SENATE—*Wednesday, May 16, 1984*

(Legislative day of Monday, May 14, 1984)

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

PRAYER

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

Let us pray.

Almighty God, Judge of all the Earth and perfect in Thy justice, we beseech Thee for the Members of the Senate and all public servants. Make us aware that our ultimate accountability is to Thee.

Thy word declares that we have no secrets from Thee; that Thou dost know our thoughts afar off and the words yet unspoken on our tongue. Thou dost see not only what we do but why we do it. Put a watch on our motivation. Imbue us with the desire and determination to act in ways pleasing to Thee. Help us to think God's thoughts after Him knowing that as we conform to Thy will we shall most certainly fulfill our responsibility to the people.

Fill our hearts, O God, with a passion for Thy glory, through Jesus Christ the Lord. Amen.

RECOGNITION OF THE MAJORITY LEADER

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

Mr. BAKER. I thank the Chair. I thank my colleague and distinguished President pro tempore, who is unfailingly courteous and helpful.

SENATE SCHEDULE

Mr. BAKER. Mr. President, this morning, after the two leaders are recognized, there will be two special orders. At 10:40 a.m., today, the Senate will stand in recess in order to gather and proceed as a body to the Hall of the House of Representatives to hear the President of Mexico, Miguel de la Madrid, address a joint meeting of Congress. The President pro tempore is authorized to appoint an escort committee.

Mr. President, after the joint meeting is concluded, the Senate will reconvene, and the first order of business will be a period for the transaction of routine morning business for 20 minutes or less, in which Senators may speak for not more than 2 minutes each. At the conclusion of that time, the Senate will resume consideration of the unfinished business.

Mr. President, today is Wednesday of the week before we are to go out for the Memorial Day recess. Between now and May 25, it is the fervent hope of the leadership on this side that we can complete action on this bill, on the budget resolution, on the agent orange matter, and on the debt limit.

Surely, then, Members will not be surprised when I say that, in view of that essential schedule, in the opinion of the leadership on this side, I should reiterate the statement I made yesterday, and that is Members should assume that there will be late sessions for the balance of this week and perhaps next as well. There will be a session on Friday, Mr. President, and there will be votes.

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

Mr. BAKER. I yield.

Mr. BYRD. Mr. President, the distinguished majority leader has stated that there will be a session on Friday and that there will be votes. What I am about to say casts no reflection on the majority leader. He fully intends to have a session and he fully intends to have votes this Friday.

He has said this in the past and in utter good faith so there is no question that I raise, explicitly or impliedly, but Senators on my side—and I would imagine that Senators on the other side—have complained that when statements are made by the leadership to the effect that there will be a Friday session and then on Thursday afternoon it is called off, or that there will be a Friday session and there will be votes and we come in on Friday and there are no votes and we go out early, Senators on my side have complained that they have arranged their schedules as a result of the leadership statements that have been made and then they find that they are short circuited by having no votes and they are unable, by then, to pick up their schedules as they were in the beginning.

This is one reason why I said to the distinguished majority leader yesterday that if he says there will be votes on Friday, I want to do everything I can to help him have some votes. Although, may I say, too, having been majority leader, that even the majority leader cannot guarantee, beyond any semblance of doubt, that in all occasions, there will be votes. And the majority leader has found—if the majority leader will pardon me, I do not want to make a speech at this point, and I ask that it be taken out of my time—the majority leader has sometimes found that when he looks at the attendance checks on Thursday afternoon—that the likelihood of a quorum on Friday is not the very best. And so, rather than have Senators come in, with no quorum, he has felt forced at the last hour to waive the Friday session.

Now, I say that only to say what my colleagues on this side are concerned about and with absolutely no touch of any criticism for the majority leader. I know his problems and I sympathize with him in them. So I simply want to underscore what I have said; namely, that if a Friday session is going to be held—and no one questions the fact that it does need to be held this week because the majority leader has outlined the workload—that there will be votes. I hope that we do have votes.

(Mr. MURKOWSKI assumed the chair.)

Mr. BAKER. Mr. President, I thank the minority leader. I am certainly not offended in the least by his remarks. He has had the same experience I am having now during his tenure as majority leader.

In the final analysis, the leadership can only do what the Senate is willing to do. But I can do one thing that I have not done before, Mr. President, and that is to guarantee that there is going to be a vote on Friday. Now, it may be a vote on compelling the attendance of absent Senators; it may be something more substantial than that. But I am saying now, in my own responsibility, that we have gotten in the habit too freely of taking off Friday and there is too much yet to be done. So Senators should know if they are not here on Friday, they are going to miss at least one vote and, if it is possible for the leadership on this side to do so, they will miss more than one.

If we do not have a quorum, they will not miss more than one vote. But I have been reluctant to have a vote, or a quorum call, on Friday when attendance shows more than 50 absentees, and/or when I am reasonably sure that is the case. I think it does not bring glory to the Senate to have to adjourn for the absence of a quorum, and that is what we would have to do. So I have been unwilling to do that. But I am not unwilling to do that now.

On Friday, if we do not have a quorum, we are still going to have a

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

vote. If we have to adjourn over under the rules, we will do so. There is already an order entered for us to convene on Monday. It may be necessary to be in on Saturday. But I will make a further statement about that later.

I want Senators to know that, and I thank the minority leader for underscoring the statement that we are going to do this now. We are going to try to resume a standard 5-day week.

Mr. President, it is true on this side—as the minority leader has indicated on his side—that Members have complained about being told to be in on Friday with a short session when we cannot do anything. I suppose that is a cul de sac of leadership that you cannot do much about except what I outlined. It may sound punitive to Senators, but that is the case. We are going to be in on Friday. We are going to have votes. I have not put it in that context before, but that is the case.

HIGHER EDUCATION ACT AMENDMENTS

Mr. BAKER. Mr. President, I have one matter that we might have taken up last evening at the request of this Senator, a bill that has been cleared on both sides, I believe. We did not because of the variety of circumstances.

Could the minority leader agree at this time to take up as morning business H.R. 5287, by unanimous consent?

Mr. BYRD. Mr President, that matter has been cleared on this side.

Mr. BAKER. I thank the minority leader.

Mr. President, I ask unanimous consent that the Senate now as in morning business proceed to the consideration of Calendar No. 844.

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

The bill will be stated by title.

The bill clerk read as follows:

A bill, H.R. 5287, to amend Title III of the Higher Education Act of 1965 to permit additional funds to be used to continue awards under certain multiyear grants.

The Senate proceeded to consider the bill.

AMENDMENT NO. 3064

(Purpose: To authorize appropriations for the Office of Inspector General, Department of Education, for Allen J. Ellender fellowships, for certain legal education programs, for the Urban Education Foundation, and to clarify the definition for "migratory fisherman" under chapter 1)

Mr. BAKER. Mr. President, I send to the desk an amendment on behalf of the distinguished Senator from Vermont (Mr. STAFFORD) and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will read the amendment.

The bill clerk read as follows:

The Senator from Tennessee (Mr. BAKER), for the Senator from Vermont (Mr. STAFFORD), proposes an amendment numbered 3064.

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

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

The amendment is as follows:

Redesignate section 2 as section 7 and insert after section 1 the following new sections:

SEC. 2. (a) Section 510 of the Omnibus Budget Reconciliation Act of 1981 (Public Law 97-35) is amendment by striking out beginning with the semicolon in clause (1) all matter through the end of the sentence and inserting in lieu thereof: "for each such year; and

"(2) $12,989,000 shall be available for each of the fiscal years 1982 and 1983, and $14,961,000 shall be available for fiscal year 1984 for the Office of Inspector General.".

(b) The amendment made by subsection (a) of this section shall take effect October 1, 1983.

SEC. 3. Section 5 of the joint resolution entitled "Joint Resolution to provide grants for Allen J. Ellender fellowships to disadvantaged secondary school students and their teachers to participate in a Washington public affairs program", approved October 19, 1972, is amended to read as follows:

"SEC. 5. There are authorized to be appropriated $1,500,000 for the fiscal year 1984, $1,500,000 for the fiscal year 1985, $2,000,000 for the fiscal year 1986, $2,000,000 for the fiscal year 1987, $2,500,000 for the fiscal year 1988, and $2,500,000 for the fiscal year 1989, to carry out the provisions of this joint resolution.".

SEC. 4. (a) Notwithstanding any other provision of law, the total amount which may be appropriated to carry out part E of title IX of the Higher Education Act of 1965, relating to law school clinical experience programs, shall not exceed $1,500,000 in fiscal year 1985, $2,000,000 in fiscal year 1986, $2,000,000 in fiscal year 1987, $2,500,000 in fiscal year 1988, and $3,000,000 in fiscal year 1989.

(b)(1) Section 583(b) of the Education Consolidation and Improvement Act of 1981 is amended by striking out "and" at the end of clause (2), by inserting "and" at the end of clause (3), and by inserting after such clause the following new clause:

"(4) the law-related education program as formerly authorized by part G of title III of the Elementary and Secondary Education Act of 1965,".

(2) Such section is further amended by inserting "(or $1,000,000 in the case of the program referred to in paragraph (4))" after "fiscal year 1981".

SEC. 5. Section 555(b) of the Education Consolidation and Improvement Act of 1981 is amended by inserting before the period at the end thereof a comma and the following: "except that such definition shall be modified to include children of migratory fishermen, if such children reside in a school district of more than 18,000 square miles and migrate a distance of 20 miles or more to temporary residences to engage in fishing activity".

SEC. 6. (a)(1) The Secretary is authorized to make grants to the Urban Education Foundation of Pennsylvania, Inc., located in Philadelphia, Pennsylvania, for the purpose of reconstruction and renovation (and related costs) of the combined graduate and undergraduate facilities at the urban research park established as the Urban Education Foundation of Pennsylvania, Inc.

(2) There is authorized to be appropriated $3,400,000 to carry out the provisions of paragraph (1) of this subsection.

(b)(1) Notwithstanding any other provision of law, from any amounts recovered by the Department of Education from prior fiscal year obligations from the Higher Education Appropriation Account for the Department of Education, the Secretary may use not to exceed $1,000,000 to carry out the provisions of subsection (a) of this section.

(2) The amount authorized to be appropriated by paragraph (2) of subsection (a) shall be reduced by any amounts expended under paragraph (1) of this subsection.

TITLE III, HIGHER EDUCATION ACT

Mr. STAFFORD. Mr. President, the Senate will today consider legislation which will correct a technical error in the authorizing statute for title III of the Higher Education Act. Last September, the Congress passed legislation creating a new endowment program as part of the title III program. At that time, we inadvertently knocked out funding for a number of schools in their third year of the challenge grant program. This legislation before us today will correct that problem.

Additionally, I would like to urge my colleagues to accept my amendment which will do the following. First, we would reauthorize the close-up program for 5 years. This important program needs a 5-year extension at this time in order to provide stability for its corporate fund raising and long range planning. Close-up is a program which enjoys great bipartisan support in the Senate, and I have had many Members urge the action we are taking today.

The second item in my amendment would increase the authorization in fiscal year 1984 for the Office of the Inspector General at the Department of Education from $12,989,000 to $14,961,000. This increase in funding is needed now if the Department is to maintain its best efforts to monitor our important education programs.

The third item is an extension of the law school clinical program and the law-related education program, both of which have been strongly supported over the last few years by Senators PELL and RANDOLPH.

The fourth item is a technical amendment clarifying the definition of migratory worker to insure that the children of certain migratory fishermen are included. I understand that Senator STEVENS proposed this amendment, which will affect children in the States of Alaska and Hawaii.

The fifth and final item is one recently considered by the Senate on the supplemental appropriations bill, that is the creation of the Urban Education Foundation of Pennsylvania. As my colleagues will recall, Senators HEINZ, SPECTER, and myself offered an amendment for $3.4 million for the Urban Education Foundation. The authoriz-

ing language contained in this amendment is needed to clarify our actions on the appropriations bill. This is a project which has strongly been supported by Secretary of Education Terrel Bell, and Under Secretary of Education Gary Jones, who see it as a model of business-higher education cooperation.

I thank my colleagues for their courtesy in allowing me to discuss these issues today, and urge the immediate adoption of H.R. 5287 and this amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3064) was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill (H.R. 5287), as amended, was read the third time, and passed.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the bill was passed.

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

The motion to lay on the table was agreed to.

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

Mr. President, I reserve the remainder of my time.

RECOGNITION OF THE MINORITY LEADER

The PRESIDING OFFICER. The minority leader is recognized.

Mr. BYRD. I thank the Chair.

Mr. President, I yield the remainder of my time to the distinguished Senator from Wisconsin, to be added to his special order time.

Mr. BAKER. Mr. President, I yield any remaining time I have to the distinguished Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I wish to thank the majority leader for yielding the balance of his time to me which I will not consume entirely.

DOMESTIC CONTENT

Mr. CHAFEE. Mr. President, the press has been full of articles in the last several weeks focusing on the foreign trade concerns of one of the Nation's most import industries, the auto industry.

There have been articles about the effects of Japan's self-imposed auto quotas, about the economic recovery of the U.S. industry, its enormous profits and its extraordinary levels of executive pay and bonuses. There have been articles about the Japanese industry's not-so-veiled indications that it just might be nice to us and continue the quotas after they expire in March 1985, and about the large investments being made here by Japanese auto companies. And there is much editorial comment, too, about what surely seems to be one of the hottest topics in the economic news.

No wonder. The vitality of the auto industry is important because its employment, its gross sales, its impact on our way of life is so important. Consumers care deeply about the cost, quality, safety, and environmental soundness of their cars, and they care very much.

Well, the existing temporary quotas on Japanese cars are nothing compared to the domestic content bill being heard today in the Senate Commerce Committee.

That protectionist blockbuster—perhaps the worst threat to world trade since the disastrous Smoot-Hawley Tariff Act of 1930—passed the House last November 11 by a vote of 219 to 199, and is said to have about 25 supporters in the Senate. It is a threat to those millions of American consumers who are buying high quality, reliable, fuel-efficient Japanese cars. It is a threat to the economy at large, and a threat to the competitive vitality of our own domestic auto industry.

Fortunately, a large number of private organizations, economists, and newspaper editoralists have grasped the nature of this threat to our collective well-being and responded.

One hundred organizations and companies representing millions of American consumers, workers, farmers, manufacturers, and other business people across this country have joined in opposition to S. 707.

And 100 economists, including 3 Nobel laureates, have joined to urge that we reject S. 707.

At least 50 publications have editorially opposed domestic content legislation, ranging from the Arizona Republic to the Wall Street Journal.

I ask unanimous consent that listings of thse organizations and individuals be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit No. 1.)

Mr. CHAFEE. Mr. President, now, what is everybody so concerned about; why all the fuss? S. 707, the Fair Practices in Automotive Products Act would require that by 1986 the overall fleet sold by any manufacturer in the United States consist of a fixed percentage of U.S. labor and U.S. parts. That percentage would be 90 percent for manufacturers that sell more than 900,000 vehicles, proportionally down to 10 percent for manufacturers that sell 100,000 vehicles.

It is important to understand that the bill is a very elaborate device to arrive at the imposition of quotas. If a manufacturer fails to meet the prescribed limits, allowed imports could be reduced to as few as 100,000 vehicles. Consumer choice would be severely restricted, particularly for the smaller Japanese cars that restricted, particularly for the smaller Japanese cars that account for about 50 percent of all small car sales, and 26 percent of total U.S. consumption in 1983.

So the reason for all the fuss and worry is plainly and simply that the bill would close the vise on the American auto market. It would dictate to foreign manufacturers that if they want to sell cars here they have to make them here. It is deliberately skewed against the Japanese producers, who among them will in 1984 sell 1.85 million cars here, including about 730,000 Toyotas, and 650,000 Nissans. Very few non-Japanese makers ship us more than 100,000 units. Thus, S. 707 would permit the marginal foreign suppliers—mainly the Europeans—to continue to trade, but close out the major Japanese producers.

Mr. President, this morning a number of my colleagues and I will be discussing the domestic content bill and its harmful implications.

I will begin by making the arguments:

First, that the industry has used the "breathing space" provided by more than 3 years of quotas to recover with great strength from a period of trial; and

Second, that the domestic content legislation would hurt American jobs, consumers, and in other ways damage our economy and weaken our position among our trading partners.

First, auto company sales, profits, salaries, and employment have all increased. The industry had its most profitable year in history in 1983 and will have a much better one in 1984.

Sales of domestic autos increased from 5.76 million units in 1982, the trough of the recession, to 6.8 million in 1983. Based on first quarter performance, CBO estimates sales will be 8.3 million in 1984.

With the increase in domestic production, and partly reflecting the effect of the quotas, the import share of the domestic market is expected to drop from 27.9 percent in 1982 to a projected 22 percent in 1984. Quotas have been one element of the drop in sales of imports. Another important contributor has been the fact that as fuel prices have stabilized, sales of intermediate and large cars increased from 2.9 million units in 1982 to 3.8 million units in 1983, illustrating that the large-car buyer has returned to the market.

Industry profitability is up dramatically. According to Commerce Depart-

ment data, industry profits in the first quarter should be about $2.7 billion. For 1984 as a whole, the industry should earn $9 to $10 billion. Chrysler earned more in the first quarter this year than in any full year in its history.

In 1983, GM's and Ford's earnings were each greater than in the last prerecession year, 1978. While this is nominal income, not adjusted for inflation, it is nonetheless important because it was achieved with sales of almost 1 million fewer cars than in 1978.

This booming profit picture has resulted in some extraordinarily self-indulgent behavior in the form of executive compensation.

Each of General Motors' top five executives broke the million-dollar compensation barrier with their salaries and bonuses last year.

Chairman Roger Smith's compensation package totaled $1.51 million: $625,000 in salary, $433,000 in cash bonus, and the remainder in options. Overall, GM paid 5,807 executives $181.7 million in bonuses last year, and Ford paid 6,035 executives bonuses totaling $80.6 million.

Their timing could not have been worse, because the auto industry is approaching the most important event of the year—renegotiation of the United Auto Workers' contract with GM and Ford. These negotiations will begin in early summer, and are expected to conclude before the contract expires in September.

The wages, fringe benefits, and working conditions that emerge from these negotiations will have a number of major effects on the industry. Labor costs could increase significantly. As a result of the contract it signed in September 1983, for example, Chrysler's labor costs in the United States are expected to rise about 20 percent from $21 to $26 per hour over the next 2 years. Chrysler's settlement was just to catch up to GM and Ford. Their settlements will build upon this base and could be even more generous.

Obviously, the UAW is seeking a reversal to at least the 1979 levels. And why should they not if they follow the examples of the executives? Their war cry is "Restore and more in '84."

The trouble is that these increases will make the auto worker twice as well paid as the average American worker, and much better paid than his Japanese auto industry counterpart.

Profitability has come as the result of stringent cost reduction programs that increased plant productivity enormously. Unfortunately, the revitalized industry performance also came at the expense of jobs. But even here, the picture is looking much brighter. Employment in the motor vehicles and parts industries has been rising steadily from the bottom hit in the fourth quarter of 1982. In the corresponding period in 1983, employment was 827,000. It rose to 875,000 in the first quarter this year. Compared to the peak employment of 1,047,000 reached in the fourth quarter of 1978, the employment picture is not completely bright, but there has been a strong recovery even with the increased output per worker that has been achieved during the last few years.

Now let us look at some of the harmful effects of domestic content, and I would like to start with jobs.

Most often quoted is the finding of the Congressional Budget Office that though domestic content might result in some additional U.S. auto jobs, the net effect on U.S. employment would be a loss of 66,000 jobs.

A more recent study by the Commerce Department shows that S. 707 would increase the price of an average car by about $450. Japanese car sales here would decline by about 1 million units.

But American car makers would not be helped by the shortage of Japanese cars. On the contrary, the study shows that their volume would rise by less than 200,000, the result of negative consumer reaction to higher prices and reduced availability of the types of cars they prefer.

The Commerce Department study shows that the bill would result in gains in auto employment of 30,000, offset by direct losses at U.S. ports, dealerships, and at the U.S. facilities of Japanese auto companies of 23,500. And because imposition of domestic content would affect approximately $5.5 billion worth of Japanese exports to the United States, the Commerce Department estimates that 132,000 U.S. nonauto workers could risk losing their jobs. Thus, at the very worst, the domestic content bill could result in the loss of as many as 125,000 American jobs.

In short, the cost of this industry's greed would be the jobs of many thousands of Americans in other fields.

One important area in which jobs would be lost would be the U.S. facilities of the Japanese producers. These cars are made very substantiall, of parts made abroad. Thus, were domestic content to become law, these plants would have to completely reorganize production or close. Honda and Nissan have indicated that they would close their production facilities were domestic content enacted. This would mean the direct loss of 4,000 jobs in these factories; an additional 3,000 jobs could be lost by their suppliers.

But since the Commerce Department study was made, Japanese producers here have announced further expansion of their domestic facilities. On May 10, Nissan announced plans to build as many as 100,000 subcompact cars a year in Tennessee, adding 1,100 additional workers to the 1,900 already employed there. And in March, Mazda announced a decision to build 250,000 passenger cars a year in the United States. And Honda is now spending $240 million to expand its existing facilities, and to add 700 jobs to its work force of 1,800. And it is well known that Toyota will enter a joint venture with GM to build 250,000 cars a year in California.

The point is that company spokesmen have testified that these job-producing U.S. investments would be terminated and the facilities closed if domestic content were to become law. Economists agree that it would be sensible economic behavior for the Japanese plant owners to close their operations as they have testified they would. Such a move would be consistent with the theory that a company attempting to sell in a permanently restrained market can only be expected to do so from its most efficient production base. The small volumes and higher production cost of U.S. operations under domestic content would disrupt the Japanese production system and would be uneconomic. These companies, it is argued, would therefore retreat from the United States and attempt to sell as much as permitted from foreign bases of operation.

WHAT ABOUT THE EFFECTS OF DOMESTIC CONTENT ON CONSUMERS?

The first and most immediate effect would be an increase in price and a sharp reduction in supply. The Wharton Econometric model predicts a 10-percent increase in price, or $450 a car, and the Commerce Department study agrees.

The cost to the consumer of artificially creating an additional 30,000 auto worker jobs would be about $4.8 billion, or $160,000 per job, a huge charge on the consumer.

The overall effect of domestic content on the consumer price index would be 0.16 percentage points, according to the Commerce Department analysis.

WHAT ABOUT THE EFFECT OF DOMESTIC CONTENT ON OUR WORLD TRADE POSITION?

Trade experts agree that the domestic content legislation would be a blatant violation of our international obligations under articles III and XI of the GATT. S. 707, however, contains a provision that attempts to make domestic content GATT-legal, by declaring that auto imports have caused or threatened to cause injury to the domestic auto industry. This declaration contradicts the finding of the International Trade Commission, which has determined that auto imports are not the substantial cause of injury to the U.S. industry.

Because the cost of lost imports due to domestic content would be $5.5 billion according to the Commerce Department, retaliation in this amount would be a potential result.

The effect of retaliation on farm exports could be especially harmful, because Japan imports $6 billion of U.S. farm products each year from at least 30 U.S. States.

These States would be most likely to be hurt were domestic content to become law.

Far from encouraging the Japanese to agree to our pressing demands that they open their markets to more American products, domestic content would likely make the Japanese even more intransigent than they have been in the past. And indeed they would have good reason to be.

The growing importance of trade to our economy is often overlooked by Americans, but the facts speak for themselves.

The produce of 1 out of every 3 acres cultivated in the United States is shipped abroad, providing over a million U.S. jobs in the agricultural sector of our economy.

One out of every six American manufacturing jobs depends on exports. More telling, between 1977 and the onset of the recession in 1981, four out of every five new jobs in manufacturing in the United State were the result of American products destined for foreign markets.

In 1970, exports accounted for 4 percent of U.S. gross national product; by 1980 that figure had doubled to 8 percent.

Mr. President, domestic content is a dangerous threat. I have explained its threat to jobs, consumers, and to U.S. trade. But it has a much larger significance. It symbolizes a growing restlessness in the United States with the snail's pace of negotiations to knock down foreign trade barriers—especially those of Japan. Furthermore, the bill is a sign of the increasing political appeal of protectionist measures to shut foreign goods out of the market.

It is even more difficult to explain the nature of the import problem, and to resist the temptation of protectionism in the current economic climate. There is wide agreement that huge budget deficits result in high interest rates which have created enormous demand for the dollar. The very highly valued dollar at the same time damages our exports and encourages job-threatening imports.

This situation was reviewed by a task force of the Republican Senate Conference, which I chaired. The task force report, which was adopted by the entire Republican conference, found that:

Because our foreign trade problems stem largely from macroeconomic causes, we reject protectionist initiatives in response to the trade deficit, such as the House-passed domestic content bill. Such initiatives would hurt our economy, destroying more jobs than they create, providing benefits to a few at the expense of the majority and stifling the innovation necessary for increased productivity. Such initiatives would clearly hurt American trade. By raising tariff and other trade barriers we would greatly aggravate the international debt problem thus raising the risk of a severe international financial crisis and further losses in U.S. exports in LDC markets. We would, as well, stifle recovery abroad, precluding growth in U.S. exports to other industrialized nations.

Mr. President, I call for the rejection of domestic content legislation, and further, I suggest now that the existing quotas on Japanese exports be terminated. The fourth year of the quotas has just begun. To wait until next March is to have waited too long. The auto industry's new prosperity is a false prosperity so long as import quotas are in place and the threat of domestic content hangs over the market. The industry should use its new profits to reduce the price of its cars, secure its expanding share of the American market, and let the American consumer share in the good times.

(Exhibit No. 1)

Publications Which Have Opposed Local Content

American Metal Market.
Arizona Republic.
Asian Wall Street Journal.
Atlanta Constitution.
Atlanta Journal.
Baltimore Sun.
Boston Globe.
Canadian Globe & Mail.
Charleston Gazette.
Chicago Tribune.
Christian Science Monitor.
Cleveland Plain Dealer.
Columbus Dispatch.
Dallas Morning News.
Decatur Herald & Review.
Denver Post.
Des Moines Tribune.
Detroit Free Press.
Detroit News.
Honolulu Advertiser.
Indianapolis News.
Indianapolis Star.
Journal of Commerce.
Kansas City Times.
Lincoln Star.
Los Angeles Times.
Louisville Courier-Journal.
Miami Herald.
Milwaukee Journal.
Nashville Banner.
Nation's Business.
National Journal.
Newsday.
New York Times.
Omaha World Herald.
Pittsburgh Press.
Sacramento Bee.
Saginaw News.
San Diego U..ion.
San Francisco Chronicle.
Santa Ana Register.
Seattle Times.
St. Louis Post-Dispatch.
Staten Island Advance.
Times Picayune.
U.S. News and World Report.
USA Today.
Wall Street Journal.
Washington Post.
Washington Times.
Wisconsin State Journal.

NATIONAL INSTITUTE OF ECONOMICS AND LAW,
Washington, D.C., May 11, 1984.

DEAR SENATOR: We, the undersigned economists, urge the defeat of S. 707, the "Fair Practices in Automotive Products Act."

The bill would impose legal restraints on imports of automobiles and parts, primarily of Japanese and European origins. This policy can only lead to long-term reductions in economic growth, employment and consumer welfare.

One immediate effect would be that U.S. automobile producers would be relieved of competitive pressures. There is no justification now for giving the automobile industry any such relief; it is currently enjoying record profits and sales.

The overall, long-term effects of S. 707 can be expected to include:

Relieved of competitive pressures, the U.S. automobile industry would have less motive for solving its problems of low productivity and would be free to raise prices still further against consumers;

Prices to consumers would increase by amounts estimated to range from $300 to $1,000 per vehicle;

Employment and sales of U.S. exports would decline, as the reduction in imports exacerbated the upward pressure on the value of the dollar, tending to increase further the relative cost of U.S. exports;

Our trading partners would retaliate, further reducing the demand for U.S. exports, and, hence, reducing employment and incomes;

Employment would decline not only in export industries but also at foreign car dealerships and at U.S. ports which unload vehicles and parts;

The CBO has estimated a net loss of some 60,000 American jobs;

Any employment and output gains in the automobile industry would not be realized fully until the late 1980's due to the phasing-in of the rules. In the meantime, as Ambassador Mansfield has predicted, our trading partners might well have retaliated, imposing years of losses before even the nominal domestic benefits were realized.

Perhaps more important than these directly adverse effects are the substantial economic and political losses resulting from a potential breakdown in the world economic relationships that have been laboriously fashioned since World War II, largely as a consequence of enlightened American leadership.

There were severe problems in the automobile industry in the recent recession, from which we are only now recovering. As a consequence, great hardship has been imposed on many automobile workers and in many other important segments of the economy. However, the proposed legislation does not go to the root of those problems. For American industries and workers as a whole, the real villain is high interest rates. Interest rates have devastated the automobile and other durable consumer goods industries, as well as housing and capitral goods producers. High interest rates have increased foreign demand for the dollar, raising its value excessively so as to encourage imports and, in effect, to raise an invisible tariff barrier against American exports throughout the world.

For the automobile industry itself, the historical lack of competition, for and among the big three, is another culprit. The bill, rather than solving that basic problem,

would reduce that present major source of competition.

Policy should be oriented toward expanding economic growth and incomes and employment in general and providing for individuals forced out of work through no fault of their own. It should not be directed toward providing special restrictions to benefit particular sectors of the economy at the expense of the nation as a whole.

Based on the above considerations, we urge you to oppose S. 707.

Respectfully submitted,

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Armen A. Alchian, Professor of Economics, University of California at Los Angeles.

Marcus Alexis, Professor of Economics, Northwestern University, Evanston, Former member Interstate Commerce Committee.

Jack Alterman, Resources for the Future.

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Joel Darnstadter, Resources for the Future.

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Jay Dunkerley, Resources for the Future.

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Hendrik S. Houthakker, Professor of Economics, Harvard University, Former member, Council of Economic Advisors.

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Norman H. Jones, Jr., Economist, Tombstone, Ariz.

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D.E. Keefe, Chairman, Department of Economics, University of the Pacific.

Joseph A. Kershaw, Professor Emeritus of Economics, Williams College. Former Director, Research Program Planning and Evaluation, Office of Economic Opportunity.

Charles W. King, Vice President, Snavely, King and Associates, Inc.

Allen Kneese, Senior Fellow, Resources for the Future.

Marvin H. Kosters, Director, Center for Study of Government Regulation, American. Enterprise Institute, Washington, D.C.

Alan Krupnick, Resources for the Future.

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Feng-Yao Lee, Department of Economics, College of Business Administration, University of Tennessee at Knoxville.

Stanford L. Levin, Associate Professor, University of Southern Illinois at Edwardsville, School of Business.

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Richard R. Nelson, Professor of Economics, Yale University.

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Paul A. Samuelson, Professor of Economics, Mass. Institute of Technology, Cambridge, Mass. Nobel Laureate.

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Thomas C. Schelling, Professor of Economics, Harvard University. Concurrent/past positions: Prof. Econ., Yale Univ.; Economist, U.S. Gov't.

Frederic Michael Scherer, Professor of Economics, Swarthmore College. Concurrent/past positions: Dir. Bureau of Econ., Fed. Trade Comm., Prof. Econ. Northwestern U., Prof. Econ., U. of Michigan.

Allan Schlottman, Department of Economics, University of Tennessee at Knoxville.

Anna J. Schwartz, Member Senior Resident Staff, National Bureau of Economic Research.

George Spiva, Professor of Economics, University of Tennessee at Knoxville.

Walter D. Spofford Jr., Resources for the Future.

Lester D. Taylor, Professor of Economics, University of Arizona. Concurrent/past positions: Assoc. Prof., U. of Mich.; Develop. Advisor Gov't of Columbia.

Henry Thompson, Assistant Professor of Economics, University of Tennessee at Knoxville.

Thomas H. Tietenberg, Resources for the Future.

James Tobin, Sterling Professor of Economics, Yale University, New Haven, Conn.

Nobel Laurette, Former member, Council of Economic Advisors.

Philip H. Trezise, Senior Fellow, The Brookings Institution. Former Asst. Sec. of State; former Ambassador to E.E.C.

Gordon Tullock, Professor of Economics, Center for the Study of Public Choice, George Mason University.

Richard A. Tybout, Professor of Economics, Ohio State University at Columbus.

George M. Von Furstenberg, Rudy Professor of Economics, Indiana University. Concurrent/past positions: Sr. Staff Econ., Council of Economic Advisors, Exec. Ofc. of Pres.; Financial Studies Div. Int'l Monetary Fund.

James C. Wade, Resources for the Future.

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John T. Wenders, Professor of Economics, University of Idaho.

George W. Wilson, Professor of Economic and Business, Indiana University at Bloomington. Concurrent/Past positions: Dean, Coll. of Arts and Sci., Ind. U.; Chair, Dept. of Econ., Ind. U.

Henry Witterzog, Jr., Professor, University of Tennessee at Knoxville.

Anthony M. Yezer, Associate Professor of Economics, George Washington University.

COALITION AGAINST
DOMESTIC CONTENT LEGISLATION,
April 9, 1984.

Hon. JOHN H. CHAFEE,
Dirksen Senate Office Building,
Washington, D.C.

DEAR SENATOR CHAFEE: The 100 organizations and companies listed below, representing millions of American consumers, workers, farmers, manufacturers and other business people across the country, strongly oppose S. 707, the automobile domestic content bill.

As you know, domestic content legislation passed the House by a narrow margin in 1983. There will be strong pressure from the bill's proponents for a Senate vote in 1984. If such a vote comes, we urge you to stand up and say "NO" to this misguided proposal.

If enacted, its consequences would be far-reaching.

Automobile prices would rise sharply, and consumer choice would be narrowed, as competition is severely limited. A recent study by Wharton Econometric Forecasting Associates concluded that new car prices would jump 10% if the bill were enacted, costing American consumers $18 billion a year.

American jobs would be lost. The Congressional Budget Office has estimated that by 1990, 104,000 jobs would be lost in the U.S. export sector, while only 38,000 auto jobs would be gained.

Billions of dollars of American exports—in agriculture, forest products, aerospace, electronics and other industries—would be jeopardized. As a blatant violation of our international obligations, domestic content legislation would entitle other nations to retaliate against U.S. goods and services sold abroad.

With record levels of U.S. auto industry profits in 1983 (over $6 billion) . . . with the serious risks this legislation poses for American workers, farmers and other businesses who depend upon expanding U.S. exports . . . with the enormous burden it would place on American consumers, a vote for S. 707 simply cannot be justified. We encourage you to deal with the problems of unemployment in the auto industry, as elsewhere, in a fashion that does not damage far more people than it would benefit.

We strongly urge you to vote against S. 707, or domestic content in any form, and to encourage your colleagues to do the same.

Abbott Laboratories.
Aerospace Industries Association of America.
Air Products and Chemicals, Inc.
Amax, Inc.
American Association of Exporters & Importers.
American Association of Port Authorities.
American Association of Retired Persons.
American Electronics Association.
American International Automobile Dealers Association.
American Paper Institute.
American Retail Federation.
American Soybean Association.
Automobile Importers of America.
Bechtel Power Corporation.
The Boeing Company.
Business Roundtable.
Cargill, Inc.
Caterpillar Tractor Co.
Certainteed Corporation.
Chamber of Commerce of the United States.
Colonial Sugar Company.
Columbia River Freight Forwarders and Customs Brokers Association.
Combustion Engineering, Inc.
Competitive Enterprise Institute.
Computer and Business Equipment Manufacturers Association.
Consumers for World Trade.
Continental Grain Company.
Deere & Company.
Delaware River Port Authority.
Direct Selling Association.
Emergency Committee for American Trade.
Fluor Corporation.
FMC Corporation.
Grain Sorghum Producers' Association.
Honeywell, Inc.
Imperial Sugar Company.
International Apple Institute.
International Association of Ice Cream Manufacturers.
International Business Machines Corporation.
International Hardwood Products Association.
International Terminal Operating Corporation of Baltimore.
Jacksonville Port Authority.
Jacksonville Public Ports Association.
League of Women Voters of the United States. Lockheed Corporation.
Maher Terminals, Inc. (Jersey City, N.J.).
Maryland Port Administration.
Massachusetts Port Authority.
Metropolitan Stevedoring Co. (Wilmington, Calif.).
Midcontinent Farmers Association (MFA Inc.).
Milk Industry Foundation.
Millers National Federation.
Motorcycle Industry Council, Inc.
National Association of Stevedores.
National Association of Wheat Growers.
National Automobile Dealers Association.
National Broiler Council.
National Corn Growers Association.
National Council of Farmer Cooperatives.
National Foreign Trade Council.
National Forest Products Association.
National Grain Trade Council.
National Grange.
National Institute for Economics and Law.
National Retail Merchants Association.
National Soybean Processors Association.
National Turkey Federation.
Oregon Public Ports Association.
Pacific Northwest International Trade Organization.
Pacific Northwest Waterways Association.
Philadelphia Port Authority.
Phillips Petroleum Company.
Phoenix Metropolitan Chamber of Commerce.
Port Authority of New York and New Jersey.
Port of Houston Authority.
Port of Lewiston (Idaho).
Port of Long Beach.
Port of Los Angeles.
Port of New Orleans.
Port of Oakland.
Port of Portland.
Port of Sacramento.
Port of Vancouver, U.S.A.
Portland Chamber of Commerce.
Portland Steamship Operators Association.
RCA Corporation.
Savannah Port Authority.
Scientific Apparatus Makers Association.
Sears, Roebuck and Co.
Semiconductor Industry Association.
Southeastern Poultry and Egg Association.
Teamsters Bakery and Food Processors Local 305.
Tektronix, Inc.
United States Cane Sugar Refiners Association.
United States Council for International Business.
Virginia Port Authority.
Volume Footwear Retailers of America.
Washington Citizens for World Trade.
Washington Public Ports Association.
Xerox Corporation.

Mr. ABDNOR. Mr. President, just as protectionist talk increased during the early days of the depression, resulting in the Smoot-Hawley tariffs, the

notion of protecting domestic manufacturing by requiring all imported cars to contain a certain percentage of domestic car parts came to the forefront during the past recession.

Most cries for protection come from special interest groups unable or unwilling to adapt to the changing international economic environment. In these instances, the price of protection is paid by those industries and firms which offer goods and services at competitive prices, but cannot sell them because their export market has been taken away.

Despite this fact, many Members of Congress have submitted proposals to protect industries from foreign competition. One such bill is the "domestic content" legislation, S. 707. If enacted, this bill would require a certain percentage of imported automobiles to contain a certain percentage of parts made in the United States.

Fortunately, many of my colleagues recognize that S. 707, if passed, would be a blatant violation of international obligations. Further, it would undermine the entire international trading system upon which the vitality of many American industries, especially agriculture, so greatly depends. Its passage would undoubtedly force retaliatory action from our trading partners, and ultimately end in economic disaster for agriculture and other industries.

One need not be a scholar to understand this issue with complete clarity. All it takes is plain commonsense. If Congress passes domestic content legislation, countries which export automobiles to the United States would lose a portion of their market. If they lose a portion of their market, they suffer from decreased sales and revenues.

In addition to having fewer dollars to purchase our exports, these countries would retaliate by halting the purchases of some if not all goods produced in the United States.

The major industry which would suffer as a result of domestic content legislation is agriculture, because Japan and the European Community are the largest agricultural export customers of the United States. In 1982, Japan and the EC bought $13.8 billion of U.S. agricultural products, which amounted to over 38 percent of our agricultural exports in that year.

I should not have to remind my colleagues how important American agriculture is to the economy of this great Nation. And further, I should not have to remind them how important agricultural exports are to the welfare of agriculture, but I will.

Export agriculture has become so vital to the American farmer that the crops from about 2 of every 5 acres he harvests now are sold abroad. An astounding 65 percent of the wheat, 55 percent of the soybeans, and 35 percent of the coarse grains—corn, barley, and sorghum—produced in this country go to buyers overseas.

I do not think anyone will argue, after looking at these facts, that exports are not crucial to the well-being and financial security of the American farmer.

There are some who argue that domestic content legislation will not affect greatly American agriculture or other industries. To these people I simply say: "Wake up and start living in the real world!"

I hope that these same individuals can remember what happened just 1 short year ago, when the textile industry asked for protection from foreign competition and received it.

Did the Chinese turn the other cheek and laugh off the whole episode? Of course not. China almost immediately halted the purchases of all agricultural goods and did not purchase a single bushel of wheat until the matter was resolved.

As a result, total U.S. exports to China in 1983 were reduced to $2.17 billion, down 25 percent from the 1982 level. In addition, the 1982 trade surplus of $628 million became a $17 million deficit in 1983. Bearing the brunt of this sharp decline were agricultural products which were down 64 percent from 1982, and totaled only $544 million compared to $1.498 billion in 1982.

In addition to this short history lesson for the proponents of domestic content, I also would like to point out that of all the U.S. jobs created in the last 12 years, 80 percent are export related. During this same time period, U.S. exports have increased from $25 billion to more than $200 billion. I ask you, Mr. President, why should we jeopardize our export market and, at the same time, pull the trigger on a full-scale trade war?

I do not want to see America firing the gun of protectionism. I support efforts to break down trade barriers in order to allow all Americans to prosper from free trade.

As a Senator from South Dakota, the most agriculturally dependent State in the Nation, which exported $707.1 million in 1981 and $654.8 million in 1982, I will not allow our farmers, ranchers, and all those South Dakotans involved in businesses dependent on agriculture to pay this price in order for $25-per-hour auto workers to have a captive market, hold other Americans hostage, and strike for still higher wages.

I urge my colleagues to think about the interests of all Americans and not just the interests of highly paid auto workers.

Mr. DANFORTH. Mr. President, few have been more deeply concerned about the health of American autoworkers and suppliers than this Senator from Missouri, but I believe that domestic content legislation would do more harm than good. It would not solve the industry's problems and it could do major damage to the U.S. economy.

Representing Missouri, the second largest auto producing State, I am all-too-familiar with the devastating effect of the auto industry's decline on local economies: in 1978, more than 40,000 Missourians worked in auto production and related jobs; 3 years later, almost half those jobs had been lost—with fewer than 21,000 jobs surviving. In that same period, auto production in Missouri dropped by almost two-thirds, relegating it to the rank of sixth in the roster of producing States.

It was for these reasons that I joined with Senator BENTSEN in 1981 in introducing legislation that lead to the current limits on imports of Japanese autos. At the time we recognized that imports were not the only cause of the domestic industry's distress—there was more than enough blame to go around. But our purpose was not to scapegoat, but rather to provide the U.S. industry enough breathing room to get back on its feet; time for management and labor to pull in their respective belts, to cut costs and to retool; and time for interest rates to go down and for the market for cars to strengthen.

Today, we find the U.S. auto industry coming out of its tailspin. Last year found the U.S. auto industry making record profits; car sales are up; unemployment in the auto industry is way down. In my State of Missouri, production is edging upwards, employment has moved from a low of 20,000 in 1982 to almost 28,000 earlier this year, and we have regained our status as No. 2.

These improvements have come about for a number of reasons, but primarily because in the past 3 years we have been able to create a better economic climate in which the industry could recover. The recovery in the auto industry is delicate, and is in great danger of being jeopardized by shortsighted decisions on the part of labor and management and by the burgeoning Federal budget deficit. But if there is one trade proposal less likely to help the U.S. auto industry and more likely to throw a monkey wrench into the rest of the U.S. economy, it is the domestic content bill.

Domestic content legislation would require that up to 90 percent of the cars sold here be made in the United States. On its face, the idea is appealing—but looks are deceiving. I have worked very hard to protect U.S. auto jobs and to help the industry recover. This bill would not help, in my judgment; higher car prices alone would exacerbate the sticker shock problem and depress sales. And in a failed effort to help the auto industry, we

would be dealing a body blow to American exports.

This impact would come about in two forms: imitation and retaliation. Our most competitive export industries would be faced with a proliferation of performance requirements broad—this at a time when we are actively trying to keep other countries from imposing more investment restrictions on U.S. companies. The severe and permanent impact of a domestic content law would guarantee retaliation by our major trading partners. By building a fence around our market, we invite other countries to close off theirs—just as the United States is beginning to take a much tougher approach to open markets abroad, to increase sales abroad, and to create jobs through exports.

That the sectors that would be most severely impacted are our greatest hope for the future is clear: Four of five new manufacturing jobs created between 1977 and 1980 were directly related to exports. Chemicals, aerospace, electrical machinery, high technology, services—these sectors are the ones from which tomorrow's jobs will come—not domestic content legislation. One out of every 3 acres in our country is producing food for others to eat—with more than half of our wheat, soybeans, and rice, and more than a third of our feedgrains, cotton, and tobacco going to foreign markets. Not surprisingly, then, if one takes into account the effects of foreign retaliation, the passage of domestic content legislation could result in a net job loss for the United States of over 60,000 jobs.

Domestic content legislation will not help our auto industry. If the present temporary limits on car imports were needed to enable the industry to retool, then domestic content legislation—a severe permanent quota—is a declaration of surrender by an industry that believes it cannot compete. That is an assumption with which I cannot agree. Many American autoworkers are as dedicated as their foreign counterparts. Our automobile manufacturers are capable of great strides to increase efficiency and quality in the U.S. industry.

Finally, it is worth noting the weakest reason of all for supporting domestic content legislation—the send a signal to the Japanese school of feeble excuses. For those who claim they support content legislation because the Japanese market is closed to U.S. exports, it is worth asking if an open Japanese market would put an end to their push for a content law. Better yet, it is worth asking if passage of domestic content legislation is likely to make one iota of difference in U.S. access opportunities in Japan.

Moreover, the send a signal argument is a poor excuse for starting a trade war. We have been sending signals for far too long—with little to show for our rhetoric. Where there is a problem of access to the Japanese market—and I believe there is a severe one—than we should be acting aggressively to get those barriers removed. Whether the answer is reciprocity legislation, more GATT cases or retaliation is another question. Clearly, domestic content is not the answer.

Mr. CHAFEE. Mr. President, I ask that any additional statements in connection with the domestic content legislation that may be submitted during the remainder of the day be printed at this point in the RECORD.

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

● Mr. GORTON. Mr. President, at first glance the domestic content legislation we are considering appears attractive. It looks like a straightforward way to protect the jobs of American autoworkers. But a closer look reveals a Pandora's box of problems, including higher auto prices for consumers, international trade wars, and the net loss of thousands of American jobs.

S. 707, if it became law, would force foreign automakers to reduce substantially the number of cars they export to this country. This would curtail the availability of foreign-made cars for American consumers and would reduce competition in the U.S. auto industry. Reduced competition along with higher production costs would add at least several hundred dollars to the already-high cost of both imported and domestic cars. As we have already seen with import quotas on Japanese cars, the consumer loses if we give in to protectionists.

Advocates of domestic content argue that these higher prices would be offset by additional taxes paid by newly-employed autoworkers who would no longer collect unemployment. But how can there be a net gain to our economy when S. 707 would cause a net loss in jobs? According to the Congressional Budget Office, S. 707 would, by 1990, cause 104,000 workers to lose their jobs in the export sector of our economy for the 38,000 jobs gained in the auto industry. More than 140,000 people in the United States are employed directly by automobile importers. A cutback in imported vehicles would idle tens of thousands of these workers. The Port of Seattle alone would lose as many as 7,000 jobs when we consider indirect employment.

Domestic content laws pose an even greater threat than unemployment for auto importers and losses for consumers. The moment we enact this kind of protectionist import barrier, our trading partners will retaliate, setting off an international trade war, with dire consequences for the entire economy.

For a State like Washington, where one in every five jobs depends on foreign trade, the effects of such a trade war could be devastating. Total trade between Washington and Japan, the main target of S. 707, climbed to almost $9 billion in 1982. Washington's total international trade that year was $27.5 billion; $11 billion of this total was in exports of agricultural and forest products, aircraft, and high technology manufactured goods. Economists estimate that every $1 billion in exports accounts for 25,000 jobs. In Washington alone, then, 275,000 jobs in farming, forest products, airplane manufacturing, and high-tech firms could be jeopardized by protectionist legislation such as S. 707.

As for the rest of the American economy, the most telling indictment of domestic content legislation came from Alice Rivlin, then director of the nonpartisan Congressional Budget Office, in 1982:

> Our analysis implies that the net effect for the U.S. economy—measured in terms of real economic growth, inflation and employment—would be negative. The benefits accruing to the U.S. automotive industry would be more than outweighed by the costs borned by the rest of the economy.

There is no question that international trade is not as free as it should be. All countries, ours included, use an array of barriers to protect their domestic industries. But, as we all become more dependent of international trade, I am confident that this trend can be reversed. Even developing nations are beginning to realize that these barriers can have the opposite of their desired effect, by stagnating their fledgling industries and cutting off their exporters from world markets. The United States must not fall into this trap. I hope this Congress will keep the lid on this very dangerous Pandora's box.●

● Mr. NICKLES. Mr. President, Congress is on the brink of economic tomfoolery by pushing legislation with the potential to exacerbate America's foreign trade problems. It is called the domestic content bill, and should it become law, U.S. agriculture could be one of the biggest losers.

The legislation mandates that cars sold in the United States in large quantities must contain certain percentages of American parts and labor. It passed the House last year on the notion that it would create jobs for the troubled auto industry.

The domestic content plan makes little economic sense. Studies show that it could add an average of $1,000 to the price of a new car. Now, how could increasing auto prices to consumers, thereby reducing consumer demand, help a troubled auto industry? The bill would also foster a greater regulatory burden adding to its cost.

Aside from its direct effect on the auto and related industries, the domestic content bill would likely do even

greater damage to other industries which rely heavily on exports. Because this legislation puts restrictions on importing goods used in automobile production, other nations would be inclined to retaliate against the United States by cutting their demand for American products. Among our largest exports are agricultural commodities.

This bill is an anti-Oklahoma piece of legislation. As a State which is heavily trade dependent, Oklahoma could ill afford legislation which would restrict world commerce. Such restrictions would send a signal that we do not wish to compete in the international marketplace.

Instead we wish to hide behind the barriers of protectionism. What would the world trade community say to our erecting these restrictions. They would rightly respond that our voices calling for the lowering of trade barriers are voices of hypocrisy. They would ask why should we import Oklahoma wheat when Oklahomans are not allowed to freely purchase our automobiles? Why should we buy Oklahoma manufactured goods when Oklahomans ability to purchase our manufactured goods is squelched?

According to the Census Bureau, Oklahoma exported $1.5 billion in manufactured goods in 1981. According to the Agriculture Department, Oklahoma exported $928 million in 1981 and $781 million in ag products in 1982.

These billions of dollars of Oklahoma exports would be subject to retaliation if S. 707 passed the Senate.

This bill would adversely affect farmers at a time when we are making a concerted effort to reverse the downward trend in agricultural exports and when the U.S. automobile industry is exhibiting a good recovery from its earlier slump.

There are ways to help the auto industry without hurting the rest of the economy. A continuation of economic recovery coupled with decreasing costly regulations will be a far greater benefit to the auto industry and the Nation.●

● Mr. SYMMS. Mr President, I would like to join with my colleague from Rhode Island, Senator CHAFEE, in his remarks about the domestic content legislation that has been passed by the House of Representatives.

This seems to be the season for protectionism in Congress. It is election year and blaming foreign competition for lost jobs is always a congenial formula because it avoids all of the unpleasant questions about our own economic performance.

A U.S. local content law would give strong support to one of the most disturbing protectionist trends now threatening the international trading system. A local content law would balkanize production and prevent manufacturers from taking advantage of world-class economies of scale in their purchasing of supplies. The balkanization of production would be harmful for manufacturers, customers, and workers alike.

Furthermore, a local content law would, I believe, not only fail to achieve its intended results, but would violate our international obligations under the General Agreement on Tariffs and Trade (GATT) and other international obligations.

If a local content law were to be enacted, our foreign trading partners might very well respond to the illegal U.S. trade actions mandated by this legislation by retaliating against our leading exports such as computers, aircraft, semiconductors, and agricultural products, or worse yet, emulate our actions by passing local content legislation of their own. The net result would be devastating long-term effects on U.S. employment and our economic well-being.

Certainly, enactment of such legislation, so obviously inconsistent with our international commitments, would undermine the current drive by the United States to open foreign markets more fully to our products and would damage the international trading system to such an extent that less world trade and fewer jobs would be the eventual outcome.

Recession, slow growth, unemployment and payment imbalances experienced by the trading nations have intensified labor and industry demands for protectionism. At the origin of these pressures are the very real difficulties that a wide range of industries have encountered. However, the problems of certain domestic industries will not be solved by enacting trade barriers. The problems of these industries will only be solved by providing an economic environment in which the U.S. industries can become more productive and competitive domestically and worldwide.

The domestic content legislation is perhaps the worst threat to the international trading system and our own prosperity to be considered by the Congress in a decade. This legislation would mean fewer jobs, less sales, reduced markets, and less economic growth. I would encourage all of my colleagues to reject this legislation should it be seriously considered by the Senate.●

AGAINST DOMESTIC CONTENT

Mr. JEPSEN. Mr. President, the news reports are filled with stories attesting to the strong economic recovery of the automobile industry. The U.S. automobile industry does not need domestic content protectionist legislation.

However, if proponents of domestic content legislation are not convinced that S. 707 is neither necessary, nor advisable, by the dramatic success stories of the automobile industry, I would like to examine the far-reaching effects of a domestic content law.

Domestic content would violate the General Agreement on Tariffs and Trade, and would certainly invite retaliation from our trading partners. This means that our vital agricultural exporting sector would be in danger. Domestic content legislation would, in effect, create an endangered agricultural export list, affecting not only Iowa farmers, but all American farmers and allied U.S. agribusiness.

Many of our major trading partners have already indicated a desire to reduce their dependence on U.S. agricultural imports. A protectionist domestic content law would provide the impetus for such a reaction. Domestic content laws will have the same effect as embargoes. Our farm economy has yet to recover from the devastating impact of the Carter-imposed Soviet Grain Embargo. In retaliation for domestic content our trading partners will go elsewhere for farm commodities, just as they did during the Carter embargo.

Retaliation would be especially severe from Japan and the European Community (EC) which together purchase about $16 billion in commodities from American farmers, or nearly 40 percent of our total agricultural exports.

Domestic content would provide a devastating blow for our farmers who are already suffering from declining exports, high interest rates, and a depressed agricultural economy. Our farmers cannot afford a major surge in world trade protectionism triggered by the passage of domestic content legislation.

At a time when our national officials are working so diligently to open foreign markets to U.S. products, a domestic content law would make a mockery of our effort. We may be destroying 423,000 jobs throughout our economy.

I, for one, am not about to vote to sacrifice our farm economy on a protectionist altar.

I ask unanimous consent that a statement of the National Grange by Edward Andersen, master, the National Grange, and a letter from the coalition against domestic content legislation be printed in the RECORD.

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

STATEMENT OF THE NATIONAL GRANGE

(By Edward Andersen, Master)

Mr. Chairman and Members of the Committee:

I am Edward Andersen, Master of the National Grange, which represents more than 400,000 members in farm and rural areas in 41 states. Since its beginnings in 1867, the National Grange has been deeply concerned with our national interests as well as with

the special and vital interests of the agricultural economy and rural America.

The National Grange, in concert with many other agricultural groups and with the broad range of consumer, worker and business interests opposing S. 707, has repeatedly pointed out how damaging this bill could be to American farmers, exporters and broad national interests threatened by such special-interest "protectionist" legislation.

On the trade front, S. 707, which would violate our international commitments and our obligations under the General Agreement on Tariffs and Trade, would invite prompt retaliatory action from the European Community and Japan. It would almost certainly speed up a long-standing European desire to justify restriction of our corn, soybean and other exports to the E.C. U.S. farmers and the agricultural community, among the hardest hit of all sectors during our economic downturn, can ill-afford further decline in our vital $35 billion export market.

Even with a decline in these exports, in 1982 Japan purchased $5.7 billion of U.S. agricultural products (including soybeans, $1.1 billion; corn, $1.3 billion; wheat, $.6 billion). Furthermore, in 1982 European Economic Community imports of U.S. agricultural products were nearly $9 billion (including soybeans, $3.9 billion; corn, $1.3 billion; wheat, $.3 billion). These exports, along with other U.S. farm products are extremely vulnerable to retaliatory action by our trading partners if legislation such as S. 707 were to be enacted into law.

Agricultural opposition to S. 707 and its counterpart, H.R. 1234, has been consistently expressed by many farm organizations and commodity groups. The attached letter of December 13, 1983, sent to all members of the Senate, briefly summarized the reasons for such opposition. Our opposition is centered on the short-term dangers it represents for our export markets. However, S. 707 represents long-term threats to the viability of the world trading system which could be even more damaging. A spiral of retaliatory and counter-retaliatory steps could trigger massive trade conflicts which might result in world depression such as that which followed the ill-advised Smoot-Hawley tariffs of 1930.

Farmers and other producers and workers are also consumers, and we again emphasize the obvious increase in automobile costs which would result if S. 707 should become law. The so-called "voluntary" restraints of Japanese car shipments to the U.S. have already greatly increased the price of both U.S. and Japanese cars to U.S. buyers because of the emphasis being placed on bigger cars by both auto industries, while greatly reducing the customer's right to choose a more economically priced car. A "domestic content" law could be expected to add at least another $1,000 to the price of a car, for a national cost of something on the order of $10 billion or more. As that former great of the U.S. Senate, Everett Dirksen, so aptly put it, "A few billion dollars here, a few billion there—after awhile it adds up to real money!"

As a spokesman for many farmers who face loss of farm and livelihood, we are in full sympathy with the urgent need to find effective solutions to the unemployment problems of displaced automobile workers which have instigated the proposals of S. 707. Authors of the bill, however, have not considered the damages from retaliation and other consequences which would cause the loss of far more U.S. jobs than would be gained. Many unemployed automotive workers are permanently displaced by changes in technology, and more appropriate long-term solutions must be found for them—in ways which do not penalize other workers.

S. 707 fails to meet the requirements of constructive legislation on every count:

1. It is a "jobs loss," not a jobs bill; furthermore, it would be detrimental to the long-term interests of the very automotive industry workers whom it aims to help, by reducing incentives for the U.S. industry to become more competitive.

2. It would bring much higher costs to U.S. car buyers, who have already paid a heavy price for the "voluntary" restraints on Japanese car shipments into the U.S.

3. It would invite retaliatory action by two of our best customers for farm exports, the European Community and Japan, which could be a devastating blow to our still-depressed agricultural economy.

4. It could trigger a wave of worldwide protectionist actions, disrupting world trade, bringing on renewed economic crises which in turn would intensify the world political tensions which threaten our very survival.

We urge members of this Committee not to recommend such an unwise proposal. It is particularly ill-conceived because it does not deal with the central problems underlying unemployment in the U.S. automobile industry. And the damage to U.S. farmers, other workers, consumers and to the world economy would be immense.

We appreciate the opportunity to present the reasons for our opposition to S. 707 to this Committee. We trust that, in the interest of our farmers and our nation, this misguided proposal will be rejected.

NATIONAL GRANGE,
Washington, D.C., December 13, 1983.

Hon. HOWARD BAKER,
U.S. Senate,
Washington, D.C.

DEAR SENATOR BAKER: Among the several trade issues which are of great importance to our national economy as you return to the Senate session of 1984, the so-called "domestic content" auto import bill (S. 707) represents one of the clearest dangers. Farmers, exporters and other businessmen, most of the nation's workers and all American consumers are seriously threatened by this bill. The National Grange, along with fourteen other agricultural groups,[1] has approved the following statement of opposition to such legislation:

"We urge opposition to the 'domestic content' auto import bill. U.S. agricultural, consumer and other groups continue their vigorous opposition to this legislation because they recognize the critical need to encourage more orderly and rational world trade if international economic disaster is to be avoided.

"According to the Congressional Budget Office, passage of such legislation would result in a net loss of jobs. Furthermore, its GATT-illegal proposals would trigger retaliatory actions which could be devastating to U.S. agricultural export market opportunities.

"Sponsorship and support of this bill would be a serious disservice to our farmers, to all export-related industries and to Americans as consumers and as leaders in worldwide efforts to deal with today's critical economic and political threats."

As a proposal which would clearly violate the General Agreement on Tariffs and Trade and other of our international agreements and obligations, S. 707 would almost certainly bring retaliation or demands for compensation which could greatly damage our already declining agricultural exports. Following earlier U.S. government actions that were trade disruptive (such as 1973 embargo on U.S. soybeans), Japan, our largest farm export customer, "retaliated" without formal retaliation by investing in massive production of soybeans in Brazil. Our current confrontation with the European Community over their trade-restrictive means of implementing the Common Agricultural Policy, including threats to tax all vegetable oils and restrict our access to their markets for corn gluten and other products would be further exacerbated by the passage of S. 707.

Claims that S. 707 is a "job bill" are specious and highly misleading. Congressional Budget Office studies have confirmed that the bill would modestly benefit only a limited group of highly-paid workers while depriving far more other workers of employment.

Furthermore, if such an illegal and U.S. unilateral action should prove to be the trigger to the damaging trade war which the world has feared, our economy could suffer critical damage, our recovery could be aborted, and Americans would pay the price along with our trading partners for such an unwise step.

We urge your opposition to S. 707 as a bill which has been properly labeled by many of our national leaders as the most threatening of our current international economics initiatives. Some have called it the most potentially damaging of any trade legislation since the infamous Smoot-Hawley Act of 1930. Our national as well as our agricultural interests require that such a narrow and misguided proposal be rejected.

Sincerely,

EDWARD ANDERSON, Master,
The National Grange.

COALITION AGAINST DOMESTIC
CONTENT LEGISLATION,
April 9, 1984.

Hon. ROGER W. JEPSEN,
Russell Senate Office Building,
Washington, D.C.

DEAR SENATOR JEPSEN: The 100 organizations and companies listed below, representing millions of American consumers, workers, farmers, manufacturers and other business people across the country, strongly oppose S. 707, the automobile domestic content bill.

As you know, domestic content legislation passed the House by a narrow margin in 1983. There will be strong pressure from the bill's proponents for a Senate vote in 1984. If such a vote comes, we urge you to stand up and say "NO" to this misguided proposal.

If enacted, its consequences would be far-reaching.

Automobile prices would rise sharply, and consumer choice would be narrowed, as competition is severely limited. A recent study by Wharton Econometric Forecasting Associates concluded that new cars prices

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[1] American Soybean Association, Grain Sorghum Producers Association, International Apple Institute, MFA Inc., Miller's National Federation, National Association of Wheat Growers, National Broilers Council, National Corn Growers Association, National Council of Farmer Cooperatives, National Grain Trade Council, National Soybean Processors Association, National Turkey Federation, Poultry and Egg Institute of America.

would jump 10% if the bill were enacted, costing American consumers $18 billion a year.

American jobs would be lost. The Congressional Budget Office has estimated that by 1990, 104,000 jobs would be lost in the U.S. export sector, while only 38,000 auto jobs would be gained.

Billions of dollars of American exports—in agriculture, forest products, aerospace, electronics and other industries—would be jeopardized. As a blatant violation of our international obligations, domestic content legislation would entitle other nations to retaliate against U.S. goods and services sold abroad.

With record levels of U.S. auto industry profits in 1983 (over $6 billion) . . . with the serious risks this legislation poses for American workers, farmers and other businesses who depend upon expanding U.S. exports . . . with the enormous burden it would place on American consumers, a vote for S. 707 simply cannot be justified. We encourage you to deal with the problems of unemployment in the auto industry, as elsewhere, in a fashion that does not damage far more people than it would benefit.

We strongly urge you to vote against S. 707, or domestic content in any form, and to encourage your colleagues to do the same.

Abbott Laboratories.
Aerospace Industries Association of America.
Air Products and Chemicals, Inc.
Amax, Inc.
American Association of Exporters & Importers.
American Association of Port Authorities.
American Association of Retired Persons.
American Electronics Association.
American International Automobile Dealers Association.
American Paper Institute.
American Retail Federation.
American Soybean Association.
Automobile Importers of America.
Bechtel Power Corporation.
The Boeing Company.
Business Roundtable.
Cargill, Inc.
Caterpillar Tractor Co.
Certainteed Corporation.
Chamber of Commerce of the United States.
Colonial Sugar Company.
Columbia River Freight Forwarders and Customs Brokers Association.
Combustion Engineering, Inc.
Competitive Enterprise Institute.
Computer and Business Equipment Manufacturers Association.
Consumers for World Trade.
Continental Grain Company.
Deere & Company.
Delaware River Port Authority.
Direct Selling Association.
Emergency Committee for American Trade.
Fluor Corporation.
FMC Corporation.
Grain Sorghum Producers' Association.
Honeywell, Inc.
Imperial Sugar Company.
International Apple Institute.
International Association of Ice Cream Manufacturers.
International Business Machines Corporation.
International Hardwood Products Association.
International Terminal Operating Corporation of Baltimore.
Jacksonville Port Authority.
Jacksonville Public Ports Association.
League of Women Voters of the United States.
Lockheed Corporation.
Maher Terminals, Inc. (Jersey City, N.J.)
Maryland Port Administration.
Massachusetts Port Authority.
Metropolitan Stevedording Co. (Wilmington, Calif.)
Midcontinent Farmers Association (MFA Inc.)
Milk Industry Foundation.
Millers National Federation.
Motorcycle Industry Council, Inc.
National Association of Stevedores.
National Association of Wheat Growers.
National Automobile Dealers Association.
National Broiler Council.
National Corn Growers Association.
National Council of Farmer Cooperatives.
National Foreign Trade Council.
National Forest Products Association.
National Grain Trade Council.
National Grange.
National Institute for Economics and Law.
National Retail Merchants Association.
National Soybean Processors Association.
National Turkey Federation.
Oregon Public Ports Association.
Pacific Northwest International Trade Organization.
Pacific Northwest Waterways Association.
Philadelphia Port Authority.
Phillips Petroleum Company.
Phoenix Metropolitan Chamber of Commerce.
Port Authority of New York and New Jersey.
Port of Houston Authority.
Port of Lewiston (Idaho)
Port of Long Beach.
Port of Los Angeles.
Port of New Orleans.
Port of Oakland.
Port of Portland.
Port of Sacramento.
Port of Vancouver, U.S.A.
Portland Chamber of Commerce.
Portland Steamship Operators Association.
RCA Corporation.
Savannah Port Authority.
Scientific Apparatus Makers Association.
Sears, Roebuck and Co.
Semiconductor Industry Association.
Southeastern Poultry and Egg Association.
Teamsters Bakery and Food Processors Local 305.
Tektronix, Inc.
United States Cane Sugar Refiners Association.
United States Council for International Business.
Virginia Port Authority.
Volume Footwear Retailers of America.
Washington Citizens for World Trade.
Washington Public Ports Association.
Xerox Corporation.

● Mr. WILSON. Mr. President, I rise to join my colleagues in expressing opposition to domestic content legislation, S. 707. This legislation, should it become law, would be a disaster for the American economy in general and the American consumer in particular.

The American consumer is already suffering the effects of the Voluntary Restraint Agreement on cars which our Government negotiated with the Japanese. One study has shown that VRA added $1,000 to the average price of cars—both domestic and Japanese-made—in just the first 2 years. Indeed, because Japanese cars are now in short supply as a result of VRA, dealers have been able to tack on top of the sticker price of these cars $1,000 to $2,000 of additional dealer markup.

Why should the American consumer be asked to continue to subsidize the American auto workers and the American auto companies in this fashion. Why should the average American hourly worker, who has a total compensation package of $12 to $14 per hour have to cough up an extra $1,000 to $2,000 when auto workers have a package worth over $20 per hour? The answer is that there is no justification for this. Beyond the consumer issue, domestic content legislation would greatly injure our economy.

It would lead to trade retaliation which, in the end, would reduce U.S. employment. Clearly, workers in efficient, export dependent industries would lose their jobs by the thousands— and more Americans depend on making products for exports than depends on the American auto industry. This bill would throw people out of jobs in modern industries while saving many fewer jobs in industries that are much less efficient.

It would cut off what little access we have to Japanese agricultural markets, reversing a slight, but positive trend of increased Japanese imports of American beef and citrus.

It would hurt, both directly and indirectly, our transportation dependent industries—particularly our ports. The direct impact would result from decreased imports; the indirect impact would result from decreased exports on account of retaliation.

And, Mr. President, domestic content legislation would hurt our most productive, developing, state-of-the-art industries. Indeed, progress with the Japanese in such important trade areas as telecommunications, satellites, and semiconductors would be completely washed away by this protectionism.

Mr. President, what I find particularly peculiar is the push for domestic content legislation at the present time. The Members of this body well know that the auto industry has just recorded record profits—some of which came from increased efficiencies and productivity, but too much of which came from the VRA. If VRA is wrong—and it is—then domestic content legislation is very wrong. It is wrong for my State of California, which is the most export-dependent state in the Union, and it is wrong for the country.

Mr. President, I applaud the fine efforts of the management and the workers in the American auto industry for the great changes they have both brought about in the quality of their products and the color of the bottom line. Nevertheless, I cannot support a

policy that seeks to protect a domestic industry for the simple sake of protection. It is just not in America's best interests.●

Mr. CHAFEE. I thank the distinguished majority leader, and also the distinguished minority leader, for this time.

RECOGNITION OF SENATOR PROXMIRE

The PRESIDING OFFICER. All time having been yielded back, the Senator from Wisconsin is recognized.

Mr. PROXMIRE. Mr. President, as I understand it, I have a special order. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Under the previous order, the Senator from Wisconsin is recognized for not to exceed 15 minutes, in addition to which he has the minority leader's time which has been yielded to him.

Mr. PROXMIRE. I will not use all that time by any means. I thank the Chair.

THE ESSENCE OF LIFE

Mr. PROXMIRE. Mr. President, in the years that I have been in the Senate—I have been here since 1957, 27 years—there is no Senator with whom I have served who has greater intellectual capability or energy than Senator Jacob Javits of New York.

Senator Javits, as you know, has been stricken by an extraordinarily debilitating disease. It is a disease which is a paralyzing terminal motor neuron disease known as amyotrophic lateral sclerosis—sometimes called Lou Gehrig's disease. But that has not kept Senator Javits from one of the most courageous and remarkable crusades—to appeal to our Government to work on this illness. He is a man of great intellect, and I am sure even in this case he is dispassionate about it. He is convinced that, if we will devote the resources to this disease, we are on the verge of making some extraordinarily remarkable progress, and we may be able to provide a way of preventing and healing the disease.

An article in the New York Times of yesterday by Sidney Schanberg is so touching that I must call it to the attention of my colleagues. It says about Senator Javits:

He is still the public person, but he is giving us now some glimpses of the man. It may distress him to hear this, but there are those who will remember him better for these glimpses than for all his formidable accomplishments in four terms as a United States senator.

Because, wounded and wheelchair-ridden as he is by a degenerative disease, he is talking these days about optimism, grit and living.

Last week, the patient gave a lecture to the doctors—at New York Hospital at the weekly conference known as medical grand rounds. But the lesson was for everyone, not just doctors.

His driving force, he said, is to "keep my brain in order and functioning. This is the essence of life."

This article concludes by saying:

His talk to the doctors bids a person to pause and think about priorities and about how lucky we are and about what will be remembered of us when we're gone. It probably won't be our secular achievements, our awards, our bank accounts—more likely it will be the quality of our behavior and of our personal relationships.

Mr. Javits said he was speaking out to try to provide inspiration to others afflicted with incurable disease. I think he reached a much wider audience than that.

The former Senator will be 80 years old this Friday. Happy Birthday, Mr. Javits.

Mr. President, I ask unanimous consent that this article by Sidney Schanberg on our former great colleague, Senator Javits, be printed in the RECORD.

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

[From the New York Times, May 15, 1984]

THE ESSENCE OF LIFE

(By Sydney H. Schanberg)

Jacob K. Javits was always the public person—married to his work, serious, single-minded—but in three and a half decades in government office, he rarely let his private self show, he didn't let his public get close to the man.

He is still the public person, but he is giving us now some glimpses of the man. It may distress him to hear this, but there are those who will remember him better for these glimpses that for all his formidable accomplishments in four terms as a United States Senator.

Because, wounded and wheelchair-ridden as he is by a degenerative disease, he is talking these days about optimism, grit and living.

Last week, the patient gave the lecture to the doctors—at New York Hospital at the weekly conference known as medical grand rounds. But the lesson was for everyone, not just doctors.

His driving force, he said, is to "keep my brain in order and functioning. This is the essence of life."

The man who had played vigorous tennis for 55 years delivered his message from his wheelchair. Under the chair sat a mechanical portable respirator that helps him catch his breath and sets the measured cadence of his speech. It pumps air through an opening in his throat that is covered by an ascot.

His illness is a paralyzing terminal motor neuron disease known as amyotrophic lateral sclerosis—sometimes called Lou Gehrig's disease. The nerve-damaging process has not affected Mr. Javits' considerable mental faculties but it has led to progressive weakness of the muscles below his neck. He wears a supportive collar to keep his head from sagging and interfering with his already impaired breathing.

And this man who needs three hours every morning to prepare for the day was telling the doctors: "As long as your brain can function, you can contribute.

"If there is anything I can leave with you in terms of the treatment of patients with a terminal illness," he went on, "it is this: We are all terminal—we all die sometime—so why should a terminal illness be different from terminal life? There is no difference."

In this age of endless debate over the high cost of medical care and the choosing of who gets treatment when it's limited and the decisions about when to let patients die, the former Senator urged doctors to develop criteria based on mental function "to enable us to determine . . . who should live and die.

"The most positive therapy," he said, "is to perpetuate the life force, and whether [the] patient is a mechanic or a U.S. Senator, he or she has a motivation which must prevail over the illness."

Prevailing is something Mr. Javits has been good at. He was a survivor long before now. As a liberal Republican in the Senate, he was a minority within a minority—but over time he earned status and his colleagues' respect. And when he was defeated in his quest for a fifth term in 1980, the year the illness's first signs appeared, he didn't disappear into a musty trophy room.

His present life and his words to the doctors run counter to the hypnotic images that flicker endlessly these days from the television tube—images that suggest life is worthwhile and beautiful only when you're young and healthy and, if possible, tanned.

Mr. Javits may not be healthy, but neither is he crippled in any lifeforce sense. The disease has been with him for four years now and there he was, talking about optimism and humor in dealing with illness and of the value of these attitudes not only to patients but equally to the doctors and nurses who treat them.

Mr. Javits cannot of course keep his old workaholic pace, but he keeps a pace. He writes articles, delivers commencement addresses and testifies before Congressional committees on the many subjects in his area of expertise.

It's not easy to write about what's important in life without getting slushy or pretentious. It's also not easy to write detachedly about those who set examples. Yet one does not have to transform Mr. Javits into a romanticized saint to acknowledge, nevertheless, that he has made a contribution to this process.

His talk to the doctors bids a person to pause and think about priorities and about how lucky we are and about what will be remembered of us when we're gone. It probably won't be our secular achievements, our awards, our bank accounts—more likely it will be the quality of our behavior and of our personal relationships.

Mr. Javits said he was speaking out to try to provide inspiration to others afflicted with incurable disease. I think he reached a much wider audience than that.

The former Senator will be 80 years old this Friday. Happy Birthday, Mr. Javits.

FREEMAN DYSON ON OPTIONS FOR SURVIVING A NUCLEAR WAR.

Mr. PROXMIRE. Mr. President, in his new book "Weapons and Hope," a distinguished physicist, Freeman Dyson, takes on this tough question: What military policies should we adopt to survive a nuclear war, recognizing that mankind has to live from now on with nuclear weapons? Mr. Dyson seems to be asking: Suppose the military establishment that bases our survival on a constantly "improving" deterrent is wrong? And suppose the

peace movement that would rely on a negotiated freeze followed by a reduction of nuclear weapons is also wrong? Suppose neither will work? Is there an alternative that will? Dyson suggests that there is such an alternative. He contends the alternative is more realistic and practical than either the so-called military establishment approach or the peace movement approach. Dyson would not have us base our nuclear weapons strategy on assuring the best chances for a nuclear victory, and not on stopping the nuclear arms race, but on weapons policies that would assure the survival of the greatest number of Americans.

Mr. Dyson does not assume that anyone would necessarily survive a nuclear war. But he believes the trend of nuclear weapons in the past 25 years has been away from nuclear weapons of mass destruction and toward nuclear weapons of remarkably improved precision and mobility. The precision is critical to the Dyson thesis because it means we are moving now in the right direction, that is toward weapons that can destroy military targets without destroying cities. Therefore, Dyson reasons, the weapons would kill fewer people. The mobility is critical because increased mobility makes the weapons far less vulnerable. Why is weapon survivability so important? Because it will have the double effect of making the weapons less vulnerable targets and reduce the motive as it increases the risk of starting a nuclear war by attacking them.

Dyson also contends that the massive city-destroying H-bombs are becoming obsolete as both sides build smaller weapons with much less yield, but greater potency. The old population killing weapons die off, replaced by newer military, target-killing weapons that are much surer to reach and destroy their precise target. As Dyson sees is our chances of survival increase as the weapons keep evolving toward war fighting confined to military objectives. Dyson's thesis is very similar to the argument of General Gallois and John Train set forth in a recent letter to the Wall Street Journal. Gallois and Train argue that precision and miniaturization of nuclear weapons will transform nuclear warfare from a destroyer of civilization and perhaps of all mankind to a military operation much like conventional war. A few days ago I discussed this Gallois-Train thesis at length on the floor.

Some people might construe the revelations about the nuclear winter in a similar way. As we know, the nuclear winter was the revelation by international scientists earlier this year that in the event of even a small nuclear war, we could trigger such a reaction in the environment that we would have a nuclear night that would last for many weeks in which we would be in darkness, and a nuclear winter that would last for months, in which we would have to survive in temperatures of less than 13° below zero. That would be caused by these weapons of mass destruction.

If the weapons were reduced in megatonnage and in yield, made more precise, the argument could be that we would not trigger a nuclear winter and it would be conceivable that mankind could survive and we would not ignite the kind of problem in the general environment that we would with a nuclear war.

In the judgment of this Senator here is precisely the danger in the Dyson thesis. Dyson offers a seductive scenario. He contends that emphasis on survival and the obsolescence of the biggest and dirtiest nuclear weapons will permit us to fight a nuclear war that would be cruel and inhumane but would not result in mankind's final gasp. Will smaller, more accurate, more survivable nuclear weapons lead us out of the danger of a nuclear armageddon? Well, anything is possible. But it seems very unlikely, indeed. This is the same argument we ran into on the floor of the Senate a couple of years ago, when some of us critized the use of tactical nuclear weapons like the neutron bomb to stop the Russians from winning a conventional war in Europe. Once a nuclear war begins, with Dyson's miniaturized and survivable weapons, the loser is likely to raise the ante with ever bigger and dirtier population killers. The more diverse and survivable the weapons on the losing side, the more likely the war would continue to the bitter end of total destruction.

There are two reasons why Dyson's thesis is specially dangerous. First, the new nuclear weapons he hails—the highly accurate, small weapons would lend themselves ideally to proliferation. What a bonanza for Libya or Iran. The small size necessarily means small cost because the big cost in nuclear weapons is in the massive delivery system: the Trident submarines or the Stealth bombers. A miniaturized nuclear weapon might be a low cost dream for a small country. It would be a nightmare for the world. It could be carried and deployed by an individual terrorist. Many nations have or can easily recruit and train terrorists.

The second weakness of the Dyson prescription lies in his general support for the so-called defensive nuclear weapons. Dyson even opposes the Anti-Ballistic Missile Treaty. The death of that treaty would open the way for the kind of endless "star wars" spending that would threaten deterrence by promoting an ever more complex and unstable arms race. It would give one superpower or the other fleeting moments when it or its opponent suffered the illusion that it could win a nuclear war if the war were waged while the temporary advantage held.

Freeman Dyson has written a brilliant book that deserves careful reading. Dyson eloquently rejects reliance on mutually assured destruction and the feasibility of nuclear war. His "live and let live" principle is appealing. But strangely enough he cannot seem to perceive the irony in his sensible rejection of the MX and killer satellites as "technical follies" with this devastating sentence: "The primal sin of scientists and politicians alike has been to run after weapons which are technically sweet." Mr. Dyson, you are absolutely right in that sentence. And this sweetness for nuclear weapons in Dyson's case miniaturized and superaccurate nuclear weapons is just what Mr. Dyson falls for in coming down on the side of a policy of smaller, more precise and more survivable weapons as the objectives we should seek. The answer, Mr. President, is that there is no salvation in nuclear weapons. The nuclear arms race cannot and will not lead us to nirvana. For peace in this nuclear world there is no substitute for mutual, verifiable negotiations to stop their testing, their production, their deployment. There is no substitute: None.

TERROR IN A SRI LANKA CITY

Mr. PROXMIRE. Mr. President, history is filled with countless instances of man's inhumanity to man, of great atrocities committed for the most despicable of reasons. Today, in our advanced, civilized world, however, it is inexplicable and unjustifiable that transgressions of the most basic human rights ceaselessly occur. One of these many modern breeches of civility was recently depicted in a New York Times article which tells of the strife and horrors of day-to-day living for the Tamil ethnic group in the city of Jaffna, Sri Lanka.

Jaffna is a city situated on a narrow sand spit, between two bodies of turquoise water, where 750,000 Tamils live in a land drier than the lushly forested remainder of Sri Lanka. Jaffna is also the center of the Tamil movement for a separate state, the advocacy of which was made a crime by constitutional amendment last year.

The Government of Sri Lanka, controlled by the country's ethnic majority, the Sinhalese, says that in the heightened strife of April of this year, 50 people were killed in Jaffna alone; Western diplomats and residents say as many as 200 were killed.

The Government asserts that the targets of its troops in this isolated town in the far north of Sri Lanka are terrorists who have outlawed themselves by advocating a separate state for ethnic Tamils. But people in Jaffna tell a different story. Unable or unwilling to tackle the terrorists effec-

tively, the armed forces are waging war against ordinary citizens.

Instead of trying to flush out a terrorist from a suspected hiding place, soldiers set fire to Tamil businesses in the immediate area. Soldiers have arrested, beaten and killed Tamil youths who were believed, yet not proved, to be connected in some way with the terrorist movement.

The continued violence against the minority Tamils has been criticized by the United Nations, the United States, and the European Community. But more than words alone will be needed to save the destitute and oppressed lives of the Tamils in Sri Lanka.

One step that we in the Senate can take to strengthen the U.S. stand is to ratify the Genocide Convention, conceived of by the U.N. after the morbid Holocaust of the Jews during World War II. This treaty simply declares the intent to exterminate a national, ethnic, racial, or religious group an international crime. Already approved by 87 nations, it has not, as yet, been ratified by the United States.

Ratification of the convention would underscore our global commitment to the preservation of human rights and reemphasize to the Sri Lankan Government our strong desire to have them stop their persecution of the Tamils. I ask today that this body end its 35-year delay and take a step for the Tamils and other unjustly abused groups by ratifying the Genocide Convention.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

JOINT MEETING OF THE TWO HOUSES

RECESS SUBJECT TO THE CALL OF THE CHAIR

The PRESIDING OFFICER. Under the previous order, the hour of 10:40 a.m. having arrived, the Senate will stand in recess subject to the call of the Chair.

Thereupon, the Senate, at 10:43 a.m., took a recess, subject to the call of the Chair, and the Senate, preceded by the Secretary of the Senate, William F. Hildenbrand; the Sergeant at Arms, Larry E. Smith, and the President pro tempore, Senator THURMOND, proceeded to the Hall of the House of Representatives to hear the address by the President of Mexico.

(The address delivered by the President of the United Mexican States to the joint meeting of the two Houses of Congress is printed in the proceedings of the House of Representatives in today's RECORD.)

At 11:38 a.m., the Senate, having returned to its Chamber, reassembled and was called to order by the Presiding Officer (Mr. WILSON).

ORDER OF BUSINESS

Mr. BAKER. Mr. President, there is a special order in favor of the distinguished Senator from South Dakota. That will be followed by a 20-minute period for the transaction of routine morning business. I estimate then that we shall be back on the bill sometime around 12:10 or 12:15 p.m.

Mr. President, I yield the floor.

RECOGNITION OF SENATOR ABDNOR

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

Mr. ABDNOR. I thank the Chair.

(The remarks of Mr. ABDNOR at this point are printed earlier in today's RECORD when Senators discussed the domestic content bill.)

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER (Mr. KASTEN). Under the previous order, there will now be a period for the transaction of routine morning business of not to exceed 20 minutes, during which Senators may speak for up to 2 minutes each.

ADMINISTRATION POLICY IN CENTRAL AMERICA

Mr. LEAHY. Mr. President, over the past few days, the Burlington Free Press has provided the people of my State with a thorough and most thoughtful analysis of the administration's foreign policy in Central America. Two editorials, written by Leo J. O'Connor, summarize the problems of the region and the failure of the President to address these problems—the death squads, the repression, the lack of political freedom, the poverty.

The logical conclusion from the President's militaristic speech is war, American involvement in a war. Money alone will not be able to buy us out of the problems in El Salvador, foreign aid and covert aid will not reduce the tension.

Mr. President, I ask unanimous consent that two Burlington Free Press articles be printed in the RECORD.

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

[From the Burlington (Vt.) Free Press, May 11, 1984]

REAGAN FAILED TO GRASP COMPLEXITY OF ISSUES

In an impassioned speech that brimmed with anti-communist rhetoric, President Reagan attempted to revise the history of Central America in an address to the nation Wednesday night by blaming the region's troubles on Cuban and Nicaraguan Marxists instead of the real culprit: utter and devastating poverty among the people.

His was nothing more than a simplistic assessment of a complex situation that will not be resolved without substantial internal reforms that will alleviate the plight of the thousands of people who live in squalor. To say that the region's problems will be solved only if the United States sends more military aid to El Salvador is to say that outside interference is the principal cause of the government's difficulties. It implies that the nation's leaders will look to the needs of the populace, something that they have failed to do for decades, once armed rebellion is crushed.

While it is no doubt true that the Marxists are making mischief in Central America, it is equally true that the people of the region for years have chafed under the yoke of the ruling oligarchy. The spectacle of a wealthy elite, using and abusing its power to control the populace, has created widespread anger among the millions whose survival on a day-to-day basis is uncertain. How anyone, including a U.S. president, can ignore that fact is astonishing. Either Reagan is incredibly naive or he is supremely indifferent to the problems of the poor.

