decisive role in decisions of the utmost importance to national security, and if its membership is denied access to the best available intelligence the national interest is being poorly served. The denial of relevant intelligence to the Congress, it is argued, may not only lead the Congress into blind alleys or costly and unwise decisions, but for the Executive Branch to have full access to vital information which is denied to the Congress gives the Executive an undue advantage over the Congress, and may have the additional effect of aggravating differences between the Congress and the Executive Branch in their appreciation of the problem at issue.

Certainly many of us here have been troubled by the inherrent security risks involved in sharing highly sensitive information with the Congress. The problem is how to impress upon the members whom we brief the

reason for our concern over security. Often they take the attitude that nearly everything that we tell them come out sooner or later anyhow, so why be so squeamish? Why shouldn't we let them get up and make a speech about it on the floor, rather than wait to be scooped by the newspaper?

In trying to cope with this attitude, it may be useful to point out the difference between a revelation by a Jack Anderson on the one hand, and a revelation by a responsible member of the Armed Services Committee who is known to have just attended an Agency briefing on the other. If I thought the KGB spent its time trying to analyze and evaluate every story put out by Jack Anderson, I wouldn't worry too much. But when a senior member of the Armed Services or Foreign Relations Committee appears on "Meet the Press" and talks about how much we know about Soviet missiles or submarines, odds are that the KGB assumes he's basing his comments on the best available intelligence information.

We have also found it useful sometimes to remind the members of the Director's statutory responsibility for the protection of intelligence sources and methods from unauthorized disclosure. It's worth pointing out that not only do we have this responsibility by law, but we are in a business which essentially involves a number or fiduciary relationships. We are already the most open major intelligence service in the world. Even in some of the oldest democracies, such as the U.K. and the Scandinavian countries, neither the public, the press, nor the politicians are supposed to know the identities of the chiefs of the local service or the location of its headquarters. References to its activities rarely appear in public. Because we are determined to play the game according to American standards, we are already so overt that we have two strikes against us before we start. Therefore it is extremely difficult for us to live up to the obligations implicit in our delicate fiduciary relationships with our sources and collaborators—be they individual agents, friendly liaison services, cover organizations or indeed friendly governments—which might be placed in gravest jeopardy if certain of our special relationships with them, or activities which they permit us to carry out on their soil, ever became known.

Another point sometimes worth making in trying to impress upon Congressional members the value of our contribution to their tasks, and the importance of protecting our security, is to remind them that the U.S. Senate would never have ratified the first SALT agreement had it not been confident that we had a national intelligence capability of detecting significant violations. It can be persuasively argued that, in this sense, good intelligence is vital to the achievement of a meaningful peace. It can be contended that the greatest danger of major hostilities lies not in the deliberate attack of one great power upon another, but rather in the area of miscalculation which can only be avoided by an alert, competent, and credible intelligence service.

Most members seem to accept this point. They also accept, in theory, that for an intelligence service to be credible it must be scrupulously objective and non-partisan. However, in the heat of political controversy, it is inevitable that evidence attributable to the Agency is introduced, sometimes in distorted form, in order to support one or the other side of the debate. During the ABM controversy we were frequently called on to brief committees and individual members of the Senate, and in nearly every case the recipients of these briefings found something to support their position, whatever it might be. Moreover, some of the more vigorous partisans used various devices to try to put words into the mouth of the Director or other Agency witnesses tailored to support their cause. It wasn't always easy to resist these pressures, but I know of no case in which they were not effectively resisted. And I am sure that if we had once started down the road of shaving our language, ever so slightly, to accommodate one or the other side in such partisan debates, it would be quickly detected and long remembered.

In fact, I think we can all be proud of the Agency's record in this regard. This record was eloquently attested to by Chairman Mahon of the House Appropriations Committee on January 16, 1973, when, in paying a tribute to Mr. Helms, he said,

"I must say I have not encountered a man in government who in my judgment has been more objective, more fiercely non-partisan, more absolutely inclined to be perfectly frank with the Congress than you have been. You have just called it as you have seen it, and we have complete and utter confidence in you. I am just glad that we live in a country which produces men who have the sense of loyalty and dedication that you have."

We can be justly proud of this reputation, but it carries with it a heavy burden. Inevitably, we will make mistakes in intelligence assessments, and when we err on matters of sharp political conflict, one side or the other is bound to accuse us of partisan bias rather than professional error.

If we overestimate any aspect of the Soviet threat, we are attacked by the doves. If we underestimate, we alienate the hawks. There is no insurance against these hazards, but the only way to keep them within tolerable proportions is to continue to display, in all of our intelligence presentations, the highest degree of professional objectivity and intellectual integrity.

Beside the problems we have in maintaining our professional integrity by avoiding involvement in partisan debate, we have the problem of maintaining our political integrity—or perhaps, more accurately, apolitical integrity—by avoiding identity with either the liberal or the conservative blocs in the Congress. Traditionally, the older members, because of their seniority on the Oversight Subcommittees, have largely monopolized the oversight function. They tend generally toward conservatism and hawkishness. The younger members, generally excluded from the prestigious Oversight Subcommittees and jealous of the favored position of their elders, tend to be liberal and dovish. The Agency can ill afford to be closely identified with either.

Inevitably, one who spends much time on the Hill is often asked for his personal "net assessment" of the Congress as a whole. I would have to say we get about what we deserve and maybe a bit better. They are, to be sure, not all equipped for the role of statesman. Among them are a fair number of dull fellows who instinctively distrust brilliance. (Dean Acheson, recalling his days as Assistant Secretary for Congressional Affairs, once cautioned me that in dealing with Congress one is tempted to be brilliant, but it is safer to be dull, adding ruefully, "This I earnestly tried, but with only limited success.") But in the main we have a group of broadly representative Americans struggling to find a tolerable compromise between the demands of their constituents, the pressures of the media and special interest groups, horse-trading bargains offered by their colleagues, and the dictates of their consciences.

In the case of some, to resolve such conflicts on the basis of the limited mental and moral resources with which the Creator has seen fit to endow them must indeed be a formidable task, the results of which one should not judge too harshly. From the standpoint of the Agency, I think we can be thankful that we have on our subcommittees a number of members who devote so much constructive attention to Agency matters, knowing full well that the are thereby gaining not a single vote from a constituent, boost from a pressure group, or negotiable asset from cloakroom bargaining.

There have been a number of complaints in recent years, both from outside observers and from some of the younger members of the Congress, about the way the four intelligence Oversight Subcommittees carry out their responsibilities. It is claimed that these Subcommittees are made up almost exclusively of the older and senior members, generally of conservative bent, who lack the time and interest to maintain adequate overview of the Agency. The Subcommittees are charged with failure to insist upon a strict accounting of how the Agency spends its appropriated funds, failure to ensure that the Agency sticks to its legislative charter on such matters as refraining from domestic activities, white-washing the Agency's mistakes, and failing to keep their colleagues informed of what the Agency is up to, how much money it is spending, and so forth.

There is probably merit to each of these charges, and there is probably an explanation in defense against each. It is true that, traditionally, membership on the intelligence Oversight Subcommittees has been limited to the senior members of the full Committees. This, of course, is something over which the Agency has no control. But the fact is that the Congressional leadership, and the chairmen of the full Committees, have seen fit to favor seniority where intelligence matters are concerned. This may be in deference to the wishes of the senior members who normally get first choice at committee assignments. It may also be due to the assumption that the senior members are more likely to behave responsibly in the handling of sensitive information. But whatever the reasons, it is certainly true that, precisely because the members of the intelligence Oversight Subcommittees are quite senior and often have a number of other committee assignments or official responsibilities, they have only limited time and energy to devote to their intelligence Subcommittee responsibilities.

The inevitable result is that most of our Subcommittee members simply do not know the full details about what we are doing, and why we are doing it, and how we are doing it, that they probably should know, and that we in the Agency would be glad to have them know. In terms of efficiency, a democratic parliamentary body is certainly a far from a perfect piece of machinery. No doubt subcommittees made up of younger members would find more time to devote to Agency business, and might make many constructive contributions to the conduct of Agency management and policy guidance.

Moreover, younger members should probably have less difficulty in mastering the modern technology and jargon which often creep into Agency briefings, whether relat-

ing to foreign weapons systems or to our technical intelligence collection systems. I have seen my colleagues wince when asked questions about how many missiles an hour can be launched from an SS-9 silo, or whether our estimate of the number of Soviet Y-Class submarines is based on anything more than a wild guess. One distinguished member apparently has never been quite clear on the difference between Libya, Lebanon, and Liberia, and when answering his questions on what's going on in these countries, a witness can only guess as to which of them he has in mind. In private discussions with him, it might be appropriate to try to straighten him out or seek clarification, but in a formal committee meeting in which a transcript is being made, precision must sometimes be sacrificed to tact.

The older members also occasionally suffer from a decreasing attention span, and particularly in afternoon sessions are prone to intermittent dozing. Also, failing faculties sometimes take their toll. I recall one elderly chairman, when shown a chart of various categories of covert action, reacted sharply and demanded to know "what the hell are you doing in covert parliamentary operations." When it was explained that the box on the chart he was pointing to was "paramilitary operations" he was much reassured, remarking "the more of these the better—just don't go fooling around with parliamentary stuff—you don't know enough about it."

But one who has been privileged to watch such committee chairmen as Stennis, McClellan, Mahon, Hébert, and especially the late Senator Russell, deal with highly complex problems of national security cannot but be impressed with their inherent wisdom and common sense which cuts straight through technical jargon and bureaucratic verbosity to shrewd and rational judgments. They may have only a vague conception of the highly technical matters that frequently arise in intelligence briefings, but they have an uncanny knack for asking simple and direct questions that force simple and direct answers that go right to the heart of the issue involved. And beyond that, they have an uncanny sense for detecting a snow-job. I remember one day driving back to the office with a colleague who had just been up to brief the late Senator Allen Ellender on a complex technical collection system. My colleague was deeply dispirited, feeling the Ellender hadn't the slightest idea of what we were talking about. I tried to reassure him by pointing out that whether Ellender knew what we talking about was not the issue. The issue was whether Ellender thought we knew what we were talking about, and whether we were leveling with him. I said that he had apparently resolved both questions in our favor during the first five minutes, after which he dozed off and ignored the rest of the briefing. My judgment proved right, for a few days later he gave the project in question full support despite strenuous opposition of certain other agencies in the community.

There is another advantage to us in having the more senior members of the full Committees sit on our Oversight Subcommittees. Regardless of what one hears and reads, the senior members of those exclusive clubs, the Senate and the House of the U.S. legislative establishment, observe a strict code in their relations with each other. No member of either club really exercises much influence among his colleagues unless he has a reputation for scrupulous personal integrity. A member must live up to his oral commitment to another member. He must never lie to a fellow member. Therefore, when a member of our Oversight Subcommittee tells a critic of the Agency that he has looked into the matter and found the criticism unfounded, that usually puts an end to it. Also, when a Subcommittee member shares with a non-member a sensitive secret on the assurance that it will not be further revealed, that commitment is normally observed.

On the other hand, this code of conduct can occasionally result in problems for the Agency. One of its provisions, for example, is that every effort should be made to avoid a direct confrontation with another member. Thus, when some committee or individual member seeks to probe an Agency matter which we would prefer to deal with only before our Oversight Subcommittees, it is often difficult to get the Chairmen of our Oversight Subcommittees to assert their prior jurisdictional claim and force the nonmember to back off. Usually some face-saving compromise is arrived at, such as allowing the inquisitive member to receive an "ears only" briefing on the matter from an Agency representative with an assurance that he will keep the information to himself.

While there is much to be said for the seniority system so far as Agency oversight is concerned, it has inevitably produced restlessness and suspicion among the younger members who, like their seniors, have more and more come to be interested in the Agency's activities and anxious for access to the Agency's product. In the House, particularly, some of the younger members have become quite vocal in their insistence that they be included in intelligence briefings and that they be given some sort of an accounting by the Agency Subcommittees of how these Subcommittees are carrying out their oversight responsibilities.

This restiveness has been particularly apparent in the case of the House Armed Services Committee. Both the late Carl Vinson and the late Mendel Rivers ran the Armed Services Committee with an iron hand, and both chaired, and dominated, the Intelligence Subcommittee of the Armed Services Committee. As a result, when Representative Edward Hébert of Louisiana took over the Armed Services Committee following the death of Rivers, he inherited a restless situation in which an increasing number of the younger members demanded reform in the way the Committee's affairs were managed.

In 1971, Mr. Hébert decided to forestall trouble by appointing as Chairman of the Intelligence Subcommittee one of the younger and more liberal members who enjoyed the full confidence of his colleagues. The man he selected was Lucien Nedzi, a Democrat from Detroit. A graduate of the University of Michigan Law School and veteran of World War II and the Korean War, Mr. Nedzi represented a district embracing such disparate communities as East Detroit, Hamtramck, and Grosse Pointe Farms. In taking over his new responsibilities as Subcommittee Chairman, Nedzi displayed a hard-charging and hard-headed attitude. He insisted on knowing not only the "what," but the "why," and the "who says so."

Throughout a series of "get-acquainted" briefings by Agency representatives, Nedzi took nothing for granted. He insisted on detailed explanations of everything he was told, and he read everything about the Agency and the intelligence business that he could get his hands on. Although he had a number of other commitments, he gave top priority to his responsibilities as Chairman of the Subcommittee, and apparently was determined to know more about CIA and the intelligence business than any man on Capitol Hill. Needless to say, he wandered into quite a few blind alleys in the process and picked up a good deal of nonsense of the kind put out by disgruntled former employees and sensational writers of the fashionable intelligence fiction advertised as fact. But the Agency responded by answering all of his questions and freely making available to him the most sensitive material of every kind. By the time the Watergate story broke, he apparently was beginning to feel confident that the was on firm ground in dealing with the Agency and could safely defend us in the face of persistent efforts to implicate us.

As soon as all the Watergate allegations and speculations and suspicions began to circulate, however, Nedzi quite characteristically insisted that every one of them had to be explained or investigated. He launched an intensive investigation into all aspects of the matter, took sworn testimony from dozens of witnesses, including top Agency officers as well as key White House officials, and heard from a number of Watergate defendants themselves. His Subcommittee investigation was considerably better organized and more thorough and systematic than any of the several investigations conducted by the other Congressional committees who were interested in the case.

In the end, Nedzi's persistent skepticism and inquisitiveness, coupled with the Agency's forthright responses to his questions, paid off. While his Subcommittee report of the investigation did note that Agency officials had been "duped" into lending certain assistance to "the Plumbers" on the basis of their false representations, he absolved the Agency and all of its responsible officials of any guilty knowledge or knowing participation. In a story about CIA and the Watergate by Oswald Johnston in the Evening Star, 28 November, Nedzi is quoted as saying that his Subcommittee's record was complete, and that they had gone through piles of memoranda and classified files without finding a shred of evidence of any improper Agency involvement.

The Agency is indebted to Mr. Nedzi not only for his tireless work in setting the Watergate record straight, but also for some thoughtful comments on how the problems of Congressional ovesight look from the perspective of a Subcommittee Chairman. These remarks, made before the CIA Senior Seminar on November 14, 1973, are quoted in full text in the following article.

This is, I believe, the first time that any member of our Oversight Subcommittee has given us in such detail the benefit of his perspective on the intelligence oversight problem.

I can think of no better insurance for the Agency's long-term professional credibility and political acceptability than to have people like Lucien Nedzi know all he wants to know about the Agency, and be satisfied by what he knows.

JOHN MINOR MAURY, JR.—REMARKS BY JAMES R. SCHLESINGER

We have gathered here today—relatives, friends, and colleagues—to pay our formal respects to Jack Maury—for our own special and individual reasons, too numerous to record, yet united in our collective admira-

tion for that splendid man—ever cheerful, ever humorous, ever professional, ever dedicated, ever loyal—our friend, John Minor Maury, Jr.

John Minor Maury—the seventh in his family to bear that name—was born in Charlottesville, Virginia, on April 24, 1912. He grew up at Dunlora, the family farm in Albermarle County, part of a royal grant by George II in 1730 to a Dabney forbearer. The main dwelling had been designed by a local architect, Thomas Jefferson, to whom Jack was collaterally related.

Albermarle and Charlottesville were to remain a recurring theme for the balance of Jack's life. He attended—where else?—the University of Virginia, receiving his law degree in 1936. From 1936 to 1940 Jack served as Assistant and then Acting Commonwealth Attorney. And, displaying the remarkable range of his talents, he also served briefly as the Acting Coroner of Albermarle County.

On June 24, 1939. Jack was married to Mary Francis Stuart in her hometown, Cleveland, Tennessee. His marriage to Stuart, of more than forty-four years, was the monument of his private life—the fixed star in a firmament encompassing many posts, many associations, many places.

Before leaving the University Jack had, in 1935, enlisted as a private in the Marine Corps Reserve, later taking his commission. Ten months before Pearl Harbor, he was ordered to active duty, serving as a Soviet specialist in the Office of Naval Intelligence. From January 1944 to December 1945 he was Commanding Officer of the U.S. Mission in Murmansk, while simultaneously serving as Senior Naval Attache. Representative of the War Shipping Administration, and Acting U.S. Consul. His primary mission involved that long, dangerous, dreary run for Allied ships around the North Cape and into Soviet ports.

Shipping losses ran to 50 percent and higher. Ships making the run has been instructed to search for the survivors, who were then left, with no more than the clothes on their backs, in Jack's charge at Murmansk. With bureaucratic ingenuity, Jack requisitioned a sizable shipment of survivors' supplies from the Persian Gulf Command. The Soviets thoughtfully presented a bill for the storage of the supplies. Young Major Maury, drawing on his best training as legal counsellor, dispatched a polite but firm response, indicating that, while he could understand the Soviet viewpoint, any storage charges would be deducted from reverse Lend-Lease. Nothing further was heard thereafter from the Soviets on the issue.

By all accounts Jack got along fabulously well with the British and adequately well with the Russians. Yet, if the Soviet Union was so obdurate as an ally, what might it be like as a rival? Those early experiences may explain his reflections many years later on Winston Churchill's 'riddle wrapped in a mystery': "No doubt." Jack observed, "he found the Russians exasperating to deal with, and those of us who have tried to do so can sympathize with the frustrations."

It was a natural, almost pre-ordained, step for Jack in 1946 to join the Central Intelligence Group, later the Central Intelligence Agency, as Deputy Chief, Eastern Europe/USSR Branch of what was to become the Intelligence Directorate. He served in the Agency for 28 years. It was the central focus and passion of his professional career, a parallel to his marriage to Stuart in his private life.

Jack's activities at the Agency must perforce remain somewhat veiled. He was later transferred to the operational side of the House (such things were easier then). He served in Berlin, Frankfurt, and Geneva, and also in National Estimates and with the NSC Staff. From 1954 to 1962 he was Chief of the Soviet Division. Suffice it to say that during his tenure the rich vein of intelligence materials provided by Col. Oleg Penkovskiy was acquired and exploited. From 1962 to 1968 he was Chief of Station, Athens.

In 1968 Jack was brought home by Dick Helms to serve as the Agency's Legislative Counsel. No choice could have been better. Jack's blend of graciousness, candor, humor and affability won instant and continuing acclaim on Capitol Hill. He remained for six years a tower of strength to the Agency—always with a light touch to ease the mood, however grave. In the grim atmosphere of the spring of 1973, after some trying days of testimony, I asked Jack to report on the Hill reaction to the Agency's difficulties. "Well," he said cheerfully, "they think you're staying one jump ahead of the sheriff. And," he concluded somewhat doubtfully, "he's not catching up." I found that less than entirely reassuring.