What was lacking in Reagan's address was much more significant than what was said. Why was there no reference to the Salvadoran death squads that have killed over 40,000 citizens? Why was there no mention of government's failure to prosecute those who killed four American missionaries nearly three and a half years ago even though Salvadoran officials apparently know the identity of the murderers? Why didn't the president link further aid to a requirement that the Salvadoran government put an end to the practice of violating the rights of its citizens? Is it not a travesty to characterize such a government as a democracy?

Surely humanitarian aid would be far more valuable than sending more arms and ammunition that not only will be used to fight the guerrillas forces but also may in many cases be turned against people who are vocal opponents of the regime in San Salvador. Dealing with the essential needs of Salvadorans by providing them with food, clothing and medicine would be a means of dissuading them from joining left-wing guerrilla movements.

During his address, Reagan made no mention of the efforts of the Contadora group of Mexico, Colombia, Venezuela and Panama to work out a peaceful settlement of Central American problems that would put an end to outside interference in the internal affairs of the nations in the region. The United States should be more than willing to lend its support to those initiatives. Should they fail, Washington would still have other options it could exercise in seeking solutions to Central American problems.

What was most alarming about the address was that it reflected Reagan's inability to perceive the shades of gray in the situation and his tendency to view every trouble spot in the world as an arena for a confrontation between the East and the West. Such simplistic thinking could be dangerous in the long run because it heightens the existing tensions between the Soviet Union and the United States and could ultimately bring the superpowers to the brink of war.

Even so, it appears that most congressmen are willing to approve more military aid to

El Salvador, the Democrats for fear of being blamed for losing the country if the government is overthrown and the Republicans on the grounds that they owe their support to the president. The few voices of the opponents of further aid will be drowned out by those of the majority. The public can only hope that Reagan's pledge to keep American troops out of Central America will be kept. Most people do not want the region to become another Vietnam.

However eloquent Reagan's plea for more military aid may have been, his attempt to characterize the Central American conflict as another skirmish in the battle against communism was but another example of his failure to grasp the full import of foreign policy issues and his propensity for oversimplifying complex problems.

[From the Burlington (Vt.) Free Press, May 8, 1984]

CONGRESS SHOULD WAIT ON AID TO EL SALVADOR

With Jose Napoleon Duarte, leader of El Salvador's Christian Democrats, claiming victory in Sunday's presidential runoff election in the central American country, it appears that the Reagan administration's plans for persuading Congress to send more military aid to El Salvador will be put in motion.

White House aides have said that President Reagan will campaign for more aid in an address to the nation, possibly as early as this week, if Duarte's claim proves to be true. Because he is a moderate who is believed to have the capacity to put the troubled nation back together, Duarte had unofficial support from Washington in his bid for the presidency over Roberto d'Aubuisson, his Nationalist Republican Alliance opponent, who was inextricably linked to the death squads. His election would have signalled the ascendancy of the right wing and a return to repressive government in El Salvador. It would mean that Salvadoran guerrillas would have intensified their efforts to overthrow the regime.

U.S. officials apparently think Duarte will better be able to deal with the dissidents in El Salvador because he seems to have the capacity to understand their complaints and is willing to sit down and discuss them. As a former president, he will bring to the office much of the knowledge he gained through the earlier experience.

But Duarte's tenure will depend largely on the amount of backing he receives from other elements of the Salvadoran government, particularly the military leaders who appear to be more sympathetic to d'Aubuisson. Should they refuse to carry out Duarte's policies or openly oppose them, there is a genuine possibility that his government could become a captive of right wing officers in the country's army. It could mean that Duarte would be nothing more than a figurehead as the nation's leader. And there is evidence to indicate that he was nearly helpless during his previous term as president while the real power was wielded by the army.

That is the reason why Congress should be cautious in approving further military aid for El Salvador. Until it becomes clear that Duarte has full control of the government, there is a danger that the aid will be used by the military to intimidate opponents of its repressive policies.

In advocating more assistance to El Salvador, Reagan may be reaching too quickly to the appearance of change in the country. Only in the months to come may he learn that he was deceived by events.

Congress must not surrender to pressure to send more aid to the Salvadoran government until there are indications of fundamental improvements in its approach to the problems that afflict the people of the nation and a renewed respect for the human rights of the citizenry.

NATIONAL DEFENSE

Mr. WARNER. Mr. President, recently, it was my privilege to attend an event sponsored by the Virginia Chamber of Commerce at which the keynote speaker was the Secretary of the Army, the Honorable John O. Marsh.

I should like to take this opportunity to personally commend Secretary Marsh for his exceptionally comprehensive and inspiring remarks.

His long service to our Nation, beginning as a soldier in World War II, reflects credit upon Virginia and is in keeping with the finest traditions of our States heritage in national defense.

Since the American Revolution, Virginia has produced leaders who have kept America strong under the timetested doctrine of peace through strength.

As evidence of this, in the past decade four of five Secretaries of the Navy were Virginians.

Virginia also has had strong representation for over a quarter of a century on the Senate and House Armed Services Committees.

This representation has a direct correlation to Virginia's economy, for approximately 15 percent of the gross income of our State is derived from Department of Defense expenditures.

In the fiscal year beginning October 1, Virginia will receive from the defense budget $17.16 billion to cover pay for active, reserve and retired military personnel and civilian defense workers, and money spent on research operations and construction. This total ranks Virginia second only to California.

Add to this total major defense procurement contracts and the signficance of defense spending in Virginia is clear.

In fiscal 1983, the most recent year for which data is available, Virginia received $7.1 billion in procurement contracts of over $25,000.

Other significant examples of defense spending in Virginia are the following:

Virginia is second among the 50 States in the number of military personnel residents.

Virginia ranks third in military construction.

Virginia ranks fourth in dollar amount of consulting, manufacturing and research contracts from DOD.

Virginia ranks fifth in the number of military retirees.

Virginia ranks fourth in defense procurement contract awards over $25,000.

Virginia has more than 10,000 firms now contracting with the Pentagon.

Virginians are proud of the record of performance of the Commonwealth in support of our Nation's Defense Establishment.

We are proud of the outstanding public servants the Commonwealth of Virginia has produced—men like Secretary Jack Marsh.

As I indicated earlier, Secretary Marsh's remarks were particularly inspiring to all attending the annual chamber of commerce dinner.

He described in vivid detail the Soviet threat hanging over the free world and the necessity of rebuilding our defenses.

I felt his remarks were so astute that I wanted my colleagues to have the opportunity to review them.

I, therefore, ask unanimous consent, Mr. President, that the text of Secretary Marsh's speech be printed in the RECORD.

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

WHAT'S AT STAKE?

(Remarks by the Honorable John O. Marsh, Jr.)

This coming June the 6th marks the 40th anniversary of the invasion of Normandy.

As Virginians, we should remember in the initial assault on Omaha Beach, there were only two National Guard units, both were from Virginia. The 116th Infantry, the Stonewall Brigade, from the Valley, Central and Southside Virginia, and the 111th Field Artillery from Richmond, Fredericksburg, and the Tidewater.

D-Day should teach us we have an interest in what happens in the rest of the world, because what happens there can help or hurt us.

It is to our advantage this planet be a stable place, and that it be a place of peace, with freedom under law.

To that end, we must understand there is a direct relationship between defense, your security, and your economic endeavors.

I was asked to speak to you this evening about National Defense.

It is my hope that I can give you some background that will enable you to better understand the reasons for the President's program.

The Commonwealth of Virginia has played a great role in the building of the Republic. We have a great responsibility for its preservation.

When compared to other national capitals, in the words of "America the Beautiful," Washington seems to be the city of the patriot's dream which "gleams undimmed by human tears."

But for much of the planet Earth, it is a world of tears, of turmoil and conflict.

The stakes are high. America, with its material and human resources, finds its leadership challenged and its vital interests threatened.

This century has seen the birth of a new colossus, one driven by an alien ideology. It draws its strength from the force of arms. It has waged ruthless aggression on its neigh-

bor states. From its Eurasian power base, the Soviet Union now leap frogs its power to the four corners of the globe, and threatens the peace of an insecure world.

Virginians have a respect for history. We know lessons of the past cannot be ignored. Neither in dealing with the Soviet Union can we ignore:

That in 1939 they entered into a non-aggression pact with the Nazis to partition Poland. In that same year they invaded Finland.

In 1940 they seized Latvia, Lithuania, Estonia.

In 1948 they tried to blockade Berlin.

In 1950 they supported the North Korean invasion of South Korea.

In 1953 they put down the popular uprising in East Germany.

In 1956 they brutally crushed the Hungarian Revolution.

In 1961 they built the Berlin Wall.

In 1968 they occupied Czechoslovakia to suppress the freedom being manifested there.

In 1979 they invaded Afghanistan.

And, the most recent flagrant example of their disrespect for human life and rights occurred last September when they shot down an unarmed Korean airliner, taking 269 lives. For those who feel this was a mistake—who think they have remorse or regret—I point out earlier this month. A senior official of the Soviet Government, in a public statement in Moscow, hailed the downing of the Korean airliner.

The Soviets have made Cuba into a Caribbean arsenal. Their intelligence collection station at Lourdes, near Havana, is the second largest they operate in the world.

They are the primary source of arms going into Nicaragua.

Cuban combat troops are their proxies in Angola and Ethiopia.

Soviet military representatives numbering about 20,000 are in nearly 30 nations as a part of their foreign military sales program.

They have supported both Iran and Iraq in a war that could destabilize the Persian Gulf. In the Middle East, they are responsible for the enormous military force developed by Syria.

Approximately 90,000 students from the lesser developed nations of the world study in the Soviet Union. The Bloc countries, or Cuba. Included are 14,000 from Central and South America. They will return to their countries to spread Marxist/Leninist doctrine, and they will be anti-American.

Why do we need a strong defense? Because the world is not at peace. There are 20 to 22 conflicts and insurgencies being waged in the lesser developed countries of the world. There are at least 15 other countries that are politically unstable which might destabilize and become insurgencies.

Latin America, Africa, the Middle East, Southwest Asia and Southeast Asia—These are targets of Soviet intrusion, adventurism and trouble making. These are areas vital to United States and free world interests.

To support these aggressive aims the Soviets have built a gigantic war machine and industrial complex to fuel it. Their army consists of 194 divisions. Our has 24 with 8 in the National Guard.

In the last 25 years they have built a blue water navy for the protection of power to every ocean of the world. This month they conducted the largest naval exercise in their history in the North Atlantic and Norwegian Sea.

They have the world's largest military air force.

The have 371 submarines of which 64 can launch ballistic missiles. Our total submarine force is 133.

We are not dealing with a country with an ox cart technology. There are areas in which they have a technological lead over the United States.

It is estimated they have a 10 year lead in the casting of titanium, enabling them to build a submarine with diving depths well below conventional operations.

They are pressing ahead in the development of nuclear weapons. For example, they have operational 1,398 silo launchers. Their ICBM's are considered to be at least as accurate as our Minutemen III's. Many of these missile systems have Multiple Reentry Vehicles, each of which is a separate atomic projectile. Their SS-18's can carry 10 MIRVs and their SS-19's can carry 6. Our modern Minuteman has three. The SS-18's can neutralize 80% of our land based ICBM's using two strikes per silo. This imbalance is why the President's MX program for a modern missile is so important.

To those who advocate a nuclear freeze, it should be pointed out that our stockpile today is one-fourth less than what it was in 1967.

They have about 50,000 tanks. We have nearly 12,000. Each year they out produce us by 1,600.

For effective deterrence it is not necessary we match the Soviets man for man, or tank for tank, but there are steps we must take to strengthen our defenses.

Significant gains have been made in recent years in the readiness of all of our forces. I can tell you there has been a quantum jump in the readiness of your Army. More remains to be done. These things that remain to be done are at the heart of the President's defense request.

Additionally, to help meet this threat, the NATO Alliance is vital, as well as our participation in it. This Alliance has preserved the peace in Western Europe longer than any time since the Roman Empire.

There is another important dimension to national security. Economic stability is essential for a secure world, and it is necessary for a prosperous America.

For example, the oil embargo of 1973 had a worldwide impact. It contributed to instabilities in the Third World. It helped spawn insurgencies. This has been true in Central America.

Central America comprises the countries of Belize, Guatemala, El Salvador, Honduras, Nicaragua, Costa Rica and Panama. As President Reagan has observed the objective of the insurgency there is the entire region, not just El Salvador. The insurgent leaders also have said as much.

Backed by Cuba and the Soviet Union, Nicaragua is building the largest military force in Central America. More than 2,300 Cuban military advisers are in Nicaragua. About 7,000 other Cuban advisers are there to help the Sandinistas impose control on Nicaragua—to aid the infiltration of arms and equipment to El Salvador and other areas in the region.

Central America is not half a world away. It is on our doorstep. It is a vital area where nearly one half of all United States foreign trade transits the Panama Canal and the Caribbean Sea.

We are citizens of an interdependent world. Vessels moving to and from the Old Dominion with raw materials and manufactured products have ports of call on every continent of the Earth.

For evidence of the enormous contributions Virginia ports make, look at the "Virginia Port Authority Foreign Trade Annual Report for 1983." The report states the total activity of the port of Hampton Roads generated revenues of $1.8 billion. All Commonwealth port activities created 155,000 jobs, $3 billion in wages, and $307.5 million in tax revenues.

We are inexorably linked to far away places because there are 40 minerals and metals on which a modern industrial society depends. Without them you cannot have assembly lines or manufacture products.

The U.S. is more than 50% dependent on foreign sources for 23 of 40 critical materials essential to the U.S. economic and national security. However, of the same 40, the Soviets are completely independent for 35.

Freedom to transit the oceans of the world—to fly the airways that link continents is essential for reasons not directly related to defense. It is American foreign policy, backed by a strong defense policy that assists a Virginia businessman to move about the face of the earth, to negotiate for raw materials, to sell manufactured products, and to engage in financial transactions that yield vast economic dividends for the Commonwealth.

Part of that defense policy is reflected by the fact that through alliances more than 42% of your Army is stationed overseas in strategic areas.

What really is at stake is not just Soviet military power—a threat we cannot ignore. Rather, it is the ultimate resolution of key social and political issues.

The conflict we are in, but did not choose, is a challenge of ideas and contrasting values.

What is at stake is personal freedom and liberty, the same stakes that Patrick Henry addressed in St. John's Church in Richmond. Governance in the 20th Century is a struggle between the free society and the police state. Do we choose our leaders or are they chosen for us?

Therefore, how do we become more active players in the arena of national security affairs?

How can we better compete in the challenge of ideals?

First, the most powerful force in a democratic society is an informed public opinion.

Second, America is strong. We have available to us an abundance of material wealth and resources.

Third, untapped in the private sector. We have a vast array of human skills and talents that when marshalled are more than equal to the task.

I would like for you to consider two programs which the Virginia Chamber could lead in implementing. They are interrelated.

First, I urge you to sponsor in ccoperation with other civic and trade associations in the Old Dominion, the "Virginia Forum on National Security." Perhaps this might be done in several places across the Commonwealth.

This Forum would assemble a cross section of key leaders for a one-day seminar on Defense issues including economic concerns as well as national values.

The Chamber sponsored such a forum in the 60's where the Governor was a keynote speaker to an audience of about 600 blue ribbon members.

Secondly, in just over two years, America will mark the beginning of the Bicentennial of the adoption of the Constitution and the founding of the Republic. These will be events of enormous consequence, nationally and internationally. This Bicentennial will attract worldwide attention. I urge this or-

ganization to play a key role in its commemoration.

Through the study of national security issues, essential to our survival, and the reexamination of our value system as expressed in the Constitution and the Bill of Rights, perhaps, we can forge an American strategy for human freedom, with an enlightened policy of economic development as we move to the year 2,000.

In slightly more than 15 years, we end a century and close an age.

The die for the image of society in the year 2,000 could well be cast in these few intervening years. Shall it be in the image of the American Republic with individual liberty, economic opportunity, and the pursuit of happiness, or shall it mirror the police state with regulated economies and totalitarian control of people?

How shall we start the Third Millennium? Virginia is the cradle of Freedom. Of the Year 2,000 I believe some historian in another day, and another age, shall write that in a time of national peril, when freedom was again threatened, citizens of America's oldest commonwealth accepted the leadership that was their heritage, and through courage, dedication, and sacrifice, ensured their Country and its blessings of Liberty would be not just the legacy of their children and their children's children, but the birthright of all mankind.

CRS NATIONAL GAS ANALYSIS

Mr. PERCY. Mr. President, it is apparent that there are distortions in the current natural gas market. How to deal with these distortions, however, is not so obvious. Most analyses that have been conducted to date have been on a national basis, not by region or State. When speaking to a citizen's group in Illinois, National People's Action, this past fall, this void became readily apparent. That is why I requested the Congressional Research Service (CRS) to conduct an analysis of various legislative options available with regard to natural gas issues and to show supply, demand, and price effects on a regional basis.

The study uses a model developed by Data Resources, Inc. As with any model, it has its limitations, and we must pay particular heed to the assumptions upon which it is based. Yet, the study illustrates clearly the wide differences in the effects certain proposals would have on various regions of the country.

Mr. President, some have proposed setting gas price ceilings at 1982 levels. This study indicates that this approach could lead to serious gas shortages within the next 2 years—resulting in hardships, lost jobs, and great cost to our economy.

I have always believed in a free market approach to energy pricing, whenever that works to the best interests of consumers. I believe that, in the long run, we must minimize Government involvement in the setting of natural gas prices. The consequences of an overregulated market were readily apparent in the recent gas market. Something was wrong when customers in Illinois had to purchase imported gas at two or three times the price of available domestic gas. I am pleased that, last December, we were able to solve this problem.

At the same time, I have been concerned, that the too-rapid decontrol of old gas could hurt the State of Illinois. Illinois has been hit hard by the recession. As a Midwestern heavy industrial State, we will have to work harder for economic recovery than many other States in the country. Any additional price burden on Illinois consumers at this time would further delay this recovery.

Before I vote on any natural gas legislation, I want to know the impact it would have on Illinois. That is why this report is so useful. I want to commend its authors—Mr. Lawrence C. Kumins, Mr. Alvin Kaufman, and Mr. Donald Dulchinos. The report is available through the Congressional Research Service.

I ask unanimous consent that the summary of this report be printed in the RECORD at this point.

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

SUMMARY

At the request of Senator Charles H. Percy, CRS has utilized the Data Resources, Inc. (DRI) energy model to analyze the demand, price and supply impacts of several legislative options dealing with natural gas. These include pricing, contract modification and contract carriage options. The selected options, while drawn from specific legislation in some cases, are not representative of any single bill. A bill often contains a number of provisions, some of which are designed to mitigate or enhance other provisions. In our case, each option, as outlined below, was tested as a stand-alone item. Thus, the impact of a specific option can be determined. Further, we have assumed there will be no resource constraint.

The current effort to legislate a solution to natural gas problems results from perceived distortions in the current natural gas market because of the Natural Gas Policy Act of 1978 (NGPA), in combination with recent developments. Two main issues, pricing and contract modification, have emerged from the current policy debate. The pricing issue revolves around the need to protect consumers from erratic or unjustified price increases and sudden price fly-ups, while providing producers with a price sufficient to encourage production as well as an incentive for exploration for additional supplies. The contract modification issue primarily focuses on "take-or-pay" provisions. Several legislative proposals would reduce take obligations in order to lessen overall gas commitments by pipelines and to achieve a lower cost mix of gas.

The legislative options in this study were tested for each of eleven regions, as well as the United States as a whole. The specific options tested are outlined below.

BASE CASE

This case assumes the NGPA remains in effect, but reflects current market conditions. Old gas (section 104-106) remains under regulation until depleted, while new gas (section 102-103) is deregulated as of January 1, 1985 as specified in the NGPA. Contracts are renegotiated as necessary to keep average price at the market clearing level, as is currently happening.

The result of these assumptions is a ten percent per year nominal rise in residential prices nationally in the 1982-1990 period. Six regions of the country suffer increases in excess of that figure.

OPTION 1—PRICE ROLLBACK

In this case all gas prices are rolled back to the January 1, 1982 level as of January 1, 1984, except that the price of high cost gas (Section 107) is set at 150 percent of the Section 103 price. Gas prices are then escalated each quarter at 75 percent of the increase in the GNP Implicit Price Deflator. Price controls on "new" gas are extended by two years, expiring January 1, 1987, instead of 1985.

In option 1, a lower acquisition cost by 1985, compared with the base case, results in an increase in demand, but production remains below that of the base case due to the constraints on new gas prices. This results in projected shortages in 1985 and 1986.

OPTION 2—REDUCTION OF TAKE OR PAY OBLIGATIONS

Option 2 is essentially a deregulation case in which the pipelines are assumed to market out of those contracts that would raise their average cost above the cost of residual oil. The results of this case are similar to the base case.

OPTION 3—MAXIMUM WELLHEAD PRICE

In this simulation, burner-tip gas prices in each region are set 10 percent above the price of competing fuels for industrial/utility users. The resulting field price was computed on the basis of netback to the wellhead (i.e. burner-tip price less the cost of transport and distribution utility tariffs equals wellhead price).

This case, which tests the impact of a price fly-up, results in a significant drop in demand due to higher prices, as well as increasing production, leading to significant gas supply surpluses in each year of the forecast. The average residential price is five percent higher than the base case by 1990, and the average acquisition cost is 30 percent higher in 1985 than in 1982, and 47 percent higher in 1937.

OPTION 4—CONTRACT CARRIAGE

This case assumes that any large purchaser or user can negotiate for its own supply and contract for carriage of that gas. The price to each customer class was computed by assuming industrial/utility purchasers pay the equivalent of high sulfur residual fuel oil prices at the burner-tip.

The acquisition price of gas in this case is the same as the base case, while industrial/utility sector end-use prices drop to the high-sulfur oil price, and residential/commercial prices rise to compensate. The result is an increase in industrial/utility demand, a decline in residential/commercial demand, and an increase in supply.

OPTION 5—RAMP-UP/RAMP-DOWN

In this case, high cost gas is "ramped-down" to a Free Market Price Indicator (FMPI) over a 12 month period. The FMPI is defined as the ceiling price for Section 103 gas. Old gas is "ramped-up" to the FMPI level over the 1984 to 1986 period. Price controls for all gas remain in effect through mid-1987.

The early decontrol of older, cheaper gas is balanced by the recontrol of high cost gas. As a result, average national acquisition cost is virtually the same as the base case.

THE CLEMSON PLAYERS

Mr. THURMOND. Mr. President, I rise today to pay tribute to The Clemson Players and the dramatic arts faculty at Clemson University, my alma mater in South Carolina.

On Sunday afternoon, April 15, 1984, The Clemson Players presented two performances of "American Buffalo" by David Mamet at the Kennedy Center for the Performing Arts here in Washington as part of the American College Theatre Festival. Having advanced through State and regional competitions earlier, they were selected as one of seven national finalists from among 477 schools which participated in the festival, an honor which brought them to the Kennedy Center for these two performances.

Mr. President, I wish to recognize and commend the members of this fine organization and the dramatic arts faculty for the hard work and dedication that made these achievements possible. Their talent and success in their many productions have brought great honor and much deserved recognition to Clemson University and to the people of South Carolina. We are proud of them and congratulate them on their outstanding achievements.

Mr. President, I submit for the RECORD the names of The Clemson Players and the dramatic arts faculty:

CLEMSON PLAYERS

Allan Bomar, Ilene Fins, Graham Frye, Charlotte Holt, Karl Nolte, Robin Roberts, George Suhayda, and Michael G. Tierney.

DRAMATIC ARTS FACULTY

Clifton S. M. Egan, Jere Lee Hodgin, Raymond C. Sawyer, director of "American Buffalo"; Robert A. Waller, dean, College of Liberal Arts.

NATIONAL PEACE OFFICERS' MEMORIAL DAY SERVICE

Mr. BIDEN. Mr. President, yesterday I attended, with many of my colleagues, the National Peace Officers Memorial Day Service honoring the 157 police officers killed in the line of duty in 1983. Although the ceremony was a solemn occasion, I was moved by the pride and sense of esprit de corps that the police officers in attendance showed to their fallen partners.

As the ranking member of the Senate Judiciary Committee, I have worked to see that legislation is passed to help our law enforcement agencies do their job more effectively. But, as those family members and fellow officers of the 157 officers who died in 1983 know, police work is and will always be a dangerous profession.

I believe there is much that can still be done both in the Houses of Congress and in the State houses in the fight against crime and drugs. The ceremony yesterday once again brought home to me the real and unfortunate reality of the statistics and figures we often use in speaking about crime and drugs. As the roll of fallen officers was called out, it was impossible not to think of the price they had paid and of the sacrifice their families will continue to make over the years.

To those Members of the Senate who could not attend the memorial ceremony, I ask unanimous consent that the rollcall of fallen police heroes be printed in the RECORD.

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

ROLLCALL OF HEROES—1983

ALABAMA

Nathaniel Conner and Rex W. Winchester.

ALASKA

Gordon B. Bartel and John D. Stimson.

ARIZONA

Milton P. Antone, Ernest Calvillo, Russell L. Duncan, Thomas P. McNeff, Richard G. Stratman, and James M. Young.

ARKANSAS

Harold G. Matthews.

CALIFORNIA

Michael J. Bentley, James P. Clark, Robert J. Davey, Jack Evans, Michael A. Gray, Ramon Irizarry, Jr., Kirk L. Johnson, Lawrence M. Lavieri, David E. Miller, William L. Sikola, Larrell K. Smith, Arthur K. Soo Hoo, Paul L. Verna, William Wong, and Kenneth S. Wrede.

COLORADO

Larry F. McMasters.

FLORIDA

Thomas A. Bartholomew, Eddie Benitez, Gary Bevel, Charles E. Bruce, Stephen O. Corbett, Ronald L. Fewell, Amedicus Q. Howell, III, Curtis M. Moore, Gary S. Pricher, Joseph F. Solano, Sr., and Robert L. Zore.

GEORGIA

Mary A. Barker, Drew H. Brown, Frank M. Ellerbe, Edward Kitchens, Donward F. Langston, Euel T. Smith, and Charles J. Wright.

HAWAII

Thad F. Sugal.

ILLINOIS

Donald A. Bejcek, Kenneth L. Blunt, Anthony L. Creed, Denis Foley, Wayne J. Klacza, Steven W. Mayer, Raymond Lee Terry, and Lawrence J. Vincent.

INDIANA

Robert S. Grove, Paul A. Kortepeter, William D. Miner, and Paul H. Prater.

KANSAS

George P. LaBarge.

KENTUCKY

Jackie D. Claywell, Rickey A. LaFollette, Alexander Obersole, and Charles D. Wentworth.

LOUISIANA

JoAnne Couzynes, and William M. Kees.

MARYLAND

Richard J. Beavers, Carlton X. Fletcher, and Samuel Snyder.

MASSACHUSETTS

Michael K. Aselton, George L. Hanna, and Walter P. Langley.

MICHIGAN

Michael J. Bossuyt, Tony L. Thames, and Terry Lee Thompson.

MINNESOTA

Brian W. Heikkila.

MISSISSIPPI

George Daniel Nash, Jr. and Earnest C. Null.

MISSOURI

Charles D. Hartman, Charles E. James, and Phillip A. Miller.

NEW JERSEY

Lester A. Pagano.

NEW MEXICO

Gerald E. Cline.

NEW YORK

Paul Ashburn, Joseph P. McCormack, Donald W. Robinson, Brian N. Rovnak, James P. Rowley, Malcolm D. Strong, and Charles J. Trojahn.

NORTH CAROLINA

Donald Wade Allred.

NORTH DAKOTA

Robert S. Cheshire and Kenneth B. Muir.

OHIO

Frederick J. Beard, Richard E. Becker, Benjamin Grair, William L. Johnson, Bruce E. Mettler, Joseph Z. Moore, Sharon E. Moore, Robert B. Rigoni, and Michael L. Sweeney.

OKLAHOMA

Travis L. Bench, Steven Leroy Mahan, Richard Oliver, and Donald W. Smiley.

OREGON

Joseph V. Omlin, III, and Donald E. Smith.

PENNSYLVANIA

Charles E. Attig, Jr., David A. Barr, Frank J. Bowen, Edward M. Butko, Jr., John F. Duffy, William R. Evans, James R. Milcarek, Sr., Norman A. Stewart, and David W. Witmer.

SOUTH CAROLINA

John R. Clinton, Daniel W. Cogburn, and Harold N. Cousar.

TENNESSEE

Dennis R. Armes, Aaron D. Glenn, Robert S. Hester, Ronnal R. Stanley, and Larry J. Tidwell.

TEXAS

Ernesto Alanis, Milton C. Alexander, Ronald D. Baker, Russell L. Boyd, R. F. Camfield, Ollie F. Childress, Jr., Charles R. Coates, II, Daniel M. Higdon, Jr., Robert R. Jones, William Moss, Carl J. Norris, John R. Pasco, Gilbert E. Ramirez, Charles A. Renfro, Clark M. Rosenbalm, Billy G. Smeley, and Lowell C. Tribble.

VERMONT

Arthur L. Yeaw.

VIRGINIA

John E. Rafter, Clifford W. Scott, Jr., and Dennis M. Smedley.

WASHINGTON

Brian F. Orchard.

WYOMING

Jon R. Hardy and Craig L. Schulte.

DISTRICT OF COLUMBIA

Raymond E. Mumford.

GUAM

Abraham Sablan Quitugua and Raymond Salas Sanchez.

PUERTO RICO

Jesus Diaz Batista, Raul Moldonado Coreano, Rafael Cumba Ortiz, Jose M. Ortiz Otero, William Santiago Pagan, and David Perez Valentin.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk called the roll.

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

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

THE ADDRESS OF PRESIDENT DE LA MADRID

Mr. MELCHER. Mr. President, at a time when Mexico owes a great number of foreign banks, including U.S. banks, a total of $80 billion and at a time when the Mexican economy is in a very sad situation where it takes about 35 percent of its income to pay the interest, it is indeed refreshing and encouraging to have the remarks of President de la Madrid and to hear those remarks in his address to the joint meeting of Congress just concluded.

President de la Madrid is visiting the United States this week at a time when the future economy of his country is at stake. The President of Mexico has been an ardent and strong spokesman also for the so-called Contadora group, the group of four nations: Mexico, Colombia, Venezuela, and Panama, which have sought over the past year and more to establish the framework for settlement of conflicts in Central America.

It is one thing to have President Reagan speak highly of the Contadora group's achievements and goals and another thing to check on just exactly what those goals are.

Mr. President, I am going to read from the statement of President de la Madrid as he addressed the joint meeting of Congress this morning on this very point:

> Honorable Members of Congress, I wish to convey Mexico's recognition of the unanimous support given by the House of Representatives to the Contadora group's actions.

Previous to that, the President of Mexico said:

> This Congress can most certainly echo the universal demand for disarmament. It is urgent to resume talks leading to a significant reduction in nuclear stockpiles and, finally, to their complete elimination. The superpowers have the unavoidable responsibility of guaranteeing that history continues and of helping to do away with the distressing consequences of backwardness and marginalization.
>
> Regional conflicts, which tend to become generalized, also threaten international peace. Such conflicts provide opportunities for interventionist intentions, which could lead to global confrontation. Thus, responsible efforts to eliminate motives for controversy are urgent.
>
> In our imperfect society of nations, the impossibility of coercive enforcement of international law does not detract fom its legal validity and the obligatory force of its decisions. If we exclude law, our only alternative is anarchy and the arbitrary rule of whoever is able to impose his will. As nations, it is our duty to strengthen the institutions of the international community.
>
> The efforts of the Contadora Group are being made in this spirit and represent Latin American actions to solve a Latin American problem. We maintain that dialogue and a negotiated solution to the conflicts are possible: we therefore reject, without exception, all military plans that would seriously endanger the security and development of the region. This continent must not be a scenario for generalized violence that becomes increasingly difficult to control, as has occurred in other parts of the world. For our countries, it is obvious that reason and understanding are superior to the illusion of the effectiveness of force.
>
> In Central America, politics and diplomacy offer a real possibility of reaching agreements to prohibit the installation of foreign bases, to reduce and eventually eliminate the presence of foreign military advisers, to establish mechanisms against trafficking in arms, to prevent the activities of groups that undermine stability, and to discourage the arms race in the region. It undoubtedly involves feasible commitments that should be assumed by all parties concerned through honorable and secure agreements. The premise for such measures is the political will of the parties.
>
> We are convinced that the Central American conflict is a result of the economic deficiencies, political backwardness, and social injustice that have afflicted the countries of the area. We therefore cannot accept its becoming part of the East-West confrontation, nor can we accept reforms and structural changes being viewed as a threat to the security of the other countries of the hemisphere.

Mr. President, it is obvious that there is a disagreement as to the solution in Central America between President Reagan's policy and that expressed by the Contadora group, but I think the Contadora group has established a firm guideline, and I stress the word firm, for the solution in Central America. The firmness can be noted in the portions of the remarks I have just read where President de la Madrid stressed the prohibition of "the installation of foreign bases, to reduce and eventually eliminate the presence of foreign military advisers, to establish mechanisms against trafficking in arms, to prevent the activities of groups that undermine stability, and to discourage the arms race in the region."

Mr. President, I think those remarks of President de la Madrid should be taken very seriously by both the administration and Congress because we have placed an emphasis in our policy so far under President Reagan's leadership and by majority votes in both the House and the Senate, I am sad to say, on arms flow to Central America as a way to stop the war in El Salvador and turned our CIA loose to foment war in Nicaragua by hiring mercenaries to fight the Nicaraguan Government forces. President de la Madrid is much more practical in his approach. He says keep the armaments out, prevent foreign cou..tries from establishing bases in Central America that lead to instability in the region. I think that is good advice, advice that both the President and Congress should follow.

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

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

SOVIET BOYCOTT OF THE OLYMPICS

Mr. BYRD. Mr. President, in the past few days, I have watched the handwringing over the Soviet decision to boycott the Olympics. I have watched this handwringing with some despair.

This was a decision made without a just cause by a Soviet Government that is intent on using the nonparticipation reason and other ridiculous reasons it has given for the pullout as a propaganda tool.

I supported the Olympics boycott which was recommended by former President Carter, the purpose of that boycott being to indicate to the world that we and other nations were offended and greatly concerned by the Soviet invasion of Afghanistan. It was a just cause, and it was for a moral purpose. I do not use that word very often, because too many actions are cloaked under that word; but in this instance it seems to me to be the right thing to do.

What the Soviet Union wants is legitimacy, and I believe that for us to have participated in those Olympics, in the face of the ruthless invasion and murders of the Afghanistan people, would have been wrong. So we led the boycott.

The reason for that boycott is still there. The Soviets have not gotten out of Afghanistan. I do not know that anyone entertained the hope, during the time that the Olympics were being boycotted in that instance, that such a boycott would cause the Soviets to pull out of Afghanistan. But it was a protest. I think it was a protest for sound reasons, and it made an impact on world opinion. I think it served a good purpose.

The Soviets are still in Afghanistan. We have heard all the stories about the use of chemical warfare, and we know that the press has been excluded from that country, so that we do not

know absolutely, for a fact, what the Soviets are doing there. All we know is that they are pursuing their quest of subjugating a mountain people who fight for liberty and freedom.

The Soviets have caused families by the hundreds of thousands to be separated. They have caused hundreds of thousands of Afghans to flee their country, while other hundreds of thousands of Afghans continue to fight, with inferior weapons, for their liberty and freedom.

I do not think that the world should forget the Soviet invasion of Afghanistan. I do not think we should forget the ruthless destruction of the South Korean airliner by the Soviets and we should not forget that the Soviets callously refused to allow American ships and ships of other friendly countries to try to find the wreckage and the bodies of those innocent people who were so savagely shot down.

I suggest that to run after the Soviets and lie on our bellies and get on our knees and beg them to come to the games reduces the sense of outrage that we properly expressed as a nation over the two events I have mentioned—and over other Soviet violations of any human decency and moral behavior—to mere lipservice.

I am sorry for our young American athletes. I am sorry for young Soviet athletes. There may have been a concern on the part of the Soviet Government that some of those fine, young Soviet athletes would defect and would choose to live in a country that permits freedom of speech in its Constitution, as well as freedom of assembly, freedom of the press, freedom of religion, and so on.

In any event, I am sorry that the young athletes who practiced for years in anticipation of performing in the Olympics are losing an opportunity to test themselves, Americans against the fine Soviet athletes and the Soviets against the fine American athletes. I am sorry that the games will not be truly international as they were intended to be.

But there are principles which have always been important to this country as a nation, principles upon which we have been vocal and principles to which we have been true.

So, it is a great sacrifice on the part of young athletes who have, as I say, spent years in preparation. But we must not forget the young people of Afghanistan who will not be coming to the United States to participate. Why? Well, the Afghan Government, which is a Communist-controlled government, a puppet government controlled by the Soviet Union and run by Afghan puppets of the Soviet Union, has decreed that athletes from Afghanistan will not be coming to the United States. Why? Because the Soviet Government has chosen this as its course. There is a second reason why some young Afghans will not be coming, and that is because they are dead. They have been shot down by Soviet rifles and killed by indiscriminate bombing of men, women, and children and by other means that have been utilized by the Soviet military in the effort to subjugate the highly patriotic, spirited, and courageous Afghan people.

So while many young athletes will be disappointed, and we all regret that the Soviet decision is a sacrifice to their hopes, the greatest sacrifice has been made by the Afghans, old and young, who have persisted in fighting for their freedom in the face of overwhelming odds and who have demonstrated their great courage as they have withstood the pressures of their own Communist government, which is an underling and puppet of the Soviet Government. I think we have to think about their sacrifices. They will continue to sacrifice. Afghans will continue to be maimed, brutalized, and killed. How many young Afghans today are walking on one leg or have one arm or no legs because they refused to be intimidated? They have stood up for principles. They too have sacrificed, and I think we should not lose sight of that sacrifice that has been made by not only the old but also the young in Afghanistan.

Mr. President, I noted a column in today's Washington Post by Carl T. Rowan. The column is entitled "Olympic Wailing," and Carl Rowan says what I have tried to say better than I have said it. I think that the readers of the RECORD should be exposed to Mr. Rowan's fine column. I will merely read the last sentence thereof:

The Olympics are only games, and if the Soviets don't show up this time, let's just play with someone else and wait.

Mr. President, I ask unanimous consent to have printed in the RECORD Mr. Rowan's excellent column.

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

OLYMPIC WAILING—I FIND UEBERROTH DISGUSTING

(By Carl T. Rowan)

I am not a "Red-baiter," one of those professional patriots who tried to prove his Americanism by assailing the Soviet Union with regularity. But I confess to feeling shame as I've listened to some Americans wail about the Soviet Union's decision not to compete in the Summer Olympics.

There was John Ferraro, chairman of the Los Angeles City Council Olympic Committee, saying "If I were Mayor Tom Bradley, I'd be on a plane to Moscow right now. I would do everything possible to help them change their minds."

And there was Peter V. Ueberroth, millionaire businessman, president of the Los Angeles Olympic Organizing Committee, soon-to-be commissioner of major league baseball, on the television networks moaning that "we are paying the price for 1980," when President Carter told the Soviets that, unless they got their troops out of Afghanistan forthwith, U.S. athletes would not participate in the Moscow Olympics.

Los Angeles officials say the city won't lose a dime on the Olympics even if the Soviets don't show. But even if the loss might be millions of dollars, why should Bradley go to Moscow to prostrate himself before Soviet officials, begging them to rescind a political decision?

I find Ueberroth disgusting. Jimmy Carter was right in boycotting the Olympics to express America's outrage at the rape of Afghanistan. Even athletes have to stand for something other than high jumps and high fives.

So what if the Russian boycott is payback for 1980? Soviet troops are still in Afghanistan, committing assorted atrocities. Russia's boycott of Los Angeles can only remind the world that we had a moral imperative for refusing to go to Moscow four years ago; the Soviets have only pique and pride for boycotting Los Angeles.

I would never have tried to ban the Soviets from this summer's games, as some American nitwits were trying to do, but I cannot shed even a crocodile tear over the Soviet decision not to show up.

Yes, I hear all the American athletes moaning about how it hurts them not to have the Russians in Los Angeles and complaining about how "politics ought to be kept out of sports." It is as though they never noticed that the politics of race has often been a shadow over the Olympics (white supremacist Adolf Hitler against Jesse Owens in 1936; boycotts over racism in Rhodesia-cum-Zimbabwe and South Africa) and that the politics of the Mideast as well as the East-West struggle have been powerful factors.

American athletes themselves express the ultimate in politics when they confess that their idea of ultimate success is to defeat a Soviet competitor. Not a Chinese, Czech or Rumanian communist, but somebody from "Enemy No. 1," the Soviet Union. The politics of world power lies behind the media preoccupation with counting how many medals each country wins. To political propagandists this is as important as crowing about who launched the first Earth satellite or who got to the moon first. Nothing watched as closely worldwide as the Olympics will ever be devoid of politics.

Now, does all this mean that I want or expect politics to become a "death blow" for the Olympics? Of course not. Given a spell of morality, petulance, Cold War pride or whatever, both the United States and the Soviet Union will be back in Olympic competition, just as the People's Republic of China is coming to Los Angeles for its first "go for the gold."

The development of awesome nuclear arsenals has made it impractical, to say the least, for Moscow and Washington to use a real war to decide who legitimately can claim "superiority." So javelin throwing serves as a healthy substitute for warhead heaving. Sports competition can serve as a release for mental tension and aggressions that build up within us all.

But we all must remember what my opponent said as he collected my money after I missed a two-foot putt: "Hell, Rowan, it's only a game!"

The Olympics are only games, and if the Soviets don't show up this time, let's just play with someone else and wait.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

MISCELLANEOUS TARIFF, TRADE, AND CUSTOM MATTERS

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

The bill clerk read as follows:

A bill (H.R. 2163) to amend the Federal Boat Safety Act of 1971, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

(1) Baker Amendment No. 3027, to further reduce deficits by including reconciliations and appropriations caps for defense and non-defense discretionary spending for fiscal years 1985, 1986, and 1987.

(2) Baker Amendment No. 3063 (to Baker Amendment No. 3027) of a perfecting nature.

The PRESIDING OFFICER. The pending question is amendment No. 3063 offered by the Senator from Tennessee (Mr. BAKER) to amendment No. 3027 also offered by Mr. BAKER.

The majority leader.

Mr. BAKER. Mr. President, neither of the managers is here at the moment. There is a luncheon in honor of President de la Madrid of Mexico going on at this moment and that, I am sure, is occupying the time of some of our Senators.

I am told that the Senator from Ohio wishes to speak and in view of that I see no reason not to proceed. It is my understanding, if I may ask the Senator from Ohio, that in the absence of the two managers he does not plan to proceed other than to speak on the pending question.

Mr. METZENBAUM. The majority leader is correct.

Mr. BAKER. I thank the Senator from Ohio.

Mr. President, with that in view, I think we might as well proceed. I yield the floor so that the Senator from Ohio might seek recognition.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

AMENDMENT NO. 3063 TO AMENDMENT NO. 3027

Mr. METZENBAUM. Mr. President, we meet now to take up an amendment that would provide $2 billion over a 3-year period as sort of a sweetener for domestic spending programs.

I rise not to indicate my objection to that add-on, but rather my objection to what lies behind this strategy. For what we have here, according to the published reports, is the deal that was made to placate, if not buy off, the Republican moderates. For $2 billion over a 3-year period, they have agreed to forgo the opportunity to make a meaningful reduction in the budget deficit.

What I say is not merely a figment of my imagination, for it is an accepted fact that plans have been coming to this floor regularly, some of which have been defeated by narrow margins because of absences and some of which have been lost after a Member changed his or her vote.

We had the Chiles plan, which was defeated on a tie vote of 49 to 49. That would have reduced the deficit by $200 billion over 3 years, or $56.3 billion more than the White House Rose Garden plan. So we are now going to forgo any effort to pass the Chiles plan or some modification of it, by adding $2 billion to domestic spending.

I am not opposed to adding $2 billion to the domestic spending programs, but I thought that this Senate was going to have the courage of its professed convictions; that is, its often-repeated objective of wanting to balance the budget.

Nobody claims that we could balance the budget overnight. But a lot of people claim, and a lot of Members of this Senate have indicated, that they were prepared to vote to make a greater dent in the deficit than that which has been proposed under the Rose Garden plan. But the Chiles plan lost on a tie vote.

Then we had the Chafee-Weicker plan, which was tabled on a vote of 48 to 46 after one Member of the majority side changed his vote. That would have reduced the deficit by $16.7 billion more than the Rose Garden plan.

Now, why were these plans defeated? Why was the Chiles plan so opposed by my colleagues on the opposite side of the aisle? What was it that made it so necessary to defeat these plans to reduce the deficit?

Was it that the Republicans in thi body do not want to cut the deficit more? I think not, Mr. President. I assume my colleagues on both sides of the aisle would like to cut the deficit and that they understand that interest rates are now up to 12½ percent prime with every indication that they are going even higher.

I believe they wanted to go further, but they could not. They could not because the President of the United States was not willing to be a party to the action. The President of the United States at this very moment is standing in the way of deficit reduction which goes beyond that contained in the Rose Garden plan.

Now you can slice it any way you want and the President can make his speeches on television as beautifully as he does, but it is a fact that the President of the United States, who promised the people of this country that he would balance the budget, is standing in the way of anything passing this body except the $89 billion in deficit reduction over 3 years which is the Rose Garden plan.

This is the same President who, in his inaugural address, said, "For decades we have piled deficit upon deficit, mortgaging our future and our children's future for the temporary convenience of the present. To continue this long trend is to guarantee tremendous social, cultural, political, and economic upheavals."

Then in a memorandum to heads of executive departments and agencies, 3 days after the inaugural, he stated, "Coping with runaway deficits in the current and pending budgets is one of the most urgent tasks before us."

It was urgent on January 23, 1981, when he sent that memo out. Apparently it is not that urgent on May 16, 1984, when the President is doing all that he can to forestall further deficit reduction. I do not fault him for supporting the additional $2 billion in spending for domestic programs. But I say that is just a matter of buying some votes, prevailing upon the moderates to forego their effort which might have become successful, and avoiding some meaningful deficit reduction.

This is the same President who, in a White House news conference shortly after his election, said, "What we create we ought to be able to control. I do not intend to make wildly skyrocketing deficits and runaway Government simple facts of life in this administration."

Whatever the President's intent "wildly skyrocketing deficits" are a fact of life in America today. A fact of life about which the President of Mexico just spoke to the joint session of Congress. He also spoke of the high interest rates which result from high deficits and burden not only the people of this Nation but people throughout the entire world.

President Reagan made a statement to a joint session of Congress on April 28, 1981, saying, "The massive national debt which we accumulated is the result of the Government's high spending diet. Well, it's time to change the diet and to change it in the right way."

Mr. President, have you forgotten what you said in January of 1981? Have you forgotten what you said when you were a candidate? When you were a candidate you were talking about balancing the budget by 1983, and then you put it back to 1984. But now this Government is running on

the basis of $200 billion a year deficits, and anyone who tries to do anything to significantly reduce those deficits by going beyond the Rose Garden approach is bound to fail because the deal has now apparently been cut. The deal is to add $2 billion to domestic spending. Again, I repeat that I support it. But that is hardly a satisfactory price to pay to forgo our opportunity to reduce these deficits in a significant way. The farmers of this Nation, the young couples wanting to buy homes, and the small business people of this country cannot tolerate these high interest rates that will continue to accelerate, under the weight of these deficits. The 12.5 percent prime rate is not available to those who are of moderate income. It is not available, if you want to buy a new home. It is not available, if you want to borrow money to send your kid to college. It is not available to the farmers of this country who need a mortgage on their farms.

Then the President of the United States has the audacity—and I believe it is audacious—to say, "It's economic nonsense to say that lowering tax rates will add to our deficits."

The major reason that we have the deficits is because we cut taxes $1.1 trillion. You do not have to be a great business person to understand, if you do not have enough money coming in, you are going to wind up with a deficit no matter how much you cut spending.

Let the record reflect the fact that this Congress has met its responsibility in connection with cutting spending. We have already cut spending by $491 billion through fiscal year 1989—according to the CBO. We do not cut spending with respect to the defense area. Oh, no. In the defense area, the sky is the limit. No matter what the parameters are, we want to spend more and more and more. We are not satisfied with enough weaponry to destroy all of the Soviet people many times over. We must have more.

The President of the United States spoke on August 13, 1981. At the time he signed the Economic Recovery Tax Act of 1981 and the Omnibus Reconciliation Act of 1981, he said, "* * * balancing the budget in 1984 has always been our goal and will continue to be our goal."

Well, if it is the goal, then why is the President standing in the way today of this Congress doing anything more than cutting the deficits $89 billion over the 3-year period? I remember when Ronald Reagan had a strong concept of Presidential responsibility regarding the fixing of blame for the deficits. He went on television in 1980 and said the following, "Mr. Carter is acting as if he hadn't been in charge for the past 3½ years; as if someone else was responsible for the largest deficit in American history; and as if someone else was predicting a budget deficit for this fiscal year of $30 billion or more."

Oh, Mr. President—in this instance I say Mr. President of the United States as well as Mr. President of the Senate—what we would not do today for only a $30 billion deficit? I wish the President of the United States would show some of that same responsibility he talked about as a political candidate back in 1980.

Mr. President, he can do that. He does not have to even put his shoulder to the wheel. All he has to do is get out of the way, not be the roadblock. Let the Senate proceed unfettered to produce a real plan to reduce these deficits because the so-called Republican compromise is not a compromise at all. It represents a capitulation to the President of the United States. It is business as usual. It is not a downpayment or installment on the deficit reduction. It is yet another inequitable installment of Reaganomics.

This Senate has been close to doing something meaningful, not only in connection with the Chiles plan. It was also close in connection with the Chafee-Weicker plan. Then there was the Bradley plan which would have reduced the deficit by $5 billion more than the Rose Garden plan with a fair distribution of the burden.

There was the Hollings-Andrews-Exon plan, a bipartisan proposal which lost 57 to 38 and which would have cut the deficit by $179 billion more than the Rose Garden plan. There was the KGB plan, the Kassebaum-Grassley-Biden plan, which would have cut the deficit by $94 billion more than the Rose Garden plan, and there was the Gorton plan which would have cut the deficit by $85 billion more than the Rose Garden plan.

The fact is, that in each of those instances the overwhelming majority of Republicans refused to support further deficit reduction. As I said before, I do not believe it is because all of those Republicans do not want to reduce the deficit further. I think it is because they are doing the President's bidding. I think it is because they are being good soldiers, and the President does not want to reduce the deficit any more than the $89 billion which is provided in the Rose Garden plan over a 3-year period.

Mr. President, we should also take a look and see what the House has done. The House passed a budget resolution with $182 billion in deficit savings, which is $41 billion more than the Rose Garden plan.

They passed a reconciliation tax bill with $47 billion in revenues and entitlement cuts of close to $10 billion.

The House will yet reduce defense, according to indications, by $96 billion and nondefense discretionary programs by about $5 billion.

What are my colleagues on the other side of the aisle proposing to solve the problem? Well, they are proposing a great solution. They are proposing a great campaign tactic, a great opportunity to make speeches. But a very poor excuse for genuine deficit reduction.

I refer to the strong effort by some of the leadership on the other side to have the Judiciary Committee endorse the so-called balanced budget constitutional amendment. What a joke that is. Anyone in his right mind knows that even if it were to pass, it probably would not be effective until the States took a number of years to do their part.

But what a wonderful speech opportunity it provides. You can go out and talk about the fact that you passed the balanced budget constitutional amendment.

But if you really want to balance the budget, then you have to have the backbone to come here on the floor of the Senate and the floor of the House of Representatives and vote now in order to achieve that objective in the future. This body, for the past 4 weeks, has refused to cut the budget an amount in excess of the rose garden plan, because the President will not accept it.

The President talks about no tax increases. Well, Mr. President, you would not have to have any tax increases if you would just close some of the tax loopholes that take care of some of your special friends, and some of the new tax loopholes that were put in this bill—$22 billion worth.

Close those and some of the old loopholes, and you will find that you will get a lot closer to balancing the budget. But, no, that would step on the toes of the select few who are favored by my colleagues on the opposite side of the aisle.

I remember so well the President of the United States indicated his conviction that every corporation in this country that is making money ought to pay its fair share of the tax burden. He came out for a minimum tax. That was a good idea. So a few weeks ago the Senator from Ohio offered the minimum tax—not my proposal, the President's own proposal. With some few exceptions everybody on the opposite side of the aisle voted "No," because they do not want to step on the toes of their crowd and his crowd.

Vote for a minimum corporate tax and you will be doing a lot more than you will by voting for a constitutional amendment to balance the budget, which will achieve nothing. Vote to close some of the tax loopholes that exist in this country or the $22 billion in new ones which were just put into the Finance Committee bill, and you will be doing a lot more than you will by passing a constitutional amendment.

We can achieve our objectives if we quit posturing on the budget.

I have heard it said that if we do not pass the Rose Garden proposal, the President will not sign it.

Why do we not give him an opportunity to veto a bigger deficit-reduction package? Why do we not do that which we are supposed to do, being an independent arm of the Government?

No; the President will not sign it.

Then I hear some prominent Republicans on the other side of the aisle going on national television, and here on the floor as well, talking about the Democrats dragging their feet. I have not seen any evidence of dragging our feet. I have seen continued negotiations while we did not meet on Monday and did not meet on Friday, and did not meet at night, because the other side of the aisle knew that they were in trouble, and if they went too rapidly we were going to cut the deficit more than the President wants it cut. We were going to step on some toes in the defense industry if we cut defense spending, or close some of the tax loopholes or postpone indexing for a year.

And what about the budget for social programs which meet human needs?

The Rose Garden budget we are talking about pretty much provides for a freeze in the domestic area without even the inflation factor being taken into account. Then you go across the street and look at the defense spending and it provides not only the inflation factor but a 7.5-percent increase as well.

What a wonderful way to balance the budget. There is not anybody in this body who is not aware of the wasteful spending that takes place in the Department of Defense, of their refusal to use competitive bidding, of the number of limousines that the military use, of the $139 million a year that we spend on military bands, and so many other areas of wasteful spending in the Department of Defense. The record is replete with instance after instance. Some of my colleagues on the other side of the aisle have been real leaders in speaking out in connection with this subject, and I commend them for doing so.

But then we come back here and increase defense spending 7.5 percent, plus inflation, and with respect to the domestic programs we do not even provide for the inflationary increase.

Meanwhile the deficits climb higher and higher. Where is the Presidential leadership? Where is the Presidential responsibility? As Senator, PROXMIRE has so well informed the Nation, more than half of next year's deficit reduction under the Rose Garden plan will be eaten up by higher interest rates that the Government will have to pay to service its debt.

Mr. President, let us not kid ourselves. The President who ran for office and talked about balancing the budget is the President who is today standing in the way of this body accomplishing anything more than a token reduction in the deficit.

This body would like to cut the deficit further, but there is fear that the President will not approve, because we may touch defense spending or we may touch the whole area of tax revenues. As a consequence, interest rates in this Nation will continue to go up and this Nation will pay, if my recollection serves me right, something like $160 billion in interest on the national debt alone in fiscal year 1985.

The President said, in remarks to the Illinois forum reception in Chicago on September 2, 1981:

> As long as there is a belief that there are going to be huge deficits, the interest rates are going to stay up, because there are too many people trying to borrow too little money, and the biggest borrower of all is the United States Government trying to pay off those deficits.

Mr. President, the votes may be here on that which we understand is the deal that has been cut to provide a pittance, $2 billion more, for domestic spending over a 3-year period, and the price would be that we would then buy the rose garden package. But that is not a deal that was fashioned in any budgetary heaven and it is not a very good deal for the American people.

It is an indication that the Senate is not willing to brace its shoulders and do that which it knows should be done. It is an indication that the Senate will not stand up to the President even when it knows the Nation's welfare is as stake. It is the President's responsibility. But those who have proposed the "deal" which is before us today, I submit, must share that blame.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. JOHNSTON. Mr. President, I rise in opposition to the Baker amendment (No. 3063) to the Baker amendment. This is what some might call a flimflam amendment; that is to say, it is a figleaf or a smokescreen for doing one thing under the guise of doing something else. What it purports to be doing is taking $2 billion from one account, the synthetic fuels account, and putting it over into another account; that is, the social spending account.

We all know and understand why it is being done. There are several Members on the Republican side of the aisle who feel, with some justification, that many of these accounts have been savaged by the Reagan budget and that, therefore, they ought to be increased. We understand that and without going into the merits of whether those individual accounts ought to be increased or not, we understand that is the purpose of this amendment.

But rather than do it in a straightforward way—that is, saying we want to increase the deficit by $2 billion—they come up with what I regard as flimflam or legerdemain or smokescreen, or smoke and mirrors or—what was the term?—voodoo economics. This is a classic case of it.

Why is that, Mr. President? Because there are no budget outlays in the Synthetic Fuels Corporation. There are simply no outlays to transfer from synthetic fuels over to these social spending accounts. There are just none there. All we do have is a special kind of what someone has called funny money over in synthetic fuels. That is budget authority but a special kind of budget authority; that is the authority to obligate Federal funds under a loan guarantee or a price guarantee.

Traditionally, when money is obligated under a loan guarantee or a price guarantee, it is costed out on about a 3-for-1 basis. That is to say, for every $3 that are guaranteed, $1 is scored against future outlays. The reason is, quite obviously, that a loan guarantee or a price guarantee does not ripen into an outlay or a real expenditure of Federal money except to the extent that the loan is not repaid or the price guarantee exceeds what the actual price is. That is why I call the budget authority in the Synthetic Fuels Corporation a funny money budget authority. They are not real budget authority, they are a special kind of budget authority. We intentionally did it that way because we did not want the Synthetic Fuels Corporation to spend more than, in the original act, $20 billion in price guarantees or loan guarantees. That is all we wanted the Synthetic Fuels Corporation to be able to do.

Mr. President, there is an ongoing debate right now in Congress and in this administration as to whether we ought to do away with the Synthetic Fuels Corporation. The administration says we ought to reduce the amount of loan authority in the Synthetic Fuels Corporation by $9.5 billion and, most important, it says that they would put limitations on the use of the remaining funds only "to those projects whose products will not cost significantly more than the projected market price of competing fuels."

What that means, Mr. President, is that they wish to abolish the Synthet-

ic Fuels Corporation, really, by smokescreen because the only purpose of the Synthetic Fuels Corporation is to take new technologies which are not commercially marketable at prevailing marked prices and, by an infusion of Government money either through loan guarantees or price guarantees or, in some instances, through a GOCO, be able to prove up technology such as oil shale or liquids from coal or gas from coal or the whole panoply of synthetic fuels technology. The idea of this Congress, clearly expressed, was to make those commercial demonstrations and get them on line, which the Synthetic Fuels Corporation promised to do.

First, Mr. President, this administration has made sure that it would not work. They delayed for months and months the appointment of board members to the Synthetic Fuels Corporation; they delayed it for many months. Then they put the fox to guard the henhouse door because the head of the transition team on the question of synthetic fuels has already recommended that they not have a synthetic fuels corporation, even though the law mandated it. They put him at the head of it.

Then they put a group of well-meaning nice people who did not have a bit of experience in the field of fuels or synthetics or coal or shale or anything closely resembling the job that they were supposed to do. They had been real estate developers or small-town bankers or that kind of person. Then they were put by the administration that did not want it in the first place to do a job that they did not want done. It is no wonder that they have made a grand and glorious mess of it, that they have produced no synthetic fuels for the American public, and only have a project or two; finally, they have gotten a project or two under way.

Now, the administration comes up and says, "Well, cut it way back by $9.5 billion," which is a lot of money if they used it, "but don't obligate anything if it is significantly above market prices."

Well, what do you need it for if it is not significantly above market prices? That is like saying, do away with the corporation but do not say you are doing it. It is just like this amendment—increase the deficit by $2 billion but, for gosh sakes, do not say you are increasing the deficit by $2 billion. Put a smokescreen out there; you can tell the Senators anything about this amendment and they will believe it. That is what this amendment says. If the Senators are not supposed to believe this, then the American public is supposed to swallow this kind of gobbledygook.

Everybody ought to be able to recognize this for what it is: It is just increasing the deficit by $2 billion at a time when everybody in the body has ranted and railed about the deficit. The deficit is going up, going up, continues to do so, while all the while, Secretary Regan says, "Don't worry about the deficit, it has nothing to do with interest rates, it has nothing to do with inflation."

Who believes that in this country other than the Secretary of the Treasury and a small coterie of ideologues who have swallowed the most preposterous economic theory that has ever been foisted on this country? Of course the deficit matters and of course it is connected to interest rates and of course it is increasing the deficit by $2 billion and of course, if the Senate votes for it in order to put together some sort of jerrybuilt compromise, we shall be party to fooling the American people or trying to fool the American people. I think they have more sense than to believe this, but we shall be a party to a smokescreen and to a bit of legislative legerdemain, in this 11th hour of the economic recovery.

Mr. President, I alluded to the history of the Synthetic Fuels Corporation, I guess as much out of frustration as out of relevancy to this amendment, because the fact is whether you are for or against the Synthetic Fuels Corporation does not make a whole lot of difference as far as this amendment is concerned. Taking $2 billion in so-called funny-money budget authority out of the Synthetic Fuels Corporation at this point in the game is really irrelevant because that last $2 billion, even if you had an aggressive, energetic Synthetic Fuels Corporation, would not be spent until the late 1980's anyway, or maybe until the 1990's, and at the rate this administration is going you are not going to spend anything more than has already been obligated anyway. We recognize that if the administration wants to abolish the Synthetic Fuels Corporation, it has the political power to be able to do so. Even though the law requires the President to appoint a board and keep the Synthetic Fuels Corporation going, there is not much we can do about it if he threatens, as indeed has been implied, that he will not appoint the board. And indeed there is a split feeling on the part of the Congress as to whether it ought to be abolished. Just how much of that feeling is in response to the irresponsible way the Synthetic Fuels Corporation has been run and its record of nonproduction and how much is due to the fact that the price of crude has, indeed, gone down and loan guarantees would have to be at a higher level relative to the price of crude oil is, of course, difficult to tell.

There are those free marketers who think that the free market will solve all the problems; that we need not worry about the supply of crude from the Middle East; that the U.S. Navy can keep the Strait of Hormuz open, that the danger of interdiction of those straits either by a blockade or the use of Iranian or Iraqi rockets or whatever cause of political instability is not a real cause for concern; that there is a surplus of oil; that it will last for the foreseeable future; that the price will be stable.

I wish I could share that view. I wish I could hold the view which some seem to have that the supply of crude in this world is infinite; that we will never again have oil shock 1 or oil shock 2 or come to oil shock 3.

But I do not believe the situation is basically any better than it was when we passed the synthetic fuels legislation. I think the situation has not changed at all except that that finite source of crude oil has gone down instead of gone up, as, of course, it must since it is finite and since we are continuing to use it. But, indeed, the price has gone down and almost every observer thinks that that is a temporary diminution in price which will last for a matter of months depending on the political instability in the Middle East to a matter of maybe 2 years, maybe 3 years, assuming that there is no instability and market forces, as best they can be calculated, simply take hold and the shortage, relative shortage begins or, to put it another way, the relative surplus is used up.

In any event, Mr. President, in my view and in the view of many of us the mission of the Synthetic Fuels Corporation persists. It is the same mission that it always had, and that is to prove that you can make commercially viable technologies out of America's vast resources of coal, shale, tar sands, and other sources of synthetic fuels. Those cannot be done through the free market at this time. What we are doing, what we wish to do, the theory of the Synthetic Fuels Corporation is that we would prove up the principal technologies in a commercial way by 500,000 barrels by 1987, 2 million barrels by 1992—and nobody thinks you can conceivably achieve those goals, certainly not now with a moribund Synthetic Fuels Corporation, but the idea was that we would save those many years between the time that we need it, on the one hand, and the time that it takes to develop the technologies on the other hand. Unfortunately, we are fiddling while the supply of fossil fuels burns up around the world. It is unfortunate that we have wasted all that time. I do hope we can get together in a bipartisan way and say, yes, the Synthetic Fuels Corporation does have a mission; that it should be saved; that it ought to be restructured under new leadership with people who know what they are doing. If, indeed, the mission must be altered, then let us do it after a deliberate debate. Let

us not try to kill the Synthetic Fuels Corporation either through lack of expertise or through no expertise, that is, by not having the board appointed, and most of all let us not do it out of a fit of frustration because it has produced nothing so far. There is nothing structurally wrong with the Synthetic Fuels Corporation law. It was a very good law put together by a bipartisan group, I think very well and artfully put together and, if given a chance to work, I think it can work. I hope, Mr. President, that we will do that.

Having spent so much time on the Synthetic Fuels Corporation, I, nevertheless, repeat it is relatively irrelevant to the issue at hand. The issue at hand is, do you want to increase the deficit by $2 billion? There are ways to increase this social spending by $2 billion by taking it from another account, by taking it from defense outlays or by taking it from some other outlays or, indeed, to increase taxes by $2 billion. That in fact would not affect the deficit. But to attempt to do it with funny money is a smokescreen and is in my view unworthy of this Senate. If we need to increase social spending by $2 billion, then let us face up to it, vote for it, and do it, and tell the American people that we need an additional $2 billion in the deficit to accomplish some worthy purposes and some worthy tasks. Indeed, I am sure the $2 billion involved will do a lot of good to a lot of people, and I may be for all of those programs. I have not, frankly, looked at them. I have not got past the fact that this is a smokescreen. The Senate ought not to engage in smokescreens. I hope the Senate will vote this down. I yield the floor.

Mr. FORD addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

Mr. FORD. Mr. President, let me take a minute to compliment my distinguished colleague from Louisiana (Mr. JOHNSTON) for the eloquent manner in which he has defended the Synfuels Corporation and the point that he has made as it relates to the use of this money and to increase the deficit by an additional $2 billion. It must be quite frustrating to those who are trying to put together the so-called Rose Garden deficit downpayment to have to reach into the Synfuels Corporation and transfer $2 billion to satisfy three or four or maybe six or eight individuals to get additional social spending on their side in order to pass a piece of legislation that would increase the deficit over the next 3 years rather than decrease it. It must be frustrating to the leadership to come to the point where I believe that in their hearts they know they are wrong.

I read, I believe the day before yesterday, that if Iran should win the war with Iraq, they then would be the dominant force as it relates to the price of oil, in lieu of the Saudi Arabians. If that occurs, and we see the Strait of Hormuz cut off, and we see our inability to trade at a reasonable price, we will be looking inward, wondering why this country had not built a synthetic fuels operation, why this country had not made a larger and stronger effort to have reserves, why the House of Representatives and the Senate had not moved forward to see that we put these various synthetic operations into place.

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

Mr. FORD. I yield.

Mr. JOHNSTON. I think the Senator makes a real point when he talks about the danger of a cutoff of oil from the Middle East.

For years, we have talked about a blockade of the Strait of Hormuz and how we can send in the fleet and unblockade what they do. But has the Senator heard anyone in the administration or elsewhere say how they can protect all that shipping, not just in the strait but all up and down the Persian Gulf, from air attacks such as they have been subjected to in the last few weeks, both by Iraq and by Iran?

Mr. FORD. I say to my distinguished friend that I have heard of no comment, no proposal, as to how they would protect our tankers or other ships that would carry the oil supply out of the Persian Gulf, through the strait. If we even attempted to do that, we would have to call on our allies, such as France and England, and all of them would be in there. Even with that, I doubt seriously that they could stop the so-called bombing or strafing or terrorist operations that might be conducted within the Persian Gulf.

Mr. JOHNSTON. The U.S. Navy, with all its might, cannot force Lloyds of London to keep their insurance premiums down to a reasonable rate, can it?

Mr. FORD. Lloyds of London have been in business a long time. They are the insurance company known as the high-risk company. They have been willing to take a chance. But in the last few weeks, or maybe a month or two, they have calculated their risk, and their risks have almost been zap, based on the charges. Those charges are going to be so high that I am under the impression that the cost of oil would accelerate, based on the dangers there and the additional cost to remove that oil from the Persian Gulf.

Mr. JOHNSTON. Does not the Senator think it is possible that the charges for insurance by Lloyds of London may be as high as the kind of price guarantee or loan guarantee the Synthetic Fuels Corporation might have to make, anyway? So it might not cost anything to guarantee, if the price of insurance goes as high as I think it is going right now.

Mr. FORD. Let me make two points to my distinguished friend.

One, the additional cost in order to insure the cargo could put it well beyond the means of the consumer, almost. But if the difference were paid in this country and used in this country, it would be to the benefit of our people, our workers, those who would have an opportunity to earn a living.

Second, there would be an indirect cost to the consumer—or maybe a direct cost—because the expense of defending the area through our military might would increase the military cost, and therefore it would cost additional money. So we might be hit twice: By the increase in the insurance and by our military in there to defend the cargo and protect it as it comes out. We could get hit twice, rather than doing it by accelerating our research and development, by going to demonstration in commercial plants, and we are almost assured that they are there.

We have the methanol project of the TVA. We have the ethanol projects. We have the liquid and solid programs, gas and solar—all these things are available. But we have seen this administration trying to kill the prospects of embargo No. 3.

You know what happens when the threat of embargo comes. They are lined up at the service stations; and then those people who are watching us are going to say, "Why didn't you do something about it?" Some of us are trying.

Then we find, in trying to bring the economy of this country under control and using the funds that were allocated to the Synfuels Corporation, the buying of a few votes to get the Rose Garden package out, which actually increases, as I read it, the deficit over a 3-year period and does not decrease it over a 3-year period.

So I say, Mr. President, that I cannot see how sufficient votes can be garnered for this amendment. I am sure the pressure is on. I can almost feel it in this Chamber—there is so much pressure to now go ahead with it. But I will not vote for it.

I think that those who have no interest in the Synfuels Corporation will vote against it because they see that it is increasing the deficit of this country.

We will vote within the next week or 10 days to increase the debt ceiling. We see two things happening to this country: One, our deficit and balance of trade, at the rate that is running today, will be $120 billion short. Add that to our $200 billion deficit, and that is a $320 billion deficit not only in our domestic budget but also in our balance of trade.

I see that money coming back into this country, buying our best farmland, buying our best office buildings,

buying our best companies, and being loaned to our major corporations so that they might merge, have these corporate mergers or buyouts. In the latest, biggest buyout, the $3 billion merger between two of our major oil companies, almost 50 percent of that is foreign money. It is our money that they are bringing back to us at high interest rates.

If anyone thinks that is right, they should vote for this amendment; but if they think it is wrong, they should vote in opposition to it.

These things are continuing, and we have the highest deficit in our budget in history.

We hear them testify before committees today: "Stay the course" of higher deficits and balance of trade. It does not make sense to this country boy, and I hope it does not make sense to many of my colleagues.

I say again to my distinguished friend and eloquent speaker, the Senator from Louisiana (Mr. JOHNSTON), that I appreciate his defense of the Synfuels Corporation, and I appreciate his honesty and the knowledge he has expressed here today with respect to this new amendment that is proposed, to try to save a few petals from the roses in the Rose Garden.

Mr. JOHNSTON. Mr. President, I thank my distinguished friend from Kentucky for his kind remarks and congratulate him on his. He has long been a leader in synthetic fuels and long made the Senate and the country aware of the great resource we have in coal, a resource which we should use because oil is rapidly being depleted. Oil production is down 17 percent from what it was a decade ago.

Oh, we had a temporary lull in the use of oil caused by a new consciousness of conservation which in turn was brought on by an increase in price, but we have seen the consumption of oil creep up and up while American production continues to creep down and down.

Mr. President, many of us here in the Senate went to hear the distinguished President of Mexico, Mr. Miguel de la Madrid, speak today in the House Chamber.

President de la Madrid, among other things, pointed out that terrible price that other countries, our allies around the world, and particularly in South and Central America, are paying on account of the high interest rates in this country. He pointed out that Mexico is sacrificing, sacrificing in order to meet its debt while our interest rates continue to go up and continue to add hundreds of millions of dollars to their foreign interest bill.

The same thing, Mr. President, can be said of other fledgling democracies, such as Argentina, struggling for its very existence, while our interest rates go up and make it almost impossible, certainly very difficult, for that democracy to survive economically because of our interest rates.

Now, if you believe, as Mr. Reagan, that interest rates and the deficit are not connected, that they are like ships passing in the night, two unconnected phenomena, that you do not need to worry about the deficit because the interest rates are to be all right anyway—if you want to put that rosy face on the economic situation of this country, then I say vote for this amendment.

But if you believe that, in fact, interest rates are directly caused by the size of the deficit and that in turn those interest rates are inflicting very serious difficulty, maybe irrevocable pain to countries around the world such as Mexico and Argentina, if you believe as many do that the size of that deficit causes high interest rates and that high interest rates in turn cause the dollar to be artificially high in value as against other currencies which are artificially low, and if you further believe that in turn constitutes a subsidy of every import into this country in the nature of one-third of the value and an export tax on all of our exports to the tune of about one-third of the value, then you are not going to be so anxious to vote for this amendment because it is a direct increase in the deficit by $2 billion.

Mr. President, if we want to engage in this kind of flimflam by taking from accounts such as the Synthetic Fuels Corporation and adding it over to a real spending account on the other side, I can tell you how you can almost balance this budget, how you can make great progress, and it will inflict no pain at all. For example, you have the airport and airways trust funds. It has an accumulated surplus of $1 billion each year through fiscal year 1987. Now that is not going to be spent. There are no plans to spend it at all. If you want to reduce the deficit, then take that $1 billion a year out of the airport and airways trust fund and either reduce the deficit with it or you have an artificially lower figure over here. Or why not just take it and put it on some needed project? We could spend it on highways or food stamps or school lunches or dozens of very worthy projects and we could say it is not increasing the deficit at all.

Or here is another one, the UMTA funds for the Urban Mass Transit Administration. It has $400 million in accrued interest on certain accounts and this money is legally available. Now it is not going to be spent; there are no plans to do that anytime soon. There are no outlays associated with that. We all know that. But if we are going to do this amendment, why do we not just take $400 million out of that UMTA fund?

There is a whole host of these kinds of accounts that have budget authority but do not involve budget outlays, and if you are going to engage in the game of converting budget authority, which is not going to be spent, maybe never, and certainly not for many years to come, and convert that immediately into budget outlays, convert it into expenditures, Mr. President, we can do wonders. We can have guns and butter. We can have our cake and eat it, too. We can have the Star Wars defense. We can have the MX, the B-1, the F-14, F-15, F-16, F-18, the M-1, tank, the M-60 tank, all of these glorious weapons systems. We can have readiness. We can have medicare without end. We can have all the rest of it and without paying any price for it. All we have to do is just convert budget authority to budget outlays and say that does not count. That is all you have to do.

We can work miracles, magic with this deficit. We can erase the deficit. If we are going to do this, we could even go ahead and put some of these things off budget. Why do we not put the Defense Department off budget? Now, that is an idea, Mr. President. If you are going to think big, if you are going to make funny money changes in the budget, why do we not just put defense off budget? In fact, I do not know why they have not thought of that. We could save billions. Why, we would have a balanced budget overnight.

But for the meantime, Mr. President, if we are going to do this, I do not know why we stop at $2 billion. As Everett Dirksen said, maybe a billion here and a billion there pretty soon amounts to real money, but we know actually $2 billion is not enough to get really excited about in this budget. It is sort of the principle of the thing, just increasing that deficit $2 billion. I would almost rather just increase the budget deficit by $2 billion and say we are doing it, than go through this smokescreen and try to fool ourselves and fool the American people into thinking that we are really doing something.

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

Mr. JOHNSTON. I am glad to yield.

Mr. ARMSTRONG. Is it the Senator's view that this is in effect a combination of an unreal or an ersatz savings at a very real expenditure?

Mr. JOHNSTON. It is really a synthetic savings since it is from the Synthetic Fuels Corporation, but it is darn sure a real expenditure and it darn sure increases the deficit by $2 billion.

Mr. ARMSTRONG. I think that is the major point that we are dealing with here, and I just wanted to rise briefly to compliment the Senator from Louisiana on his statement because whether you are for or against synthetic fuel or for or against the expenditures which this $2 billion might go, and we do not know for sure what

those might be—they could be anything within this series of programs that would be covered—we do not know whether it would be for any particular program, but the reality is that the savings which are estimated are savings over many, many years which may or may not occur because of the fact that this is an appropriation for price guarantees and loan guarantees, which may or may not result in an expenditure, and the increase is very real and will undoubtedly go into programs where the money will spend out in the next fiscal year, adding at least $2 billion to the debt.

So I think the Senator is absolutely right, and I did not hear him say how he was going to vote, but I assume based on that, he is not inclined to vote for the amendment, nor am I.

Mr. JOHNSTON. The Senator is correct, and I congratulate him. He puts in few words succinctly and persuasively what it took me many minutes to say. But it is all true.

Mr. President, I yield the floor.

Mr. RANDOLPH. Mr. President, I oppose the pending amendment to the debt reduction package. Definite progress has been made by the passage of the Energy Security Act and the creation of the Synthetic Fuels Corporation.

True, there are serious organizational and management problems within the Synthetic Fuels Corporation.

Mr. President, it is also true this administration recommended those persons who in turn caused these internal management problems.

President Reagan must immediately appoint qualified citizens to the five vacancies which now exist on the Board of Directors. I think these positions should have been filled.

We are hearing much about the dismantling of the Synthetic Fuels Corporation. I read in the press and hear media reports of concerted efforts to do away with this program. Unlike the mid-1950's, however, there are many of us, not only in the Senate but throughout the Congress and throughout the land, who are strong advocates of this organization. I believe this current congressional awareness will sustain synthetic fuel development against those who see the abolition of the Corporation as a method for what I call shortsighted deficit reduction.

On April 12, in Cairo, Egypt, Saudi Oil Minister Yamani stated:

By 1987, the Organization of Petroleum Exporting Countries believe oil markets will again favor the seller.

He did go on to say—and I believe this is very, very explicit—

The political importance of oil still exists because the Western World cannot live without Arab oil. We believe by 1987 the picture will change and the strength of oil as a political weapon will return to what it was in 1973.

I believe Mr. President, that in this morning's Washington Post an article indicated Iraqi missiles have hit Saudi and Kuwaiti oil tankers in the Persian Gulf in the last week. Those ships, of course, are carrying oil, which oil is consumed by the United States of America, and in other nations of the Western World.

Mr. President, today the Organization of Petroleum Exporting Countries (OPEC) has the capability to produce 35 million barrels of oil per day with essentially no capital investment. In 1983, OPEC production was less than 15 million barrels each 24 hours. U.S. production is approximately 10 million barrels daily of crude and natural gas liquids. OPEC has idle twice—twice the U.S. capability to produce petroleum.

Mr. President, to produce 8.5 million barrels each day of crude oil and 1.5 million cubic feet of natural gas, the United States has 580,000 oil wells and over 200,000 gas wells. Approximately 80,000 new wells must be drilled annually—I repeat, annually—to sustain this level of production. Saudi Arabia, in contrast, can produce 12 million barrels per day with 750 wells. The Saudis are producing less than 4 million barrels to assure the price of $29 to $30 per barrel.

Now, the difference associated with capital investment is conclusive in competitiveness. Alternate energy technologies requiring large capital investment, such as producing synthetic gasoline from coal, have no opportunity for widespread application under these conditions without Government support.

As an aside, Mr. President, I recall I coauthored with Senator O'Mahoney of Wyoming, the Synthetic Liquid Fuels Act of 1944. It was signed into law at that time by President Franklin Roosevelt.

I recall, also, during 1943, I flew with another young man, Arthur Hyde, in a single-engine Fairchild 24 taking us from Morgantown, W. Va. into the National Airport. That is 175 miles of flying in a single-engine aircraft across the Alleghenies and the Blue Ridge Mountains into Washington, D.C. The trip was made safely on coal-derived liquid fuel, produced in a small station outside of Pittsburgh, Pa., operated by the U.S. Bureau of Mines.

I remind my colleagues that in 1944 the law became the cornerstone of our first synfuels efforts. Using some $85 million, we were able to produce coal based motor and aviation fuel. We were able, in the Rocky Mountain States, particularly in Rifle, Colo., to produce aviation and motor fuel from the shale rock. We were able also to use the waste of the forests, the products of wood, in the production of synthetic fuels.

We had the information to develop a domestic synfuels industry then and we have it now. Yet production of synthetic fuels laggards on the boards and is not being produced in the United States of America.

Do we remember OPEC? Some do and others apparently do not. Yesterday the administrator hinted only synfuels projects, "whose products will not cost significantly more than the market price, now $29 to $30 a barrel, of competing fuels" will be funded by the SFC.

What a sad state of affairs. In 1955, the administration did what? It took the $85 million, the original appropriation and stopped everything that was successful. We returned $3 million of that original appropriation to the Federal Treasury. Few examples in the history of this country can be proved by actual facts to be as wrong as it was to do what was done in that situation. I do not want to say had I been a Member of the Senate or the House at that time the program could have been saved. At least an effort would have been made, a very zealous effort to see that the program was not canceled.

Mr. President, we must as a nation, and as a people, eliminate the ridiculous irony that without oil shortages and soaring prices we systematically abandon synthetic fuels programs designed specifically to protect against the dangers that I pointed out this afternoon.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. PERCY. Mr. President, first I would like to pay tribute to our distinguished and beloved colleague, Senator JENNINGS RANDOLPH, for his longtime devotion to this field of synthetic fuels and alternate fuel sources. He has done a monumental job, and has been a tower of strength in that area. Generally speaking, I have been fully supportive certainly of his objectives and goals.

In this particular case today, I am a principal cosponsor of this amendment, and I wish to urge my colleagues to support this modest effort to increase funding slightly for nondefense discretionary spending over the 1-year freeze currently provided in the so-called leadership plan.

Our amendment provides for a reduction in funds available to the Synthetic Fuels Corporation of approximately $2 billion and this money would be directed by the Appropriations Committee to education, environment and health purposes and programs. We have been debating the deficit reduction package for nearly 4 weeks now. Alternatives have been proposed and rejected. As Senator DANFORTH pointed out last week, some 68 Senators now have supported at least one of the many alternative plans which have been debated and considered here over the past few

weeks. I believe from listening to the debate that there is a real commitment to finding a way to reduce these massive budget deficits. We disagree as to approach. But there is little disagreement on the ultimate goal.

The leadership proposal we have before us that I support provides for approximately $150 billion in reductions over 3 years. It is not enough. It is only a downpayment. It should be more but there are apparently not enough votes for any one proposal beyond that which we are considering, and in which hopefully this amendment will be incorporated.

My own preference would be to see some additional downward adjustments made in the defense function. In fact, I supported the amendment offered by the distinguished Senator from New Jersey, Mr. BRADLEY, which would have reduced defense, provide a modest increase over the freeze for nondefense, and have made an additional contribution to reducing the deficit.

Unfortunately, that proposal was not acceptable to the majority of the Senate. I know from my own extensive travels throughout Illinois that there is a tremendous concern among our people over the deficit. The people of this country are demanding action because they know the consequences, if we do not take action. I happen not to agree with the Secretary of Treasury for whom I have the highest respect, but I disagree when he suggested that there was no real connection between deficits and interest rates. I think there is a connection between the two. And, unless we pass this legislation now, we are going to see additional upward pressure on interest rates.

The financial community, Mr. President, is watching our actions very closely. The American people are watching our actions very closely. And I believe what we do, or what we fail to do here, will have a major impact. It will have a major impact on the financial communities. It will have certainly a major impact on developing nations. We have just had an extended working luncheon with the President of Mexico in which he has described the excruciatingly painful problems faced by developing nations with the huge mounting deficit they have, and the impact anytime interest rates are raised in this country.

I have met recently with the construction industry. They have expressed deep concern about the effect on construction and its impact on economic recovery if interest rates go back up.

The automobile industry is very alarmed about that possibility because they have been spurred with record sales as a result of declining interest rates, which at one point had dropped from 21½ percent to 11½ percent. Certainly, the housing industry is extremely concerned about interest rates.

We also have one other problem. Yesterday, about 100 representatives of foreign countries—primarily in Europe, but Latin America as well—were here considering investment in the United States of America. It is our national policy to try to attract that investment. These are investment dollars that offset the alarming balance-of-payments deficit which we have exceeding this year $100 billion.

All of this could be offset and discouraged by an increase in interest rates. That could come about as a result of the feeling by the marketplace, and those other observers who are watching actions that we take in the Senate, that we are not serious, that we are not going to do anything about these deficits, the budget process will fail, and we cannot come forward with the kind of cuts that we need. Therefore, I hope we will take the alternative, rather than let the whole package fall apart—even though it is not as much as many would want, and it does not please everyone—do as much as we possibly can in this regard but find a way after all of these weeks of debate to bring this debate to a close, and vote on it.

In conclusion, I urge that the pending amendment be adopted and that the Senate get on with its business of enacting the deficit reduction package.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, first of all, I want to apologize to those Senators who have taken the floor in the last couple of hours to address the issue of either the impact of the Baker-Chafee-Domenici amendment on the budget or the impact of the amendment on synthetic fuels.

I think I have an understanding of what has been said and I will take a couple of minutes.

On the second issue first, what impact will this amendment have on the Synthetic Fuels Corporation? I will give my position on the future of the Synthetic Fuels Corporation.

Let me say for those who might not remember, for the Senator from New Mexico and the distinguished Senator from Idaho (Mr. MCCLURE) who chairs the Energy and Natural Resources Committee, the record will clearly reflect that the two of us worked literally months to put together an alternative energy supply amendment for this country.

I can tell you now that I did not cosponsor this amendment out of any desire to kill the Synthetic Fuels Corporation. To tell you the truth, I do not know the background of the basic format for this amendment, but I will review with the Senators a little history.

Some of you might remember that the now deceased former Vice President Nelson Rockefeller was asked by the President of the United States to produce an energy alternative plan for America. He came up with a $100 billion alternative, a nonprofit corporation. He had expert task forces working on how we might do that. Then he was asked to get it passed. Obviously, it did not make it. But if anybody wants to go back and look at what he then suggested by way of the kind of things we would have to do to produce synthetic fuels, lo and behold they will find a very significant similarity in the language between the suggestions and what ended up as being the Synthetic Fuels Corporation of the United States.

I take a little bit of pride in the fact that I legally borrowed the language and provisions of those studies and incorporated them in a bill which I introduced, and which ended up being about 75 to 80 percent of the language of the final Synthetic Fuels Corporation Act. I take pride in this even though I was in the minority. I think it is imperative that the United States produce synthetic fuels. I think it is absolutely imperative that we move far more significantly in the alternative uses of coal. I think the administration is making some headway in tar sands and in other areas, but I am hopeful that we will keep moving to where coal is converted into natural gas and, yes, eventually where we can even turn coal into liquid fuels.

I am absolutely confident that the $2 billion we are removing here from the authority of the Synthetic Fuels Corporation is not going to destroy that corporation's capacity to do what all of us who have argued here on the floor hope it will do.

On the other hand, I want to remind the Senators that whether we take this $2 billion out of that Synthetic Fuels Corporation and put it into other parts of the budget——

Mr. MELCHER. Will the Senator yield?

Mr. DOMENICI. Let me finish this and I will be pleased to yield.

There are a couple of things that the Senate ought to know about and that the record of this debate should reflect. First of all, the Corporation is dormant now because it does not have enough members of the board of directors to conduct business. So, concerning whatever anybody said here about the failure of this Corporation in terms of the impact on alternative fuels development, for the time being, and maybe for a substantial period of time, the Corporation is dead.

I do not want this to continue. I want to get the board of directors appointed. I hope the President sends them up and that will be out of the way.

Second, over the weekend, the administration issued some statements

out of the White House about what they wanted to have happen and clearly, while we may have some latitude to negotiate, clearly taking $2 billion of budget authority out of the Corporation is not what anybody in the White House has or had in mind. They have a much more dramatic proposal in mind—leaving almost nothing in the Corporation and changing its scope and guidelines. I remind everyone of that.

To think that the small savings action proposed here will harm the Corporation's objectives and do away with it, I think, means that some seriously misunderstand the predicament it is in.

Third, there have been a number of Senators who have publicly stated in their home States, here on the floor, and in various committees, that we will never get another quorum on the board of directors because they will not let any members be appointed. There are Senators who have said, "When you bring those appointments down here, we will not let you clear them."

There are other ways, of course, that that can be done. When the Senate goes out they can be appointed, and there are other ways. That is a reality.

Fourth, and perhaps yet on this bill, but not by the Senator from New Mexico, nor by the Senator from Idaho, nor by the distinguished majority leader, there may yet be another amendment that would cancel more budget authority on the basis that now is the time to eliminate all the budget authority because that will lessen the load in terms of borrowing capacity that could be used for loan guarantees and the like. There are a number of Senators who would like to do that. Again, I repeat it is not the sponsors of this amendent that want to eliminate all the budget authority.

Having said that, I hope that my good friends on both sides of the aisle who have worked long and hard and who are aware of the predicament the United States might be in if we do not enhance our capacity to develop tar sands and coal into usable fuels, and to convert other kinds of natural resources into more usable kinds of energy resources as prescribed by the charter for this Corporation, that it is the intention of the Senator from New Mexico to work as hard as he can to preserve to the maximum extent possible the Corporation and its basic energy security objectives.

I say to all we intend to do that. I do not say that in terms of changing anybody's mind in voting on this amendment, but I think the RECORD ought to reflect that that is the case so far as this Senator is concerned, and I think I speak for the chairman of the committee, Senator MCCLURE. If he were here, I am sure he would say the same thing. When he comes here before the vote, I am sure he will confirm that that is the case.

Having said that——

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

Mr. DOMENICI. I will yield for a question. In fact, if the Senator cares to speak, I will yield the floor. I want to speak for another 10 or 15 minutes, but I would be glad to yield.

Mr. MELCHER. Mr. President, I would just like to ask a question, if I may.

Mr. DOMENICI. I yield for a question.

Mr. MELCHER. I thank the Senator for yielding.

The question is: If the $2 billion is made available from the Synthetic Fuels Corporation funds for nondefense purposes, is it not true that $2 billion might be used for meeting the President's request for foreign aid, and perhaps that is the intention of some in the Congress?

Mr. DOMENICI. Is the Senator's question whether any of the $2 billion might be used for foreign aid? Is that the question?

Mr. MELCHER. All of it.

Mr. DOMENICI. All of it? I will answer the question as honestly as I can.

The Appropriations Committee of the Senate has appropriately, in my opinion, zealously guarded a very significant prerogative of theirs. That is subdividing among their subcommittees the total pool of budget authority allocated to the full committee for a year.

They will take the budget authority allocated to them for the fiscal year 1985, to which $2 billion would be added by this amendment, and they will take that pool of budget authority and they will subdivide it among their subcommittees.

I have no idea where they will put the additional $2 billion. My suspicion is, knowing their propensity over the past few years and knowing why we are doing this amendment, I would think that most of this additional money will go, along with savings in some other areas that may be realized, to education, environment, medical research, and perhaps a couple of other areas.

I cannot stand here and tell the Senator that for certain, and I do not believe the chairman of the Committee on Appropriations could if he were here.

Mr. MELCHER. I thank the Senator for giving us the best judgment he can. I am sure it is a worthwhile judgment. I think the answer is obvious that there is no way of knowing where these funds will be spent; it will be up to the majority of votes in the House and the Senate. They may go to more foreign aid. I thank the Senator very much.

Mr. DOMENICI. I thank my good friend from Montana.

Mr. President, I want to make two points with reference to the $2 billion we are speaking of. If the inflation rate that we predict for fiscal years 1985, 1986, and 1987 is off by one-tenth of 1 percent—that is, if the Consumer Price Index is off by one-tenth of 1 percent compared to what we have estimated and used to figure our deficits, the outlay impact on the cost-of-living adjustments in this budget would be $1.4 billion over fiscal years 1985–87. I would think everybody here would agree that we could be off by one-tenth of 1 percent plus or minus—or even more. So let us assume we have estimated the CPI one-tenth of 1 percent low and it goes up one-tenth of 1 percent over the 3 years. We would then spend $1.4 billion more than we have estimated. So I assume that anybody who is worried about $1.4 billion in outlays being added to this budget because it may in fact impact on the interest rates of this country had better vote "present" on this budget.

Mr. CHILES. Will the Senator yield?

Mr. DOMENICI. Mr. President, let me just finish my thought and then I shall be pleased to yield.

If those who claim that there will be no outlay savings from the Synthetic Fuels Corporation rescission are correct, and if all the additional budget authority in the amendment were fully spent over the next 3 years, we would add about $2.8 billion to the budget deficit over the fiscal 1985–87 period, compared to what we would spend if we did not have this amendment.

If my arithmetic is right, that amount is twice what I just indicated would be the COLA cost of a one-tenth of 1 percent change in the CPI. We could be off by as much as two-tenths of 1 percent. If so, that equals $2.8 billion and that is exactly the amount that we would add to the 3-year outlay total using a "worst case" scenario for this amendment. Total outlays for the 3 years under the original leadership plan are slightly over $3 trillion. If we added $2.8 billion to a budget total that is more than $3 trillion, I really do not believe anybody can make a case against this amendment on the grounds it is going to make interest rates continue to go up. If anyone wants to vote against the master plan, the so-called Rose Garden plan, because it is not enough of a deficit reduction, that would be understandable. But in terms of this small amendment, I think I have done the best I could to tell my colleagues that there is no effect at all on interest rates or anything else.

I wish to say for those who think the Synthetic Fuels Corporation from the very beginning has been a bad deal—I

have just argued that it has been a very good deal. I want to continue it. But for those who think it is an awful thing, the Synthetic Fuels Corporation——

Mr. CHILES. Has the Senator made his point so I can ask him a question?

Mr. DOMENICI. Mr. President, I want to make this last point because I have been thinking about it for a couple of hours and I do not want to forget it.

Mr. CHILES. Recent memory is the first to go.

Mr. DOMENICI. I thank my friend from Florida. Now he has made me forget it.

To my good friends who argued so dramatically that we never should have created this Synthetic Fuels Corporation, which I said I was involved in its initial development, let me suggest that today, maybe before 6 o'clock, we can all be very happy because the Synthetic Fuels Corporation is going to allow us to produce a budget for the United States. I think that means it has done a masterful feat. If it did nothing else for those who are so opposed—by permitting us to cancel $2 billion of budget authority—it is going to produce a budget. If the Rose Garden strategy were any good, it is not going to be any better for the contribution of the Synthetic Fuels Corporation. If it were not any good, it is not going to be any worse for it.

So I think the Synthetic Fuels Corporation deserves a pat on the back today from all sides. Those who were for it, it is going to be there. Those who were against it, we thank you very much for helping us. We think it is going to work here, perhaps before dinnertime tonight.

Now I am prepared to either yield or answer questions.

Mr. CHILES. Mr. President, I listened with interest to the argument my good friend from New Mexico made about if there were only one-tenth of 1 percent error, it would make up this difference. I think we finally got up to two-tenths of 1 percent error. It reminds me of the old adage that if the frog had had wings, he would not have bumped his behind.

It seems to me that these "ifs" are a little strange here. But I guess my good friend knows that the Congressional Budget Office says that this is going to add to the deficit; it is going to add, in even midrange figures, about $2.2 billion more to the deficit. So we take a plan that is too little and too late and too light to start with, and we have not been able to get it to a vote. And now it appears the only way to get it to a vote is to add some more to the deficit.

I am intrigued by these protestations about how we all love the Synfuels Corporation now. The President hits the daily double with this proposal. He gets to bust the Synfuels Corporation at the same time he gets the Rose Garden plan. I wonder if we can talks some more about the "little error." If we have a few more of these little errors we may not even have to worry about the deficit anymore.

Mr. DOMENICI. Of course, Mr. President, the Senator wanted to ask me a question. I do not know what to say about the frog.

In any event, I think I would say to the Senator with reference to this amendment, I clearly told the Senate that it might spend out at $2.8 billion over 3 years under a worst case scenario. That is slightly higher than CBO says using their standard estimation procedures. They say $2.2 billion, but I used $2.8 billion. Quite frankly, I think CBO says their estimate could be too high or too low depending on how the details are worked out. If that money is used in some slow spendout programs, outlays will be less; if used in fast spendout, outlays might be more.

Mr. CHILES. Would the Senator tell the Senate whether the $150 billion deficit reduction would be better than a $90 billion deficit reduction?

Mr. DOMENICI. Not at all.

Mr. CHILES. Or is that still in the range of the error of the 1.10 percent?

Mr. DOMENICI. No; not at all. As a matter of fact, all I am trying to say to those who think the leadership package is something they want to vote for is that the reduced savings in the pending amendment are insignificant. On the other hand, those who think the leadership plan is insufficient should continue to press for their point of view.

However, I do not think they can prevail, and I really believe we ought to do something. The leadership plan is not a de minimis plan—whether you think it saves $89 billion or $144 billion, depending upon which baseline you use. So I think we ought to adopt the leadership plan, and I do not think this $2 billion change in budget authority ought to be used as a justification for not doing it. I guess that is the best way to say it. I thank the Senator.

Mr. CHILES. I listened to that answer. I think the answer was "Yes,", but it confused me and I could not remember at the end exactly what it was.

Mr. President, we have been at this now for some 4 weeks. Some Senators did not want to vote earlier because they did not think the deficit reduction was enough. Suddenly it seems as though we are now ready to rush to a vote because the deficit is going to be larger when we approve this amendment.

If we pass the plan, I think we are taking a terrific gamble. I think we are rolling the White House dice and we are betting that they are not going to come up snake eyes. But, if the gamble fails, the economy might well find itself snake bit before the election.

The question I asked the Senator from New Mexico is one I still ponder. Would a $150 billion deficit reduction not be better than $90 billion? For the life of me, I cannot understand how less becomes better than more. But then I could not exactly understand, when we enacted the tax cuts back in 1981, how more tax cuts would help balance the budget. But we were told with more tax cuts, the economy would improve faster, so we voted more. And what do we have today but high and climbing interest rates, and huge and growing deficits.

We are down to a deficit plan that was the smallest option to begin with. Although it started off being the smallest option, we are going to make it even smaller, and then I guess we are going to pass it. When I look at this Rose Garden plan, I am reminded a little of the 51st Psalm which said, "Thou desirest truth in the inward parts," but I am afraid what we are looking at is a fiction. The White House claims about twice as much deficit reduction because of the way they calculate their numbers. CBO says we are looking at a deficit reduction plan of $89 billion. The White House likes to talk about $150 billion.

After our discussion last night, Mr. President, I asked CBO if they would review the budgetary effects of this great saving that we are supposed to be making by taking money out of the Synfuels Corporation.

The CBO estimates the proposed rescission of $2 billion in Synfuels would have no effect in outlays projected for the 1985–87 period. So we take nothing off the bottom line, says the Congressional Budget Office, by transferring this $2 billion, but we take a whack at Synfuels. That has been something the administration and other people have been wanting to do. Synfuel is not very popular anymore; we have plenty of oil now. Who needs to worry about another crisis until the crisis comes? We seem to be a Government run by crisis.

But if you buy the fiction that says we are going to save some money, by taking it out of Synfuels, you find that fiction does not work; it does not save anything.

We asked the Congressional Budget Office if they would tell us what effect the increase to the nondefense domestic area proposed by this amendment would have on the deficit. They tell us, assuming the additional $2.21 billion would fund increases to nondefense programs in proportion to the amounts in the CBO's baseline, outlays would increase by $1 billion in 1985, $0.6 billion in 1986, and $0.2 billion in 1987.

The proposed rescission of $2 billion would have no effect on outlays in fiscal years 1985-87, so that the net effect of the amendment would be to increase the deficit by $1 billion, $0.6 billion, and $0.2 billion in 1985, 1986, and 1987, respectively, exclusive of the effects on interest on the public debt.

We would increase the deficit $1.8 billion. The interest cost would be approximately $0.4 billion, so CBO is saying we are talking about a $2.2 billion deficit increase.

So, looking at those figures, we now see that the modified Rose Garden plan will give us deficits of $189.9 billion in 1984, $181.8 billion in 1985, $186.3 billion in 1986, and $203.9 billion in 1987.

Mr. President, I ask unanimous consent that the new CBO letters be printed in the RECORD.

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

CONGRESSIONAL BUDGET OFFICE,
U.S. CONGRESS,
Washington, D.C., May 16, 1984.

Hon. LAWTON CHILES,
Ranking Minority Member, Senate Committee on the Budget, Washington, D.C.

DEAR SENATOR: At your request, the Congressional Budget Office has reviewed the budgetary effects of part of an amendment to H.R. 2163, a bill to amend the Federal Boat Safety Act of 1971, which would rescind $2.0 billion of budget authority for the "Energy Security Reserve". The CBO estimates that the proposed rescission of $2 billion would have no effect on outlays projected for 1985-1987 in CBO's baseline.

Over a longer period of time, however, the proposed rescission of this budget authority from the Energy Security Reserve would reduce outlays by $2 billion exclusive of the effects on interest on the public debt. This assumes that, as under current practice, these funds ultimately would be made available in the form of price guarantees.

Sincerely,

JAMES BLUM
(For Rudolph G. Penner, Director).

CONGRESSIONAL BUDGET OFFICE,
U.S. CONGRESS,
Washington, D.C., May 16, 1984.

Hon. LAWTON CHILES,
Ranking Minority Member, Senate Committee on the Budget, Washington, D.C.

DEAR SENATOR: At your request, the Congressional Budget Office has prepared the following illustrative calculation of the budgetary effects of amendment 3063 to H.R. 2163, a bill to amend the Federal Boat Safety Act of 1971. The amendment, which would rescind $2.0 billion of budget authority for the "Energy Security Reserve" and would add a total of $2.21 billion of budget authority for other nondefense discretionary activities in fiscal years 1985-1987, does not identify the budget accounts and amounts that comprise the proposed increases.

Assuming that the additional $2.21 billion would fund increases to nondefense programs in proportion to the amounts in CBO's baseline, outlays would increase by $1 billion in 1985, $0.6 billion in 1986 and $0.2 billion in 1987. The proposed rescission of $2 billion would have no effect on outlays in FY 1985-1987 so that the net effect of the amendment would be to increase the deficit by $1 billion, $0.6 billion, and $0.2 billion in 1985, 1986 and 1987 respectively, exclusive of effects on interest on the public debt.

These calculations, however, should be regarded as illustrative because CBO cannot speculate about the content of future appropriations acts in the absence of specific information about the disposition of the proposed increases. In fact, the Committee on Appropriations could allocate the additional $2.21 billion in widely disparate ways. If the Committee on Appropriations assigned the funds to accounts for which they typical flow of outlays from annual appropriations is faster than the average used by CBO in the illustrative calculation, cumulative outlays from the amendment could equal $2.21 billion by 1987 and the amounts in 1985 and 1986 could exceed those of the illustrative calculation. On the other hand, if the Appropriations Committee were to assign the additional funds to accounts with the slowest rate of expenditures from new budget authority, the total increase in outlays for 1985-1987 resulting from the amendment could be small.

In any event, over a longer period of time, the net effect of the amendment would be to increase the budget deficit cumulatively by $210 million exclusive of the effects on interest on the public debt. The proposed increase to budget authority for nondefense discretionary programs eventually would result in outlays of $2.21 billion assuming that all of the funds are used. This increase, however, would be offset by reductions of $2.0 billion in outlays from the proposed rescission of budget authority for the Energy Security Reserve. This assumes that, as under current practice, these funds ultimately would be made available in the form of price guarantees.

Table 1 shows the effects of incorporating the illustrative budgetary calculation for this amendment, with corresponding increases of $0.4 billion in interest on the public debt, into the first budget resolution for 1985 as reported by the Senate Budget Committee. The table shows the effects on the deficits in both CBO's baseline and the baseline used by the Senate Budget Committee.

Sincerely,

JAMES BLUM
(For Rudolph G. Penner, Director).

Enclosure.

TABLE 1.—SUMMARY OF CHANGES FROM BASELINE IN FIRST BUDGET RESOLUTION AS REPORTED BY THE SENATE BUDGET COMMITTEE, AS ADJUSTED FOR AMENDMENT 3063 TO H.R. 2163

[By fiscal year, in billions of dollars]

	1984	1985	1986	1987	1984-87
Revenues:					
Baseline	663.0	733.0	794.9	863.5	
Proposed increases	+2.4	+10.7	+16.1	+19.1	+48.3
Reported resolution	665.4	743.7	811.0	882.6	
Outlays:					
Baseline [1]	855.7	939.7	1,029.9	1,132.5	
National defense		−6.0	−16.0	−18.2	−40.2
Entitlements and other mandatory programs	−0.1	−4.6	−5.6	−9.2	−19.4
Nondefense discretionary programs	−0.1	−2.1	−5.0	−6.9	−14.1
Net interest	−0.1	−1.5	−5.2	−10.6	−17.4
Offsetting receipts		(*)	−1.0	−1.1	−2.1
Total outlay savings	−0.3	−14.2	−32.8	−46.0	−93.2
Reported resolution as adjusted	855.3	925.5	997.3	1,086.5	
Deficit:					
Baseline [1]	192.7	206.7	235.0	269.0	
Proposed changes	−2.7	−24.8	−48.9	−65.1	−141.5
(Proposed changes assuming CBO baseline for defense)	(+0.6)	(−15.4)	(−30.8)	(−41.3)	(−86.9)
Reported resolution as adjusted	189.9	181.8	186.3	203.9	

[1] Assumes CBO baseline for nondefense and President's budget request (not re-estimated by CBO) for defense, plus interest adjustment to take account of the defense change. This baseline is consistent with the baseline used by the House Budget Committee in its markup of the First Budget Resolution which was subsequently adopted by the full House of Representatives.

[2] Less than $50 million.

Note: Details may not add to totals due to rounding.

DEFICITS

[By fiscal year, in billions of dollars]

	1984	1985	1986	1987
Chiles plan	186.4	173.8	170.7	169.0
Rose Garden plan (original)	189.9	180.7	185.6	203.5
Modified Rose Garden plan (extra domestic spending)	189.9	181.8	186.3	203.9

DEFICIT REDUCTIONS FROM CBO BASELINE

[By fiscal year, in billions of dollars]

	1984	1985	1986	1987	4-year total
Chiles plan	−2.9	−23.5	−46.1	−76.2	−148.7
Rose Garden plan (original)	+0.6	−16.5	−31.5	−41.7	−89.1
Modified Rose Garden plan (extra domestic spending)	+0.6	−15.4	−30.8	−41. 3	−86.9

Mr. CHILES. Mr. President, we are getting less deficit reduction than we started with in this plan which, as I said, is the smallest deficit reduction proposal we have been called to vote upon. We are going to get less. And the trend line—this is what has always disturbed me more than anything else—if this deficit reduction goes from $189 billion up to $204 billion. Is that the kind of signal that we want to send to the markets? Is that the kind of signal that we want to send to the financial people? We are so concerned about this deficit that we are going to make this downpayment and we are going to show how serious we are. We are so serious that we are going from $189 billion to $204 billion in just 3 short years.

So the Rose Garden plan is light on revenues and yet CBO tells us that if no changes are made, the 1989 deficit would be $326 billion and more than two-thirds of that amount would be traceable to the 1981 tax cuts. The prime rate has risen by 1.5 points since March. That is a pretty short time to see the prime rate go up that much. That has been since the Rose Garden plan was disclosed. The market has already been voting on that plan. In the last 18 months, the interest rate on 90-day T bills has gone from 7.35 percent to 10.04 percent, and since November of 1982 the rate on 30-year T bonds has gone from 10.53 percent to 13.11 percent.

U.S. News & World Report tells us that in the middle of next year, our Nation will have the distinction of becoming a debtor nation—a debtor nation. What that means is that we will owe the rest of the nations of the world more than they owe us. So we will get to join all the countries to which we have been lending money, about whose loans we are concerned. We are going to get to join them. So the United States, with its might, with its tremendous gross national product, with all the industrial and technological strength we have, will enter the list of those nations which owe more than they take in.

The trade deficit is going to be $100 billion this year. The Department of Commerce, an instrument of the administration, tells us that for every billion dollar increase in the trade deficit, we lose 25,000 American jobs. They are either lost or are not created. So we are literally exporting jobs rather than goods with this $100 billion trade deficit.

The failure to address deficits will drive interest rates higher. The deficits will force the dollar higher, and that means the trade deficits are going to be higher, and that means that we are going to lose more jobs. All these problems come back to the size of our deficits.

One economist for Shearson-American Express, Eric Heinman, said to USA Today, on April 19, that the Rose Garden plan is chickenfeed. James Soloway, the chief economist at Argus Research in New York, told the Wall Street Journal yesterday that the stock market is feeling the hot breath of the growing interest rate monster on its neck. Mr. President, I found that to be a very interesting quotation, because the interest rate monster breathing on the stock market's neck is the monster that may bring us back here before November.

It seems to me that peace has been made on the other side of the aisle. Probably the Rose Garden plan as modified is going to pass, and it may get us by through the election. It may, but I am not sure. We may be right back here before the election, and I think we would be better off if we were. I think it would be better if we did more before we left here. But if we do not, I think we would be better off to come back either before or after the election, because it might give us a chance to save the economy.

We are beginning to see a credit crunch. Consumer spending is up 17 percent at an annual rate. Business is borrowing to try to take care of the expansion we have been in. But the Federal Government, because of these high deficits, is borrowing over 75 percent of net private savings—over 75 percent of private savings being eaten up to fuel the borrowing for the Federal deficit. Certainly, it is going to drive up interest rates, and we are seeing that right now.

The plan of the Senator from Florida included additional revenue—$32 billion in additional revenue. Most of that money would have resulted from delaying indexing for 2 years.

We have been told that indexing is better than sliced bread, and maybe that is true. But I wonder what great things we are doing to people when we give them indexing and they have not had it before this year. We are giving a husband and wife some dollars by indexing, and we are putting the debt off on their children, because the children will have to pay for it. Every nickel of additional tax cut we make—and indexing is that—adds to the deficit. Every nickel is written with red ink.

I have been around my State a little, and I do not find many people in Florida who want those red ink dollars. They say: "Thanks very much, but don't do me that favor. Don't borrow money to give me a tax cut. I would rather you cut your spending some. I would rather you cut the deficit some. I would rather you take a little of this burden off my children and my grandchildren."

But, no, we are not going to delay indexing in an attempt to reduce this deficit. That would be the wrong thing to do.

The debate began last year, as it began a year ago, with a Presidential call for bipartisanship. I was waiting to be called into that last year, and I am waiting again this year. A lot of meetings are going on down the hall. CHILES is never called. I do not know whether anybody on this side ever has been called, but CHILES has not been called yet.

We have had this plan and that plan, and now we are going to have a plan that looks like it will be passed by a majority on the other side.

I think we have tried to join. I think we have tried to assist. I think we have tried to say that we want to help to make this plan a little better. But so far, it has been: "No thanks. We don't need your help. If you want to help, get on our plan. That's our idea of bipartisanship. Accept what we did in the rose garden. Accept what we did in the majority leader's office. But we don't need any help outside of that. We don't need any of your ideas or any of your help."

I guess we can hope that this plan will be enough, that it will do enough.

Frankly, I do not understand why we are being asked to choose between what is best for the President and what is best for the economy. In fact, nobody at the White House has asked for my advice, but I will give it anyway: I think that what is best for the President would be what is best for the economy. I think that what is best for the economy would be best for every Member of the Senate. What is best for the economy would be best for every Member of the House who is going to run for election. This is an election year, and rather than failing to do what we should do, that is a reason why we should try to do what is best for the economy, and I think that would be the best politics.

It may be we will still come back before November and try to do what is best for the economy. It seems that there are forces at work that are more determined to produce a political victory than a solution here, but I guess that is something we will have to see.

We have seen interest rates go up 1.5 percent. That means $101 a month, or $1,200 a year on an $80,000 house.

Mr. President, I do not know about the States of other Members, but we have reached the point in Florida where we are about to break off housing.

I met with the savings and loan people from Florida who are up here today. They told me that where we are now, at about 14 percent, they cannot be sure whether new starts will continue.

I asked them: "What would another percent mean?"

They said: "We don't know whether a quarter of a percent would break it off. We know that 1 percent more and we would be out of business."

If we stop housing in Florida, we stop the ceremony of our State. We are a growth State. Our jobs are generated by housing. There are jobs generated from all the supplies and everything else that goes into it. We are very close to that stopping point right now.

That pretty well frames the question I think Senators should ask themselves when we start voting on this plan. Is this going to help reduce interest rates or even stabilize them, or are those figures rising from $189 billion to $204 billion going to insure that interest rates will keep going exactly that same way?

Mr. President, I ask for the yeas and nays on the pending amendment to the Baker amendment.

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

The yeas and nays were ordered.

Mr. MELCHER. Mr. President, this additional $2 billion in budget authority for the nondefense domestic accounts, of course, raises the first point and that is what is the $2 billion going to be used for?

A few moments ago I asked the Senator from New Mexico to yield to me for a question and the question was, might it be used for foreign aid? The Senator today explained that that would depend upon the will of the Appropriations Committee and the will of both the House of Representatives and the Senate.

The root of my question was in the statement of the Senator from New Mexico yesterday, referring to the RECORD, where he said:

. . . obviously with the Central American votes that have occurred in the House and those that will occur here, it would be difficult to meet the full requirements of the administration for the function 150 account, foreign assistance, both civilian and military.

He goes on to say:

I have conferred with the chairman of the Appropriations Committee and he agrees that unless additional money is available, it might be difficult to meet the Presidential requests with reference to foreign assistance . . .

Mr. President, I think the Senator from New Mexico just a few moments ago gave a very honest and explicit answer, that future events will determine how the $2 billion gained from transferring Synfuels Corporation funds to spending may be made available under the Budget Act and the appropriations to follow that. There are no guarantees in this amendment.

But, Mr. President, this particular amendment is only tapping the synfuels fund and if it does not meet all the needs for foreign assistance or housing or education or for veterans, perhaps another amendment should be considered to tap some other fund that is available, maybe one of the trust funds. We have a very stringent need in medicare, for instance. That fund is under strain now and we should be making some corrections for it. So perhaps we will want to tap some other fund for a couple billion to relieve particular strain there.

That is not, however, the question of this long debate over this bill. The question and the debate on this bill and the test for the Senate is how much are we going to reduce Federal spending? That is the test. The deficits that are facing us for this fiscal year and the coming 3 or 4 fiscal years are staggering. So the long debate has really been an attempt to arrive at an adequate cut in Federal spending.

It is true that the debate has not centered on the current fiscal year. It is centered on fiscal 1985, 1986, and 1987.

What the Senate has been wrestling with itself about is can we not cut it more than the so-called Rose Garden budget figure?

We have not got enough votes to cut it more apparently. We have the votes on our side, that is the Democratic side and we get a few votes from the Republican side for several different formulas to cut it more than what was carried or is projected in spending over the next 3 fiscal years by the Rose Garden agreement. But, we have not quite got enough, a 49-to-49 vote and then a 48-to-46 vote. Proposals to cut the budget failed, very narrowly failed, once by a tie and once by two votes.

What we would like to do is to have a proposal before us that would reduce the spending level.

As the Senator from Florida has just stated on this floor, what is staggering us right now, and the very catastrophic threat that engulfs us right now, is the rising rates of interest.

Indeed they are going up. In my view, they are going up, simply because Federal Treasury borrowing is too much and putting pressure on the money market, and rates must rise.

The Federal Reserve Board has been charged with tightening up the money supply, and I feel that has been damaging also.

But we have to view what the Federal Reserve Board has done in tightening the money supply has been an effort on their part to avoid inflation later on.

But no matter who you want to blame, whether you want to blame the Federal Treasury for pressure on available money supplies as causing the interest rates to rise, or you want to blame the Federal Reserve Board for tightening up the money supply in order to avoid inflation, in both instances what that tells us is that we should reduce Federal spending.

This amendment does not do that. This amendment increases Federal spending by $2 billion in fiscal 1985. It makes no difference where the money comes from. It is an increase in spending and it is contrary to our goal here on this side of the aisle of reducing the Federal spending more than what is contained in the Rose Garden agreement so that we can be more certain that we have done our part in reducing the pressure of Federal borrowing in the marketplace and thereby hopefully keep interest rates from rising.

There is not much of a case here for this amendment. While it may be necessary to compromise to gain sufficient votes on the Republican side of this Senate in order to pass what the majority leader has described as absolutely essential, that is the Rose Garden agreement, it will not do anything to reduce the pressure on the money markets in terms of Federal borrowing.

It will, to the contrary to that, increase the deficit, and I think if it passes it would be a disaster and we would have wasted 4 weeks fighting on this floor for a more sane and sound approach to our economic situation.

I hope it does not gain the necessary votes. I hope that we can vote on the resolution of this problem by reducing the deficit, reducing the Federal expenditures more than is carried in the so-called Rose Garden agreement.

Mr. President, I see no one seeking the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

The PRESIDING OFFICER. The Senator from Arkansas.

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

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

Mr. BUMPERS. Mr. President, I have not spoken specifically to address any of these plans except the Hollings amendment and the Kassebaum-Grassley-Biden amendment. I was a chief cosponsor of Senator HOLLINGS'

proposal, and cosponsored the Kassebaum amendment as well and I spoke twice for a few minutes when each of them was the pending business. I will not belabor what we are doing here very long. But I would feel remiss if I did not at least relieve myself of some of my concerns about what we are doing here. This is either the fourth or the fifth week that we have been on the deficit reduction plan, the boat safety bill, of which the deficit reduction plan is a part.

It seems to me that we are going through one of the most bizarre periods in the economic history of this country. Even the conventional wisdom has become so convoluted that nobody knows what to believe. I can tell you that the American people are feeling two things: they are frightened and they are confused.

No. 1, they cannot understand why it takes the U.S. Senate 4 or 5 weeks or more to decide whether or not they want to reduce the deficits; and if they do believe that it is a good idea to reduce the deficits, why on earth is it taking 4 to 5 weeks to make the decision. I will come back to another thing that I think is even more confusing to them; that is, that we have taken a series of amendments that have been offered from the most draconian to the one which is the weakest in dealing with the deficits, and we have just almost routinely dispatched those amendments which would actually do something about reducing deficits. And we come down to this moment, today, in the history of the Senate considering an amendment which will do the least, which does not even cut the deficit except for the first year, and then allows the deficits to continue upward. We are anticipating a $182 to $183 billion deficit this year, fiscal 1984, which ends September 30.

If we now adopt the plan that we have before us, in 1987 the deficit will be $204 billion, or $20 billion more than it is this year, and we have the unmitigated gall and nerve to say to the American people this is a downpayment on the deficit. If that is not convoluted logic, I have never heard it.

I have done one thing for my children which I hope will sustain them, if nothing else does; and that is, always challenge the conventional wisdom. I have said to them, "Think for yourself." If you do not learn to do anything else, challenge what you hear and think for yourself. Never accept the conventional wisdom. And I expect them to do just that.

Every morning in coffee shops in cities and towns across the country somebody says something that really on hindsight is palpable nonsense and everybody says, "Aint' it the truth." They then go back to their respective offices and businesses repeating the conventional wisdom for the day, which is erroneous, specious, spurious, and nonsense to begin with.

So that is the reason I say it seems to me we are living in such a bizarre era in the United States, to pretend that we are doing something about an impending economic calamity when all we are doing is waiting for it to happen.

It is almost as though we are saying the Sun is going to rise in the west and the Earth is flat.

Last week I saw in the New York Times and the Wall Street Journal double-page ads—I forget who the authors were—and it seemed to me like there was a pretty good wide spectrum of people who signed the ads, conservatives, liberals, Democrats, Republicans, everybody. The fear in this country crosses party lines. Do not think for a minute it does not. What they were saying is that unless the President and the Congress got together to do something serious and meaningful about the deficits, we face "an economic calamity."

That is stout language. That is stout language indeed.

In my opinion, Wall Street is as jittery as it has been since 1982.

I have been saying on the floor of the Senate, one of these days the Treasury is going to hold a bond auction and nobody is going to show up. I am not at all sure that this has not already happend. Last week the Treasury put up about $4.7 billion worth of 30-year bonds and they just barely got them sold, and they got them sold at 2 points above what they had been sold for before.

I will tell you what I think. This is a suspicion on my part that I cannot validate or verify, but I will tell you what I think. I think that in all probability some of these bonds are in such poor repute with the bond dealers of this country that the Federal Reserve Bank is buying them when they are offered. The other thing I think happens is that a lot of bond dealers in this country are eating those bonds right now.

You cannot get very many people to invest their money for longer than 90 days right now because they see nothing but spiraling interest rates. You ask almost any economist anywhere up or down the spectrum of this country, who do you respect most in predicting interest rates, and the answer will come back, Henry Kaufman of Salamon Bros., in New York.

That is a fact. Henry Kaufman is the most respected man in the country in predicting interest rates, and last week he said that if Congress and the President do not get together and do something soon you will see "startling increases" in the interest rate.

Do you know what has happened to the home mortgage business in the last 6 weeks? I will tell you. Conventional loans are at 14 percent, or 13.5 percent, if you want to pay 12 points. What does that mean? It means that if you are going to buy a $100,000 home, you are going to have to pay 13.5 percent interest on a 30-year loan if you want a fixed rate and you are going to have to pay 12 points or $12,000 on the front end, interest. What has been the result of that? You are going to see at the end of May the new housing starts statistics come out, and at the end of June, and you are going to see what everybody knows is going to happen—that the housing business is going to come to an end just because of the point-and-a-half increase in interest rates in the past 6 weeks.

I had a timberman in my office from my home State the other day. He is in the business of cutting trees and sawing timber into lumber. He told me that the price of 2 by 4's, which is the staple wood product that goes into a home, has dropped $35 in the last 6 weeks. Do you think they do not know what is happening in the timber industry? There is no demand for 2 by 4's because the housing industry is already coming to a screaming halt.

And it is so unnecessary.

Mr. President, we have had four plans here, and I ask anybody in the name of commonsense and good judgment how we have arrived at the point where we are right now.

About 4 weeks ago Senator HOLLINGS, Senator EXON, Senator ANDREWS, and I stood on the floor and pleaded with people to vote for the Hollings amendment. The Hollings amendment would have cut the deficit by 1989 to somewhere between $6 billion and $20 billion. But just so we use the same figures, in 1987 the Hollings amendment would have cut the deficit to $104 billion, almost half what it is going to be this year. We got 38 votes. 38 votes. Some said, "You cannot freeze all that spending." Others said, "Hollings does not give enough for defense. He is cutting defense back to 4 percent. The President says we can't cut it to under 7."

So we got 38 votes for what I still think was easily the best budget-cutting proposition to be submitted to this body.

The next day or so we considered a bipartisan plan, the KGBB plan, Senators KASSEBAUM, GRASSLEY, BIDEN, AND BAUCUS. You cannot find better bipartisan support than those four Senators. There was nothing partisan about that. But they went too far on defense, too. They said, "Freeze everything, including defense."

And if their amendment had been adopted, in 1987 the budget deficit would have been $162 billion. I voted for it because it was the next most drastic measure we were going to get an opportunity to consider, and I believe it got about 30 votes, 8 less than the Hollings amendment.

So then the distinguished Senator from Florida (Mr. CHILES) comes with the Chiles plan, or sometimes called the Democratic alternative. The Chiles plan would have reduced the deficit to $169 billion in 1987. Astoundingly enough, it was defeated on a tie vote of 49 to 49.

Let me digress at this moment and say I was hoping that instead of going through that routine motion to reconsider and tabling that motion to reconsider, somebody would come with some slight variation of the Chiles plan in the hope that we could pick up a couple more votes. We might have prevailed at the time if two of our Members had been here. But we did not.

Then, of course, Senator CHAFEE, Senator STAFFORD, Senator WEICKER and some Members on that side of the aisle offered another amendment, and I voted for that. It was not much but it was all there was left.

Now we are down to the so-called Baker amendment with this second degree Baker amendment pending, and I am not going to vote for it. The reason I am not going to vote for it is that it is one amendment that does not cut deficits; it simply slows the growth of deficits. We have 33 Senators running for reelection this fall and if the economy continues to be reasonably vibrant this fall, these deficits are not going to be a big item in their campaigns. But I can tell you, Mr. President, that if interest rates continue to climb as I anticipate they will, these deficits are going to be a major campaign issue and everybody who has not done his very best to do something about it is going to have to account to his constituents.

If there ever was a nonpartisan issue before the U.S. Senate, it is how we are going to avoid the impending economic calamity caused by these deficits. It is not a question of whether it is going to happen or not, it is now a question of when and whether or not this body has the collective will to keep it from happening. This body certainly has not demonstrated such will so far.

So, Mr. President, let me close where I began: We are looking at a $182 billion deficit this year and the Baker amendment is called a downpayment on the deficit. Yet, in 1987, the deficit will be $204 billion under the Baker amendment—$20 billion more than it is this year. Where is the downpayment? I invite anybody to tell me how we explain to the people of this country that we are serious about deficit reductions and have the nerve to tell our constituents we voted for a downpayment on the deficit, yet the deficit is going to be larger in 1987 than it is right now.

That is the kind of conventional wisdom that I have consistently invited my children to continue challenging. That is not conventional wisdom, that is palpable nonsense.

So, Mr. President, I guess this Baker amendment is going to pass, but I am not going to go home and tell my constituents that I voted for something to reduce the deficit that does not reduce the deficit.

There are those who say, well, we really need to deal with this next year. Next year—after the elections. All I can do is hope and pray that we have any kind of opportunity—after the elections—to do something meaningful.

So, Mr. President, I do not see any reason to postpone this bill. I do not want to open old wounds, but I heard the Senator from Kansas (Mr. DOLE) yesterday morning on the Today Show saying that he guessed the Democratic leadership on this side was going to drag this out so we would not have a deficit reduction package this year. Incidentally, I guess in all fairness, I thought I heard him almost apologize for that on the floor yesterday. I could not tell for sure. But I want to repeat what I just said: If there ever was an issue before this body that is not a partisan issue, this is it.

Mr. President, I yield the floor.

Mr. WEICKER addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. WEICKER. Mr. President, I rise at this time as a cosponsor of this amendment which in addition to increasing funds for our Nation's education programs, adds $650 million for biomedical research.

The Labor, Health and Human Services Appropriations Subcommittee has just completed 4 days of hearings in which nearly 100 public witnesses, including members of the scientific community and some of the patients that they serve expressed their concern that the budgetary constraints of the past several years would significantly slow recent advances.

These witnesses were unanimous in requesting that a minimum of $650 million be added to the current appropriation. This amount would add a mere 5 percent to the current services level, thus allowing a modest growth in the research and training programs—stabilizing our research efforts and sending a message that Congress will continue its long-time commitment. Not suprisingly, this also equates to the amount which NIH itself requested of the administration for fiscal year 1985.

Mr. President, there are many good reasons why the Federal Government as a whole must start spending less. I myself have enumerated them many times. During the debate thus far, this body has detailed the dangers of big deficits and talked at length about sending the right kind of signal to the financial markets.

But while Government as a whole needs to spend less, this should not be accomplished in some simplistic, across-the-board fashion. We tried that tack in the Omnibus reconciliation Act of 1981 and subsequent budget resolutions. The fallout from our actions is already being felt. A blank check for defense plus pennies for nondefense programs is not a fair or cost-effective formula for Federal spending.

What we do here this week will send a signal, not just to Wall Street, but to individuals and institutions in every field of endeavor. The amendment I offer today would have the effect of assuring the research scientists and physicians whose work is funded at least in party by the National Institutes of Health or ADAMHA that Congress is committed to putting the money where the good medicine is. It will tell them that we want answers to the questions they have dedicated their lives and careers to answering. Because as long as those mysteries remain unsolved, millions of Americans will continue to die and become disabled from diseases we do not know enough about to treat or prevent.

This is not, however, the message the Federal Government has been sending the scientific community in recent years. Federal support for health research and development as a percentage of total U.S. health spending dropped from 2.8 percent to 1.5 percent from 1965 to 1983. Between 1973 and 1983, a decade during which health care costs escalated by as much as 20 percent each year, the budget for the National Institutes of Health increased by just 5 percent in constant dollars terms. Whereas once about 50 percent of all the research proposals rated good to excellent by NIH peer review committees was funded, now the cutoff is down to about 30 percent. And the average research scientist's career spans 7 years, where once it was 14 years or more.

I say to my colleagues who are constantly reminding us of the Soviet threat that we are, in fact, losing the arms race against the major killers and disablers of our time. Ask yourselves this: how many Americans were killed by the Red Army in 1983? So far as I know, none were. Now, ask yourselves how many died from heart disease, cancer, diabetes and the rest? I'm sure that none of us are in doubt that the death toll was high. I believe in a strong defense, Mr. President, but let us not focus on some enemies to the exclusion of others. Where these deadly diseases are concerned, we are fighting with one arm tied behind our backs. We lack the necessary intelligence on their methods of waging war. We lack the necessary arsenal of weapons with which to defend against

them. And we do not have the personnel to man the front.

For fiscal year 1985, the Reagan administration has proposed an increase of 2 percent for NIH, a figure which is simply not enough any way you look at it. It is not enough to do the job. It is not enough to make the most of the explosion in sicientific discovery in the field of human biology. Nor is it enough when you consider that the same budget calls for R&D. increases of 18 percent for NASA, 16 percent for the Department of Energy, and 15 percent for the Department of Defense. In fiscal 1984, the Department of Defense spent just over $26 billion on research and development, with greater than half that amount allocated to weapons R&D. Three weapons systems—the MX, the ICBM, and the Trident II submarine—accounted for $4.5 billion, an amount equal to the budget request for NIH this year.

Likewise, the administration has weighed in with a budget request for its so-called Star Wars defense that would amount to billions. But space is not the only frontier. And Star Wars technology already exists in the form of lasers which can be used to remove cataracts in roughly 2 minutes during an office visit. That technology is already saving the Federal Government $500,000 every year.

Mr. President, it is a documented fact that for every dollar we spend on research, we save $13 in health care costs. This amendment, then, represents perhaps the last chance Senators will have to tackle entitlement spending during this budget debate. Investing an additional $650 million in biomedical research today is sure to yield billions in medicare and medicaid savings in the years ahead. With health care consuming 10 percent of our gross national product, a token increase in research funds is an economy we cannot afford.

Mr. President, every year we as a nation spend about $2 billion on renal dialysis. And while it prolongs life, it is a technological fix, not a remedy. Custodial care for all cases of senile dementia will soon cost more than $40 billion a year. That figure does not begin to factor in the loss of productive years those individuals would otherwise enjoy.

Alzheimer's disease is one of the main reasons why there are more patients in nursing homes in America today than in general hospitals. What do we know about it? Not nearly enough. Progress is being made but I wonder how many of my colleagues realize the extent of our ignorance of this disease. Do you know that a diagnosis—never mind treatment—a diagnosis of Alzheimer's is made only by excluding all other illnesses with similar symptoms? And how does medical science in the year 1984 confirm this diagnosis? Only by means of a post mortem examination of the patient's brain at autopsy. Last year, Congress earmarked $31 million for expanded Alzheimer's research. But if that sounds like a lot to you, keep in mind that at the same time the Federal Government, private insurers, and the families of Alzheimer's victims were collectively spending billions on medical and custodial care.

Scientists tell us we stand on the threshold of remarkable discoveries regarding the brain and its function. Yet, if we are to continue making breakthroughs we must also continue to prime the pump of biomedical research with Federal funds. We did not increase the life expectancy for cancer victims by sitting around wringing our hands about Government spending—Congress, in conjunction with the executive branch, directed NIH to go to it and gave it the funds it needed to work with. It is not any accident that 148,000 fewer people died from coronary heart disease in 1982 than was once expected. It is a direct result of biomedical research begun years ago, with funds appropriated by this Congress years ago.

Priming the pump is perhaps a principle we understand less and less well in the modern age. After all, we are used to turning on the tap and letting the water company do the rest. But unless we keep the pump primed, the day will come—5 to 10 to 20 years from now—when we will turn on that tap and the last few drops will come sputtering out. Tomorrow's discoveries will not come without investments in manpower and basic research today.

I could cite for my colleagues many examples illustrating the need for these additional funds. However, let me simply recount for you the testimony of 2 of the nearly 100 public witnesses appearing before the Subcommittee on Labor-HHS on the subject of NIH funding. One, Mr. President, was Conjie DeVito, a boy not more than 12, who suffers from a rare form of brittle bone disease. During the course of his young life, Conjie has suffered more than 90 broken bones. Yet, he has not given up hope of a normal life. When given the opportunity to speak, he simply said, "I need more research because one day I am going to be President."

The other witness was our beloved friend and former colleague, Jack Javits. During his years of public service, Jack Javits dedicated himself to fighting for the interests of those in circumstances similar to Conjie DeVito's. Today, himself disabled by a degenerative illness, Jack Javits is still fighting—this time on two fronts. Daily he wages his private battle against ALS. But, he also continues to crusade for Conjie DeVito—so Conjie will not lose hope that he, too, can be President.

These are two separate stories, yet, this is what this amendment is all about. I urge your support.

Mr. President, I should like to address myself further if I may, to matters contained in the amendment before us, specifically to explain that aspect of the amendment which relates to the increased funding, which, in turn, could translate into additional dollars for both education and health, my emphasis being on the health side of it.

It is true that I was one of the original sponsors of the Chafee-Weicker amendment. In that amendment, we sought, No. 1, to redirect priorities in the sense of reducing defense spending and upping the funding for health and education—not in the same dollars, or not in the same amount—so that, indeed, what would be effected would be a reduction in the deficit. We would accomplish both a reduction in defense spending, a less than equivalent amount of money then going back into health and education, with the total dollars being less and, therefore, a reduction in the deficit.

The amendment also called for one cap in order that defense would not be isolated in the course of the Appropriations Committee's determination. That is what we lost by one vote.

We went back to the drawing boards and talked to the leadership on this side. That, in essence, resulted in what we have before us, with two notable changes. First, we are back to a two-cap situation; and, second, defense dollars were not reduced.

Am I disappointed in the fact that we still have two caps? The answer is yes, nothing was accomplished on that score. However, on the matter of defense dollars, as a practical matter, I would expect that the conference procedure and the position of the House will have some impact on the Senate numbers.

In other words, during the course of the entire legislative process, I would suspect that the reduction in defense dollars will be even greater than that proposed in the Chafee-Weicker amendment. We are, in effect, doing in two steps what that amendment did in one, with the exception of the cap situation.

Now the question has been raised on the matter of the education and health moneys. How did we ever guarantee that the moneys sought by Senator BRADLEY and Senator STAFFORD and Senator WEICKER, those moneys that relate to education and health, will come forth in the numbers that had been discussed and agreed upon? I shall let Senator STAFFORD speak for himself, but I can address myself to the health numbers. I can also address myself to the general situation as it relates to the Appropriations Committee, the chairman (Mr. HATFIELD), the

chairman of the Education Subcommittee (Mr. STAFFORD), and myself as chairman of the Labor-HHS Committee.

Neither Senator HATFIELD, as chairman of the full committee, nor I as chairman of the Labor-HHS Committee can stand here on the floor and deliver the votes of the members of our committee and subcommittee respectively. We cannot do that. So that, obviously, as a legal technical matter, there is still a question mark there. However, the distinguished chairman of the full committee has given me his word that he will do everything—as indeed he already had before this compromise was ever arrived at—to see that the figures for health funding would be at the level which I had set forth vis-a-vis the preparation of the Chafee-Weicker amendment and as had been envisaged in the amendment of the distinguished Senator from New Jersey.

Nothing has changed. I still have the word of the chairman of the Appropriations Committee. I give my word to my colleagues that I expect to get those numbers out of my subcommittee.

Now, there is no fakery here. I do not want to get my good friend from New Mexico mad because I do not want by implication to indicate there was any fakery in the original figures, but I will say this, that during the negotiating process the administration indicated—if I may have the attention of the distinguished Senator from New Jersey—that the moneys would be supplied by some changes that could be found later on down the line, and that was not satisfactory to either me or to the Senator from the Appropriations Committee because that we have no control over, and I mean none. We are not even a vote in that process.

We rejected that approach. So we specifically received a commitment for $2 billion additional to go into the appropriations process, of which we are a part and where we can vote as individuals.

I want the RECORD to be clear that my position on the $650 million for biomedical research, as stated in the subcommittee hearings, as envisaged in the preparation of Chafee-Weicker, as presented to the chairman and the Republican leadership in the drafting of the Baker compromise, has not changed one iota, will not change one iota in the weeks ahead as the Appropriations Committee does its work.

The Senator from New Jersey and my colleagues within this Chamber on both sides of the aisle have my word as a Senator, as chairman of the subcommittee of Labor-HHS, that those figures will be attained and will be a part of the additional moneys produced out of either synfuels or a transfer of funds. That figure of $650 million holds, and it is not subject to the whims of the executive branch but, admittedly, it is subject to the votes of my subcommittee and the full committee. And I might add those votes are going to come as much from the Senator's side as they are from this side. If the Senator wants any other statement which I can deliver on, never mind speculative, if the Senator wants any other statement to be made in terms of commitment, he has every right to ask it and he will get it on the floor of the Senate from me.

Mr. BRADLEY. Will the Senator yield for a question?

Mr. WEICKER. I yield to the distinguished Senator from New Jersey.

Mr. BRADLEY. Is it the intention of the Senator from Connecticut to also state specifically on the floor of the Senate today that the appropriations will be in the amount of $1.3 billion for education and $650 million——

Mr. WEICKER. That is why I waited for my distinguished colleague. I am waiting for Senator STAFFORD. That is, appropriately, his province. When he makes his statement, I am also prepared as subcommittee chairman to again give that guarantee. I am only waiting now for our colleague (Mr. STAFFORD) to get to the floor. When he does, the answer is, again, yes, the Senator has my commitment as to that amount.

Mr. BRADLEY. So as of this moment the Senator is committed to $650 million for medical research?

Mr. WEICKER. That is correct.

Mr. BRADLEY. There was provision in the amendment also for $600 million for environmental programs, and I know the Senator does not have jurisdiction over that.

Mr. WEICKER. I do not chair that. I would prefer—again, the Senator from Vermont is the one who chairs the authorizing committee—to let the Senator from Vermont speak for himself on that point.

Mr. BRADLEY. I thank the Senator for his degree of specificity on medical research, and I will await the Senator from Vermont.

Mr. WEICKER. And I will be following hard on the heels of the Senator from Vermont; if that $1.3 billion figure is what he commits himself to, I will commit myself on the appropriations side to that figure.

Mr. BRADLEY. I thank the Senator. We will await the Senator from Vermont.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. DOMENICI. Mr. President, I do want to ask the Senator from New Jersey, if I might, I do not remember the details of the so-called Bradley-Stafford or Stafford-Bradley amendment. Am I correct, however, that the Senator was asking that we add $1.95 billion in budget authority to the cap?

Mr. BRADLEY. We were going to add $1.3 billion for education and as a separate amendment $600 million for environmental protection, at which point the distinguished Senator from Connecticut suggested that medical research also be considered and that there was $700 million in the HUD account, and that that would take care of all three of those expenditures.

Mr. DOMENICI. So the Senator was talking about 1.95?

Mr. BRADLEY. That is correct.

Mr. DOMENICI. 1.95 was the amendment that the Senator offered, as I recall, is that correct?

Mr. BRADLEY. We did not offer the amendment.

Mr. DOMENICI. The amendment the Senator intended to offer, that we were offering to as the Senator's amendment on education?

Mr. BRADLEY. The final number was not determined.

Mr. DOMENICI. I see. Well, I do want to compliment the distinguished chairman of the Appropriations Committee. He is present.

Mr. BRADLEY. If the Senator will yield, I might say that one of the reasons that a final number was not determined was because of the lack of clarity in yesterday's discussion about all of the various functions that could be funded by the $2 billion add-on, including the foreign assistance function. So one of the things we are trying to do is to get sufficient clarity so that we can determine if the needs of education, environmental protection, and medical research can be met. If they cannot, then we will have to reassess it.

Mr. DOMENICI. Let me say to my friend from New Jersey, he has raised the issue of foreign assistance because the Senator from New Mexico listed five or six things. So while we have a minute while we are waiting for my good friend from Vermont, let me tell the Senator what I had in mind.

When you take the entire domestic spending programs and put a freeze on it, to which we are now going to add $2 billion, function 150, which is both domestic and military, foreign assistance, it would be subject to money being reduced from it and put in the other account. Obviously, if you did not have enough for the other accounts, that could happen. I did not intend we spend new money on 150.

Mr. BRADLEY. Will the Senator yield for a question?

Would the Senator say that it would not be additional funds in foreign assistance?

Mr. DOMENICI. I have very great doubts that it would ever be used for that, but I cannot do any better than that. I think the chairman of the Appropriations Committee is going to tell

the Senate that no matter what we put in, $2 billion or the $1.3 billion that the Senator has in mind and stands up and says that it is for education, I do not think the chairman of the Appropriations Committee wants the full Senate before the subcommittees get to debate things to say, "You are going to put specific amounts in." I think he is going to tell us it looks like there is going to be enough for these things and we are committed based on our history to put it in these accounts. I think we would really be in bad shape if we take something like this and mandate certain appropriations on this amendment.

Frankly, I do not think we ought to do that. I do not think the chairman is going to stand by and watch that happen, Senators stand up and say that is where they prefer it, and the subcommittee chairmen say that is where they prefer it and it looks like there is enough for savings in other areas to do the following five things. But I do not believe we can or should do that. Maybe we will, but I do not think the chairman of the Appropriations Committee intends to do that, and I commend him for it. I think he and the subcommittee chairmen need that latitude.

I was going to commend the chairman of the Appropriations Committee. In responding to that question, I have indicated what I thought his position was, and for that I commend him.

Mr. HATFIELD. I thank the Senator from New Mexico.

Mr. President, I should like to make some additional points at this time on behalf of the Appropriations Committee to the Senator from New Jersey and other Senators who are vitally concerned about this particular issue that is now confronting the Senate in the form of the Baker amendment.

Mr. President, the question has been raised whether or not the $2 billion which is incorporated in this amendment would be reduced from the level of expenditure in the $19 billion synthetic fuel account and thereby made available as part of the nondefense cap in this amendment for nondefense expenditures to be applied to certain programs.

Let me just give a little background, because, first of all, you cannot isolate this amendment and the proposals in this amendment from the record of the Appropriations Committee and the authority of the Appropriations Committee.

First of all, if we adopted an amendment here and precisely directed the Appropriations Committee to extend the additional $2 billion—$1.3 billion and $600 million—that would not bind the Appropriations Committee, for the simple reason that under section 302 of the Budget Act, it is the Appropriations Committee action that must make the allocations within whatever caps we operate under in a budget resolution or whatever it may be that has come through the budget process.

So this body, at this time, could not dictate that to the committee. It can contradict the committee's actions at a later time, when the committee brings forth a product.

Second, we have to recognize that there is a record upon which one can make a judgment as to what kind of commitments are being made here by the subcommittee chairman, the Senator from Connecticut (Mr. WEICKER) and myself, speaking here today as chairman of the full committee.

First of all, the Senate Appropriations Committee, under the 302 allocation, in the last 4 years—1981, 1982, 1983, and 1984—through the leadership of Senator WEICKER and the members of the committee, and the working of the will of the Senate itself, has appropriated $14 billion more for education than the President's request level. It is not as if the Senator from New Jersey or any other Senator had to stand on the floor and persuade or convert the Appropriations Committee of the Senate as to the priority of the needs of education. That has been demonstrated.

By the same token, the Appropriations Committee of the Senate has reduced by $42 billion in that same period of time the President's request level for defense spending.

That means, simply that we have set our priorities pretty well in concrete so far as the record of this Appropriations Committee is concerned. That is what led, I am sure, to the negotiations that said we should have two caps; because Members of the Senate said, "We don't like the reductions on the military side and the increases on the nonmilitary side, but it has been the will of the Senate as it has worked its way from the recommendations of the Appropriations Committee."

So I want to assure, in effect, that the Appropriations Committee is very sympathetic to the needs of education.

I reiterate what the Senator from Connecticut has indicated, and that is that if this amendment is adopted, and we have the $2 billion cap increase in the nondefense part of this package, I will do my level best—as I have done over the last 3 or 4 years that I have been chairman of the committee—to add the moneys that are authorized.

Let us not play games. We have had amendments on this floor that have been proposed in the past to add to education appropriations that were not authorized or were over the budget level. That, we should understand clearly, is not a proper procedure, nor is it a procedure to which we will commit ourselves.

When the Senator from Vermont arrives and the Senator from Vermont can give us assurance, as chairman of the authorizing committee, that he will authorize $1.3 billion, if that is the level, I can assure the Senator that I will do everything in my power to fund it.

Let me also make this point clear: There is $400 million in that package now for a math-science program that has not been authorized. It is up to the Senate to authorize it. The Senate Appropriations Committee has resisted—although we have violated it from time to time—appropriations without authorizations, and the Senator from New Jersey knows that.

Second, we have to recognize that in this whole process we have more than education demands on whatever money is going to be added to the cap on the nondefense part of the package. We have $650 million in biomedical research. We have another $600 million in environmental programs. With respect to the transportation requests over the current level, if we were to freeze the program at the moment, the administration has asked for about $1 billion more.

Yesterday, the Senator from New Mexico, the chairman of the Budget Committee, was talking about add-ons and subtractions and so forth. He raised a flag in the mind of the Senator from New Jersey about the possibility of competition for additional money for foreign aid. I say to the Senator from New Jersey that it would have been my proposal—and the procedure is that the chairman makes the proposal to the full committee, and the full committee makes the decision on the 302 allocations—that if there had not been this proposal offered to add $2 billion, I would have proposed, as chairman of the committee, that we would have deducted $1.3 billion from the foreign aid bill in order to make it available for education programs.

Even without this amendment, I would have proposed adding $2 billion, and I had the full support of the subcommittee chairman, Senator WEICKER. We would have jointly made this proposal to the full committee to deduct it from someplace, if not foreign aid. I just use that as an example. I would have added another $3 billion, if I had my own way.

We would have found money from some other accounts, whether HUD or foreign aid or whatever else, to add $1.3 billion for education, because that is my priority, and $600 million for biomedical research, and the other priority of environmental research. Those are my top three priorities—and I would have sought to fund them even if we did not have the possibility or opportunity of adding $2 billion to take care of most of those.

I say to the Senator from New Jersey that I think he brought into focus a very important issue, not only in terms of our priorities, but also in terms of what the record of the Ap-

propriations Committee has been, so that we do not have to depend upon rhetoric here today or verbal promises or possibly vacuous commitments. We are talking now about the record of the Senate Appropriations Committee since the 1981, 1982, 1983, and 1984 budgets came under our purview, under our control.

Mr. BRADLEY. Mr. President, will the Senator yield for a question and a comment?

Mr. HATFIELD. I yield.

Mr. BRADLEY. I appreciate the statement of the chairman of the Appropriations Committee.

It has been the Senate, in the last 2 years, that has increased the amount available in the budget for education. It was in last year's budget, with an amendment that I offered, that a billion-dollar package for education was adopted, by a vote of 55 to 32; and we followed in the appropriations process for nearly that amount in additional aid for education.

I think the issue here is that there is a certain degree of suspicion that, in the battle for scarce funds, somehow or other, defense will get its share, but education and environment and other key programs will not get their share.

It is my understanding that the amendment now before us to add $2 billion for nondefense programs in fiscal year 1985 incorporates the provisions of an amendment I announced I would offer with Senators STAFFORD, PELL, MOYNIHAN, WEICKER, and ANDREWS to add $1.3 billion above the freeze level for education programs, bringing the total to $17.5 billion in fiscal year 1985. Further, the amendment incorporates the provision of a second amendment I announced I would offer with Senators STAFFORD, MOYNIHAN, and LAUTENBERG to add $600 million for the Environmental Protection Agency, bringing the operating budget to $1.35 billion and the Superfund program to $0.75 billion in fiscal year 1985.

I ask the chairman of the Appropriations Committee: Does he feel that $2 billion additional for nondefense meets what is his sense of national priorities? Should we have more than $2 billion?

I realize that we are dealing with $2 billion here. I also notice that the Senator supported other compromises offered by the distinguished Senator from Connecticut and the distinguished Senator from Rhode Island earlier, which added considerably more than $2 billion to the nondefense function.

Mr. HATFIELD. As to the amount of money, no, that is not sufficient. We may be able to pick up another $600 to $700 million out of the HUD account in order to add to this $2 billion.

Remember, if we had a 2-percent increase in this package for the nondefense cap, we would add about $2.7 billion. That is precisely where we are going to end up, I hope, with this amendment adding $2 billion, and a transfer within the cap of another $700 million, in effect creating a 2-percent increase in the cap on nondefense programs in fiscal year 1985.

Mr. BRADLEY. The Senator's assurances were a little less strong than the Senator from Connecticut, but let me ask him once again, is his intention——

Mr. HATFIELD. Excuse me. If the Senator will yield, I hope it is only semantics used by the two Senators, because there is no variation at all in the commitment of the two Senators, I can assure the Senator and the Senator from Connecticut.

Mr. BRADLEY. The chairman of the committee and the chairman of the subcommittee have as their first priority to get through the appropriations process the $1.3 billion for education, taking into consideration the need for the additional $400 million authorization and the $600 million for environmental protection and $650 million for medical research. I understand the Senator to say that he would do his level best to try to obtain the extra money as the chairman of the Appropriations Committee.

Mr. HATFIELD. Yes; again, we have 29 members of our committee, and I am sure the Senator from New Jersey could no better stand here, nor could I today, or the Senator from Connecticut, who has already made the comment, and say to any one of us that we can deliver any committee we serve on. I happen to be chairman of the full committee, and the Senator from Connecticut happens to be chairman of the subcommittee, but we have 2 votes of the 29 members of that full committee.

I think we have some influence. I think we have some ways to do some one-on-one work if we have to persuade as we normally do in this whole process. I will expend every bit of energy I need to expend. I will do all and make all the effort that is required to achieve as one member of that committee in tandem with my colleague from Connecticut to get these moneys allocated to those priorities of education, medical research, and environmental programs.

Mr. BRADLEY. I thank the Senator. If the parliamentary situation allowed, the Senator would have no objection to modifying his amendment so stated, is that correct?

Mr. HATFIELD. The Senator from New Jersey and the Senator from Connecticut and I have worked out language that I have here in my hand that would in effect state a sense of the Senate that priorities be given to education programs, environmental protection, and health research activities in the utilization of the extra $2 billion contained in this amendment, that is correct. We were ready on our side to modify the Baker amendment to accommodate the Senator from New Jersey, but I am told from a parliamentary position because the yeas and nays have been requested by the minority leader, Mr. BYRD of West Virginia, we are foreclosed at this point in time, but I do think there will come a parliamentary situation where we can in tandem with the Senator from New Jersey offer this as a part of the Baker amendment.

I am hopeful we can find that parliamentary situation and I understand we cannot find that parliamentary situation unless the Senator from West Virginia, the minority leader of the Senate, is willing to vitiate the request for the yeas and nays, which then could happen at this moment.

Mr. BRADLEY. I thank the Senator for his colloquy, and again I thank the distinguished Senator from Connecticut for his comments and I am sure, although I have not heard from the distinguished Senator from Vermont, that he feels equally committed to education. In fact, his leadership on this issue predates my arrival in the Senate. So I feel confident that with both the Senator from Oregon and the Senator from Connecticut clearly behind these initiatives we will indeed get what we hope for, for education, environmental protection, and medical research.

Mr. HATFIELD. I will say to the Senator one last thing, that the Senator from Vermont (Mr. STAFFORD) is on his way. He is chairman of the authorizing committee. As soon as he makes his statement as to the prospect of having all of the $1.3 billion authorized so the Appropriations Committee can move ahead with funding that program, in tandem with the Senator from New Jersey, who has given leadership over the years in these programs that we are discussing here now, I am hopeful that he will join us in this sponsorship of this amendment that will increase the amount of money that we can get for education, medical research, and in environmental programs by $2 billion, because I think this is one of those things where we have to cross the aisle, we have to get the support of each other, because these issues transcend the aisle, they are so fundamental to our Nation's well-being, and it would please me a great deal to be in tandem and in harness with the Senator from New Jersey on this very point.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WEICKER. 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. WEICKER. Mr. President, I wish to address again my comments to the distinguished Senator from New Jersey (Mr. BRADLEY), merely amplifying what was said by the distinguished chairman of the committee. I commend the Senator from New Jersey for his efforts in both areas of education and health. Nobody has been a more articulate spokesman for those national priorities than the distinguished Senator from New Jersey. The matter before us is as much his doing as any Member here on the floor and I want to so state and acknowledge.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. CHILES. Mr. President, I see the chairman of the Appropriations Committee on the floor. I wonder if he may try to answer a couple of questions for me.

I have been trying to follow some of the commitments and pledges that have been made regarding the distribution of this money. If the $2 billion add on is all going for $650 million in health research and the remaining $1.3 billion for education and $600 million for the environment, then are we saying that the President is giving up his proposed funding increases which include, veterans medical, $500 million; law enforcement, $100 million; space and science, $100 million; transportation, including the FAA, $900 million?

Are we saying we are not going to fund those things that the President has requested in his budget? Are we abrogating that?

Mr. HATFIELD. I would respond to the Senator from Florida by saying, no, we have not made that determination. What we are saying, in effect, is that we, as two members of the Appropriations Committee here today, Senator WEICKER and myself, have committed ourselves to giving top priority of using that additional $2 billion, if this amendment passes, to those programs that we outlined, education, medical research, and environment.

We will also have additional funding for dealing with some of these other increased levels of funding. Let me list them for the Senator from Florida.

Mr. CHILES. There is about $2 billion on the list I mentioned, all of which are in the President's request.

Mr. HATFIELD. Yes; first of all, I say to the Senator that I doubt that the President will get all of his request, whether we had the funding available or not. I still think that would still be within the purview of the Senate Appropriations Committee under its 302 allocation responsibility.

But in addition to the $2 billion which this amendment would provide to raise the cap, we have these additional funds that are available for increases in other programs, including those perhaps the President has asked for or which maybe the committee would like to see increased over the President's request level: A possible $700 million from the HUD subcommittee; a partial absorption of the civilian agency pay raise of $300 million; we could advance the Big Hill project in a fiscal year 1984 supplemental of $100 million; we have an increase above the freeze cap—well no, those are additional funds. So that totals about another $2.8 million.

Mr. CHILES. I was trying to add that in my head and I came up with $1.1 billion.

Mr. HATFIELD. I include in that the increase above the freeze cap which we now have which would be about $2 billion and then we have another $1.1 billion which would be for other increases or other adjustments as the committee might see fit to make.

Mr. CHILES. Now foreign aid and aid to Israel, that is another $5 billion we are talking about. Where is that going to come from?

Mr. HATFIELD. That money was an adjustment of off-budget items onto on-budget items. I think there is a difference there of about——

Mr. CHILES. Three of the five was that adjustment, and two on budget, right?

Mr. HATFIELD. I do not recall the exact division now, but the major part of that figure is a movement from off budget to on budget.

Mr. CHILES. Again, it sounds to me like we are talking about having—in addition to the $2 billion already committed, the $2 billion—another $1 billion.

Mr. HATFIELD. $1.1 billion.

Mr. CHILES. $1.1 billion. And we have the $2 billion I have listed and then the additional foreign aid to Israel that is on budget, that is another $2 billion. So we have got $4 billion to be covered by $1.1 billion. And while we are making commitments, I think it would be interesting for the body to know how we cover $4 billion in a request with $1.1 billion. What gets short circuited?

Mr. HATFIELD. I would say the bottom line is simply that there are not enough dollars at this point in time to accommodate all the adjustments or increases that are being requested. But I do not recall a time in the last 3 years when we had such revenues that did meet all those requirements.

The Senator from Florida is a member of the Appropriations Committee. His vote equals mine; my vote equals his. No more, no less. The Senator from Florida will be called upon to make a decision and a set of priorities as a member of the full committee. I have indicated what, as chairman of the committee, will be my recommendation to the committee. It will be at that point in time that we will have to have 15 votes to make that decision whichever way we go, whether it is my recommendations or somebody else's recommendations. But this is part of the appropriation process. It is no different than from any time in the past.

Mr. CHILES. As I recall my reading of Animal Farm, all those pigs are equal, but some of us pigs are more equal than others. I do not think the Senator from Florida is quite equal to the chairman of the Appropriations Committee in any way.

I am still a little concerned if we make some binding commitments for $2 billion and for $1.3 billion and $650 million and $600 million. And yet, there are some pretty important things, according to a lot of the Members of the body, and we are told that there is a request for veterans' medical of $500 million; law enforcement, $100 million; space and science, $100 million; transportation, $900 million, and our aid package of another $2 billion. But $1.1 billion has got to stretch to $4 billion and that is a pretty long stretch.

Mr. HATFIELD. If the Senator would yield for a question, in this new cap, if this amendment by Senator BAKER and others passes, we will have a $139.8 billion cap for nondefense programs. The Chiles budget amendment that was offered, the Chiles budget package that was offered and was defeated by a vote of 49 to 49, had a total cap of $140.5 billion.

I ask, since that package would not have accommodated all of the items that now bother the Senator from Florida, how would he have accommodated those items?

Mr. CHILES. I think the difference is that the Senator from Florida did not say that was going to take care of $1.3 billion, or $650 million. I did not say that. I simply said we were allowing some room for the Appropriations Committee to make those decisions. But now, as I understand it, we are in effect pledging and committing—or the chairman of the Appropriations Committee is—for this amount of funds, and saying to the rest, "Well, there is $1.1 billion to be divided among your $4 billion request."

Mr. HATFIELD. Then I think it is a question of priority, is it not? It is basically a question of priorities, and if the Senator from Florida has a different set of priorities, as I have enunci-

ated as one member of the committee—just one——

Mr. CHILES. One poor little member.

Mr. HATFIELD. One poor little member of the committee, I would certainly be happy to hear from the Senator from Florida as to what his priority list is. Then we can adjust that within the committee.

I yield to the Senator from Vermont.

Mr. CHILES. I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. STAFFORD. Mr. President, I understand this matter has been discussed previously in the Senate with respect to the Baker amendment that is pending at the present time.

If I could go over very briefly the figures with the distinguished chairman of the Appropriations Committee at this time, I would like to do so.

It is my understanding that the commitment has been made insofar as the chairman can do it to recommend $1.3 billion for education from the additional funds that will be made available, $600 million for the Environmental Protection Agency, bringing that budget up to $1.353 billion, and Superfund to $753 million. Am I correct in that? Might I ask the distinguished chairman?

Mr. HATFIELD. The Senator is correct. The colloquy that has preceded the Senator's statement—between the Senator from New Jersey and the Senator from Connecticut and myself—was to state that the Senator from Connecticut recommended to the committee a priority of $1.3 billion for education that is authorized.

Mr. CHAFEE. Mr. President, I support the Baker amendment for several reasons. First, it adds $2 billion for nondefense spending, in order to permit additional amounts of budget authority to be devoted to education, health, and environmental concerns programs. Second, the amendment does not increase the deficit because the amount of additional budget authority for nondefense spending is offset exactly by a reduction in appropriations for the Synfuels Corporation.

Mr. President, I would have preferred that the Senate make a much larger reduction in the deficit. I have voted for proposals that would do so, and these have failed. I and other Senators offered an amendment last week that would have reduced budget authority for all appropriated spending by $17 billion over 3 years, and at the same time have increased nondefense and reduced defense spending. This amendment failed by a vote of 48 to 46 on a tabling motion.

Therefore, I favor the Baker amendment. It contains specific assumptions for increased spending in several high-priority nondefense areas. It is important to recognize that activities in the nondefense discretionary category have undergone significant reductions in recent years as Congress has worked to bring spending under control. In 1980, nondefense appropriated programs accounted for 25 percent of all Federal spending, but today they account for 17 percent. While it is essential for us to continue to restrain unnecessary spending whenever possible, our Nation cannot afford to weaken its commitment in several areas which, if neglected, could result in profound costs for the United States in years to come.

During the past year, Congress and the administration have placed education at the top of the national agenda. Americans have come to understand that our education system faces some serious problems with sobering consequences. Education remains the soundest investment this Congress can make in the future of our country. We cannot afford to jeopardize our prosperity, productivity, and technical invention by shortchanging education.

There are positive signs that Americans are committed to reversing the decline in educational quality. In States across the country, initiatives are underway to improve curriculum standards, raise graduation requirements, extend the schoolday, improve pay for teachers, and introduce performance-based standards. These reforms are costly. They are absorbing greater and greater proportions of State and local budgets. Although the Federal share of total spending for elementary and secondary education was over 8 percent in 1980, today it has declined to 6.4 percent. Funding for programs in the Department of Education has dropped from 2.2 percent of the total Federal budget in 1980 to 1.5 percent today.

Although spending in nominal dollars for education programs has increased by $1 billion since 1980, the value of those dollars has been reduced by over 20 percent due to inflation, according to the Congressional Research Service. The result has been a real deduction in important educational services to thousands of children, in such areas as compensatory education for the disadvantaged, in handicapped education programs, in bilingual education, in student financial assistance, and others. It is time to reverse this trend and to strengthen our national commitment to education. The amendment being proposed today assumes a sufficient increase in nondefense spending to provide additional budget authority for education programs in the next fiscal year.

Health research is another crucial national investment which is among the programs to have borne the brunt of spending reduction efforts in recent years. For every dollar spent on research, we have saved $13 in health care costs. Health care today accounts for a staggering 10 percent of the gross national product. We simply cannot afford to shortchange these vital activities which can save both dollars and lives in our Nation in future years.

Prior to the spending reduction efforts of recent years, the National Institutes of Health were able to provide funding support for 45 percent of health research proposals judged to be "excellent." Today that percentage has slipped to 37. Whereas NIH was previously able to provide research training for 11,000 scholars each year, today the annual number of trainees has dropped to 9,000.

In order to bolster the national commitment to important biomedical research programs, this proposal contains the assumption that an additional amount will be spent on health research in the next fiscal year, to be shared by the National Institutes of Health and the Alcohol, Drug Abuse and Mental Health Administration.

Like health and education, our Nation cannot afford to falter in its commitment to environmental protection. We must maintain vigorous efforts to enforce clean air and clean water programs, to clean up hazardous waste sites, to resolve the acid rain problem, and to continue other essential environmental protection activities.

The amendment assumes an increase in budget authority for environmental protection programs to be available for the operating budget of the Environmental Protection Agency and the Superfund. This would bring spending for these programs to the level which Administrator Ruckelhaus requested from the Office of Management and Budget last fall.

The passage of this amendment will help to assure that in our efforts to reduce the deficit, we do not lose sight of other important national priorities. Programs in the nondefense area have not been the leading contributors to the deficit. They should not bear the brunt of our deficit reduction efforts. Eroding the effectiveness of our education, health research and environmental programs will have damaging and costly consequences for our Nation and its people in future years.

Mr. WARNER. Mr. President, I rise today to address the amendment currently before the Senate.

In 1980, the United States was in the throes of a second severe energy emergency brought on by a disruption in oil from the Mideast due to strife occurring in that area. This followed only 7 years after the first crisis in 1973. These energy emergencies caused enormous economic hardship on the American people.

In order to combat future energy emergencies, Congress passed the Energy Security Act of 1980. Its pur-

pose was to fully utilize the constitutional powers of the Congress to improve the Nation's balance of payments, reduce the threat of economic disruption from oil supply interruptions, and increase the Nation's security by reducing its dependence upon imported oil.

Congress directed that this goal could be obtained by: Demonstrating at the earliest feasible time the practical commercial production of synthetic fuel from domestic resources; providing for financial assistance to encourage and assure the flow of capital funds to those sectors of the national economy which are important to the domestic production of synthetic fuel; fostering greater energy security and reducing the Nation's economic vulnerability to disruptions in imported energy supplies.

Specific targets and dates were set by Congress to be reached for the development of our synthetic fuel industry, and Congress created the U.S. Synthetic Fuels Corporation, a Federal entity of limited duration to provide financial assistance to synthetic fuel projects, to oversee the Government's role in synfuels, and to see that the targets and goals set forth under the bill are obtained. The act directed the Corporation by June 1984 to prepare a comprehensive strategy to achieve the national synthetic fuel production goal and to submit its proposed strategy to the Congress for approval.

To accomplish this monumental task, Congress appropriated $20 billion.

But what has been the performance by the SFC since it was created? One of its first acts was to vote enormous and unconscionable salaries to its officers. Salaries that were more than anyone else in the Federal Government received save that of the President of the United States.

Next, the commission faced months of inaction due to internal bickering, resignations, lack of internal policy guidelines, and general inability to formulate overall policy strategies.

The commission has funded very few synthetic fuel proposals, and those that they have funded quickly went out of existence or were unable to meet the goals and the target guidelines set by the act.

The guidelines set by the act will not be met because of the lack of action by the commission.

Lastly, the deadline for suibmitting to Congress the SFC's comprehensive strategy is only 1 month away. The commission is no closer to finalizing this strategy than they were the day it was created.

Mr. President, the actions of the SFC have been atrocious. Not only have they not met the goals and hopes of Congress when the act was passed, but they have let slip away precious time in which this country could have been strengthening its energy security by the development of its own synthetic fuel industries.

America owns the free world's largest reserves of coal. It was this Senator's intention when he voted for the act that utilization of our coal reserves would be maximized under the auspices of the SFC.

Not only has the SFC not accomplished this, but they have allowed worthwhile projects to languish that would have utilized our domestic coal reserves, put people back to work in the coal fields, and help to move us toward energy independence.

Mr. President, last spring, in a hearing before the Senate Energy Committee, I strongly questioned the lack of progress by the SFC. I urged the SFC to come to grips with their responsibilities. After viewing the accomplishments of the SFC—or should I say the lack of them—I firmly believe it is time to give a redirection to the SFC, reprogram it so that it is in tune with the views of Congress and the vital energy need of the United States. Accordingly, by my vote today in support of the amendment, I am giving the SFC notice that I will no longer tolerate their performance. It is time to reexamine the SFC and take the steps necessary to bring it under control, seeing to it that it undertakes projects that will utilize our Nation's extensive coal reserves and make us free from energy blackmail.

Unless the Corporation seriously considers new ideas and funds such as the development of new coal technologies and new coal fuels, then I will be forced to seek an end to the Corporation's short but definitely unsuccessful life.

It is generally agreed that the budget authority being transferred from the Synthetic Fuels Corporation account will be utilized for education, environmental, health research, veterans, and foreign assistance.

Certainly, these are worthwhile purposes, and this Senator has no general objection to reallocating this authority to these accounts.

But it would be the hope of the Senator from Virginia that if this authority is to be transferred to these accounts, it would be dedicated to, among its priorities, promoting math and science education on secondary and post secondary levels, making the United States competitive with our European and South Pacific trading partners:

To promote the cleanup of the Chesapeake Bay, restoring to America one of its most precious natural resources;

To promote cures for cancer and Alzheimer's disease and promote preventive health care programs;

To provide essential and vital services to America's veterans who suffered a disability or an illness while in the service of their Nation; and

To provide essential foreign assistance aimed at meeting the human needs our neighbors in Central and South America and others around the world.

Mr. President, it is not the goal of the Senator from Virginia to vote for any proposal which would increase our Federal deficit.

Nor is it this Senator's goal to support any measure which detracts from our ability to make America energy-independent.

It is my goal to be sensitive to the conflicting forces of the need to reduce the Federal deficit, the need to provide adequate funding for certain basic and vital human development and human services programs, and the need to provide for world peace.

While not a perfect amendment, the pending amendment in combination with the underlying leadership proposal is a measure which achieves my goal.

Mr. PROXMIRE. Mr. President, the Senate is now considering an amendment which is a political masterpiece but an economic disaster. It increases spending for popular domestic programs while supposedly offsetting those increases by reducing budget authority for the Synthetic Fuels Corporation. This amendment raises "smoke and mirrors" budgeting to a new level of obfuscation.

It is a political masterpiece because our friends in the press gallery will find it difficult to report what the amendment does and, more important, what it does not do. Let us start with what it does not do. First, this amendment increases, that is right, increases the deficit over the next 3 years. Second, even though the deficit goes up, the amendment does provide an offset and therein lies its political attractiveness.

The amendment reduces the budget authority allocated to the Synthetic Fuels Corporation by $2 billion. Here is what the Congressional Budget Office has to say about the Corporation and its budget authority:

> Because it concentrates on financial arrangements that require little or no outlays unless projects fail, the short-term outlays should be relatively low, although the Government would remain exposed to potential high costs. Since synfuels projects require a number of years to build, large budget outlays caused by project failure as default are not likely to occur until after 1987.

The amendment takes this off-budget money, whose actual use is contingent on the failure of synfuels projects, and transfers it to popular domestic programs where it will certainly be quickly spent. By making this comparison, and doing so openly, proponents are conceding a point I have been making for years—synfuels projects are bound to fail. But even I

did not expect those failures to cost $2 billion next year.

Mr. President, this amendment is an economic disaster because this year and early next year are crucial if we are going to sustain this economic recovery. The bond markets have recently developed a bad case of the shakes because investors do not think we are serious about reducing the deficit.

Who can blame them? They see us working a Tuesday-Thursday schedule. They see us vote down plan after plan which would actually reduce the deficit. And now they see us pull this rabbit out of our hat. Who do we think we are fooling?

In the long run this amendment will offset the spending increases it recommends because synfuels projects are doomed to fail. But why stop at $2 billion? Why not abolish the Corporation? If the Senate adopts this amendment, it will be admitting that the Synthetic Fuels Corporation is indeed a fiscal Frankenstein. Let us take the next step and put the Corporation out of business and really save some money.

In the short however, this amendment will increase the deficit. It will further increase pressure on interest rates, which are already on their way up. That is why it is an economic disaster.

● Mr. LEVIN. Mr. President, I will vote against the Baker amendment to transfer budget authority from the Synthetic Fuels Corporation to domestic programs and foreign assistance for several reasons.

First, I believe that although the management of the Synfuels Corporation has clearly been inadequate and must be greatly improved, the concept of the Corporation itself is a wise idea. I can remember during the oil shortages of the late 1970's having people come up to me and ask, "Why aren't we making oil from coal—other countries have been doing it for years." And they were right to ask this question. But a synfuels industry is not something which can be created overnight. It takes time and incentives to develop it. The need to reduce our dependence on foreign oil supplies and reduce our vulnerability to international extortion are real. It is the purpose of the Synfuels Corporation to help to meet these real needs.

In this regard, I want to take this opportunity to urge the President to submit the five nominations for the Board of the Synfuels Corporation as soon as possible. If the President is concerned about the administration of the Corporation in particular and about waste and Government in general, then it is clear that forstering anarchy on the Board by delay in submitting the nominations is not the approach to take.

Second, I am persuaded that transferring budget authority from the Synfuels Corporation to these other programs will result in an increase in deficit, which is already too high under the Republican leadership package to which the Baker amendment is being offered. While it is true that this amendment involves a transfer of $2 billion in budget authority, when the issue is analyzed further, it is clear that there is "budget authority" and there is "budget authority," and the same label does not necessarily designate the same thing in practice. Budget authority for the Synfuels Corporation is best likened to a contingent liability—money has been appropriated, but it may or may not actually be spent, depending on whether certain conditions are met. Only if the partners in the project default, is there an actual outlay of Federal funds as a result of the loan guarantees. Similarly, whether a price agreement is activated would depend on market conditions. However, budget authority for programs in foreign assistance and other matters in the Baker amendment is much more likely to be spent out in a regular and predictable manner. So, what this amendment really does is to transfer budget authority from an account that may never be spent out to accounts which will likely be spent out. The result of these actual higher outlays would be a higher deficit. Therefore, regardless of whether you agree with the ongoing activities of the Synfuels Corporation should not blur what is going on here from a budgetary perspective—this amendment would add $2 billion to the deficit.

Finally, let me say that my vote against this amendment should not be construed as an indication that I do not agree that education or health should be high priorities. They are high priorities. I have voted for transfers of funding to them within the budget. We should make those transfers where there is no shell game of budget authority leading to higher deficits.●

Mr. SASSER. Mr. President, I rise in opposition to the amendment offered by my colleague Mr. BAKER. This amendment is meant to be a compromise and is offered on the behalf of the Republicans as a deficit downpayment plan.

The downpayment, however, is woefully inadequate. Furthermore, the so-called deficit reduction label does not apply. What the plan actually does is increase the annual Federal budget deficit over the next 3 years, from some $180 billion in fiscal year 1985 to more than $203 billion in fiscal year 1987.

The plan does not address the serious deficit dilemma facing the economy and it sends the wrong signal to the Nation's financial markets. Interest rates are rising, affecting investors on both Main Street and Wall Street.