In 1974 I asked Jack to become Assistant Secretary of Defense for Legislative Affairs, believing that the DOD at that time would have more need for his ligislative skills than would the Agency. (In retrospect, that judgment may have been less than clairvoyant.) Jack initially expressed concern that he might be too old to shift careers, but was reassured when reminded that at his age Konrad Adenauer had not yet become Buergermeister of Cologne. At his swearing in, Jack was pleased, amused, and somewhat surprised when I reminded him that henceforth he was entitled to be called "Honorable." "Aha!" said the old intelligence hand, "the ultimate in sheepdipping."

Jack Maury left full-time Federal service in 1976, but for the rest of his days he remained a Consultant to the Department of Defense. He did not become inactive. He taught at the University. He served on the Bar Association's Task Force on Law and National Security. He was mightily pleased and honored to serve for two terms as President of the Association of Former Intelligence Officers. He lectured widely on intelligence—with as much exhortation as analysis. And characteristically he would close his remarks by quoting his fellow Virginian, George Washington:

"The necessity for procuring good intelligence is apparent and need not be further urged—all that remains for me to add is that you keep the whole matter as secret as possible. For upon secrecy, success depends in most enterprises of the kind and for want of it, they are generally defeated however well planned."

What more can we say of Jack Maury, the man? He was, above all else, a man of institutions—his own notable family, the Charlottesville community, the University, the Marine Corps, the Department of Defense, the CIA. All these held his unswerving devotion. Semper Fidelis. For him, life transcended the individual. The complete man was marked by his service to, indeed his immersion in, his many associations, his many platoons.

Proud as he was of his own illustrious lineage, strong as was his affection for the inheritance from the past, Jack Maury knew full well that one must not dedicate himself to the past, but should live for the future. He was not given to looking back, to vain regrets—for what had been, but which could no longer be perpetuated. His central purpose until the end was the change, the adaptation, the growth of those institutions to which he was dedicated—that they might be preserved for future usefulness to his nation.

He remains forever the epitome of the Virginia gentleman . . . in his judgment the highest honor one can attain.

Yet Jack always rejected stuffiness. I can well imagine him now lightening the heavy piety in heaven. In these august surroundings a note of levity may surprise some of you. Jack himself would have had it no other way. For him humor was the indispensable element in God's Kingdom.

And finally, Jack truly exemplified Kennedy's definiton of courage, even gallantry; grace under pressure. Some of us, no doubt, are shaken by the suddenness of Jack's departure. More so, perhaps than Jack himself. When he phoned to announce his fatal illness, he said with his usual cheer: "After seventy, there is no bad news. It's just a question of when the good news runs out." He closed the conversation with that most characteristic salutation with which he invariably ended all phone calls: "All the best."

For Stuart and the family, we all share their grief in this sudden departure—however inevitable a termination to so full a life.

Now Jack has returned—for the final time—to his beloved Dunlora—to be forever amid the scenes of his youth.

Farewell, Jack! Godspeed! All the best!●

THE AMERICAN CONSERVATION CORPS

● Mr. MOYNIHAN. Mr. President, an excellent editorial, entitled "Stop Stalling the Conservation Corps," appeared in yesterday's issue of the New York Times. I ask that the text of the editorial be printed in the RECORD.

I share the author's sentiments.

On March 31, 1933, President Roosevelt signed into law the Civilian Conservation Corps Act—Public Law 73-5; 5 days later, he established the Civilian Conservation Corps [CCC] by Executive Order 6101—less than 1 month after he proposed the legislation to Congress. The first CCC camp, Camp Roosevelt, was opened on April 17, 1933, at Luray, VA. Within 3 months, 1,300 camps were operating across America, manned by 275,000 enrollees. During 9 years of operation, the CCC enrolled 3½ million young men. It was perhaps the best social and environmental bargain in this Nation's history; 50 years ago, Congress acted with alacrity. Today, we proceed at a glacial pace. On February 3, 1982, Senator MATHIAS and I introduced S. 2061, a bill to create an American Conservation Corps [ACC]. In this Congress, we reintroduced the measure on January 26, 1983, as S. 27. The House of Representatives passed ACC-authorizing measures on June 9, 1982, and March 1, 1983. Is it not time for the Senate to act? We have held hearings for 3 years. We have negotiated for 3 years. We have compromised for 3 years. All

the while, our Nation's unemployed youths face few prospects for a better future as the economic recovery passes them by.

Over the past several months, Senator MATHIAS and I have worked with Senator MCCLURE and Senator WALLOP to craft a bipartisan ACC-authorizing amendment to be offered as a substitute to the House-passed measure, H.R. 999. We have succeeded in crafting such an amendment. It would be deeply regrettable if the Senate were prevented from considering that amendment before the Congress adjourns. Such a course of events would be a disservice to unemployed young Americans. We can and should act promptly.

The editorial follows:

[From the New York Times, Sept. 17, 1984]

STOP STALLING THE CONSERVATION CORPS

There comes a time in the legislative process when compromising has to stop, and it's come for the bill to create an American Conservation Corps. The House has approved this worthy measure twice, by overwhelming margins. The Senate threatens now to stall it to death.

Patterned on the New Deal's Civilian Conservation Corps, this idea pairs jobs for unemployed youth with help for the environment. The House voted 18 months ago for a six-year, $1.8 billion program to provide year-round work and training for 56,000 young people and summer work for 50,000 more. The proposal now pending in the Senate provides only a fraction as much—$200 million spread over three years.

To get this far, the Senate version has already been watered down considerably. Its principal advocates, Senators Moynihan of New York and Mathias of Maryland, finally gained essential backing only two months ago from Idaho's James McClure, chairman of the Energy and Natural Resources Committee. But now Senator Quayle of Indiana wants stricter performance standards and more emphasis on hiring "disadvantaged" youth. Another impasse. With time running out for this Congress, it could be terminal.

If the Senate does pass a bill, reconciliation with the House bill would still have to be negotiated, and the final hurdle would be President Reagan's signature. The Administration, missing the point, says it's opposed to "dead-end" jobs, but has stopped short of threatening a veto.

The American Conservation Corps is for young people who are at a dead end already. They're unemployed. They need work, work experience and training. It's a tested concept that should flourish and grow. But not if the Senate doesn't even get to a vote.●

AMENDMENT TO TAX REFORM ACT OF 1984—S. 2995

● Mr. D'AMATO. Mr. President, on September 13, 1984, I joined a number of my colleagues as an original cosponsor of S. 2995, introduced by my good friend and colleague from New York, Senator MOYNIHAN.

S. 2995 rectifies an inadvertent error in the fringe benefit provisions of the recently passed Deficit Reduction Act of 1984, H.R. 4170. These provisions generally made most fringe benefits nontaxable by statute. Previously, a moratorium had been in place prohibiting the IRS from issuing regulations taxing most fringe benefits. This moratorium expired on December 31, 1983.

H.R. 4170 stated that a fringe benefit provided by an employer to an employee that represented no additional cost of service would be treated as nontaxable income to the recipient. However, this only applied to employees of the direct company providing the service, not a separate subsidiary of the same parent corporation.

In particular, S. 2995 rectifies this problem for Pan Am. Pan American World Services is a subsidiary that provides a myriad of services, including servicing Pan Am aircraft. Yet, under H.R. 4170, Pan American World Services' employees cannot enjoy previously received fringe benefits. This is unfair and would change the rules for thousands of employees in the middle of the game.

Mr. President, S. 2995 is a narrow bill in focus. It would allow the employees of Pan American World Services to receive their traditional fringe benefits with no change in tax status. This would only apply to individuals employed by Pan American World Services as of September 12, 1984.

Mr. President, I feel strongly that S. 2995 is important legislation. I urge the Finance Committee to hold hearings at the earliest date on S. 2995.

Thank you, Mr. President.●

TOLEDO RSVP PROGRAM REACHES 1 MILLION VOLUNTEER HOURS

● Mr. GLENN. Mr. President, I am pleased to recognize the valuable work of 700 senior volunteers in Toledo, OH, who participate in the Retired Senior Volunteer Program [RSVP]. The Toledo area RSVP program will be having a volunteer celebration on Sunday, November 4, 1984 to recognize the 1 million volunteer hours donated to the program since 1972.

Under the leadership of Paul Conrad, director of RSVP in Toledo, and his able staff, these senior volunteers are providing valuable services in governmental agencies and community organizations in the Toledo area. The senior volunteers are particularly proud because during the past year they have donated a record 140,000 hours despite the budget freeze on administrative costs for the program. They have been generous in giving their time, talents, patience and wisdom to benefit the Toledo community.

The November 4 reception will include a posthumous recognition of Lucile Porter, the first RSVP volunteer in Toledo. Mrs. Porter served continuously from 1972 to 1984 with United Central Services, the United Way agency in Toledo. As Paul Conrad told me, "Lucile Porter exemplified the type of person that we need as a senior volunteer. She was a caring individual, and always willing to go out of her way to get the job done." The RSVP program and the Toledo community lost a great citizen when Lucile Porter died in July. She will be missed.

As the ranking Democratic member of the Senate Special Committee on Aging, I strongly support the Retired Senior Volunteer Program and the other Older American Volunteer Programs. The RSVP program was created in 1969, and has grown to support 345,200 volunteers in 730 projects throughout the country. The program is designed to provide volunteer opportunities for persons age 60 and over in a variety of community settings. Volunteers serve in such areas as youth counseling, literacy enhancement, long-term care, crime prevention, housing rehabilitation, and nutrition. RSVP sponsors include state and local governments, schools, hospitals, community organizations, and senior centers.

Congress recently passed legislation reauthorizing the Older Americans Volunteer Programs for an additional 3 years. We recognize that volunteer participation in human services is necessary in meeting community and national needs. The contributions of older Americans are particularly vital during the current economic period when demand for services has grown but Government assistance has been frozen at current levels or cut back.

I know my colleagues in the Senate join me in congratulating the RSVP volunteers in the Toledo area for their fine work.

NOTICE OF DETERMINATION BY THE SELECT COMMITTEE ON ETHICS

● Mr. STEVENS. Mr. President, it is required by paragraph 4 of rule 35 that I place in the CONGRESSIONAL RECORD this notice of a Senate employee who proposes to participate in a program, the principal objective of which is educational, sponsored by a foreign government or a foreign educational or charitable organization involving travel to a foreign country paid for by that foreign government or organization.