The prime lending rate is currently at 12.5 percent, up some 150 basis points since March. The average annual return for 52-week Treasury bills climbed to 10.64 percent at yesterday's monthly auction from 9.86 percent at the last such auction on April 12. This is the highest level since August, 1982.

The amendment before us today does little or nothing to quell the fears of those expecting interest rates to further rise well into 1985. The consequences of a return to the high interest rate policies initiated by this administration some 3 years ago spell unsettling prospects for the continuance of the current economic recovery. Indeed, by failing to act now on reducing the intolerable deficits projected for the upcoming fiscal year and the next several years, we may well be preparing the economy for a severe economic downturn.

What is most frustrating about this recent turn of procedural events is the fact that on two separate occasions during the past 2 weeks this body came very close to accepting a budget plan which would have effectively addressed the deficit dilemma.

The first vote ended in a 49 to 49 tie, this of course was the Chiles deficit-reduction plan. Under this plan, deficits actually would have shown a downward trend, falling from $174 billion in fiscal year 1985 to $171 billion in fiscal year 1986 to $169 billion in fiscal year 1987.

The second vote was tabled on a vote of 48 to 46. This, of course, was the Chaffee-Weicker and others budget amendment. While this plan was not as significant in its deficit reduction approach as the Chiles plan, it was vastly superior to the current amendment in that it entailed some $13 billion in greater deficit reduction.

More importantly, however, both of these plans addressed a more equitable composition of the Government's budget priorities. In each case, defense growth was held at 4 percent, compared to the Rose Garden 7 percent. In both cases, there was a greater protection of those individuals dependent upon the Government safety net. In both cases, deficits were lower than under the current proposal.

Mr. President, the passage of this amendment will be unfortunate. The mix of spending priorities remains askew. The level of Federal budget deficits threaten the economic recovery. And in essence, the Senate will be adopting the administration's prescription for economic disaster.

What we are attempting to do is take some $2 billion out of the Synthetic Fuels Corporation, $2 billion which can be legimately argued does not exist, and add this money to domestic spending. In reality, we are simply attempting to shift funny

money, money which does not exist, and add to the already accumulating budget deficits.

Now I favor higher spending for education and health research. But in the overall budget context, spending for these programs should be, indeed must be, offset by either reductions from other spending programs or increases in revenues. Under this proposal, that does not happen.

The compromise does not address the serious economic situation which currently exists in this country. The people of this country will not be fooled, and I hope that the majority of this Senate is not fooled. I therefore urge my colleagues to reject this amendment.

Mr. PELL. Mr. President, I am voting, with reluctance, for this amendment to provide an additional $2 billion for high-priority nondefense Federal Government programs, including vitally important funds for education, medical research, and environmental protection.

I vote for it with reluctance because while these funds, under the amendment, technically will be made available by rescinding a previous appropriation of funds for the synthetic fuels, the funds in reality will be provided by increasing the already huge Federal Government deficit.

I believe very strongly that additional funds must be provided, particularly for education programs, to avoid the very serious damage that would result if funding for education programs, along with all nondefense programs, were frozen. But I also believe very strongly that it would have been far preferable to provide the necessary funds for education programs by reducing the very larger increases being provided for military spending.

It is clear, however, that the President and the Republican majority here in the Senate would rather see the deficit increased by $2 billion than accept a $2 billion cutback in the ever-growing military budget, and that they simply will not provide needed funds for education, health and environmental protection except in the way they have proposed—by increasing the deficit.

Accordingly, with real reluctance, I have voted in support of the proposal.

Mr. HATFIELD. Mr. President, once again I find myself in the position of supporting an extraordinary procedure because we have yet another ox in yet another ditch. I support this amendment, for the plain and simple reason that it will provide an additional $2 billion for nondefense programs. Those are programs which I have supported throughout my tenure in the Senate, and I have made clear during this debate that whatever the final result might be on the nondefense "cap" language, it would be my intention to do all I could to see that such programs as education and health research would receive necessary funding increases. This proposal will make the job that much easier, as I stated earlier.

Furthermore, this proposal will provide an additional amount for high priority nondefense programs without increasing the total amount of fiscal year 1985 budget authority, by rescinding $2 billion from unobligated balances of the energy security reserve.

It is that part of this proposal that concerns me, Mr. President. Rescissions are within the jurisdiction of the Appropriations Committee. Were the underlying vehicle an appropriations measure, and this proposal were made from the floor, it would constitute legislation on an appropriations bill and be subject to a point of order. However, no such point of order exists on proposing a rescission in a floor amendment to other than an appropriations vehicle, nor does any jurisdictional point of order lie on a floor amendment. It would appear, therefore, that I have no procedural tools to use to defend the Appropriations Committee's jurisdiction over rescissions. And, as I said earlier, Mr. President, I recognize that we have a difficulty here that requires an unusual remedy.

I would feel better if the majority leader would assure me that this procedure of proposing a rescission on other than an appropriations measure is a one-time proposition, and that he will not support similar proposals in the future.

Mr. BAKER. Mr. President, I am happy to give the distinguished chairman of the Appropriations Committee those assurances. The inclusion of a recission in a bill not originating in the Appropriations Committee, is not, and should not become, a usual practice.

This is an extraordinary procedure on an extraordinary measure driven by the circumstances we find ourselves in. Barring a repetition of these or similar circumstances—and I hope and pray that this situation never recurs—I would not support including recission language in any vehicle other than an appropriations bill.

Mr. BRADLEY. Mr. President, I had intended to offer a comprehensive amendment to increase fiscal year 1985 funding by $1.95 billion for education programs and health research activities. Joining me in sponsoring this amendment were Senators STAFFORD, PELL, MOYNIHAN, WEICKER, ANDREWS, KENNEDY, MATSUNAGA, CRANSTON, and INOUYE. I ask unanimous consent that a table outlining this amendment be printed in the RECORD at this point. I had also intended to offer an amendment to add $0.6 billion for environmental programs. Joining me in this effort were Senators STAFFORD, MOYNIHAN, and LAUTENBERG. Although we all support efforts to reduce the deficits, we also believe that an incease for education, environment, and health research is a fiscally responsible investment in America's future.

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

BRADLEY/STAFFORD EDUCATION AND HEALTH AMENDMENT

[In millions of dollars]

	1980 actual	1984 actual	1985 freeze	1985 amendment	Amendment increase
SPENDING IN DEPARTMENT OF EDUCATION					
Elementary and secondary education	7.1	6.9	6.9	7.4	+0.5
Program expansion, including science and math bill				.5	+.5
Higher education	4.3	4.6	4.6	4.9	+.3
Other (primarily vocational rehabilitation)	1.4	1.6	1.6	1.7	(1)
Subtotal, all discretionary	12.8	13.1	13.2	14.5	+1.3
Guaranteed student loans	1.6	2.9	3.0	3.0	
Total	14.4	16.1	16.2	17.5	+1.3
SPENDING FOR BIOMEDICAL RESEARCH					
Total health research funding	3.8	4.8	4.9	5.5	.65

[1] Less than $50,000,000.

Note.—Tables may not add due to rounding.

Mr. BRADLEY. Mr. President, I do not need to offer these amendments because the amendment now before us accommodates increases for these programs.

Mr. President, the amendment assumes an increase of $1.3 billion for education programs. For the Department of Education programs as a whole, the amendment provides a nominal increase of 8 percent over the freeze level. For the discretionary programs in the Department of Education, the amendment provides a nominal increase of less than 10 percent over the freeze level.

Mr. President, the Senate is on record for increased education aid. Last year, the Senate overwhelmingly adopted a resolution that I introduced opposing any further cuts in education programs. Adoption of that resolution was the first step in reversing the decline in Federal education aid. Last May, the Senate, by a vote of 55 to 32, voted to add $1 billion for education programs to the budget resolution. Because of our efforts, this year's appropriation for education programs is $750 million higher than last year. Continuing to provide additional education funds is a step in the right direction—a step this country must take in order to maintain our position in the world. We need adequate funding for education in order to compete effectively in an increasingly competitive world environment.

According to recent statistics, the Federal share of funding for elementa-

ry and secondary education this year dropped to 6.4 percent, a 20-year low. Federal funding for elementary and secondary education programs in 1980 was $200 million higher than it will be in 1985 if a freeze is adopted. The recent reports on education have emphasized that education is indeed a critical national priority. Our proposal would provide sufficient funding to continue elementary and secondary education and related programs at their current service level. In addition, our amendment assumes increases of roughly $0.5 billion for program expansion in elementary and secondary education, including initial funding for the science and math bill.

The problems are just as serious in higher education. According to a recent college board study, the total amount of financial aid available to college students, after two decades of growth, has dropped by $2 billion in the 1980's. During this same time period, the median undergraduate tuition has increased by about a third. Our proposal would provide a modest restoration in funding for higher education programs, roughly the amount needed next year to maintain current services.

Why must we increase aid for education? Mr. President, helping all of our children maximize on their potential is essential to our own self-concept of how we think about ourselves as a people. Should we say no to handicapped students? Should we say no to the student who happens to be growing up in the inner city, where the tax base is insufficient to support adequate local services? Should we say no to the low-income family whose son or daughter has the capabilities but not the cash to attend college?

Mr. President, education has been the means in our society for at least the past 50 years, if not longer, for moving up the ladder of success. We need to support our education institutions. Over the past few years much more than fat has been cut out of the education budget; it is time to put some meat back on the bones. We need to restore funding for these valuable programs to insure that future generations of Americans can be as proud, prosperous and free as we are today.

Thomas Jefferson's 200-year-old dictum is no less true today than it was when this country was new: "If you expect a nation to be ignorant and free, you expect what never was and never will be * * *" A truly democratic nation cannot be sustained without a well-educated citizenry. And if we want to maintain our status as the leader of the free world, we will need to improve the quality of education our children receive.

Mr. President, this amendment also assumes an increase of $0.65 billion for biomedical research. Congress has been the major source of funds for biomedical research since 1945. The returns on this investment have been large by an investment standard. Dr. Selma Muskin in her book Biomedical Research Cost and Benefits estimates that the benefits of research are 10 to 16 times the cost of the investment made. The reduction in illness and postponement of premature death have added $1.2 trillion to the economy over the past 50 years. The Nation's expenditure for health care increased by 300 percent to over $300 billion in one decade. In 1975 the burden of illness claimed 12 percent of the Nation's GNP, and that percentage may well double by the year 2000 unless substantial gains are made in our ability to prevent and control disease.

We are on the edge, Mr. President, of major developments in the understanding of brain function, immunity, transplantation, gene mapping, infectious disease, and cancer. Discoveries in these areas can save hundreds of millions of dollars in cost of treatment and loss of productivity, not to mention offering our citizens a better quality of life.

A freeze in the National Institute of Health budget, when we are clearly on the edge of major developments, would move NIH backward. For every 100 grants judged to be excellent and deserving of funding only 30 will be funded. Twenty years ago the average length of a research career was 14 years, now due to the uncertainties of support, it is only 8.5 years. We are losing bright and inquisitive minds due to the reduction of training funds over the past several years.

We are asking that $650 million be added to the NIH and ADAMHA budgets. This modest increase represents the last chance Senators may have to tackle entitlement spending, even directly, during this budget debate. If we invest millions in biomedical research today, we can avoid spending many more billions for medicare and medicaid in the years ahead.

In summary, Mr. President, we believe that the investments that we have made over the years in education and health research have paid off immensely. To reduce support for these activities in an effort to reduce Federal deficits is pennywise but pound foolish. For the sake of future generations, I urge my colleagues to support our efforts to provide modest increases for these valuable activities.

Mr. President, the amendment also assumes increases for environmental protection. The administration's fiscal year 1985 budget request for the Environmental Protection Agency is 41 percent lower in real terms than the EPA budget in 1980. Forty-one percent lower than 1980. Their fiscal year 1985 request represents essentially level funding at the 1984 level, a nominal increase of 5 percent. This nominal increase reflects an administration attempt to make amends for the budget cuts, executive abuse, and overall mismanagement of environmental issues during the first 2 years of this administration. This 5-percent nominal increase—level funding in real terms—is supposed to reassert their avowed deep concern for the environment.

I say that level funding 41 percent below 1980 is outrageous and hardly indicative of a deep concern for the environment; but the Senate is about to acquiesce in funding levels below what even this administration is asking for.

Mr. President, that is exactly what we are about to do. Unless we adopt this amendment, we will be funding EPA at a level 7 percent below what this President asked for.

This amendment adds $600 million, about $225 million for the EPA operating budget, about $343 million for the Superfund and about $30 million for an asbestos removal program in the schools. This amendment brings the EPA budget up to the level recommended by the Environment and Public Works Committee.

This amendment is not force feeding EPA. We know that Mr. Ruckelshaus can put these funds to good and efficient use because this is the level he asked for. Mr. Ruckelshaus requested $1.353 billion for the EPA operating budget and $753 million for the Superfund. OMB trimmed Mr. Ruckelshaus' request. That is to be expected.

But it is not to be expected that the Senate would trim Mr. Ruckelshaus' request. Like we did last year, this amendment would provide Mr. Ruckelshaus with the funds he requested to continue to rebuild EPA.

Mr. President, a large component—$343 million—of this $600 million add-on would not come from general revenues. The Superfund is largely funded by a tax on chemicals. These special tax revenues accumulate in a separate Treasury account. The Congress appropriates Superfund money from this account, not from general revenues. It makes absolutely no sense to arbitrarily limit the Superfund to last year's level.

The Superfund program is beginning to show results. It has taken an excruciatingly long time but it is beginning to show results. In 1983 EPA responded to about 100 emergency spills—about twice as many as in 1982. Of the roughly 17,000 hazardous waste sites, EPA has now completed initial assessments of over 5,000. Remedial cleanup action plans have begun on 138 of the 546 worst sites in the Nation and actual cleanup has began on 21. Six sites have been fully cleaned up and removed from the list.

In my own State of New Jersey the 1985 work plan is extremely ambitious

and encouraging. We plan to conduct feasibility studies on 21 sites, design the cleanup solutions at another 18 and actually cleanup 16 more. That's 55 sites underway next year out of a total of 85 New Jersey sites on the national priority list. This ambitious work plan can only be realized if the Federal Government meets its end of the bargain.

The money is there in the Treasury account, collected for the sole purpose of cleaning up these sites. It makes no sense to arbitrarily limit appropriations out of this dedicated account.

So, Mr. President, I urge my colleagues not to cut the EPA budget below what this administration—no friend of the environment—has requested. I urge my colleagues to repeat the commitment made to Mr. Ruckelshaus last year and provide him the resources he thinks necessary to restore EPA to its position as an effective, credible force for environmental protection. I urge my colleagues to maintain the momentum of hazardous waste cleanup.

In summary, Mr. President, I urge my colleagues to support this amendment because it adds money where it is needed—for education, medical research, and environmental protection.

Mr. STAFFORD. May I say to the chairman that it is the intent of the chairman of the subcommittee to proceed with the authorization and act on a timely basis for the Appropriations Committee.

Mr. HATFIELD. I am delighted to hear that and commit my vote now to the Senator from Vermont in helping him do that. But the Appropriations Committee will have to have the authorization, of course, for such programs. Then our commitment was that we would recommend priority be given to $1.3 billion for education, $650 million for medical research, and $600 million for the environment.

Mr. STAFFORD. I thank the chairman very much.

I am prepared to yield the floor.

Mr. COCHRAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, may I ask the distinguished chairman of the committee a question? Does this amendment that we are about to vote on contain as much money for education as was contained in the Bradley amendment which was to be offered, or was offered?

Mr. HATFIELD. It does.

Mr. COCHRAN. I thank the Senator.

Mr. BRADLEY. If the Senator will yield, the Bradley amendment was not actually offered. So we do not know what the Bradley amendment actually envisioned for education because it was not offered. Personally, I think $1.3 billion is not enough. But to the extent that you anticipate the Bradley amendment would have $1.3 billion in it, it is my understanding that both the chairman of the committee and the relevant subcommittee have stated that it is their priority to see that $1.3 billion in education funding will be there.

The PRESIDING OFFICER. Is there further debate?

The majority leader.

Mr. BAKER. Mr. President, I understand the minority leader is on his way to the floor. I would not wish us to begin to vote until he arrives.

Mr President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The minority leader.

Mr. BYRD. Mr. President, I will be brief.

The PRESIDING OFFICER. The Senate will be in order.

The Democratic leader.

Mr. BYRD. Mr. President, I hope that the Senate will not vote for the pending amendment. There are a number of reasons why I say that. Mainly, I would think that the battle to achieve a more significant reduction in the deficit could then well be over in the Senate. What will the Senate get for throwing in the towel? Two billion dollars over 3 years, which we hear may be spent for education. But in reality, it could be spent for foreign military aid, or in other ways.

Education has no better friend in the Senate than the junior Senator from West Virginia. I believe in it. I have demonstrated that belief. I was out of high school 16 years before I started to college. I went to law school for 10 years at night, not because I ever expected or intended or wanted to be a practicing lawyer, but in order that I might be at least a little better equipped than I was otherwise to serve my people in public office.

I know how difficult it is for some of our families today to send their children to college. I have five grandchildren—two granddaughters and three grandsons. One of those grandsons is attending Princeton University today only because he was fortunate enough to have a grandfather and a grandmother who could give him some assistance.

The brain drain is probably the most insidious weapon that is pointed to the heart of this Nation. I can only speak of my own situation, my own family's. How many other families are there in this country who have exceedingly bright children or grandchildren but who cannot help those bright, young people to develop further their talents and their full potential? One family is all too many, because education is the front line of our national defense.

I am also eager to spend every dollar that the Defense Department needs. I am talking about dollars that are well spent, that are necessary. I am not talking about $44 electric light bulbs or $450 claw hammers. Whatever is needed and can be efficiently spent, I want the Defense Department to have.

I think we all know that the Defense Department is not going to get a 7-percent increase, and as far as I am concerned it does not need a 7-percent increase. It may get a 4-percent or a 5-percent increase.

But under this package of amendments, the Appropriations Committee will not have the flexibility to determine just what the priorities are and to go about funding those priorities accordingly.

I am quite concerned with respect to the two caps that are involved. The cap on defense, to a degree, is meaningless, because there is no likelihood whatsoever that this Congress will appropriate 7 percent for defense anyhow. Under the procedures that we now have, the Appropriations Committee has the flexibility to determine what the priorities are, and under a single ceiling to make whatever adjustments are necessary to meet the needs.

On the other hand, the cap in this bill on nondefense discretionary spending will be solid. It will be there. It is my understanding that inflation has not been factored into that cap, whereas the same is not true with respect to the defense increase.

I am sorry to see us going down the road of putting separate caps on domestic spending and caps on defense. It seems to me that the unitary cap is the feasible and better way to go and the way which in the long run would best serve the interests of this country.

Mr. President, there is no assurance that can be given, however much that assurance may be given in good faith, there is no guarantee that this $2 billion in Mr. BAKER'S second-degree amendment over a 3-year period—$2.310 billion, I believe, over a 3-year period—will really be spent for education.

There have been good-faith statements saying that it will be so spent. But there have also been some very candid statements from the other side of the aisle to the effect that we cannot be absolutely sure that this money will all go into education.

The proponents of the amendment claim that the amendment provides funds for nondefense discretionary spending without adding to the Federal budget deficit. The key item to con-

sider is outlays. If the amendment passes, it is likely that the $2 billion will actually be outlayed by the Federal Government. Should the funds remain in the energy security reserve, only a portion of the $2 billion will be outlayed over the next 3 fiscal years. The difference in outlays will show up as an increase in the deficit.

There is no way to guarantee that the funds transferred by the amendment will be used for any particular purpose—education programs or any other programs. By adding $2 billion to the nondefense discretionary cap, the amendment simply creates room for additional spending. The spending could be absorbed in the foreign assistance program, for example, despite the intentions of the sponsors.

The amendment clouds the issue of what is wrong with the Synthetic Fuels Corporation. The long-term mission of the SFC is to make American energy resources available, and that mission is still vital. The problem with the SFC is the poor quality of its Board of Directors, which has been inept at best. Some members of the Board may have engaged in unlawful activities. The solution is to clean house, and not gouge out funds from the energy security reserve.

In light of the increased instability in the Persian Gulf, the timing of the amendment could scarcely be worse. Although the United States obtains a relatively small percentage of its oil supply from the gulf, this country is committed to oil-shortage agreements with Europe and Japan that will cause major shortfalls here if the gulf is disrupted. The administration has already allowed the opportunity to encourage significant synfuels production to slip away. The amendment further degrades our national commitment to developing a private synthetic fuels industry.

Section 125 of the Energy Security Act (Public Law No. 96-294) establishes a production goal of 500,000 barrels per day of crude oil equivalent by 1987, and of 2 million barrels per day of crude oil equivalent by 1992, from domestic energy resources. The ineptitude of the Corporation's board has put the SFC at least 3 years behind that schedule. The development of synthetic fuels is a long-term policy, and transferring $2 billion at this point will lengthen the time needed to reach the required level of synfuels production, and will increase the eventual cost of attaining that level of production.

The amendment is a long-term slap at coal development. Coal is the most abundant American energy resource, and the synthetic fuels program is geared toward making domestic coal reserves available to our economy.

Synthetic fuels made from coal, or oil shale, or solid waste, or other sources will be usable as gasoline, heating oil, powerplant boiler fuel, or in gaseous form, as a natural gas supplement. The need for such fuels has not diminished. Our economy cannot function without those fuels. Although the supplies of most conventional fuels are adequate at the present moment, it cannot be predicted what the supply of those fuels will be over the next decade and beyond. That is why we made a national commitment to synthetic fuels production. The synthetic fuels program is costly—by definition, as it involves creating new technologies—and it is a very long term effort. The United States needs to be able to sustain protracted energy shortages so that our economy is not damaged and our foreign and national security policies are not compromised.

Opponents of the synthetic fuels effort in the Office of Management and Budget spurred a press release by the White House on May 14 that proposed a rescission of about $9.5 billion from the energy security reserve. With the pending amendment taking $2 billion out of the energy security reserve, and OMB proposing a $9.5 billion reduction, what is left of the national synthetic fuels program? OMB also proposes a new standard for financial assistance from the Corporation—that a project produce fuels close to current market prices. Virtually no project using first-of-its-kind technology can meet that standard.

The Synthetic Fuels Corporation has a strategic mission—to insulate the American economy from fuel shortages and the price shocks that accompany such shortages. The ability to supply its own fuels enables the United States to pursue policies that are in its own best interest, so that it will not be blackmailed into decisions that are calculated to placate foreign energy suppliers. Synthetic fuels production can help prevent any nation from threatening our domestic economic well-being. For example, the Congressional Budget Office has calculated that a cutoff of Persian Gulf oil could reduce annual GNP growth in the United States by 25 percent. This country is still importing over 5 million barrels of oil per day, and spot shortages or sudden price increases spread throughout the world oil market rapidly. It is in our national security interest to be immune from such forces.

By carrying out the statutory commitment to synthetic fuels production that is set forth in the Energy Security Act, the United States will create a long-term insurance policy against future economic and foreign policy reversals.

I shall not impose further on the patience of the Senate except to say that my good friend, the distinguished majority leader, is doing what he thinks he has to do. I do not fault him for that. The truth of the matter is, and I do not say this as a reflection on any Senator, but I do not think there should be any doubt that the basic reason for this amendment is to assure the passage of what many of us have called the rose garden special. If the votes had been here for the passage of that package, I seriously doubt that this amendment would have been offered or would have been even necessary. So I think we need not delude ourselves. The purpose, the one purpose of the amendment basically is to get the votes for the passage of the rose garden special. I would add to that the term "a one-way ticket on that railroad."

Again, I know that the majority leader has had to use his skills, which are considerable, and his persuasiveness, which is not excelled in the Senate. He is doing his duty as he sees his duty as majority leader. If I were the majority leader, sometimes, I would find that I would perhaps have to temper my views from what they would be otherwise as a Senator from West Virginia. So, Mr. President, I salute the majority leader for his perspicacious and adroit use of persuasion and amendments and so on. I hope in this instance he loses, but I seriously doubt that he will.

I yield the floor.

Mr. BAKER. I shall take but a moment, Mr. President.

I used to be a lawyer and I never really got over it, I guess. One of my most painful recollections has been from when my good friend, Judge Robert L. Taylor, was district judge in Nashville. He would sit on the bench and he would nod and smile and I knew I was sunk. Every time the distinguished minority leader compliments me, I know I am in big trouble.

I wish I knew we were going to win and I hope his fears about his losing are well founded. I do not know. I hope it passes, Mr. President. What I am going to say next is not meant to be an expression of weariness or impatience but an expression of fact: We have been on this long enough. I doubt that there is any person in this Chamber who can honestly say they are happy with every aspect of this amendment or the underlying amemdment or the bill or the tax bill or the way it will finally end up if it ends up, God willing. But, Mr. President, sooner or later, we have to do it. The Senate simply cannot abandon its responsibility to act. It must not be seized by inaction.

I plead guilty to the charge of trying—it is not a charge; the minority leader knows I am saying this in good spirit—the charge of trying to put together something that will pass. Of course I am. But, Mr. President, pass it we must because we have to finish the

job we have undertaken. Otherwise, I think we disserve the country.

I do not know what the outcome will be, but I wish now to congratulate the two managers in advance. I especially congratulate the chairman of the Appropriations Committee and the Budget Committee and all those others who have participated—Senator WEICKER and Senator STAFFORD and others who have negotiated in good faith on those items.

Now I have done those things, I congratulate the minority leader and all my opposition but I hope they lose. In good spirit and good faith, not only do I hope we pass this amendment but I hope we shall go on and pass the amendment as amended. I hope we pass the bill and I hope we go on to something else because I have stood about all of this that I can.

On that irreverent note, Mr. President, I yield the floor.

The PRESIDING OFFICER. Is there further debate? The question is on agreeing to the amendment of the Senator from Tennessee. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Maryland (Mr. SARBANES), is necessarily absent.

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

The result was announced—yeas 62, nays 37—as follows:

[Rollcall Vote No. 96 Leg.]

YEAS—62

Abdnor	Hatch	Pell
Andrews	Hatfield	Percy
Baker	Hawkins	Pressler
Boschwitz	Hecht	Quayle
Bradley	Heinz	Riegle
Chafee	Helms	Roth
Cochran	Jepsen	Rudman
Cohen	Kassebaum	Simpson
D'Amato	Kasten	Specter
Danforth	Kennedy	Stafford
Denton	Lautenberg	Stevens
Dole	Laxalt	Symms
Domenici	Lugar	Thurmond
Durenberger	Mathias	Tower
East	Mattingly	Trible
Evans	McClure	Tsongas
Garn	Metzenbaum	Wallop
Goldwater	Moynihan	Warner
Gorton	Murkowski	Weicker
Grassley	Nickles	Wilson
Hart	Packwood	

NAYS—37

Armstrong	Dodd	Long
Baucus	Eagleton	Matsunaga
Bentsen	Exon	Melcher
Biden	Ford	Mitchell
Bingaman	Glenn	Nunn
Boren	Heflin	Proxmire
Bumpers	Hollings	Pryor
Burdick	Huddleston	Randolph
Byrd	Humphrey	Sasser
Chiles	Inouye	Stennis
Cranston	Johnston	Zorinsky
DeConcini	Leahy	
Dixon	Levin	

NOT VOTING—1

Sarbanes

So the amendment (No. 3063) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. BAKER. Mr. President, I am advised that Senator BAUCUS wants to offer his amendment now, and I assume that there will be a rollcall vote on that.

I tell all Senators, while we are here, that I anticipate that there will be another rollcall vote tonight. I will confer with the minority leader and the managers during the debate on that measure to see if we can get a better reading on where we go from there.

While the minority leader is in the Chamber and also the distinguished Senator from Montana, might I inquire, is there some possibility of a time arrangement? It is now 6 p.m. and Senators inevitably will have commitments during the course of the evening. If we could set a time——

Mr. FORD. Mr. President, the Senate is not in order. It is hard to hear the distinguished majority leader, and I want to hear him.

The PRESIDING OFFICER (Mr. DENTON). The point is well taken. The Senate is not in order. The majority leader is not being heard. I cannot hear the majority leader in the chair.

Please desist from conversations in the Chamber and remove them to the cloakroom.

The majority leader.

Mr. BAKER. I thank the Chair.

Mr. President, I thank the Chair for restoring order, but I am reminded of the first time I ever visited my wife's family in Pekin, Ill., just before we were married. I walked in the room and one of them said, "Everett, he is not very big, is he?" Senator Dirksen replied, "No, but he is loud."

As I recall, this is the first time I have not been heard in the Senate.

Mr. President, while the minority leader is here and the distinguished Senator from Montana, since the hour of 6 p.m. is here and the evening is wearing on and Senators inevitably will have commitments that they would like to keep, could I inquire of the minority leader and the author of the amendment to be offered if it is possible to set a time for a vote on this amendment tonight for the convenience of Senators.

Mr. BAUCUS. Mr. President, as far as I am concerned, we can vote in maybe 15 or 20 minutes. I do not expect to take a long time on this. I think the issues are very clear. I do not expect to take much time at all.

Mr. BAKER. I thank the Senator.

It is the medicare amendment, is that correct?

Mr. BAUCUS. The Senator is correct.

Mr. BAKER. Mr. President, the distinguished chairman of the Finance Committee, which has jurisdiction of this subject matter, is not here, but I shall try to reach him and as soon as I do I will put a request in in that respect.

But it looks like we might have a vote then within the next 30 minutes.

I am now told that the Senator from Kansas is agreeable to such an agreement.

Could I inquire, then, did I understand the Senator to say he would be agreeable to 20 minutes equally divided?

Mr. BAUCUS. That is fine.

Mr. BAKER. Mr. President, I ask unanimous consent that on the amendment to be offered by the distinguished Senator from Montana dealing with medicare there be a limitation of debate of 20 minutes to be equally divided and that the control of the time be in the usual form and that at the end of the time the vote occur on or in relation to the Baucus amendment.

Mr. BYRD. Mr. President, reserving the right to object, will the majority leader withhold that request for 5 minutes so we can run the telephones?

Mr. BAKER. Yes. I withdraw the request for the time being.

Mr. BYRD. I thank the majority leader.

Mr. BAKER. Let me say to Senators I do anticipate another rollcall vote fairly soon.

Mr. BAUCUS. Mr. President, I ask the Chair, is there a unanimous-consent agreement pending with respect to this amendment? Is there a time limitation on this amendment?

Mr. BAKER. No, Mr. President, there is not. We are going to work our clearances fast on both sides. I sort of jumped the gun there.

I urge the Senator, however, to go ahead and lay the amendment before the Senate and get started on it and see where we are from there.

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

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

Mr. BAKER. I yield to the distinguished ranking minority member.

Mr. CHILES. Mr. President, in the unanimous-consent agreement we had a thing about conserving time. I think if we have an up-and-down vote we will conserve time.

Mr. BAKER. I will clear this with the chairman of the Finance Committee. I will obtain his views on that as well.

I thank the Senator.

Now I yield to the Senator from Delaware.

Mr. BIDEN. Mr. President, will the majority leader indicate to us in line with the original statement that some

are interested in what the remaining schedule will be? Assuming we reach a unanimous-consent agreement between now and 6:30 there will be a vote or at 6:30 thereabouts, what is the majority leader's inclination from that point on?

Mr. BAKER. Mr. President, I discussed this matter earlier with the minority leader and with the distinguished ranking minority member of the committee and at that time I said I would hope that we could go ahead now and finish this bill tonight. I described to the minority leader certain amendments or provisions that I would be willing to support in order to facilitate that. But I do not have an answer yet for the Senator from Delaware. I would hope that we could finish tonight. If we cannot, we cannot. And then I would hope we will finish tomorrow. But I intend to confer further with the minority leader and the managers of the bill on that subject and maybe after we have the next vote we will have a better answer that I can give the Senator from Delaware.

Mr. BIDEN. I thank the Senator.

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

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

Mr. METZENBAUM. This is not exactly on point on this subject, but is a question I have been wanting to ask the majority leader.

Last Friday we were in session and we had no votes. I am frank to confess that I was sort of inclined to force a vote because it seemed to me unfair that a number of Senators were not here and some of us were here, and I wonder whether the majority leader could assure us that, whatever his decisions as to being in session this Friday as well as next Friday, if we are in session there will be votes?

Mr. CHILES. That is the carrot-and-stick approach.

Mr. METZENBAUM. The Senator from Ohio is not inclined to force a vote just for the purpose of doing that but he feels strongly it is not right that half the Senate takes off and the remainder of us wait around here while nothing is done.

Mr. BAKER. Mr. President, I can assure the Senator from Ohio that of all the distinguished Senators in this room, the one who grieves most and is anguished most by the inability to get a vote when we are in on Friday is the Senator from Tennessee, the occupant presently of the floor. I really get pretty upset when I announce we are going to be in and have votes and then I find that we have so many absentees that if I force a vote we may end up with no quorum. I have not done that in the past because frankly I did not want to embarrass the Senate by having to adjourn with the absence of a quorum, but I have recovered from that.

I want to tell you right now that I have discussed with the minority leader this morning on this subject and we are going to be in on Friday and we are going to have votes on Friday and if we do not have a quorum under the rules I have to adjourn, but we are going to have a vote at least and I hope more than one vote on Friday.

Mr. CHILES. Even if we finish this bill?

Mr. BAKER. I might add, parenthetically, I am not prepared to make such a categorical and unpleasant representation about the following Friday.

But we must do, in the judgment of the leadership on this side, this bill, the budget resolution, agent orange, and the debt limit before the Memorial Day recess, and this is a huge burden.

But we will be in on this Friday; we will have votes on this Friday on some of these measures.

But I wish to reserve a further statement about the following Friday. I have not completely abandoned the carrot technique as well.

Mr. METZENBAUM. I thank the majority leader.

Mr. BAKER. I thank the Senator from Ohio.

Mr. BAUCUS. Mr. President, the amendment I am offering is a very simple one. While Senators are on the floor, let me just very briefly explain it. I do not know when the vote will occur.

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

Mr. BAUCUS. I am glad to yield.

Mr. BYRD. I thank the Senator and apologize to him. I thought for the benefit of the overall membership here—we on our side now are ready to enter into an agreement. If we can clear this, then all Senators will know who are in the Chamber. This side is ready to enter into the unanimous-consent agreement with regard to the vote on this Baucus amendment.

Mr. BAKER. I thank the Senator.

Mr. President, has the Baucus amendment been laid before the Senate?

The PRESIDING OFFICER. It has not been laid before the Senate.

Mr. BAKER. Mr. President, I ask unanimous consent that, when the Baucus amendment is laid down, the time for debate on that measure be limited to 20 minutes, to be equally divided, with the control of time to be in the usual form, and at the end of that time that the vote occur on or in relation to the Baucus amendment.

Mr. KENNEDY. Mr. President, reserving the right to object, and I will not object, I say to the leader, if we could have a vote up or down on the Baucus amendment.

Mr. BAKER. I thank the Senator from Massachusetts.

Mr. President, unfortunately, the Senator from Kansas, the chairman of the committee, is not here at this moment. I am not authorized to clear that without consulting further with him. So perhaps it would be better to go ahead with the amendment and as soon as I can get an answer for the Senator I will repropound the request.

Mr. President, let me withdraw the request at this time. I urge the Senator from Montana to go ahead and offer this amendment, if he cares to.

The PRESIDING OFFICER. The request is withdrawn.

The Chair recognizes the Senator from Montana.

MEDICARE

Mr. BAUCUS. Mr. President, I thank the Chair, and I thank the majority leader.

Mr. President, this is a medicare amendment. I wish that the Senator from Kansas, Mr. DOLE, were here so we could vote very quickly on it.

The issue is very clear. Essentially, I am trying to restore some of the cuts we have made in medicare but not restore quite as much of the cuts as was attempted in prior amendments.

I am referring to the tremendous efforts on the part of the Senator from Massachusetts, Mr. KENNEDY, who attempted to restore about $1.5 billion in medicare cuts a few days ago, and also to restore about $600 million in another amendment. Those amendments were rejected by the Senate.

This amendment restores $588 million of the medicare cuts over 3 years. It is a balanced amendment. It is a fair amendment. The purpose of the amendment is to take some of the burden off of senior citizens that we are imposing in the bill that is now before us. This is an attempt to try to restore a little balance, a little equity to this deficit reduction package.

This amendment would cost only a total of $588 million over 3 years. My amendment would:

First, eliminate the proposed increase in the part B deductible, which is paid by sick elderly beneficiaries before medicare kicks in;

Second, reduce the proposed part B premium increase in 1987, so the premium will only increase that year by the rate of general inflation, corresponding to social security COLA adjustments, instead of the rate of medical cost inflation;

Third, and provide for close monitoring of physician behavior under the proposed physician fee freeze so we can protect medicare beneficiaries from unfair cost shifting during the 2-year freeze period.

That is the amendment. We have debated this issue many times and for many hours. We can debate it many more times and for many more hours.

But I think the issues are fairly well drawn. We know what the issues are.

For example, Mr. President, in this package before us we are cutting medicare by about $9 billion. Senior citizens suffer a disproportionate amount of those cuts.

When budget cuts are made, they should be made fairly. They should be made across the board. We should not disproportionately cut one group at the expense of another.

I, frankly, think that we as a body have gone too far in singling out seniors, particularly medicare beneficiaries, compared with other groups. The fact of the matter is that among the $9 billion in medicare cuts in this bill, about $3.7 billion of that are cuts directly imposed upon beneficiaries. Physicians' cuts amount to only about $1.5 billion over 3 years, hospital cuts about $1.4 billion.

I see the Senator from Minnesota is on the floor. He is going to do his duty and tell us why at least Members on that side of the aisle should vote against this amendment. But the fact of the matter is he knows it is a fair amendment and it should be passed.

I yield the floor.

Mr. DURENBERGER. Mr. President, as did the Senator from Montana, I will not be as detailed on the issues that he raised because some of these issues have already been raised here in the last month.

But I hope that our colleagues, all of whom share the concern for the high cost of health care in this country and who are all coming now finally to deal with some of the problems that have caused this rapid increase, are not misled by the Senator's arguments that somehow or other we are loading, in the Finance Committee proposals, the cost of health care reform or the burden-sharing for the increases in the cost of hospital and doctor care in this country on the elderly in America.

In large part, the elderly are being asked to carry not more of a burden than anyone else in this country, and probably, in larger part, a lesser burden. Just look at the medicare savings that have been achieved by the Finance Committee recommendations and by this body in the Congress over the last 4 years. Of the total savings from the predicted increase in medicare savings, hospitals in this country have borne over 50 percent of the amount of reduction in costs, all other providers somewhere in the neighborhood of 20 to 25 percent, and the beneficiaries, if the Senator's amendment were adopted, would be carrying somewhere in the neighborhood of 24 percent, and with the committee provision that he seeks to amend something in the neighborhood of 28 percent.

So it is any one of those recommendations that dumps the whole load of the spending reductions on the elderly in America. In reality, in terms of the fairness argument, to repeat an argument we have made on this floor earlier, the elderly in this country pay no more out-of-pocket today for their health care as a percentage of their income than they did in 1966 when the medicare program was first adopted. The percentages, from all the studies we have had, are roughly in the neighborhood of 15 percent of an older person's average income.

One of the differences between 1966 and 1984 is that the benefits have been substantially increased to elderly Americans under the programs they are purchasing, and that are provided for them under part A of medicare.

In 1966, there was no provision for kidney dialysis; in 1966 there was no provision for artificial hips and other limbs; there was no provision for pacemakers because there were not any; no provision for coronary artery bypass surgery; the sophistication of CAT scanner; and, a variety of other health-saving and life-prolonging equipment was not present in that system.

All of those things have added to the cost, and yes, we have attemped to apportion the burden of that increase cost across everyone in the system.

Mr. President, I say to my colleagues as you look at what is fair, there are a lot of unfair things we could have done other than to bring the cost of the insurance portion in medicare—the part B program—to 25 percent. In 1966, when this insurance program was offered to the elderly Americans, it cost them 50 percent of the program cost. That was their premium. Today, it has slipped down below 25 percent, and we are trying to tell people from now over the next 3 years when you buy your insurance program from medicare you can expect to pay 25 percent of the cost of that program.

Part of the reason for doing that obviously is to get some consistency in that part of the program, and also to alert them to a lot of other reforms which the Senator from Montana and I have jointly participated in for improving this system through more price-sensitive, more utilization-sensitive purchases that medicare beneficiaries can make as the system develops.

Mr. President, I strongly urge, as I have on previous occcasions, that we not look at this as an amendment that takes savings from medicare programs at the expense of the elderly. The Finance Committee proposal is an effort to go across the board and put at least half the burden on the hospitals, another 25 percent of it on doctors and other providers, and yes, you are right, the elderly are asked to pay their 25 percent of the cost increase in this program.

Mr. MITCHELL. Mr. President?

The PRESIDING OFFICER. The Senator from Maine.

Mr. MITCHELL. Mr. President, when this matter was before the Senate Finance Committee, most of the members of that committee, including myself, commended the chairman of the Finance Committee for undertaking the effort to come up with a deficit reduction package, and to begin to deal with the serious deficit problem that we face in this country. Underlying all of those discussions repeatedly and explicitly was the understanding that we were part of a larger whole, and that, if we exercised restraint in the area within our jurisdiction, comparable restraint would be exercised in other areas of spending.

Specifically mentioned publicly by myself and several members of the committee were defense spending and spending on agricultural price supports; the latter of which have increased some 500 percent during this administration, and the increase in the former which has been debated here so often we are all familiar with it.

So the argument was made that we have to ask the people who are the beneficiaries under medicare to do their share because the other parts of the budget under other committees with jurisdiction, are going to do their share. There will be a shared sacrifice across the board. So the vote occurred in the Senate Finance Committee, and I and other members of the committee voted for it. At the time we voted we repeated the condition and I am sure the Senator from Minnesota recalls that very well. We were voting for this reduction in medicare, difficult as it was, because we could not ask the elderly to stand alone in being unaffected by the reductions that were being made. They had to share in the sacrifice that was being asked of everyone. Once again, explicitly was mentioned at the time of the vote: Defense and agricultural price supports.

What happens when we come to the floor? What is the restraint that has been exercised in those other areas? First, as I understand it, there is nothing in this package regarding the agricultural price support program which—as I said has been stated on the floor many times—have increased 500 percent under this administration. What do we see on defense? As I understand it—I ask the Senator from Minnesota to correct me if I am wrong—it is an increase of $35 billion, over 11 percent before adjustment for inflation and about 7 percent after adjustment for inflation. If that is restraint, what are we doing with respect to the elderly?

What happened once again is that this is a one-sided proposal in which a certain segment of American society are being asked to sacrifice while others are being left out of the sacrifice. It is, therefore, fundamentally defective because it lacks the essential

ingredient of shared sacrifice; of asking everyone to take some pain, and of not just saying to one group who are those who in fact are least able to make the sacrifice to do so.

There has been much discussion in the past 2 weeks about the Finance Committee proceedings, the Finance Committee vote, and how is it that people who in the Finance Committee voted for reductions now on the floor take a different position? Well, this is the explanation for it because the conditions which were expressed clearly, publicly, and repeatedly in the Finance Committee have not been met, indeed, have not been approached in this package, and the restraint in other areas that was offered as the underpinning of the entire package is not present in any other area. Therefore, I say this amendment ought to be approved, unless and until similar restraint is demonstrated in other areas.

When that happens, if we get a package—as we had earlier in this debate with the package offered by the Senator from South Carolina which was the first one we voted on, and the second one, both of which I voted for as did many other members of the Finance Committee even though it asked for restraint of the elderly—that contains within it the principle of shared sacrifice, and that does meet the conditions which many of us feel are essential to any package, then I believe there will be votes for it. But I believe that under the circumstances this amendment is a good, valuable amendment which does provide that the elderly are not again going to be singled out while others are left untouched.

I urge Members of the Senate to support this amendment. I say that as one who voted for the Finance Committee package under the terms which I have just described.

I thank the Chair. I thank the Senator from Montana.

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, the Senator from Maine is absolutely correct. As a member of the Finance Committee, he, I, and others voted for the Senate Finance Committee package under the exact stated assumptions we have just heard from the Senator from Maine; that is, that other committees would vote to cut their programs and constituencies in the same way, and in the same amount as we were then doing in the Senate Finance Committee in voting these medicare cuts.

The fact of the matter is that that is not what happened in later weeks. Here we are today. We still have the cuts, $9 billion in medicare. But we do not have the constraints by the other committees who have jurisdiction over the other bills. That is why today I and others are offering this amendment to try to restore some balance.

I must say, Mr. President, that if I say other members of the committee, particularly on the other side of the aisle, stepping forth with further cuts in defense as well as other programs so that we could start to get deficits down in a significant and meaningful way, I would not be here on the floor tonight offering this amendment. But the other side is not willing to bite the bullet to get deficits down. This is a paltry effort they are undertaking. It does not amount to a hill of beans. The financial markets know that.

The Senator from Minnesota is trying to say that the beneficiaries are sharing equally in this bill. Mr. President, that is not true. Here are the figures. Here are the facts. Out of $9 billion in medicare cuts in this bill, $3.7 billion burdens beneficiaries; physicians, $1.5 billion; hospitals, $1.4 billion; laboratories, private insurance companies, et cetera, $2.1 billion.

So it is not true that the Finance Committee package equitably shares the burden. It is just not true at all. Here are the figures. They add up to $9 billion. If someone wants to dispute those figures, that is fine. But I am saying to the Members of this body tonight that beneficiaries are being cut disproportionately, unfairly, compared to other actions we are taking in this bill.

I thank the Senator from Maine because he hit the nail on the head. We would probably not be here if there were equivalent cuts being made in other programs. I must add again that health care providers that are being cut will cost shift to beneficiaries, so the fact of the matter is that the elderly are being cut even more, when all is said and done, than it appears under the figures in this bill.

I yield to the Senator from Massachusetts.

Mr. KENNEDY. Mr. President, the Members are familiar with the argument but I want to add my voice in support of the amendment of the Senator from Montana. The fact is in this particular proposal, the overall proposal, we will be increasing the defense spending in real dollars by some $35 billion. In this particular proposal, we see significant cuts in the coverage of our elderly people who are already paying too much out of their pockets for the very basic, essential health care needs.

The brutal fact of the matter is, Mr. President, that the Congress of the United States has failed to have the backbone to provide real kinds of meaningful controls on the explosion of health care costs. Rather than dealing with that in an effective and efficient kind of way, we take the easy way out and reduce the coverage for millions of elderly people who need these vital services that are covered in Medicare.

I commend the Senator from Montana and I hope his amendment will succeed.

● Mr. BRADLEY. Mr. President, I rise as a cosponsor of the amendment offered by my colleague from Montana to reduce the impact of the medicare cuts to the elderly.

In the past 5 years the medicare part A deductible has risen 123 percent, the part B coinsurance has increased 100 percent, and charge reductions from unassigned claims passed on to beneficiaries have increased 198 percent. Since medicare covers only 45 percent of the elderly's health care bill, even these reductions understate the elderly's rising health costs. The average elderly person is paying out-of-pocket as much for health today as when medicare began, about 15 percent of their income. Under current policy and trends, the average elderly person will be spending 19 percent of their income for health care by the year 2000.

Mr. President, I am firmly committed to reducing this intolerable deficit. But we cannot ask the elderly to shoulder an unfair burden of the savings to the Federal Government. This package contains almost $9 billion in medicare cuts. Of this $9 billion, elderly beneficiaries are required to contribute $3.7 billion, while physicians contribute only $1.5 billion and hospitals $1.4 billion.

Our medicare amendment reduces the elderly's share of the burden by restoring $0.6 billion of the $9 billion in savings in the bill by first, striking the proposed increase in the part B deductible; second, reducing the proposed part B premium increase in 1987, so the premium will only increase that year by the rate of general inflation instead of the higher rate of medical cost inflation; and third, requiring the Secretary of the Department of Health and Human Services to monitor physician behavior and report periodically to Congress during the 2-year physician fee freeze period so we can examine whether additional costs are being shifted onto medicare beneficiaries. Even with this amendment, beneficiaries will be paying more for their health care as a consequence of this legislation.

I urge my colleagues to support this amendment to alleviate some of the worst consequences to the elderly of this deficit reduction package.●

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. Mr. President, we have been over this ground about three times now. We have already voted on this part B premium proposal once and voted on the deductible at least twice. I might indicate that these cuts were made with the support of the

Senator from Montana, in the committee, along with every other member of the Senate Finance Committee.

We are going to spend $250 billion on medicare in the next 3 years and all we did was trim about $9 billion from that total cost. We could do more on hospitals, but we did that last year. It seems to me that the Senator from Montana was among those who urged me to find ways to cut back some of these entitlement programs, now is here trying to restore the very minimal cut we made. I do not understand what happened.

Mr. BAUCUS. Will the Senator yield?

Mr. DOLE. I am happy to yield.

Mr. BAUCUS. The reason is simple. It is the same reason the Senator from Maine gave when the Senator from Kansas was not on the floor; namely, that we agreed to these cuts with the understanding, on the condition, that this body would make further cuts in other areas. That was the understanding. The Senate is not doing that. The Senate is not making those other cuts in the other programs.

Mr. DOLE. What other cuts does the Senator have in mind?

Mr. BAUCUS. A freeze in spending for a year. Will the Senator support that?

Mr. DOLE. Next year is the year of the freeze.

Mr. BAUCUS. Let us freeze right now. Will the Senator be willing to cut spending now and go for a freeze?

Mr. DOLE. I can play the shell game, too.

Mr. BAUCUS. It is no shell. Vote for it. Vote for it up or down.

Mr. DOLE. Let me get the record straight. I want the record to be perfectly clear, a term that used to be used around here several years ago.

In our committee, many of my colleagues, Senator BAUCUS and others, wanted to go further. We tried to find more cuts than medicare in some of these programs. We were going to raise the part B program to 35 percent by the late 1980's. That vote was 17 to 3. One Republican and two Democrats voted against it, not the Senator from Montana.

Then after looking around awhile and exploring it with the Republicans and Democrats, we decided we were going to kick off a firestorm by going from 25 percent, the present law, to 35 percent. So all we are doing is keeping it at 25 percent. We are just saying we ought to keep it at 25 percent. It used to be 50 percent, it went down to 23, it is back to 25. Our committee voted to go to 35, but the Senator from Kansas offered an amendment to cut it back to 25 percent. That is all it does.

Mr. CHILES. If the Senator will yield, we had a proposal to have a 20-minute time agreement sometime back, 10 minutes to a side. That was 40 minutes ago. We could not find the Senator from Kansas. I hope he is not delaying the passage of this bill. I would hate to go on television and say he was delaying the passage of this bill.

Mr. DOLE. The Senator from Kansas had a meeting with the Committee on Agriculture concerning a number of programs, including the WIC program, which the Senator supports and I support, and certain other programs. I apologize. I am chairman of that subcommittee and I did not know this amendment was coming up.

We do not want to delay this proposal. We want to defeat it. We must demonstrate to the American people we are serious about cutting the deficits. Entitlement programs have to be addressed. All we did was touch them. We did not cut them but we nicked them a little bit over a 3-year period. I do not think anyone can say we went too far. The part B premium is 25 percent now. We keep it at 25 percent. Is that a reduction? I do not think so.

Mr. BAUCUS. Will the Senator yield?

Mr. DOLE. I yield.

Mr. BAUCUS. What we are talking about is 25 percent of program costs. The program costs increase at up to three times the rate of general inflation. We indexed social security to the CPI, the general inflation rate. But this bill will increase part B premiums by requiring senior citizens to contribute 25 percent of the program costs. Program costs rise at two or three times the average rate of inflation, which means you are putting a burden on the senior citizens that they do not deserve.

GAO came out with a good report which explains that one-fifth of the reason medicare costs are going up is due to people living longer; but four-fifths of the reason medicare costs are going up is because of spiraling health care costs in general. That is not the fault of the elderly.

Mr. DOLE. I will not argue with my colleague. It seems to me we did not do very much. We have to go to conference. There is no savings in this area in the House bill. We will have to divide whatever we have with the House. If we begin to reduce our savings, we will not have anything when we come back from the conference. But maybe that is the goal of the Senator's amendment.

I do not know how we can say that we cannot even take the changes recommend by the Committee on Finance. If that is too much to cut, we had better start explaining to senior citizens where this program is going to end up in about 3 years. We are already told by the trustees that it is in deep difficulty.

We can all kid ourselves and put out press releases and say, "Do not worry about it," but I think we ought to face up to reality. So we will not be accused of delaying, Mr. President, I am going to move to table and I ask for the yeas and nays.

Oh, the amendment is not pending? I cannot table it if it is not pending.

Mr. BAUCUS. Mr. President, the Senator may table the pending amendment if he wishes to.

Mr. DOLE. Do we have an amendment pending, Mr. President?

Mr. BAUCUS. The Baker amendment is pending.

The proposal was to have 10 minutes equally divided.

Mr. DOLE. If there is nothing pending, Mr. President, I suggest the absence of a quorum.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas has the floor.

Mr. BAUCUS. Mr. President, if the Senator would like to, I can offer the amendment right now, and we can vote on it.

The PRESIDING OFFICER. Does the Senator from Kansas wish to withdraw the quorum call?

Mr. DOLE. No, Mr. President.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. FORD. Mr. President, does the Senator from Kansas object to the Senator from Montana introducing his amendment?

Mr. DOLE. Mr. President, no, I must confess I was not here. I thought it was pending.

Mr. FORD. Mr. President, a point of information.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. On the motion to table, would that have been to the pending amendment?

The PRESIDING OFFICER. There are two amendments pending: the amendment of the Senator from Tennessee (Mr. BAKER) and the committee's reported substitute.

Mr. FORD. Which one would the Senator have tabled if he had been given the yeas and nays?

The PRESIDING OFFICER. The Senator would have to specify which amendment would be the object of the motion.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOMENICI. 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. DOMENICI. Mr. President, I understand that the distinguished Senator from New Jersey (Mr. BRADLEY) has an amendment that was referred to in the colloquy on the previous amendment. In fact, it was referred to by the distinguished chairman of the Appropriations Committee as an amendment that would be offered later and would be acceptable to him. It is acceptable to our side, and I understand that it is acceptable to the distinguished Senator from Florida.

Mr. CHILES. Mr. President, I was against that amendment because I thought we were putting pressure on others. I still maintain that I am against the amendment. That is just my position.

Mr. DOMENICI. We are going to agree that the Senator can offer his amendment.

Mr. CHILES. I have no objection.

AMENDMENT NO. 3065

Mr. BRADLEY. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from New Jersey (Mr. BRADLEY) proposes an amendment numbered 3065.

Mr. BRADLEY. 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 19, of amendment No. 3027, add at the end of subsection (b) the following: It is the sense of Congress that FY 1985 appropriations be increased for several non-defense discretionary programs. Priority should be given to education programs, environmental protection and health research activities.

(The names of Senators STAFFORD, WEICKER, HATFIELD, and DOMENICI were added as cosponsors of the amendment.)

Mr. BRADLEY. Mr. President, this is simply a clarification of what was discussed earlier on the Senate floor.

My amendment modifies the Baker amendment to specifically state that priority should be given to education programs, environmental protection, and health research activities in the increase in fiscal year 1985 appropriations. The full discussion on this amendment took place just prior to the last vote.

Mr. DOMENICI. Mr. President, as I understand it, this is a sense-of-the-Senate amendment that states what the distinguished Senator from New Jersey has just indicated. Thus, it is not binding in the substantive, legal sense, and we have no objection to it.

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

The amendment (No. 3065) was agreed to.

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

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

The motion to lay on the table was agreed to.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BRADLEY. 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. DOMENICI. Mr. President, Senator GRASSLEY has arrived on the floor. I understand that he has an amendment that does not require a yea and nay vote. The amendment is acceptable to the distinguished Senator from Florida, representing the minority, and I am willing to accept it if Senator GRASSLEY is prepared to offer it at this time.

AMENDMENT NO. 3066

(Purpose: To require the Director of the Congressional Budget Office to prepare for the Congress periodic analyses of the assumptions underlying the budget requested for departments, agencies, and establishments of the U.S. Government in the budget submitted by the President under section 1109 of title 31, United States Code, for each fiscal year)

Mr. GRASSLEY. I thank the Senator from New Mexico. I am prepared to offer the amendment.

Mr. President, I send the amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Iowa (Mr. GRASSLEY) proposes an amendment numbered 3066.

Mr. GRASSLEY. 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 the amendment, add the following new section:

ANALYSES OF BUDGET ASSUMPTIONS

SEC. . (a) The Director of the Congressional Budget Office shall, in consultation with the Chairman and Ranking Member of the Committee on the Budget of the House of Representatives and the Committee on the Budget of the Senate, determine a schedule of phased analyses of Executive Departments, agencies, and establishments beginning with a trial analysis for one or two of such Departments, agencies, and establishments to be determined in such consultation, which would lead to the submission to such Committees of such analyses as may be necessary to provide the Congress with the information necessary to evaluate—

(1) the nature and reliability of the assumptions upon which the revenue estimates set forth in the budget submitted by the President under section 1105 of title 31, United States Code, for each fiscal year are based;

(2) the nature and reliability of the assumptions upon which the requests for budget authority for each Department, agency, and establishment of the United States Government for such fiscal year contained in such budget are based;

(3) the nature and reliability of the assumptions upon which the estimates of the budget authority necessary for each such Department, agency, and establishment for the two fiscal years succeeding such fiscal year set forth in such budget are based;

(4) the adequacy of the amounts of budget authority requested and estimated in such budget for each such Department, agency, and establishment for each such fiscal year to carry out the programs, projects, and activities proposed in such budget to be carried out by such Department, agency, or establishment for such fiscal year;

(5) the estimated amount of budget authority that the historical pattern of funding would provide for each such Department, agency, and establishment for each such fiscal year (based upon a time-series analysis); and

(6) the effect that the provision of budget authority in the amounts specified under paragraph (5) for each such Department, agency, or establishment for each such fiscal year will have upon the programs, projects, and activities proposed in such budget to be carried out by such Department, agency, or establishment for such fiscal year.

(b) In carrying out the analyses determined by consultations required in subsection (a), the Director may utilize any of the resources made available to the office under sections 201 and 202 of the Congressional Budget Act of 1974 (2 U.S.C. 601 and 602) and, notwithstanding any other provision of law, shall have access to any information, forecasting models, data, estimates, and statistics, prepared by or for a Department, agency, or establishment, that the Director determines to be necessary in carrying out such analyses.

(c)(1) At the request of any committee of the House of Representatives or the Senate, or any joint committee, the Director shall testify before the committee with respect to any matter contained in an analysis submitted under subsection (a) that is within the jurisdiction of the committee.

(2) At the request of any Member of the House or the Senate, the Director shall provide to such member any information compiled in carrying out subsection (a), and, to the extent available, such additional information related to the foregoing as may be requested.

Mr. GRASSLEY. Mr. President, the purpose of the amendment is to strengthen the budget enactment process by providing Congress with an independent capability to analyze and evaluate the internal and external assumptions and decisions shaping the President's budget plan each year.

I thank the chairman of the Budget Committee, Mr. DOMENICI, and the ranking minority member of the committee, Mr. CHILES, for their concern about the underlying structural causes of the deficits and for allowing this amendment to become law.

I should like to submit a statement for the RECORD, and that statement is a justification of the amendment; and it was developed cooperatively with Senator KASSEBAUM and myself and our staffs as to the need for this capability.

Mr. President, the purpose of this amendment is to strengthen the budget enactment process by providing the Congress with an independent capability to analyze and evaluate the internal and external assumptions and decisions shaping the President's budget plan each year.

The President's 5-year budget plan is the fundamental statement of his policy; it defines the array of priorities and hard decisions, and it purports to project the future consequences of these decisions. The administration's fiscal year 1985 budget predicted a bright future: Peace, prosperity, economic growth, and rising living standards. The only dark cloud on the horizon is its projection of a continuous stream of large deficits out to fiscal year 1989. The economic implications of these deficits raise a fundamental question concerning the realism of the entire budget plan and its picture of the future.

This impression of an imminent mismatch between plans and reality is magnified by several other considerations. First, both the President and the Congress have developed long-term budget plans that systematically and routinely overestimate revenues and underestimate program costs. Since there is no reason to expect that this structural pattern of behavior has changed, it must be concluded that the deficit picture is likely to be far worse than initially the administration's budget and now Congress budget projects.

Second, the fiscal year 1985 budget plan is based on an economic forecast that appears to contain contradictory assumptions. For example, the economy is projected to expand smoothly and powerfully for the next 5 years; however, as demand increases and deficits remain high, interest rates and inflation are projected to decline. Furthermore, the President has warned Congress that these deficits threaten to drive up interest rates, choke off investment, and ultimately abort the recovery.

Third, the Congressional Budget Office—in a less, but still, optimistic economic forecast—it assumes the same nominal growth in GNP but with less real growth and more inflation; and it assumes relatively level, as opposed to declining, interest rates—predicts that the deficit could grow to $308 billion in fiscal year 1989, assuming no changes in policy. Yet, history would demonstrate that baseline projections have, too, been systematically underestimated.

Fourth, the cost of servicing the U.S. debt is soaring. Debt servicing currently accounts for 14 cents of very dollar the Government spends. Deficits drive up debt-servicing costs in two ways—they magnify the total debt that must be serviced and they increase pressure to raise interest rates which raises the servicing cost of each dollar of debt. Debt servicing costs are extremely sensitive to interest rates. For example, if interest rates rise by 1 percent, the debt-servicing bill will increase the cumulative deficit by $162 billion between fiscal year 1984 and fiscal year 1989. Thus, by driving up deficit-servicing costs, the deficit can create its own uncontrollable momentum.

Fifth, this picture of uncertainty and unreality is magnified by the fact that the President's budget submission does not contain a plan to control the forces generating these destabilizing deficits.

At the present time, the future consequences of a congressional decision to enact the administration's budget are not understood. It is possible that the administration's budget plan embodies a real policy that is very different from its intended policy. This budget crisis threatens to paralyze Government by making it hostage to the unforeseen long-term consequences of today's decisions. If deficits, interest payments, and entitlements continue to mount, there will be less and less money to cover unexpected or discretionary needs, including defense, at home or abroad.

The Congress needs a better appreciation of this critical problem; it needs to determine if the internal assumptions and dynamics shaping the President's taxing and spending plans are realistic.

Currently, the CBO budget analyses provide only a partial evaluation of the budget crisis because they are limited to analyses of the budget's external—economic—assumptions. This proposal aims to expand the CBO role by providing the CBO with the capability and resources to examine the budget's internal planning assumptions as well. The Congressional Budget Office should provide an independent, nonpartisan, capability to each year: First, analyze the internal assumptions shaping the President's budget plans, and second, evaluate the matchup between these plans and the real world.

I. ADDITIONAL FUNCTIONS

First, perform independent macro budget analyses of all Presidential budget submissions to Congress. These macro analyses will:

Determine the realism of the internal assumptions which shape the budget's spending and taxing projections.

Evaluate the long-term consequences of current decisions to enact the budget as submitted.

Second, upon request, perform similar analyses of alternate budget plans considered by both Budget Committees of Congress.

Third, annually analyze the long-term spending plans of each Federal agency to determine the realism of the internal assumptions shaping that agency's projections. In those areas where a mismatch between plans and reality appears to be developing, the evaluation shall include:

An estimate of the actual resources needed to implement the program envisioned by the agency in question.

An estimate of whether or not the needed resources are likely to be made available—that is, how overestimated resources and/or underestimated costs are likely to frustrate the long-term implementation of the program in question.

II. ADDITIONAL RESOURCES

First, congressionally mandated access to the final long-term budget plans and their supporting planning documents, classified or unclassified, of each agency, including those made available to any executive branch planning documents heretofore made available to any committee, organizations, or Member of Congress.

Second, access, as a member of a congressional office, to the clerical and technical resources of:

The Library of Congress and the Congressional Research Service;

The General Accounting Office;

The Office of Technology Assessment.

III. PROCEDURE

First, present the results of its macro budget analysis and its analyses of agency budgets to both Congressional Budget Committees, and any interested committee or Member of Congress.

Second, be available to testify before standing committees of Congress to debate representatives of the executive department for the purpose of clarifying differences with and highlighting fundamental uncertainties in the President's budget plan.

The added responsibilities of the CBO will obviously take time to develop. An evaluation of the external assumptions is already performed, but new techniques must be used or discovered since past predictions have fallen considerably short of desired expectations.

In the initial years, internal assumptions of only the largest departments would have to satisfy the requirement since neither the resources nor the experience exists presently for such undertakings by the CBO. However, it is expected that the CBO would take full advantage of the technical expertise and the data-gathering ability of the General Accounting Office for assistance in program cost evaluation.

Mr. DOMENICI. Mr. President, I commend the distinguished Senator from Iowa for his consistent and persistent efforts to get at the root of our deficit problem. This is another effort on his part. I commend it and have no objection to proceeding with its adoption at this point.

Mr. CHILES. Mr. President, I think this is something that the CBO certainly can see if it works, and so I commend the Senator.

Mr. GRASSLEY. Mr. President, before we move the adoption of the amendment, I thank the Senators for the cooperation. They have been very helpful, and without their support and their belief in this amendment it would not be workable, even if it were part of the law because as the amendment states the chairman and ranking minority Member are an integral part of this process in future years. So I thank them not only for their support of the amendment at this time, but also their support of the philosophical basis of it and the need for it.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. GRASSLEY. Mr. President, I move the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Iowa.

The amendment (No. 3066) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. DOMENICI. I thank the Senator for his cooperation, and I am delighted we were able to accomplish it this evening.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

The majority leader is recognized.

Mr. BAKER. Mr. President, there will be no more RECORD votes tonight, and there is already an order for the Senate to convene tomorrow at 10 a.m.

ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I ask unanimous consent there now be a period for the transaction of routine morning business, not past 7:30 p.m., in which Senators may speak for not more than 2 minutes each with the exception of the two leaders, who shall not be restricted by that time limitation.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

THE ADMINISTRATION'S ANTI-TERRORIST CAMPAIGN

Mr. PELL. Mr. President, the administration recently submitted to Congress a package of legislation designed to improve its capability to deter and combat international terrorism. According to press reports, the President has also signed a directive providing, among other things, for preemptive military action abroad to thwart terrorism before it occurs.

Terrorism is a contemptible practice, and it must be vigorously opposed. But great care must be taken to insure that, in the process, the rule of law is not undermined, that our actions will have maximum credibility and support abroad, and that raising the visibility of this issue does not serve to increase the terrorist threat to Americans. Let me address each of these concerns in turn.

RULE OF LAW

I am concerned about the broad wording of offenses in the proposed Prohibitions Against the Training or Support of Terrorist Organizations Act of 1984. If, for example, Nicaragua is designated as a country engaged in or supporting terrorism, it is not clear whether someone who went to teach the poor in Nicaragua would be breaking the law.

Even more disturbing, however, is a provision in this bill that prevents U.S. courts from inquiring into the validity of the Secretary of State's list of terrorist groups and governments that triggers the bill's criminal penalties. This limitation is important, because courts and defense lawyers would not be permitted to challenge the Secretary of State's list on the basis of a definition of international terrorism already written into law. This law, the Foreign Intelligence Surveillance Act of 1978, provides that:

(c) "International terrorism" means activities that—(1) involve violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or of any States, or that would be a criminal violation if committed within the jurisdiction of the United States or any State; (2) appear to be intended—

(A) to intimidate or coerce a civilian population;

(B) to influence the policy of a government by intimidation or coercion; or

(C) to affect the conduct of a government by assassination or kidnapping; and (3) occur totally outside the United States, or transcend national boundaries in terms of the means by which they are accomplished, the persons they appear intended to coerce or intimidate, or the locale in which their perpetrators operate or seek asylum

The inability of courts or defense lawyers to force the Secretary of State to justify his list on the basis of existing law concerns me, because the public statement of administration officials suggests that the administration may, in practice, define terrorism in any way that suits its purposes with respect to particular groups or governments. As Humpty Dumpty said in Lewis Carroll's "Through the Looking Glass," "when I use a word, it means just what I choose it to mean—neither more nor less." We must not permit a Humpty Dumpty in the administration to choose what "terrorism" means. The administration should be required, if necessary, to establish to the satisfaction of a court that the legal definition of "terrorism" is being correctly applied.

INTERNATIONAL CREDIBILITY

If the fight against international terrorism is to succeed, we will need the cooperation of other governments. To obtain their full cooperation, we must demonstrate that we are opposed to all terrorist acts, not just those committed by groups or governments whom the administration has chosen to oppose.

If a campaign is to be mounted against Nicaragua for its support to rebels in El Salvador, then South Africa should be similarly singled out for the terrorism it inflicts on its own people and the support it gives to UNITA forces in Angola. Last month, UNITA claimed responsibility for a car bombing that took the lives of 24 Cuban workers and 10 Angolan civilians.

Our credibility would also be enhanced if our hands were clean in terms of terrorism that we support. If Nicaragua is supporting terrorism in El Salvador by arming the rebels in that country, then surely the administration is supporting terrorism in Nicaragua by arming the Contras there.

I question the appropriateness of applying the term terrorism to civil wars. It would be better, in my view, to restrict the use of that term to murders, kidnapings, torture, and other forms of intimidation directed at civilians or other noncombatants. If, however, the meaning of terrorism is to be broadly defined to include support for insurgencies, then the administration should admit that there is no difference between what it is doing in Nicaragua and what the Nicaraguans are doing in El Salvador. In each country, civilians are being killed and buildings,

bridges, and powerplants destroyed. Should not we really debate whether it is wise to fight fire with fire or whether it would be better for the United States to adhere to a higher standard of behavior than our adversaries?

Yet, in the bill to which I referred earlier, there is a provision that exempts from punishment "any activities conducted by officials of the U.S. Government, or their agents, which are properly authorized and conducted in accordance with Federal statutes and Executive orders governing such activities." In other words, "state terrorism," so roundly denounced by the administration when it is practiced by the Libyas and Irans of the world is specifically approved when carried out by the United States.

A perception abroad that we are applying double standards would undercut the credibility of our legitimate interest in combating terrorism. If we selectively attach the terrorist label to adversaries while ignoring the acts of so-called friends, and if we reserve the right to employ the same measures that we condemn when used by others, I doubt that we will receive the kind of support from our friends and allies abroad that we need to stamp out real terrorism.

INCREASED TERRORIST THREAT

I also fear that the application of double standards will cause terrorism to proliferate. It has often been said that one nation's terrorist is another's freedom fighter. As long as we engage in activities that are difficult to distinguish from terrorism, others will be encouraged to resort to violence that they will deny constitutes terrorism.

I am not saying that all U.S. support for covert action abroad should be prohibited, for there are many instances in which it would be justified. What I am saying is that we must make a clearer distinction than we have to date concerning what we condone and what we condemn. We must set an example that clearly differentiates the United States from those we oppose.

In addition, I am concerned that by conducting a high-visibility antiterrorist campaign, we may be waving a red flag that will incite terrorist groups or governments to show that the United States cannot stop them. Talk of preemptive action, in particular, could constitute throwing down the gauntlet that provokes rather than deters terrorism. And it is more likely than not to be Americans who would be the targets.

Terrorism is a serious threat, but we must proceed carefully in defining our objectives and selecting the most appropriate means to achieve those objectives. If we do not, we risk losing not only the support of governments abroad but that of our own citizens as well.

A NATIONAL MEMORIAL FOR "UNSUNG HEROES"

Mr. PELL. Mr. President, this afternoon I had the honor of addressing the annual conference of the National Fraternal Order of Police about the progress we are making toward establishing a National Police Memorial in the District of Columbia.

The police are our first line of defense in the war against crime and those law enforcement men and women who fall or are wounded or injured in that war are our unsung heroes. I urge my colleagues to join with me in support of Senate Joint Resolution 235 to create a national memorial to those heroes.

Mr. President, I ask unanimous consent that the text of my remarks to the National Fraternal Order of Police be printed in the RECORD.

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

REMARKS BY SENATOR CLAIBORNE PELL AT NATIONAL FRATERNAL ORDER OF POLICE ANNUAL CONFERENCE, WASHINGTON, DC

It is a pleasure to be with you today at your Annual Legislative Conference. I am especially pleased to have the opportunity to bring you up to date on the progress Congressman Biaggi and I are making on our legislation to establish a National Police Memorial within the District of Columbia. Congressman Biaggi initiated this proposal several years ago, and I was proud to join with him this year in his effort to honor the men and women who have given their lives in the war against crime.

Thanks largely to your own hard work, our legislation has attracted strong bipartisan support in the Congress. In the Senate we presently have 33 cosponsors on the bill, and I am hopeful that it will be scheduled for early consideration by the Judiciary Committee. In the House, there are 66 cosponsors on the Biaggi bill and prospects are favorable for the resolution to be considered this year by the House Administration Committee.

I am especially proud that my own state of Rhode Island has been a national leader on this project. Last year, the Rhode Island General Assembly became the first State legislative body to pass a resolution calling upon the Congress to establish a National Police Memorial. I would like to take this opportunity to commend the Rhode Island Fraternal Order of Police for their initiative in promoting this project.

Certainly no memorial can fully acknowledge the sacrifice made by those men and women in the law enforcement community who have lost their lives in the line of duty. What we do hope to accomplish with this resolution is focus national attention and recognition on the men and women who are our first line of defense in the war against crime. This recognition is especially critical at a time when we are asking the police to do more and more in the war against crime with diminished budgets and smaller manpower levels.

A good example of the increase in police responsibilities is the war against drunk driving. After years of apathy, our citizens have finally demanded an end to the slaughter on our highways that kills 500 Americans every week in alcohol-related traffic accidents. And at no time of the year is our awareness of the problem greater than during the current high school and college graduation season. The leading cause of death in the 16–24 year old age group is drunk driving, and in the weeks ahead many American families will face the tragic loss of a son or daughter in a traffic accident.

In this area, as in virtually all areas of public safety, the police are our first line of protection. The responsibility for waging the war against drunk driving—manning the roadblocks, giving the breathalyzer tests, the hours spent testifying in court—rests entirely with the police. The challenge is especially great because all levels of government, starting right here in Washington with the elimination of L.E.A.A., have reduced the level of resources being dedicated to law enforcement.

I was pleased to have sponsored legislation with Congressman Mike Barnes of Maryland that provides incentive grants to states that adopt model drunk driving codes. This incentive funding may be used by the states for purposes that directly support law enforcement, such as the purchase of either breathalyzer testing equipment or mobile vans to be used in connection with drunk driving enforcement. These incentive grants, which so far have been awarded to 13 states, are a start in the right direction, but we still have a long way to go before the police have adequate resources to wage the war against drunk driving.

Another area where police responsibilities have increased dramatically is drug trafficking. In the past several years our country has been flooded by the illegal importation of heroin, cocaine, marijuana and other drugs. We see the byproducts of this problem daily in our communities: in the stores and homes burglarized by addicts supporting their drug habit, and the innocent citizens who are victimized by muggings, assaults, and other violent drug related crimes. Law enforcement officials estimate that between 40 and 60 percent of all serious crimes are drug-related.

While your members must contend with these daily challenges of arresting drug users and traffickers, this is a problem that—by its very nature—local law enforcement is virtually powerless to stop. Nearly all the dangerous drugs consumed in the United States are smuggled into the country from other nations. Because of this international source of the drug trafficking problem, I have joined with Senator Biden, Senator DeConcini and others in pressing for legislation to provide the central leadership and coordination that is necessary if we are to win the war against drug-related crime. Our legislation would provide the Cabinet-level authority that we must have to marshal resources at all levels of government and enable law enforcement officials to cope more effectively with the $80 billion a year drug trafficking industry.

Despite smaller budgets and the increasing complexity of your mission, there is good news on the horizon. The national crime rate has dropped for 3 years in a row, and there is no doubt that the law enforcement community deserves the full credit for this improvement. Another positive development is the emergence of strong public and media support for campaigns to eradicate drunk driving and drug trafficking. This support, in turn, translates into a stronger level of public understanding and appreciation for the role of the police than has existed, in my view, for several decades.

I commend the Fraternal Order of Police for everything you have done to increase public understanding of police work, as well as to increase public and Congressional support for legislation to better protect the police from hazards like the so-called "cop killer" bullets. A Police Memorial in the Nation's Capital will be a permanent reminder of the dangers that you face in your daily work, and will further increase national recognition of law enforcement professionals. I look forward to working with you in the coming weeks to make the Police Memorial a reality.

MARTIAL LAW ON TAIWAN

Mr. PELL. Mr. President, 35 years ago this month the Government on Taiwan instituted martial law. Chiang Kai-shek's army had taken refuge on the island after bitter defeats at the hands of the Communists on the mainland. He had also moved his Nationalist government to the island in 1949 in hopes that its survival kept alive the dream of one day returning and regaining control of the mainland. His precarious hold on the island, fear of Communist subversion, and the possibility of unrest among the local Taiwanese residents prompted his resorting to emergency procedures in maintaining Nationalist control.

Three and a half decades later Taiwan faces the remainder of the 1980's and beyond much changed from the early years of Nationalist rule. Rural land reform in the 1950's established the basis for the successful economic transformation of the island in the 1960's and 1970's. Few can match the economic progress or balanced growth Taiwan experienced throughout this period. Military modernization also accompanied the changed economic circumstances. Today, Taiwan possesses a highly capable, well-trained and sophisticated defense force.

American analysts assess it as sufficient for deterring outside attacks and capable of conducting a formidable defense of the island. Steps have also been taken to reform the political process. Native Taiwanese dominate local elections and constitute a majority of the dominant Kuomintang party rank and file. At the top, however, key decisions remain in the hands of a small number of the Mailander political elite.

Fundamental social changes on the island generate optimistic hopes that even this situation may change over time. Divisions between the Mainlanders and the majority native Taiwanese have begun to disappear gradually. Mainlanders, particularly the new generations, are becoming more Taiwanese in outlook. The locals adopt many attitudes formally associated with the Mailander elite. A further melding of perspectives and aspirations seems certain over the next few years.

Despite the across the board changes for the better on Taiwan and predictions of an optimistic future, martial law remains a glaring exception to the progress experienced in other sectors. It continues to frustrate Taiwan's quest for a free society. The leadership perpetuates its authoritarian control over the people by denying press freedoms, censoring the mail and severely restricting freedom of speech, assembly, and other political activities. The authorities' preoccupation with Communist subversion and a broad definition of subversive activities combine to constrain political opposition and dissent, and encourage a tendency for the security apparatus to abuse its power. For too long, the Government has by its actions impeded respect for human rights and the growth of a democratic system on Taiwan. Continued delay could begin to undermine seriously the traditional close relationship between the United States and Taiwan. Its friends in America will have a more and more difficult time justifying their support if repression of basic freedoms does not end.

For a number of years, I have urged the authorities on Taiwan to make a start at real reform. I renew my plea today. I recommend that as a top priority the authorities immediately establish a clearly defined timetable for change that includes:

First, an end to martial law;

Second, provision for the organization of new political parties;

Third, freedom of press; and

Fourth, a plan for including a fair representation of Taiwanese in all national-level government offices.

Such a program would greatly improve the human rights conditions on Taiwan and begin the process of opening up the political process to all of the Taiwanese people. Happily, some officials on the island have heard my repeated pleas and have begun to discuss reform along the lines I suggest. Unfortunately I have seen little concrete results so far. Hopefully, the government will begin to move from talking about the need for change to an action program designed to bring real freedom to the people on Taiwan.

Thank you, Mr. President.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. STEVENS. Mr. President, I yield to the minority leader.

The PRESIDING OFFICER. The Democratic leader is recognized.

SCHOOL FACILITIES CHILD CARE ACT

Mr. BYRD. Mr. President, I ask that there be a first reading of the House bill, H.R. 4193.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 4193) to encourage the use of public school facilities before and after school hours for the care of school-age children, and for other purposes.

Mr. BYRD. Mr. President, I ask for the second reading of the bill.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. Mr. President, at the request of another member of the majority, I object.

The PRESIDING OFFICER. Objection is heard. The bill remains at the desk pending second reading. The bill will be read the second time on the next legislative day.

ORDER TO PLACE S. 2678 ON THE CALENDAR

Mr. STEVENS. Mr. President, on behalf of the Senator from Utah (Mr. GARN), I send to the desk a bill to extend the authorities under the Export Administration Act of 1979 until June 28, 1984, and ask unanimous consent that it be placed on the calendar.

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

ORDER TO HOLD H.R. 5308 AT THE DESK PENDING FURTHER DISPOSITION

Mr. STEVENS. Mr. President, I ask unanimous consent that once the Senate receives from the House of Representatives H.R. 5308, a bill to amend the District of Columbia Self-Government and Governmental Reorganization Act to increase the amount authorized to be appropriated as the annual Federal payment to the District of Columbia, it be held at the desk pending further disposition.

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

MEDAL OF HONOR FOR UNKNOWN VIETNAM ERA AMERICANS

Mr. STEVENS. Mr. President, I ask unanimous consent that the Senate turn to the consideration of H.R. 5515, the Medal of Honor for unknown Vietnam era Americans.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 5515) to authorize the President to award the Medal of Honor to the unknown American who lost his life while

serving in the Armed Forces of the United States in Southeast Asia during the Vietnam era and who has been selected to be buried in the Memorial Amphitheater at Arlington National Cemetery.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Alaska?

Mr. BYRD. No objection.

The Senate proceeded to consider the bill.

The PRESIDING OFFICER. The bill is open to amendment. If there be no amendment to be proposed, the question is on the third reading of the bill.

The bill (H.R. 5515) was read the third time, and passed.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the bill was passed.

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

The motion to lay on the table was agreed to.

AMENDING THE CHARTER OF AMVETS

Mr. STEVENS. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 2079.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 2079) entitled "An Act to amend the charter of AMVETS by extending eligibility for membership to individuals who qualify on or after May 8, 1975", do pass with the following amendment:

Strike out all after the enacting clause, and insert: That section 6 of the Act entitled "An Act to incorporate the AMVETS, American Veterans of World War II", approved July 23, 1947 (36 U.S.C. 67e), is amended to read as follows:

"SEC. 6. Eligibility for membership in AMVETS and the rights and privileges of members shall, except as provided in this Act, be as provided in the constitution and bylaws of the organization, and terms of membership and requirements for holding office within the organization shall not be discriminatory on the basis of race, color, religion, sex or national origin.".

Mr. STEVENS. Mr. President, I move that the Senate concur in the House amendment.

The PRESIDING OFFICER. Without objection, the motion is agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the motion was agreed to.

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

The motion to lay on the table was agreed to.

SEMICONDUCTOR CHIP PROTECTION ACT OF 1984

Mr. STEVENS. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 833, S. 1201.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 1201) to amend title 17 of the United States Code to protect semiconductor chips and masks against unauthorized duplication and for other purposes, reported with an amendment.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on the Judiciary with an amendment to strike all after the enacting clause and insert:

That this Act may be cited as the "Semiconductor Chip Protection Act of 1984".

DEFINITIONS

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

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

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

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

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

"A 'mask work' is a series of related images, however fixed or encoded—

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

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

"A 'mask' is a substantially two-dimensional sheet, partially transparent and partially opaque to preselected radiation. A mask embodies a mask work if the pattern of transparent and opaque portions of the mask is substantially similar to the pattern of one of the images of the mask work. Masks and mask works shall not be deemed pictorial, graphic, or sculptural works. The copyright in a mask work shall neither extend to, nor affect, limit, or impair any copyright in any other work of authorship embodied therein or in a semiconductor chip product.

The provisions of sections 109(a), 401, 405, 406, 501(A), 503, 506, 509, and 602 of this title, applicable to copies of a work shall apply also to a semiconductor chip products.".

SUBJECT MATTER OF COPYRIGHT

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

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

"(6) mask works;"; and

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

EXCLUSIVE RIGHTS

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

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

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

(3) adding at the end thereof the following:

"(6) in the case of mask works, only the following rights—

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

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

"(C) to embody an image of the mask work in a semiconductor chip product;

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

"(E) to distribute a semiconductor chip product made as described in subparagraph (C) or (D) of this paragraph.".

LIMITATION ON EXCLUSIVE RIGHTS AS TO MASKS

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

"§ 119. Scope of exclusive rights: Right of reverse engineering with respect to mask works

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

"(b) It is not infringement of the rights of the owner of a copyright on a mask work to reproduce the pattern on one or more masks or in a semiconductor chip product solely for the purpose of teaching, analyzing, or evaluating the concepts or techniques embodied in the mask or semiconductor chip product, or the circuit schematic, logic flow, or organization of components utilized therein.".

(b) The chapter analysis for chapter 1 of title 17 is amended by adding at the end thereof the following:

"119. Scope of exclusive rights: Right of reverse engineering with respect to mask works.".

(c) Section 106 of title 17 of the United States Code is amended by striking out "118" and inserting in lieu thereof "119".

DURATION OF COPYRIGHT

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

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

"(1) distribution;

"(2) use in a commercial product; or

"(3) manufacture in commercial quantities of semiconductor ship products made as described in subparagraph (C) or (D) of paragraph (6) of section 106.".

INNOCENT INFRINGEMENT

SEC. 7. (a) Chapter 5 of title 17 of the United States Code is amended by adding at the end thereof the following:

"§ 511. Innocent infringement of mask works

"(a) Notwithstanding any other provision of this chapter, an innocent purchaser of an infringing semiconductor ship product shall not be liable as an infringer or otherwise be liable or subject to remedies under this chapter with respect to the distribution of units of such semiconductor chip product that occurred before such innocent purchaser had notice of infringement.

"(b) The remedies of the owner of a copyright on a mask work against an innocent purchaser shall be limited to a reasonable

royalty upon each unit of the infringing semiconductor chip product that the innocent purchaser made or distributed after having notice of infringement, if the innocent purchaser establishes the applicability of all of the following circumstances:

"(1) the innocent purchaser, before first having notice of infringement, committed substantial funds to the use of the infringing product;

"(2) the innocent purchaser would suffer substantial out-of-pocket losses (other than the difference in price between the infringing product and a noninfringing product) if denied the use of the infringing product;

"(3) the innocent purchaser's use of the infringing product is and will be for substantially the same purpose that initially gave rise to the innocent purchaser's immunity under subsection (a);

"(4) in the case of an innocent purchaser who, after having notice of infringement, makes the infringing semiconductor chip product, or has it made for him, the copyright owner and the owner's licensees, if any, are unable to supply the infringing semiconductor chip product to the innocent purchaser at a reasonable price; and

"(5) it would be inequitable in the circumstances not to permit the innocent purchaser to continue the use or proposed use of the infringing product.

"(c) The immunity of an innocent purchaser and limitation of remedies with respect thereto shall extend to good faith purchasers for him.

"(d) For the purposes of this section—

"(1) 'innocent purchaser' means one who purchases an infringing semiconductor chip product in good faith, and without having notice of infringement;

"(2) 'notice of infringement' means actual knowledge that, or reasonable grounds to believe that, a product is an infringing semiconductor chip product; and

"(3) 'infringing semiconductor chip product' means a semiconductor chip product which is made or distributed in violation of the exclusive rights of an owner of a copyright in a mask work.".

(b) The table of sections for chapter 5 is amended by adding at the end thereof the following new item:

"511. Innocent infringement of mask works.".

IMPOUNDING AND SEIZURE

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

SAVINGS CLAUSES

SEC. 9. Nothing contained in this Act shall be deemed to add to or detract from existing rights of owners of copyrights in works of authorship listed in section 102(a) of title 17 of the United States Code, prior to its amendment by this Act. Nothing contained in this Act shall be deemed to detract from any right of the lawful owner of product purchased from the copyright owner, or from a person authorized by the copyright owner, freely to use, distribute and resell the product without liability therefor under the copyright laws.

EFFECTIVE DATE

SEC. 10. The amendments made by this Act shall not create liability for any conduct that occurred prior to the date of enactment of this Act, but shall apply to all acts of manufacture or distribution of semiconductor chip products that occur in the United States after such date, to all acts of importation of semiconductor chip products into the United States that occur after such date, and to all violations of the exclusive rights of the copyrights owner under section 106(6) of title 17, United States Code, as amended by section 4 of this Act, that occur after such date. Notwithstanding the provisions of this section, no alleged infringer shall be liable under this Act with respect to the continued manufacture or distribution of any semiconductor chip product that the alleged infringer commercially distributed in the United States prior to January 1, 1980.

AMENDMENT NO. 3067

(Purpose: To make technical amendments to the committee substitute)

Mr. STEVENS. Mr. President, I send to the desk an amendment on behalf of the Senator from Maryland (Mr. MATHIAS) and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Alaska (Mr. STEVENS), for Mr. MATHIAS, proposes amendment No. 3067.

Mr. STEVENS. 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 12, strike out lines 11 through 14 and insert in lieu thereof the following:

"(3) manufacture in commercial quantities of semiconductor chip products made as described in subparagraph (C) or (D) of paragraph (6) of section 106.".

On page 13, line 23, strike out "infringing".

On page 15, line 7, after "owner of" insert "a".

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Maryland (Mr. MATHIAS).

The amendment (No. 3067) was agreed to.

Mr. MATHIAS. Mr. President, today the Senate turns to consideration of S. 1201, the Semiconductor Chip Protection Act of 1984. This bill, which is cosponsored by the senior Senator from Colorado, Mr. HART, and by 22 of our colleagues, would provide copyright protection to the intricate patterns that make up the design of a modern technological marvel: the semiconductor chip.

This bill is not controversial; it has been called up for consideration by unanimous consent of the Senate, and I anticipate that there will be no opposition to its passage. But the fact that this legislation excites little controversy should not lead us to underestimate its importance.

In my view, the Senate's passage of this bill is a momentous event. It marks our recognition of the importance to our economy and to our society of continued technological progress in the field of microelectronics. Furthermore, it exemplifies our willingness to adapt our intellectual property laws to meet the challenges of technological change, change that transforms both the way that creative thinkers express themselves, and the way that others can copy and misappropriate those expressions.

With the passage of this legislation, we express our confidence in the future of a nation whose citizens are as creative and as inventive as any on Earth. As the tempo of innovation in microelectronics continues to accelerate, encouraged by the copyright protection provided by this bill, Americans will reap over greater benefits from technological progress. History may well judge that the passage of this noncontroversial bill was one of the more significant achievements of the 98th Congress.

Mr. President, Senator HART and I introduced S. 1201 just over a year ago, on May 4, 1983. Since then, this bill has been the subject of hearings in the Subcommittee on Patents, Copyrights and Trademarks of the Committee on the Judiciary. Those hearings were a revelation of the marvels of modern microelectronics.

The first integrated circuit semiconductor chip was produced about 25 years ago—within the lifetime of every member of this body. Since then, these devices have become almost unbelievably sophisticated. Today, engineers have managed to pack hundreds of thousands of electronic components onto a flake of silicon-based material measuring less than one-sixteenth of a square inch. In the space the size of a baby's thumbnail, a microprocessor—a "computer-on-a-chip"—can outperform the room-sized computers of past decades, at a miniscule fraction of the cost and energy consumption of its ungainly ancestors. A memory chip can store, in the same area, more than a quarter of a million bits of information.

These advances in miniaturization make possible the portable personal computer, designed around a single microprocessor chip. But the computer field is not the only one that has been transformed by the semiconductor chip. More than half of all integrated circuits find their way into end uses other than computing. These devices have made possible many of our modern conveniences, from kitchen appliances to fuel-efficient automobiles to video games. The progress in chip design and capability is revolutionizing the way we work, the way we play, the way we travel and communicate—in short, the way we live.

The chip is also transforming our economy. It has given rise to new industries, and to new ways of manufacturing existing products and delivering existing services. The semiconductor chip production industry itself has become an important component of the economy, a sector that is highly competitive in world markets. Accord-

ing to the recent study by the Office of Technology Assessment entitled "International Competitiveness in Electronics," U.S.-based firms in 1982 produced an estimated $9.7 billion worth of integrated circuit chips. That amounts to nearly seven-tenths of the total world output. Since a growing share—now estimated at roughly one-half—of the world market for chips is outside the United States, it is easy to see the importance of the semiconductor industry to American international competitiveness.

While several factors underlie the dominant position of American firms in many sectors of the semiconductor industry, the U.S. edge in chip design is certainly paramount among them. Packing the greatest amount of circuitry into the smallest amount of space is only the beginning of the chip designer's challenge. There are other goals: To maximize and diversify the functional abilities of the chip; to allow signals to travel faster; to consume less electricity; to generate less excess heat. The designer's task is to find the most elegant and practical solution to a complex set of overlapping problems. It is no wonder that the design and layout of semiconductor chips is a costly, time-consuming, and expensive process. And it is also not surprising that, although computer-assisted design techniques have made dramatic advances, no computer program has been able to supplant human creativity as an essential tool in the layout of the most complex and sophisticated chips.

Chip design is a fine and costly art that is indispensable to progress in the microelectronics field. Much of the semiconductor industry's heavy investment in research and development has gone toward improvements in design. The reward for the firms that make these investments is the ability to manufacture chips of unparalleled quality and power. Through the sale of these chips that are on the cutting edge of semiconductor technology, the firm can recoup the enormous R&D investment—sometimes as much as $100 million—that is required.

No single semiconductor firm has a corner on the market of skilled chip designers, and the breakthroughs embodied in one chip are often surpassed by the product of another company within a year or two. That is standard operating procedure in this highly competitive field. Through a process called reverse engineering, engineers can analyze a competitor's product, then go back to the drawing board to design a chip that can do the same job better, more cheaply, or more efficiently. Reverse engineering, like the original development process, requires a big investment in designing the new chip.

But in recent years, the astounding technological advances in the chip industry have been threatened by a different phenomenon: chip piracy. The chip pirate is not interested in reverse engineering. He does not build on the design advances embodied in new chips. The pirate firm simply rips off the design that has been so painstakingly created through the investment of thousands of hours of engineers' and technicians' time. It is an easy matter for the pirate to make a photographic copy of the different layers of a chip, and reproduce those intricate patterns on new stencils. A family of chips that cost $100 million for the innovator firm to design can be copied for as little as 1 percent of that cost. Because a pirate firm has only a minimal investment in the chip it has copied, it can flood the market with chips at prices far lower than the innovator firm, with its high front-end costs, can match.

As chips become more sophisticated and intricate, the problem of piracy worsens. The technical challenges the chip industry is now tackling are more daunting than ever before, and more expensive and time-consuming to solve. But the resulting breakthrough chips are not much more difficult or expensive to copy than simpler ones. The cost ratio in favor of the pirates thus increases dramatically.

The long-range effect of chip piracy is not hard to predict. The threat of piracy will discourage innovation. Funds for research and development will dry up, for no business wants to sow what others will reap. The growth of the industry will be blighted, and the benefits that all of us have gained from advances in microelectronics—new products, greater reliability, lower prices—will start to disappear.

Under existing law, the semiconductor industry is powerless to halt chip piracy. Copyright law does not generally protect the duplication of utilitarian objects such as semiconductor chips, and copyright protection for the layout drawings made by the designers does not, under settled copyright principles, extend farther than to forbid duplication of the drawings themselves. Patent protection is inadequate or inappropriate, because innovations in chip design are generally not sufficiently inventive to satisfy patent standards. Besides, it takes years to obtain a patent, thus nullifying its usefulness in a dynamic industry in which product lifetimes are often measured in months. Thus, current law offers no practical way to protect the prodigious investment of time, effort, skill, and money that underlies every innovation in chip design.

Mr. President, the Semiconductor Chip Protection Act of 1984 is intended to fill this gap in the law. It does so by extending copyright protection to a new category of creative expression: A "mask work," which is the series of related images embodying the pattern of the surface of a layer of a semiconductor chip. The owner of the copyright in a mask work is given the exclusive right, for a limited term of 10 years, to embody or reproduce these images in a mask—the stencil used to etch the pattern on a layer of the chip—or in a chip itself, and to distribute the resulting mask or chip. The effect of conferring this exclusive right on the creator of the chip design is to make chip piracy a copyright infringement, and to bring the power of civil and criminal copyright enforcement procedures to bear on chip pirates.

Mr. President, I believe that there is a consensus within this body, and in the House of Representatives, on the need for legislation to give legal protection to semiconductor chip design. That was not the case when I first introduced legislation on this subject, late in the 97th Congress. I am gratified that there is now general agreement on the nature of the problem. It is not surprising that there is some diversity of opinion on how best to solve it. That is to be expected, particularly since we are venturing into uncharted territory.

In deciding how to fashion the needed protection, we do not tread familiar ground. On the contrary, the challenge is to adapt the framework of our existing intellectual property law to contemporary conditions. These conditions compel us to rethink some of the basic assumptions on which our patent and copyright systems rest.

There is general agreement on the kind of protection that chip designers need. They should be able to obtain protection quickly and inexpensively, without a protracted period of examination of the design for novelty or innovativeness. The protection should accord the owner of the chip design the exclusive right to make and distribute the chip embodying that design. The protection should not be inconsistent with the accepted and beneficial practice of reverse engineering. And the protection should be for a relatively short term. The harder questions concern the method of providing this protection. Should an existing form of intellectual property protection—such as copyright, which already shares some of these characteristics—be adapted to the desired end? Or should an entirely new species of legal protection be called into being to cope with this new form of expression?

The sponsors of this legislation are well aware that it calls upon the copyright system to shoulder a burden that heretofore copyright has not been asked to carry. We expand the bounds of copyright when we use it to protect exclusive rights in chip design. Some of the witnesses before the Subcommittee on Patents, Copyrights and Trademarks agreed that copyright was the most appropriate approach, while

others argued forcefully that copyright protection ought not to be expanded in the manner proposed by this bill. The subcommittee gave careful consideration to the arguments on both sides of the question. It concluded, and the Judiciary Committee agreed, that the copyright system is well suited to the task at hand.

Mr. President, I will not review here all the reasons that led the committee to that conclusion. They are treated in some detail in the committee's report on this legislation. I only wish to emphasize that the burden of persuasion on this question ought to rest with those who advocate the creation of a new form of intellectual property protection.

Our copyright system has proven to be amazingly flexible and adaptable. It has persisted throughout nearly two centuries, during which technological change has continually thrown up new challenges for the legal protection of creative expression. We ignore history if we simply assume that copyright could not be adapted to cope with this latest challenge.

The Constitution authorized Congress to enact copyright laws "to promote the progress of science and useful arts." The first Congress passed a copyright statute within the first months of its existence. That Copyright Act of 1790 protected only books, maps, and charts. Today, copyright protects a long litany of works of authorship: literary, musical, dramatic, choreographic, pictorial, graphic, sculptural, and audiovisual creations are covered, along with motion pictures and sound recordings. Each of these rubrics covers a broad range of works: computer programs are classed as literary works, for example, while many objects of almost purely commercial character enjoy protection as pictorial or sculptural works. The protection accorded each of these types of works, while similar, is far from uniform; the Copyright Act is peppered with provisions modifying the general scope of protection in order to accommodate the particular characteristics of one or another type of creation. While it has lagged behind at some points, the copyright law has, to a great extent, been able to keep pace, or at least to catch up, with changes in technology. We make no break with history when we propose that basic copyright principles, with some modification, provide appropriate protection to semiconductor chip design as well.

Furthermore, if we are serious about the task of providing effective protection to chip design, we would do well to act cautiously before jettisoning the copyright approach. The semiconductor industry needs protection now. It cannot afford to wait the years and years that would probably elapse before the courts had a chance to put a definitive gloss upon the words of a statute creating a new, sui generis form of protection for chip designs. Those who consider copyright protection an inappropriate means for encouraging innovative chip designs ought to consider whether there will still be innovation to encourage by the time the alternative is likely to be effectual. Certainly it would be profligate to toss aside the accumulated precedent of two centuries of copyright experience—including several years under the omnibus copyright revision enacted in 1976—simply because some of that heritage is not opposite to the case of semiconductor chips. Similarly, it would be anomalous if, at the same time that we consider strengthening protection for other forms of intellectual property, such as trademarks, we were to give chip designers less than the full arsenal of civil and criminal remedies available under copyright to deter and punish piracy.

Critics of the copyright approach must also consider that many copyright concepts must be transformed in order to accommodate new kinds of works that are undoubtedly covered by existing copyright law. Will the addition of mask works to the list of protected forms of expression add substantially to these challenges? Given the difficulties of applying settled copyright principles to automated data bases or computer programs, will it be that much more difficult to apply them to semiconductor chip designs?

Finally, I must address briefly one related concern. Some of the witnesses before the subcommittee argued against copyright protection, not because it would be inappropriate for chip designs, but because they perceived that the inclusion of chip designs within the scope of copyright might dilute the full strength of protection for works that are now covered by copyright. For example, it was suggested that to call reverse engineering a form of fair use under section 107 of the Copyright Act might encourage a more expansive interpretation of this limitation on exclusive rights in the case of literary works. Similarly, since a variety of works subject to copyright may be programed into a read only memory semiconductor chip, some have feared that the limitation to 10 years of the term of exclusive protection for chip design might whittle away at the term of protection accorded a computer program or other literary work embodied in such a chip.

It was never the intention of the sponsors of the Semiconductor Chip Protection Act to diminish in any way the rights of existing copyright proprietors, or of future proprietors in the kinds of works now protected by copyright. This bill targets a limited problem—piracy of semiconductor chip design—and proposes a limited solution—copyright protection for mask works. Outside the narrow scope it addresses, its provisions will have no effect on any aspect of the copyright laws. The bill has been amended to make this intent as clear as possible. To cite but one example, S. 1201 as reported would not include reverse engineering within the rubric of fair use; instead, it would treat reverse engineering in a separate new section of the Copyright Act. In sum, while the argument can still be made that copyright protection is not appropriate for semiconductor chip designs, I do not think it can seriously be maintained that coverage for mask works will have any harmful effect on the existing categories of copyright protection.

This legislation has been greatly improved by suggestions received during its consideration in the Subcommittee on Patents, Copyrights and Trademarks. As these changes are summarized in the report of the Judiciary Committee, I will mention just a few of them here. The amended version of S. 1201 does a better job of defining the scope of exclusive rights in mask works than did the original bill. Its provision dealing specifically with reverse engineering, along with the accompanying report language, will clarify more precisely than the original bill where the line is to be drawn between the plagiarism of the chip pirate and the paraphrase of the true reverse engineer. Its effective date provisions are more uniform, and more carefully crafted to provide the maximum justifiable breadth of protection. In these and many other respects, the Semiconductor Chip Protection Act of 1984 owes much to the work of the junior Senator from Vermont, Mr. LEAHY, who, as a valued member of the Subcommittee on Patents, Copyrights and Trademarks, took a lively interest in this bill and made many helpful suggestions for its improvement.

Mr. President, the consensus in support of legislation protecting semi-conductor chip designs is not limited to the Senate. The Judiciary Committee of the House of Representatives recently reported a bill that gives mask works protection generally parallel to that provided in S. 1201. There are some significant differences between the House Judiciary Committee measure and the bill before us today. The chief distinction is that the House bill does not accord copyright protection to chip design; rather, it creates a new form of protection, with similar but not identical characteristics, that applies only to mask works. However, the differences between the two bills, while important, should not be unbridgeable. I am confident that there will be sufficient common ground between S. 1201 and whatever bill the House passes to make possible

a speedy resolution of these differences. If I am correct in this estimation, then the chances are very good that before the end of the 98th Congress we will place on the statute books the kind of protection that is needed to encourage further innovations in semi-conductor chip design. The Senate's action today brings that salutary result one step closer.

Mr. LEAHY. Mr. President, a few weeks ago IBM announced one of the latest products of American ingenuity. In Essex Junction, Vt., IBM produced a 1-million-bit chip, a chip which is capable of storing more than four times as much information as the highest density chips now on the market.

The story of this giant step forward was well reported in the press and excited all of us who know that American technology is still the best in the world.

But what I find equally significant is that few Americans are amazed any more by such news. We routinely expect new breakthroughs in technology, and we are rarely disappointed.

The spacelab mission completed at the end of 1983 experimented with growing silicon crystals far larger than those grown on Earth. We can only speculate where this technology may lead.

The most important news story growing out of our ingenuity with small chips of etched silicon is that they have forever changed the way information is gathered, transmitted, and stored—and perhaps even the way we will think in the future.

With space-age improvements, the computer chip may bring changes that were only science-fiction plots a few years ago.

It is hard to overestimate what a great impact the computer and related technologies have had on our agenda in the Congress. It might be easier to try to name the areas that have not been affected.

But the communications revolution has not been brought about by Congress, but rather by the innovative spirit of our people. You will hear many argue that the best role for Congress is to keep its hands off this revolution—that the deregulation of the communications industry and the vigor of the free marketplace will produce the best social and economic results for the United States.

I wish it were so simple. The marketplace is the engine of our future success in information technologies. But there are many issues where Congress will be indispensable. The Semiconductor Chip Protection Act of 1984 is an important step in demonstrating that Congress is willing to match the scientific and technical innovation of our people with strong and innovative legal protections.

The issues we faced in the bill were formidable: If we failed to provide meaningful protection for those investing millions of dollars each year in the microchips that lie at the heart of the worldwide computer revolution, we risked falling far behind our international competitors; if we ended up with protection that was too broad, we stifled the use of know-how that should be available to everyone.

Defining a clear line between these two extremes in a field that is close to brandnew has been a great challenge.

As I have stated previously on the Senate floor, under the stewardship of Senator MATHIAS, I believe we have met that challenge.

Both the language of the bill and the report offer abundant guidance to industry experts, to attorneys, and to the courts as to what constitutes an infringement and other related issues. No practitioner should be at a loss in building a case that a product resulted from reverse engineering, as opposed to copying. Similarly, opposing counsel should have a clear idea of how to prove infringement—the kinds of evidence needed, the degree of proof, and the key matters at issue.

I am convinced that the bill, as now written, will not result in undue litigation. It will serve as a guide to industry as to the extent of an innovator's reasonable expectations, and in that sense the bill should help to avoid an undue reliance on the courts to settle questions relating to potential infringement.

While I am pleased that the Senate is today passing this important legislation, our challenge is not over. Significant differences exist between S. 1201 and the House version of the Semiconductor Chip Protection Act introduced by Congressmen EDWARDS and KASTENMEIER, H.R. 5525, which was recently approved by the House Judiciary Committee.

Clearly of greatest importance is the House committee's rejection of traditional copyright protection in favor of a sui generis approach. The Senate Judiciary Committee opted for traditional copyright protection after carefully considering the pros and cons of each approach. The arguments which led the committee to adopt the approach embodied in S. 1201 are outlined in the report on the bill. Of particular importance to me is the potential that American semiconductor chip designs will be afforded greater international protection under the Senate's approach than that of the House. It is abundantly clear that we can no longer afford the luxury of worrying about legal protections within our borders with the hope that the rest of the world will take care of itself. We must be prepared to use established conventions and bilateral negotiations to protect America's intellectual property in all of its forms. I believe that traditional copyright protection for semiconductor chip design will greatly enhance our chances of securing international protection in an area which is so vital to our economy.

There are additional differences between the House and Senate versions of this bill which will have to be bridged.

The Senate bill incorporates the Copyright Act's criminal offenses for certain acts of infringement. The House bill rejects this approach.

The House bill does not give protection to those designs which are staple, commonplace or familiar in the semiconductor industry. This additional condition of innovation, which seems to be borrowed from the patent law, is not contained in the Senate bill.

Finally, the bills diverge on the question of where the equities lie with regard to chips developed during the last couple of years, while the Congress was working on this legislation, but before it had a chance to complete its action.

All of these matters are important. None of them should stop us from completing our mission, which is to give this country's innovators legal protections commensurate with the great contributions they make to America. Both committees have put in a lot of hard work on this effort, and I am confident that we will not allow our differences to stand in the way of an effective piece of legislation in this Congress. I am pleased that the Senate is passing this bill expeditiously, so that we can get on with that effort.

In closing, I want to again thank my distinguished colleague from Maryland, Senator MATHIAS, for his great skill in steering this legislation through the Senate. Senator MATHIAS has led the effort in the Senate to recognize and reward America's greatest asset, her authors, artists, and inventors. The Senate and the American public owe him a great debt of gratitude.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The question is: Shall the bill pass?

The bill (S. 1201) was passed, as follows:

S. 1201

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Semiconductor Chip Protection Act of 1984".

DEFINITIONS

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

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

"(1) having two or more layers of metallic, insulating, or semiconductor material, de-

posited or otherwise placed on, or etched away or otherwise removed from a piece of semiconductor material in accordance with a predetermined pattern;

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

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

"A 'mask work' is a series of related images, however fixed or encoded—

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

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

"A 'mask' is a substantially two-dimensional sheet, partially transparent and partially opaque to preselected radiation. A mask embodies a mask work if the pattern of transparent and opaque portions of the mask is substantially similar to the pattern of one of the images of the mask work. Masks and mask works shall not be deemed pictorial, graphic, or sculptural works. The copyright in a mask work shall neither extend to, nor affect, limit, or impair any copyright in any other work of authorship embodied therein or in a semiconductor chip product.

The provisions of sections 109(a), 401, 405, 406, 501(A), 503, 506, 509, and 602 of this title, applicable to copies of a work shall apply also to semiconductor chip products.".

SUBJECT MATTER OF COPYRIGHT

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

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

"(6) mask works;"; and

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

EXCLUSIVE RIGHTS

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

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

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

(3) adding at the end thereof the following:

"(6) in the case of mask works, only the following rights—

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

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

"(C) to embody an image of the mask work in a semiconductor chip product;

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

"(E) to distribute a semiconductor chip product made as described in subparagraph (C) or (D) of this paragraph.".

LIMITATION ON EXCLUSIVE RIGHTS AS TO MASKS

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

"§ 119. Scope of exclusive rights: Right of reverse engineering with respect to mask works

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

"(b) It is not infringement of the rights of the owner of a copyright on a mask work to reproduce the pattern on one or more masks or in a semiconductor chip product solely for the purpose of teaching, analyzing, or evaluating the concept or techniques embodied in the mask or semiconductor chip product, or the circuit schematic, logic flow, or organization of components utilized therein.".

(b) The chapter analysis for chapter 1 of title 17 is amended by adding at the end thereof the following:

"119. Scope of exclusive rights: Right of reverse engineering with respect to mask works.".

(c) Section 106 of title 17 of the United States Code is amended by striking out "118" and inserting in lieu thereof "119".

DURATION OF COPYRIGHT

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

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

"(1) distribution;

"(2) use in a commercial product; or

"(3) manufacture in commercial quantities of semiconductor chip products made as described in subparagraph (C) or (D) of paragraph (6) of section 106.".

INNOCENT INFRINGEMENT

SEC. 7. (a) Chapter 5 of title 17 of the United States Code is amended by adding at the end thereof the following:

"§ 511. Innocent infringement of mask works

"(a) Nothwithstanding any other provision of this chapter, an innocent purchaser of an infringing semiconductor chip product shall not be liable as an infringer or otherwise be liable or subject to remedies under this chapter with respect to the distribution of units of such semiconductor chip product that occurred before such innocent purchaser had notice of infringement.

"(b) The remedies of the owner of a copyright on a mask work against an innocent purchaser shall be limited to a reasonable royalty upon each unit of the infringing semiconductor chip product that the innocent purchaser made or distributed after having notice of infringement, if the innocent purchaser establishes the applicability of all of the following circumstances:

"(1) the innocent purchaser, before first having notice of infringement, committed substantial funds to the use of the infringing product;

"(2) the innocent purchaser would suffer substantial out-of-pocket losses (other than the difference in price between the infringing product and a noninfringing product) if denied the use of the infringing product;

"(3) the innocent purchaser's use of the infringing product is and will be for substantially the same purpose that initially gave rise to the innocent purchaser's immunity under subsection (a);

"(4) in the case of an innocent purchaser who, after having notice of infringement, makes the infringing semiconductor chip product, or has it made for him, the copyright owner and the owner's licensees, if any, are unable to supply the semiconductor chip product to the innocent purchaser at a reasonable price; and

"(5) it would be inequitable in the circumstances not to permit the innocent purchaser to continue the use or proposed use of the infringing product.

"(c) The immunity of an innocent purchaser and limitation of remedies with respect thereto shall extend to good faith purchasers from him.

"(d) For the purposes of this section—

"(1) 'innocent purchaser' means one who purchases an infringing semiconductor chip product in good faith, and without having notice of infringement;

"(2) 'notice of infringement' means actual knowledge that, or reasonable grounds to believe that, a product is an infringing semiconductor chip product; and

"(3) 'infringing semiconductor chip product' means a semiconductor chip product which is made or distributed in violation of the exclusive rights of an owner of a copyright in a mask work.".

(b) The table of sections for chapter 5 is amended by adding at the end thereof the following new item:

"511. Innocent infringement of mask works.".

IMPOUNDING AND SEIZURE

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

SAVINGS CLAUSES

SEC. 9. Nothing contained in this Act shall be deemed to add to or detract from existing rights of owners of copyrights in works of authorship listed in section 102(a) of title 17 of the United States Code, prior to its amendment by this Act. Nothing contained in this Act shall be deemed to detract from any right of the lawful owner of a product purchased from the copyright owner, or from a person authorized by the copyright owner, freely to use, distribute and resell the product without liability therefor under the copyright laws.

EFFECTIVE DATE

SEC. 10. The amendments made by this Act shall not create liability for any conduct that occured prior to the date of enactment of this Act, but shall apply to all acts of manufacture or distribution of semiconductor chip products that occur in the United States after such date, to all acts of importation of semiconductor chip products into the United States that occur after such date, and to all violations of the exclusive rights of the copyrights owner under section 106(6) of title 17, United States Code, as amended by section 4 of this Act, that occur after such date. Notwithstanding the provisions of this section, no alleged infringer shall be liable under this Act with respect to the continued manufacture or distribution of any semiconductor chip product that the alleged infringer commercially distributed in the United States prior to January 1, 1980.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the bill was passed.

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

The motion to lay on the table was agreed to.

AUTHORIZING THE USE OF THE ROTUNDA OF THE U.S. CAPITOL

Mr. STEVENS. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 852, House Concurrent Resolution 296.

The PRESIDING OFFICER. The concurrent resolution will be stated by title.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 296) authorizing use of the rotunda of the Capitol to honor the unknown American who lost his life while serving in the Armed Forces of the United States in Southeast Asia during the Vietnam era and who has been selected to be buried in the Memorial Amphitheater at Arlington National Cemetery.

The PRESIDING OFFICER. Is there objection to the present consideration of the concurrent resolution?

There being no objection, the Senate proceeded to consider the concurrent resolution.

AMENDMENT NO. 3068

(Purpose: Authority to appoint congressional delegation)

Mr. STEVENS. Mr. President, I send to the desk an amendment in behalf of the distinguished Senator from Maryland (Mr. MATHIAS), chairman of the Rules Committee, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Alaska (Mr. STEVENS), for Mr. MATHIAS, proposes an amendment numbered 3068.

Mr. STEVENS. 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 2, beginning with line 8, strike out all through line 11, and insert in lieu thereof the following:

SEC. 3. The Speaker, after consultation with the Minority Leader, shall be authorized to appoint a delegation representing the House and the Majority Leader of the Senate, after consultation with the Minority Leader, shall be authorized to appoint a delegation representing the Senate.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3068) was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

The concurrent resolution (H. Con. Res. 296) was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the concurrent resolution was agreed to.

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

The motion to lay on the table was agreed to.

REFERRAL OF CALENDAR NO. 811, S. 1739

Mr. STEVENS. Mr. President, I ask unanimous consent that Calendar No. 811, S. 1739, be referred to the Committee on Finance for a period not to extend beyond Friday, June 8, 1984, and that they be limited to the revenue-raising implications of sections 502 and 1006.

Further, I ask unanimous consent that any conferees appointed by the Senate to represent the views of the Finance Committee on sections 502 and 1006, be limited in their participation to those sections, and that the number of the Committee on Finance conferees be limited to three.

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

Mr. ABDNOR. Mr. President, the Committee on Environment and Public Works has agreed to allow sections 502 and 1006 of S. 1739, the Water Resources Development Act of 1983, to be referred to the Committee on Finance until June 8. A number of my colleagues have sought this referral and believe that the review of revenue-related measures by that committee is necessary.

Mr. President, with this referral, all obstacles to bringing S. 1739 to the floor of the Senate should have been removed. This legislation was reported out of the Environment and Public Works Committee last November, and I have tried since that time to discuss with any interested party potential changes which would improve the bill without adversely affecting the essential budget restraint and cost-sharing reforms which are necessary to allow water resource development to proceed.

In recent days, I have indicated to a number of agricultural interests my sincere desire to work to resolve any concerns they may have, and my willingness to offer specific amendments if such amendments would generate additional support for S. 1739 without destroying its fiscal integrity. I continue to believe that once floor action is scheduled, the controversies surrounding this measure can be quickly resolved.

Mr. President, in order to try to satisfy the concerns of Senators and various interest groups, the Committee on Environment and Public Works has gone out of its way to allow for continued discussion and debate on S. 1739 prior to bringing it to the floor. The time has come to act on this bill. It has been 8 years since the last omnibus water development bill was enacted, and in the interest of the Nation, those of us who support enactment of a water resources bill must come together to insure that the Senate has the opportunity to debate and act on this measure.

In that light, Mr. President, I want my colleagues to know I intend to work in the coming weeks with the majority leader, the chairman of the Environment and Public Works Committee and other interested Senators to arrive at a reasonable time agreement to bring S. 1739 to the Senate floor as soon as possible after the Finance Committee completes its review.

In view of the extended debate on other measures, the abbreviated schedule due to election activities, and the time which will be required to conference with the House, the window of opportunity for Senate action on S. 1739 is becoming exceeding narrow—perhaps only the last 2 weeks in June. I strongly urge, therefore, that any Senator who would like to see action this year on omnibus water resources legislation contact the majority leaders' office in support of a reasonable time agreement and attempt to work out ahead of time as many prospective amendments as possible.

I stand ready to discuss this matter with any of my colleagues and to try to be of all possible assistance in resolving concerns which can be addressed in a fiscally responsible manner. Let us get on with it.

THE CALENDAR

Mr. STEVENS. Mr. President, I would like to ask my good friend from West Virginia, the distinguished Democratic leader, if it would be agreeable at this point to ask the Senate to consider en bloc Calendar Order No. 859, Senate Joint Resolution 165; Calendar Order No. 860, Senate Joint Resolution 285; Calendar Order No. 861, H.R. 4107; and Calendar Order No. 870, Senate Concurrent Resolution 113.

I note that the distinguished Senator from New York is present on the last item.

Mr. BYRD. Mr. President, there is no objection to considering the first three measures en bloc, and then the distinguished assistant Republican leader could go to the consideration of the last item.

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

BICENTENNIAL ANNIVERSARY OF PATENT AND COPYRIGHT LAWS

The joint resolution (S.J. Res. 165) to commemorate the bicentennial anniversary of the constitutional foundation for patent and copyright laws, was considered, ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

The joint resolution and preamble are as follows:

S.J. RES. 165

Whereas 1987 is the bicentennial year of the United States Constitution;

Whereas a clause in article I, section 8, of the Constitution empowers Congress "To promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to

their respective Writings and Discoveries;"; and

Whereas this clause is the foundation of all patent and copyright laws and is worthy of special recognition during such bicentennial year: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That special recognition be given during 1987, the bicentennial year of the United States Constitution, to the constitutional foundation for patent and copyright laws, and the President is authorized and requested to issue a proclamation upon the enactment of this joint resolution calling upon the people of the United States to foster such recognition through appropriate programs and activities.

HARMON KILLEBREW DAY

The joint resolution (S.J. Res. 285) to designate June 13, 1984, as "Harmon Killebrew Day," was considered, ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

The joint resolution and preamble are as follows:

S.J. RES. 285

Whereas Harmon Killebrew was named to Major League Baseball's Hall of Fame on January 10, 1984;

Whereas Harmon Killebrew was a member of eleven American League All-Star squads and was the first American League player elected at three positions—first and third bases and the outfield;

Whereas next to Babe Ruth, Harmon Killebrew is the most prolific home run hitter in American League history;

Whereas Harmon Killebrew had eight seasons of at least forty home runs and eight years of one hundred and ten runs batted in;

Whereas Harmon Killebrew was the American League's Most Valuable Player in 1969, when he hit forty-nine home runs, had one hundred and forty runs batted in, and had a fielding average of 0.975; and

Whereas Harmon Killebrew hit four home runs in one double header: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That June 13, 1984, is designated "Harmon Killebrew Day", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe that day with appropriate ceremonies and activities.

MAUDE R. TOULSON FEDERAL BUILDING

The Senate proceeded to consider the bill (H.R. 4107) to designate the Federal building in Salisbury, Md., as the "Maude R. Toulson Federal Building."

Mr. SARBANES. Mr. President, I wish to express my strong support for H.R. 4107, a measure to designate the Federal building in Salisbury, Md., as the Maude R. Toulson Federal Building in recognition of the exemplary service this remarkable woman contributed to the Salisbury community, her efforts to remodel and expand the Federal building and her years of service as the postmaster of the U.S. Post Office in Salisbury.

Mrs. Toulson played a significant pioneering role in the life of the Salisbury community through her extensive involvement in the civic and professional activities of the Eastern Shore. As an active member of the Episcopal Church, the Quota Club, and the Democratic Club, Maude Toulson worked tirelessly on behalf of war bond sales, the Community Fund, and the Red Cross. Mrs. Toulson took an active role in the Salisbury business community during the time she operated the family drug store on the plaza following the serious illness of her husband.

Maude Toulson became the first postmistress in Salisbury on the appointment of President Franklin D. Roosevelt in 1937. During the course of her 10 years in that position, Mrs. Toulson successfully led the effort to remodel and expand the Federal building, which was, at that time, the main post office in Salisbury. The Federal building is now one of the most prominent buildings in the city. It is also of interest to note that Mrs. Toulson initiated the landmark deliveries of rural free delivery and air mail to Wicomico County.

Mr. President, in moving forward with this bill designating the Federal building as the Maude R. Toulson Federal Building we pay homage to this remarkable and dedicated woman and to her service as postmaster in Salisbury. In this regard, I wish to extend my appreciation to the distinguished chairman of the Environment and Public Works Committee, Senator STAFFORD and the distinguished ranking minority member, Senator RANDOLPH for their support of this measure and in expediting its consideration.

The bill was ordered to a third reading, read the third time, and passed.

Mr. STEVENS. Mr. President, I move to reconsider the votes on the various items.

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

REGARDING EMIGRATION OF ELENA BONNER

Mr. STEVENS. Now, Mr. President, I ask unanimous consent that the Chair lay before the Senate Calendar Order No. 870, which is Senate Concurrent Resolution 113, and ask for its immediate consideration.

The PRESIDING OFFICER. The concurrent resolution will be stated by title.

The assistant legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 113) expressing the sense of the Congress that Elena Bonner should be allowed to emigrate from the Soviet Union for the purpose of seeking medical treatment, urging that the President protest the continued violation of human rights in the Soviet Union, including the rights of Andrei Sakharov and Elena Bonner, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the concurrent resolution?

There being no objection, the Senate proceeded to consider the concurrent resolution.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, this is a matter of grave concern to the world, no less than to this body. The distinguished civil rights leader, Andrei Sakharov, is on a hunger strike, asking no more than his wife, Elena Bonner, be allowed to leave the Soviet Union for the purpose of receiving medical care with respect to a condition which is threatening to life.

I ask that the Senate agree to this concurrent resolution.

I would state the prayerful concern of this body is that the Soviet authorities would respond to our concerns not as a matter of a decision between nations, but as a concern for persons.

If I may say to the distinguished leaders of this body, we are in a situation where the House has passed an identical concurrent resolution to the one which I now offer for myself and Mr. DURENBERGER. I would hope that tomorrow, if it were possible, we could simply arrange to have one or the other body adopt whichever of these resolutions is most convenient so that the Congress would, in fact, have adopted a concurrent resolution.

I wonder if I could ask the Senator from Alaska, would that be possible? We have to act concurrently.

Mr. STEVENS. Mr. President, the distinguished Senator from New York has a good suggestion, but we would have to have the papers passed by the House or the House would have to have the papers passed by the Senate to accomplish the passage of a concurrent resolution.

Therefore, it is my suggestion that we go ahead and pass this one. If the House gives us their papers first, we can act on theirs, but if they get ours first, they can act on ours. We are united in purpose.

The distinguished chairman of the Foreign Relations Committee is a cosponsor of this concurrent resolution. I see no difficulty in handling the matter in the most expeditious way possible.

The PRESIDING OFFICER. Is there further debate?

Mr. MOYNIHAN. Mr. President, I move adoption of the concurrent resolution.

Mr. TSONGAS. Mr. President, it is difficult to imagine a more time-sensitive piece of legislation than the concurrent resolution now before us.

Last week, we learned that the world-renowned Soviet Nobel peace laureate, Andrei Sakharov, had begun a hunger strike on May 2. As will be recalled, Dr. Sakharov, distinguished both as a humanist and as a theoretical physicist, has been held by Soviet authorities under strict internal exile in the city of Gorky for several years. He and his wife, Elena Bonner, have endured one previous hunger strike and been the objects of a shameful campaign of vilification and repression by the Soviets. Both Dr. Sakharov and Mrs. Bonner are in need of medical treatment for heart and other ailments.

The immediate precipitant for Dr. Sakharov's now 2-week-old hunger strike was the detention of his wife on charges of anti-Soviet agitation. The gravity of her physical situation was the other major consideration. Dr. Sakharov has for many months been attempting to secure an exit visa for Mrs. Bonner so that she might seek vitally needed treatment in the West. But Mrs. Bonner has not been granted a visa, and Dr. Sakharov's hunger strike is a last-resort attempt to see that the charges against his wife are dropped and that she be permitted to seek medical attention abroad.

This resolution is intended to show that those of us in the world community, and particularly in the U.S. Congress, stand proudly and publicly in support of the Sakharovs at a crucial time. The resolution expresses the sense that the Soviet Union ought immediately to honor the demands of Dr. Sakharov's hunger strike, and further, that Dr. Sakharov and Mrs. Bonner be permitted to emigrate from the U.S.S.R. to the country of their choice.

We have at hand a grave threat to the health of both Dr. Sakharov and Mrs. Bonner. Elena Bonner is known to require urgent medical attention of a kind unavailable in the Soviet Union, and Dr. Sakharov, the victim of two previous heart attacks, is perhaps in even more imminent danger as a result of his current hunger strike. No one will benefit if Dr. Sakharov dies—least of all the Soviet Union. And the world will have lost a great moral leader. While there is still time, Mr. President, we must speak clearly and with one voice—that Andrei Sakharov and Elena Bonner be permitted to exercise their basic human rights.

I ask immediate passage of the resolution.

Mr. BYRD. Mr. President, I ask unanimous consent that my name be added as a cosponsor.

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

FREEDOM FOR THE SAKHAROVS

Mr. BYRD. Mr. President, the plight of Andrei Sakharov and his wife Elena Bonner points out the true weakness of the Soviet Union's political system. The Soviet military might rivals our own. Yet, its leaders apparently so fear the calls for freedom and human rights by the Sakharovs that Elena Bonner is now denied the medical attention she so badly needs. I urge the Soviet leadership to show compassion by allowing the Sakharovs to emigrate so that Elena Bonner may receive needed medical care.

I commend Senators TSONGAS and MOYNIHAN for their work in seeking the Sakharovs' freedom.

Mr. BINGAMAN. Mr. President, I join my colleagues in deploring the way in which the Soviet Government has mistreated Dr. Andrei Sakharov and his wife, Elena Bonner, and in urging the Soviet authorities to allow this couple to emigrate from the Soviet Union.

I have long admired Dr. Sakharov, a man who to me epitomizes the best in human nature: courage, decency, altruism, brilliance, honor, honesty. He has written eloquently of the need for arms control for some 15 years, a goal in which I also deeply believe. He has a vision of a better world which he has tried to share with his scientific colleagues at home and abroad and with the public at large. For this, he has been vilified by Soviet propagandists in truly Orwellian doublespeak. For this he has been exiled to Gorky and deprived of the ability to conduct his scientific work, now concentrated on fundamental questions about our universe.

For 4 years now, the world has been deprived of almost all communication with one of the greatest minds of our time, a winner of the Nobel Peace Prize. At this moment, as we speak, he and his wife may be near death in Gorky.

In the name of humanity, in the name of human decency, I appeal to the Soviet Government to give this couple their freedom. They are old. They are enfeebled. Their health is fading. They have stood against the Soviet Government for 15 years supporting the small and decreasing circle of brave souls willing to stand openly for freedom within the Soviet State.

Why does the Soviet Government tremble so at the voice of one man and one woman? The Soviet security apparatus has proven over the past 10 years that they can crush internal dissent and blot out any hope for systemic reform. Will they only be satisfied with Dr. Sakharov's death? Is that the only freedom the Soviet Government will grant the Sakharovs, the freedom to die and to seek in death a juster world beyond? I hope not. I pray not.

I hope that the great and powerful Soviet State will find it possible to grant this couple their freedom abroad and allow them to live out their remaining years in peace. The voice of one man in exile abroad cannot be so powerful a threat to the Soviet State, which has proven so adept at blocking off normal communication with the world about it.

Mr. PERCY. Mr. President, it is urgent that the U.S. Congress add its unanimous voice to the many around the world now speaking out in protest at Soviet treatment of Andrei Sakharov and his wife, Elena Bonner. On May 2, Sakharov began a fast in protest of Soviet refusal to allow his wife to seek needed medical treatment obtainable only abroad. Given Sakharov's own fragile health, it is probable that he will be in serious danger within the next few days. Senate Concurrent Resolution 113 of Senator TSONGAS', of which I am proud to be a cosponsor, urges the Soviet Union to allow the Sakharovs to seek medical treatment abroad and to live in the country of their choice, and asks the President and other signatory nations to the Helsinki Final Act to protest Soviet treatment of the Sakharovs. The House of Representatives is voting today on a companion resolution.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

The concurrent resolution Senate Concurrent Resolution 113 was agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, is as follows:

S. CON. RES. 113

Whereas the Final Act of the Conference on Security and Cooperation in Europe commits the signatory countries to respect human rights and fundamental freedoms;

Whereas the signatory countries have pledged themselves to "fulfill in good faith their obligations under international law;"

Whereas the Universal Declaration of Human Rights guarantees to all the rights of freedom of thought, conscience, religion, opinion, and expression;

Whereas the International Covenant on Civil and Political Rights guarantees that everyone shall have the right to freedom of thought, conscience, and religion, the right to hold opinions without interference, and the right of freedom of expression;

Whereas the Union of Soviet Socialist Republics signed the Final Act of the Conference on Cooperation and Security in Europe, is a party to the Universal Declaration of Human Rights, and has ratified the International Covenant on Civil and Political Rights;

Whereas Principle VII of the Final Act specifically confirms the "right of the individual to know and act upon his rights and duties" in the field of human rights, and Principle IX confirms the relevant and positive role individuals play in the implementation of the provisions of the Final Act;

Whereas Nobel Laureate Andrei Sakharov, leader of the human rights movement in the Soviet Union, was arrested and exiled to Gorky in direct contravention of Principle VII of the Helsinki Final Act, the Universal Declaration of Human Rights, and the International Covenant on Civil and Political Rights;

Whereas Doctor Sakharov's wife, Elena Bonner, has recently been detained and charged with anti-Soviet agitation and is in urgent need of medical treatment unavailable in the Soviet Union; and

Whereas Doctor Sakharov has, as a last resort, begun a hunger strike in an attempt to have the charges against his wife dismissed and so that she may be given the exit visa denied her in the past for the purpose of obtaining medical treatment abroad: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that, in accordance with the Final Act of the Conference on Security and Cooperation in Europe, the Universal Declaration of Human Rights, and the International Covenant on Civil and Political Rights, the Union of Soviet Socialist Republics should void all charges against Elena Bonner, issue her an exit visa for the purpose of obtaining medical care outside the Soviet Union, and allow Andrei Sakharov and Elena Bonner to live in the country of their choice.

SEC. 2. The Congress urges the President—

(1) to protest, in the strongest possible terms and at the highest levels, the detention of and charges against Elena Bonner and the continued refusal of an exit visa for Mrs. Bonner, and to call upon the Soviet Union to meet the demands of Doctor Sakharov's hunger strike.

(2) to call upon all other signatory nations of the Final Act of the Conference on Security and Cooperation in Europe to join in such protests and urge that the Sakharovs be allowed to emigrate to the country of their choice.

SEC. 3. The Security of the Senate shall transmit copies of this resolution to the Soviet Ambassador to the United States and to the Chairman of the Presidium of the Supreme Soviet of the Union of Soviet Socialist Republics.

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

EXECUTIVE SESSION

Mr. STEVENS. Mr. President, I ask my good friend from West Virginia if it would be agreeable at this time to ask unanimous consent that the Senate go into executive session for the purpose of considering the two nominations on page 4 of the Executive Calendar.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. Mr. President, there is no objection.

There being no objection, the Senate proceeded to the consideration of executive business.

The PRESIDING OFFICER. The clerk will state the nominations.

DEPARTMENT OF STATE

The assistant legislative clerk read the nomination of Michael Hayden Armacost, of Maryland, to be Under Secretary of State for Political Affairs.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

DEPARTMENT OF COMMERCE

The assistant legislative clerk read the nomination of Joseph F. Dennin, of the District of Columbia, to be Assistant Secretary.

Mr. DOLE. Mr. President, I was pleased yesterday to report the recommendation of the Committee on Finance that the Senate give its advice and consent to the nomination of Joseph F. Dennin, whom President Reagan has nominated to be Assistant Secretary of Commerce for International Economic Policy.

Mr. Dennin currently is Deputy Assistant Secretary of Commerce for Africa, the Near East, and South Asia. Previously, he served as Deputy Assistant Secretary of Commerce for Finance, Investment, and Services (1981–1982); Deputy Associate Attorney General, Department of Justice (1979–1981); counsel to the Intelligence Oversight Board in the White House (1976–1978); and counsel, Senate Select Committee on Intelligence (1975–1976). An attorney, Mr. Dennin practiced law in New York City with the firm of Simpson, Thacher & Bartlett (1969–1975).

Mr. Dennin graduated with great distinction from Stanford University with a degree in economics, and also received his J.D. degree from the Stanford School of Law. In 1968–1969 he studied comparative law and government at the University of Helsinki, under a Fulbright grant. Mr. Dennin is certainly highly qualified, and it is an honor for me to recommend that my colleagues approve his nomination.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

Mr. STEVENS. I move to reconsider the vote by which the nominations were confirmed.

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

The motion to lay on the table was agreed to.

Mr. STEVENS. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of the nominees.

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

LEGISLATIVE SESSION

Mr. STEVENS. Mr. President, I ask unanimous consent that the Senate return to legislative session.

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

ROUTINE MORNING BUSINESS

(Additional statements submitted and routine morning business transacted during the day are as follows:)

MESSAGES FROM THE HOUSE

At 10:28 a.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the bill (S. 1429) to amend the Small Business Act to extend and strengthen the small business development center program, and for other purposes, with amendments; it insists upon its amendments, and asks a conference with the Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. MITCHELL, Mr. SMITH of Iowa, Mr. ADDABBO, Mr. MCDADE, and Mr. CONTE as managers of the conference on the part of the House.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 4193. An act to encourage the use of public school facilities before and after school hours for the care of school-age children, and for other purposes;

H.R. 4810. An act to amend the National Capital Transportation Act of 1969 to direct the Secretary of Transportation to study the feasibility of constructing a rail rapid transit line between the West Falls Church, Va., station of the Washington, District of Columbia, Metrorail system and Dulles International Airport;

H.R. 5119. An act to authorize international development and security assistance programs and Peace Corps programs for fiscal year 1985, and for other purposes;

H.R. 5308. An act to amend the District of Columbia Self-Government and Governmental Reorganization Act to increase the amount authorized to be appropriated as the annual Federal payment to the District of Columbia; and

H.R. 5404. An act allowing William R. Gianelli to continue to serve as a member of the Board of the Panama Canal Commission after his retirement as an officer of the Department of Defense.

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent, and referred as indicated:

H.R. 4810. An act to amend the National Capital Transportation Act of 1969 to direct the Secretary of Transportation to study the feasibility of constructing a rail rapid transit line between the West Falls Church, Va., station of the Washington, District of Columbia, Metrorail system and Dulles International Airport; to the Committee on Banking, Housing, and Urban Affairs.

H.R. 5404. An act allowing William R. Gianelli to continue to serve as a member of the Board of the Panama Canal Commission after his retirement as an officer of the Department of Defense; to the Committee on Armed Services.

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. 5119. An act to authorize international development and security assistance programs and Peace Corps programs for fiscal year 1985, and for other purposes.

MEASURE HELD AT THE DESK

By unanimous consent, the following bill was ordered held at the desk pending further disposition:

H.R. 5308. An act to amend the District of Columbia Self-Government and Governmental Reorganization Act to increase the amount authorized to be appropriated as the annual Federal payment to the District of Columbia;

MEASURE READ THE FIRST TIME

The following bill was read the first time:

H.R. 4193. An act to encourage the use of public school facilities before and after school hours for the care of schoolage children, and for other purposes;

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-3214. A communication from the Secretary of the U.S. Senate transmitting, pursuant to law, a report containing a full and complete statement of the receipts and expenditures of the Senate from October 1, 1983 through March 31, 1984; ordered to lie on the table.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-645. A joint resolution adopted by the General Assembly of the Commonwealth of Virginia; to the Committee on Agriculture, Nutrition, and Forestry.

"HOUSE JOINT RESOLUTION No. 121

"Whereas, the farmers of Virginia have just suffered through the worst drought in recent history; and

"Whereas, although sufficient aid was available, many farmers suffered unnecessarily because of the procedures established to determine relief; and

"Whereas, a change in the base pricing procedure used for Disaster Relief Loans could result in accessibility to much needed aid in a more efficient manner; and

"Whereas, by using a quarterly system, the amount of loan eligibility would bear a more reasonable relationship to the replacement cost of lost crops; now, therefore, be it

"*Resolved by the House of Delegates, the Senate concurring,* That the General Assembly of Virginia memorializes Congress to change the base pricing procedure for Disaster Relief Loans so that the pricing is done on a quarterly system rather than the existing annual pricing system; and, be it

"*Resolved further,* That the Clerk of the House of Delegates is directed to forward a copy of this resolution to each member of the Virginia Congressional delegation, the Speaker of the United States House of Representatives, the President of the United States Senate, and the Secretary of Agriculture of the United States."

POM-646. A resolution adopted by the City Council of Columbia, S.C. relating to the housing development grant program; to the Committee on Banking, Housing, and Urban Affairs.

POM-647. A resolution adopted by the Council of the Borough of Waldwick, N.J. relating to local control of cable TV franchises; to the Committee on Commerce, Science, and Transportation.

POM-648. A resolution adopted by the Borough of Ship Bottom, N.J. relating to cable television legislation; to the Committee on Commerce, Science, and Transportation.

POM-649. A resolution adopted by the House of Representatives of the Commonwealth of Kentucky; to the Committee on Commerce, Science, and Transportation.

"COMMONWEALTH OF KENTUCKY—RESOLUTION

"Whereas, the Federal Communications Commission has adopted a policy to eventually allow local telephone companies to impose a long distance access charge on all telephone subscribers; and

"Whereas, the uncontrolled and arbitrary imposition of such an access fee has a far greater impact on citizens of the Commonwealth who live on a fixed or limited income than other users and subscribers; and

"Whereas, no consideration has been given to the effect of such an access fee on those citizens most directly affected by such action: Now, therefore,

"Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

"Section 1. That the House of Representatives of the Kentucky General Assembly advise the President of the United States, the United States Congress, the Chairman of the Federal Communications Commission, the Attorney General of the Commonwealth and the Kentucky Public Service Commission that the imposition of an access fee for the use of telephone service will effectively deny such service to those citizens who live on fixed or limited incomes.

"Section 2. That no such access fee should be permitted or allowed unless the public utility involved first identifies that segment of its subscribers most affected because of age, income or other limitation.

"Section 3. That no such access fee be permitted or allowed until the public utility involved presents a comprehensive and acceptable plan for the continuation of service to those subscribers affected by such an access fee because of a fixed or limited income.

"Section 4. That the Clerk of the House of Representatives send copies of this resolution to the President of the United States, the members of the Kentucky Congressional Delegation, all other members of the United States Congress, the Chairman of the Federal Communications Commission, the Attorney General of the Commonwealth and the Kentucky Public Service Commission."

POM-650. A joint resolution adopted by the General Assembly of the Commonwealth of Virginia; to the Committee on Environment and Public Works.

"HOUSE JOINT RESOLUTION No. 72

"Whereas, the Federal Highway Administration in 1971 approved the Interstate Route 664 addition from a junction with Interstate Route 64 in the City of Hampton to Craney Island to provide a much needed third crossing of Hampton Roads; and

"Whereas, the Federal Highway Administration found that the addition of Interstate Route 664, the third crossing, to the interstate highway system met the Congressionally mandated purposes of providing an interconnected system of interstate and defense highways in an area heavily inpacted by U.S. defense facilities; and

"Whereas, the Department of Defense determined that it was not feasible to use the crossing at Craney Island because of its future use as a military facility and that a longer route of an additional 1.7 miles across Hampton Roads would be necessary; and

"Whereas, in 1978 the Federal Highway Administration approved the additional interstate funding of 1.7 miles across Hampton Roads to the City of Suffolk, finding that the third crossing was a vital element in the interstate highway system; and

"Whereas, at the time it was recognized that there were no federal funds to construct the road connecting Interstate Route 664 from the shoreline in the City of Suffolk to U.S. Route 17 of the federal aid primary system and to Interstate Routes 64 and 264 at Bowers Hill in the City of Chesapeake; and

"Whereas, the Federal Highway Administration did not have sufficient interstate mileage to provide for this additional allocation, and a commitment was made by the Virginia Department of Highways and Transportation to utilize state primary funds to complete this interstate connector; and

"Whereas, completion of the 2.5 miles of Interstate Route 664 from the touch-down point in Suffolk to U.S. Route 17 is estimated to cost approximately $32 million, and to the next nearest interstate highway, the intersection of Interstate Route 64 and Interstate Route 264 at Bowers Hill, is estimated to cost approximately $72 million; and

"Whereas, the Virginia Department of Highways and Transportation has agreed to complete the remainder of Interstate Route 664 utilizing primary funds; and

"Whereas, these primary funds will be used for completion of this interstate project at the expense of Virginia's primary road funds, seriously depleting these funds for approximately the next ten years; and

"Whereas, the preemptive use of primary funds for this interstate highway project will cause serious delay or deletion of numerous primary projects critically important to the commerce and growth of the entire Commonwealth; and

"Whereas, additional federal funds may be available for a highway on the federal-aid primary system which meets all of the standards of a highway on the interstate highway system and that such highway is a logical addition or connection to the interstate highway system; and

"Whereas, the completion of the total Interstate Route 664 project, as well as the numerous other transportation improvement projects assigned to the primary fund, will make a most significant contribution to the economic well-being of the entire Hamp-

ton Roads area and the Commonwealth of Virginia, in addition to providing defense highway mileage in an area greatly affected by U.S. defense facilities now, therefore, be it

"Resolved by the House Delegates, the Senate concurring, That the General Assembly of Virginia hereby memorializes the Congress of the United States to provide additional federal funds for completion of this interstate highway project from the shoreline in the City of Suffolk through U.S. Route 17 to the Interstate Route 64/264 intersection at Bowers Hill in the City of Chesapeake; and, be it

"Resolved further, That the Clerk of the House of Delegates transmit copies of this resolution to the Speaker of the United States House of Representatives, the President of the United States Senate, and the members of the Virginia Delegation to the Congress of the United States in order that they may be apprised of the sense of the General Assembly of Virginia."

POM-651. A concurrent resolution adopted by the Legislature of the State of Arizona; to the Committee on Foreign Relations.

"HOUSE CONCURRENT MEMORIAL 2001

"Whereas the persecution of the three hundred thousand members of the Baha'i religious community in Iran has received worldwide attention; and

"Whereas the entire civilized world was shocked by the news from Iran of the June 1983 summary executions of six men and ten women, including three teenage girls, without publicly announced charges or public trial, for no other reason than their adherence to their faith; and

"Whereas since the 1979 revolution in Iran more than one hundred fifty members of the Baha'i community of Iran have been slain for their refusal to recant their faith; and

"Whereas reports of attempted forced conversions of Baha'is to Islam and wholesale deliberate starvation of Baha'i communities in Iran, along with confiscations of property, bank accounts and pensions, and the expulsion of all students of Baha'i parentage from all schools in Iran, have been made public; and

"Whereas the actions against the Baha'is by the present Iranian government violate all norms of civilized behavior, internationally promulgated declarations of human rights, and indeed, violate the very principles of Islam itself; and

"Whereas the actions of the Iranian government appear to all fair-minded observers to be a barbaric and genocidal attempt to eradicate the Baha'i Faith in the land of its birth.

"Wherefore you memorialist, the House of Representatives of the State of Arizona, the Senate concurring, prays:

"1. That the Congress of the United States continue its support for efforts at the national and international levels, to halt the persecution of the Baha'i minority in Iran.

"2. That the Secretary of State of the State of Arizona transmit copies of this Memorial to the President of the United States, the President of the United States Senate, the Speaker of the House of Representatives of the United States, each member of the Arizona Congressional Delegation, and to the Baha'i International Community and the Spiritual Assembly of the Baha'is of Phoenix, Arizona."

POM-652. A resolution adopted by the "We, the Women of Hawaii" relating to requiring agents from Communist bloc countries to register with the Attorney General; to the Committee on the Judiciary.

POM-653. A resolution adopted by the City Council of Kansas City, Mo., relating to Antitrust Immunity; to the Committee on the Judiciary.

POM-654. A joint resolution adopted by the General Assembly of the Commonwealth of Virginia; to the Committee on the Judiciary.

"Whereas, in 1890, Congress enacted the Sherman Antitrust Act, 26 Stat. 209 (15 U.S.C. § 1 et seq.), to prohibit conspiracies "in restraint of trade or commerce among the several States or with foreign nations"; and

"Whereas, the United States Supreme Court has consistently held that among the practices prohibited by the act is that of "vertical price fixing" or "resale price maintenance," wherein manufacturers dictate the price that wholesalers or retailers must charge for their product; and

"Whereas, in 1975, Congress enacted the Consumer Goods Pricing Act of 1975 (Pub. L. 94-145) revoking the authority of the States to allow resale price maintenance under "fair trade laws," further indicating its support for the prohibition against vertical price fixing developed by the courts under the Sherman Antitrust Act; and

"Whereas, despite these indications that enforcement against vertical price fixing should be a priority, the Federal Trade Commission and the Justice Department have reduced enforcement in this area based upon a policy of minimal government interference in the marketplace; and

"Whereas, vertical price fixing, however, infringes upon the right of the retailer to free trade and competition and the consumer's expectation of the best benefits of that competition; and

"Whereas, Congress and the President should renew their support of and belief in the principles of free trade by specifically prohibiting the practice of vertical price fixing; now, therefore, be it

"Resolved by the House of Delegates, the Senate concurring, That the General Assembly of Virginia, by this resolution, respectfully requests the Congress and the President of the United States to address the issue of vertical price fixing by calling upon the Attorney General of the United States and all other appropriate federal agencies to vigorously enforce the federal antitrust laws, including the prohibition against vertical price fixing; and, be it

"Resolved further, That the Clerk of the House of Delegates is directed to prepare copies of this resolution for transmittal to the President of the United States and the presiding officers of the United States Senate and House of Representatives, and to each member of Congress from this Commonwealth."

POM-655. A joint resolution adopted by the General Assembly of the Commonwealth of Virginia; to the Committee on Labor and Human Resources.

"HOUSE JOINT RESOLUTION NO. 49

"Whereas, Section 11(d) of the Fair Labor Standards Act, 29 U.S.C. § 211(d), empowers the Secretary of Labor and/or the Administrator of the Wage and Hour Division of the Department of Labor to issue orders for the regulation of industrial homework; and

"Whereas, those officials, acting pursuant to that authority, have issued orders categorically prohibiting homeworkers from manufacturing broad categories of goods for sale to distributors; and

"Whereas, the effect of that prohibition has been to deprive untold numbers of individuals who prefer to work at home, such as mothers with young children, of the opportunity to be gainfully employed; and

"Whereas, those who support the prohibition of homework seek to justify that infringement of the citizen's right to work by arguing that homework presents the opportunity for abuse; and

"Whereas, that argument is without merit since there is no instrumentality known to man that cannot be misused, a fact that does not warrant the indiscriminate circumscribing of individual liberty; and

"Whereas, no rational legislative objective is served by, in effect, forcing mothers out of the home and into the factory; and

"Whereas, the prohibition of homework has recently gained national notoriety as a result of litigation, arising in the State of Vermont, that clearly presents the plight of the victimized homeworker; now, therefore, be it

"Resolved by the House of Delegates, the Senate concurring, That the General Assembly of Virginia memorializes the President, Congress and Secretary of Labor of the United States to rescind or amend the orders and regulations prohibiting industrial homework, thus guaranteeing to those citizens who choose to pursue gainful employment in the home the freedom to do so; and, be it

"Resolved further, That the Clerk of the House of Delegates transmit copies of this resolution to the President of the United States, to the Speaker of the United States House of Representatives, to the President of the United States Senate, to the Secretary of Labor of the United States, and to the members of the Virginia Delegation to the Congress of the United States."

POM-656. A resolution adopted by the Commonwealth of Virginia; to the Committee on Veterans' Affairs.

"HOUSE JOINT RESOLUTION NO. 4

"Whereas, National Cemeteries are, and of right ought to remain, places of honor set aside for the burial of the nation's veterans; and

"Whereas, it is fully in keeping with the sacrifices which America's veterans have made for their country in peace and war, at home and abroad, that those laid to rest in National Cemeteries should be buried with dignity; and

"Whereas, in October, 1983, it came to the attention of the public that not all veterans being buried in National Cemeteries were being treated with the dignity which they merited; and

"Whereas, it was reported in the press that far from being interred with dignity, some veterans were being buried naked or wrapped in sheets, in plastic bags, and cardboard boxes; and

"Whereas, as least one such burial has been reported to have occurred in the National Cemetery at Quantico, Virginia; and

"Whereas, such burial practices are repugnant to Virginians and to all Americans; now, therefore, be it

"Resolved by the House of Delegates, the Senate concurring, That the Congress of the United States is hereby memorialized to ensure that the United States Veterans Administration takes appropriate actions to guarantee that veterans being buried in all National Cemeteries are interred with the

dignity, respect, and gratitude which they, as veterans, have earned from the people of the nation which they have served; and, be it

"*Resolved further,* That the Clerk of the House of Delegates transmit copies of this resolution to the President of the United States Senate, the Speaker of the United States House of Representatives, the members of the Virginia delegation to the Congress of the United States, and to the Administrator of the United States Veterans Administration in order that they may be apprised of the sense of the General Assembly of Virginia in this matter."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. ANDREWS, from the Select Committee on Indian Affairs, with amendments:

S. 2619: A bill to extend programs under the Indian Education Act through fiscal year 1985 (Rept. No. 98-449).

By Mr. PACKWOOD, from the Committee on Commerce, Science, and Transportation, with an amendment in the nature of a substitute and an amendment to the title:

S. 2584: A bill to provide authorization of appropriations for activities carried out under the Marine Mammal Protection Act of 1972 (Rept. No. 98-450).

By Mr. PACKWOOD, from the Committee on Commerce, Science, and Transportation, with amendments:

S. 2538: A bill to consolidate and authorize certain ocean and coastal programs and functions of the National Oceanic and Atmospheric Administration under the Department of Commerce, and for other purposes (Rept. No. 98-451).

By Mr. WEICKER, from the Committee on Small Business, without amendment:

S. 2069: A bill to amend the Small Business Act (Rept No. 98-452).

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. COHEN (for himself, Mr. WEICKER, Mr. LEVIN, Mr. CHILES, Mr. RUDMAN, Mr. DIXON, and Mr. BUMPERS):

S. 2675. A bill to amend the Office of Federal Procurement Policy Act to increase public participation in the formulation of Government procurement policies, regulations, procedures, and forms, and for other purposes; to the Committee on Governmental Affairs.

By Mr. MATHIAS (for himself and Mr. SARBANES):

S. 2676. A bill to permit the Secretary of the Army to authorize the delivery of water from the District of Columbia water system to water systems in the Metropolitan Washington area in Maryland, and the purchase of water for the District of Columbia water system from certain systems; to the Committee on Environment and Public Works.

By Mr. PRYOR (for himself and Mr. BUMPERS):

S. 2677. A bill to designate the Calion Lock and Dam located on the Ouachita River, near Calion, Arkansas, as the "H. K. Thatcher Lock and Dam"; to the Committee on Environment and Public Works.

By Mr. STEVENS (for Mr. GARN):

S. 2678. A bill to extend the authorities under the Export Administration Act of 1979 until June 28, 1984, placed on the calendar, by unanimous consent.

By Mr. THURMOND:

S.J. Res. 297. Joint resolution to designate the month of June 1984 as "Veterans' Preference Month"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. MITCHELL:

S. Con. Res. 114. Concurrent resolution calling on the President of the United States to propose a permanent fixed site or sites for the Olympic Games; to the Committee on Commerce, Science, and Transportation.

By Mr. BRADLEY:

S. Con. Res. 115. Concurrent resolution expressing the sense of Congress that the International Olympic Committee should establish a permanent facility for the Olympic games, to insulate the games from international politics; to the Committee on Commerce, Science, and Transportation.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. COHEN (for himself, Mr. WEICKER, Mr. LEVIN, Mr. CHILES, Mr. RUDMAN, Mr. DIXON, and Mr. BUMPERS):

S. 2675. A bill to amend the Office of Federal Procurement Policy Act to increase public participation in the formulation of Government procurement policies, regulations, procedures, and forms, and for other purposes; to the Committee on Governmental Affairs.

PUBLIC PARTICIPATION IN PROCUREMENT POLICYMAKING ACT OF 1984

● Mr. COHEN. Mr. President, today Senator WEICKER and I, along with Senators LEVIN, CHILES, RUDMAN, DIXON, and BUMPERS, are introducing legislation which requires executive agencies to publish proposed procurement policies and regulations for public comment. The objective of this legislation—the Public Participation in Procurement Policymaking Act of 1984—is to open procurement policymaking to public consideration without, however, unduly burdening the process.

This legislation represents another in a series of procurement reforms I have sponsored to improve both the effectiveness and efficiency of the Federal procurement process. The impetus for these efforts, as I have emphasized all along, is to insure that all qualified contractors who want to participate in this process are given the opportunity. The Government, and ultimately the taxpayer, stand to benefit by getting the best product at the lowest possible cost.

Considering the billions of dollars the Government spends each year on goods and services from the private sector—over $200 billion projected for next year—I am confident that significant savings can be achieved through the effective implementation of procurement reforms.

Defense and civilian procurement practices are governed by the Armed Services Procurement Act and the Federal Property and Administrative Services Act, respectively. Within the broad guidelines set forth in these statutes, the Federal Acquisition Regulation (FAR) coupled with agency supplemental regulations provide the actual day-to-day operating procedures followed both by Government and industry. While the statutes have remained largely unchanged since they were adopted nearly 40 years ago, procurement regulations are subject to frequent change.

I feel it is important, therefore, that the public be kept informed of, and be given an opportunity to comment on, proposed procurement policies and regulations which affect the procedures for doing business with the Government. According to the Commission on Government Procurement, which was created by Congress in 1969 to study the Federal procurement process, providing contractors and other interested parties the opportunity to comment on proposed procurement policies and regulations is essential to insure consideration of all available alternatives and information, provide better understanding and relationships between Government and industry, and enhance the acceptability of these policies and regulations when eventually adopted.

The problem, however, is that contractors and other interested parties frequently are not afforded this opportunity because procurement regulations are exempt from the rulemaking provisions of the Administrative Procedure Act (APA). The APA generally requires public notice and opportunity for comment for proposed regulations in nonprocurement areas. The rationale for exempting procurement regulations is that matters relating to contracts involve the proprietary interests of the Government, while general regulatory matters affect primarily the interests of private parties. Moreover, subjecting procurement regulations to APA procedures has the potential for blocking procurement actions through litigation over whether an agency has complied with the rulemaking requirements.

As a matter of practice, agency procedures for soliciting comments on proposed procurement regulations are extremely varied. Some procuring agencies have voluntarily adopted APA rulemaking procedures, while other agencies never solicit comments. Still other agencies, such as the Department of Defense (DOD), solicit comments on a selective basis. Often,

then, the first time the public sees a proposed procurement regulation is when it is issued in final form.

The Procurement Commission stated in its 1972 report to Congress that the varied practices of agencies in soliciting comments on proposed regulations in some cases and not in others do not meet the minimum standards for promoting fair dealing and equitable relationships among the parties in Government contracting. While the Commission did not feel it was fair to unduly burden the procurement process with APA-type rulemaking procedures, it did recommend that criteria and procedures should be established for an effective method of soliciting the viewpoints of interested parties in the development of procurement regulations.

In May 1983, the Administrator of the Office of Federal Procurement Policy (OFPP) implemented the Commission's recommendation by issuing policy directive 83-2 which requires all agencies to publish in the Federal Register notice of significant proposed procurement policies and regulations and to allow interested parties 30 to 60 days in which to submit comments on the proposal. A procurement policy and/or regulation is considered to be significant if it has any effect beyond the internal operating procedures of the issuing agencies or any effect on the costs or contract administration activities of contractors.

Compliance with OFPP's policy directive, however, has been a problem. Perhaps the best example of noncompliance involves the issuance of the Federal Acquisition Regulation itself, which became effective April 1 of this year. The FAR system consolidates all defense and civilian procurement regulations into a Government-wide regulation, applicable to all procuring agencies, with supplemental regulations essential to meet agency-specific needs. While the FAR was published in the Federal Register for public comment on a piecemeal basis as parts of it were developed, extensive changes were subsequently made during an executive agency review period. The revised FAR was then issued in final—without the benefit of any further public comment.

One provision which was incorporated into the FAR during this review period requires that all Federal procurements be set aside exclusively for small business participation if there are two small business concerns available to meet the Government's requirement. This "rule of two" set-aside provision has created controversy in the procurement community among contractors who feel this provision restricts the Government from obtaining goods and services from the maximum practicable number of vendors at the lowest cost. This dispute should have been aired, in my judgment, when the FAR initially went out for public comment.

This provision represents only one of many revisions made to the FAR without public comment. According to a recent study prepared for the May 1984 Eastern Briefing Conference on Government Contracts, these revisions are numerous, somewhat controversial, and many will have a substantive effect on acquisition policy and procedure. This study provides a compilation of over 20 significant changes made to the FAR, dealing with such subjects as contractor qualifications, specifications, small purchase and other simplified purchase procedures, contracting by negotiation, foreign acquisition, bonds and insurance, cost accounting standards, among others.

There have also been some problems with compliance among the agencies in the development and issuance of their supplements to the FAR. Most of the large procuring agencies, including the National Aeronautics and Space Administration, the General Services Administration, and the Department of Energy, published their FAR supplements in the Federal Register for public comment. However, the Defense Department, the largest of the procuring agencies, issued its FAR supplement with only a notice concerning ordering procedures. The DOD subsequently published its supplement in the Federal Register in final and requested comments—less than 1 week before the FAR and its supplements became effective.

Interestingly enough, the procuring agencies initially questioned OFPP's authority to issue policy directive 83-2. According to a May 1983 Federal contracts report article, a DOD official, when asked what sort of impact this directive would have on the Defense Acquisition Regulatory Council's future practices, is reported to have responded: "None, they [OFPP] don't have regulatory authority." Despite the fact that the OFPP has since been reauthorized with regulatory authority, compliance with this policy directive, as evidenced by the examples I have mentioned, nevertheless remains a problem.

The Public Participation in Procurement Policymaking Act would simply codify OFPP's policy directive for the expressed purpose of enhancing compliance. In my judgment, Mr. President, dialog between the procuring agencies and their vendors can only improve the regulatory process. The legislation I am introducing today is designed to facilitate this dialog, and I hope my colleagues will lend me their support.

I ask unanimous consent that the Public Participation in Procurement Policymaking Act, a section-by-section analysis, and the study entitled "New FAR Policies and Changes—Fact or Fiction" be included in the RECORD.

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

S. 2675

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 "Public Participation in Procurement Policymaking Act of 1984".

SEC. 2. The Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.) is amended by adding at the end thereof the following new section:

"PUBLIC PARTICIPATION IN THE FORMULATION OF PROCUREMENT POLICIES AND REGULATIONS

"SEC. 18. (a) For the purposes of this section—

"(1) the term 'procurement policy, regulation, procedure, or form' includes an amendment to or modification of a procurement policy, regulation, procedure, or form; and

"(2) the term 'significant procurement policy, regulation, procedure, or form' means a procurement policy, regulation, procedure, or form that has any effect beyond the internal operating procedures of the executive agency issuing the procurement policy, regulation, procedure, or form or any effect on the costs or contract administration activities of contractors.

"(b) Each head of an executive agency proposing to issue a procurement policy, regulation, procedure, or form, shall solicit and consider the views of all interested parties, including Government agencies, private organizations and associations, business firms, educational institutions, and individuals, on the proposal.

"(c) In carrying out subsection (b) in the case of a significant procurement policy, regulation, procedure, or form proposed to be issued by an executive agency, the head of the executive agency shall, subject to subsection (e), cause to be published in the Federal Register a notice of the proposal and provide for a public comment period for receiving and considering the views of all interested parties on the proposal. The length of such comment period should be 60 days, but in any event shall not be less than 30 days.

"(d) For the purposes of subsection (b) or (c), any notice prepared for publication in the Federal Register shall include—

"(1) in a format required for publication in the Federal Register, a description of the proposed procurement policy, regulation, procedure, or form, the background and reasons for the proposal, and the intended effect of the proposal;

"(2) the text of the proposal or, if it is impracticable to publish the full text of the proposal, a summary of the proposal and a statement specifying the name and address of the officer or employee of the executive agency from whom the full text may be obtained; and

"(3) a request for interested parties to submit comments on the proposal, including the name and address of the officer or employee of the Government designated to receive such comments.

"(e)(1) The requirements of subsection (c) may be waived by the head of an executive agency or his designee when circumstances make compliance impracticable, such as when there is inadequate time to comply with the requirements by reason of the effective date of an applicable statute, a judicial decision, or an emergency.

"(2) A significant procurement policy, regulation, procedure, or form with respect to which the requirements of subsection (c) are waived pursuant to paragraph (1) may take effect on a temporary basis if—

"(A) a notice of such procurement policy, regulation, procedure, or form is published in the Federal Register and includes a statement that the procurement policy, regulation, procedure, or form is temporary; and

"(B) provision is made for a public comment period of 60 days beginning on the date on which the notice is published.

After considering the comments received, the head of the executive agency waiving the requirements of subsection (c) pursuant to paragraph (1) may issue the final procurement policy, regulation, procedure, or form.".

SEC. 3. The amendment made by section 2 of this Act shall take effect with respect to procurement policies, regulations, procedures, or forms, or amendments to or modifications of procurement policies, regulations, procedures, or forms, first proposed to be promulgated by an executive agency on or after the date which is 30 days after the date of enactment of this Act.

SECTION-BY-SECTION ANALYSIS

SECTION 1

The short title of this bill is the Public Participation in Procurement Policymaking Act of 1984.

SECTION 2

Section 2 amends the Office of Federal Procurement Policy (41 U.S.C. 410 et seq.) by adding a new section 18 on Public Participation in the Formulation of Procurement Policies and Regulations.

Section 18(a) defines 'procurement policy, regulation, procedure, or form' to include amendments to or modifications of a procurement policy, regulation, procedure, or form, and 'significant procurement policy, regulation, procedure, or form' to mean a procurement policy, regulation, procedure, or form that has any effect beyond the internal operation procedures of the issuing agencies or any effect on the cost or contract administration activities of contractors.

Section 18(b) requires than an executive agency proposing to issue a procurement policy, regulation, procedure, or form shall solicit and consider the views of all interested parties.

Section 18(c) sets forth the procedures for publishing a proposed significant procurement policy, regulation, procedure, or form. An executive agency is required by this section to publish in the Federal Register notice of the proposal and provide for a public comment period of 30 to 60 days, during which time interested parties would be permitted to submit comments.

Section 18(d) provides that a notice prepared for publication in the Federal Register shall include (1) a description of the proposed procurement policy, regulation, procedure, or form, the background and reasons for the proposal, and the proposal's intended effect, (2) the text of the proposal or, if that is impracticable, a summary and the name and address of the agency official from whom the text may be obtained, and (3) a request for interested parties to submit comments on the proposal, including the name and address of the agency official designated to receive such comments.

Subsection 18(e)(1) authorizes the head of an executive agency to waive the publishing requirements set forth in section 18(c) when circumstances made compliance impracticable.

Subsection 18(e)(2) provides that, for a proposed significant procurement policy, regulation, procedure, or form which is waived from the requirements of section 18(c), such proposal may take effect on a temporary basis if (1) a notice of the proposal is published in the Federal Register with a statement that the proposal is temporary, and (2) a 60-day public comment period is provided beginning on the date the notice is published.

This subsection authorizes the head of the executive agency issuing the temporary proposal, after having considered comments, to issue the proposal in final.

SECTION 3

Section 3 sets the effective date of this legislation for procurement policies, regulations, procedures, or forms to be promulgated by an executive agency at 30 days after this legislation is enacted.

NEW FAR POLICIES AND CHANGES—FACT OR FICTION?

(Carl L. Vacketta, Esq., Partner, Pettit & Martin, Washington, D.C. office)

In mid-1978, the FAR drafting committee began the long process of creating a uniform set of the Federal Acquisition Regulation (FAR) that would ultimately govern all military and civilian procurements. As each part and sub-part of the FAR draft was completed by the group, it was published in the Federal Register for public comment. Literally thousands of letters were received from private industry, associations, and government entities commenting on the "Phase One" draft material. After the public comment period for each part or sub-part ended, the FAR drafting committee analyzed the proposed changes and incorporated appropriate revisions into a new FAR draft, known as "Phase Two." The Phase Two revisions, made between 1978 and 1983, were never released to the general public for comment.

A BACKGROUND—THE MODIFICATIONS MADE BY THE EXECUTIVE AGENCIES AFTER PUBLIC COMMENT

On March 17, 1982, the President issued Executive Order 12352 directing the federal agencies to continue their efforts to develop the FAR with a goal to complete their work by December 31, 1982. Pursuant to this authority, the Defense Acquisition Regulation (DAR) Council, NASA and GSA (hereafter the "executive agencies") began an extensive review of the FAR material, which at that time consisted of Phase Two material and some Phase One material that had not yet been revised. The executive agencies determined that a proper review could only be undertaken when the entire Phase Two FAR text has been completed; they therefore extended their examination into 1983.

The executive agencies' review took place between March and June, 1983. Phase Two changes were required by June 30, 1983 to allow for the final FAR text to be published in the Federal Register by the deadline of September, 1983.

Virtually all of the revisions by the executive agencies were incorporated into the final FAR text which became effective April 1, 1984. These revisions, however, were never released to the public for comment. Such changes were numerous, somewhat controversial, and many will have a substantive effect on acquisition policy and procedure. In some instances, the executive agencies revised FAR Phase One language that had not been taken from DAR or the Federal Procurement Regulations (FPR). In other cases, the executive agencies reinstated DAR or FPR language that had been eliminated or revised in the FAR Phase One/Phase Two drafts. The more significant modifications made by the executive agencies to Phase Two are identified below. (A comparison of the Phase Two FAR language with the Final FAR text revisions resulting from the executive agencies' review is set forth in Appendix A.)

B. THE MORE SIGNIFICANT FAR CHANGES RESULTING FROM THE EXECUTIVE AGENCIES REVIEW

1. Part 9—"Contractor Qualifications"

In Subpart 9.5, "Organizational Conflicts of Interest," the executive agencies deleted important Phase Two language directed toward imposing greater Government control over contractor conflicts of interest.

a. Subsection 9.505-1—"[General Rules Re:] Providing Systems Engineering and Technical Direction."

Phase Two (Subsection 9.505-1) contained a statement that a contractor should not be in a position to make procurement decisions favoring its own products or capabilities. It also contained language that the contractor should not be in a position to make procurement decisions also favoring "other firms in which it has a significant organizational, financial, contractual or other interest," where the contractor is providing advice or technical direction concerning specifications development and system acquisition by the Government.

The above-quoted language was deleted by the executive agencies in their review. Read literally, the current FAR language appears to considerably weaken the Government's right to control conflicts and limit its influence to those instances in which the contractor could favor products or services provided by its own company. Many companies have significant indirect financial or other interests in other companies and these relationships may just as easily lead to conflicts of interest in acquisition selections and advice. However, under the current language, the Government's ability to guard against these potential conflicts has presumably been restricted.

b. Section 9.506—"Information Sources"

Phase Two required prospective contractors, upon request, to supply the Government with any information the Government deemed necessary to identify, evaluate, and resolve potential conflicts of interest, or risk denial of contract award. The executive agencies deleted this provision in their review. As a resut of the deletion, the FAR text reflects a shift in policy away from imposing any conflict disclosure obligations on the contractor toward requiring the Government to independently seek such information in-house or to consult "non-government" sources like trade publications and credit rating services. Some government officials believe that the absence of any provision obligating the contractor itself to provide such information greatly hampers the Government's ability to ferret out conflicts.

2. Part 10—"Specifications, Standards and Other Purchase Descriptions;" and Part 11—"Acquisition and Distribution of Commercial Products"

One of the major innovations in the FAR was to place greater emphasis on using "functional" specifications when purchasing commercial or commerical type products or services. Functional specifications are in-

tended to describe the essential product or service required to meet the Government's minimum needs so as to maximize full and free competition and to avoid overly restrictive technical specifications (i.e., "brand name or equal" acquisitions). In the past, these restrictive specifications have often led to unnecessary sole source acquisition or selection from only a few bidders.

The executive agencies' revisions to Phase Two even more strongly emphasize a trend away from "brand name" specifications and toward in-house creation of functional descriptions. For example, throughout Part 10 references to "product descriptions" were changed to "purchase descriptions" and the word "product" was changed to "specifications" to eliminate any commercial connotation or terminology.

The executive agencies also modified Part 11 to reflect this greater reliance on in-house development of specifications and requirements, thereby maximizing competition and avoiding any commercially developed or "brand name" product descriptions. Revisions were also made to emphasize in-house market research and analysis instead of relying on the results of commercial market research. On the other hand, the executive agencies deleted important provisions that would have described the manner in which in-house market research should have been conducted and how market research should have been evaluated in conjunction with pricing.

3. Part 13—"Small Purchase and Other Simplified Purchase Procedures"

The executive agencies made three significant revisions to Phase Two affecting the manner in which small purchasing is conducted by the Government.

a. Section 13.103—"Policy"

Section 13.103 of Phase Two provided that in special circumstances the Government could accomplish small purchases by more formal methods than those set forth in the small purchase FAR procedures. This language was taken directly from FPR (1-3.602) and the "special circumstances" exception had been implicitly recognized in DAR (3-602). In deleting this exception the executive agencies strengthened the Government's obligation to resort to the less formal small purchase procedures in the interest of efficiency and economy.

b. Section 13.104—"Procedures"

It has been recognized by many in private industry and the Government that vendors are frequently not paid promptly after delivery or performance. As a result, many vendors in the past have refused to do business with the Government or have artificially increased their prices in anticipation of late payments. To officially encourage prompt payment when small purchases are made, Phase Two adopted the language contained in FPR 1-3.602(g) requiring Government agencies "with a minimum of paperwork [to] promptly pay contractors whenever small purchase procedures are used." The executive agencies deleted the quoted provision in their review. While the Prompt Payment Act requires the Government to pay contractors within thirty days of receipt of an invoice, the deleted language would have given the Government added incentive to more expeditiously process small vendor invoices then mandated by the Act. (As a result of the Act, Government agencies are apparently paying on time, but as close to the due date as possible.)

c. Section 13.107—"Solicitation and Evaluation of Quotations"

Both DAR and FPR have for years provided that prompt payment discounts would be sought by the Government whenever possible; however, they were not to be considered (for purposes of award) in small business quotations and other solicitation evaluations. The principal reason for not considering the prompt payment discount in a contract award was because it would be difficult for the Government to ensure that it could take advantage of the discount in all circumstances. This was especially true where the contractor offered the discount with such tight time limitations that, as a practical matter, the Government could not avail itself of the discounted price.