The select committee has received a request for a determination under rule 35 which would permit Ms. Suzanne A. Bingham, chief clerk of the Senate Banking Committee, to participate in meetings and tours with German officials in Bonn and Berlin, West Germany, sponsored by the Konrad-Adenauer Stiftung Foundation from November 10 to 17, 1984.

The committee has determined that participation by Ms. Bingham in the meetings in Bonn and Berlin, at the

expense of the Konrad/Adenauer Stiftung Foundation, to discuss American-German relations, is in the interest of the Senate and the United States.●

SAM NUNN SELECTED AS NCOA'S RECIPIENT OF L. MENDEL RIVERS AWARD FOR LEGISLATIVE ACTION

● Mr. TOWER. Mr. President, in addition to my Senator's cap, I'm donning a few more today in order to make this declaration to my colleagues.

As a life member of the Non Commissioned Officers Association of the USA [NCOA], a master chief petty officer in the Naval Reserve, chairman of the Committee on Armed Services, and a former recipient of the award, it is my pleasure to announce the selection of Senator SAM NUNN as this year's recipient of the NCOA L. Mendel Rivers Award for Legislative Action.

This prestigious award is presented annually to a U.S. Senator or Representative who, in the opinion of the association, is most deserving of recognition for legislative actions taken on behalf of the career enlisted men and women of our Armed Forces. Additionally, the recipient is recognized for his or her patriotic endeavors and for being representative of many of the ideals and philosophies expounded by the award's namesake, the late Honorable L. Mendel Rivers, Congressman from South Carolina.

Mr. Rivers, a former chairman of the House Military Committee, is still revered by many service members as the champion advocate of quality-of-life improvements for men and women serving or having served in the Armed Forces. Our colleague, SAM NUNN, fits comfortably in that category of advocates. When he chaired the Armed Services Subcommittee on Manpower and Personnel, he championed the adoption of improvements in military compensation and the quality of personnel we now enjoy in the Armed Forces.

Senator NUNN also embodies the spirit of the association's continuing goal for a strong, adequate national defense. All of us here, in this body, well know that he is one of the brightest and most intelligent legislators on defense programs. He has become a leader and can stand toe to toe with the best in discussing the defense needs of our great Nation.

I'm particularly pleased that NCOA has chosen to honor SAM NUNN. Of the six awards presented in the Senate, SAM is the fourth member of the Senate Armed Services Committee to be selected by the Non Commissioned Officers Association of the USA. In addition to myself, Senators STROM THURMOND and BILL COHEN are the others. The remaining two colleagues in the Senate are Senators BOB DOLE and BILL ARMSTRONG.

On the House side, Representatives F. Edward Hébert (now deceased), Thomas N. Downing (retired), Bob Wilson (retired), MELVIN PRICE, CHARLES E. BENNETT, Mendel J. Davis (retired), and BILL NICHOLS are former recipients.

I congratulate my colleague, SAM NUNN, and I look forward to joining my association in September when Senator NUNN is presented the award at the NCOA annual congressional reception.

Meanwhile, the association has asked that I, as a member and the only enlisted reservist serving in Congress, render a salute to Senator NUNN, a former enlisted member of the United States Coast Guard, for a job well done.

Semper Paratus.●

REFLECTIONS ON THE 200th ANNIVERSARY OF THE ST. JOHN'S COLLEGE CHARTER

● Mr. SARBANES. Mr. President, on Saturday, September 22, St. John's College of Annapolis, MD, and Santa Fe, NM, celebrates the 200th anniversary of its charter. Founded originally in 1696 in Annapolis, the capital of the Maryland colony, as King William's School, St. John's received its college charter from the new State of Maryland in 1784, the first year of the new Republic.

St. John's was thus one of a handful of colleges established in the 17th and 18th centuries to offer higher education to the young men who were to be the first participants in an extraordinary experiment in political and social organization, a nation without precedent in the world's history, the democratic republic that is the United States of America.

St. John's is distinguished in many respects. Visitors to Annapolis are invariably struck by the beauty of the St. John's campus, and by the appropriateness of the campus within the broader setting of Maryland's historic, jewel-like capital. St. John's is best known, however, for the rigor of the education it offers to its students, and for the unique form, in our age, that that education takes.

"Only the educated are free," wrote the Greek stoic philosopher Epictetus nearly 2,000 years ago, and in the early days of the American experiment his words found eloquent echo in the writings of Thomas Jefferson, who asked to be remembered above all as the founder of the University of Virginia: "If a nation expects to be ignorant and free, in a state of civilization, it expects what never was and never will be."

St. John's takes as the premise of the education it offers the indissoluble association of freedom and education which Epictetus and Jefferson alike assert, summing up its obligations and objectives in the following terms:

> Liberal education should seek to develop free and rational men and women committed to the pursuit of knowledge in its fundamental unity, intelligently appreciative of their common cultural heritage, and conscious of their social and moral obligations. Such men and women are best equipped to master the specific skills of any calling and to become mature, competent, and responsible citizens of a free society.

It is worth noting that the inscription on the College emblem, "Facio Liberos ex Liberis Libris Libraque," means, "I make free men out of children by means of books and a balance."

While other institutions may share the premise underlying a St. John's education, few, if any, share the means by which St. John's seeks to educate its students—or, more precisely, creates the conditions enabling students to educate themselves. The college maintains, and has so maintained for nearly 50 years now, that "the way to liberal education lies through the books in which the greatest minds of our civilization—the great teachers—have expressed themselves," because books raise "the persisting human questions." The program of the college, starting from the liberal arts of the classical tradition—arts of language and of mathematics—is accordingly based upon the reading of carefully chosen texts judged to be great, epic poems, novels, and political treatises, works that are philosophical, historical and scientific in nature.

The focus on great works of the past, however, is joined to a coordinate focus on the present and the future. The objective of the St. John's program is "to ascertain not how things were, but how things are—to help the student make rational decisions as he lives his life." The college defines as its ultimate aim the goal that "the habits of thought and discussion thus begun by the student should continue with him throughout life."

Reading is far from an end in itself at St. John's, nor is it a sterile and isolated exercise. In place of the more familiar lecture and section, St. John's offers the seminar, the tutorial, the preceptorial and the laboratory; essay and discussion replace hour exam and final examination, cooperation and collaboration replace competition in learning. The St. John's faculty, graduates all of distinguished universities and in most cases with advanced degrees, are tutors, not professors or lecturers. None is limited in teaching to a special subject—indeed, each is expected to lead tutorials in any field—and each is engaged, along with undergraduates, in learning. Under the guidance of President Edwin Jules Delattre, St. John's is a community of seekers after truth, men and women of all ages,

backgrounds and degrees of experience, engaged in a great common enterprise designed to enrich the life of each of its participants, the college itself, and the Republic.

In the 1960's, American liberal arts colleges faced significant pressures to expand, and many did. Confronted by those pressures, and determined to keep the college a community in fact as well as in theory, St. John's decided not to increase enrollment at Annapolis. Instead, in 1964, the college established a campus in Santa Fe, NM, that has its own distinctive characteristics, but mirrors Annapolis in all but its physical aspects. The Santa Fe enrollment today is only slightly less than the Annapolis enrollment, and the sense of community has been preserved and strengthened.

Founded to educate young men, as were all the Nation's earliest institutions of higher education, St. John's perceived earlier than most the wisdom of admitting women. In 1951, the college became coeducational, joining a select group of private coeducational colleges around the Nation, and anticipating roughly by two decades the broader national movement toward coeducation. In this as in many other matters of education, St. John's reached the decision to set out along a path which few chose to follow at the time, a decision since justified many times over.

Mr. President, no tribute is harder for a college or university to earn than the tributes of its alumni, nor is any more revealing. In this respect, published tributes to St. John's are most informative. One observer has called St. John's "the very archetype of liberal education" and another "an intellectual adventure, reaching to the height and depth and breadth of mankind's imagination." In 1938, following the introduction of the Great Books system, under the leadership of Stringfellow Barr, Walter Lippman wrote that "in the future men will point to St. John's College and say that there was the seedbed of the American Renaissance."

Such comments pale, however, beside the words of the St. John's alumnus who wrote:

> It's the difference between an education and a training. An education should touch you personally, it should change your character, the way you feel about God, man, and the universe.

This tribute suggests that St. John's does indeed reach the standards which it has so courageously set for itself. On the bicentennial of the granting of its charter, we are called to reflect upon and remind ourselves of the fundamental truth which St. John's College proclaims, even in this confused and changing world: ". . . it is only by practicing the liberal arts, by understanding and knowing, that the human animal becomes a free man. It is only by discipline in these arts that spiritual, moral and civil liberties can be achieved and preserved."●

SOCIAL SECURITY DISABILITY REFORM LEGISLATION

● Mr. SASSER. Mr. President, I read with great interest over the weekend a news article in the Washington Post outlining agreement between both Houses on the Social Security disability reform legislation currently in conference.

This is certainly welcome relief to the hundreds of thousands of disabled beneficiaries awaiting periodic review of their cases before the Social Security Administration. This relief is particularly welcome in light of the horrendous inequities and injustices which have resulted from the administration's handling of these reviews over the past 3 years.

Although Congress passed temporary legislation in December 1982 in an attempt to ameliorate some of the most glaring deficiencies in the system, much-needed structural reform has been stymied. The types of reform outlined in the House disability bill, H.R. 3755, are both necessary and long overdue. It is my sincere hope that the final agreement talked about in the Post this past weekend will address the structural nature of the administrative problems facing the disability system.

No clearer evidence of the necessity for comprehensive reform can be presented than the internal Social Security Administration report released last week.

This report documented, in a clear and concise manner, what many of us have known for some time: That the current Social Security Disability System is itself disabled and in need of major repair.

The report states that—

> There is a crisis in SSA's litigation process, resulting in large part from an enormous number of pending and new cases and compounded by an increasingly critical attitude being expressed toward the agency by the courts.