Phase Two attempted to change this procedure by providing that the Government would "consider any discounts offered when evaluating quotations." [Emphasis added.] The executive agencies prevented the institution of this policy change by deleting the foregoing quoted language and reinstating the existing DAR/FPR policy against considering discounts in the evaluation process.

4. Part 15—"Contracting By Negotiation"

Significant revisions to Part 15 were made by the executive agencies especially with regard to negotiation procedures and the requirements for certified cost or pricing data.

a. Section 15.609—"Competitive Range"

Phase Two contained a provision—based on NASA PR 3.804.3(b)(4) but not found in DAR or FPR—which would have allowed an offeror to revise a proposal initially included in the competitive range and subsequently dropped from competition, unless it was obvious the proposal never should have been included in the competitive range in the first place. Fortunately, the executive agencies deleted this vague and potentially disruptive new provision. If implemented, the proposed FAR language would have led to a host of protests from disappointed offerors and would have prolonged and complicated contract negotiations.

b. Section 15.804—"Requiring Certified Cost or Pricing Data"

Both DAR (3-807.3(d)) and FPR (1-3.807-3(g)) provide that certified cost or pricing data will not be requested by the Government for negotiated contract awards of $25,000 or less. Phase Two increased the certification exemption floor to contract awards of $100,000 or less. The executive agencies, however, reinstated in Paragraph 15.804-2(a) the $25,000 floor—over "$25,000 and not in excess of $500,000"—where cost or pricing data may be obtained by the Contracting Officer. (Unless otherwise specifically exempted by another FAR Section, any negotiated contract expected to exceed $500,000 requires the submission of certified cost or pricing data.) As a consequence of this addition, many more contracts may become subject to the certification requirements and the consequences of defective pricing than envisioned by earlier FAR drafts.

c. Subsection 15.804-4—"Certificate of Current Cost or Pricing Data"

Consistent with DAR (3-807.6(f)) and FPR (1-3.807-3(k)), Phase Two would have required a contractor to submit an executed certificate of current cost or pricing data in connection with information furnished with final indirect overhead rates under cost type contracts. In an important move, the executive agencies deleted this requirement. This deletion has presumably eliminated potential repercussions of furnishing defective pricing data when negotiating final overhead rates in cost type contracts.

d. Subsection 15.804-6—"Procedural Requirements"

Both DAR (3-807.4) and FPR (1-3.807-3(d)(1)) provide that certified cost or pricing data is not required from prospective subcontractors for subcontracts of $1,000,000 or less. In Phase Two, the FAR attempted to raise the subcontract threshold to $5,000,000 or less. In a reversal, the executive agencies reinstated the $1,000,000 threshold. The outcome is to subject many more subcontracts to certification requirements and the potential for more defective pricing problems than Phase Two contemplated.

5. Part 19—"Small Business and Small Disadvantaged Business Concerns"

The executive agencies made significant revisions to the proposed FAR provisions for small business and small disadvantaged business concerns. In so doing, they reinstated existing DAR and FPR provisions that would have been deleted in the Phase Two draft.

a. Section 19.501—"[General:] Set-Asides For Small Business"

DAR 1-706.5(f) provides that once a government contracting office successfully procures a product or service by small business set-aside procedures, all future requirements of that office for that product or service must also be procured by repetitive set-aside, so long as competition exists at reasonable prices. This procedure, which is both economical and efficient from the Government's standpoint, was deleted in Phase Two. The executive agencies have restored the requirement in Paragraph 19.501(g) of the final FAR version.

b. Subsection 19.502-1—Requirements For Setting Aside Acquisitions"

DAR 1-706.5(a)(1) provides, inter alia, that the contracting officer will set aside an acquisition for exclusive small business participation if the contracting officer determines there is a reasonable expectation that "offers will be obtained from at least two responsible small business concerns offering the products of different small business concerns." (Emphasis added.) FPR 1-1.706-5 took a slightly different approach, providing that there must be a reasonable expectation that offers will be received from a "sufficient number" of responsible small business concerns. In Phases One and Two, the FAR committee adopted the FPR language because of the belief that there is no reasonable assurance of adequate competition in every case simply because two small businesses may be able to bid on the work.

In its review, the executive agencies reinstated the DAR "rule for two" to the disappointment of some Government officials who subscribe to the committee's view that "two may not be enough" in every procurement situation.

c. Section 19.602—"[Procedures Re:] Certificates of Competency and Determinations of Eligibility"

In Phase One, the FAR contained a number of provisions setting forth the actions the Small Business Adminstration ("SBA") would take upon receiving notice from a contracting agency that a small business concern lacked responsibilty. These actions included (a) informing the concern that it has the opportunity to apply for a Certificate of Competency ("COC") and (b)

setting out certain procedures which SBA would follow in responding to the COC request. For some inexplicable reason, these important provisions were deleted in Phase Two. Fortunately, the omission was noted by the executive agencies and properly reinstated in the final FAR text.

d. Subsection 19.705-2—"Determining the Need for a Subcontracting Plan"

Phase One included detailed provisions adapted from DAR 1-707.1 governing the evaluation of a subcontracting plan submitted by a contractor to comply with the Government's policy of maximizing participation of small businesses and small disadvantaged businesses in the acquisition process. These important provisions were dropped in Phase Two, leaving little guidance to Government personnel to ensure proper compliance by contractors with the regulations. The executive agencies apparently recognized the importance of providing specific subcontracting plan guidance to government acquisition personnel and reinstated the deleted provisions.

e. Section 19.810—"Contract Administration [Re: the Small Business Administration (the 8(a) Program)]"

DAR 1-705.5(b)(3) provides that to the extent possible SBA subcontractors are to be afforded any production and technical assistance required for satisfactory performance, including the identification of performance deficiencies and suggestions for corrective actions to rectify problems with the supplied products or services. This provision was never contained in the FPR and was not adopted in the FAR drafts. The executive agencies reinstated the DAR provision. As enacted in the final text, the FAR represents a formal commitment by the Government to assist small businesses and disadvantaged small businesses in any way possible, in both civilian and military acquisitions.

6. Part 25—"Foreign Acquisition"

DAR (18-508.2) and FPR (1-18.603-1) have always greatly differed in their so-called "Buy American" procedures for evaluating domestic construction materials against less expensive foreign construction materials. DAR has traditionally taken the approach that each procurement must be evaluated on an individual basis without the necessity of adhering to inflexible specific guidelines. On the other hand, FPR has determined that a two-step evaluation approach applicable to all construction material acquisitions should be followed in order to ensure objective acquisition results.

In Section 25.203 of Phase Two, the FAR committee chose to adopt the FPR evaluation criteria, including the following:

(i) domestic construction material that does not exceed the cost of foreign construction material by more than 6 percent must be purchased instead of foreign construction material pursuant to the Buy American Act;

(ii) if an offer does not state a price for a comparable domestic construction material, the offer may be rejected; and

(iii) the cost of foreign construction material must include any applicable duty.

In its review, the executive agencies deleted all of the foregoing FAR/FPR evaluation guidelines, and reinstated the case-by-case DAR evaluation procedure. The net result is that Government acquisition personnel have no stated objective criteria available for comparing foreign construction material offers with domestic offers.

7. Part 28—"Bonds and Insurance"

FPR 1-10.206 requires the Contracting Officer to promptly notify the surety on a construction contract when a contractor is performing a contract in a manner that may lead to default. In this way the surety is allowed to take steps to avoid the default. This provision benefitted the Government because it gave the surety the opportunity to remedy any problems in time to allow uninterrupted contract performance. The surety was also benefitted because it was given sufficient early notice to protect its own financial interests.

Phase Two included the foregoing FPR provision in Subsection 28.106-6. The executive agencies deleted the requirement; and a valuable benefit to the Government and to sureties was lost.

8. Part 30—"Cost Accounting Standards"

Two important revisions relating to Cost Accounting Standards ("CAS") were made by the executive agencies in their Phase Two review.

a. Subsection 30.201-4—"Privileged and Confidential Information"

A CAS Disclosure Statement is a written description of a contractor's cost accounting practices and procedures which the Government requires contractors to file in certain acquisition situations. Both DAR (3-1203(f)) and FPR (1-3.1203-1(g)) provide that if an offeror or contractor notifies the Contracting Officer that its Disclosure Statement contains trade secrets or confidential commercial or financial information, the Government will automatically protect it from release outside the Government. The FAR drafters attempted to give the Government some discretion to make its own determination whether the supplied information contained trade secrets or confidential information. If the Government determined that it was not protectable, the Government was required to notify the contractor. In this way release would not take place until the providing contractor had the opportunity to institute legal proceedings to prevent such disclosure.

The executive agencies deleted the new provision and reinstated the automatic protection found in DAR and FPR. If the draft FAR provision had been left intact, a rash of expensive and prolonged litigation would likely have been instituted by companies determined to maintain their secrecy in such financial data. The proposed FAR language may also have resulted in many companies refusing to deal with the Government for fear of losing important trade secrets and/or confidential information to their competitors.

b. Subsection 30.402-1—"Equitable Adjustment for New Standards"

DAR (3-1213) and FPR (1-3.1213) both provide that if the publication of a new Cost Accounting Standard requires a contractor to institute an acounting change to comply with the standard, the contractor will be requested to submit a proposal detailing the cost impact of the change on all of its CAS covered contracts and subcontracts. The Government would then negotiate any price adjustments required to be made to the affected contracts. DAR also provides that if the contractor fails to submit a proposal in the form and time specified, the Administrative Contracting Officer ("ACO") may withhold up to 10 percent of each subsequent payment request under the contractor's CAS covered prime contracts until the proposal has been furnished.

This DAR withholding penalty was never included in FPR and it was not adopted in either FAR Phass One or Two. The executive agencies, however, added the provision to the final FAR text, thus providing strong incentive to the civilian agency contractor to timely submit such proposal. Subsection 52.230-4, which contained the corresponding "Administration of Cost Accounting Standards" clause, was also changed by the executive agencies to reflect the added DAR language.

9. Part 31—"Contract Cost Principles and Procedures"

DAR 14-205.52 provides that any costs incurred in connection with a Government fraud investigation or prosecution are unallowable if such action resulted in a conviction or judgment against the contractor. FPR never contained such a provision; and FAR never incorporated the DAR regulation in its Phase One or Two drafts. The executive agenices added the DAR principle to the final FAR text, as Subsection 31.205-47. This modification formally affirms the unallowability of such costs for all contracts, both military and civilian.

10. Part 34—"Major System Acquisition"

During the drafting stage, members of the FAR committee were given the impression—presumably by Department of Defense (DOD) officials—that DOD desired the FAR to contain comprehensive treatment of major system acquisition. As a result, both Phase One and Phase Two contained extensive language describing policies and procedures for use in acquiring major system acquisitions, consistent with OMB Circular No. A-109, "Major System Acquisitions".

In their review, the executive agencies deleted much of the proposed FAR coverage preferring instead to simply refer readers to the provisions of Circular A-109. The same reference to Circular A-109 is made in the DOD Supplement to the FAR instead of setting out the pertinent policies and procedures.

According to some Government officials, DOD's decision to delete significant coverage of Major System Acquisition in the FAR represents a change in philosophy—away from addressing DOD-peculiar disciplines in the FAR, and instead concentrating only on broad based topics applying to all agencies, military and civilian. Other Government officials believe that this change in attitude is a mistake. Arguably, FAR inclusions of peculiar DOD and other agency requirements offered those without in-depth knowledge of these specialized disciplines an excellent opportunity to acquire the basic understanding of these provisions.

11. Part 39—"Management, Acquisition, and Use of Information Resources"

According to its drafters, the FAR provided an excellent opportunity for incorporating into one central location all of the Automatic Data Processing ("ADP") policies and procedures currently found in a number of different places in the Federal Property Management Regulations and elsewhere. As a result, early FAR drafts contained extensive coverage of ADP procurement.

In an apparent reversal of proposed FAR policy to centralize the source of all ADP procurement information, DOD, NASA and GSA agreed to delete any ADP procurement guidelines from FAR. At least at this time Part 39 consists of but one two sentence paragraph. The first sentence refers FAR readers to 41 CFR Part 150 for information on ADP, telecommunications, and related

resources. The second sentence merely states that contracting for these items will be accomplished in accordance with agency supplements and any applicable FAR parts.

12. Part 48—"Value Engineering"

DOD has had a longstanding policy of encouraging contractors to develop more economical means of performing contract work. Under this "Value Engineering" (VE) program, the contractor and the Government shared in any savings resulting from the contractor's performance innovations.

In Section 48.102, "[VE] Policies," the executive agencies have added an important provision permitting government agencies to exempt themselves from any participation in the VE program. While most military agencies will likely continue to promote VE, those that choose to eliminate the program from their acquisitions will stifle any affirmative efforts by contractors to reduce their contract costs. Morevoer, since FPR never contained a VE provision a valuable opportunity to reduce civilian contact costs may be lost.●

By Mr. MATHIAS (for himself and Mr. SARBANES):

S. 2676. A bill to permit the Secretary of the Army to authorize the delivery of water from the District of Columbia water system to water systems in the Metropolitan Washington area in Maryland, and the purchase of water for the District of Columbia water system from certain systems; to the Committee on Environment and Public Works.

PURCHASE OF WATER FROM THE ARMY CORPS OF ENGINEERS AQUEDUCT IN WASHINGTON, D.C.

● Mr. MATHIAS. Mr. President, the bill I am introducing provides the congressional authorization necessary to enable the Washington Suburban Sanitary Commission (WSSC) to purchase water from the U.S. Army Corps of Engineers Water Aqueduct (WAD) in Washington, D.C. The Commission needs the additional water to provide for the rapidly expanding needs of a growing Washington metropolitan area.

A Congressional Research Service study completed in 1981 predicted that by the year 2020 water supply demands for the Washington metropolitan area would reach 1,095 mgd (million gallons daily), while the population is expected to increase to 8 million. If such trends materialize, the problems of water supply may become serious. Enabling the WAD to sell water to the WSSC would ameliorate the growing problem of water supply in the Washington metropolitan area and would be an efficient use of the water resources of the Potomac River.

The proposed plan entails the construction of an interconnect between the WSSC and WAD. It has been endorsed by both local jurisdictions, Prince Georges and Montgomery counties. The plan would not affect the water supply system of the District of Columbia but would insure an adequate supply to the Maryland suburbs in the event of an accident or water shortage.

The only viable alternative to this plan would be for the WSSC to increase substantially its water capacity at the Potomac plant in Montgomery County. The price tag for expanding the Potomac plant is $60 million—double the amount needed by the corps water aqueduct to provide the WSSC with its extra capacity.

The legislation I am introducing would involve no Federal funds. The total cost of the project would be defrayed by the local users' fees.●

By Mr. PRYOR (for himself and Mr. BUMPERS):

S. 2677. A bill to designate the Calion lock and dam located on the Ouachita River, near Calion, Ark., as the "H. K. Thatcher lock and dam"; to the Committee on Environment and Public Works.

H. K. THATCHER LOCK AND DAM

● Mr. PRYOR. Mr. President, I am joined by my colleague the senior Senator from Arkansas (Mr. BUMPERS) in introducing legislation today that will honor one of the great pioneers in river navigation and development, and will commemorate for future generations the leadership and contributions of an Arkansan who has made a difference.

Mr. President, H. K. Thatcher of Camden, Ark., my hometown, has for over 40 years been the single most important factor in the development of the Ouachita River in Arkansas and Louisiana. As a young man growing up in Camden I came to know at an early age that this man, who had devoted his entire adult life to the economic development of the Ouachita River basin, was the most respected authority on river navigation in the area, and perhaps within the State of Arkansas. He is well known by the congressional committee chairmen before whom he has testified for so many years. I should add, Mr. President, that Mr. Thatcher was a very effective spokesman for the interests that he represented, and the development that we now see on the Ouachita River is proof of his influence in the Congress.

The legislation that we are introducing today to honor H. K. Thatcher will authorize the Army Corps of Engineers to name the lock and dam on the Ouachita River at Calion, Ark., the H. K. Thatcher lock and dam. This facility is now known simply as the Calion lock and dam. We were asked by the Ouachita River Valley Association to take this action, and Congressman BERYL ANTHONY will introduce a companion bill.

Mr. President, Mr. Thatcher's colleagues and fellow Arkansans know his place in our State's history and I urge the Senate to approve this bill so the rest of the Nation will know.

I ask that the text of the bill be printed in the RECORD.

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

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled. That Calion Lock and Dam located on the Ouachita River near Calion, Arkansas, is named and designated as the "H. K. Thatcher Lock and Dam". Any reference in a law, map, regulation, document, record, or other paper of the United States to such lock and dam shall be held to be a reference to the "H. K. Thatcher Lock and Dam".●

By Mr. THURMOND:

S.J. Res. 297. Joint resolution to designate the month of June 1984 as "Veterans Preference Month;" to the Committee to the Judiciary.

VETERANS PREFERENCE MONTH

Mr. THURMOND. Mr. President, June 24, 1984, will mark the 40th anniversary of the signing, by President Roosevelt, of Public Law 78-359, the Veterans' Preference Act of 1944. Today I am introducing legislation to commemorate that important signing and the great success of this act by designating June 1984 as "Veterans' Preference Month."

Since 1865, the veterans of our Armed Forces have been granted preference in Federal employment. The 1944 act consolidated in one basic law then existing laws, rules, regulations, and Executive orders relating to veterans' preference. Today there are 2.7 million employees in the executive branch of the Goverment, and 43 percent are veterans' preference eligibles.

Mr. President, a great debt is owed to those who have contributed to the defense of our Nation. In repaying that debt, it is appropriate that employment assistance be provided by our citizens to the soldiers returning to civilian life. The Federal Government has taken a leadership role in providing such assistance through veterans' preference.

The legislation I offer today will call upon the President to issue a proclamation to departments and agencies of the Government and interested organizations and groups to observe the month of June with appropriate programs, ceremonies, and activities in commemoration of the Veterans' Preference Act.

ADDITIONAL COSPONSORS

S. 337

At the request of Mr. PACKWOOD, the name of the Senator from Florida (Mrs. HAWKINS) was added as a cosponsor of S. 337, a bill to amend the Internal Revenue Code of 1954 to make permanent the deduction for charitable contributions by nonitemizers.

S. 1651

At the request of Mr. CRANSTON, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 1651, a bill to amend title 38, United States Code, to provide for presumption of service connection to be established by the Administrator of Veterans' affairs for certain diseases of certain veterans exposed to dioxin or radiation during service in the Armed Forces; to require the Administrator to develop, through process of public participation and subject to judicial review, regulations specifying standards for the presumptions applicable to the resolution of claims for disability compensation based on such exposures; to require that such regulations address certain specified diseases; and to require that all claimants for Veterans' Administration benefits be given the benefit of every reasonable doubt in claims adjudications, and for other purposes.

S. 1841

At the request of Mr. THURMOND, the names of the Senator from Michigan (Mr. LEVIN) and the Senator from South Dakota (Mr. ABDNOR) were added as cosponsors of S. 1841, a bill to promote research and development, encourage innovation, stimulate trade, and make necessary and appropriate amendments to the antitrust, patent, and copyright laws.

S. 1938

At the request of Mr. HATCH, the name of the Senator from Arkansas (Mr. PRYOR) was added as a cosponsor of S. 1938, a bill to amend the Federal Food, Drug, and Cosmetic Act, the Federal Meat Inspection Act, the Poultry Products Inspection Act, and the Egg Products Inspection Act, and for other purposes.

S. 2014

At the request of Mrs. HAWKINS, the name of the Senator from California (Mr. WILSON) was added as a cosponsor of S. 2014, a bill to amend the Juvenile Justice and Delinquency Prevention Act of 1974 to provide for assistance in locating missing children.

S. 2118

At the request of Mrs. HAWKINS, the name of the Senator from California (Mr. WILSON) was added as a cosponsor of S. 2118, a bill to establish a Commission on Missing Children.

S. 2436

At the request of Mr. GOLDWATER, the name of the Senator from Wisconsin (Mr. KASTEN) was added as a cosponsor of S. 2436, a bill to authorize appropriations of funds for activities of the Corporation for Public Broadcasting, and for other purposes.

S. 2456

At the request of Mr. BRADLEY, the names of the Senator from Florida (Mr. CHILES), the Senator from Michigan (Mr. LEVIN), and the Senator from Idaho (Mr. MCCLURE) were added as cosponsors of S. 2456, a bill to establish a commission to study the 1932-33 famine caused by the Soviet Government in Ukraine.

S. 2540

At the request of Mr. BRADLEY, the name of the Senator from Montana (Mr. MELCHER) was added as a cosponsor of S. 2540, a bill to amend the Age Discrimination in Employment Act of 1967 to exclude from the operation of such act matters relating to the age at which individuals may be hired, or discharged from employment, as firefighters and law enforcement officers by States and political subdivisions of States.

S. 2569

At the request of Mr. HEINZ, the name of the Senator from Virginia (Mr. WARNER) was added as a cosponsor of S. 2569, a bill to amend title XVI of the Social Security Act to make necessary improvements in the SSI program with the objective of assuring that such program will more realistically and more equitably reflect the needs and circumstances of applicants and recipients thereunder.

S. 2638

At the request of Mr. MOYNIHAN, the name of the Senator from Alabama (Mr. HEFLIN) was added as a cosponsor of S. 2638, a bill to provide for research relating to the control of gypsy moths, to assist States and local communities in controlling gypsy moth infestations, and for purposes.

S. 2650

At the request of Mr. KASTEN, the names of the Senator from Wisconsin (Mr. PROXMIRE) and the Senator from Minnesota (Mr. DURENBERGER) were added as cosponsors of S. 2650, a bill to enable the Consumer Product Safety Commission to protect the public by ordering notice and repair, replacement, or refund of certain toys or articles intended for use by children if such toys or articles create a substantial risk of injury to children.

S. 2673

At the request of Mr. D'AMATO, the name of the Senator from Wisconsin (Mr. KASTEN) was added as a cosponsor of S. 2673, a bill to make permanent the prohibition of credit card surcharges.

SENATE JOINT RESOLUTION 235

At the request of Mr. PELL, the name of the Senator from South Dakota (Mr. PRESSLER) was added as a cosponsor of Senate Joint Resolution 235, a joint resolution to authorize the Law Enforcement Officers Memorial Fund, Inc., to establish a National Law Enforcement Heroes Memorial.

SENATE JOINT RESOLUTION 287

At the request of Mr. D'AMATO, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of Senate Joint Resolution 287, a joint resolution to authorize and request the President to designate January 27, 1985, as "National Jerome Kern Day."

SENATE JOINT RESOLUTION 288

At the request of Mr. BENTSEN, the name of the Senator from Arkansas (Mr. PRYOR), the Senator from Mississippi (Mr. COCHRAN), the Senator from Georgia (Mr. NUNN), and the Senator from Washington (Mr. GORTON) were added as cosponsors of Senate Joint Resolution 288, a joint resolution to designate the week of September 16 through September 22, 1984, as "Emergency Medicine Week."

SENATE CONCURRENT RESOLUTION 101

At the request of Mr. D'AMATO, the name of the Senator from South Carolina (Mr. THURMOND) was added as a cosponsor of Senate Concurrent Resolution 101, a concurrent resolution to commemorate the Ukrainian famine of 1933.

SENATE CONCURRENT RESOLUTION 109

At the request of Mr. HOLLINGS, the names of the Senator from Hawaii (Mr. MATSUNAGA) and the Senator from Tennessee (Mr. SASSER) were added as cosponsors of Senate Concurrent Resolution 109, a concurrent resolution expressing the sense of the Congress that the Federal Government take immediate steps to support a national storm program.

SENATE CONCURRENT RESOLUTION 113

At the request of Mr. BYRD, his name was added as a cosponsor of Senate Concurrent Resolution 113, a concurrent resolution expressing the sense of the Congress that Elena Bonner should be allowed to emigrate from the Soviet Union for the purpose of seeking medical treatment, urging that the President protest the continued violation of human rights in the Soviet Union, including the rights of Andrei Sakharov and Elena Bonner, and for other purposes.

At the request of Mr. TSONGAS, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of Senate Concurrent Resolution 113, supra.

SENATE RESOLUTION 74

At the request of Mr. PELL, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of Senate Resolution 74, a resolution expressing the sense of the Senate concerning the future of the people on Taiwan.

SENATE RESOLUTION 360

At the request of Mr. TOWER, the name of the Senator from Alabama (Mr. DENTON) was added as a cosponsor of Senate Resolution 360, a resolution to amend rule XV of the Standing Rules of the Senate to provide that no amendment that is not germane or relevant to the subject matter of a bill or resolution shall be in order unless such amendment has been submitted at the desk at least 48 hours prior to consideration.

SENATE CONCURRENT RESOLUTION 114—RELATING TO A PERMANENT SITE FOR THE OLYMPIC GAMES

Mr. MITCHELL submitted the following concurrent resolution; which was referred to the Committee on Commerce, Science, and Transportation:

S. CON. RES. 114

Whereas the Olympic games were founded to promote the ideal of a sound mind in a sound body and to foster competition between people in athletics instead of conflict between states in arms and politics;

Whereas the Union of Soviet Socialist Republics and several of its allies have announced that their athletes will not participate in the 1984 summer Olympic games to be hosted by the City of Los Angeles;

Whereas the United States of America and several of its allies decided not to participate in the 1980 summer Olympic games which were hosted by the City of Moscow;

Whereas decisions concerning a nation's participation in Olympic games may be influenced by prevailing political attitudes toward the nation holding the games;

Whereas Olympic athletes and supporters of the Olympic games believe that if the Olympic games are to survive, they must be divorced from international politics: *Now therefore, be it*

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that (1) the President of the United States should develop and submit to the International Olympic Committee, for its consideration, a proposal whereby future Olympic games would be held permanently at a fixed site (or sites); and

(2) the President's proposal shall explain that the proposed fixed site (or sites) for the Olympic games is being recommended on the basis of the host nation's (a) physical suitability for the planned athletic events, (b) political neutrality, and (c) willingness to entertain a permanent site proposal approved, and submitted to it, by the International Olympic Committee.

Mr. MITCHELL. Mr. President, I rise to submit a concurrent resolution which concerns the future of the Olympic games.

Members of the Senate are undoubtedly aware that the Olympic games first began in Greece 26 centuries ago and continued at regular intervals for nearly 12 centuries without a major interruption. In those ancient times, the games continued even when participating states were at war with one another. In fact, athletes from warring states were granted safe passage when going to and from the site of the Olympics.

The modern Olympic games began in 1896 and, like the ancient contests, were intended to promote the ideal of a sound mind in a sound body and to foster competition between people in athletics instead of conflict between states.

Unfortunately, we have been unable to emulate the ancients' ability to honor sport by subordinating war and politics. Though this summer's Los Angeles games will be called the XXIII Olympiad, it will, in fact, be only the 20th. Three Olympiads (1916, 1940, and 1944) had to be canceled as direct result of World Wars I and II.

The modern Olympic games, in numerous instances, have become politicized. Host nations have attempted to bar athletes representing nations which they do not recognize, or with which they have disagreements; Adolf Hitler in 1936 used the Munich games as a theater in which he could proclaim his view of the world, display his political power, and propound his racist theories.

In 1980, our Government, in an effort to draw world attention to the Soviet Union's brutal invasion of Afghanistan, decided not to participate in the XXII Olympiad in Moscow. And, of course, last week, the Soviet Union announced that it will not go to Los Angeles this summer. A number of the Soviet Union's political allies have since followed the Kremlin's lead.

The time has come, I believe, to proposes a plan to depoliticize the Olympics to the extent that this is possible. One way to do this is to establish a permanent site—or sites—for the games. Frederic C. Rich, writing in the *Journal of International Law and Politics* (Vol. 15, No. 1, Fall, 1982) points to the merits of a permanent Olympic site:

A permanent neutral site under the control of the IOC would . . . have many advantages. The quadrennial site selection process, which is expensive and divisive, would end. The unique facilities which are necessary for the games would not have to be rebuilt every 4 years and the reduction in costs would obviate the need for the extensive commercial involvement which has so tarnished the competition in recent years. Most fundamentally, a neutral forum in which only the ICO is "host" would eliminate the political disruption which now threatens the survival of the Olympics. The participation of IOC-accredited athletes would not be subject to conflicting foreign policy considerations of a host state, and no state's domestic or foreign policies would be available as grounds on which other nations would feel compelled to boycott the games.

Mr. President, I submit a concurrent resolution which would express the sense of the Congress that our Government should develop and submit to the nongovernmental International Olympic Committee a proposal to establish a permanent site—or sites—for the Olympics. This concurrent resolution has been drafted to give the President the greatest possible flexibility in developing a permanent site proposal.

For instance, it does not specify Greece as the potential site for the summer games as many parties recommended in 1980, and several Members of the House of Representatives suggested last week. Indeed, given the fact that this is simply a sense-of-the-Congress resolution, it does not even obligate the President to act if he determines that the advice of Congress is contrary to the national interest.

At this time I also wish to note that this concurrent resolution recognizes and respects the independent, nongovernmental status of the International Olympic Committee (IOC) and does not impose on that esteemed body any obligation whatsoever. The Congress, in my judgment, must seek not to offend the IOC and should not expect special consideration of the proposal which the President, if he follows the advice of Congress, will submit.

If we act now, we may be able to prevent the modern Olympics from ending as the ancient Olympics did. After the 287th Olympiad, a Byzantine Emperor, Theodosius the Great, ended the famous games after condemning them as corrupt and professional. Historians tell us that the Emperor's action was among the events which marked the end of the Golden Age and presaged the coming Dark Ages.

Mr. President, I ask all my colleagues to read and consider cosponsoring the concurrent resolution.

Mr. President, I further ask unanimous consent that an editorial from the May 12, 1984, Bangor Daily News entitled "Paying the Price," as well as the law journal article by Frederic C. Rich to which I referred earlier in my remarks, be printed in the RECORD.

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

[From Bangor Daily News, May 12-13, 1984]

PAYING THE PRICE

The Soviet decision this week to boycott the Summer Olympics in Los Angeles is an unfortunate, but not surprising decision motivated solely by revenge. Official statements from Moscow notwithstanding, it is a transparent tit-for-tat—an attempt to repay the debt of 1980 when former President Jimmy Carter kept U.S. athletes home from the Olympiad in Moscow.

The Soviet announcement has Olympic representatives scurrying. The International Olympic Committee has asked for an audience with Soviet political leaders. Peter V. Ueberroth, president of the Los Angeles Olympic Organizing Committee, will make a personal appeal for a Soviet change of heart. Even Jesse Jackson, presidential candidate and erstwhile ambassador to Syria, has injected himself into the affair.

The Olympics is like motherhood and apple pie—no public figure can lose by righteously standing in its defense, but there is something troubling and hypocritical in the official statements emanating from Washington.

Immediately following the announcement of the Soviet decision. White House spokesman Larry Speakes mustered enough artificial indignation to condemn the Soviet boycott as a "blatant political act for which there is no justifica-tion." Moscow, he intoned, has "disregarded the feelings of most nations and millions of people the world over that the Olympics be conducted in a nonpolitical atmosphere."

Those same feelings are still sore, having been bruised by President Carter in 1980.

It should be pointed out that there is a wide discrepancy in the political justifica-

tions for the decisions to boycott the Olympic games. Protesting the invasion of Afghanistan certainly carries greater moral weight than the fluffy rationalizations about crime and security being served up by the Soviets.

In fact, if any nation has the corner on moral indignation this year it is the United States, which lost 54 people, including a member of Congress, in the Korean airline atrocity. We would have greater justification if we told the Soviets not to come.

The Soviets may yet change their mind, and come to Los Angeles with their Eastern Bloc entourage and the Cubans and Vietnamese in tow.

They are not concerned that their athletes might defect, as has been suggested by factions in this country. Soviet athletes are pampered and indulged by the state, they travel regularly in non-Olympic years and there is no reason to believe that the delegation plans to defect en masse at Los Angeles.

The Russians want to make us hurt for 1980, and if they can milk enough propaganda value out of forcing L.A. to twist in the wind while Washington stands by helplessly, they may put on a magnanimous front for the rest of the world and give in to the begging of the various Olympic groups.

President Carter's decision may yet stand up under the scrutiny of historians, but it should be very clear by now that if the Olympic Games are to survive they must somehow be divorced from politics. If the summer games of 1980 were a sham and the games of 1984 will be a joke, the world will be groping for adjectives when the 1988 Summer Olympiad kicks off in Seoul, South Korea.

It has been suggested that permanent Olympic facilities and games be established in neutral states: Winter Olympics in Switzerland and Summer Olympics in Greece. These, or othe nations, may have appropriate sites without political entanglements. The idea has great merit and ultimately may provide the best answer.

Nations cannot afford the astronomical expenditures for these one-time events if their investmens are going to be jeopardized by political considerations. Whether such considerations are justified or whimsical is irrelevant to the nation left with empty stadiums and an empty treasury.

The Olympics are too important to the athletes, too valuable as a model for the youth of the world and too vital to the cause of peace and international cooperation to allow them to die a slow political death.

[From the Journal of International Law and Politics]

THE LEGAL REGIME FOR A PERMANENT OLYMPIC SITE

(Frederic C. Rich*)

[Drawings of graphs mentioned in article not reproducible in the RECORD.]

Legal conceptions must be the tools rather than the master of the architects of world institutions capable of responding to the challenge and opportunity of a dynamic age of unprecedented problems and potentialities.—C. W. Jenks[1]

"In the aftermath of the boycott of the 1980 Moscow Olympics, proposals to establish a permanent neutral enclave for the games have received widespread support.[2] This article examines the possible legal regimes for such an enclave and their precedents in international law." After describing the legal devices available to achieve the necessary autonomy, this article will examine the capacity of the International Olympic Committee (IOC) to enter into an agreement which will be binding on the forum state. Three aspects of the problem make it especially interesting for the international lawyer. It presents an opportunity to employ the traditional concepts and devices of international law creatively to achieve a practically obtainable and limited end. It highlights the unresolved issue of the international legal status and capacity of nongovernmental international organizations (NGOs).[3] Finally, the problem provides a unique point of contact between public and private international law and an opportunity to adapt some techniques of the latter to problems traditionally reserved for the former.[4]

I. BACKGROUND

When Heracles established the Olympic games in 776 B.C., he chose the sacred site in part because it was located in the minor city-state of Elis.[5] Because the municipal authorities managing the festival were relatively weak, "Athletes from all over the Greek world could safely compete . . . without building up the prestige of a powerful host-community."[6] The games were placed under "the inviolable law of Olympic Zeus," which included a "sacred truce" for the two months immediately preceding and following the competition.[7] While the truce did not cause the Hellenic states to cease their warfare, it insured safe conduct for the tens of thousands of athletes and spectators traveling to Olympia for the games.[8] The site of the festival acquired the status of a "pan-Hellenic centre" to which official "saced embassies" were accredited.[9] The arrangement was respected by all of the Hellenic states and represented an international legal norm of great potency.[10]

When Baron Pierre de Coubertin reestablished the Olympic games in 1894,[11] he insisted the the quadrennial festival be "ambulatory."[12] It seemed equitable that competitors should share the substantial burdens of international travel and that nations should share the pleasure of convenient spectation and honor of hosting the games.[13] Furthermore, de Coubertin argued that the expenses of staging the competition would be too great for any one country to bear regularly.[14]

However, those involved in the Olympic movement were never unanimous in their dedication to the rotating site scheme. The Greek government lobbied for a permanent site in Athens[15] beginning in 1896.[16] The U.S. athletes participating in the first modern games joined a petition in favor of a permanent site in Greece.[17] De Coubertin's opposition to these efforts was largely circumstantial and strategic. The Greek government was wracked by political and economic turmoil, and its conflict with Turkey effectively foreclosed the possibility of holding the 1900 games in Athens.[18] Furthermore, in the early years of the Olympic movement, the Baron concluded that switching the site every four years would allow him to better control the games and the IOC to consolidate its power.[19]

However compelling the idea may have seemed to de Coubertin, eighty-five years' experience with "ambulatory" Olympics has demonstrated the fundamental flaws of that system. From the beginning, raising the funds to build the necessary facilities has been a heavy burden.[20] The contemporary costs of staging the games—estimated to approach one and one quarter billion dollars in Montreal[21]—limit the possibility of hosting them to the world's wealthiest nations. Also, the selection of various host states has provoked a variety of political impediments to universal participation.[22] The games scheduled for 1916, 1940 and 1944 were suspended due to international conflict, and the Moscow games demonstrated just how vulnerable the Olympics now are to international tensions far short of world war.[23] Finally, the modern revolutions in communications and transportation have eviscerated the original logic of rotating sites. Today, no site is more than a day of jet travel for any competitor, and the pleasure of spectation is as accessible as the nearest television set.

A permanent neutral site under the control of the IOC[24] would, therefore, have many advantages. The quadrennial site selection process, which is expensive and divisive, would end. The unique facilities which are necessary for the games would not have to be rebuilt every four years and the reduction in costs would obviate the need for the extensive commercial involvement which has so tarnished the competition in recent years. Most fundamentally, a neutral forum in which only the IOC is "host"[25] would eliminate the political disruption which now threatens the survival of the Olympics. The participation of IOC-accredited athletes would not be subject to conflicting foreign policy considerations of a host state, and no state's domestic or foreign policies would be available as grounds on which other nations would feel compelled to boycott the games.[26]

Although a variety of sites[27] have been suggested for this permanent Olympic enclave,[28] a site proximate to ancient Olympia is favored by most proponents. The historic tie of that site to the games for nearly twelve centuries is the most compelling argument for Olympia.[29] Repeating his 1976 offer of Olympia as the site of a permanent Olympic enclave,[30] the Greek Prime Minister in 1980 specifically offered 1,250 acres of government-owned land southwest of the ancient precincts.[31]

In the aftermath of the Soviet invasion of Afghanistan, world-wide sentiment for accepting the Greek offer reached unprecedented levels.[32] President Carter,[33] Congress[34] and sixty-two percent of U.S. citizens surveyed[35] supported the permanent site proposal.[36]

The neutrality and autonomy of the Olympic enclave and the powers of the IOC within it are legal elements of the permanent site plan essential to the underlying policy rationales for the change.[37] Adoption of the plan without the full confidence of the IOC that these elements are fully satisfied is inconceivable. Nonetheless, public discussion and private correspondence indicate that these technical issues have not received the close analysis and careful definition that they deserve.[38] Proponents of a permanent site for the Olympic enclave have given that enclave various descriptions: "a sort of Olympic Vatican,"[39] "much as the site of the U.N. in New York"[40] and "neutral international territory."[41] This article seeks to clarify this confusion by offering a systematic analysis of the options and proposing one possible legal regime and its manner of implementation.[42]

II. THE FUNCTIONAL ELEMENTS OF AUTONOMY

All of the options to be explored[43] provide some degree of autonomy. This term, used throughout this discussion, is not a

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Footnotes at end of article.

term of art in international law.[44] In most cases, however, it is understood to refer to the degree of "formal and actual independence" in decision-making and control over internal political and governmental affairs.[45] It is generally invoked in legal regimes designed to grant a degree of self-government to a local population.[46]

The sense in which autonomy is relevant to this inquiry, therefore, is different. The end of autonomy in the case of the Olympic enclave is narrowly defined functional independence, where few of the functions are those involved in government of a population.[47] This distinction is a theme which runs throughout the following discussion of the applicability of various legal devices and precedents.[48]

It would be impossible to examine and choose legal devices to govern the status of an Olympic enclave without a clear sense of what the regime functionally must achieve.[49] As legal architects, our task is to manipulate the concepts at our disposal to design a structure peculiarly suited to the parties, functions and political realities in each instance. In the development of privileges and immunities under customary international law, necessity has been the dominant criterion.[50] "[I[t has been clear from the very birth of the [international] Organizations that the privileges and immunities with which they should be endowed should be those which are necessary for the maintenance of their independent status and the execution of their functions. . . ."[51] Thus, the first step is to identify those privileges and immunities necessary for the Olympic enclave.

The politicization which the permanent site proposal is largely designed to eliminate occurs in two principal instances: when some policy or action of the host state provokes boycotts by other countries[52] and when some policy of the IOC—most probably regarding the accreditation of participating athletes—provokes interference with the games by the host state. To eliminate political incidents of the former type, the new regime must eliminate the concept of a national host. Neither political prestige nor economic advantage[53] should flow to the forum[54] state upon the occasion of the games. There must be no possibility that attendance or nonattendance at the festival has an impact on—and thus expresses approval or disapproval of—the forum state.[55] The IOC must be the only "host" and the only political entity in control of the games.

To eliminate the latter type of politicization, the forum state must be foreclosed from taking any action when conduct of the games would embarrass its relations with another state,[56] be otherwise inconsistent with its foreign policy[57] or have an adverse effect on the government's domestic political position.[58] To prevent action so motivated on the part of the forum state, certain elements of privilege and autonomy must be granted to the Olympics in five principal areas.[59]

The first is access to the site for competitors, spectators and officials. Any exclusions must result from a decision of the IOC;[60] the forum state must not have the power to deny access to the enclave by restricting travel into or across its territory.[61]

Second, the Olympic premises must be protected from forum state interference.[62] Forum state police, military or security personnel must enter the enclave only with the consent of the Olympic authorities.[63] The IOC must be free to construct and maintain the physical premises and must have guarantees that vital supplies, such as water, energy and food will be available without interruption.

Third, both domestic legal capacity and limited immunities from legal process must be granted to the Olympic organization. Neither the forum state nor others acting through the forum state's courts should be able to interfere with the free exercise of the IOC's prerogatives within its area of competence.[64] The selected regime must effectively immunize the IOC from license requirements or other regulations which might be used to interfere with the IOC's complete discretion with respect to management of the games and other activities within the enclave. The IOC should possess the privilege of extending certain personal immunities to certain officials or participants in situations where the integrity or the organization of the games requires it.[65]

Fourth, certain fiscal and financial immunities must be granted. Property within the enclave cannot be subject to requisition, confiscation, expropriation or nationalization. The Olympic organization, expropriation or nationalization. The Olympic organization must be immune from income and property taxation, taxes on its international debt service, foreign exchange controls and all other fees or levies which are potential instruments of pressure for the forum state.[66] Finally, the IOC must have complete control over the sale of television rights to the games,[67] the issuance of press credentials and the flow of information from the Olympic site to the outside world.[68]

Because the essential function of the Olympic enclave—the staging of a quadrennial international sports competition—is a narrow one, these minimum elements of functional autonomy are specific and limited. Based on the sound principle that functional necessity should govern the grant of privileges and immunities under international law,[69] the subsequent analysis will evaluate each proposed legal solution against its responsiveness to these elements of operational necessity.

III. LEGAL DEVICES FOR AUTONOMY: THE OPTIONS AND PRECEDENTS

A threshold question is why the Olympic site cannot simply be established by a grant or lease of land pursuant to municipal law. This is the most common procedure for the headquarters sites of most NGOs.[70] Three principal factors, however, distinguish the Olympic games. First, the functional demands of the games are significantly different from those of any other NGO activity. The Olympic presence in Greece would not simply be for the purposes of adminisitration and decision-making, but to stage an enormously complex—and as presently constituted, political—international event. Second, the Olympic site would be distinguished by the size of the capital investment necessary to establish the facilities. The stakes are quantitatively higher. And third, the history of and motives for forum-state interference in the games make the Olympic organization unique among NGOs. All of these make a simple deed, lease, or agreement governed by Greek law—which the Greek parliament could abrogate unilaterally[71]—unsatisfactory and necessitate the exploration of other options.

A. Fully extraterritorial sovereign enclave

The earliest exercises in the granting of functional immunities on foreign soil concerned the premises of diplomatic missions.[72] The classic solution was the legal fiction[73] of extraterritoriality, "complete independence from territorial authority."[74] This legal device was applied in a variety of situations to protect foreign property and nationals from all domestic jurisdiction.[75] One such use was to guarantee operational independence to the first international organizations.[76] The application of the notion to extraterritoriality to the regime governing legation premises and personnel was subject to substantial criticism[77] and has been largely replaced in international law by the concept of "diplomatic privileges and immunities."[78]

Nonetheless, full exemption of the Olympic site from the territorial authority and jurisdiction of Greece is an intuitively simple and obvious solution and one mentioned by both the popular press and Greek authorities.[79] It seems to provide a solid legal foundation for the autonomy and neutrality of the games, a foundation which would be invulnerable to unilateral change by Greece or to renegotiation at her demand.[80] Additionally, proponents of this option can cite the familiar precedent of the Vatican City.

The Vatican City was created by a 1929 concordat between Italy and the Holy See which gives the latter "exclusive jurisdiction" within the territory of the city.[81] At first, the parallel to the Olympic enclave may seem close. The Vatican City is "proximate" to a state in function,[82] yet it has no population other than its resident functionaries.[83] "[U]nlike other states the Vatican City exists not to support its inhabitants but to provide a base for the central administration of a non-state entity."[84] The nature of the Holy See's "administration," however, distinguishes its functions from those of the IOC, and explains why a fully extraterritorial enclave is appropriate in the case of the former and not in the latter. The function of the Holy See is to exercise its spiritual power over and thus independently from all secular sovereignties. Its functions are carried out world-wide within the territorial jurisdiction of all secular sovereigns. The Vatican City was thus appropriate as "a territorial base for the exercise . . . of the spiritual power of the Holy See" throughout the world.[85]

While a fully extraterritorial sovereignty is appropriate to the broad range of international functions of the Holy See, it would be a blunt and overbread instrument if applied to the Olympic enclave. The cost of that overbreadth would be high. With fully extraterritorial status and sovereignty, the IOC would be forced to establish and maintain the whole apparatus of government.[86] The burdens of establishing a body of law and a judiciary to enforce it, of administering internal policies and foreign relations and of meeting the other responsibilities of "statehood" would be great. Further, these would be beyond the competence or interest of the IOC. These factors, plus possible Greek political resistance to cession and the potential for local opposition, make this first option an unattractive one.

B. International grant, lease or servitude

"A State may grant a right of exclusive use over a part of its territory to another State, retaining sovereignty, but conceding the enjoyment of the liberties of the territorial sovereign."[87] The United Kingdom's ninety-nine-year lease of Hong Kong is a notable example of this concept.[88] Characterization of this sort of arrangement as a "lease," however, is not precisely accurate. Brownlie argues that "where [grants of in-

terest in territory] have been established by agreement the result is more akin to a contractual licence than it is to an interest in land in the English sense."[89] The exact legal effect of these grants and servitudes and the precise nature of the grantor's and grantee's interests can only be determined by reference to the contractual language establishing them.[90] The concept which unifies them as a class and distinguishes them from fully extraterritorial sovereign enclaves is "residual sovereignty." Pursuant to the U.S. lease of Guantanamo from Cuba, for example, the United States recognizes the "ultimate sovereignty" of Cuba, while Cuba consents to "complete jurisdiction and control" by the United States.[91]

Three principal problems impede the usefulness of this device for the Olympic enclave. First, these "international" grants, leases or servitudes are made by contractual arrangement between sovereigns. It is because one state grants land to another that the agreement falls under the purview of international law. As will be discussed at length,[92] the IOC is not a state and does not have the legal capacity to accept this sort of sovereign interest. Second, the status of these agreements under international law is uncertain. If they are interpreted as a simple contractual interest in land, then they may be subject to unilateral termination by the grantor.[93] Third, and most fundamentally, all of the objections against the previous option apply here. This device gives the IOC too much responsibility and requires it to assume the governmental burdens of sovereignty unnecessarily.[94]

C. Internationalized area

A wide variety of juridically distinct entities can be considered "internationalized areas."[95] They include Shanghai[96] and Tangier,[97] both established before World War I, and Alexandretta,[98] Saar,[99] Upper Silesia,[100] Memel,[101] and Danzig,[102] all established under the League of Nations. The concept of an internationalized territory was also used in U.N. proposals regarding Trieste[103] and Jerusalem.[104] Although these legal regimes differ significantly, all involve the creation of certain rights of autonomy vis-à-vis the territorial sovereign from which they are carved and the vesting of those rights in a public international organization or in two or more other states.[105] Among examples of the former, Danzig and Trieste were both created by multilateral treaty and placed under the direct authority of the League of Nations and the U.N. Security Council respectively.[106] The plans were never implemented. Notwithstanding the formal internationalization of the territorial sovereignty, the Permanent International Court of Justice held that Danzig possessed an international personality and the legal capacities of a state.[107]

An example of internationalization which was not made universal through an international organization, but was limited to a smaller group of states, is the international city of Tangier. Under its 1914 statute,[108] the municipality was granted extensive legislative and diplomatic authority, although ultimate sovereignty was reserved to the Sultan. The participating states shared that expanded municipal authority.[109] Although difficult to label, one scholar described the arrangement as "a sort of condominium between the Sultan and the Powers," or as "an international protectorate."[110]

Although interesting academically, none of these precedents is valuable for the design of an Olympic enclave. First, the concept of internationalization was designed for a very different end. The most thorough investigator of international territories concluded that, by definition, they include populated areas.[111] They usually were crafted to bring political autonomy to a persecuted minority or to neutralize a territory for political or military purposes. Second, the historical failure of the device to achieve these ends indicates that the device should be avoided.[112] Some contemporary scholars go so far as to assert that "internationalization" has ceased to be a recognized concept in international law.[113] Finally, the effect of internationalization—bringing the area directly under the control of a highly political international forum similar to the United Nations—is exactly what the neutral site scheme seeks to avoid. The independence and neutrality of the IOC would be severely compromised.

D. Contractual guaranty of limited autonomy

The final device, contractual agreement between the forum state and the IOC, may provide the functional privileges and immunities needed for an autonomous Olympic site. The headquarters agreements of intergovernmental international organizations (IGOs) generally take this form.[114] The site remains under the territorial sovereignty of the forum state. Thus, this arrangement requires neither the fiction of extraterritoriality nor a division of sovereignty.[115] The headquarters of the United Nations in New York, for example, is part of the territorial United States.[116] Title to the property is in the name of the United Nations and is filed and registered pursuant to New York laws.[117]

Within the enclaves, however, these agreements grant complete control to the organizations regarding matters in their areas of competence. Section 7 of the U.N. Headquarters Agreement provides that "the headquarters district shall be under the control and authority of the United Nations."[118] Similar clauses appear in most headquarters agreements. Austria covenanted with the International Atomic Energy Agency (IAEA) that the premises "shall be under the control and authority of the [IAEA]."[119] Italy recognizes the right of the U.N. Food and Agriculture Organization (FAO) to fulfill its essential purpose and undertakes to "take all proper steps to ensure that no impediment is placed in the way."[120] Although forum state civil and criminal laws generally govern within the headquarters district,[121] these agreements often provide that no law inconsistent with a regulation of the organization will be enforced.[122] Thus, these agreements could provide the operational independence which the IOC requires to govern and administer the Olympic games.

The immunities accorded to various IGOs under these headquarters agreements are similar. The agreements establish a "common pattern" which may be assuming the force of customary international law.[123] As early as 1952 one commentator could write, "Particular international law is thus being progressively created along . . . well-developed lines. . . ."[124] There is precedent in the headquarters agreements for each of the functional immunities the IOC requires.[125]

1. Access

An undertaking by the host state that it shall not impose an impediment to transit to or from the headquarters district and that recognizes its positive duty to protect such transit is a standard clause in headquarters agreements.[126] The free transit provisions generally apply to certain enumerated parties and such "other persons invited" by the organization.[127] The U.N. headquarters agreement provides that the United States shall not apply its regulations regarding the entry of aliens in such a way as to interfere with transit to and from the site. When visas are required for such persons, the United States convenants that "they shall be granted without charge as promptly as possible."[128] A provision like section 12 of the U.N. Headquarters Agreement would be especially important for the Olympic enclave: "The provisions of section 11 [regarding free transit] shall be applicable irrespective of the relations between the Governments of the persons referred to in that section and the Government of the United States."[129]

2. Inviolability

Inviolability, based on the traditional rights of franchise de l'hotel and franchise de quartier accorded to diplomatic premises, is a key provision of all headquarters agreements.[130] The first element of inviolability is immunity from search, requisition, confiscation, expropriation or any other form of interference.[131] Officials of the host state are prohibited from entering the premises of the organization without its consent.[132] In the U.N.-U.S., FAO-Italy and UNESCO-France agreements, the host governments undertake to protect the premises[133] and to ensure that they are continuously supplied with the "necessary public services."[134] The former undertaking would be especially important for the IOC, which would require the right to demand from the forum state police and military assistance adequate to maintain the security of the games.

3. Legal Capacity and Limited Immunity from Legal Process

Most host governments recognize the organization as a body corporate and grant it capacity under municipal law to make contracts, buy and sell property and institute legal proceedings.[135] Approaches to immunities from legal process differ. One approach, taken by Italy and the FAO, is to grant complete immunity from all legal process, subject only to specific waiver by the organization.[136] Another is to grant the same immunities from suit as those granted to a foreign sovereign.[137] The latter approach may be an appropriate one for the IOC, which should be left accountable in local courts for the exercise of its powers in ordinary commercial transactions.[138]

4. Fiscal and Financial Immunities

The agreements are uniform in granting a broad tax exemption to the organization, including exemptions from customs duties and levies and other "financial controls."[139] Many provide that the organization shall have the right to hold various currencies and freely to transfer its funds abroad.[140] In view of the anticipated capital demands of the IOC and the importance of financing arrangements to the overall plan,[141] payments of interest to foreign holders of the IOC's debt obligations must be specifically exempted from any present or future Greek withholding taxes.[142]

5. Free Information Flow

A variety of devices have been used to ensure the free flow of information to and from the headquarters site. The U.N. Headquarters Agreement provides that the organization may operate independent communications facilities.[143] Other provisions establish a most-favored-nation standard for

telephone, radio and television transmission.[144] Additional clauses which should appear in the Olympic agreement include a covenant that "no censorship shall apply" to the communications of the organization[145] and that the forum state shall "permit and facilitate entry" of all press accredited by the organization.[146]

All of the terms, therefore, which are required to provide the functional privileges and immunities necessary for the autonomy and neutrality of the Olympic site are represented in the headquarters agreements of IGOs. An agreement between Greece and the IOC modeled on these headquarters agreements would provide the necessary protections without the burdens attached to full or partial cession of territory or sovereignty. This, however, is only the first half of the necessary inquiry. The second is whether such an agreement would be binding and enforceable in accordance with its terms, thus providing effective legal and actual protection to the Olympic games.

IV. AGREEMENT BETWEEN GREECE AND THE IOC: THE PROBLEM OF CREATING OBLIGATIONS THAT ARE BINDING, ENFORCEABLE AND NOT SUBJECT TO UNILATERAL TERMINATION

All of the contractual precedents examined in the previous section were the headquarters agreements of intergovernmental organizations. Since public international organizations generally are accorded the capacity to make contracts under international law,[147] these agreements are considered by most to have the status of treaties[148] enforceable under international law.[149] Moreover, a variety of other circumstances give additional security to organizations which rely on these agreements for protection. First, the host state is usually a member of the IGO, and as such may have additional obligations regarding its privileges and immunities. Article 104 of the U.N. Charter, for example, provides that "[t]he Organization shall enjoy in the territory of each of its Members such legal capacity as may be necessary for the exercise of its functions and the fulfillment of its purposes."[150] Second, obligations under both membership and headquarters agreements may be supplemented by a multilateral convention on the privileges and immunities of the organization, as was done in the case of the United Nations.[151] Third, these obligations generally are implemented by municipal legislation.[152]

Together, these arrangements give confidence to IGOs that the obligations of host states to respect their functional autonomy are not only binding and enforceable under international law but will, as a practical matter, deter interference of host states. If the contractual guaranties of autonomy from Greece are to give the Olympic games the same security as do those given to IGOs, the Greek guaranties must rise to the status of obligations under international law.[135] "In simplest terms, once a contract has moved to the international level, it cannot lawfully be affected by unilateral national legal action. . . . [S]tates cannot invoke their sovereignty to abrogate an international treaty. . . ."[145]

The first hurdle facing the IOC in attempting to form such an international contract is that of establishing its status under international law. IGOs have the capacity to enter into agreements enforceable under international law; their headquarters agreements have the status of treaties.[155] If NGOs—and the Olympic organization in particular—have achieved a status similar to IGOs in respect to treaty-making capacity, then the obligations of Greece can be embodied in a bilateral contract with the status of a treaty. Alternatively, the subject matter and the nature of the agreement between Greece and the IOC may bring it under the purview of international law. This possibility is suggested by a series of arbitral decisions that have "internationalized" concession agreements between states and foreign non-sovereign investors.[156] This second approach avoids the problem of determining whether the IOC possesses international legal personality.

A. International legal personality and the capacity to contract under international law; the status of NGOs

1. Introduction

The character of agreements concluded with NGOs largely depends upon the question whether [they] are allowed . . . international competence according to public international law. . . . As the formal elements of agreements concluded with NGO's [sic] are the same as those of a normal agreement, the international character of these agreements will largely depend upon the opinion about the [international legal personality] of NGOs.[157]

"International legal personality" is not a well-defined concept in international law. But the various explanations of what constitutes it seem to share two essential elements. First, international personality is "neither derived from nor limited by the law of any one State."[158] Thus the presence of national character is a useful test. A national charter, for example, "by associating the [entity] with a particular state, detracts from its international status. . . ."[159] Second, an international legal person is one with rights and duties under public international law.[160]

International legal personality was first extended to IGOs on the theory of collective sovereignty.[161] This fiction, that the organizations were the collective instruments of other sovereigns,[162] helped to breach the barrier which had reserved international personality for territorial entities.[163] The contemporary basis for according international legal status to IGOs, and the one upon which the International Court of Justice recognized the status of the United Nations in the Reparations Case,[164] is a functional one: "If it was once the personality which made a function international, it is now the function which confers legal internationality to the entity which is engaged in such activity."[165]

Although the International Court of Justice limited its decision in the Reparations Case,[166] to the capacities of the United Nations, it recognized that the class of international persons was no longer immutable: The subjects of law in any legal system are not necessarily identical in their nature or in the extent of their rights, and their nature depends upon the needs of the community. Throughout its history, the development of international law has been influenced by the requirements of international life. . . .[167]

2. The Olympic Organization

An analysis of whether the IOC is an international person must begin with an examination of the IOC's structure and origin. Rule 11 of the present Olympic Charter states that the IOC "is a body corporate by international law having juridical status and perpetual succession. Its headquarters are in Switzerland."[168] The virtual dictator of the movement in its early days, Baron de Coubertin, conceived of the IOC as "independent, international, [and] sovereign."[169] Although a traditional NGO headquarters agreement was signed with the City of Lausanne on April 10, 1915,[170] when the IOC chose Lausanne as the site of its General Secretariat, the Committee has never compromised de Coubertin's vision and maintains its claim to international legal personality.

The constitutive document for an international organization ordinarily is accorded great weight in determining the legal status of that organization. However, Rule 11 cannot be considered to be so determinative. At least at present, there is no such entity as "a body corporate by international law." This, and the lack of formal incorporation pursuant to the laws of Switzerland,[171] lead some to conclude that the IOC simply has "no legal status."[172]

In light of the developing strength of the functional principle, the exercise of various international legal capacities by IGOs and the arguments for extension of similar capacities to NGOs when warranted,[173] the IOC may yet see its eighty-seven-year old claim accommodated by international law. This is because, more so than ever in its history, the Olympic organization "manifests traits and actions characteristic of international organizations."[174]

The purposes of the Olympic movement are broad and public in nature. They include: "to educate young people through sport in a spirit of better understanding . . . and of friendship, thereby helping to build a better and more peaceful world," and "to spread the Olympic principles throughout the world, thereby creating international goodwill."[175] The organization is truly neutral in character. Political, racial and religious discrimination are explicitly prohibited in the Charter.[176]

With members from over fifty countries, participation in the IOC is nearly universal. Among NGOs, the IOC is a unique example of a membership system in which the members are selected not as representatives of states or other international organizations, but as *the organization's* representatives *to* national and international organizations.[177] Rule 12 provides in part: "Members of the IOC are representatives of the IOC in their countries and not their delegates to the IOC. They may not accept from government or from organizations or individuals instructions which shall in any way bind them or interfere with the independence of their vote."[178]

The political structure of the Olympic organization is truly transnational. Although the IOC is the governing body, the organization also includes the Olympic Congress, the National Olympic Committees and International Sports Federations. National Committees are recognized by the IOC and required to be "autonomous and . . . [to] resist all pressures of any kind whatsoever, whether of a political, religious, or economic nature."[179] These Committees, representatives of the twenty-six International Sports Federations[180] and IOC members constitute the Olymbic Congress.[181]

The Olympic organization makes its own rules, legislates and administrates within its area of competence. The movement has been largely transformed from one which relied upon "discretionary decision-making" to one which uses a "quasi-legal process of rule-creation and supervision."[182] The Charter now contains seventy-one rules, detailed by-laws and instructions to hosts of the games on every aspect of procedure and

administration, all drafted by a "Legislation Commission" appointed by the IOC.[183]

Finally, the IOC enforces its rules through judicial and arbitral proceedings. Rule 23 provides that "The IOC is the final authority on all questions concerning the Olympic Games and the Olympic movement." [184] The by-laws provide for the delegation of authority, hearing procedures and penalties for breach of IOC rules.[185]

Together, these characteristics and activities make the Olympic organization a significant transnational actor.[186] The relationships between the IOC, the international sports federations and the national committees are governed only by IOC regulations. Yet they impose a potent transnational legal order on a distinct area of transnational sporting activity.[187] Functionally, the activities of the Olympic movement make it as much an international actor as most of the narrow purpose IGOs.

3. Current Legal Status of NGOs

Scholarship on the question of the legal status of NGOs is scarce. Many scholars holding a progressive view argue that the requirements of international life are now such that certain NGOs should be embraced as international persons; some maintain that they already are.[188] The great majority of lawyers and scholars, however, have concluded that NGOs are currently governed by their constitutive instruments and by the municipal law of the state pursuant to which they have been established.[189] But those who advance the argument that NGOs should be or are international entities make arguments worth examining.

Scholars holding a progressive view ask how the law can continue to deny international legal personality to NGOs, organizations that are functionally identical to IGOs and lack only the IGO's imprimatur of sovereign membership. These scholars contend that the functional principle requires the disregard of the fiction of collective sovereignty that arises simply from an IGO's sovereign membership. One response is that the fiction of collective sovereignty cannot be disregarded. Its continuing importance is manifested in the positive doctrine of international law that individuals, whether natural or corporate, cannot be the subjects of international law.[190] Although challenged by some scholars in connection with the development of human rights law,[191] the old rule stands and is vehemently defended, especially by socialist international lawyers.[192] One author believes this adherence to the old rule to be the principal barrier to the recognition of the international legal personality in NGOs.[193]

Nonetheless, in advocating international legal status for NGOs, Brownlie notes that "Whilst due regard must be had to legal principle, the lawyer cannot afford to ignore entities which maintain some sort of existence on the international legal plane in spite of their anomalous character." [194] In a similar vein, Lador-Lederer argues forcefully that the existence maintained by NGOs on the international plane reveals functional attributes identical with those which result in international personality for states and IGOs.[195] Based on an examination of NGOs like the Holy See [196] and the International Committee of the Red Cross,[197] he observes: The organizations in question are seen to be within the law by virtue of their doing what constitutes statehood: by legislating within the range of their functions, by administering the law within the range of their authority, by adjudicating subjective rights within their jurisdiction, acting in the spirit of their legislation. . . . Thus, International Law, once a law of inter-State relations only, is seen to have become the law of all those relations which, not being localized nationally and functionally . . . involve intercourse among . . . organizations which exist in the intersticium between States, and are created independently of States.[198]

Lador-Lederer is categorical in his conclusion: "Non-State organizations have been recognized as subjects of International Law, and it would be unrealistic to disregard the dynamic importance of this fact." [199]

Although it may be unrealistic to disregard the arguments of Lador-Lederer, it would be reckless to accept his conclusion, especially insofar as it may imply treaty-making capacity. If the functional principle governs the recognition of international legal personality, it must also control the specific capacities granted to various types of international persons.[200] When only states were international legal persons, it was apparent that all international legal persons possessed all international legal capacities. But now that lesser entities claim international personality, there is no logical reason to suppose that the capacities of the various international legal persons must be equal. Lissitzyn argues, "If an entity has treaty-making capacity, it is an 'international person,' but if we are told that an entity has 'international personality,' we cannot conclude that it has treaty-making capacity, since it may only possess some other capacity." [201]

Treaty-making capacity has been traditionally reserved to states.[202] There is wide disagreement about whether an international person always has the capacity to make treaties.[203] NGOs like the IOC have concluded various agreements which purport to be international in character. Italy, for example, concluded a variety of international "conventions" with the Order of St. Joan of Malta,[204] and the occupation powers in Germany signed formal agreements with the International Red Cross in 1947.[205] Most of the international agreements concluded by NGOs, however, have been with public international institutions.[206] These include agreements between the United Nations and the Carnegie Foundation regarding use of the Peace Palace in the Hague,[207] between the UNRPR and the International Committee of the Red Cross,[208] and between the Organization of American States and the American International Institute for the Protection of Childhood.[209] Although these agreements may be "on the borderline between international law and municipal law," [210] their status is acknowledged by even the most sympathetic observers to be "problematical." [211]

If the progressive view prevails, the IOC may some day become the international person which its Charter declares it to be.[212] But under established international law, NGOs are not fully international persons and the precedential value of NGO "treaty-making" is doubtful. Thus, the conclusion of an international agreement between the IOC and a sovereign state is at present an impossibility.

B. The "international contract"

In his preparatory work for the Vienna Convention on the Law of Treaties, Brierly proposed an alternative analysis for certain types of agreements that does not focus on questions of status and capacity: It is equally indisputable that an international person [*i.e.*, a state] may have relations *ex contractu* with an entity other than another such person. If transactions of this type are not referable to any system of domestic law, it appears that they must be considered to be contracts of international law. They are not, however, treaties.[213]

Another commentator has suggested that the agreement between an NGO like the IOC and a state would not be referable to domestic law—and thus would be this sort of non-treaty international contract—if it were central to the purposes of the NGO, a contract made pursuant to the organization's international responsibilities and made by the NGO acting in its capacity as an international organization.[214] Although Brierly's proposal for these non-treaty contracts was not included in the final language of the Vienna Convention,[215] there is a growing body of international jurisprudence which suggests that international law may take cognizance of certain agreements regardless of the status or capacity of one of the parties.

Just as both public and private international organizations seek to protect their property and to preserve operational autonomy, private enterprises seek to insulate their long-term foreign investments from adverse actions by host governments. Although the environment may be favorable when the investment is made, "Foreign investors desire assurance that they will continue to receive definite protections, as specified 9 in a binding legal instrument." [216] In the eighteenth and nineteenth centuries, states protected the economic activities of their foreign nationals with international servitudes embodied in interstate agreements.[217] In this century, the norm has been for host states to make contractual undertakings directly with the foreign enterprise. These undertakings take three principal forms: concession agreements, guaranty contracts and instruments of approval issued pursuant to national investment laws.[218]

A concession agreement sets forth the general legal framework for the foreign investment. It grants the basic exploration, exploitation or production rights to a project's sponsors and fixes the form and amount of compensation to be paid to the host country.[219] It details tax treatment, exchange, import and export controls, applicability of local labor laws and all other matters relating to the foreign investor's freedom to control and operate the project.[220] A typical term is one in which the host government promises that "no obligation will be placed" on the foreign enterprise that will "derogate from its right to own, operate, possess, use and realize the . . . property held in connection with the project." [221]

When a host country seeks to modify its obligations under a concession agreement, dispute settlement procedures which often lead to formal international arbitration are triggered.[222] The traditional rule applied by arbitrators these concession agreements used to be clear: municipal law governs breaches of contract between alien investors and a host government.[223] There was, of course, no question of "international personality" for the private enterprise party to the agreement. Recently, however, a series of important international arbitrations have held that although concession agreements lack the "wholly international" character of traditional state-to-state contracts, they are "basically international." [224] Because of the nature of the contract—and not because of the status of the non-state party—"[p]arliamentary supremacy and State sov-

ereignty" of the host are held to have ceased to be the "decisive criteria." [225]

In 1958, Swiss arbitrators in the case of *Saudi Arabia* v. *Arabian American Oil Co.* [226] upheld the use of freezing clauses [227] in concession agreements. The panel stated that "[n]othing can prevent a State, in the exercise of its sovereignty, from binding itself irrevocably by the provisions of a concession and from granting to the concessionaire irretractable rights." [228] In a subsequent case, the arbitrator found it "natural" that investors be protected from legislative changes which would alter the character of the contract.[229] The arbitrator noted that such protection could not be guaranteed by the "outright application" of national law, since such law could be unilaterally changed by the state.[230] Indeed, the inclusion of freezing clauses came to be seen as a key factor in removing the agreement from municipal law.[231]

In *Revere Copper & Brass, Inc.* v. *Overseas Private Investment Corp.*,[232] a sole French arbitrator was able to cite sufficient arbitral precedent to call it an "international law rule" that "a government is bound by its contracts with foreign parties notwithstanding the power of [its] legislature under municipal law to alter the contract." [233] He joined previous panels [234] in finding that a governmental contract should be "internationalized" and that the public international law principles, such as *pacia sunt servanda*, applied.[235]

The logic of these decisions seems to suggest that a similar result would be reached if the privileges and guaranties contained in a bilateral IOC-Greece agreement were ever brought to arbitration. The notion of internationalization seems to embody Brierly's suggestion for non-treaty international agreements and would allow the IOC to create international obligations with Greece even though the IOC might lack the status and capacity normally required for international contracts. For several reasons, however, the IOC could not rely on these precedents alone to produce a similar result in case of a breach by Greece.

First, certain characteristics of these agreements other than the presence of freezing clauses were significant to the findings of "internationalization." Some of these would not be present in a bilateral agreement between Greece and the IOC. The most significant of these characteristics is the purely economic nature of the concessions; all were well supported by consideration given by the concessionaires. The contracts were intimately associated with the host states' economic and social development aspirations and were a part of the very public process of North-South cooperation for development.[236] Although locating the permanent Olympic site in Greece would result in substantial benefits to the Greek economy, the revenues produced by the games would not be shared with Greece [237] and the arrangement could not fairly be characterized as an economic development agreement.[238]

Second, the principle of "internationalization" in the case of concession agreements is "by no means representative of an international legal consensus.[239] Recent U.N. Resolutions [240] associated with the "New International Economic Order" that limit the legal protection of foreign investment reflect a contrary view. The international contract doctrine has been called "[a] disregard of state practice, in favor of doctrinal pronouncements and a small number of arbitral awards."[241] The IOC would be ill-advised to rely on that doctrine to bring its bilateral agreement with Greece under the purview of international law.

V. A SUGGESTED SOLUTION: PARTICIPATION OF THIRD PARTY GUARANTORS AND INTEGRATION OF FINANCING ARRANGEMENTS

If the policy ends of the permanent site proposal are to be realized, the obligations of Greece to respect the autonomy and neutrality of the Olympic site must be binding and enforceable in accordance with their terms and not susceptible to unilateral termination. This can be achieved only by making those obligations binding under international law.[243] Since, however, neither the status of the Olympic organization [243] nor the subject matter [244] of the contract bring the agreement under international law, the necessary conclusion is that no purely bilateral arrangement can give the IOC the same security enjoyed by IGOs under their headquarters agreements. The only alternative is to involve some third party which does possess the capacity to bind Greece under international law.

Third parties can be involved through the mechanism of treaties made for the benefit of third parties. Treaties for the benefit of third parties are recognized under public international law.[245] Article 36 of the Vienna Convention provides that "A right arises for a third State from a provision of a treaty if the parties to the treaty intend the provision to accord that right . . . to the third State . . . and the third State assents thereto. Its assent shall be presumed as long as the contrary is not indicated. . . ." [246] These treaties of guaranty have involved the guaranty of "the possession of specified territory," "the demilitarization of a piece of territory" or permanent neutrality.[247] Because these treaties have been made for the benefit of a third international legal person, they are not the best precedent for guaranty by treaty of the autonomy and neutrality of the Olympic site.

The better precedents are the guaranties made by states with respect to the long-term foreign investments of their nationals. States make these guaranties when, although they have no desire to become directly involved in financing or operating a project in a foreign country, they do have some interest in seeing such investment undertaken.[248] Typically, two separate contracts are involved.[249] The guarantor state concludes a treaty with the host state in which each state agrees to protect the foreign investments of the other's nationals.[250] The second contract is between the guarantor state and its nationals, insuring the latter against a variety of host state actions. An example is a U.S. Overseas Private Investment Corporation (OPIC) guaranty contract, which insures nationals against any action by the host state which prevents the enterprise from "exercising effective control over the use or disposition of [a] substantial portion of its property." [251] The guarantor state thus guarantees the foreign project not only against outright expropriation or nationalization, but against actions which constitute "creeping expropriation" and against any breach of the concession agreement between the enterprise and the host state.[252] Both the guaranty contract between the enterprise and the guarantor and the concession agreement between the enterprise and the host state are governed by municipal law, but the guaranty treaty between the guarantor and host state clearly creates obligations under international law.[253]

A. Basic plan for Third-Party State guaranties of the permanent Olympic site

Drawing on both the public treaties of guaranty and national practice with regard to investment guaranty agreements, a basic structure for achieving legal protection for the permanent Olympic site is suggested:

The essential legal framework for the site would be set forth in the Bilateral Agreement between Greece and the IOC.[245] This agreement would be modeled on the headquarters agreements [255] and would provide the privileges and immunities the IOC needs.[256] As a condition precedent to the IOC's performance (principally the construction of the Olympic facilities and the conduct of the games at the site), Greece would enter into a Treaty of Guaranty with two or more other states. In this treaty Greece would convenant to abide by the terms of the Bilateral Agreement with the IOC.[275]

The IOC would be protected from the influence of the Guarantors by the execution of two other agreements. An Agreement Among Guarantors would specify the rights and obligations of the Guarantors as against one another in the event of the repudiation or default of any one Guarantor. Also, the Guarantors and the IOC would conclude a Memorandum of Agreement in which the Guarantors reaffirm their joint and several obligations to invoke the Treaty's dispute resolution procedures [258] on behalf of the IOC and explicitly recognize that their status as Guarantors gives them no special rights in or control over the site or administration of the games.

B. Integration of financing into the basic plan

If the games are moved to a permanent site in Olympia, the IOC will require a large amount of capital to construct the necessary facilities.[259] Lenders of the capital for that initial investment will be relying entirely on the revenues produced by the free and unimpeded operation of the games. Furthermore, the lenders, like all major foreign investors, would demand guaranties from the forum state with regard to the free operation of the games as a revenue-producing enterprise. These guaranties would be the same as those the IOC needs to achieve operational autonomy. Thus, the basic plan and the financing arrangements could be integrated by extending the guaranties made by the Guarantors for the benefit of the IOC's creditors:

Besides allowing the Olympic organization to raise the funds it requires in the private international capital markets,[260] this arrangement strengthens the legal regime for the permanent site. First, it qualitatively increases the real security of the IOC by raising the cost to Greece of abrogation of the Bilateral Agreement by Greece. Participants in the multinational group of Guarantors could include various official creditor and guaranty agencies and perhaps even the World Bank. "The involvement of lenders from a number of countries and official international institutions should minimize the chances of arbitrary or politically motivated action by the host country . . . ." [261] The experience of sponsors and creditors of large foreign projects is that "[h]ost governments . . . cannot afford to ruin their credit with [these agencies]." [262] The integration of financing thus introduces a potent deterrent to Greece's breach of its obligations to respect the autonomy of the games.

In addition, the integration of the financial arrangements provides a method for se-

lecting the Guarantors. The IOC would simply select a lead bank, preferably from a neutral country like Switzerland, to put together the international lending syndicate. A condition to a bank participation in the syndicate would be the execution of a guaranty contract with its own government and the accession by its government to the Guaranty Treaty.

Finally, the focus of state participation as a Guarantor would be shifted from the political to the economic sphere. The apparatus for concluding the necessary agreements exists in many states. Both the United States and West Germany for example, have investment guaranty treaties with Greece.[263] The guaranty contract may take the form of routine contracts like those made by OPIC with U.S. foreign investors. The decision to guarantee would appear to take the form of a routine economic decision—protection of the foreign investment of nationals with only contingent state liability—rather than a controversial political entanglement.

C. Dispute resolution and enforcement

A two-tiered system of dispute resolution and enforcement could be created by provisions in both the Bilateral Agreement and Guaranty Treaty. As a general rule, the IOC and Greece should be given every opportunity to discuss their differences before invoking involvement of the Guarantors. The arbitral provisions of the Treaty would be triggered only if Greece and the IOC failed to resolve their dispute under the procedures set forth in the Bilateral Agreement.

The Bilateral Agreement, like most of the IGO headquarters agreements,[264] should provide that dispute resolution first be attempted by friendly consultation and negotiation between the parties. If this fails, then the parties should agree to submit their differences to binding arbitration. Arbitration has the advantage of being flexible, consensual, and generally fair.[265] It is preferable to adjudication in Greek or other municipal courts for a variety of reasons, the most significant being the possibility of national bias and the difficulty of enforcing foreign judgments.[266]

The Bilateral Agreement should specify exactly on what grounds each party can force the other to go to arbitration. These grounds should include only those which go to the heart of the games' integrity, for example, Greece's denial of a visa to a participant accredited by the IOC. The Bilateral Agreement should also provide for the appointment of judges and the arbitral forum. It is typical in the case of headquarters agreements for each party to appoint one arbitrator, to agree on the third or, in the absence of agreement, to consent to appointment by the President of the International Court of Justice.[267]

Once rendered, there is every reason to believe that the award will be enforceable in Greece. Since 1925 the Greek state and Greek state entities have been authorized by statute to enter into binding foreign arbitration with foreign entities.[268] Article 903 of the Greek Code of Civil Procedure provides that "subject to the provisions of international conventions, a foreign arbitral award is ipso jure final and binding. . . ." [269] Greece is party to a number of bilateral treaties which provide for the enforcement of foreign arbitral awards [270] and has ratified [271] the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards.[272]

The New York Convention sets forth a number of grounds for legitimate refusal to enforce a foreign arbitral award.[273] The most troubling of these allows a state to deny recognition and enforcement when the award is contrary to public policy.[274] In the case of international agreements, however, courts have uniformly construed "public policy" to mean the international public order, and not purely domestic public policy.[275] There is substantial precedent to suggest that "contractual commitments between a sovereign state and a foreign investor will be enforce against the state by an international arbitral tribunal," [276] and that the state against which that award is rendered will recognize it.[277]

Nonetheless, if a Greek government refused to recognize and abide by the arbitral award pursuant to the Bilateral Agreement, the IOC would have the additional protection of its sovereign Guarantors. The Guaranty Treaty would specify that (with the exception of a few enumerated extreme actions) the principal event of default under the Treaty is failure to recognize an arbitral award issued pursuant to the Bilateral Agreement. Inter-sovereign binding arbitration pursuant to the Treaty and remedies under international law would, therefore, be triggered only upon failure of the dispute resolution mechanism set forth in the Bilateral Agreement.

The drafters of the Treaty will have a wide variety of possible remedies from which to choose. For example, default by Greece under the Treaty could trigger a substantial financial penalty sufficient to allow re-establishment of the games elsewhere. Since any outstanding debt would accelerate upon default, that amount would be immediately due and payable by Greece. Upon its failure to pay, the Guarantors would fulfill their obligation to the lenders and then proceed against Greek assets in their respective jurisdictions. Additionally, the Guarantors would have undertaken to recognize the standing of the IOC to proceed against Greek assets in their jurisdictions, and the IOC would pursue its claim for the value of the facilities and damages suffered by the Olympic movement.

The basic plan described here is necessarily incomplete. It is not the purpose of this article to identify an exact contractual structure or to propose carefully integrated contractual provisions. Instead, the task has been to suggest those factors which are most relevant to the integrity of the permanent site plan and to demonstrate the tremendous flexibility of the legal tools at the disposal of its drafters.

VI. CONCLUSION

The Olympic Congress may not adopt the permanent site plan in the near future. But eventually, its compelling logic will defeat the dead weight of sentimental adherence to Baron de Coubertin's original scheme. Whenever the decision is made, the ability of lawyers to create a legal regime responsive to the functional needs of a permanent site will be a key factor in that decision. The present exercise reveals that, despite the impossibility or impracticality of many of the regimes mentioned by proponents and despite the formidable doctrinal obstacles still encountered by NGOs like the IOC, the narrowly-defined autonomy which is required can be achieved by the imaginative use of a combination of traditional public and private international law tools.

FOOTNOTES

*Member, New York Bar; J.D., University of Virginia, 1981. The author gratefully acknowledges the assistance of Derk W. Bowett, Q.C., President, Queens' College, Cambridge, under whose supervision this article was prepared.

[1] C. Jenks, The Headquarters of Internation Institutions, A Study of Their Location and Status 75 (1945) [hereinafter "Jenks"].

[2] This article sets forth the basic history and policy goals of the permanent site proposal. *See* notes 5-36 and accompanying next *infra*. Its purpose, however, is not to analyze all of the policy questions, but simply to address one aspect of the proposal, the legal regime for such a site. There may be a variety of non-legal grounds on which the permanent site proposal can be evaluated which are not discussed here.

[3] The legal capacity of the International Olympic Committee (IOC) to conclude agreements cognizable under international law is a fundamental issue. *See* notes 157-212 and accompanying next *infra*.

[4] The proposal made herein depends on the guarantee by a number of sovereign states of both the privileges of the IOC under a bilateral agreement with Greece and its debate. *See* notes 242-63 and accompanying next *infra*.

[5] M. Finley & H. Pleket, The Olympic Games: The First Thousand Years 14-15, 22-23 (1976) [hereinafter "Finley & Pleket"]. *See generally* J. Kieran & A. Daley, The Story of the Olympic Games: 776 B.C.—1960 A.D. (1936).

[6] Finley & Pleket, *supra* notes 5, at 22-23. "Games everywhere were managed by local authorities, not by an international committee, and the weaker that authority the less the risk that the prestige of a great festival would enhance its political power." Id.

[7] *See* Finley & Pleket, *supra* note 5, at 41, 98.

[8] *Id.* at 98.

[9] *Id.*

[10] *Id.* at 1-5.

[11] *See* R. Mandell, The First Modern Olympics 84-91 (1976) [hereinafter "Mandell"]. The games were revived after a gap of about 1500 years. *See generally* de Coubertin, *Le rètablissment des jeux olympiques, Revue de Paris, at Olympic Games*, 170 (June 15, 1894), translated and reprinted in The Re-establishment of the 19 The Chautauquan 696 (1894).

[12] Mandell, *supra* note 11, at 89.

[13] De Coubertin is quoted as arguing that if held permanently in Greece the games "would be Olympic, but we fear, not international." J. Lucas, The Modern Olympic Games 48 (1980) [hereinafter "Lucas"].

[14] Mandell, *supra* note 11, at 89. Revenues which now result from sale of television rights and gate receipts would provide a substantial income to the IOC, making construction and operation of a permanent site by the IOC financially feasible.

[15] The first modern games in 1896 were held in Athens, not Olympia, for logistical reasons only. The lack of convenient transportation and communications facilities at Olympia made revival at the original site impossible. Finley & Pleket, *supra* note 5, at 4.

[16] Lucas, *supra* note 13, at 48. In his parting toast to visiting athletes, King George of Greece announced his hope "(t)hat our guests, who have honored us with their presence, will select Athens as the peaceful meeting place of all nations, as the stable and permanent seat of the Olympic Games." Mandell, *supra* note 11, at 152.

[17] Mandell, *supra* note 11, at 154.

[18] Lucas, *supra* note 13, at 48; Mandell, *supra* note 11, at 154-55.

[19] Mandell, *supra* note 11, at 170. As a result, "(i)n the early years he struggled against proposals to freeze the location of the modern Olympics in Greece, Sweden, or Switzerland." *Id.*

[20] Lucas, *supra* note 13, at 38-40.

[21] *Id.* at 212.

[22] These impediments include host state attempts to prevent participation by certain athletes, use of the games for purposes of political propaganda, and boycotts by other states provoked by the policies or actions of the host. *See, e.g.*, R. Mandell, The Nazi Olympics (1971). The best primary source material for twentieth-century political controversy is the archive of Avery Brundage's papers at the University of Illinois, Champaign-Urbana. *See Generally* R. Espy, The Politics of the Olympics Games (1979) [hereinafter "Espy"]; B. Henry, An Approved History of the Olympics Games (1948).

[23] *See* Vlachos, *Return the Olympics to Greece Permanently. They Started There*, N.Y. Times, Aug. 12, 1979, § 4, at 21, col. 1 [hereinafter "Vlachos"].

[24] Proponents of the proposal contemplate a profit-making Olympic center used for recreation

and a variety of international sporting events between Olympic games. The site also would include the IOC headquarters and archives, and the Olympic Academy, an international training center for sports medicine, technology, and administration. *See, e.g.*, Lucas, *supra* note 13, at 222.

[25] Under the present system, the state in which the games are held is the "host" state. When referring to the state in which the permanent site would be located, the term "forum" state is used. In the later instance, the IOC is the "host."

[26] *See* Lucas, *supra* note 13, at 173, 213–14.

[27] For example, Professor John Lucas of the University of Pennsylvania has argued persistently for central Switzerland or western Scandinavia. *See* Letter from John R. Lucas to Frederic C. Rich (Sept. 20, 1980) (available in author's files).

[28] The Winter Games would be established in another location with a juridically identical status. All the legal arguments made herein apply equally to the permanent winter site.

[29] Furthermore, Olympia is conveniently located in the western Peloponnese, only ten miles from the sea. The area is pastoral, enjoying a mild climate. The ancient remains could be protected, while providing a dramatic backdrop to the modern Olympic village. *See* Finley & Pleket, *supra* note 5, at 14; Vlachos, *supra* note 23. Designs for permanent facilities at Olympia were completed by architects in separate projects at Princeton and Cambridge Universities. *See* Bernstein, *Designing a Permanent Olympic Site*, Princeton Alumni Weekly, May 23, 1977, at 9.

[30] In 1976 Prime Minister Karamanlis proposed a return of the games to Greece at the close of the 21st Olympiad in Montreal. *See* Letter from Prime Minister Karamanlis to Lord Killanin, President, IOC (July 31, 1976), *reprinted in* Greece Proposed as Permanent Venue of the Olympic Games, Embassy of Greece Press Release (July 31, 1976).

[31] The proposal was first mde by Mr. Karamanlis in a speech in Athens on January 7, 1980. Greece Renews Permanent Olympic Site Proposal, Embassy of Greece Press Release No. 2/80, Jan. 9, 1980. The offer was made official in a letter to Lord Killanin dated February 2, 1980. The Prime Minister wrote: ". . . Greece, perhaps more than any other country, is justifiably concerned by the ever-growing tendency to use the Olympic games for political and generally non-athletic purposes. Political, racial and ideological conflicts are rekindled every time the choice of a site for the game arises . . . The Olympic idea . . . has become a means of political rivalry and economic aspirations. It has also become a monopoly for a few countries, since small countries do not have the means to claim the honour and the responsibility." Letter from Prime Minister Karamanlis to Lord Killanin, President, IOC (Feb. 2, 1980), *reprinted in* Olympic Games: Permanent Site Offered by Greece at Ancient Olympia, Embassy of Greece Press Release (undated). *See Back to Olympia*, The Economist, Feb. 23, 1980, at 54 [hereinafter "Back to Olympia"].

[32] The Prime Minister of Australia, the foreign ministers of West Germany and the United Kingdom, the President of the European Parliament, and the Secretary General of the Council of European Communities all have gone on record in support of the plan. The *Olympic Idea*, Greece, Spring, 1980, at 2 (publication of the Greek National Tourist Organization); *Olympic Homecoming*, Greece, Feb.-Mar. 1980., at 1; *World Support Grows, Homecoming of the Olympics?*, Greece, Jan. 1980, at 1, 3.

[33] "I call upon all nations to join in supporting a permanent site for the Summer Olympics in Greece, and to seek an appropriate permanent site for the Winter Olympics." Letter from President Carter to Robert Kane, President, U.S. Olympic Committee (Jan. 20, 1980), *reprinted in* 16 Weekly Comp. of Pres. Doc. 106 (Jan. 19, 1980).

[34] H.R. Con. Res. 249, 96th Cong., 2d Sess. (1980). *See also* 126 Cong. Rec. S499 (daily ed. Jan. 29, 1980) (remarks and reprinted statement of Sen. Bradley). "The first step toward an Olympics freer of politics is to offer full support for permanent placement of the games in their ancient birthplace, the country of Greece. Urging the International Olympic Committee to establish a permanent site in Greece is a constructive approach. The permanent home would come to be identified with the Olympics as an institution. The Olympics no longer would be identified with the nationalistic displays of temporary hosts." *Id.* at S501.

[35] *Olympic Homecoming*, Greece, Apr.-May 1980, at 2. The survey was a Gallup poll.

[36] Washington Post, Feb. 20, 1981, at E1. A commission to investigate the Greek proposal was established and is headed by Louis Guirandou-N'Diaye, Ivory Coast Ambassador to Canada and IOC member for the Ivory Coast. Letter from Julian K. Roosevelt, IOC Member for the U.S. to Frederic C. Rich (Sept. 18, 1980) (available in author's files).

At its 84th meeting in Baden-Baden in October 1981, the IOC deferred its decision on the permanent site proposal. The IOC resolved in part: "Considering all aspects and, above all, the course of events during the next Olympiads for which the IOC has taken a commitment, the Greek proposal is of extreme importance and will be subject of a detailed study in which the IOC will certainly be actively involved." United Press International (Oct. 1, 1981).

[37] *See* notes 52–69 and accompanying text *infra*. Simply establishing a permanent site without taking measures to: (1) establish the IOC rather than the forum country as the host, or (2) prevent that country's interference with the games, would be no improvement over the present system, except with regard to construction expenses saved.

[38] The most official statement on this issue appears in the 1980 Karamanlis letter to Lord Killanin: "This site could be characterised as neutral ground with an international agreement which would safeguard the rights to the installations, establish the inviolability of the area and recognize the decisive role of the International Olympic Committee in its athletic competencies. And, in any event, Greece would be prepared to discuss the arrangements the Committee would deem necessary for this purpose." Letter from Prime Minister Karamanlis to Lort Killanin, President, IOC (Feb. 2, 1980), *reprinted in* Olympic Games: Permanent Site offered by Greece at Ancient Olympia, Embassy of Greece Press Release (undated).

[39] Back to Olympia, *supra* note 31, at 60. *The Economist* also reported that Greece was prepared to "cede sovereignty" over the site at Olympia. *Id.*

[40] *The Olympic Idea*, Greece, Spring, 1980, at 2 (publication of the Greek National Tourist Organization).

[41] *Id.* "[T]here is no suggestion that Greece would exercise any kind of national control." *Id.*

[42] This article assumes that Greece will be the permanent forum state, and uses "Greece" and "forum state" interchangeably. The arguments apply, however, to any forum state selected and to the state in which the permanent Winter Games site is located.

[43] Some options are analyzed only because they have been mentioned in public commentary on the permanent site plan. *See* notes 39–41 and accompanying text *supra*.

[44] 1 Procedural Aspects of International Law Institute, The Theory and Practice of governmental Autonomy 2–3 (Final report for the Department of State 1980)[hereinafter "PAIL Study"].

[45] *Id.*

[46] Hannum & Lillich, *The Concept of Autonomy in International Law*, 74 Am. J. Int'l L. 858, 860 (1980). The PAIL Study summarized by Hannum & Lillich identified three principal categories of autonomous entities: federal states, internationalized areas and associated states. *Id.* at 859.

[47] The PAIL Study did note a variety of precedents for *limited* autonomy. Limited cultural or religious independence was granted in the cases of Greenland, the Belgian linquistic communities, the Aland Islands, and the millet system of the Ottoman Empire. PAIL Study, *supra* note 44, at 2. These examples of limited or restrictive autonomy still involve governmental functions rather than the essentially non-governmental functions which must be guaranteed to the IOC.

[48] Another such theme is the preferability of choosing a device or structure which not only affords technical legal protection, but serves to eliminate the motives for parties to act in the undesired manner. For example, any arrangement which, by giving Greece some stake in the unimpeded operation of the games, makes the political or economic consequences of interference high, is especially desirable. *See* text accompanying notes 260–62 *infra*.

[49] *See generally* Fedder, *The Functional Basis of International Privileges and Immunities: A New Concept in International law and Organization*, 9 Am. U.L. Rev. 60 (1960).

[50] Brandon, *The Legal Status of the Premises of the United Nations*, 28 Brit. Y.B. Int'l L. 90, 94 (1951) [hereinafter "Brandon"].

[51] *Id.*

[52] Examples of boycotts include the 1956 withdrawal of Switzerland and the Netherlands in protest of the Soviet invasion of Hungary; North Korea's sudden pull-out from Tokyo in 1964; the Third World boycott of Montreal in 1976 because of the participation of New Zealand, which maintained close sporting ties with South Africa; and the Western boycott of Moscow in 1980. *See* 126 Cong. Rec. S499 (daily ed. Jan. 29, 1980) (statement of Sen. Bradley).

[53] Economic advantage should not exceed that advantage naturally incident to the spending of spectators every four years en route to and around the permanent site.

[54] *See* note 25 *supra*.

[55] As anticipated by Senator Bradley, "The permanent home would come to be identified with the Olympics as an institution. The Olympics no longer would be identified with the nationalistic displays of temporary host," 126 Cong. Rec. S501 (daily ed. Jan. 29, 1980).

[56] Such embarrassment might be felt, for example, by the People's Republic of China upon the participation of Taiwan.

[57] Examples might include a nation's foreign policy with regard to South Africa or Israel.

[58] An example would be when an element of the games' conduct is a political issue domestically.

[59] The threats to the integrity and neutrality of the games at a permanent site are analogous to the factors of political risk faced by any enterprise doing business in a foreign country. *See generally* P. Nevitt, Project Financing 113 (1978).

[60] Rule 8 of the Olympic Charter provides in part: "Only citizens or nations of a country may represent that country and compete in the Olympic Games . . . . In the final resort, questions in dispute shall be settled by the Executive Board.

"The expression "country" wherever used in these Rules shall mean any country, state, territory or part of territory which in its absolute discretion is accepted by the IOC as constitution the area of jurisdiction of a recognized NOC [National Olympic Committee]." Olympic Charter, Rule 8 (prov. ed. 1980).

[61] There are numerous historical instances of host state attempts to restrict access. In 1956, Australia did not recognize the Soviet Union and wished to ban its athletes. In 1968, NATO regulations did not permit France to issue visas to East Germans. In 1972, U.N. sanctions seemed to require West Germany to ban Rhodesian competitors. In each of these instances, however, "a conflict of laws was settled by the waiver of municipal visa requirements and the issuance of special clearance papers." Nafziger, *The Regulation of Transnational Sports Competition: Down From Mount Olympus*, 5 V and. J. Transnat'l L. 180, 203 (1971) [hereinafter "Nafziger"]. *See also* Comment, *Political Abuse of Olympic sport:* DeFrantz v. United States Olympic Committee, 14 N.Y.U. J. Int'l L. & Pol. 155 (1981).

[62] The concept of the inviolability of the premises of international institutions in international law evolved from the fiction of extraterritoriality with regard to legation premises. Jenks, *supra* note 1, at 41.

[63] Since the IOC will, as a practical matter, depend on Greek personnel for its essential security services, it is equally important that those personnel be available at the request of the IOC.

[64] The Olympic organization would not require immunity from judicial process with respect to ordinary commercial matters.

[65] These personal immunities can be limited to those in respect to official acts, and should extend to Greek nationals serving in the international Olympic organization.

[66] "Historically and technically [the] exemption of official international funds from national taxation derives from the sovereign immunities of the States contributing to such funds, but the essential justification for it rests on broad grounds of national public policy." Jenks, *supra* note 1, at 43 (quoting Jenks, *Some Legal Aspects of the Financing of International Institutions*, The Grotius Society: Problems of Peace and War 87, 122 (1943)). The latter justification would apply, then, to an NGO like the IOC.

[67] Television rights are a major source of revenue and would probably be pledged in part to the creditors to secure financing for the Olympic center. *See* text accompanying notes 259–63 *infra*. Rule 51 of the Olympic Charter provides in part: "The IOC may, subject to payment, grant the right to broadcast and/or distribute reports on the Olympic Games. The total amount . . . shall be paid . . . to the IOC which shall distribute [it], in accordance

with the requirements set out in Rule 21." Olympic Charter, Rule 51 (prov. ed. 1980).

[68] The Charter provides: "In order to ensure the fullest news coverage and the widest possible audience for the Olympic Games, the necessary steps shall be taken to accredit the representatives of the different mass media. . . . The Executive Board of the IOC, whose decision shall be final and binding, reserves the right to grant or to refuse accreditation in the case of any applicant or to withdraw any accreditation already granted." Olympic Charter, Rule 51 (prov. ed. 1980).

[69] *See* notes 50–51 and accompanying text *supra*.

[70] *See* R. Rodgers, Facilitation Problems of International Associations 39 (1960).

[71] *See* notes 147–56 and accompanying text *infra*.

[72] *See generally* E. Adair, the Extraterritoriality of Ambassadors in the Sixteenth and Seventeenth Centuries (1929).

[73] It is a fiction because, in the case of diplomats, "[l]'agent diplomatique est censé n' avoir jamais quitté son propre pays." P. Cahier, Etude Des Accords de Siège Conclus Entre les Organisations Internationales et les Etats où Elles Résident 194(1959).

[74] Kunz, *Privileges and Immunities of International Organizations*, 41 Am. J. Int'l L. 828, 836 (1947) [hereinafter "Kunz"]. *See also* H. Grotius, De Jure Belli Ac Pacis Libri, Tres, chap. XVIII (1689).

[75] *See e.g.*, W. Fishel, The End of Extraterritoriality in China (1952); G. Keeton, The Development of Extraterritoriality in China (1928). The best general survey of the extraterritoriality concept is G. Keeton, *Extraterritoriality in International and Comparative Law*, 72 Recueil des Cours 283 (1948: I).

[76] *See e.g.*, Treaty of Berlin, July 13, 1878, arts. 53–56, *reprinted in* 8 Ministère des Affairs Etrangères, Documents Diplomatiques (1878). Article 53 grants the European Danube Commission "une complète indepéndance de l'autorité territoriale." *Id.* art. 53.

[77] *But see* C. Jenks, The Proper Law of International Organisations 139 (1962) [hereinafter "Jenks, Proper Law"]. Jenks acknowledges the view that extraterritoriality is a harmful fiction and thus that "the concept of extraterritoriality is either a mistake to be charitably ignored or an idle courtesy which can safely be assumed to be meaningless." *Id.* He questions this view: the extraterritoriality fiction "may be practically more satisfactory to both the international organisation and the host State than a functional formula which, while rationally more defensible, has not yet stood in the same manner the test of experience." *Id.*

[78] Brandon, *supra* note 50, at 96–97. Local law and jurisdiction apply except as otherwise provide. *Id.*

[79] *See* note 39 and accompanying text *supra*.

[80] *See generally* Jenks, *supra* note 1, at 44–53 (discussion of advantages and disadvantages of granting to the headquarters of international institutions international status within national territory).

[81] Treaty Establishing the Vatican State, Feb. 11, 1929, Holy See-Italy, art. 4, 130 Brit. & For. State Papers 793 (1929). *See generally* M. Falco, The Legal Position of the Holy See Before and After the Lateran Agreements (1935); B. Williamson, The Treaty of the Lateran (1929); La Bière, La condition juridique de la cité du Vatican, Recueil des Cours 115 (1930: III).

[82] I. Brownlie, Principles of Public International Law 67 (3d ed. 1979) [hereinafter "Brownlie"]. *See* M. Brazzola, La Cité Du Vatican Est-Elle un Etat? (1932).

[83] It is the smallest "state," with a nominal population of approximately 1000. J. Crawford, The Creation of States in International Law 154 (1979) [hereinafter "Crawford"].

[84] *Id.*

[85] Jenks, *supra* note 1, at 72.

[86] *See id.* at 45.

[87] Brownlie, *supra* note 82, at 372.

[88] Convention Respecting an Extension of Hong Kong Territory, June 9, 1898, China-Great Britain, 186 Parry's T.S. 310, 32 Martens Nouveau Recueil 2d 89 (1905). *See generally* L. Mills, British Rule in Eastern Asia 373 (1942).

[89] Brownlie, *supra* note 82, 372.

[90] *Id.* at 115–16.

[91] Agreement for the Lease of Lands for Coaling and Naval Stations, Feb. 16–23, 1903, United States-Cuba, art. III, 192 Parry's T.S. 429, 430. *See generally* Montague, *A Brief Study of Some of the International Legal and Political Aspects of the Guantanamo Bay Problem*, 50 Ky. L.J. 459 (1962).

[92] *See* notes 157–212 and accompanying text *infra*.

[93] Brownlie, *supra* note 82, at 116. "[T]he grantor has a right to revoke the 'contractual license,' and, after a reasonable time has elapsed, force may be employed to evict the trespasser." *Id.*

[94] *See* text accompanying note 86 *supra*.

[95] Brownlie, *supra* note 82, at 63–64.

[96] *See* Rules of Procedure of the International Mixed Court, *reprinted in* A. Kotenev, Shanghai: Its Mixed Court and Council 321 (1925). *See generally* Hudson, *The Rendition of the International Mixed Court at Shanghai*, 21 Am. J. Int'l L. 451 (1927).

[97] Protectorate Treaty, Mar. 30, 1912, France-Morocco, 106 Brit. & For. State Papers 1023, 216 Parry's T.S. 20. The convention was revised in 1923. Convention regarding the Organisation of the Statute of the Tangier Zone, Dec. 18, 1923, France-Great Britain-Spain, 28 L.N.T.S. 541. *See generally* G. Stuart, The International City of Tangier (2d ed. 1955) [hereinafter "Stuart"]; Hudson, The International Mixed Court of Tangier, 21 Am. J. Int'l L. 231 (1927).

[98] *See* Statute of the Sanjak of Alexandretta, May 29, 1937, 18 League of Nations O.J. 580 (1937). *See generally* Basdevant, *La question du Sandjak d'Alex-andrette et de d'Antioche*, 19, Revue de Droit International et de Legislation Comparée 661 (1938).

[99] *See* Treaty of Versailles, June 28, 1919, arts. 45–50, 225 Parry's T.S. 189, 213–15, *reprinted in* Major Peace Treaties of Modern History 1648–1967, at 1296–99 (F. Israel ed. 1967). *See generally* M. Florinsky, The Saar Struggle (1934).

[100] Convention for Establishing a Conventional Regime in Upper Silesia, May 15, 1922, Germany-Poland, 118 Brit. & For. State Papers 365. *See generally* G. Kaeckenbeeck, The International Experiment of Upper Silesia (1942).

[101] *See* Convention Concerning the Territory of Memel, May 8, 1924, 29 L.N.T.S. 85 (1924). *See generally* The Status of the Memel Territory, League of Nations Doc. C. 159 M. 39 1924 VII (1924).

[102] Treaty of Versailles, June 8, 1919, arts. 100–08, 225 Parry's T.S. 189, 246–49, *reprinted in* Major Peace Treaties of Modern History 1648–1967, at 1338–41 (F. Israel ed. 1967). *See generally* J. Makowski, La situation juridique du territoire de la Ville Libre de Dantzig (1925).

[103] *See* Italian Peace Treaty Feb. 10, 1947, Italy-Allied Powers, Annex VI, Permanent Statute of the Free Territory of Trieste, 49 U.N.T.S. 72, *reprinted in* Major Peace Treaties of Modern History 1648–1967, at 2479–90 (F. Israel ed. 1967). *See generally* M. Ydit, Internationalised Territories from the "Free City of Cracow" to the "Free City of Berlin" 231–72 (1961) [hereinafter "Ydit"].

[104] *See* G.A. Res. 181 (II), U.N. Doc. A/519, (1947). The resolution called for the creation of a "special international regime" under the direct control of the Trusteeship Council. *See generally* Ydit, *supra* note 103, at 273–315. The Trusteeship Council prepared a "Draft Constitution" for Jerusalem. *See* Question of an International Regime for ther Jerusalem Area and Protection of the Holy Places, 5 U.N. GAOR Supp. (No. 9). U.N. Doc. A/1286 (1950).

[105] Brownlie, *supra* note 82, at 55. *See* Ydit, *supra* note 103, at 21.

[106] Ydit, *supra* note 103, at 50–51, 71–72.

[107] Free City of Danzig and the International Labour Organisation (Pol. v. Free City of Danzig), 1930 P.C.I.J., ser. B, No. 18 (Advisory Opinion of Aug. 24); Treatment of Polish Nationals and Other Persons of Polish Origin or Speech in the Danzig Territory (Pol. v. Free City of Danzig), 1932 P.C.I.J., ser. A/B, No. 44, at 23–24 (Advisory Opinion of Feb. 4).

[108] *See* note 97 *supra*.

[109] On November 14, 1911, Sir Edward Grey wrote to the French minister in London that "just as France stands for the Sultan's authority in the French zone, and Spain in the Spanish zone, so the Treaty powers collectively shall stand for the Sultan's authority in Tangier and its district." *Documents Diplomatiques Francais* (1871–1914), 3d Series (1911–1914), Vol. No. 348, *quoted in* Stuart, *supra* note 97, at 59–60.

[110] Stuart, *supra* note 97, at 182.

[111] Ydit, *supra* note 103, at 21.

[112] *See id.* at 11.

[113] *See, e.g.*, Crawford, *supra* note 83, at 160.

[114] *See, e.g.*, Agreement Regarding the Headquarters of the United Nations, June 26, 1947, United States-United Nations, 61 Stat. 3416, T.I.A.S. No. 1676 (entered into force Nov. 21, 1947) [hereinafter "U.N. Headquarters Agreement"]; Agreement Regarding the Headquarters of the International Atomic Energy Agency, Dec. 11, 1957, International Atomic Energy Agency-Austria, 339 U.N.T.S. 152 (entered into force Mar. 1, 1958) [hereinafter "IAEA Agreement"]; Agreement Regarding the Headquarters of the Food & Agriculture Organization, Oct. 31, 1950, FAO-Italy, U.N. Doc. ST/LEG/SER.B/11 (1961), *reprinted in* II Legislative Texts and Treaty Provisions Concerning the Legal Status, Privileges and Immunities of International Organizations 187) [hereinafter "FAO Agreement"]; Agreement Concerning the Legal Status of the International Labour Organisation after the Dissolution of the League of Nations Organization, Mar. 11, 1946, ILO-Switzerland, 15 U.N.T.S. 377 [hereinafter "ILO Agreement"].

These agreements generally are implemented through municipal legislation by the host state. *See* D. Bowett, The Law of International Institutions 310 (3d ed. 1975); note 152 and accompanying text *infra*.

[115] *But see* FAO Agreement, *supra* note 114, § 6(a) (Italy "recognizes the extraterritoriality of Headquarters Seat . . ."); ILO Agreement, *supra* note 114, art. 4 ("the Swiss Federal Council recognizes the extraterritoriality of the grounds and buildings of the International Labour Organization and of all buildings occupied by it in connection with meetings of the International Labor Conference . . . .").

[116] Kunz, *supra* note 74, at 850. *See* U.N. Headquarters Agreement, *supra* note 114.

[117] Jenks, Proper Law, *supra* note 77, at 137.

[118] U.N. Headquarters Agreement, *supra* note 114,§ 7(a). *See* Brandon, *supra* note 50, at 97–98.

[119] IAEA Agreement, *supra* note 114, § 7.

[120] FAO Agreement, *supra* note 114, § 15.

[121] *E.g.*, U.N. Headquarters Agreement, *supra* note 114, § 7(b) ("Except as otherwise provided in this agreement or in the General Convention, the federal, state and local law of the United States shall apply within the headquarters district."). *See* Kunz, *supra* note 74, at 850.

[122] Regulations so authorized are those "for the purpose of establishing therein conditions in all respects necessary for the full execution of its functions." U.N. Headquarters Agreement, *supra* note 114, § 8. *See* IAEA Agreement, *supra* note 114, § 8(a).

[123] *See* Brandon, *supra* note 50, at 113. *See also* Convention on the Privileges and Immunities of the Specialized Agencies, U.N. Doc. ST/LEG./SER.B/11, *reprinted in* II Legislative Texts and Treaty Provisions Concerning the Legal Status, Privileges and Immunities of International Organizations 101 (1961).

[124] *See* Brandon, *supra* note 90, at 113.

[125] *See* notes 43–69 and accompanying text *supra*.

[126] *See, e.g.*, U.N. Headquarters Agreement, *supra* note 114, § 11 ("The federal, state or local authorities of the United States shall not impose any impediments to transit to or from the headquarters district . . . . The appropriate American authorities shall afford any necessary protection to . . . persons while in transit to or from the headquarters district."); FAO Agreement, *supra* note 114, § 22; IAEA Agreement, *supra* note 114, §§ 27(a), 28.

[127] *See, e.g.*, U.N. Headquarters Agreement, *supra* note 114, § 11; FAO Agreement, *supra* note 114, § 22(a)(vi); IAEA Agreement, *supra* note 114, § 27(a)(ix).

[128] U.N. Headquarters Agreement, *supra* note 114, § 13 (free transit guarantee applies to persons "irrespective of their nationality.").

[129] U.N. Headquarters Agreement, *supra* note 114, § 12.

[130] Brandon, *supra* note 50, at 101–03.

[131] *Id. See, e.g.*, Agreement Regarding the Headquarters of the International Civil Aviation Organization, Apr. 14, 1951, ICAO-Canada, §4(2), 96 U.N.T.S. 156 (entered into force May 1, 1951) [hereinafter "ICAO Agreement"]; FAO Agreement, *supra* note 114, §§ 7, 17, 18; ILO Agreement, *supra* note 114, art. 6, para. 2; U.N. Headquarters Agreement, *supra* note 114, § 9(a); IAEA Agreement, *supra* note 114, § 9(a).

[132] The most common exception to this principle disallows use of the site for asylum. *See, e.g.*, ICAO Agreement, *supra* note 131, § 4(3); FAO Agreement, *supra* note 114, § 7(b); U.N. Headquarters Agreement, *supra* note 114, § 9(b); IAEA Agreement, *supra* note 114, § 9(b). *Cf.* FAO Agreement, *supra* note 114, § 33; ILO Agreement, *supra* note 114, art. 25.

[133] FAO Agreement, *supra* note 114, § 8(a); U.N. Headquarters Agreement, *supra* note 114, § 16(a);

IAEA Agreement, *supra* note 114, § 10. *See* Agreement Regarding the Headquarters of UNESCO and the Privileges and Immunities of the Organization in the French Territory, July 2, 1954, UNESCO-France, art. 17, 357 U.N.T.S. 3 (entered into force Nov. 23, 1955) [hereinafter "UNESCO Agreement"].

[134] *See, e.g.*, U.N. Headquarters Agreement, *supra* note 116, § 17 ("necessary public services" explicitly include electricity, water, gas, postal service, telephone, drainage, collection of refuse, fire protection, and snow removal); IAEA Agreement, *supra* note 114, § 12; FAO Agreement, *supra* note 114, at § 10.

[135] *See, e.g.*, ICAO Agreement, *supra* note 131, § 2; IAEA Agreement, *supra* note 114, § 16; UNESCO Agreement, *supra* note 133, § 1.

[136] FAO Agreement, *supra* note 114, § 16.

[137] *See, e.g.*, ICAO Agreement, *supra* note 131, § 3.

[138] In some states the restrictive standard applied to foreign sovereigns is not also applied to IGOs. *Compare* Foreign Sovereign Immunities Act of 1976, 28 U.S.C. § 1605(a)(2) (1976) *with* International Organizations Immunities Act of 1945, 22 U.S.C. § 288a(b) (1976). *But cf.* Broadbent v. Organization of Am. States, 628 F.2d 27 (D.C. Cir. 1980). *See generally* Recent Developments, 20 Va. J. Int'l L. 913 (1980).

[139] *See, e.g.*, FAO Agreement, *supra* note 114, §§ 19, 20; IAEA Agreement, *supra* note 114, §§ 22, 42; UNESCO Agreement, *supra* note 133, art. 15.

[140] *See, e.g.*, ICAO Agreement, *supra* note 131, § 8; ILO Agreement, *supra* note 114, art. 11; IAEA Agreement, *supra* note 114, § 23.

[141] *See* notes 259–63 and accompanying text *supra*.

[142] In the United States, for example, non-resident holders of debt obligations are subject to a 30% withholding tax. I.R.C. §§ 1441–1442 (1976).

[143] U.N. Headquarters Agreement, *supra* note 114, § 4. *See* IAEA Agreement, *supra* note 114, § 4.

[144] *See, e.g.*, ICAO Agreement, *supra* note 131, § 9 ("not less favourable"); FAO Agreement, *supra* note 114, § 11; IAEA Agreement, *supra* note 114, § 13; UNESCO Agreement, *supra* note 133, art. 10 ("at least as favourable").

[145] *See, e.g.*, ICAO Agreement, *supra* note 131, § 10; IAEA Agreement, *supra* note 114, § 15; UNESCO Agreement, *supra* note 133, art. 11; ILO Agreement, *supra* note 114, art. 13.

[146] *See, e.g.*, ICAO Agreement, *supra* note 131, § 27(a); C.N. Headquarters Agreement, *supra* note 114, § 11. *See also* FAO Agreement, *supra* note 114, § 22.

[147] *See* Reparations for Injuries Suffered in the Service of the United Nations (The Reparations Case), 1949 I.C.J. 174, 178–79 (Advisory Opinion of Apr. 11).

[148] *See* P. Cahier, Etude des accords de siège conclus entre les organisations internationales et les étatus où elles résident 208 (1959) [hereinafter "Cahier"]. *But see* Kunz, *supra* note 74, at 848. Kunz argues that the *accords de siège* are not real treaties. With reference to pre-U.N. headquarters agreements, specifically the *modus vivendi* of 1926 between Switzerland and the League of Nations, 7 League of Nations O.J. 1422 (1926), Kunz argues: "The legal nature of such [an] agreement is doubtful; it is not an international treaty; both parties can at any time renounce it in part or as a whole. It leads only to an agreement with a single member State and 'fails to afford a solid legal foundation for the permanent independence of the international organization.'" Kunz, *supra* note 74, at 848 (quoting C. Jenks, The Headquarters of International Institutions, A Study of Their Location and Status 46 (1945)). Cahier rejects this argument which relies on the possibility of unilateral modification, calling it "une distinction de forme plutôt que de fond. Si les accords de siège peuvent être revisés, c'est en vertu d'une clause de révision insérée dans l'accord." Cahier, *supra* note 148, at 208. Modification clauses were inserted in the agreements relief upon by Kunz. Article 14 of the 1926 *modus vivendi* provides in part, "[the] rules of the *modus vivendi* can only be modified by agreement between the organisations of the League of Nations and the Federal Political Department. If, however, an agreement cannot be reached, it shall always be open to the Federal Government or to the organisations of the League of Nations to denounce the whole or part of the rules of the *modus vivendi*." 7 League of Nations O.J. 1422, 1424 (1926). This clause, however, is rare in headquarters agreements concluded after the Second World War.

[149] Vienna Convention on the Law of Treaties, *opened for signature* May 23, 1969, art. 26, U.N. Doc. No. A/CONF. 39/27 (entered into force Jan. 27, 1980), *reprinted in* 8 I.L.M. 679, 690 (1969) ("Every treaty in force is binding upon the parties to it and must be performed by them in good faith."). *See generally* Hassan, *Good Faith in Treaty Formation*, 21 Va. J. Int'l L. 443 (1981).

[150] U.N. Charter, art. 104. *See also* Agreement Establishing the Inter-American Development Bank, Apr. 8, 1959, art. XI, § 1, *reprinted in* II Legislative Texts & Treaty Provisions Concerning the Legal Status, Privileges and Immunities of International Organizations 387, Doc. ST/LEG/SER. B/11 (1961) ("[T]he status, immunities, and privileges set forth in this article shall be accorded to the Bank in the territories of each member."); Constitution of the International Atomic Energy Agency, Oct. 26, 1956, art. 15, 276 U.N.T.S. 4 ("The Agency shall enjoy in the territory of each member . . . such privileges and immunities as are necessary for the exercise of its functions."); Constitution of the United Nations Education, Scientific and Cultural Organisation (UNESCO), Nov. 16, 1945, art. 12, 4 U.N.T.S. 275, 292 (U.N. Charter obligations extended to UNESCO members); Convention on the Intergovernmental Maritime Consultative Organization, Mar. 6, 1948, arts. 50, 51, 289 U.N.T.S. 48, 70; Convention of the World Meteorological Organization, Oct. 11, 1947, art. 27, 77 U.N.T.S. 144, 162; Constitution of the World Health Organization, July 22, 1946, arts. 66–68, 14 U.N.T.S. 186, 200–01; Constitution of the Food and Agriculture Organization of the United Nations, Oct. 16, 1945, art. 15, [1946–47] U.N.Y.B 693, 696; Convention on International Civil Aviation, Dec. 7, 1944, art. 47, 15 U.N.T.S. 295, 328, (obligation to recognize "legal capacity as may be necessary for the performance of its functions"); Constitution of the International Labour Organisation, art. 40, 15 U.N.T.S. 40, 102 (amended as of Oct. 9, 1946); Charter of the Organization of American States, Apr. 30, 1948, art. 103, 119 U.N.T.S. 48, 88 ("The Organization of American States shall enjoy in the territory of each Member such legal capacity, privileges and immunities as are necessary for the exercise of its functions and the accomplishment of its purposes"); *[i]d.* art. 105 ("The juridical status of the Inter-American Specialized Organizations and the privileges and immunities that should be granted to them . . . shall be determined in each case through agreements between the respective organizations and the Governments concerned.").

[151] *E.g.*, Agreement on the Privileges and Immunities of the International Energy Agency, July 1, 1959, *reprinted in* II Legislative Texts & Treaty Provisions Concerning the Legal Status, Privileges and Immunities of International Organizations 357, Doc. ST/LEG/SER. B/11 (1961); Charter of the Organization of American States, Apr. 30, 1948, 119 U.N.T.S. 48; Convention on the Privileges and Immunities of the Specialized Agencies, Nov. 21, 1947, 33 U.N.T.S. 262.

[152] Such municipal legislation either applies generally to a group of public international organizations, *e.g.*, International Organisations (Immunities and Privileges of the Council of Europe) Order in Council, 1950, 14 Geo. 6, ch. 14 (U.K.); Act No. 72 of 7 Mar. 1952 Concerning Privileges and Immunities of International Organizations (Denmark), is extended to particular international organizations by regulation or appendix, *e.g.*, International Organizations Immunities Act of 1945, 22 U.S.C. § 288a-288f (1976); Diplomatic Privileges and Immunities Act of 1968, No. 36, N.Z. Stat. 309 (1968), or applies to a single organization, *e.g.*, Privileges and Immunities Act (United Nations Act), Can. Rev. Stat. ch. 219, § 1 (1952); World Health Organization Act (Protection Act), No. 41, Ghana (1958).

[153] If an agreement between Greece and the IOC were implemented either through Greek legislation or as a bilateral contract governed by Greek law, it would not afford the IOC the protection it requires. Any municipal statute adopted by Greece could at any time be amended or repealed by the Greek Legislature. A bilateral agreement under municipal law "can accord an international institution a large measure of independence, but [it] will never make it master in its own house . . . . The contractual arrangements entered into may be honoured when the storm blows, or they may not." Jenks, *supra* note 1, at 52. *See id.* at 47; Kunz, *supra* note 74, at 847 (in the context of a pre-*Reparations Case* agreement).

[154] A. Fatouros, *International Law and the Internationalized Contract*, 74 Am. J. Int'l L. 134, 136–37 (1980).

[155] *See* text accompanying notes 147–49 *supra*.

[156] *See* text accompanying notes 213–41 *infra*.

[157] J. Schneider, Treaty-Making Power of International Organizations 98–99 (1959) [hereinafter "Schneider"].

[158] Jenks, *supra* note 1, at 39. Jenks adds the caveat that "the conditions under which it may be exercised in a particular state may sometimes properly be governed by the local law." *Id.*

[159] Friedman, *International Public Corporations*, 6 Mod. L. Rev. 185, 203 (1942–43) [hereinafter "Friedman"].

[160] Lissitzyn, *Territorial Entities Other Than Independent States in the Law of Treaties*, 125 Recueil des Cours 1, 13 (1968: III) [hereinafter "Lissitzyn"]. If personality is itself a test for treaty-making capacity, then use of "rights and duties under public international law" as criteria for personality leads to a circular analysis. *See also* Schneider, *supra* note 157, at 129–33.

[161] *See* Lissitzyn, *supra* note 160, at 13.

[162] Jenks, *supra* note 1, at 66.

[163] *See* Lissitzyn, *supra* note 160, at 7, 11–12. Less-than-state territorial entities like Danzig, *see* Access to German Minority Schools in Upper Silesia, 1932 P.C.I.J., ser. A/B, No. 44, at 23–25 (Rostworowski, Count, dissenting), and the Saar, *see* Convention Regulating Air Navigation Between Switzerland and the Saar Territory, Aug. 15, 1928, 81 L.N.T.S. 373; Agreement Respecting Telephone Service Between Great Britain and Northern Ireland and the Saar Territory, via France, Nov. 16, 1928, 92 L.N.T.S. 353, did exercise treaty-making capacity. *Cf.* Payment of Various Serbian Loans Issued in France, 1929 P.C.I.J., ser. A., No. 20, at 41 ("Any contract which is not a contract between States in their capacity as subjects of international law is based on the municipal law of some country").

[164] Reparation for Injuries Suffered in the Service of the United Nations (The Reparations Case), 1949 I.C.J. 174, 178–79 (Advisory Opinion of Apr. 11).

[165] J. Lador-Lederer, International Non-Governmental Organizations and Economic Entities 14 (1963) [hereinafter "Lador-Lederer"].

[166] 1949 I.C.J. 174.

[167] *Id.* at 178. One commentator states: "The growing variety, density and complexity of transnational concerns and interactions increasingly involve legal and administrative actions and their consequences on many different levels. Some of these concerns and interactions may be, and already are, most effectively handled on official levels below that of formal diplomatic relations. . . . It is not unreasonable to expect the development of new concepts and devices to meet the needs for greater flexibility and less formality in such interactions." Lissitzyn, *supra* note 160 at 8.

One consequence of this extension is that it is no longer possible to suppose that the capacities of the various international persons must be equal. *See* text accompanying notes 200–01 *infra*.

[168] "It is not formed for profit. . . ." Olympic Charter, Rule 11 (prov. ed. 1980).

[169] Lucas, *supra* note 13, at 137.

[170] *Id.* at 82.

[171] The failure to incorporate or register in the headquarters country is unusal. "La nature jurdique des Fédérations sportives internationales est en général celle d'associations privées douées de personalité de droit interne dans l'ordre juridique de l'Etat où elles siègent." Leyendecker, *Les Fédérations Sportives Internationales dans le Domaine des Organisations Non-Gouvernementales*, Annuaire de l'A.A.A. [Yearbook of the Association of Attenders and Alumni of the Hague Academy of International Law] 41, 45 (1972–73) [hereinafter "Leyendecker"].

[172] Lucas, *supra* note 13, at 136.

[173] *See* text accompanying notes 188–212 *infra*.

[174] Espy, *supra* note 22, at 9.

[175] Olympic Charter, Rule 1 (prov. ed. 1980). The other aims set forth in Rule 1 are "to promote the development of those physical and moral qualities which are the basis of sport," and to "bring together the athletes of the world in the great four-yearly sport festival, the Olympic Games." *Id.*

[176] Olympic Charter, Rule 3 (prov. ed. 1980). *See* Leyendecker, *supra* note 171, at 42.

[177] *See* L. White, International Non-Governmental Organizations 199 (1951).

[178] Olympic Charter, Rule 12 (prov. ed. 1980).

[179] *Id.* Rule 24(C).

[180] *Id.* Rule 45.

[181] *Id.* Rule 17(C).

[182] Nafgziger, *supra* note 61, at 181 n.2.

[183] *Id.* at 190–91.

[184] Olympic Charter, Rule 23 (prov. ed. 1980).

[185] *Id.* By-laws to Rules 16 and 23.

[186] Espy, *supra* note 22, at 16.

[187] Leyendecker, *supra* note 171, at 48.

[188] *See, e.g.,* Lador-Lederer, *supra* note 165, at 14–15.

[189] Leyendecker, *supra* note 171, at 42–43.

[190] *See* 1 M. Whiteman, Digest of International Law 238 (1973). *But see* Brownlie, *supra* note 82, at 69. "There is no general rule that the individual cannot be a 'subject of international law' and in particular contexts he appears as a legal person on the international plane." *Id.*

[191] Dean, *Beyond Helsinki: The Soviet View of Human Rights in International Law,* 21 Va. J. Int'l L. 55, 72–74 (1980). *See, e.g.,* W. Gormley, The Procedural Status of the Individual Before International and Supranational Tribunals 30–31 (1966); H. Lauterpacht, International Law and Human Rights 27–35 (1968).

[192] "[The extension of subject status to individuals] contradicts the very essence of International Law." F. Kozevnikov, International Law: A Textbook for Use in Law School 89 (1957), *quoted in* Dean, *Beyond Helsinki: The Soviet View of Human Rights in International Law,* 21 Va. J. Int'l L. 55, 72–74 (1980).

[193] " . . .[l]e principal obstacle a la reconnaissance de cette meme personalite aux organisations internationales non-gouvernmentales." Leyendecker, *supra* note 171, at 43.

[194] Brownlie, *supra* note 82, at 67. "Furthermore, as elsewhere in the law, provided that no rule of *jus cogens* is broken, acquiescence, recognition, and the incidence of voluntary bilateral relations can do much to obviate the more negative consequences of anomaly." *Id.* at 59.

[195] Lador-Lederer, *supra* note 165, at 59–63. Similar functional attributes are shared by international public corporations. *See generally* Friedman, *supra* note 159. These bodies, like the Bank on International Settlements, *see* Hague Convention, Jan. 20, 1930, 104 U.N.I.S. 441, are international in character, have managerial and financial autonomy, own their own funds, perform an international public service, and are constituted in a multinational convention. It is only in respect to the last characterisitc that they differ from most NGOs. Friedman, *supra* note 159, at 186, 191; Kunz, *supra* note 74, at 850–51.

[196] *See, e.g.,* Lador-Lederer, *supra* note 165, at 29–32, 60, 210–11.

[197] *See generally* Picet, *La Croix et les Conventions de Geneve,* 76 Recueil des Cours, 5 (1950: I).

[198] Lador-Lederer, *supra* note 165, at 14–15. Other functions which characterize both NGOs and international persons are the delegation of authority, consultation with other international persons, technical assistance and propaganda. *Id.* at 64.

[199] *Id.* at 210.

[200] "[R]eference to the functions and powers of the organisation exercised on the international plane, and not to the abstract and variable notion of personality, will alone give guidance on what powers may properly be implied." D. Bowett, The Law of International Institutions 275 (1963).

[201] Lissitzyn, *supra* note 160, at 15. *See generally* Schneider, *supra* note 157.

[202] *See, e.g.,* Case Concerning the Payment of Various Serbian Loans Issued in France (Serbian Loan Case), 1928–1930 P.C.I.J., Ser. A., Nos. 20–21, 41 (Judgment of July 12, 1929). *See also* Wengler, *Agreements of States with Other Parties than States in International Relations,* 8 Revue Hellenique de Droit International 113, 118 (1954) [hereinafter "Wengler"].

[203] Lissitzyn, *supra* note 160, at 5. *See generally* Schneider, *supra* note 157.

[204] Wengler, *supra* note 202, at 113.

[205] *Id.*

[206] *See* Schneider, *supra* note 157, at 94–96.

[207] [1946–1947] U.N.Y.B. 245.

[208] Agreement between United Nations Relief & Rehabilitation Administration and American Friends Service Committee, International Committee of the Red Cross, and League of Red Cross Societies, [1948–1949] U.N.Y.B. 161, U.N. Doc. A/1905.

[209] [1948–1949] U.N.Y.B. 703.

[210] Wengler, *supra* note 202, at 115.

[211] Schneider, *supra* note 157, at 117.

[212] Olympic Charter, Rule 11 (prov. ed. 1980). *See* notes 168–187 and accompanying text *supra.*

[213] J. Brierly, Report on the Law of Treaties 17, [1950] 2 Y.B. Int'l L. Comm'n 222, 229, U.N. Doc. A/CN.4/23 (1950).

[214] Schneider, *supra* note 157, at 121.

[215] Article 3 provides: "The fact that the present Convention does not apply to international agreements concluded between States and other subjects of international law . . . shall not affect: (a) the legal force of such agreements . . . ." Vienna Convention on the Law of Treaties, *opened for signature* May 23, 1969, 8 I.L.M. 679, 681–82 (1969), U.N. Doc. A/CONF. 39/27.

Earlier drafts of the Convention had employed a definition of "treaty" which included international entities other than states. *See* [1962] 1 Y.B. Int'l L. Comm'n 164.

[216] Note, *Arbitration of Economic Development Agreements: The Impact of Revere* v. OPIC, 20 Va. J. Int'l L. 861, 863 (1980) [hereinafter "Virginia Note"].

[217] Wengler, *supra* note 202, at 127.

[218] A. Fatouros, Government Guarantees to Foreign Investors 192 (1962) [hereinafter "Fatouros"]. If the host state participates in the project, then its undertakings are included in a joint venture agreement. *See* Berens, *Foreign Ventures—A Legal Anatomy,* 26 Bus. Law. 1527 (1971); Zaphirious, *Methods of Cooperation Between Independent Enterprises (Joint Ventures),* 26 Am. J. Int'l L. 245 (Supp. 1978).

[219] R. Rendell, *International Project Financing,* in International Financial Law 39, 43 (1980) [hereinafter "Rendell"].

[220] *Id.* at 45.

[221] Concession agreement between Revere Jamaica Alumina, Ltd. and Jamaica, *quoted in* Revere Copper & Brass, Inc. v. Overseas Private Investment Corp., 56 I.L.R. 258, 263 (Haight, Wetzel & Bergan, arbs. 1978).

[222] Virginia Note, *supra* note 216, at 862.

[223] Revere Copper & Brass, Inc. v. Overseas Private Investment Corp., 56 I.L.R. at 258, 271 (Haight, Wetzel & Bergan, arbs. 1978); Texaco Overseas Petroleum Co. [TOPCO] & California Asiatic Oil Co. v. Libyan Arab Republic, 53 I.L.R. 389, 431–36 (Dupuy, arb. 1977).

[224] 56 I.L.R. at 271.

[225] *Id.* at 272. *See generally* Delaume, *What is an International Contract?, an American and Gallic Dilemma,* 28 Int'l & Comp. L.Q. 258 (1979).

[226] 27 I.L.R. 117 1958).

[227] "Freezing clauses" or "stabilization clauses" prohibit the host from changing the investor's rights under the contract by changing or modifying the municipal law of the host country. 53 I.L.R. at 456–57.

[228] 27 I.L.R. at 168.

[229] Sapphire v. Internat'l Petroleum Ltd. v. Nat'l Iranian Oil Co., 35 I.L.R. 136, 171 (1967).

[230] *Id.*

[231] *Id.* at 174. *See, e.g.* 53 I.L.R. at 459–60.

[232] 56 I.L.R. 258 (Haight, Wetzel & Bergan, arbs. 1978).

[233] *Id.* at 282. *But see* BP Exploration Co. (Libya) v. Libyan Arab Republic, 53 I.L.R. 297, 327–29 (Lagergren, arb. 1973–74).

[234] *See e.g.,* 53 I.L.R. at 462; Sapphire Int'l Petroleums Ltd. v. Nat'l Iranian Oil Co. 35 I.L.R. 136, 181 (Cavin, arb. 1963).

[235] 56 I.L.R. at 279–84.

[236] *See* 53 I.L.R. at 456–57.

[237] Indeed, such sharing would undermine the goal of isolating the IOC from the forum state. *See* text accompanying notes 43–69 *supra.*

[238] Furthermore, concession agreements are limited to a term of years and the permanent site contract between the IOC and Greece would probably be open-ended and perpetual. *See, e.g.* Revere Copper & Brass, Inc. v. Overseas Private Investment Corp., 56 I.L.R. 258 (twenty-five year agreement).

[239] Virginia Note, *supra* note 216, at 877.

[240] *See e.g.* Permanent Sovereignty over Natural Resources, G.A. Res. 1803, 17 U.N. GAOR Supp. (No. 17) 15, U.N. Doc. A/5217; Charter of Economic Rights and Duties of States, G.A. Res. 3281, 29 U.N., GAOR Supp. (No. 31) 50, U.N. Doc. A/9631 (1974). The latter provides that "where the question of compensation gives rise to a controversy, it shall be settled under the domestic law of the nationalizing State and by its tribunals, unless otherwise agreed between the parties." *Id.* chap. 2, art. 2(2)(c).

[241] Fatouros, *International Law and the Internationalized Contract,* 74 Am. J. Int'l L. 134, 137 (1980).

[242] *See* text accompanying note 153 *supra.*.

[243] *See* text accompanying notes 157–212 *supra.*

[244] *See* text accompanying notes 213–41 *supra.*

[245] McNair, The Law of Treaties 239–54 (1961).

[246] Vienna Convention on the Law of Treaties, *opened for signature* May 23, 1969, art. 36, 8 I.L.M. 679 (1969). Article 37(2) provides that, "When a right has arisen for a third State in conformity with article 36, the right may not be revoked or modified by the parties if it is established that the right was intended not to be revocable or subject to modification without the consent of the third State." *Id.* art. 37(2).

[247] L. McNair, The Law of Treaties 239 (1961). *See generally* K. Idman, Le Traité de Garantie en Droit International (1913).

[248] P. Nevitt, Project Financing 91 (1980). The United States has had an investment guaranty program in operation since 1948. Fatouros, *supra* note 218, at 102.

[249] These agreements are in addition to a concession agreement between the investor and the host state. *See* notes 219–25 and accompanying text *supra*; note 254 *infra.*

[250] Fatouros, *supra* note 218, at 104–06. *See, e.g.,* Treaty of Friendship; Commerce & Navigation, Dec. 23, 1957, Federal Republic of Germany-Dominican Republic [1959] Bundesgesetzblatt (II) 1168; Treaty of Friendship, Commerce & Navigation, Feb. 2, 1948, U.S.-Italy, 63 Stat. 2255, T.I.A.S. No. 1965, 79 U.N.T.S. 171. *See generally* H.C. Hawkins, Commercial Treaties & Agreements; Principles and Practice (1951); R. Wilson, United States Commercial Treaties and International Law (2nd ed. 1960); Walker, *Modern Treaties of Friendship, Commerce and Navigation,* 42 Minn. L. Rev. 805 (1958); Walker, *Provisions on Companies in U.S. Commercial Treaties, 50 Am. J. Int'l L. 373 (1956).*

[251] Revere Brass & Copper, Inc. v. Overseas Private Investment Corp., 56 I.L.R. 258, 261–62 (Haight, Wetzel & Bergan, arbs. 1978). *See generally* OPIC, Investment Insurance Handbook (1980).

[252] *See* Anaconda Co. & Chile Copper Co. v. OPIC, 14 I.L.M. 1210, 1227–28 (Fuld, Sommers & Vagts, arbs. 1975); Revere Brass, 56 I.L.R. 258, 296. *See generally* Virginia Note, *supra* note 216, at 884.

[253] Fatouros, *supra* note 218, at 191.

[254] In foreign project financing, the concession agreement, or whatever contract is entered into between the sponsors and the host state, sets forth the basic legal framework for the project. Rendell, *supra* note 219, at 43.

[255] *See* text accompanying notes 114–46 *supra.*

[256] *See* text accompanying notes 43–69 *supra.* The IOC should consider negotiating a choice of law clause, similar to that commonly used in concession agreements, providing for application of those principles of Greek law not inconsistent with international law. *See, e.g.,* clause 28 of TOPCO's 1966 deed of concession with Libya.

"This concession shall be governed by and interpreted in accordance with the principles of law of Libya common to the principles of international law and in the absence of such common principles of law, including such of those principles as may have been applied by international tribunals." Texaco Overseas Petroleum Co. [TOPCO] & California Asiatic Oil Co. v. Libyan Arab Republic, 53 I.L.R. 389, 442 (Dupuy, arb. 1977).

[257] These guaranties also could be contained in a multilateral convention to which Greece would be just another party. This would follow the practice of Friendship, Commerce and Navigation treaties where all obligations are expressed as being mutual, even though one party has no prospect of investment or significant commercial activity in the other. See Fatouros, supra note 218, at 96, 98. This format has been rejected here as an awkward legal fiction which fails to reflect the actual arrangement.

[258] The Guarantors would be obligated to bring Greece to binding arbitration in the event it refused to abide by an arbitral award issued pursuant to the Bilateral Agreement. See notes 268–77 and accompanying text infra.

[259] Initial studies of the economic viability of the permanent site proposal indicated that the IOC's revenues—principally from the quadrennial sale of television rights—would be sufficient to support the operation of the Olympic center, including debt service on the initial capital investment. See note 14 supra.

[260] The loan would most probably be an internationally syndicated Eurodollar bank loan with participating lenders from North America, Europe, the Middle East, and the Far East.

[261] Rendell, supra note 219, at 41.

[262] P. Nevitt, Project Financing 111 (1980).

[263] See Treaty of Friendship, Commerce & Navigation, Aug. 3, 1951, U.S.-Greece, 5 U.S.T. 1829, T.I.A.S. No. 3057, 224 U.N.T.S. 297; Treaty of Friendship, Commerce & Navigation, Nov. 11, 1953,

West Germany-Greece, [1953] Bundesanzeiger No. 228.

[264] *See. e.g.*, U.N. Headquarters Agreement, *supra* note 114, § 21.

[265] McLaughlin, *Arbitration and Developing Countries*, 13 Int'l Law. 211, 212, (1979).

[266] *Id.*

[267] See. e.g., U.N. Headquarters Agreement, *supra* note 114, § 21. The Bilateral Agreement also should provide explicitly that all interim arbitral awards shall be observed by the parties.

[268] A. Foustoucos, *Greece*, 5 Y.B. Comm. Arb. 57, 61 (1980). *See* Code of Civil Procedure, bk. VII, arts, 867-903, Law. No. 958, Sept. 15, 1971 (Greece). *reprinted in* A. Foustoucos, L'arbitrage-interne et international en droit prive hellenique, Appendix A, 312-30 (1976) [hereinafter "Foustoucos"].

[269] Code of Civil Procedure, bk. VII, art 903 (Greece), *reprinted in* Foustoucos, *supra* note 268, at 330.

[270] These include treaties with the United States, West Germany, Yugoslavia and Czechoslovakia. Foustoucos, *supra* note 268, at 80-81.

[271] Legislative Decree No. 4220 of 1961 (Greece) Greece agreed to the Convention terms subject to two reservations (allowed under article 1, subsection 3). Like France, Greece has limited application to those awards made in the territory of a contracting state and will only apply the Convention to differences arising under *commercial* legal relationships (under Greek law). *See Foustoucos, supr* note 268, at 182.

[272] New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards, June 10, 1958, 21 U.S. T. 2517, T.I.A.S. No. 6997, 330 U.N.T.S. 3 (entered into force Dec. 29, 1970) [hereinafter "New York Convention"].

[273] *Id.* art. V. The grounds include invalidity of the arbitration agreement, inability of a party to present its case, noncompliance with the terms of submission, including terms regarding the appointment of arbitrators, and judicial action setting aside the award in the country in which it was rendered. *Id. See* Sanders, *A Twenty Years' Review of the Convention on the Recognition and Enforcement of Foreign Arbitral Awards*, 13 Int'l Law. 269, 270-72 (1979) [hereinafter "Sanders"].

[274] New York Convention, *supra* note 272, art V. subdiv. 2(b). The public policy exception also applies if the subject matter of the arbitration is not capable of settlement by arbitration in the country of enforcement. *Id.* at art. V, subdiv. 2(a).

[275] Sanders, *supra* note 273, ag 270.

[276] McLaughlin, *Arbitration and Developing Countries*, 13 Int'l Law. 211, 221 (1979).

[277] In 100 cases applying the New York Convention all over the world, enforcement was denied on public policy grounds only three times Sanders, *supra* note 273, at 271.

SENATE CONCURRENT RESOLUTION 115—RELATING TO A PERMANENT SITE FOR THE OLYMPIC GAMES

Mr. BRADLEY submitted the following concurrent resolution; which was referred to the Committee on Commerce, Science, and Transportation:

S. CON. RES. 115

Whereas the Olympic games, which were begun more than 2,000 years ago in Greece to foster peace and goodwill among the city states, have more and more frequently become an arena not for sport but for nations to further their own political goals;

Whereas it is the athletes who suffer when nations use the Olympic games for propaganda purposes;

Whereas when nations boycott the Olympics it deprives the participating athletes from pitting their strength, skill, and endurance against all of their competitors to determine the best in the world;

Whereas the participants in Olympic games form friendships that cross political and geographic borders and lead to better world understanding;

Whereas many millions of people across this Nation believe that the Olympic games should be insulated as much as possible from politics: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that the International Olympic Committee should establish a permanent facility for the Olympic games on a site that is suitable for insulating the games from the unwarranted and disruptive international politics that have plagued the games in recent years.

● Mr. BRADLEY. Mr. President, the recent withdrawal of the Soviet Union from the Olympic games presents a unique opportunity. We have the chance to remove the games from the political arena and return them to their original purpose—to be an international gathering of the world's youth for the purpose of promoting mutual understanding.

Today, Congressman PARRIS and I will seize that opportunity and introduce resolutions in the House and the Senate calling for the establishment of a permanent facility for the Olympic games.

Since the Olympic games first began, they have been buffeted by politics. There were the Nazi Olympics of 1936; the withdrawal of the Swiss and Dutch in 1956 in condemnation of the Soviet invasion of Hungary; the events of 1968 and the assassinations of 1972, followed by the withdrawal of 28 Third World countries from the Montreal Olympics of 1976.

I remember when I participated in the games in Tokyo in 1964 waking up in the middle of the night to a commotion in the next dormitory. It was the North Koreans pulling out of the games.

It is time to remove the games from politics and give them a permanent home. I have proposed that we move the games back to Greece where they were held for nearly 12 centuries. Putting the summer Olympics permanently in Greece and the winter games in their own home would help the Olympics become a strong institution rather than short-lived competitions vulnerable to political or economic exploitation by temporary host countries and other nations.

If the games had had a permanent home in a neutral country, it is probable that neither the United States in 1980 nor the Soviets in 1984 would have withdrawn from the games. Given a stable, enduring setting, the games could take on a special identity on their own, much like the celebrations of old.

A permanent site for the Olympics should also be coupled with an extension of the games from 2 weeks to 2 months. One of the primary purposes of the games has always been to promote mutual understanding and brotherhood.

The way to do this is by expanding the experience of the athlete who lives in the Olympic Village. That was the most enjoyable and memorable aspect of my experience.

I remember the athletes I shared those weeks with, and I remember the sense of pride and achievement. The Olympic games would be more participant oriented. Too often the athlete is lost amid the multimillion-dollar construction projects. Too often, the years of grueling training and individual discipline are overshadowed by extraneous events.

The Olympics should provide the basis for the beginnings of understanding. It requires bold planners to initiate a true permanent site with games that are true to the original goals. It requires the willingness to share financial burden by hundreds of nations. It requires a revision of the rules, and personnel who govern the Olympic movement. It requires the belief on the part of all of us that peace can prevail. The time is now.●

AMENDMENTS SUBMITTED

HIGHER EDUCATION ACT AMENDMENTS

STAFFORD AMENDMENT NO. 3064

Mr. BAKER (for Mr. STAFFORD) proposed an amendment to the bill (H.R. 5287) to amend title III of the Higher Education Act of 1965 to permit additional funds to be used to continue awards under certain multiyear grants; as follows:

Redesignate section 2 as section 7 and insert after section 1 the following new sections:

SEC. 2. (a) Section 510 of the Ombibus Budget Reconciliation Act of 1981 (Public Law 97-35) is amended by striking out beginning with the semicolon in clause (1) all matter through the end of the sentence and inserting in lieu thereof: "for each such year; and

"(2) $12,989,000 shall be available for each of the fiscal years 1982 and 1983, and $14,961,000 shall be available for fiscal year 1984 for the Office of Inspector General.".

(b) The amendment made by subsection (a) of this section shall take effect October 1, 1983.

SEC. 3. Section 5 of the joint resolution entitled "Joint Resolution to provide grants for Allen J. Ellender fellowships to disadvantaged secondary school students and their teachers to participate in a Washington public affairs program", approved October 19, 1972, is amended to read as follows:

"Sec. 5. There are authorized to be appropriated $1,500,000 for the fiscal year 1984, $1,500,000 for the fiscal year 1985, $2,000,000 for the fiscal year 1986, $2,000,000 for the fiscal year 1987, $2,500,000 for the fiscal year 1988, and $2,500,000 for the fiscal year 1989 to carry out the provisions of this joint resolution.".

SEC. 4. (a) Notwithstanding any other provision of law, the total amount which may be appropriated to carry out part B of title

IX of the Higher Education Act of 1965, relating to law school clinical experience programs, shall not exceed $1,500,000 in fiscal year 1985, $2,000,000 in fiscal year 1986, $2,000,000 in fiscal year 1987, $2,500,000 in fiscal year 1988, and $3,000,000 in fiscal year 1989.

(b)(1) Section 583 (b) of the Education Consolidation and Improvement Act of 1981 is amended by striking cut "and" at the end of clause (2), by inserting "and" at the end of clause (3), and by inserting after such clause the following new clause:

"(4) the law-related education program as formerly authorized by part G of title III of the Elementary and Secondary Education Act of 1965,".

(2) Such section is further amended by inserting "(or $1,000,000 in the case of the program referred to in paragraph (4))" after "fiscal year 1981".

SEC. 5. Section 555(b) of the Education Consolidation and Improvement Act of 1981 is amended by inserting before the period at the end thereof a comma and the following: "except that such definition shall be modified to include children of migratory fishermen, if such children reside in a school district of more than 18,000 square miles and migrate a distance of 20 miles or more to temporary residences to engage in fishing activity".

SEC. 6. (a)(1) The Secretary is authorized to make grants to the Urban Education Foundation of Pennsylvania, Inc., located in Philadelphia, Pennsylvania, for the purpose of reconstruction and renovation (and related costs) of the combined graduate and undergraduate facilities at the urban research park established as the Urban Education Foundation of Pennsylvania, Inc.

(2) There is authorized to be appropriated $3,400,000 to carry out the provisions of paragraph (1) of this subsection.

(b)(1) Notwithstanding any other provision of law, from any amounts recovered by the Department of Education from prior fiscal year obligations from the Higher Education Appropriation Account for the Department of Education, the Secretary may use not to exceed $1,000,000 to carry out the provisions of subsection (a) of this section.

(2) The amount authorized to be appropriated by paragraph (2) of subsection (a) shall be reduced by any amounts expended under paragraph (1) of this subsection.

FEDERAL BOAT SAFETY AMENDMENTS

BRADLEY (AND OTHERS) AMENDMENT NO. 3065

Mr. BRADLEY (for himself, Mr. STAFFORD, Mr. WEICKER, Mr. HATFIELD, and Mr. DOMENICI) proposed an amendment to amendment No. 3027 proposed by Mr. BAKER (and others) to the bill (H.R. 2163) to amend the Federal Boat Safety Act of 1971, and for other purposes; as follows:

On page 19, of amendment No. 3027, add at the end of subsection (b) the following: It is the sense of Congress that fiscal year 1985 appropriations be increased for several nondefense discretionary programs. Priority should be given to education programs, environmental protection and health research activities.

GRASSLEY (AND KASSEBAUM) AMENDMENT NO. 3066

Mr. GRASSLEY (for himself and Mrs. KASSEBAUM) proposed an amendment to amendment No. 3027 proposed by Mr. BAKER (and others) to the bill (H.R. 2163), supra; as follows:

At the end of the amendment, add the following new section:

ANALYSES OF BUDGET ASSUMPTIONS

SEC. . (a) The Director of the Congressional Budget Office shall, in consultation with the chairman and ranking member of the Committee on the Budget of the House of Representatives and the Committee on the Budget of the Senate, determine a schedule of phased analyses of Executive Departments, agencies, and establishments beginning with trial analysis for one or two of such Departments, agencies, and establishments to be determined in such consultation, which would lead to the submission to such Committees of such analyses as may be necessary to provide the Congress with the information necessary to evaluate—

(1) the nature and reliability of the assumptions upon which the revenue estimates set forth in the budget submitted by the President under section 1105 of title 31, United States Code, for each fiscal year are based;

(2) the nature and reliability of the assumptions upon which the requests for budget authority for each Department, agency, and establishment of the United States Government for such fiscal year contained in such budget are based;

(3) the nature and reliability of the assumptions upon which the estimate of the budget authority necessary for each such Department, agency, and establishment for the two fiscal years succeeding such fiscal year set forth in such budget are based;

(4) the adequacy of the amounts of budget authority requested and estimated in such budget for each such Department, agency, and establishment for each such fiscal year to carry out the programs, projects, and activities proposed in such budget to be carried out by such Department, agency, or establishment for such fiscal year;

(5) the estimated amount of budget authority that the historical pattern of funding would provide for each such Department, agency, and establishment for each such fiscal year (based upon a time-series analysis); and

(6) the effect that the provision of budget authority in the amounts specified under paragraph (5) for each such Department, agency, or establishment for each such fiscal year will have upon the programs, projects, and activities proposed in such budget to be carried out by such Department, agency, or established for such fiscal year.

(b) In carrying out the analyses determined by the consultations required in subsection (a), the Director may utilize any of the resources made available to the Office under sections 201 and 202 of the Congressional Budget Act of 1974 (2 U.S.C. 601 and 602) and, notwithstanding any other provision of law, shall have access to any information, forecasting models, data, estimate, and statistics, prepared by or for a Department, agency, or establishment, that the Director determines to be necessary in carrying out such analyses.

(c)(1) At the request of any committee of the House of Representatives or the Senate, or any joint committee, the Director shall testify before the Committee with respect to any matter contained in an analysis submitted under subsection (a) that is within the jurisdiction of the committee.

(2) At the request of any Member of the House or the Senate, the Director shall provide to such Member any information compiled in carrying out subsection (a), and, to the extent available, such additional information related to the foregoing as may be requested.

USE OF CAPITOL ROTUNDA TO HONOR UNKNOWN VETERAN OF THE VIETNAM ERA

MATHIAS AMENDMENT NO. 3068

Mr. STEVENS (for Mr. MATHIAS) proposed an amendment to the concurrent resolution (H. Con. Res. 296) authorizing the use of the rotunda of the Capitol to honor the unknown American who lost his life while serving in the Armed Forces of the United States in Southeast Asia during the Vietnam era and who has been selected to be buried in the Memorial Amphitheater at Arlington National Cemetery; as follows:

On page 2, beginning with line 8, strike out all through line 11, and insert in lieu thereof the following:

SEC. 3. The Speaker, after consultation with the Minority Leader, shall be authorized to appoint a delegation representing the House and the Majority Leader of the Senate, after consultation with the Minority Leader, shall be authorized to appoint a delegation representing the Senate.

PROTECTION AGAINST DUPLICATION OF SEMICONDUCTOR CHIPS AND MASKS

MATHIAS AMENDMENT NO. 3067

Mr. STEVENS (for Mr. MATHIAS) proposed an amendment to the bill (S. 1201) to amend title 17 of the United States Code to protect semiconductor chips and masks from unauthorized duplication, and for other purposes; as follows:

On page 12, strike out lines 11 through 14 and insert in lieu thereof the following:

"(3) manufacture in commercial quantities of semiconductor chip products made as described in subparagraph (C) or (D) of paragraph (6) of section 106.".

On page 13, line 23, strike out "infringing".

On page 15, line 7, after "owner of" insert "a".

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON MILITARY CONSTRUCTION

Mr. BAKER. Mr. President, I ask unanimous consent that the Subcommittee on Military Construction of the Committee on Armed Services be authorized to meet during the session of the Senate on Wednesday, May 16, in executive session, to mark up S. 2364,

the fiscal year 1985 military construction authorization bill.

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

TASK FORCE ON SELECTED DEFENSE PROCUREMENT MATTERS

Mr. BAKER. Mr. President, I ask unanimous consent that the task force on selected defense procurement matters of the Committee on Armed Services be authorized to meet during the session of the Senate on Wednesday, May 16, to receive testimony on the following bills:

S. 2489—Small Business Competition Enhancement Act of 1984;

S. 2571—Department of Defense Spare Parts Procurement Improvement Act of 1984; and

S. 2572—Defense Space Parts Procurement Reform Act.

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet during the session of the Senate on Wednesday, May 16, to hold a hearing on S. 707, Fair Practices in Automotive Products Act.

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 Wednesday, May 16, at 9:30 a.m., to hold a markup on proposed legislation on the fiscal year 1985 intelligence budget.

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

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 Wednesday, May 16, at 2 p.m., to hold a closed hearing 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 Wednesday, May 16, 1984, in order to receive testimony concerning S. 915, Illinois Brick legislation.

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

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be authorized to meet during the session of the Senate today, to hold a markup and report H.R. 3903, a bill to authorize the Secretary of Agriculture to develop and implement a coordinated agricultural conservation program in the Colorado River Basin, and to consider legislation to reauthorize expiring child nutrition programs.

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

SUBCOMMITTEE ON CRIMINAL LAW

Mr. BAKER. Mr. President, I ask unanimous consent that the Subcommittee on Criminal Law of the Committee on the Judiciary be deemed to have been authorized to meet during the session of the Senate on Wednesday, May 16, on S. 804, the Undercover Operations Act to continue hearing testimony of public witnesses.

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

ADDITIONAL STATEMENTS

THE MEDICARE PROGRAM

● Mr. KENNEDY. Mr. President, the Reagan administration has launched a savage assault on medicare benefits. At the same time, it has failed to present a solution for the medicare funding crisis. Representative EDWARD F. FEIGHAN of Ohio has written a thoughtful editorial on this subject which was published in the Cleveland Plain Dealer on February 2 of this year. I ask that this editorial be printed in the RECORD.

The editorial follows:

[From the Cleveland Plain Dealer, Feb. 2, 1984]

MEDICARE NEEDS DOCTOR-COST CONTROL

(By Edward F. Feighan)

Shortly after his inauguration, President Reagan made an important promise: "Those who must depend on the rest of us—the poverty-stricken, the disabled, the elderly, all those with true need—can rest assured that the social safety net of programs they depend on are exempt from any cuts." Sadly enough, the president has spent the last three years breaking this promise time and time again.

His most recent assault on what he calls "the social safety net" concerns Medicare, a program that helps protect 29 million older Americans and three million disabled citizens against rising health-care costs. When recent protections warned that Medicare would be insolvent by 1990, the president claimed that Medicare is in crisis because its benefits are too generous and the elderly use too much health care. As a solution, he proposed increasing premiums, copayments and deductibles, and cutting the Medicare program by $18 billion over the next four years.

By consistently ignoring the needs and concerns of those without income and health security, the president continues to alienate those of us who favor fiscally and socially responsible solutions to the unnecessarily high deficits that plague our economy.

Medicare's financial difficulties are not due to overly generous benefits and free-loading older Americans. In fact, Medicare pays less than half the health costs of the elderly. Eyeglasses, hearing aids, dental services, prescription drugs and most long term nursing care are not covered. Even with Medicare, the average senior citizen pays well over $1,500 a year in out-of-pocket medical expenses.

Medicare is in financial trouble because it is a relatively small cog in a health-care system that is careening out of control. Health-care expenditures in this country reached $322 billion in 1982, and the health-care industry was ravaged by a 12% inflation rate.

In Cuyahoga County, the cost of medical care has skyrocketed to the point where it is now 26% higher than the national average. Nationally, physician fees have been increasing at a rate 50% greater than the rate of inflation since 1975. To make matters worse, the health-care industry is riddled by waste; we have 100,000 excess hospital beds going unused, two million unnecessary operations each year that cost over $4 billion, duplicative technology worth millions of dollars, too many specialists and not enough primary-care physicians.

Inflation and waste in health care have helped push Medicare to the brink of bankruptcy, and if the president and Congress fail to consider Medicare in its proper context, older Americans will undoubtedly bear the brunt of more myopic budget cuts.

Medicare's financial crisis can also be attributed in part to mechanical failures in its reimbursement system. Medicare reimbursement is based on the amount of service provided—physicians receive a fee for each service provided and hospitals are reimbursed for the cost of providing services. The more services given, the more money received. It is easy to see how this "blank check" approach has fueled high inflation in health care.

Fortunately, Congress has passed legislation to hold down hospital costs. A new prospective payment system reimburses hospitals for 468 different procedures at a fixed rate. Hospitals now know how much they will get from Medicare for heart surgery, a cataract operation, even a broken hip.

If a hospital's costs are less than the fixed amount, it gets to keep the difference. If the hospital spends more than the fixed amount, it must absorb the loss. The goal of this system is to encourage hospitals and doctors to reduce unnecessarily long hospital stays and stop unnecessary procedures.

Unfortunately, Medicare payments to physicians still lack suitable cost controls. Physicians, who make almost all medical decisions, have no real incentive to hold down Medicare costs by prescribing only the necessary testing and treatment.

This part of medicare, the supplementary medical insurance, has seen its cost skyrocket by as much as 20% a year. Doctors are reimbursed by Medicare for 80% of their "reasonable charge" while the patient pays the other 20%. But if a doctor considers a Medicare reimbursement insufficient, the patient can be billed for an additional amount—there is no limit. On the average, this tack-on charge represents 27% of a patient's total doctor bills. In an important move, the House Ways and Means Committee recently approved legislation that would ask doctors to accept Medicare reimbursement as payment in full for each service provided.

Medicare payments to physicians must be made more cost-efficient. Now that hospitals are operating under a prospective payment system, it is the doctors' turn to bite the bullet as we try to contain health care costs and save Medicare from bankruptcy. Creating a prospective payment system for in-hospital physician services is one propos-

al that Congress should carefully consider during its debate on Medicare reform.

To understand the dynamics of this debate, I find it helpful to review the major components of President Reagan's proposed $18 billion cut. The president wants to discourage the use of health care by the elderly by making them pay a much bigger portion of their medical costs.

The Reagan proposal calls for Medicare to become a "catastrophic coverage" plan that would charge patients much more for the first 60 days of their hospital stay while the government would pay all hospital bills after that.

Under this plan, for example, a patient who stays in the hospital 30 days would pay over $1,000 as opposed to $350 under current law. In addition, Medicare's coverage of physician services would be restructured with significant increases in both the premium and the deductible.

This catastrophic coverage would help very few people. Ninety-eight per cent of all hospitalized Medicare patients stay in the hospital less than 60 days and these senior citizens would be severely burdened by the new cost-sharing requirements.

The President's Advisory Council on Social Security has proposed a different version of catastrophic Medicare coverage. The yearly premium for supplementary medical insurance would immediately increase by 250% to $421, but patient liability would be limited to $200 a year in doctors' bills plus $350 for each hospital confinement. Members of the advisory council also want to raise the age for Medicare eligibility from 65 to 67. This would force millions of senior citizens on fixed incomes to pay thousands of dollars a year for private health insurance.

As Congress discusses Medicare reform, it must keep in mind that Medicare faces more than a financial crisis; the program has become increasingly unable to protect older Americans against skyrocketing health-care costs. So I am convinced that any attempt to solve Medicare's financial problems by reducing benefits will fail in the long run. If Medicare coverage is allowed to erode, the elderly will have to dig deeper into their pockets to pay the rising premiums of Medigap policies, and this will create a whole new class of health-care indigents.

Saving Medicare requires immediate action on two fronts. First, Congress must correct flaws in Medicare's reimbursement system, giving doctors and hospitals more incentive to weed out waste and increase their efficiency. Secondly, we must use the Medicare issue to initiate a meaningful critique of the health-care industry as a whole.

We can save Medicare only if we contain the cost of health care in this country. Our health-care system needs to be reoriented toward the delivery of more cost-effective and efficient services.

Senior citizens must not be asked to foot the bill for health care inflation and an inefficient Medicare reimbursement system. This is why I am unalterably opposed to President Reagan's plan to put Medicare on the chopping block. If we allow this to happen, millions of Americans will feel the pain for many years to come.●

ADVANCE NOTIFICATION PROPOSED ARMS SALES

● Mr. PERCY. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $50 million or, in the case of major defense equipment as defined in the act, those in excess of $14 million. Upon receipt of such notification, Congress has 30 calendar days during which the sale may be reviewed. The provision stipulates that, in the Senate, the notification of proposed sales shall be sent to the chairman of the Foreign Relations Committee.

Pursuant to an informal understanding, the Department of Defense has agreed to provide the committee with a preliminary notification 20 days before transmittal of the offical notification. The official notification will be printed in the RECORD in accordance with previous practice.

I wish to inform Members of the Senate that two such notifications have been received.

Interested Senators may inquire as to the details of these advance notifications at the office of the Committee on Foreign Relations, room SD-423.

The notifications are as follows:

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., May 11, 1984.

In reply refer to: I-02545/84ct.

Dr. HANS BINNENDIJK,
Professional Staff Member, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR DR. BINNENDIJK: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a Middle Eastern country tentatively estimated to cost in excess of $50 million.

Sincerely,

GLENN A. RUDD,
Acting Director.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, DC, May 11, 1984.

In reply refer to: I-02224/84ct.

Dr. HANS BINNENDIJK,
Professional Staff Member, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR DR. BINNENDIJK: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a Middle Eastern country tentatively estimated to cost in excess of $50 million.

Sincerely,

GLENN A. RUDD,
Acting Director.●

TENTH ANNIVERSARY OF PORTUGUESE DEMOCRACY

● Mr. KENNEDY. Mr. President, recently, people around the world celebrated the 10th anniversary of democracy in Portugal.

Ten years ago, I traveled to Portugal at the Government's invitation. At that time, I met with a number of leading Portuguese officials, journalists, and ordinary citizens. Two factors made the greatest impressions on me: First, in overthrowing the repressive government that had ruled Portugal for 48 years, the Armed Forces Movement was able to accomplish its objectives without bloodshed; and second, immediately thereafter, the Portuguese Government decided to end 500 years of colonial rule in Africa.

Today, Portugal stands true to those principles.

In the past few years, the role of the military has been reduced by constitutional amendment. Broadly based political parties have taken the lead in consolidating Portuguese democracy. The government of Prime Minister Mario Soares—a coalition of Socialists and Social Democrats—is making its own contribution to that country's well-being.

When elected to office last year, Prime Minister Soares warned the people that, together, they faced a rough road ahead. Austerity measures would be necessary to improve a stagnating economy. A very difficult economic situation has resulted, but the Portuguese people have stuck together, with suprisingly little opposition to the Government's policies. The Portuguese people support their Government and stand behind the democratic process. They remember the repression of the past and are willing to make sacrifices to insure a better future. This is democracy in action: A government and a people who desire the same future for their country and are willing to work together to achieve that goal peacefully.

Mr. President, I commend the citizens of Portugal for their efforts and their achievements; and I congratulate them on the 10th anniversary of democracy in their country.●

ANDREI SAKHAROV AND ELENA BONNER

● Mr. HEINZ. Mr. President, the human tragedy of Andrei Sakharov and Elena Bonner begs for the attention of the Congress, the American people and the entire free world. Today, Andrei Sakharov begins the 14th day of his hunger strike. Whether this great man can survive physically or spiritually without our help is open to question. He has taken this action to mobilize world pressure on the Soviet Government to allow his wife Elena Bonner to travel to the West for medical treatment. Bonner, a pediatrician is known to have suffered two heart attacks which she has been forced to treat herself. According to

Alexei Semyonov, Sakharov's stepson, a London cardiologist who has reviewed Elena Bonner's cardiogram has concluded that she is need of a coronary bypass operation.

Two and one-half years ago, Andrei Sakharov embarked on a similar hunger strike to pressure the Soviet Government into allowing his stepson's fiance Yelizaveta Alexeyava to emigrate. That hunger strike lasted 17 days before Sakharov required hospitalization. Today, in a weakened condition, suffering from heart trouble, the great physicist and peace activist approaches his previous heroic milestone.

There can be no doubt that the Soviet Union is engaging in a calculated plan to destroy the soul of the one man who remains a thorn in the side of their oppressive system of government—the one man who continues to expose the Soviet Union for the morally bankrupt system that it represents.

Mr. President, we cannot let Andrei Sakharov or Elena Bonner perish. We must move their suffering onto page 1 of every free country in the world. We can talk all we want about the Olympics and the nuances of Soviet-American relations. When compared to the destruction of human souls, when compared to the suffering Andrei Sakharov and Elena Bonner have endured, such issues of high policy pale in significance.

That is why I have cosponsored Senate Concurrent Resolution 113, introduced by my distinguished colleagues Senator TSONGAS and Senator MOYNIHAN. It expresses the sense of the Congress that Elena Bonner receive immediate medical attention, that Andrei Sakharov's internal exile in Gorky come to an end and that the Sakharovs be allowed to emigrate to the country of their choice.

This is no time for partisanship, no time for pride of authorship. We are running out of time in our efforts to save the lives of Andrei Sakharov and Elena Bonner. It is my hope that every one of my distinguished colleagues will take up the cause of freedom for the Sakharovs, that the media and the American people will make it the center of their attention, and finally that President Reagan will immediately mobilize the leaders of the free world and their peoples to demand the freedom of Andrei Sakharov and Elena Bonner.

Finally, Mr. President, on Monday, May 14, the Commission on Security and Cooperation in Europe held an informal public meeting with Natalya Hesse, a close friend of the Sakharov's and the last person known to have visited them in Gorky. I have attached an interview with Hesse conducted by Radio Liberty depicting aspects of the oppressive treatment and humiliation suffered by the Sakharovs in Gorky. It is my hope that all of my colleagues will take the time to read this very poignant interview.

The interview follows:

INTERVIEW WITH NATAL'YA HESSE, A CLOSE FRIEND OF ANDREI SAKHAROV AND ELENA BONNER

INTRODUCTION

Natal'ya Viktorovna Hesse an old and trusted friend of Nobel Prize winner Andrei Sakharov and his family, arrived in Vienna from the Soviet Union on February 5, 1984. Hesse, aged seventy, is a journalist and an editor. In a telephone interview with Radio Liberty she said of herself: "I am not a dissident in the sense that I lack a social temperament and I have never engaged in any socio-political activities in any form. . . . I formed views of my own at any early age. When I was 17-18 years old, I visited the Ukraine, which at the time was suffering from a famine artificially created by Stalin. It was then that I formed a very definite attitude towards the Soviet regime and the Communists, completely rejecting all that is going on in our country. . . . The only exception from this rule was the World War II period when I volunteered to join the army and fought as a soldier in 1943, 1944, and 1945."

Natal'ya Hesse has known Elena Georgievna Bonner for more than thirty years and has been acquainted with Andrei Dmitrievich Sakharov himself since 1970. This friendship, as well as her own views, did not appeal to the Soviet regime. Speaking of her decision to emigrate to the United States to join her son and his family, Hesse said: "The pressure against me was intensified: my apartment was searched, I was interrogated, I was called to the KGB many times for all kinds of talks. . . . But this was not the reason for my leaving the country. I was never afraid of them (the Soviet authorities), and I would have been able to resist them further. . . . But there was a change in my personal circumstances, and I decided to leave. And the KGB provided all kinds of "assistance." The purpose of this "assistance" is quite clear: according to Hesse, the KGB is determined to isolate the Sakharovs completely and to deprive them of any help from their friends.

Before her departure from the Soviet Union, Natal'ya Hesse met secretly with Sakharov in Gorky and visited Bonner in Moscow. Hesse has brought alarming news of the deterioration of Sakharov's state of health and of a new heart seizure, suffered in January by Bonner, who had still not completely recovered from a previous one. Upon her arrival in Vienna, Hesse was interviewed by Radio Liberty's research analyst, himself a former dissident and her old friend, Vladimir Tolz. The following is a verbatim translation of the interview, which was recorded in Russian.

TOLZ. Natal'ya Viktorovna, you are someone who has recently seen Andrei Dmitrievich Sakharov. Please tell us about your meeting with him.

HESSE. This was our seventh meeting over the past few years since his forced exile to Gorky. In this case, as also in the case of six other meetings (I will talk about the first one separately), the meeting took place on the street, at a prearranged place and a prearranged time. We didn't have much time. I already knew that I would be going away and I came to say goodbye to him. He has aged much, he is full of worries concerning the state of health of his wife, Elena Georgievna . . . But he is not broken, he is not bending; he is full of worry and he is physically weak, but he is strong in spirit as always. He continues to be the voice of Russia's conscience, which has been awakened and will not quiet down. And he always brings within him the free word and the free thought that our Russia misses so much.

Between incoherent and hurried exchanges—because we had only a few hours at our disposal—between some trivia and important topics—which we touched upon sometimes in more detail, sometimes with laughter and in sorrow—between questions about the life of our dear ones—who have been arrested, whose homes have been searched—we recalled Orwell, and I think this was not incidental. We have lived to see the year, predicted by Orwell—1984. And it may seem strange to a Western person, it may seem that Orwell has nothing to do with real life, that his fearsome utopia still remains a utopia or maybe an anti-utopia. However, the Soviet authorities—our dear KGB—have overtaken Orwell by four whole years: in 1980, Andrei Dmitrievich Sakharov and his wife, Elena Georgievna Bonner, were plunged into a world that surpassed Orwell's nightmarish fantasies.

I can tell you about this in greater detail. I will try to explain concretely what I have in mind. In 1980, I had some luck, having arrived in Gorky on January 25, 1980, immediately after the seizure and forced transportation of Andrei Dmitrievich to Gorky. His routine at that time had not been set yet; the authorities didn't know yet how to organize it, and I was able to stay with them for one whole month. Their whole apartment is bugged, there isn't a corner where one couldn't listen to each sigh, each cough, each footstep, not to speak of conversations. Only thoughts can remain secret, if they haven't been put down on paper, because if the Sakharovs go to the bakery or to the post office to mail a letter, the KGB agents will search the place—they will either photograph or steal the written thought.

Andrei Dmitrievich, with his weak heart, his inability to walk up even five or seven steps without pausing for breath and trying to quiet the heartbeat, is forced to carry a bag that I, for example, can't lift. When once we went into a shop, he asked me to watch over this bag, but I wanted to see what was on the shelf, and I had to drag the bag after me, I just could not lift it. In this bag Andrei Dmitrievich carries a radio-receiver because it would be damaged if left at home, all his manuscripts—both scientific and public ones, diaries, photos, personal notes. He has to carry all this around with him. I think all this must weigh no less than fifteen kilos. And this man with a bad heart—suffering from acute hypertension—is forced to carry this bag every time he leaves his home, even if it is only for ten minutes.

In addition to a normal jamming device, there is, in the apartment, a special generator that creates additional interference over and above the interference caused by conventional jammers in all cities of the Soviet Union. This is a terrible growl that drowns even the jammer's noise. In order to hear at least some Free World voice, one has to go away from the house. It would be better to go out of town, but Andrei Dmitrievich cannot take but even one step beyond the city limit, to go past the sign with the word "Gorky" on it. He is immediately turned back, he is denied such a possibility, although there is no verdict condemning him to such kind of isolation.

This is complete lawlessness on the part of the so-called competent bodies. It is very interesting that the recent law on citizenship uses this term "competent bodies" without any explanation. This is one example of the extent of lack of legality in our state. There cannot exist a judicial term that is not and cannot be explained. However, the law states that some cases must be reviewed by the MVD, while in some other instances, as prescribed by other articles, the same cases are supposed to be dealt with by "competent bodies." It is not clear who these "competent bodies" are. When the term is used in the press, one can only guess who and what they are. But when this is not explained in the text of the law, one may only make a helpless gesture and just wonder.

TOLZ. Natal'ya Viktorovna, you were going to tell us about your first visit to Gorky in greater detail.

HESSE. Yes. At that time I managed to stay there for a month, side by side with Sakharov and Elena Georgievna, who, however, often traveled to Moscow trying to do something there to make Andrei Dmitrievich's life easier. A lot of interesting things were going on. There was a stream of letters, great numbers of them, ten and occasionally a hundred a day. After a few days, I began to sort them out—having decided to take a look—because there were all kinds of letters: some greeting and supporting him, some bewildered, some neutral ones in which people asked him to explain his position—asking whether what the Soviet papers wrote about him were true.