The report continues to state that—

> The agency's credibility before the federal courts is at an all-time low. In addition, there is judicial criticism toward some of the substantive policy positions advanced by SSA in defending the cases and implementing decisions.

These statements pinpoint one of the most crucial areas of disagreement between the House and Senate passed versions of disability legislation, namely the provision dealing with nonacquiescence on the part of the Social Security Administration with respect to Federal circuit court decisions. Essentially, what this amounts to is total disregard on the part of the Secretary to precedents developed in Federal court decisions.

The House legislation, H.R. 3755 requires the Secretary to either apply the circuit decisions to all cases within the circuit or appeal them to the Supreme Court. This not only reflects normal legal procedure, but make imminent good sense. The Senate bill, however, does not seriously address this issue.

Mr. President, in June, I sent a letter to the House and Senate conferees along with several of my colleagues, including the distinguished minority leader Mr. BYRD, Mr. BINGAMAN, Mr. MITCHELL, Mr. RIEGLE, Mr. KENNEDY, and Mr. METZENBAUM, which asked them to adopt the House language. At this point, Mr. President, I would like to have a copy of this letter printed in the RECORD.

The letter follows:

U.S. SENATE,
Washington, DC, June 25, 1984.

DEAR CONFEREE: We strongly endorse the provision contained in the House version of H.R. 3755 relating to compliance with court orders and urge you to support this provision during discussion of the bill during the upcoming conference.

In our opinion, this is one of the most crucial issues to be resolved in the debate over disability reform. The primary point of contention involves the policy of non-acquiescence practiced by the Social Security Administration in disability reviews. Under this policy, SSA does not consider the decisions of Circuit Courts of Appeal binding, except for the plaintiffs in the individual cases, when the rulings and interpretations conflict with the agency's regulations and policies.

What this effectively amounts to is the making of new law in each individual case. This practice disregards the basic notion of precedent and judicial interpretation.

Administrative Law Judges across the country have indicated time and again before Congressional hearings that this policy significantly hampers their ability to utilize these court interpretations and subsequently works great hardships on individual claimants because they must go to the expense of reestablishing a new point of law in each case.

The language contained in the House version requires the SSA to either apply Circuit Court decisions to all cases within the Circuit or appeal the decisions to the Supreme Court. This is the normal legal procedure and should be followed. Attached please find a copy of a recent New York Times article outlining specific consequences resulting from current SSA non-acquiescence practices.

We urge the conferees to examine the merits of this proposal thoroughly during the conference and hope that they will support the House provision.

Sincerely,

Senators Jeff Bingaman, Robert C. Byrd, Donald W. Riegle, Jr., Jim Sasser, George J. Mitchell, Edward M. Kennedy, and Howard M. Metzenbaum.

Mr. SASSER. The importance of this issue was clearly demonstrated in the SSA report released last week. Because of this nonacquiescence policy, there are now 50,000 Social Security cases pending in the Federal courts,

this is up from 20,000 in 1981. Further, it is expected that an additional 28,000 new court cases will arise in fiscal year 1984.

The report also states that there are over 125 disability class actions currently pending. Also, there is a dramatic increase in the number of motions or threats to hold the Secretary in contempt, including at least one case of criminal contempt. During the period of October 1983 through July 1984, 201 motions or threats were recorded, with 46 occurring in the month of July alone.

At this point, Mr. President, I would like to have the task force report printed in the RECORD.

The task force report follows:

As you requested, enclosed is the final project statement of the Social Security Administration's (SSA's) Litigation Management Project.

This project is only one of SSA's continuing management initiatives designed to improve program administration and service to the public. One of my major goals is to ensure that the Social Security program is administered as fairly, efficiently, and economically as possible. One way of ensuring that is to recognize early on situations that require immediate and responsible attention.

As a number of lawsuits pending against SSA increased over the last year, it became clear that this agency had to develop immediate and long-range plans to effectively manage court case workloads. Because of this, I asked my staff to carefully review and implement procedures to deal with this growing workload so that it could be handled efficiently and humanely.

The enclosed report is a product of that initiative and reflects a plan that will improve SSA's relationship with the public as well as the courts.

Sincerely,

MARTHA A. MCSTEEN,
Commissioner of Social Security.

LITIGATION MANAGEMENT PROJECT STATEMENT

ISSUE

There is a crisis in SSA's litigation process, resulting in large part from an enormous number of pending and new cases and compounded by an increasingly critical attitude being expressed toward the agency by the courts. The litigation process was not designed to handle the current volume of cases in it. As a consequence, SSA is not as reponsive as it should be and accordingly, the agency's credibility before the federal courts is at an all-time low. In addition, there is judicial criticism toward some of the substantive policy positions advanced by SSA in defending the cases and implementing decisions. Action must be taken to improve the efficiency of case processing and to assure that SSA's substantive position in these cases is consistently sound.

FACTS

I. General

28,000 new court cases are projected for fiscal year 1984.

50,000 court cases are currently pending.

Over 125 disability class actions are currently pending. As a result of the huge increase in the number of class action suits, court decisions no longer affect only a small percentage of claimants who actually file civil actions.

There is a dramatic increase in the number of motions or threats to hold the Secretary in contempt, including at least one case of criminal contempt. During the period of October 1983 through July 1984, 201 motions or threats were recorded, with 46 occurring in the month of July alone.

There have been 160 interim payment court orders for January-June, 1984, as a result of SSA's failure to answer the complaints timely. This compares with a total of 56 for all of calendar year 1983. An even more dramatic comparison: there were 5 interim payment orders for the first quarter of calendar year 1983; 53 for the first quarter of 1984.

An even-increasing number of Equal Access to Justice Act (EAJA) awards involving a large amount of money ($723,000 has been awarded to date and $1,299,000 is pending) are resulting from findings that SSA's position in the litigation "was not substantially justified." This is a reflection of the courts' attitude about the agency and calls into question the positions that SSA is taking in these cases.

A great deal of adverse publicity surrounds many Social Security litigation cases and court orders are written in increasingly critical terms. Much of the criticism concerns how the Secretary implements orders. Judge Kane from Denver stated that the Secretary's actions "reveal a clearly rebellious frame of mind." Judge MacMillian, Eighth Circuit, wrote: "I have no wish to invite a confrontation with the Secretary. Yet if the Secretary persists in pursuing her nonacquiescence in this circuit's decisions, I will seek to bring contempt proceedings against the Secretary both in her official and individual capacities."

II. Problems in Litigation Process

A. Individual Court Cases

1. Complaint Stage:

Delay in receiving and acting upon notification that a civil action has been filed can contribute significantly to SSA's inability to respond timely.

Once the complaint has been received, it is often difficult to associate a social security number with it, further contributing to delays.

2. Answer Stage:

Preparation of the administrative transcript and filing of the answer to the complaint are in many instances not done in a timely manner, primarily because of problems with lost and inaudible hearing tapes or lost case folders.

A consequence of the inability to respond promptly is that courts are ordering many remands for new hearing which present an additional major workload in OHA.

Answers are filed routinely without substantive assessment of defensibility.

3. Briefing Stage:

While some cases may be referred to the Appeals Council for possible remand, in most instances, briefs are filed without sufficient assessment of defensibility. Thus, there is a growing impression in the courts that SSA will defend any case, no matter how poor the facts. This has seriously undermined SSA's credibility. Moreover, when SSA defends a policy in court, its position is seriously weakened when the case is one in which the record is questionable or the facts are overwhelmingly sympathetic to the claimant.

Briefs are essentially pro forma; arguments are not tailored to the specific points raised by the plaintiffs. This is primarily a result of the large volume of cases and because, unlike other types of litigation, the defendant generally files before plaintiff.

4. Magistrate Decision Stage:

Findings and recommendations from magistrates are issued with comparatively little time given to SSA to respond. As a result, it is extremely difficult to prepare objections or briefs.

A contributing factor to the difficulties in responding is that the decisions can be delayed in being routed to OGC and SSA.

5. Appeal Stage:

Largely due to the huge volume of adverse decisions, not all cases are reviewed in depth to determine whether or not the agency wants to appeal. Consequently, some cases which present significant policy issues or other problems are not identified for appeal. The failure to aggressively appeal cases on crucial issues has led to an increasing body of case law which makes subsequent cases with similar issues increasingly difficult to defend.

Even once a case has been identified, it is often difficult to convince the Department of Justice to appeal.

6. Implementation of Court Orders:

Remands:

Again, because of volume, remands are often not handled in a timely manner.

Remand orders are often not in accord with SSA rulings and other policy and thus, present a serious problem for the agency.

The question of the legal criteria for the appeal of remand orders may need to be investigated.

Reversals:

Currently, it can take up to 30 days for OGC to receive court decisions from the U.S. Attorneys.

The Department of Justice has in the past required SSA to wait 60 days (the appeal period) before implementing court orders, even in routine cases where it was clear that there would be no appeal. Accordingly, OGC would not authorize SSA to process effectuations during the appeal period. Although this requirement has recently been modified somewhat, when it was in effect it may have contributed to delays in the prompt implementation of court orders.

There is excessive folder movement in the litigation process. As a result, when a court order needs to be implemented, a problem often exists in locating the folder.

The process of implementing concurrent title II/title XVI disability cases is particularly complicated and cumbersome, involving ODO and the DO's as well as the Underpayment Review Section. This very often results in lengthy delays in effectuation of the full amount of benefits due.

7. Attorney Fees:

In some cases, attorney fees are not processed timely, often because of delays in getting past due benefit summaries. While the percentage of problem cases may not be extremely high, attorneys often bring these cases to the attention of the court, further undermining SSA's credibility. The problem has become of even greater importance now that attorneys are using the threat of contempt against the Secretary to obtain their fees.

The current process of assessing attorney fee petitions is unduly complicated and time consuming. It requires individual analysis of services rendered in each case to determine the proper fee.

B. Class Action Cases

1. Preliminary Injunction/Temporary Restraining Order Stage:

Briefing deadlines are frequently short, making it very difficult to respond appropriately in cases involving such motions.

SSA sometimes does not implement these orders properly and on time; e.g. teletypes with implementing instructions may be incomplete or delayed.

The question of appeal of these orders may not be fully explored.

2. Settlement:

Often the possibility of settlement is not fully considered. Heavy workloads contribute to this situation, although, defensiveness on SSA's part is another factor which cannot be discounted. There is also no efficient process for promptly agreeing to and implementing a policy change in order to settle a case.

3. Discovery (requests for production of documents, interrogatories, depositions):

The major problem is the huge volume of these requests—with each request often seeking hundreds of pieces of information which is not readily available.

Since plaintiffs often are trying to prove class numerosity, responding to discovery frequently involves complex, costly systems identification or, alternately, time-consuming, manual folder searches.

Often plaintiffs suspect clandestine policies and submit extremely burdensome requests for documents or other information. Sometimes they file both discovery and Freedom of Information Act (FOIA) requests which proceed on different tracks, causing confusion and inconsistencies.

There is a lack of good record-keeping, often resulting in the need to develop new information to answer a request which is very similar to a previous request.

Discovery is rarely used as a proactive tool, nor are creative approaches to stipulation and lodging objections employed in order to avoid burdensome discovery requests.

4. Defense/Argument Stage:

Because of volume and the nature of the issues involved, the quality of our defense in some cases could probably be improved. In particular, some regional attorneys and Assistant U.S. Attorneys may not be totally familiar with the background and rationale for the policies they are defending.

Problems also exist with the extent to which other regions are able to keep abreast of policy decisions or defense strategies developed in particular cases which in turn have an impact on cases in other parts of the country.

There are also difficulties in getting information with which to defend; e.g., folders often cannot be located or SSADARS may not have the necessary information; needed data may not be available routinely and would require costly systems runs to secure, etc.

5. Appeals Stage:

As in individual cases, there may be difficulty convincing the Department of Justice to appeal class actions.

C. Implementation of Orders

As in individual cases, there may be delays in receiving the order.

There can be confusion and a lack of clarity in carrying out responsibilities within SSA for interpreting court orders, including identification of relevant class members. In some cases SSA's interpretations have proven not to be supportable in court.

Implementation often involves systems runs as well as the preparation of complex, lengthy instructions and notices to class members. Due to systems limitations, the class frequently must be over-identified to include all possible class members, resulting in non-class members receiving notices. The Office of Policy (OP), the Office of Systems (OS), the program components, Operations, and field components all have a role in the implementation process. There is sometimes confusion, lack of coordination and delay in implementation of the orders. As one example of the difficulties encountered, OHA lacks a written telecommunication facility with its hearing offices, resulting in the need to use the telephone or express mail to communicate instructions to meet court-ordered time frames.

Recently, probably because of the hostile attitude of many courts, there is a trend toward complex court orders with incredibly short timeframes. For example, in Polaski, SSA was given 24 hours to implement an order.

III. Management Information/Analysis

There is a lack of substantive analysis of litigation issues and trends.

Statistical information, particularly with respect to remands and court affirmations, is unreliable. There is some dispute with respect to responsibility for remand statistics between OBA and OP. There is apparently a backlog of affirmation orders in OGC so that SSA does not have a reliable count.

PROJECT OBJECTIVES AND APPROACH

The project's activities will bring about both short-term and long-range improvements in the administration of SSA's litigation process. The overall objectives are:

To substantially reduce delays and increase efficiency throughout all stages of the litigation process, including the processing of complaints, the preparation of answers and briefs, and the implementation of orders.

To ensure that litigation functions are carried out in a cohesive manner and with the required levels of resources, and that organizational responsibilities are aligned to ensure maximal responsiveness by the agency to the courts and the public.

To assure that SSA's substantive position in all areas of processing cases is consistently sound and is clearly communicated to all parts of the organization.

To restore SSA's credibility before the federal courts and to eliminate the adverse publicity surrounding Social Security litigation cases.

To achieve these objectives, the project will focus on four major task areas. In some instances, the project's task areas will primarily coordinate, follow-through, and build upon the various activities already underway, while in others, much of the activity will involve new initiatives. The four task areas and their activities are as follows:

I. Implementation of Improvements in the Complaint and Answer Stage.—This area will address those problems pertaining to SSA's frequent inability to promptly file responses and prepare administrative transcripts for the courts in civil actions involving individual cases.

Activities Underway

OGC and OHA recently convened a workgroup on civil actions to initiate immediate improvements in the answer process. The findings of this workgroup are now under review in OHA and OGC.

At the Commissioner's request, OMBP industrial engineers have conducted a review of folder movement within OHA centrally and between OHA and its hearing offices. This report, with recommendations, was submitted to the Commissioner on May 7, 1984, and OHA is now working to implement study findings.

OHA has taken a number of steps to improve processing at the answer stage: moving additional employees to prepare Appeals Council decisions in court remands, to prepare transcripts, audit hearing tapes and correct transcriptions; modularizing branches in the Office of Appeals Operations (the component which makes recommendations to the Appeals Council on claimant appeals) to include a minidocket and files unit in each branch; tighten up on case control following Appeals Council final action; using new procedures to insure handy file retrieval when a civil action is filed; issuing a memorandum to all hearing officers outlining detailed procedures on how to properly record hearing testimony; taking the lead in deciding to make the hearing tape a permanent part of the claims file. OHA is in the process of installing more computer terminals to insure immediate access to SSA computers showing the location of case files; scheduling more training in the use of recording equipment and exploring the possibility of obtaining better quality tapes and equipment.

Activities Planned

Evaluate and initiate improvements in the handling of complaints, and identify and implement any other required improvements in answer stage processes.

II. Implementation of Improvements in Effectuation of Court Reversals.—This area will address the problems relating to the effectuation of court orders, both with respect to individual cases and class action suits.

Activities Underway

OP has gained agreement from OGC, with the concurrence of the Department of Justice, to waive the 60-day requirement before effectuation of an order in certain categories of cases in which there clearly will not be an appeal. The new process is now being implemented, and the effectiveness of the new procedure will be carefully monitored and evaluated.

OP is in the process of automating the tracking of the implementation of court orders. When operational, the system will track all adverse court orders to assure that either an appeal is entered or an effectuation memo is received and that all effectuation memos are implemented.

OD has tentatively established a litigation implementation staff to centralize and expedite implementation of class action orders.

OFO has developed a series of recommendations to improve the implementation of individual court orders.

OCO has proposed procedures to improve and formalize actions to be taken in potential contempt situations.

OGC is conducting a thorough review of its docket room operations with a view toward streamlining processing.

Activities Planned

Study folder flow to minimize movement, thus reducing the risk of loss and processing time. Study paper flow to identify and remedy sources of delay or misrouting of documents.

Streamline the process of effectuating concurrent title II/XVI court orders.

Develop and implement procedural changes that assure timely communications with U.S. Attorneys' offices, particularly including prompt transmission of court documents to OGC and SSA.

Review and clarify responsibilities and procedures in connection with implementa-

tion of class action orders to assure proper coordination of activities.

III. Implementation of Procedures for Identifying and Not Defending Court Complaints with Poor Prospects for Defense in Court.—This area will carry out the recommendations of an intercomponent workgroup which was recently convened to examine problems relating to court cases which represent poor prospects for defense.

Activities Planned

Implement Phase I of the workgroup's recommendations, essentially involving a pilot project in which the regional attorneys, at the briefing stage, will refer cases to a central office review panel for assessment. The purpose of this phase is to refine the criteria for identifying poorly defensible cases and to test the process by which this activity could take place on a permanent basis.

Implement Phase II, during which various issues and problems identified by the workgroup will be addressed. A permanent process will then be implemented.

IV. Fundamental Litigation Process Improvement.—This area will include both activities involving an overall reassessment of the litigation process and specific substantive areas in which issues have arisen regarding SSA's ability to handle cases. It will also include cross-cutting activities in support of the project's objectives.

Activities Planned

Reassess all aspects of the SSA litigation process in SSA, OGC, and the Department of Justice, both centrally and in the regions. This review includes both substantive and procedural components of the process and will lead to clearer and improved definitions of component roles and responsibilities.

Evaluate the feasibility of a comprehensive computer system which would track litigation cases, providing a thorough case history which would incorporate SSADARS, OHA, and litigation information; as an interim measure, review existing and planned tracking systems to ensure optimal effectiveness and efficiency of communication between components.

Review the allocation of resources and responsibilities within the litigation process and recommend reallocation or realignment wherever necessary.

Examine the present system for identifying cases for appeal to make recommendations and implement any needed changes. Analyze the process to institute improvements to ensure that appeals are pursued wherever appropriate in cases involving court remand orders, preliminary injunctions, and temporary restraining orders.

Develop a procedure so that SSA reviews briefs prior to filing in the most significant cases to ensure that they adequately reflect and defend SSA's policies. Explore the possibility of model briefs on significant issues. Study the extent of improved success that could be achieved from individually tailored briefs.

Establish a process to assure that the possibility of settlement is explored in appropriate cases.

Develop mechanism(s) to ensure better coordination, communication and understanding among all SSA, OGC, and Department of Justice components involved in the litigation process.

Review SSA's policy with respect to the application of circuit court precedents.

Develop a record-keeping system to keep track of information developed to respond to discovery, to prepare briefs and to respond to other segments of the litigation process; analyze trends in required responses to develop the capacity to prepare pre-packaged information for use in future litigation cases.

Develop ways to improve SSA and OGC expertise in responding to discovery.

Ensure that substantive analysis of litigation issues and trends is performed and develop a vehicle for furnishing such information to the Commissioner briefly and on a timely basis.

Develop tailored training packages and other materials to provide orientation and guidance to all participants in the litigation process, particularly Regional Attorneys and U.S. Attorneys.

Develop and implement a strategy for publicizing project activities and results to key external entities; as one means to publicize project results and to gain input, convene a national conference involving HHS, Justice, Legal Aid, and the Courts.

PROJECT ORGANIZATION

Executive Manager (EM)—The Associate Commissioner, OP, has been designated by the Deputy Commissioner for Programs and Policy (DCPP) to serve as the EM of the Litigation Management Project. The EM provides overall leadership and oversight of the project. The EM will also chair an Executive Group, which will include the Associate Commissioners of OCO, OFO, and OHA, the Regional Commissioner for New York, and the Assistant General Counsel for the OGC Social Security Division.

Project Director (PD)—The EM has designated a full-time PD for the Litigation Management Project. The PD will have full-time project staff assigned to each of the task areas described above. The PD is responsible for the development, implementation and tracking of initiatives established under the project.

Project Managers (PM's)—The Deputy Commissioners for Systems, Operations, Management and Assessment and the Assistant General Counsel, as well as the Associate Commissioners for OHA, OD, OSSI, ORSI, and OGA have designated PM's. The coordination of project initiatives among the various components is the responsibility of the PM's.

Project Methodology—The PD, working with PM's, managers and coordinates all phases of the project calling upon resources throughout SSA that are necessary to complete the project. The PD provides written and oral briefings to the DM, DCPP, and other members of the SSA Executive Staff.

Detailed workplans will be prepared for each task area specifying the objective to be accomplished, manner of accomplishment, due dates for completion of work activity, components affected (including position types), cost of implementation, savings to be achieved and/or other benefits to be derived. Project initiatives may be added, deleted or revised upon recommendation by the PD and PM's and approval by the EM and DCPP. Monitoring of initiative activities will be accomplished by meetings and telephone to the maximum extent possible.

Mr. SASSER. A letter from U.S. Attorney Rudolph W. Giuliani to U.S. District Judge Constance Baker Motley which appeared in the CONGRESSIONAL RECORD on September 10 deserves further attention here. In that letter, discussion of the nonacquiescence policy prompted Mr. Giuliani to write that:

This policy does not allow the United States Attorney's Office, HHS or any other Federal agency to refuse to follow clear rules of law decided by the United States Court of Appeals. Properly applied, as it has been for years by the Internal Revenue Service, it permits a Federal agency to decline to follow nationwide the ruling in one particular circuit. However, there has never been any support to my knowledge for the notion that Federal agencies within a particular circuit could disagree with and refuse to follow clear rulings of that circuit. We have not defended cases in the past by disregarding the law of this circuit and will not do so in the future.

Now the reason that the issue of disability reform has to this date been placed on the back burner is due to a political decision made by the administration earlier this year to impose a moratorium on all disability reviews.

This may be good politics, but it is not good policy. It is clear that there is a perceived problem here or else the White House would never have stopped the ill-conceived and misinformed policy which effectively has cut more then 470,000 disabled beneficiaries from the rolls between March 1981 and January of this year.

Mr. President, I am pleased to hear that final resolution to this problem is imminent, yet, for those of us who have been intensely involved in this issue for the past 2½ years it is hard to understand why it has taken so long.

It is my only hope that the final resolution will contain adequate comprehensive measures to prevent the mistreatment which has occurred over the past 3 years from recurring.

Surely, an end to the nonacquiescence policy practiced by the Social Security Administration will be a major step toward achieving this goal.

Simple justice requires that we correct the inequities created by the Administration's hasty acceleration of reviews, common sence demands it. It is nice to see that now, finally, Congress is willing to stand up to the Administration and refute the unfairness inherent in its disability policy.●

LEAVE OF ABSENCE

Mr. GOLDWATER. Madam President, I ask unanimous consent that I may absent myself from the Senate this coming Saturday. I have been invited to my 50th wedding anniversary by my children and grandchildren. I do not want to let them down.

The PRESIDING OFFICER. Is there objection? Hearing no objection, it is so ordered.

THE PINEAPPLE SOLDIERS

Mr. MATSUNAGA. Madam President, in the course of debate regarding issues, both economic and military, we have heard much of late of productivity and workmanship, be the subject at

hand America's competitive position in world trade, or the materiel reserve readiness of our combat forces.

It is well to be concerned about such matters, for a high level of excellence on both scores—productivity and workmanship—is part of our national heritage which has helped to make our country great and which has seen us through periods of trial in our past. These thoughts came to mind when I read recently an address by the distinguished Hawaii journalist Adam A. "Bud" Smyser, editor emeritus of the Honolulu Star-Bulletin, to the 40th reunion banquet of the 1399th Engineer Construction Battalion, known in Hawaii during World War II as "the pineapple soldiers." Mr. Smyser told his audience that the wartime service of noncombatant Americans of Japanese ancestry [AJA] in the U.S. Army in the Pacific was as meritorious in its own way as that of AJA soldiers on the battlefield and was equally as vital to our country's ultimate triumph.

Because his point is a valid one and bears upon the "can do" spirit of America which we must sustain today, I ask unanimous consent that Mr. Smyser's speech, which was reprinted in the Honolulu Star-Bulletin of August 18, be printed in the RECORD so that our colleagues and others may be reminded of our country's long tradition of putting forth our best effort, regardless of what the work at hand may be.

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

THE PINEAPPLE SOLDIERS

(By A. A. Smyser)

(From an Aug. 17 speech to the 40th reunion banquet of the 1399th Engineer Construction Battalion.)

I have entitled my talk tonight "Hawaii's Forgotten Battalion".

That's overstatement, to be sure. "The Battalion That Stayed Home" is a more accurate title. But it doesn't catch the fact that stories of the World War II exploits of Hawaii's American soldiers of Japanese ancestry rarely focus on the 1399th Engineer Construction Battalion.

I was surprised, very surprised, in preparing this talk to discover how few news references to the 1399th are in the library of the Hawaii Newspaper Agency which files the news clippings of the Honolulu Advertiser and the Honolulu Star-Bulletin.

When we talk of the AJA effort in World War II, we very naturally focus on the tremendous battlefield effort in Africa, Italy and France of the 100th Infantry Battalion and the 442nd Regimental Combat, the most decorated units of the war.

Related recognition also is being given to the Military Intelligence Service, AJA soldiers from Hawaii who served as interpreters for U.S. forces in combat in the Pacific and Southeast Asia and sometimes went on spy missions behind Japanese lines.

They deserve every bit of attention and commendation they get. They paid a high price in lives and in wounded to prove the overwhelming loyalty of Hawaii's AJA's for America at a time when many were calling it into doubt.

Many of them gave their lives with the clear object of helping Hawaii win Statehood despite its predominantly non-Caucasian population and thus assure equal rights for its citizens of all races.

The fact that we are this week celebrating the 25th anniversary of Statehood is in many ways a tribute to that effort. Statehood probably would not have been won without it, certainly not by 1959 and quite possibly not even by now, and perhaps never. Racial doubts would have held us off from Statehood. The U.S. would be a poorer country because of it and Hawaii a far less happy place—more of a place with racial schisms like Fiji, and less the relatively harmonious, prosperous state we enjoy today.

But no one praising the World War II military effort of our AJA soldiers from Hawaii should ignore the 1399th and the units that were merged into it after the draft of AJA male civilians was resumed in 1944—the 370th Engineer Battalion, the 1536th Dump Truck Company and the 1525th Base Equipment Company, all AJA construction units.

If you visit our Big Island, Mauna Loa and Mauna Kea volcanoes dominate the scene, each rising up more than 13,000 feet from sea level. It is very hard to perceive that at their flanks is another important volcano, Kilauea. It rises gradually to only 4,000 feet and is thereby obscured by the giants.

The 1399th is the Kilauea of the AJA military units, obscured by the giants, but possessing a proud record of its own.

I spoke a few days ago with Gardner Hyer. I think he is the only surviving officer who served with the 370th and the 1399th through the war from January 1942 when he was activated from the Army ROTC reserve until after V-J Day in 1945.

He advanced in rank from second lieutenant to major and held just about every command in the battalion of nearly 1,000 men including a brief tenure as battalion commander. Now he is retired from the auto service business in Wahiawa.

"What kind of a unit was the 1399th?" I asked him. "How did it do?"

He has just been watching the Olympics. Using Olympic judging, he said, he would give the 1399th a score of 10. Its men couldn't have been better.

They did every job they were supposed to do. They completed construction projects ahead of schedule. They did them very well. On at least one big project they were called in to finish a job another unit had goofed. And when urgent deadlines had to be met, they were the unit the Army turned to.

He recalls only one serious disciplinary problem, and it was settled by a little off-the-record man-to-man boxing match between him and the soldier involved.

He also recalls that your accomplishments became known to higher-up officers passing through Hawaii. Gen. Douglas MacArthur's headquarters in the South Pacific twice requested that you be assigned to campaign with him in combat. Both requests were refused for fear an AJA unit in the Pacific would be mistaken by our own Mainland Caucasian soldiers as the enemy.

Even after World War II you were remembered. In the Vietnam War Hyer got a call from the Pentagon asking if two of your construction techniques on Oahu would be applicable in Vietnam. He said yes in both cases.

You will laugh that one was the building of latrines over running streams to obtain a flush toilet effect. But it was a serious benefit and so was the use of bamboo instead of steel as reinforcing bars for concrete. Hyer said you found that in the short run, a year or so, the bamboo was just as strong as steel or stronger.

You called yourselves "the pineapple soldiers" because you stayed home and "the Chowhounds" because you were. One of your number, Shiro Matsuo, learned enough by being a mess sergeant for you that he went on to found Shiro's Saimin Haven, prosper, and bring back to Hawaii this year the GI who introduced him to cooking.

You got no Purple Hearts because this was not a combat zone but you lost three dead in mishaps and suffered. I assume, injuries in the line of duty that no one counted as we count Purple Hearts.

You had weekends off in Honolulu—Saturday afternoon to Sunday afternoon—and you played hard at those times. Duke Kawasaki recalls the late Harold Sakata drinking so much beer that others sometimes had to lift him aboard the truck going back to Schofield Barracks from the Honolulu Central Library and other pickup points.

He also recalls that Harold suggested he and Duke wrestle together professionally after the war as the Togo Brothers.

Duke refused and that may have been just as well for Harold's later career as "Odd Job" of Goldfinger movie fame and Duke's as a state senator.

But when you worked, you worked hard and well.

Stanley Shioi, one of your members, was in construction work before World War II and has had his own construction company afterward. He knows the business as a pro.

He says the quality of your work was "tops" in comparison with other construction jobs. "Guys with no experience still did very good work," he said. "Japanese boys have very good hands."

Tatsuki Yoshida, another contractor from your ranks, agrees. "I'm amazed at the work we did without much background experience," he recalls. The raw material the unit had to work with was a cross-section of young men from wartime civilian life—clerks, a fireman, agricultural workers, even a dentist.

A million-gallon water tank you built near Wahiawa is still in use by the Honolulu Board of Water Supply. He also recently found one of your old camp sites at Opaeula in the hills above Haleiwa at a spot where you opened up a quarry.

You helped develop the airstrip at Kahuku for Flying Fortresses. You built jungle training villages in the hills—complete with main streets, side roads and primitive equipment for combat simulation. You built warehouses, water lines and more. On Coconut Island in Kaneohe Bay you built a rest and recreation camp for the Air Force.

You did, in short, whatever the Army Corps of Engineers, headquartered on the Punahou School campus, needed done. You completed 54 major projects and you, too, are a decorated battalion.

As a battalion you received the Army's Meritorious Service Award on Oct. 29, 1945, some 10 weeks after V-J Day when your demobilization was beginning.

You were draftees. Like most Americans, you didn't rush into service. But when you were called, you went where you were assigned and did your job as well as you could.

Because you were of Japanese ancestry, an ethnic group foreign to most Americans then, and because the war was with Japan, you and your families were discriminated against.

You have relatives who were interned. The draft for you was suspended from 1942 to 1944. When you were mobilized, you were placed in ethnically separate units under mostly Caucasian officers. Early in the war some units were denied ammunition.

In my inquiries I even picked up a story I couldn't confirm with a second person of machine guns being trained on one unit of AJA inductees for a single night at Schofield, apparently because their Mainland officers were afraid of them. The occasion must have been soon after Pearl Harbor.

Whatever discriminations you faced, you served well, with dedication and with good humor. You achieved the same kind of respect-building across racial lines here at home that the 100th, the 442nd and the M.I.S. did overseas.

In the nature of things, your record has gotten lost in the shuffle a bit. It doesn't deserve to be that way. On your 40th anniversary, congratulations and well done.

PRINTING OF BOOKLETS

Mr. BAKER. Madam President, I ask unanimous consent that there be printed for the use of the Commission on Art and Antiquities of the U.S. Senate 40,000 copies of the booklet entitled, "The Senate Chamber, 1810–1859," and 40,000 additional copies of the booklet entitled "The Supreme Court Chamber, 1810–1860."

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

THE PRESIDENT'S NEW COMPREHENSIVE FAIR TRADE PROGRAM FOR THE STEEL INDUSTRY

Mr. DANFORTH. Madam President, I thank the majority leader.

Today, Madam President, the President announced his new comprehensive fair trade program for the steel industry. Subsequent to that announcement the American Iron and Steel Institute issued a press release supporting the President's program. The first paragraph of the release states:

The American Iron and Steel Institute said today that President Reagan's action in establishing a new Comprehensive Fair Trade Program for the domestic steel industry is recognition of the effects of unfair trade in steel on the domestic steel industry. The total import share of the U.S. steel market under this Program will be 18.5% of apparent domestic consumption plus 1.7 million tons of semi-finished steel.

Madam President, I ask unanimous consent that the entire press release of the American Iron and Steel Institute in support of the President's announcement be printed in the RECORD.

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

PRESS RELEASE

WASHINGTON.—The American Iron and Steel Institute said today that President Reagan's action in establishing a new Comprehensive Fair Trade Program for the domestic steel industry is recognition of the effects of unfair trade in steel on the domestic steel industry. The total import share of the U.S. steel market under this Program will be 18.5% of apparent domestic consumption plus 1.7 million tons of semi-finished steel.

The import levels, which apply across all product lines, should reduce unfair trade in steel and the extensive abuses which have caused such great economic harm to the domestic steel industry.

The President's announcement today is important to the industry, its workers and communities since the industry is operating at about 57% of capability, tens of thousands of workers are on layoff, and many of the steel plant town communities are on the brink of financial disaster.

The program will be implemented with the nation's steel trading partners within the next ninety days—assuring a move toward fair trade. If the Program is successfully achieved and enforced, the investment climate in steel will become attractive once more, facilitating the increased modernization of the industry, to the benefit of the entire nation.

While the import level of the Program is higher than the limitations in the Fair Trade in Steel Act, the ceiling provided is far less than the 33% level registered in July or the 25% so far this year.

There are a number of favorable features to the Program. It covers all steel mill products. It is for five years. It will be enforceable under Administration-sponsored legislation. The resolve of the President to deal effectively with unfair trade is shown in his willingness to use his broad authority contained in trade statutes and trade cases. There is great promise for the industry, its employees and the steel committees in the Program. There remains the fulfillment of our expectations for the Program.

The Program calls for a quantitative limitation on semi-finished steel. The steel companies will have the right to file unfair trade cases against semi-finished imports.

The industry has been assured that the Program will be implemented during the next ninety days. Steel imports arriving after October 1 will be included under the Program. Unfair trade practice cases can be expected to be filed in the event successful government arrangements or agreements with specific countries are not reached.

The domestic steel companies and their employees are deeply appreciative of the efforts of those members of Congress, governors, mayors and state and local officials who, together with the United Steelworkers of America, have so strongly supported the industry in its efforts to achieve a comprehensive steel trade solution. The industry is indeed grateful for this assistance.

We are aware of the opportunity a successful Program affords the industry and its workers. We are confident the opportunity and the challenge will not be lost.

ORDERS FOR WEDNESDAY

ORDER FOR RECOGNITION OF CERTAIN SENATORS

Mr. BAKER. Madam President, on tomorrow, I ask unanimous consent that, after the recognition of the two leaders under the standing order, the distinguished Senator from Wisconsin [Mr. PROXMIRE] be recognized on special order for not to exceed 15 minutes.

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

ORDER FOR ROUTINE MORNING BUSINESS

Mr. BAKER. Madam President, I ask unanimous consent that after the execution of the special orders tomorrow, a period for the transaction of routine morning business be provided to extend not past the hour of 11:40 a.m., in which Senators may speak for not more than 1 minute each.

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

Mr. BAKER. Madam President, it may be that on tomorrow we will make other provisions for morning business. But at the moment, that will leave 20 minutes for debate on the motion to proceed, the vote which has been set for 12 o'clock. If no time is required for further debate on the motion to proceed, it would be the intention of the leadership on this side to extend the period for the transaction of routine morning business. But it seems the better part of discretion to leave it in this configuration for the time being.

Madam President, at 12 o'clock, under the order previously entered, the Senate will vote on the motion to proceed with the consideration of S. 66.

TIME AGREEMENT ON BEAUDIN NOMINATION

Mr. BAKER. Madam President, I am told that the request I am about to put now has been cleared. Let me state the request for the consideration of the minority leader, and the Senate.

As in executive session, I ask unanimous consent that at the hour of 2 p.m., tomorrow, the Senate go into executive session to consider the nomination of Bruce D. Beaudin, to be an associate judge of the Superior Court of the District of Columbia, and that the nomination be considered under the following time agreement: 1 hour on the nomination to be equally divided between the chairman of the Governmental Affairs Committee and the ranking minority member, or their designees; and, that following the conclusion, or yielding back of the time on the nomination, the Senate proceed to vote on the confirmation of Bruce D. Beaudin.

Madam President, let me add one further sentence to the request. I amend the last paragraph of the request as follows: and, that following the conclusion, or yielding back the time of the nomination, the Senate proceed to vote without intervening motion, point of order, or appeal on the nomination; and, that after the nomination is voted on, the Senate return to legislative session, and resume consideration of the matter then pending before the Senate.

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

Mr. BAKER. I thank the Chair.

PROGRAM

Mr. BAKER. Madam President, I have nothing further in wrap-up, and if the minority leader has nothing further, I am prepared to state the program for tomorrow.

Madam President, on tomorrow the Senate will convene at 11 a.m. After the recognition of the two leaders under the standing order and the execution of the special order, there will be a very brief period for the transaction of routine morning business until 11:40 a.m. in which Senators may speak for not more than 1 minute each.

At 11:40 a.m. the Senate will resume consideration of the motion to proceed to the consideration of Senate Resolution 66. At 12 noon a vote will occur on that motion. The yeas and nays, it is anticipated, will be ordered.

After the disposition of that matter, if the Senate chooses to proceed to the consideration of that measure, debate will continue for an appropriate time on the resolution itself. However, it is anticipated as well that during the day tomorrow the Senate will be asked to return to the consideration of the trade bill. It is hoped, Madam President, that the Senate can complete action on the trade bill tomorrow and pursue the debate in a satisfactory way on Senate Resolution 66. For the balance of the week, it is hoped that TV in the Senate, the trade bill, and the highway bill may be disposed of. Senators are on notice of the possibility of late evenings on Wednesday, Thursday, or Friday of this week. A Saturday session is not anticipated this week.

RECESS UNTIL 11 A.M. TOMORROW

Mr. BAKER. Madam President, I have nothing further. The minority leader indicates he does not. I see no other Senator seeking recognition. I move, in accordance with the previous order, that the Senate now stand in recess until 11 a.m. tomorrow.

The motion was agreed to; and at 6:53 p.m., the Senate recessed until Wednesday, September 19, 1984, at 11 a.m.

NOMINATIONS

Executive nominations received by the Senate September 18, 1984:

INTERNATIONAL MONETARY FUND

Charles H. Dallara, of Virginia, to be U.S. Executive Director of the International Monetary Fund for a term of 2 years, vice Richard D. Erb, resigned.

DEPARTMENT OF JUSTICE

Jasper R. Clay, Jr., of Maryland, to be a Commissioner of the U.S. Parole Commission for a term of 6 years, vice Oliver James Keller, Jr., term expired.

INTERNATIONAL MONETARY FUND

Paul A. Volcker, of New Jersey, to be U.S. Alternate Governor of the International Monetary Fund for a term of 5 years, reappointment.