But some of the letters were abusive—there were curses, there were threats. Some letters were, I would say, of an extreme nature. One letter was, in my view, very funny. We all laughed terribly when it arrived: "We, second grade pupils, sternly condemn the position of Academician Sakharov, who wants to unleash an atomic war between the Soviet Union's peaceful democracy and the rotten Western world. Shame on Academician Sakharov! Second grade pupils." Such a letter was obviously dictated by an illiterate teacher.

Another extreme letter was also very interesting and somehow simply touched one's heartstrings. It began with some swear words, but not obscene, no. And further, it said: "I am seventy-four years old. I am a constuction engineer. I live well and have a separate room in a hostel. The water pump is about 300 meters from where I live, and I have to carry firewood from the woods, but still I am a patriot. And your studies were paid for by Soviet money, but you have now betrayed your homeland." This letter was from a woman who represents one of the most terrible types of Soviet patriots. When a person exists at the very bottom level of human life and does not realize it—imagining that he lives well—this is very frightening.

After about a week I said: "Listen, these letters must be sorted out, so that we can see the result. There are already many hundreds of them, I'll review and assess them, and then we'll total them up." When all this was done, I loudly proclaimed: "Well, kids, this is terribly interesting: 70 percent are messages of greeting, 17 percent are neutral or expressing bewilderment, and only 13 percent are abusive ones." The result of this careless remark—made aloud—was very unexpected.

Letters with greetings and voicing approval simply ceased to arrive. From the very next day, we began to receive only abusive letters. This was evidence of very attentive and well-organized monitoring and a very careful analysis of all conversations within the apartment.

The second incident happened when I was already gone. I heard about it from Elena Georgievna. She had walked to the window, and looking at the joyless, empty lot covered with trash, and at the highway beyond with roaring trucks passing by, said: "From the window in Moscow one can see Red Square, but from this window, only a bit of the street, trash, and all kinds of shit. It is better not to look out the window." And then turning to Andrei Dmitrievich, who was standing behind her, she said: "You know, Andrei, I think I'll photograph this, take a picture and send it to the West. Let them look at this wonderful landscape." The next day three trucks arrived and soldiers collected all the trash on the empty lot in front of the windows. Commenting on this, Elena Georgievna used to say jokingly: "Thus I'll bring order to Gorky."

I have already said that Sakharov was not allowed to leave Gorky's city limits, to step beyond the sign with the name "Gorky." But the house itself—although within the city limits—is located near the border line. Then there is a ravine—also still within the city limits; it is a sort of an empty lot and a thick aspen grove. Andrei Dmitrievich and Elena Georgievna once decided to take a walk along a narrow path and—in accordance with the rules—two persons in civilian clothes tagged after them. The Sakharovs exchanged some glances and, having gone separately in different directions away from the path, hid in the thick bushes. Having lost sight of them, the agents began running to and fro. Within three minutes a helicopter arrived on the spot, descended to about five meters above the ground, and the KGBists with scared and fierce faces stared from all windows of the helicopter, trying to locate the Sakharovs. Thus it is impossible to hide from the KGB's "almighty eye" anywhere—even in thick aspen bushes.

The methods used to keep the Sakharovs isolated are sometimes pretty entertaining, I would say. Once, a famous musician—a guest performer from Moscow—visited Gorky, and they decided to go to his concert. They bought tickets beforehand and then came to the concert. It so happened that they had tickets for the fifth row, and they were surprised and amazed to discover that the four rows ahead of them were empty—there was not one person sitting there. Whether the people who had bought tickets for these rows had been reimbursed or had been prevented from attending the concert by some other method was unknown, but Andrei Dmitrievich and Elena Georgievna sat in the fifth row, with five rows around them—four rows in front and their own row—unoccupied. The row behind them was occupied by KGBists. Since then, the Sakharovs have avoided going to concerts. They have confined themselves to going to the cinema—in the darkness little attention is paid to them there.

TOLZ. Natal'ya Viktorovna, a persecution campaign against Sakharov has become especially intensive recently in the Soviet press, as well as in some books—one by Yakovlev, in particular. Please, tell us in greater detail about this stage of Sakharov's persecution that began, I think, about a year ago.

HESSE. First of all, I will tell you about the Yakovlev episode. Yakovlev has expressed himself in the most shocking manner—his writing cannot be called anything but slop. His book, CIA against the USSR, was published, I think, in 300,000 or 400,000 copies and was later reprinted several times with some changes (one should remember that with changes amounting to 20 percent of the original text, one can collect new royalties). He published this in the magazine Smena that has a circulation of 1.5 million copies and, finally, having redone it and having added a good dose of anti-Semitism, he published it in Chelovek i Zakon ("Man and the Law"). This sounds even more paradoxical, as this periodical has a circulation of almost eight million. So, together these two million have a circulation of about ten million.

Well, during our last meeting, Andrei Dmitrievich told me in detail about his encounter with Yakovlev, who, strangely enough, was allowed to come to Gorky. Sakharov was very elaborate in his narration, laughing and, at the same time, expressing horror at the extent of man's downfall.

His doorbell rang. Elena Georgievna was in Moscow at the time. Sakharov was alone and was very much surprised. He decided that it must be a telegram. He opened the door. There was an unfamiliar man standing there with a woman—a man advanced in years ("Of my own age," said Andrei Dmitrievich). Andrei Dmitrievich let them in, and the woman immediately asked whether she could smoke in the apartment. Being an extremely well brought up person, Andrei Dmitrievich showed them to the largest room, right across from the entrance, said "Please go in," and hurried into the kitchen to get an ashtray, as he himself does not smoke.

When he returned, his guests were already seated. He only had time to think: "Maybe some physicians have finally come from the Academy of Sciences in order to have me hospitalized finally." He thought so because a few months earlier, some physicians had come and had concluded that he was urgently in need of hospitalization. But these two were no medical doctors. The visitor by this time had already managed to display a pile of books and said: "I am Nikolai Nikolaievich Yakovlev. As you know, I am a writer. Or maybe you don't know this. But I brought you my books as a present and, if you agree, I will autograph them for you."

Andrei Dmitrievich was taken back somewhat by the unprecedented impudence and said: "I don't need your presents." He waved his hand, and one of the books fell on the floor. Nobody picked it up—neither Yakovlev nor Andrei Dmitrievich. But Yakovlev continued: "Well, I have published, you know, some articles. And so, we have recieved many inquiries, and I am unable to answer them all. Therefore, I came here to ask you some questions and to get answers that we could relate to our readers."

Andrei Dmitrievich retorted that he refused to talk to Yakovlev until the latter apologized in writing for slandering Sakharov's wife—Elena Georgievna Bonner—and her and his own—Andrei Dmitrievich's—family, as well as Andrei Dmitrievich himself. After this he grabbed the book, CIA against the USSR, which was lying nearby and feverishly began turning the pages. "How could you write such slander, such horrible slander? How could you have called our children 'smatterers' when they all have university education?". . . To which Yakovlev replied, unperturbed: "Yes, I know."

To most of Andrei Dmitrievich's angry questions, Yakovlev replied that he was aware of this or that. And only when asked, "How did you dare to write that my wife

beats me?" Yakovlev said, "Well, so I was told in the prosecutor's office." [1] This man (Yakovlev) is so replete with cynicism and is of such moral degradation that he has no idea of either conscience or shame.

They talked a few more minutes. Yakovlev said: "I am not going to write an apology. If you think this is slander, you can refer the matter to court. And, speaking generally, try to understand that we are defending you." Andrei Dmitrievich said: "I don't need your defense, and I am not going to go to court—I will just slap your face now." (It was at this point in the narration that I shuddered. I told Andrei Dmitrievich that this was terrible—that is was a frightful moment. And he said he felt the same way).

Hearing this, Yakovlev, who was sitting at the table, covered his cheek with his hand. This is the utmost level of degradation when a person cannot even face a slap honorably, openly like a man. He covered part of his face with one hand, but Andrei Dmitrievich, who has equal command of both of his hands—the left and the right one—slapped him on the unprotected cheek. At that point, Yakovlev and his companion ran away from the apartment—in the direct sense of the word: they jumped up, overturning chairs, and escaped.

Having finished the story about slapping Yakovlev's face, Andrei Dmitrievich said to me: "You know, I have seen many different people in my life, including many bad ones. But this is something out of Dostoyevsky, this is Smerdyakov. One cannot sink any further."

In Moscow, it is said about Yakovlev that his father had been a general, did some time in Stalin's concentration camps, and was later released, allegedly fought in World War II and even was promoted to the rank of marshal. Yakovlev himself—a student at that time—landed in the camps in the middle or at the end of the war on some, probably, insignificant charge (this was usual in Stalin's days), as he had never been an enemy of the Soviet regime. But when he was jailed, he immediately began to engage in slanderous accusations against all his acquaintances and allegedly dragged a multitude of completely innocent people into the hell of Stalin's camps.

When released, he was already a full-fledged informer and quickly began making a very successful career. He is an expert on America, and it is said that his books on historical topics are not bad at all. But those who know him also say that he is cynical in the extreme, that his motto is that the Soviet regime is so abominable that one can and must be a scoundrel, that everybody must become a scoundrel. Such is Yakovlev's position, and he practices it in real life perfectly well.

TOLZ. Natal'ya Viktorovna, could you say something concerning Soviet citizens' reaction—in Gorky, in particular—to this defamation campaign against Sakharov and his wife Elena Georgievna, which has now been intensified.

HESSE. Yes. The letter by four Academy members, directed against Andrei Dmitrievich, has played a certain role, although not a very big one within the context of the campaign of defamation and slander that has been unleashed around Andrei Dmitrievich and, particularly around Elena Georgievna. I think that the West is of the opinion that it was these four academicians' letter that played the principal part. (However, even among Academy members one can find alcoholics and people who would burden their conscience with heavy sins for their career's sake. And these four academicians, in particular, are known for being go-getters ready to do anything. They are known to have sunk very low and to have drowned themselves in alcohol.)

But in Gorky itself—and the campaign was unleashed mainly in Gorky—it was provoked not by the letter, which was published somewhere in the corner of a newspaper, but the fact that Gorky papers reprinted all of Yakovlev's insinuations concerning Elena Georgievna and, furthermore, added their own commentaries. Since then, at somebody's command, an extremely vicious campaign was organized. The Sakharovs were even afraid to go to the bakery because they would be insulted. People would holler at Andrei Dmitrievich and Elena Georgievna: "Your Yid-wife must be killed."

Their neighbor in the house had been helped by Elena Georgievna, who is a pediatrician (a very good pediatrician, an excellent physician), when the neighbor's child was suffering from an allergy and physicians in Gorky were unable to cure it. Elena Georgievna did help the child with her advice, and the child was cured. And this same neighbor used to cry: "It would have been better for my child to rot than to be touched by your dirty hands."

The Sakharovs' car would be covered with dirty graffiti: "War-monger, get away from here, away from our town!" This seemed to them (and I have discussed this at length with both of them) to be a spontaneous wave of wrath on the part of the people. But whenever I asked Elena Georgievna to describe each incident in detail, her story would always expose some "stage director" who directed each particular horrible act.

It is very easy to arouse indignation in our country. Indignation is fostered by the hardships of everyday life, by lines in front of the stores, by the whole drabness and oppression in Soviet reality, which is very hard. Therefore, it is sufficient to make just a little hole, to open up the valve just a bit, and one can direct the stream of hate and bitterness any way one wants to. When people are standing in a line, it is enough for someone to shout: "It's not his turn!" or "Don't give him two kilos instead of one!" and the crowd will release its anger upon the unfortunate victim. Thus it is a very simple task to orchestrate something like that.

As I said earlier, there was a stream of letters addressed to Sakharov. I did not have a chance to review them all, but I think the number of letters reflecting sincere views of their authors was much smaller in proportion to those dictated and organized by authorities.

TOLZ. Natal'ya Viktorovna, it is known from the letters received from Elena Georgievna and Andrei Dmitrievich that in the course of this persecution campaign, there were some very nasty incidents on the railroad. Could you tell us more about them.

HESSE. Yes, certainly. When this persecution campaign was in full swing, Elena Georgievna had to go to Moscow again in order to bring back some books necessary for Andrei Dmitrievich's scientific work and food and other products unavailable in Gorky. She was forced to carry and bring such products all the way from Moscow. She boarded the train, and when it was under way for two or three minutes, one of her traveling companions in the compartment shouted: "I recognize you! You're Sakharov's wife! I don't want to travel on the same train with you and to breathe the same air!" Another passenger—a man unrelated to this woman—sided with her. A third woman turned her face to the window and remained silent. "But you are Sakharov's wife, aren't you? continued the first woman in a loud voice. Elena Georgievna replied in the affirmative. "Get off the train!"

Elena Georgievna decided that she needed a moment to collect herself and went to the ladies' room. When she came out again, her male companion was already standing at the door hollering: "Stop the train! She has flushed something down the toilet. She is a CIA agent, one must search the tracks to see what she has gotten rid of!" Then the conductor arrived hurriedly at the scene and explained that she sympathized with those present and shared their feelings, but that this (Elena Bonner) was a passenger, she had a ticket and could not be forced to get off the train.

The passengers then demanded to speak to the person in charge, who, in turn, took Elena Georgievna to the service compartment. Passengers from other cars then started an organized pilgrimage to this compartment. They would peek in the door and pour abuse on Elena Georgievna. The woman who had earlier turned her face away was told by other passengers to express her indignation. She did so, although previously she obviously did not want to. When things quieted down and people fell asleep, a grey-haired lady came to the service compartment, embraced Elena Georgievna and said: "My darling, be strong, they know not what they do. They have been taught to act this way." She embraced Elena Georgievna once more and kissed her, and at this point, Elena Georgievna was unable to control her tears any longer and cried all the way to Moscow. And she had made the trip although she had still not completely recovered from a previous heart seizure that, I understand, she had suffered during one of her earlier trips by train as a result of being subjected to a humiliating search.

That these people had been directed to board this particular compartment in order to start a row and to provoke the easily directed wrath—that all this was orchestrated is, I believe, clearly obvious.

TOLZ. Natal'ya Viktorovna, you have now described one instance when Elena Georgievna witnessed a gesture of sympathy. Tell us, please, was this a unique incident as far as Elena Georgievna and Andrei Dmitrievich are concerned, or can one cite other similar cases?

HESSE. Of course, one can. I have witnessed some of them myself. The Sakharovs did not tell me about many things, but I've seen myself that people passing by the windows of their apartment would furtively glance around and, having made sure that no one was noticing, would wave at Andrei Dmitrievich.

Once we took a taxi because we just wanted to go sight-seeing around Gorky, and when Elena Georgievna and Andrei Dmitrievich left that cab for a moment, the driver quickly asked me whether this was Sakharov. I said yes, it was. "Ah, in this case I'll really make an effort and show all the beautiful places." And he took us around Gorky's ancient churches—some of them in

[1] Interviewer's note: At another point Hesse said she had been told that the editor, who had allegedly been working on Yakovlev's books, asked him once: 'Nikolai Nikolaevich, where do you get material for your abominable articles?" And Yakovlev said: "Does one need any sources for this?"

ruins but some of them still holding religious services.

During my next visit (incidentally, this happened to be my last visit; it was alone with Andrei Dmitrievich, Elena Georgievna was in Moscow at the time), the taxi driver didn't want to take on any passengers because he had completed his shift and was driving in a different direction. Eventually, we managed to talk him into driving us to the nearest taxi stop. Suddenly, in the midst of conversation, he, strangely enough, realized who his passenger was. He said: "I know now who you are. Now I'll drive anywhere you want to." "But this is not on your way," we said. "Doesn't matter, of course I'll do it for such a person." And he drove us wherever we wanted to go. First, we wanted to visit an old half-ruined church that was practically impossible to approach in a car because of the knee-deep mud. But this man would not let us get out of the cab. He said, "Oh, no. I will drive Sakharov anywere he has to go."

Sometimes these expressions of sympathy assume curious forms. Once I was returning from Gorky and had to share the compartment with two men on a business trip—apparently they were from the Gorky auto factory. They were grown-up, mature persons, very business-like. They talked about their business affairs, but then noticed me and asked where I was from. "From Leningrad," I said. "Did you stay long in Gorky?" "No," I said, I arrived there this morning." "What, this morning? Then you only spent-meet four hours there?" "Yes." "But what was the purpose of coming for only four hours?" I said that I wanted to visit some friends. "What kind of friends are they to force an elderly woman to come to Gorky on a four-hour visit? Couldn't they go and visit you instead?" I said that they couldn't because they were the Sakharovs.

Their faces turned impassive, and they resumed their business talk as if I wasn't there. After a while one of them said he wanted to go out to smoke a cigarette. Once he had left, the other one turned to me and showered me with questions: "Tell me, how does he live, how is his health? Listen, does he still work? Yes? And we were told that he didn't live in Gorky . . . What, you have seen him? Oh, do I envy you!"

At this moment, his companion returned and he fell silent. They talked among themselves for a while, and then the first one—the one who had talked to me—left the compartment. The second one began asking me the same questions and was full of sympathy. In other words, these are the people who, if told to denounce Sakharov at a meeting, would do it, but they are full of sympathy for him, are interested in him, support him in their hearts . . . They told me so themselves when left alone with me.

TOLZ. Natal'ya Viktorovna, everything you say is very interesting. It is especially interesting because, as you have mentioned earlier, the authorities, prior to unleashing the latest persecution campaign—Yakovlev's campaign, so to say—had been trying to create the impression that Sakharov no longer lives in Gorky. Could you add some details?

HESSE. Yes, of course. The disinformation service, which, I think, is becoming more and more important in Soviet life, now employs, I believe, some pretty intelligent people who understand what kind of disinformation should be fed to the masses. And so, the Gorky disinformation service originated the rumor that the Sakharovs were not living in Gorky anymore. I have met a number of Gorky residents visiting Moscow or Leningrad—sometimes these were acquaintances of my friends, sometimes just incidental encounters—and they swore that they knew what they were talking about; that they had information from, as they put it, dependable sources to the effect that Sakharov and his wife had been transferred to some secret institute—either in Arzamas or beyond Arzamas, or maybe in Ryazan. There are different rumors.

This business of making the Sakharovs "invisible" is monstrous to such an extent that when Liza Alekseeva and I came to Gorky (this was when they had ended their hunger strike and were taken to a hospital for treatment), we could not find them, even hospital employees could not find them, because their names had not been included in the hospital records. However, we insisted on seeing them, claiming that we knew for sure that the Sakharovs were in this particular hospital. Actually, we did not know anything, we had not been told which hospital they were in, and we had come to this one purely intuitively. As a result, the receptionist made some phone calls and then found the name of Belyaeva on one of the lists, and some other name that we were unable to discern but turned out to stand for Sakharovs. Thus even the hospital personnel had no idea who their patients were, even though the Sakharovs were sharing one and the same hospital room at the time. They were allowed to share one room when they ended their hunger strike. But when it suddenly was decided to unleash the defamation campaign, the authorities claimed that the Sakharovs did not live in Gorky anymore.

TOLZ. Natal'ya Viktorovna, it is known that Elena Georgievna Bonner does not stay in Gorky with her husband all the time and that she is obliged to come regularly to Moscow. What is her situation there? What is her general situation now?

HESSE. The conditions at their apartment in Moscow have become quite terrible since Andropov's taking over all the positions and jobs that he assumed. Now, in addition to two policemen posted at the entrance to the apartment itself (and it must be noted that whereas in Gorky they are ordinary policemen, in Moscow there are either senior lieutenants or captains on duty at the entrance to the apartment upstairs), there is also a police car with flashing lights guarding the downstairs entrance, and the man in charge has the rank of a major at least.

It is amusing that these policemen are in turn watched over by KGB agents in civilian clothes who make sure that the policemen dutifully carry out their mission. They all have portable radio sets on their shoulders, and they communicate with each other. All visitors are checked against a special list. If a stranger tries to pass through and his name is not on the list, he must show his documents, and if he does not have any, he is simply not allowed in. No foreigners and no journalists are allowed to visit the apartment. The telephone at the Moscow apartment has been disconnected ever since Andrei Dmitrievich's illegal exile to Gorky, but whenever Elena Gerogievna comes to Moscow, they disconnect even the public telephone in the booth downstairs and, in order to call someone, she has to walk almost a kilometer up a very steep hill, which is practically impossible because of her heart condition. All in all, Elena Georgievna's health is in a terrible state; she has not yet recovered from the first heart seizure; she takes up to forty nitroglycerine pills; her lips and finger nails are of a dark blue color; and she is terrible to look at.

Now, when she came to Moscow the last time, she wanted to come to Leningrad to see me off, but I went to Moscow myself instead because I learned from friends about her condition, and it was clear that no farewell parties were possible. It was at this time that she suffered her second heart seizure, not having been completely cured after the first one. In general, both of them are denied medical help.

Andrei Dmitrievich himself also has been in need of a medical checkup and treatment for a long time, and this was admitted by the physicians from the Academy of Sciences who visited Sakharov in Gorky the one and only time. We had some hope then that things would improve somewhat; but, like all our hopes, this one was also destroyed: Neither she nor he has been admitted to a hospital, although both are critically ill and in dire need of medical treatment.

And they cannot allow themselves to be treated by physicians in Gorky. These physicians displayed their true nature sufficiently during the Sakharovs' hunger strike. Other physicians at the Arsenal Hospital in Leningrad—it's a prison hospital—once proudly said that they are first and foremost "chekists" [2] and physicians only afterwards. Well, those Gorky doctors, not being professional chekists, nevertheless behaved accordingly, and it is therefore impossible to trust them and to be treated by them.

Once Andrei Dmitrievich was forced to go to a doctor because he had a toothache (and in such a case a person is willing to go anywhere), and the head of the dental clinic deceived him: she ordered him to leave his briefcase with his precious documents and manuscripts, and then personally turned the briefcase over to KBG agents. I think this incident is known in the West, but then she denied him medical treatment, claiming that he had insulted her—both as a woman and a citizen. It was naturally very strange to hear such words coming from this particular physician.

As I have already mentioned, Elena Georgievna is actually denied medical assistance in Moscow. A young woman who recently graduated from a medical institute visits her at home. I've been present during many of her visits. She respectfully and, I would even say, piously listens to advice from Elena Georgievna, who is a physician herself. She writes her own prescriptions and decides her own treatment. Nevertheless, she urgently needs hospitalization because her condition is becoming ever more critical and her strength is leaving her—the strength that seemed to be inexhaustible. "Constant dripping of water wears away the stone", as we say in Russia. But in this case there were not drops but heavy blows on the stone and it began to give in. During our last meeting Andrei Dmitrievich said: "The first thing to be done, the most important thing, is to force the authorities to allow Elena Georgievna to travel abroad for medical treatment. Tell the people you'll meet in the West that her death would be the end of me also. And being an eyewitness to all that has been happening, I can state that she is on the verge of dying, this is the truth."

We must do everything possible. I don't know, maybe the general public must appeal to their elected deputies so that they, in

[2] Members of Cheka, as the secret police had been formerly called.

turn, would query their respective parliaments in order to raise this matter at the highest possible level. This is very important, especially now that we'll have a new ruler, a new head of state. He might show his goodwill and prove to the world that the Soviet Union is really ready to be good and not evil.

TOLZ. Natal'ya Georgievna, the persecution campaign against Sakharov has been continuing for a long time, but it was especially intensified during the period that has now come to an end—the "Andropov era." Tell me, in your opinion—in the opinion of a person who left the Soviet Union only days ago—did the situation in the country change during this Andropov period in history?

HESSE. The regime has become extremely harsh. It began with mass round-ups of people in the streets, and in every city indignant people were told by agitators at meetings that these were only excesses on the local level. But the same thing was going on all over the Soviet Union, just like during collectivization. And, in general, the whole moral and spiritual climate in the country has become much harsher. It seems that it is difficult to breathe—just like it was in Stalin's days. This is a frightening feeling and it affects a person's whole being. The good situation in large cities has improved but the province remains hungry. In the large cities—in Leningrad, in particular—one can get meat, not always the kind one wants, of course, but we have become accustomed to this long ago. Sometimes one can get butter without standing in line . . . So, it is somewhat better in this sense. But, on the other hand, there is complete suppression of everything and not a gleam of democracy.●

THE U.S. MARSHAL'S OFFICE

● Mr. KENNEDY. Mr. President, over the years, the responsibilities of the U.S. Marshal's Office have undergone numerous changes. Those changes have not been reflected in the overall structure of the Office or in its hiring practices. A recent article in the Philadelphia Inquirer outlines the liabilities of continuing to make the Office of U.S. Marshal a political appointment. The article is written by Peter Vaira, a distinguished lawyer and former U.S. attorney for the eastern district of Pennsylvania.

As Mr. Vaira points out:

Today the Marshal's duties are complex and sensitive. The job demands a professional with years of specialized training in the agency. Instead, the selection process has produced too many U.S. Marshals who have lacked the necessary qualifications for the job.

Mr. President, I have many of the same concerns expressed by Mr. Vaira. I commend his article to my colleagues, and ask that it be printed at this point in the RECORD.

The article follows:

RID THE U.S. MARSHAL'S OFFICE OF POLITICS

(By Peter F. Vaira)

In each of the 94 judicial districts in the United States the heads of federal law enforcement agencies are professionals. Most of these officers have served in numerous districts, similar to executives of a corporation, working their way from smaller offices to larger ones. Each officer is selected on merit and can be transferred as the needs of the service require. None owe their jobs to any political figure.

There is one major exception the U.S. marshal for each district is appointed by the president upon recommendation by the United States senator from the state who is of the same party as the president.

This procedure inserts a key management person into a professional organization whose job depends upon a political patron—a figure who is usually unfamiliar with the service, and who, after he learns the operation, will depart with the next administration. In addition because the marshal is a direct presidential appointment, he outranks his superior, the director of the U.S. Marshal Service, who is not.

Whatever the historical reason for the current practice, it is time to change it.

In the not-too-recent past the U.S. marshal was regarded by many as a public official whose main function was to provide drivers for U.S. District Court judges and to see to it that order was kept in federal courtrooms. Times have changed.

Today the marshal's duties are complex and sensitive. They include transferring federal prisoners, apprehending fugitives, handling seized property, executing seizure warrants for contraband (often worth millions), acting as the custodian of government funds and administering the very sensitive federal witness protection program. The marshal is also responsible for the growing task of providing security for the federal judiciary.

The job demands a professional with years of specialized training in the agency. Instead, the selection process has produced too many U.S. marshals who have lacked the necessary qualifications for the job.

In the last 15 years, numerous U.S. marshals in every administration have been removed because of a lack of integrity or gross incompetence. The quality of leadership necessarily has an effect on subordinates. The current administration has made a sincere effort to upgrade the quality of marshals; however the selection still comes through the political process and the present marshals will be gone with the next change of administration.

On the other hand, all deputy U.S. marshals are hired and promoted pursuant to civil service rules. The chief deputy marshal of the district is a career law enforcement officer promoted from within ranks of the service. His main job is to manage the office for the political appointee.

In addition to creating management problems, this appointment procedure has a detrimental effect on ambitious, competent deputy marshals who know they will never rise to the top job unless they pick up an influential political patron along the way.

The reason for the present system is that existing law requires the marshal be appointed with the advice and consent of the Senate. By tradition, this gives the senators the right to recommend the appointment. The senator usually relies upon local political figures to recommend candidates.

For example, in the Eastern District of Pennsylvania (Philadelphia): When the Republicans are in office, the marshal is selected from Delaware County; when the Democrats are in office, the marshal traditionally comes from Schuylkill County. A convenient formula but not one geared to pick the best candidate.

The current procedure of requiring Senate approval of U.S. marshals is not mandated by the Constitution but is contained in the Judiciary Act of 1789. It can be changed by an act of Congress. Such a proposal has been suggested numerous times in the past but not actively pursued, presumably because of political opposition.

There is precedent for the change I suggest. In 1952 the district collectors of internal revenue (now called district directors) were removed from political patronage because of a widespread scandal. The change has resulted in a high degree of professionalism in that office. If the sensitive and confidential job of collecting taxes is a career position, there is no reason why the sensitive law enforcement post of U.S. marshal should not be.

It is time to put the U.S. marshal on the same level as other professional counterparts from the FBI, Secret Service, the Drug Enforcement Administration and the IRS. The U.S. marshal should be appointed from within the service by the director of the U.S. marshal service.

In this election year the presidential and senatorial candidates have an opportunity to initiate the necessary change in this old system.●

GENERAL DYNAMICS' FORT WORTH DIVISION RECEIVES DOD AWARD

● Mr. TOWER. Mr. President, recently, the Department of Defense presented its fiscal year 1983 Value Engineering Honorary Achievements Awards to aerospace/defense contractors. I am proud to say that the General Dynamics' Fort Worth Division was selected as the Air Force contractor recipient of the DOD award.

The award made on April 18 in Arlington, Va., during the American Defense Preparedness Association's Conference on Profitability and Resource Management and is another in a long series of accomplishments achieved by the men and women of General Dynamics/Fort Worth in the Air Force's outstanding F-16 program. Not only have the men and women of this company consistently produced F-16's ahead of schedule and under target cost, they have also proposed engineering changes resulting in lower spare parts and maintenance costs.

The DOD award to Fort Worth recognized $13.7 million in F-16 cost reductions, as well as life-cycle cost savings that will exceed $30 million which result from six value engineering change proposals submitted by General Dynamics employees in 1983.

A letter from Deputy Secretary of Defense, William H. Taft IV, to Herbert F. Rogers, vice president and general manager of Fort Worth, was read at the April 18 ceremony. In that letter Mr. Taft said it was a "pleasure to recognize a Department of Defense contractor for making a special effort to identify and eliminate unnecessary weapon system costs. The General Dynamics Fort Worth Divisions value engineering program has most assuredly contributed to the low cost variance of the F-16 air frame."

Accepting the award for Mr. Rogers was Ted S. Webb, Jr., division vice president of F-16 programs. John A. Mittino, assistant deputy under secretary of defense for production support, made the presentation.

Mr. President, I am immensely proud of the accomplishments of all the dedicated men and women of the Fort Worth Division of General Dynamics. I heartily commend them for their efforts to increase the efficiency and reduce the cost of our military aircraft procurement process.●

THE SOVIETS HAVE SEVEN "MX-EQUIVALENT" MISSILES, AND ALL OF THEM VIOLATE SALT I OR II

● Mr. SYMMS. Mr. President, President Reagan stated at his informal press conference on Monday, May 14, 1984, that the Soviet Union is now flight testing two new ICBM's, the MIRV'd SS-X-24 and SS-X-25, and have others under development. President Reagan's last statement is what is most significant. There are now reports that the Soviets have three new ICBM's under development, two previously projected using liquid propellants, and most recently one with solid propellants.

Mr. President, I shall ask that two recent newspaper articles be printed in the RECORD. The first is from the Baltimore Sun of Sunday, May 13, 1984. It was the lead front page story, by Charles Corddry, entitled "Soviet Plans Giant Missile, Report Says." The second is from the New York Times of May 12, 1982, by Wayne Biddle, entitled "MX Basing Reported Linked to Cut in Its Range." These articles make several significant points relevant to the vote on MX today in the other body, and coming soon in the Senate.

First, it is now revealed for the first time that the Soviets have yet another new ICBM, dubbed by some intelligence experts the SS-X-26, which will evidently replace either the huge SS-17, SS-18, or SS-19 ICBM's carrying MIRV warheads. What is most significant about this first report of the new SS-X-26 is the fact that it is believed to use solid propellants. The new SS-X-26 will be the third Soviet new type ICBM, but SALT II allows only one. The Soviets have already told us that their SS-X-24 equivalent is their one allowed new type ICBM, but the SS-24 is being illegally encrypted. Their new SS-25 is their second new type ICBM, and it is illegal in at least three ways under SALT II. The SS-X-26 will be their third new type ICBM, also illegal. It too will probably also be encrypted, still another violation.

It will probably be quite easy to prove that the SS-X-26 is a new type ICBM, because it evidently has solid propellants. Solid propellants reportedly can be detected readily by national technical means of verification, and reportedly, cannot be masked by encryption of electronic missile telemetry signals. SALT II's article IV specifies that a new type ICBM is defined by eight characteristics in distinguishing it from existing ICBM's, including type of propellant. If the SS-X-26 is designed to replace either the liquid propellant SS-17, SS-18, or the SS-19, and if it uses solid propellants, this will be a clear cut SALT II violation which will be readily detected on its first flight test.

Second, the Soviets now already have five MX equivalent missiles. These include 818 SS-19, SS-18, and SS-17 MIRV'd ICBM's, carrying almost 6,000 warheads. There are reports that each SS-18 carries 14 warheads, instead of the 10 allowed by SALT II, which would add over 1,000 more warheads for a total of 7,000 Soviet ICBM warheads. They also have the SS-24 MX equivalent ICBM, each reported to carry 10 MIRV warheads. This missile will reportedly be deployed in both silos and on railroad cars. Thus an initial deployment of about 200, carrying 2,000 warheads, can be estimated. This deployment would make 9,000 Soviet ICBM warheads. And now the Soviets are about to test their huge new SS-X-26, which would be their fifth MX equivalent ICBM and their third new type ICBM, two more than SALT II allows.

The Soviets already have deployed over 3,850 new warheads since SALT II was signed in 1979. The number of their warheads targeted against the United States has increased by a factor of about 75 percent since 1979. Indeed, the Soviets have been deploying over 1,000 ICBM MIRV warheads per year during the last few years, which is more warheads each year than the United States would deploy in its entire program of 100 MX's with only 1,000 warheads, beginning in late 1986 and expected to be completed by as late as 1989. Thus by 1989, the United States would have 2,800 ICBM warheads, compared to as many as 9,000 for the Soviets.

And now we find that critics of the MX are even attacking it on the ground that because its throwweight and range have been constrained in order to comply with the unratified SALT II Treaty, the MX is somehow an inferior missile. This is the height of irony. The U.S. MX is constrained to comply with SALT II, while the Soviets have seven MX equivalent ICBM's, all of which violate SALT II or SALT I.

The SS-25 and SS-X-26 violate article IV of SALT II allowing only one new type ICBM. The Soviet heavy SS-19 ICBM violates or circumvents article II of the SALT I Interim Agreement which prohibits heavy ICBM's from replacing light ICBM's. And the SS-24's full encryption violates SALT II's Article XV. The SS-18 has also been illegally encrypted in tests during 1978 and 1979, and probably carries 14 MIRV's each, when only 10 are allowed. All the new Soviet ICBM's would presumably also be fully encrypted, in violation of SALT II. The SS-17 and SS-19 are likewise being encrypted in violation of SALT II.

There are reports of still more Soviet MX-equivalent ICBM's to come. The latest edition of Soviet Military Power for April 1984 also projects liquid fuel follow-ons to the SS-18 and SS-19. This would make a total of seven Soviet ICBM's which are equivalent to the U.S. MX, and can be seen to violate SALT, either because of their probable or actual encryption or because of their probable or actual characteristics.

Thus it is fair to conclude that all seven Soviet MX equivalent ICBM's violate SALT, while the U.S. MX has been reduced in capability in order to comply with the unratified SALT II Treaty.

In sum, the Soviet MX equivalent ICBM's which violate SALT I or SALT II are as follows:

First, SS-17—encryption.

Second, SS-18—14 warheads and encryption.

Third, SS-19—heavy ICBM and encryption.

Fourth, SS-24—encryption. (SS-25—2d new type, RV to throw-weight ratio, and encryption.)

Fifth, SS-X-26—3d new type and encryption.

Sixth, probable liquid propellant SS-18 follow-on and SS-19 follow-on—both probable encryption and new types.

The editorials follow:

SOVIET PLANS GIANT MISSILE, REPORT SAYS

(By Charles W. Corddry)

WASHINGTON.—The Soviet Union is believed to be developing a gigantic new intercontinental missile, comparable in size to its existing SS-18, that carries up to 10 nuclear warheads, according to an intelligence report circulating in the government.

The report, still subject to further analysis and confirmation, says the missile is believed to have rapid-firing, solid-propellant rocket motors instead of the liquid-fueled engines powering the SS-18, at present the largest missile by far in either superpower arsenal.

The reported new weapon has not yet been flight-tested, according to the analysis circulating in government quarters.

Sources, who confirmed the report's existence and requested anonymity, said such a development would violate the terms of the 1979 strategic arms limitation treaty (SALT II). The pact was never ratified by the United States, but both Washington and Moscow say they abide by its terms.

The treaty allows each side to flight-test and deploy a single new type (the term "new type" being carefully defined) of intercontinental ballistic missile.

The Soviet Union already has notified the United States that its new type, as allowed

by the treaty, is the SS-24, a weapon reckoned here to be the equivalent of the American MX.

The MX missile, expected to face a stiff new challenge soon in the House but not in the Senate, is to carry 10 warheads, as does the most heavily equipped version of the SS-18. But the lifting power of the Soviet rocket is such that it could carry up to 25 warheads.

Sources here said there is some evidence that the Russians are making the SS-24 mobile on rail tracks, somewhat in the way that was once envisioned for the MX.

U.S. analysts believe Moscow also has a second new type in its SS-25 rocket. The Soviets contend that weapon is an upgraded version of the existing SS-13, as permitted by SALT II. But American analysts say it exceeds the allowances for modifications.

Subject to further evaluation of the new report, some government sources said an improved behemoth of SS-18 size may be—or may be claimed to be—a modified SS-18.

MX BASING REPORTED LINKED TO CUT IN ITS RANGE

(By Wayne Biddle)

WASHINGTON, May 11.—The Air Force changed its basing plans for the MX missile last year to make up for shortcomings in its range, according to a General Accounting Office report and Pentagon sources.

Its basing in Wyoming and Nebraska was recommended by the President's Commission on Strategic Forces in April 1983. In its report, the commission said this would help support arms control negotiations, display national resolve and redress an imbalance with the Soviet Union. The commission's report made no mention of MX range problems as a factor in choosing the existing silos.

This and other disclosures of technical difficulties in the MX project come after more than a decade of development and days before a crucial vote in Congress that could decide its fate. House leaders say they believe sentiment is strong enough to cancel the multibillion-dollar project, which has been a cornerstone of the Reagan Administration's military buildup.

Throughout the 1970's, MX basing was planned farther south, in the Great Basin region of Nevada and Utah. But according to Pentagon sources close to the MX program, the missile suffered a drastic decrease in the total distance it could fly when the warhead it was designed to carry was replaced in 1982 by a heavier model.

Because of this shortened range, the sources said, a decision was made to base the missile system in existing missile silos in Wyoming and Nebraska, where it would be closer to Soviet targets on a flight across polar regions.

The sources said that while the missile was still judged to be an adequate strategic weapon, it was already near the limit of performance.

A new report on the MX project by the General Accounting Office that has been circulating on Capitol Hill for several days said that when the original warhead, the MK-12A, was replaced with the heavier MK-21, "not all of the weight increase could be accommodated in the throw weight limits established, by the unratified SALT II treaty."

Throw weight is the total warhead poundage a missile can lift toward its target. The limits were established by the second strategic arms limitation treaty, concluded between the Soviet Union and the United States in 1979.

"As a result, the amount of propellant had to be reduced to keep throw weight within limits, with a further decrease in range resulting," the report explained.

Because the MX has not yet been launched in a live test carrying a dummy of the New warhead, there is uncertainty about its performance.

"Until a design of the MK-21 reentry vehicle has been proven and an operational reentry system fabricated, its final deployed weight will remain uncertain," the GAO report said. The reentry system consists of the MX's nuclear bombs and various devices that control them after they separate from the booster rocket itself.

Pentagon sources said the Air Force had decided to use the new warhead because its design offered a saving on scarce materials needed to create a nuclear explosion. It is also thought to be more accurate than the original warhead. The sources said that both devices had the same explosive power, which is believed to be equivalent to about 300,000 tons of TNT. The Hiroshima bomb was equivalent to about 12,500 tons of TNT.

UNRESOLVED TECHNICAL ASPECTS

The GAO report noted that other basic technical aspects of the MX missile also remained unresolved. For example, the Air Force decided in 1982 to develop a new type of fuel tank for one of the missile's four stages. But it will not be flight-tested until the latter half of 1985, the report said. Congress directed the Air Force last year to begin fielding operational MX missiles by the end of 1986.

In addition, critical parts of the missile's guidance and control systems "are in various stages of redesign and testing," the report said. The first missile incorporating all these changes will not be tested in time to permit alterations in MX's fielded in 1986, the report said.

"To comply with the congressionally mandated initial deployment date, the Air Force developed a tight, success-oriented schedule," the report said. "Testing is out of sequence," it added, with three flight-tests to verify performance coming after the missile is already in the field.

In a statement citing Air Force sources that brought strong denials from the Pentagon, the GAO report said that since 1979, the Soviet Union has strengthened by a factor of three the ability of a majority of its missile silos to withstand nuclear explosions.

REFERENCE TO PROBLEMS

The report added, "Changes in the threat a weapon system is expected to overcome can have a negative affect on the ability of the system to accomplish its mission." It suggested that improvements in the MX's accuracy or explosive power might be necessary to destroy the stronger Soviet silos.

But Joseph Bohan, GAO group director for national security, said today that the report meant to say that Soviet silo strengthening was expected over the lifetime of the MX system, presumably well into the 1990's.

Pentagon sources close to the MX program said that while Soviet silo "hardness" was indeed increasing, the Air Force had anticipated it and felt that the MX remained a capable weapon.

This issue of how strong silos can ultimately be made is one of the liveliest elements in the longstanding MX debate. A Congressional Budget Office study released in March estimated that modern Soviet silos could withstand blast pressures of about 4,000 pounds per square inch. American silos built for the Minuteman missile of the 1960's are believed to be capable of withstanding at least 2,000 pounds per square inch.

In his January report to Congress on missile modernization Secretary of Defense Caspar W. Weinberger said that tests of scale-models suggest that "levels more than 25 times that of current U.S. silos may be achievable."

But many experts believe that even such "superhard" silos may be made obsolete by advances in missile guidance. Maneuverable warheads similar to those used on the Army's Pershing 2 missiles in Europe have the theoretical potential to provide near-bull's-eye accuracy, making all silo-basing of strategic missiles essentially obsolete.●

CENTENNIAL OF WALLACE, IDAHO

● Mr. McCLURE. Mr. President, this Saturday marks a special occasion in the history of the State of Idaho. For it is on this day that the town of Wallace celebrates the 100th anniversary of its founding.

Wallace is a small town in the panhandle region of Idaho, which serves as a community center for several thousand people. While it is small in size, it is large in the Nation's stature, for Wallace rightfully claims the title as the "Silver Capital of the World."

When mining fever hit the Idaho Panhandle in the late 1800's, prospectors throughout the West broke camp and set their sights on the Coeur d'Alene region—one of the last mining districts to be discovered in the 19th century.

One of these prospectors was Col. W. R. Wallace, who worked several mining claims in the area. To serve as his base of operations in the area, Colonel Wallace built a small cabin along the Mullan Road—the main thoroughfare connecting western Montana to the Washington coast. Other prospectors soon followed the colonel's lead, and the town of Placer Center was born.

Newspapers advertised the new town of Placer Center as "a good point for prospectors who intend to put in a summer's work." The strategic location of the town was also appealing, since it sat at the confluence of five major canyons where claims were being staked at a furious pace.

In 1886, Lucy Wallace, the colonel's wife, became the town's first postmistress. Over her husband's objections, Lucy renamed the town as Wallace, since the Postal Service said that Placer Center was too long a name for the town.

As the discovery of silver, gold, and other minerals grew, so too did the town of Wallace. Stores, stables, and saloons sprang up, and in 1896 the town opened its own Masonic opera house.

While Wallace has known its good times and prosperity over the last 100 years, it has also seen the worst of times. Fire gutted the town twice, in 1890 and 1910, and four major floods wrought millions of dollars in damages. And like many other mining communities, Wallace has suffered the terrible tragedy of losing friends and family in mining accidents. Most recently, 91 men died in 1972 when fire swept through the Sunshine Mine.

But like the prospectors who first settled the region, Wallace fended off adversity and always came back stronger.

Four of the world's leading silver mines are located in and around Wallace—the Sunshine, the Galena, the Coeur, and the Lucky Friday. In the 100 years since the first prospectors staked their claims, over 981 million ounces of silver have been produced from the Wallace region.

In addition, the region has produced a total of 503,000 ounces of gold, 8.3 million short tons of lead, and 3.1 million short tons of zinc. The remarkable mineral finds in this region have contributed significantly to our national defense, to our Nation's businesses that rely on these materials, and to the economic vitality of the Gem State.

Mr. President, one of the sayings in my State is that, "Idaho is what America was." And a visit to Wallace never fails to remind me of that. Much of the town looks as it did during the mining heyday of the 1890's, and the people of Wallace are still as hard working and friendly as their ancestors.

It took a lot of hard work, faith, and dedication to build a community in an area where, as one of the region's historians aptly put it, the hillsides are as steep as a cow's face. I will be honored to participate in the centennial ceremonies on May 19, and to celebrate their hearty spirit that keeps the Old West alive today. I hope my colleagues will join with me in saluting Wallace, Idaho, as it celebrates its centennial.●

GOOD CITIZEN FOR 1984

● Mr. MITCHELL. Mr. President, on April 18, 1984, an exciting event took place for the State of Maine and more specifically, for Miss Lynn Lena Levasseur of Van Buren, Maine. Miss Levasseur was honored here in Washington as the National Daughters of the American Revolution Good Citizen for 1984. Lynn has the distinction of being the first national winner from the State of Maine, during Van Buren High School's first year of participation in the contest. She is the daughter of Mrs. Lena Levasseur and the late Gerald Levasseur.

Lynn Levasseur is exemplary of all the qualities expected of the DAR good citizen: Leadership, dependability, service and patriotism to God, home, and country. She is involved in many school and community activities including: soccer, gymnastics, cheerleading, the student council and student senate, math club, high school band, drama club, parish youth group where she is vice president and teaches a sixth-grade religion class, and she writes a weekly article in the St. John Valley Times. Lynn has maintained a 4.0 grade average and is first in a class of 108. She has a part-time job after school at a local pharmacy.

In her winning essay on the subject of "Our American Heritage and My Responsibility to Preserve it," Lynn makes a statement worth repeating.

My American Heritage can be compared to a two-century-old house which I have inherited by reason of birth. One of my responsibilities to this house is to see that its walls always remain sturdy and in top-notch condition. These walls can be compared to the Constitution of the United States, for just as a wall unites its inhabitants and is strong and protective, so too is the Constitution. It has prevailed over the winds of war from outside and within its walls (Civil War). It guarantees freedom and offers protection to all who enter the home.

As a national winner chosen from over 9,000 DAR good citizens in the 50 States and 5 foreign countries, Lynn has reason to be very proud. I congratulate her and wish her the best of luck in all her future endeavors.●

ANTISATELLITE WEAPONS CAN BE EFFECTIVELY VERIFIED

● Mr. PRESSLER. Mr. President, on March 31, 1984, the administration released a report on Asat arms control which contends that Asat's cannot be verified. Those preparing the administration's analysis were directed to address a so-called comprehensive Asat ban. With this as a mandate, there was little doubt from the outset that the administration's study would conclude that a space arms control ban would be unverifiable.

But this point of departure for judging an Asat accord is not fully accurate. By asking government specialists to identify all possible threats faced by U.S. satellites, it was certain that these analysts would identify space threats that are both real as well as remote. At least one of the threats identified, that of space mines, was totally unreal. Given such a broad range of possible threats that would have to be included in a so-called comprehensive Asat ban, space arms control was judged to be an impossible venture.

However, if the same standard of verification used in the March 31 report were applied to nuclear arms control, there would be no hope of ever negotiating an accord or of bringing an end to the nuclear arms race. Let me cite two examples. The March 31 report states that while residual Asat threats exist, such as the potential for transforming a satellite into an Asat by jimmy-rigging it with explosives, there is little hope of effective verification procedures. But if the United States were to refuse to limit offensive nuclear delivery vehicles until residual delivery capabilities were eliminated then there would be no prospect for reducing the nuclear threat until commercial airliners were banned. Any airliner can be used to deliver a nuclear bomb. This is an unnecessary and unrealistic standard of verification, whether it applies to Asat's, as is now the case, or to nuclear weapons.

Second, the report takes the view that until we have resolved all verification issues, the United States cannot enter into negotiations. But such a standard has not been applied in opening START and INF talks. The United States agreed to both nuclear arms control negotiations without having all verification problems resolved in advance. To this day, many INF and START verification issues are still unresolved. But negotiations provide a forum for getting at the answers. Only by directly talking with the Soviets can we hope to learn what is and is not possible in the area of arms control verification.

It is my view and that of many leading experts on arms control and space systems that if we focus our arms control efforts on the most direct threats to U.S. satellites, we can reach an accord that is effectively verifiable. This applies to the Soviet Union's dedicated SS-9-launched Asat system. It is associated with a few known launch facilities. These can be observed by national technical means of verification. If, for instance, the Soviets were to dismantle its SS-9 launch pads, they would be denied the ability to launch the Soviet co-orbital Asat from the one booster with which it has been tested. Destruction of the SS-9 launch pads can be monitored by national technical means of verification.

Concern has also been raised about the Soviet Union's high-energy laser facilities as a potential threat to United States satellites. In the view of some leading specialists, the Soviet Union's high-energy laser Asat potential is today limited at best. But if we can effectively contain these programs by strictly limiting high-energy laser tests, we can hope to prevent advanced development of these systems. Without such strict limitatins, Soviet high-energy lasers will improve and will become a major threat to United State space assets. Arms control is essential if we are to halt, if not reverse, this trend. These facilities are few in number and the United States can effectively monitor activities at high-energy laser sites.

Similar limitations need to be place upon the Soviet Galosh ABM system. The Galosh ABM around Moscow is permitted under the ABM Treaty and is limited to 100 interceptors. Antimissile defense is its primary role. Its potential against satellites is limited. Destroying U.S. satellites with nuclear explosives is a high-risk venture since Soviet satellites in the vicinity could also be destroyed. The use of a nuclear system against United States satellites could backfire on the Soviet Union. It is, however, in our interest to assure that the Galosh system is not improved to effectively attack satellites. One way of doing this is strict limitations prohibiting testing of this ABM system in an Asat mode. Unless such limitations are quickly imposed, the Galosh's Asat potential could become an Asat capability. The way to prevent this is to negotiate an Asat accord.

If Asat arms control can ban the Soviet Union's dedicated Asat and strictly limit the Asat potential of embedded systems, the United States can turn to satellite survivability measures to deal with other threats. Conversely, if there are no Asat bans or strict limitations, our survivability measures may be of little value. In this way, arms control and countermeasures can work hand-in-hand to defend U.S. space systems. Arms control can greatly mitigate the major threats to U.S. satellites and survivability measures can do much of the rest.

The March 31 report postulates additional threats. But in their desire to identify every possible item that can potentially harm satellites, the report fails to separate those threats that are real and are verifiable from those threats that are nonexistent, or remote and manageable by countermeasures.

This view is supported by conclusions reached by a panel of experts convened at my request by the Office of Technology Assessment in January. The OTA panel's report, entitled Arms Control in Space, has just been released. the panel, chaired by President Kennedy's national security adviser, McGeorge Bundy, concluded that some Asat arms control provisions could be verified with "high confidence" and that Asat arms control "can serve to lessen the measures required to protect space systems." Those arriving at these and other judgments came from America's nuclear weapons laboratories, defense industries, strategic think-tanks and universities, and including opponents and proponents of space arms control.

Also, last week a very important article on space arms control verification, space system survivability and the Soviet space threat appeared in Science. Written by R. Jeffrey Smith and entitled "Aerospace Experts Challenge Asat Decision," the article is based upon on-the-record interviews and congressional testimony given by senior defense industry experts, former intelligence community members, representatives from the nuclear weapons laboratories, and top military personnel. Three key points are made in this article: A space arms control accord can be effectively verified; some threats to U.S. satellites exist only in some peoples' imagination; and, survivability measures can effectively counter those lesser threats to satellites, not easily susceptible to verification procedures.

Here are a few of the assessments quoted by Mr. Smith in his science article:

Space mines are presented in the March 31, Asat report as a significant and unverifiable Asat threat. Yet, James Reynolds of Northrop Corp. believes that they exist only in the minds of Asat arms control opponents. He states, "The people who postulate this threat do not know a spacecraft from a frying pan." Reynolds is a leading satellite program manager.

Low-powered lasers are held up as another unverifiable threat to satellites. Yet, Michael May, the associate director of Lawrence Livermore National Laboratory states they are only effective if U.S. satellite designers are remarkably careless in failing to provide readily available counter-measures.

Verification of Asat tests are another supposed barrier to arms control. But, Raytheon Corp.'s Leslie Dirks states: "I'm quite confident that testing things surreptitiously in space is a hard thing to do, and the United States has very robust detection capability in this area." Dirks previously served as the CIA's deputy director for research and technology.

Verification of high-powered lasers is a hindrance to Asat arms control, according to the March 31 report. Dr. May believes the contrary. He asserts "the installation of high-power laser systems would be easily detected."

The possibility of diverting peaceful space systems to an Asat role is held up as another hurdle to arms control. Walter Slocombe, a former senior DOD official, states: "In a crisis involving low-level United States-Soviet hostilities, only high confidence, high precision Asat systems would suffice. Jury-rigged systems are clearly inadequate."

Covertly developed and untested Asat's are another alleged block to arms control. To this, Raytheon's Dirks states, "I know that the Soviet military would be very unwilling to depend on a system that has not been fully tested."

Countering Soviet ocean surveillance satellites is cited as a reason for proceeding with the U.S. Asat in the March 31 Asat report. But Navy Vice Adm. Gordon Nagler told the House Appropriations Committee that the Navy can deal with the Soviet surveillance threat through countermeasures not requiring Asat's. Nagler told the committee in closed session "how we can avoid" the Soviet ocean surveillance threat.

Mr. President, I urge that Senators read the OTA Asat report and Jeff Smith's Science article. These two publications should answer many of the questions raised on the advisability of proceeding toward an Asat arms control accord. There is little doubt that the United States should proceed immediately to talks that would halt the space arms race now, while it is still possible to do so.

Mr. President, I ask that Jeff Smith's Science article and the OTA's press summary of its report on space arms control be printed in the RECORD.

The material follows:

[From Science, May 18, 1984]

AEROSPACE EXPERTS CHALLENGE ASAT DECISION

(By R. Jeffrey Smith)

A major congressional fight is brewing over President Reagan's recent decision to postpone, perhaps indefinitely, any efforts to limit the development of antisatellite weaponry. Some influential Republicans have joined a large group of Democrats in an attempt to force a reversal of the decision, a development that may lead to a major defense policy setback for the Administration.

The vehicle for this campaign is a resolution to be considered on the Senate floor within a week or two, which demands a temporary halt in the ongoing U.S. effort to develop and deploy an ASAT, or antisatellite weapon. It also demands prompt talks with the Soviets on "a mutual and verifiable" ASAT arms control treaty. Introduced by Senator Larry Pressler (R-S.D.) with 20 cosponsors, the resolution won unanimous support from the Senate Committee on Foreign Relations last fall. But the Administration is lobbying aggressively, and its proponents forecast a close vote.

A similar attempt to force the President's hand is planned in the House of Representatives, where a newly formed umbrella organization known as the Coalition for the Peaceful Uses of Space will try to eliminate funding for ASAT testing and procurement during upcoming deliberations on the 1985 defense budget. Membership in the group, which is led by Representative George Brown (D-Calif.), includes representatives of the Union of Concerned Scientists, the Federation of American Scientists, Physicians for Social Responsibility, the Council for A Livable World, and the Arms Control Association. A resolution in the House, similar to Pressler's but sponsored by Representatives Norman Dicks (D-Wash.), Albert Gore (D-Tenn.), and Les Aspin (D-Wis.), has 52 cosponsors.

The rationale behind Reagan's decision is laid out in a 16-page report. *U.S. Policy on ASAT Arms Control,* released by the White House on 31 March. Much of the report is devoted to the elaboration of an argument that arms control advocates already concede: a total ASAT ban is infeasible because Soviet compliance could not be adequately verified. The problem stems from the relatively small size of the existing Soviet ASAT, as well as general U.S. ignorance of

the number produced to date—factors that would obstruct any verification of their destruction. Given this obvious encumbrance, a treaty entirely barring ASAT possession has attracted only slight interest.

More to the point is a brief section in the Administration report devoted to problems associated with potential agreements that fall short of a total ban. Last year, for example, the Union of Concerned Scientists drafted a treaty that would ban ASAT testing, deployment, and use, but not possession (*Science*, 28 October 1983, p. 394). Its guiding principle was the common notion that no weapon is truly threatening until it has been thoroughly, realistically, and successfully tested, and that any significant tests of ASAT systems could be observed by the other side.

In its report, the Administration throws cold water on the proposal by asserting that circumvention of a ban on ASAT testing and deployment would be nearly impossible to detect, because so many legitimate space activities incorporate ASAT technology. As Kenneth Adelman, director of the Arms Control and Disarmament Agency (ACDA), explained in recent congressional testimony, "the fact that many systems not designed to be ASAT weapons nonetheless have inherent ASAT capabilities . . . [implies] that a truly comprehensive ban on tests of all means of countering satellites is simply not possible."

Public debate on this claim, which lies at the heart of the President's decision, is hindered by the President's understandable reluctance to specify, on an unclassified basis, the limits of U.S. intelligence capabilities in outer space. "Our chance of monitoring some potential ASAT tests is 10 percent or less," says Richard Perle, an assistant secretary of defense, "but of course I can't say which ones." He suggests that participants in the debate take his word for it that, with regard to an ASAT treaty, "lack of verifiability is a show-stopper." Many members of Congress are persuaded. For example, Senator John Warner (R-Va.), a former Secretary of the Navy who chairs a key subcommittee on strategic weapons, says that "a careful reading of [the Administration's report] can result in only one conclusion: The prospects regrettably are limited and the pitfalls are plenty."

This assessment is challenged, however, by a host of weapons designers and intelligence analysts with extensive experience in the aerospace industry, who say that the risk of undetected Soviet cheating pales in relation to the overall benefits of an ASAT treaty. William Colby, who directed the Central Intelligence Agency (CIA) during the Ford Administration, for example, claims that "we do a pretty good job of verifying today what the Soviets are doing, and a treaty generally makes the process easier. Verification is not an absolute. We are better off if an activity is essentially stopped, even with a possibility for marginal cheating, than we are if the technology is left unconstrained."

Leslie Dirks, a Raytheon Corporation vice president who retired in 1982 after 6 years as the CIA's deputy director for research and technology, agrees. "I'm quite confident that testing things surreptitiously in space is a hard thing to do, and the United States has a very robust detection capability in this area," he says. "It would be pretty difficult to guarantee absolutely that no testing was going on. But I hope one would take a liberal view of the verification problems, and be prepared to take a few risks, because there are clearly strong U.S. national interests in [signing] a treaty that would deter continued testing of the existing Soviet ASAT or prevent the development of a better Soviet system."

One of the few ASAT technologies advertised by the Administration as a potential outlet for cheating is the laser, which could be deployed either on the ground or in a high-flying aircraft. Construction of a laser capable of striking a swiftly moving satellite poses a formidable technical challenge, particularly if the laser is also moving, as on an aircraft. Nevertheless, the fear is that such a weapon could be used either to burn out the electronic circuitry or to ruin the optical sensors of satellites overhead, following an extensive program of secret testing. According to the Pentagon's latest published estimate, the Soviets could test a ground-based laser by the late 1980's, and begin to operate it by th early- to mid-1990's.

Michael May, the associate director of Lawrence Livermore National Laboratory, agrees that under certain conditions, tests of ground- or air-based lasers would indeed be difficult to detect. He points out, however, that the useful range of such lasers is limited, with the result that many high-powered lasers would have to be constructed in order to mount a significant attack on U.S. satellites. "The installation of a high-powered laser system would be detectable," he says, adding that detectable lasers can also be watched. Low-powered lasers, which could be substantially smaller and thus less easily detected, would be effective against U.S. satellites only if American designers are "remarkably careless" and fail to include various straightforward laser countermeasures, he adds. Citing a need for secrecy, May is vague about what these countermeasures might be. But other experts say that it is easy for a satellite to detect laser illumination, and that it is possible to block the entrance of high-intensity light into optical systems by installing fused shutters.

The Administration also argues that the Soviets could secretly test the technology needed for so-called space mines, or satellites capable of maneuvering near their targets and exploding on command. "Any nation routinely conducting space rendezvous and docking operations, as the USSR does, could, under the guise of that activity, develop spacecraft equipped to maneuver into the path of, or detonate next to, another nation's spacecraft," its report states. Some officials in the Air Force Chief of Staff's office, in particular, are known to be concerned that an attack by secret Soviet space mines could be effectively used in the opening stages of a nuclear attack.

This assessment is challenged by several experts, however, including James Reynolds, a manager of aerospace activities for the Northrop Corporation who formerly managed the Navstar and Satellite Communications System programs for the space division of the U.S. Air Force. "The people who postulate this threat don't know a spacecraft from a frying pan. It is highly improbable," he says. "You are taking about a complicated space system, with multiple rockets, sensors, payloads, and ground control. The mines must be situated next to everything of importance we have in space. And they must be on-line 24 hours a day, ready to detect evasive maneuvers and come after us, even though it takes twice as much fuel to follow as it does to evade. How much do you think the Soviets are willing to spend on this? How many mines will it take to guarantee 98 or 99 percent success? Virtually an infinite number! Now are they dumb enough to spend all their resources on that, or are they likely to build more missiles or put more tanks in Eastern Europe? There's a smarter way to fight a war."

Dirks agrees that a surreptitious space mine attack is improbable. "Any substantial space mine system would be discovered by U.S. ground-based capability," he says, and goes on to make a broader point that with any potential surreptitious ASAT threat, the issue is not whether the Soviets can test components but whether they can test the entire system. "I spent about 20 years engaging the Soviets on this issue, and I know that the Soviet military would be very unwilling to depend on a system that had not been fully tested." Walter Slocombe, who served from 1979 to 1981 as deputy secretary for policy planning in the Defense Department, also makes this point: "In a crisis involving low-level U.S.-Soviet hostilities, only high-confidence, high-precision ASAT systems would suffice. Jury-rigged systems are clearly inadequate."

Beyond the issue of verification, however, the Administration cites several other drawbacks to a treaty banning ASAT testing and deployment. One is that the development of a U.S. ASAT is supposedly needed to deter any Soviet ASAT use. "If, for example, during crisis or conflict, the Soviet Union were to destroy a U.S. satellite, the United States would lack the ability to respond in kind to avoid escalating the conflict. Thus, in present circumstances, a U.S. [ASAT] clearly responds to the need to deter such Soviet attacks," the Administration's report states. Reynolds questions the military wisdom of this strategy, however. "I don't know that a 1-to-1 satellite exchange is that productive to us," he says. "Our satellites are better than theirs, and they can replace theirs more easily."

But Administration officials offer a second justification for the U.S. ASAT, which conflicts with the need to deter any space warfare. It is also needed, they say, to initiate attacks on Soviet satellites that can fix the location of aircraft carriers at sea either by radar or electronic eavesdropping. "In view of the fundamental importance of U.S. and Allied access to the seas in wartime, including [the need] for naval reinforcement by sea, the protection of U.S. and Allied navies against such targeting is critical," their report states. Proponents of a treaty also challenge this assertion, however. They point to congressional testimony last year by Vice Admiral Gordon Nagler, director of command and control for the Navy, in which he sharply disputed claims that aircraft carriers could be targeted by Soviet ocean reconnaissance satellites. "I think I covered that before [in classified testimony], how we can avoid that," he said.

This point is also made by Robert Buccheim, a former chief scientist for the Air Force who served as the chief of the U.S. delegation to ASAT treaty negotiations held from 1979 to 1980. He says flatly that a radar satellite "can be countered electronically," and that other means of surveillance are available to the Soviets anyway. "It continues to be true that long-haul radio-transmissions from combatants at sea can be detected and used for location-fixing purposes by high-frequency direction-finding stations in Soviet territory," he says. Similarly, Richard Garwin, a physicist at IBM with long experience in weapons design, says that Soviet eavesdropping can be defeated by high-frequency, short wavelength, broad-spectrum radio signals, generated by fo-

cused antennas and relayed from one U.S. satellite to another. "The U.S. ASAT is not needed to defeat this threat," he says.

Given the apparent defects in the Administration's stated justification for the U.S. ASAT, there is considerable speculation that its proponents like it because its development offers a convenient cover for antiballistic missile (ABM) research that would otherwise be prohibited by the ABM treaty. This theory was given a boost several weeks ago by presidential science adviser George Keyworth, who said that "in order to leave our successors any options" for ABM systems, the United States should not tie its hands with ASAT limitations.

But others question the Pentagon's need for an ASAT program. For example, Sayre Stevens, a former CIA analyst and current Defense Science Board member who also serves as vice president for strategic intelligence at the Systems Planning Corporation says "I don't know exactly why it is that we're so anxious to build an ASAT system. I can't see that we're all helpless. I also don't think we need it as much as we need some other things, such as a better space surveillance system so we really know what's going on." Albert Wheelon, a former CIA analyst who is now a senior vice president at the Hughes Aircraft Corporation, agrees. "I think it's a good idea and to everyone's net advantage to keep mines and torpedoes and lasers and other weapons out of space," he says.

Administration officials publicly insist the door on ASAT arms control is still ajar, and that several options for a limited agreement remain under consideration. One idea is a ban on tests of ASAT's aimed at high-altitude satellites, which are needed for early warning and communications in the event of an allout war. Sidney Graybeal, a former SALT II negotiator and CIA analyst who is now vice president of the Center for Strategic Policy at Systems Planning Corporation, says that he particularly likes this idea. "The United States has such an overwhelming interest in space assets that a limit on advanced ASAT's—weapons capable of interdicting satellites in geosynchronous orbit—through a ban on testing would be in the net U.S. interest," he says. A second option is to prohibit the trailing of one satellite by another in peacetime, and a third idea is simply to prohibit any peacetime interference with a satellite's operation.

Although the report characterizes the potential for violation of even these limited agreements as troublesome, ACDA director Adelman remains publicly optimistic that one idea or another will prove worth pursuing. "I myself feel there may be possibilities for real proposals for arms control," he said at a recent hearing before the House Committee on Foreign Affairs, adding that a final decision will perhaps be made within the next 6 months.

Few in Congress believe that this continuing review will amount to much. One of the cochairman of the interagency task force is Richard Perle, who says flatly that "I haven't seen a suggestion yet that meets the two tests of verifiability and [protection of U.S.] national security." The other cochairman is Henry Cooper, an assistant director of strategic programs at ACDA who until recently helped direct the ASAT program for the Air Force. He also admits to "reservations as to the bans being studied," although he claims to be somewhat more enthusiastic than Perle.

William Durch, a research fellow at the Harvard Center for Science and International affairs who recently directed an extensive study of space arms control options for Reagan's ACDA appointees, says he feels that after "looking at all the variables, it is still in the net U.S. security interest to pursue some sort of limit on antisatellite capabilities." He hopes the Administration will eventually come to the same conclusion.

PENTAGON NEGLECTS SATELLITE DEFENSES

(By R. Jeffrey Smith)

Several years ago, Colonel James Reynolds, the manager of the Air Force's Navstar satellite program, hit upon an idea that he thought would defeat "any practical ASAT through the next 15 or 20 years." A relatively simple maneuvering system, devised by a Navstar contractor, would enable each of the system's satellites to scoot safely out of harm's way on warning of an ASAT attack, he believed. To his great frustration, however, higher-ups in the Air Force were unwilling to pay for it, with the result that none of the 28 Navstar satellites now under contract will have this capability.

Reynolds and other satellite engineers characterize this decision as a common one in the U.S. military space program. They say that the Pentagon has at its disposal the means or the know-how to defend virtually all of its satellites against a Soviet attack. Yet with few exceptions it is unwilling to invest the money needed to do so. Instead, its managers pour money into development of their own satellite-killing technology, and seek to avoid and arms treaty which in combination with satellite defenses might guarantee the survival of intelligence assets essential to national security.

"It's a generic problem," Reynolds says of the reluctance of high-ranking Pentagon officials to invest heavily in satellite defenses. Albert Wheelon, a former CIA analyst who is now a senior vice president with the Hughes Aircraft Corporation, agrees. "It's been a recurring theme for 20 years: we really ought to do something to fix these things up so they aren't quite so wide open to assault. It always seems like there are more important things to do with the money, however, and we really haven't done anything very effective, so they really are kind of sitting ducks," he says.

Among both satellite designers and intelligence analysts, there seems to be little concern about defending against the existing Soviet antisatellite (ASAT) weapon, a huge explosive device that usually take several hours to approach low-altitude targets. "The latest information I've had is that it doesn't work," says Leslie Dirks, a physicist who retired from a senior post at the CIA in August 1982. "Anybody who has followed it closely would have to agree." Reynolds, who now works on special aerospace programs for the Northrop Corporation, is even more derisive. "It's so weak and cumbersone that I think we litrally have to let them get us in order for it to work," he says.

There are substantial fears, however, that the Soviets eventually might refine their existing ASAT and extend its range, or develop ASAT's of a different character, such as lasers. Reynolds worries in particular about the possibility of a well-designed, high-altitude, direct satellite interceptor, armed with a nuclear warhead. "If a nuclear warhead were used atop the SS-9, that would be a sporty threat for some of our systems," he says. "I would say that if you attribute strong motives to the Soviets they could quickly make this a strong threat." It was to counter exactly this threat that the Navstar maneuvering system was proposed, he adds.

"The problem is that satellite system survivability always has to compete against the traditional Air Force budget priority: winged weapons systems. There is simply only so much money to go around."

Although Pentagon officials boast of spending $900 million on satellite survivability programs in fiscal year 1984, critics point out that much is for research and development that could have been started long ago, or for survivability add-on's to existing satellite programs that should have been incorporated at the start. Only recently, for example, did the Pentagon realize that its new meteorological satellites, which operate at low altitudes and provide information considered critical to ballistic missile targeting, should be hardened against ground-based lasers. As a result, the equipment will have to be added (production began in 1981). On the average, such efforts boost overall satellite system costs by as much as 15 percent, according to official estimates.

The potential for vast improvement in this area is demonstrated by the Pentagon's plans for Milstar, a satellite designed to transmit nuclear war-fighting information in the next decade. According to testimony last April before the House Appropriations Committee, Milstar will be hardened against ground-based laser radiation, and will have the capability for additional hardening against space based lasers. Its command and communications links will be encrypted, and jamming will be prevented by beam hopping antennas, frequency hopping, and burst transmissions. It is supposed to be hardened against a nuclear blast in space and, if the necessary funding is not eliminated, it will be the first U.S. satellite to have subtantial maneuvering capability. Like the Navstar system, which is designed to provide navigation information, the Milstar system will also include spare satellites and spare ground terminals.

Milstar is the exception, not the rule, however. Other programs of substantial importance have been neglected. For example, the Defense Department's communications workhorse for the next 10 to 15 years, a satellite known as DSCS III, has been designed without impact detectors or laser and radar receivers. "If it should suddenly stop working, we'd have a tough time determining why," confesses an executive at General Electric, its principal manufacturer. The low priority attached to virtually all survivability measures became evident again several weeks ago. Faced with an assignment to cut $5.4 billion from the 1985 Air Force budget request, Pentagon officials chose to put off an $18-million expenditure for small, high-volume computers, considered essential to mobile satellite ground terminals. "The remarkable thing is that we really don't have to spend a great deal of money to make some dramatic changes in this area," Reynolds emphasizes.

Michael May, an associate director of the Lawrence Livermore National Laboratory, believes that a substantial new emphasis on satellite survivability would have direct implications for space arms control. "Making space systems survivable would make ASAT's susceptible to negotiation, because it would substantially increase the cost, time, and risk involved in an attack, thereby diminishing the prospect and significance of any cheating." He adds that "the United States is well down the path toward survivable satellite systems, but we still need to develop the same strong, steady support for this that we have for making offensive strategic systems survivable.

ARMS CONTROL IN SPACE WORKSHOP PROCEEDINGS RELEASED BY SENATOR PRESSLER

WASHINGTON, D.C.—Although an arms control treaty could not eliminate every threat to United States' assets in space, it could reduce the threat from sophisticated weapons designed specifically to destroy satellites, according to the Congressional Office of Technology Assessment's (OTA) workshop on Arms Control In Space. The proceedings[1] were released today by Senator Larry Pressler (R-S. Dakota), Chairman of the Subcommittee on Arms Control of the Senate Committee on Foreign Relations.

OTA held the workshop on arms control in space on January 30 and 31, 1984, at the request of Senator Pressler. The workshop brought together technical, diplomatic, military and policy experts to discuss anti-satellite weapons and arms control. In the workshop proceedings, statements are not attributed to specific participants. Instead, the proceedings report the veiwpoints and ideas discussed during the conference and identify areas of controversy and general agreement.

According to OTA's workshop proceedings, an arms control treaty could reduce the requirements for protecting space systems, but it would not totally protect satellites from, for example, modified intercontinental ballistic missiles or maneuverable spacecraft. Many participants agreed that this vulnerability need not prevent the negotiation of a treaty, since space assets can be protected, duplicated or replaced. Other participants, however, believed that a treaty could not provide enough protection to our satellites to be worthwhile.

Panelists agreed that the verifiability of arms control agreements can only be discussed in specific terms. They agreed that some arms control provisions could be verified with high confidence, but the verifiability of others was quite controversial. In particular, there was agreement that tests of space weapons would be easier to detect than possession of such weapons, and many participants believed that a ban of anti-satellite-weapons testing could be adequately verified.

A test ban would make it difficult to develop a reliable, high-performance anti-satellite system. Without testing, participants agreed, no country could be confident that a new system would perform well in a crisis. Developing a new system would be difficult to do with no detectable tests. However, panelists had differences of opinion about the seriousness of the threat posed by a partially tested system.

An arms control agreement banning the development or testing of anti-satellite weapons would also limit most new ballistic-missile-defense systems, said the panelists. Since satellites are generally more vulnerable and are easier targets than missiles, they could be destroyed by effective ballistic missile defenses. Such systems, if deployed, would limit the possibilities for anti-satellite arms control agreements.

Panelists did not support the idea that the United States should have its own anti-satellite weapon in order to deter the use of similar weapons against the United States. The ability to retaliate against terrestial assets would suffice to deter attacks on U.S. satellites, panelists said. However, some panelists believed that the U.S. has other important military reasons for wanting to be able to destroy Soviet satellites.

The air-launched anti-satellite weapons now being tested by the United States will clearly be technically superior to the present Soviet ground-launched anti-satellite weapons, according to the workshop participants. However, some panelists expressed concern that continued testing of the new U.S. anti-satellite system would make worthwhile arms control agreements more difficult to attain.

Neither the existing Soviet anti-satellite weapons nor the U.S. weapon under testing poses a severe military threat to the other side. Many treaty proponents would accept a treaty which would "grandfather" these existing systems.

The space activities of both the United States and Soviet Union have the potential to generate uncertainties and misunderstandings about each other's intentions, according to the OTA proceedings. Some panelists thought that an agreement limiting behavior in space—some type of "rules of the road" agreement—might help reduce tensions. The most valuable feature of this type of agreement could be the establishment of a forum that would facilitate discussion of questioned activities.

OTA is a nonpartisan analytic support agency that serves the U.S. Congress. Its purpose is to help Congress deal with the complex and often highly technical issues that increasingly confront our society.

Copies of the workship proceedings, Arms Control In Space, are available to the public at the U.S. Government Printing Office (GPO), Superintendent of Documents, Washington, D.C. 20402. The GPO stock number is 052-003-00952-8. Copies for Congressional use may be obtained free of charge by calling the OTA publishing office at 224-8996.

WORKSHOP ON ARMS CONTROL SPACE
JANUARY 30-31, 1984

(By Prof. McGeorge Bundy, Chair, New York University, New York, N.Y.)

Mr. David S. Brandwein, System Planning Corp. Arlington, Va.

The Hon. George E. Brown, Jr., Member of Congress, U.S. House Representatives, Washington, D.C.

Dr. Paul Brown, Lawerence Livermore National Laboratory, Livermore Calif.

Dr. Robert W. Buchheim, Phoenix, Ariz.

Prof. Albert Carnesale, JFK School of Government, Harvard University, Cambridge, Mass.

Dr. Ashton B. Carter, Center for International Studies, Massachusetts Institute of Technology, Cambridge, Mass.

The Hon. Cooper Evans, Member of Congress, U.S. House of Representatives, Washington, D.C.

Dr. Richard L. Garwin, IBM Thomas J. Watson Research Center, Yorktown Heights, N.Y.

Dr. John H. Gibbons, Director, Office of Technology Assessment, U.S. Congress, Washington, D.C.

Mr. Alex Gliksman, Senate Committee on Foreign Relations, Washington, D.C.

Prof. Donald L. Hafner, Boston College, Chestnut Hill, Mass.

Mr. Lionel S. Johns, Assistant Diector, Office of Technology Assessment, U.S. Congress, Washington, D.C.

Dr. Robert H. Kupperman, Center for Strategic and International Studies, Georgetown University, Washington, D.C.

Dr. Steven A. Maaranen, Los Alamos National Laboratory, Los Alamos, N. Mex.

Dr. Michael M. May, Lawrence Livermore National Laboratory, Livermore, Calif.

Dr. Keith B. Payne, National Institute for Public Policy, Fairfax, Va.

Mr. John E. Pike, Federation of American Scientists, Washington, D.C.

The Hon. Larry Pressler, Member of Congress United States Senate, Washington, D.C.

Dr. Victor W. Reis, Science Applications, Inc., McLean, Va.

Dr. Peter Sharfman, Program Manager, Office of Technology Assessment, U.S. Congress, Washington, D.C.

Walter Slocombe, Esq., Caplin and Drysdale, Washington, D.C.

Dr. John D. Steinbruner, Director, Foreign Policy Studies, The Brookings Institution, Washington, D.C.

Maj. Gen. Henry B. Stelling Jr., USAF (ret.), Rockwell International, Anaheim, Calif.

Dr. Sayre Stevens, System Planning Corp., Arlington, Va.

[Note: Several participants were originally invited as alternates for others who could not attend the entire workshop.]●

[1] OTA Workshop Proceedings are not reviewed nor approved by the Technology Assessment Board.

ALTRUISM IN MEDICINE

● Mr. QUAYLE. Mr. President, too often today when we in Congress discuss health care issues, we focus only on the dollars. We often believe that everyone else in the health care industry is also focusing only on the dollars. We certainly think this is of physicians and their organizations.

Therefore, it is particularly refreshing to find the journal of a major physician organization, the American Medical Association, publishing an editorial on the humanistic side of medicine.

The editorial, from the January 27, 1984, edition of the Journal of the American Medical Association, points to the altruism that motivates most people to enter medicine. It is good to be reminded that the primary attraction of medicine is the opportunity to help people.

The need to help people in other countries is another important point made in this editorial. The author, George D. Lundberg, M.D., editor of JAMA, points out the need other countries have for good medical care. He urges his colleagues to contribute toward meeting this need.

This fine editorial is quite thought provoking and I recommend it to my colleagues.

Mr. President, I ask that the editorial by Dr. Lundberg be printed in the RECORD.

The editorial follows:

[Editorial]

EXPORTING DOCTORS TO A WORLD IN NEED

On Christmas Eve of 1983, despite mortar attacks on "peace-keeping Marines" in Beirut, terrorist bombing of shoppers at Harrod's in London, and air defense being positioned near the White House, it is easy to write that mankind is one and physicians are brothers and sisters. I believe that giving is still the fundamental common denominator that attracts a person to a medi-

cal career. For hundreds of years people have entered the practice of medicine without regard to economic benefits. Economics need not be the principal driver.

We have been developing the theme of one medical world on these pages. With today's international theme issue, we hope to spark renewed interest in the global practice of medicine for some of our readers, especially current medical students and residents. There is a great mass of medically underserved human beings in need of care. Why not plan to give part of your lives to the medically needy, wherever they are?

What might motivate one to give part of one's life to those in need in other countries? Such motivations can be many and varied: (1) purely idealistic altruism that led most of us to medicine in the first place, (2) seeing, recognizing, and treating classic diseases unaltered by previous diagnostic or therapeutic efforts, (3) becoming a better physician for personal practice in this country, (4) becoming a more interesting person, (5) expanding the influence of American medicine in the third world to balance the very substantial efforts of the Soviet Union of achieving political goals through disease prevention and health promotion, (6) participating in a religious experience of the sort that has motivated medical missionaries for centuries, (7) learning about fascinating diseases in unusual cultural and geographic settings, and (8) returning benefit to society from the enormous resources that were expended in educating each physician. These motivations include something for everyone from the far right through the center to the far left.

For this theme issue we begin with a cover entitled *Plum Flower* celebrating the Chinese New Year, the Year of the Rat, 4682, which begins on Feb. 2, 1984. Steven Fox, MD, has provided a strong analysis of Chinese medical education from his recent personal experiences. George Thorngate, MD, instructs us about an astonishing method of obstetrical delivery he observed when he was a medical missionary in China. Sutnick et al note that as nutrition and control of infectious diseases improve in third world countries, incidence and mortality from diseases from middle and old age, as typically seen in developed countries, burgeon in developing countries. Brucellosis in Spain and schistosomiasis in Africa still exist and have affected recent travelers in Spain and Ethiopia. Our South American offering is a description of elective surgery in a primary medical care program in the Amazon Valley of Brazil by William Dolan, MD, OFM, a missionary surgeon. Myron Schultz, DVM, MD, points out that with modern travel virtually any physician might see infectious disease from anywhere. Baker and co-workers describe opportunities that now exist for US medical professionals in other countries, while noting that less than 0.4 percent of current US physicians are actually in international health. Our "balance of payments" of physicians in this country is heavily positive, with a ratio of almost 50 to one of physicians having immigrated *v.* those sent from here abroad. And finally, E. Grey Dimond, MD, asks precisely the right questions regarding US-USSR medical and political relations.

What should de done? We as a profession should cultivate a mind-set that looks to all humanity. The medical profession itself, academic institutions, foundations, industry, churches, and government should reemphasize this concept of medical internationalism. Richard Egan suggests the idea of a "physician about a "doctor-to-doctor" program somewhat modeled after the people-to-people program. E. Grey Dimond describes exciting new ideas about how to further international relations and peace through medicine and health. This is the kind of creativity we need. I hope many of you will bring these and similar ideas to fruition. It is time for the United States to export physicians to Burma, Guatemala, and Bangladesh. Turnabout is fair play.

GEORGE D. LUNDBERG, MD.●

MR. AND MRS. RICHARD BLANSETT—CONGRESSIONAL SENIOR CITIZEN INTERNS

● Mr. GLENN. Mr. President, I am pleased to take this opportunity to recognize Mr. Richard Blansett of Euclid, Ohio, who came to Washington to serve as my congressional senior citizen intern last week. Mr. Blansett was accompanied to Washington by his wife, Eva, who also participated in the program. It was a successful and worthwile week in Washington for Mr. and Mrs. Blansett, and for my staff and me who benefit from their knowledge and experience concerning senior citizen issues.

Mr. Blansett is chairman of the Ohio State Legislative Committee for the American Association of Retired Persons (AARP), a national organization with 659,000 members in Ohio. He travels around the State of Ohio extensively in his work with AARP chapters and is currently organizing a grassroots campaign against rising health care costs. In addition to his AARP activities, Mr. Blansett is chairman of the senior citizens advisory committee for the Cuyahoga County Auditor's Office.

The wide range of community activities that Mr. and Mrs. Blansett are engaged in serves to demonstrate the tremendous worth and potential of our older citizens. Older Americans have made valuable contributions to the development of our society, and we continue to benefit from their talents, skills, and experience.

As the ranking Democratic member of the Senate Special Committee on Aging, I am pleased to support the Congressional Senior Citizen Intern program. Since the program was established in 1973, over 1,000 active older Americans from across the country have participated in the annual event. Unlike some other congressional internship programs which affect only the individual participant, the senior intern program benefits our constituencies. The insights that the senior interns gain about the legislative process make them more effective advocates when they return to their leadership positions in the senior community. The program is also very helpful to us as legislators in Washington, because the interns help us to identify the most important issues of concern to seniors back home.

I would like to thank Senator ROTH and Representative COELHO, coordinators of the senior intern program, and their staffs for organizing another successful senior intern week.●

ANNUAL FINANCIAL DISCLOSURE OF SENATOR STAFFORD

● Mr. STAFFORD. Mr. President, in each of the last 10 years, I have made public disclosures of my financial holdings, along with summaries of my Federal income tax report.

I have pledged that I would issue a similar report to the citizens of Vermont each year for the remainder of my time in public office.

In keeping with that promise, I am once again issuing a public statement of financial disclosure.

The financial statement shows that my wife, Helen, and I had net assets of $649,000 as of May 14, 1984, when the evaluation was made.

The statement I am making public lists details of our holdings, including bank accounts, cash value of life insurance and Federal retirement fund, real and personal property we own, and stocks and bonds.

The majority of the stocks and bonds listed were owned by us before I entered public office and there has been little real change in our financial condition in terms of real dollars since I entered public office in Vermont 30 years ago. Like most Americans, the Staffords have felt the impact of inflation.

The summary of our joint Federal income tax return shows that Mrs. Stafford and I had an adjusted gross income of $123,000 last year. Of that total, $64,900 came from my salary as a U.S. Senator.

We paid more than $40,000 in Federal taxes and more than $9,500 in Vermont State income taxes. Our total tax bill for the year was $49,707—or 40 percent of our adjusted gross income.

I shall ask that details of our financial statement be printed in the CONGRESSIONAL RECORD, as in the past. And, as I have done in each of the last 10 years, I am making copies of the statement available to newspapers, radio, and television stations and other news services in Vermont.

This information is being made public because I remain convinced that those who serve in Government, as well as Government itself, must be as open and candid as possible with the public.

The net assets of the Staffords increased by more than $55,000 last year, a gain of slightly more than 9 percent. The bulk of that increase is the result of a $25,000 increase in the estimated market value of our home in Virginia and a $10,000 increase in the value of our stock portfolio.

The lion's share of our assets continues to consist of homes in Virginia and Vermont whose estimated total fair market value is $300,000.

One of the best ways Americans have to judge whether their Government and their officials are acting properly is to provide full disclosure of all interests of Government and of those who make decisions in Government.

Thus, I invite all Vermonters—and all other Americans—to examine my financial interests and to match these interests with my record as a public official.

We have made some progress in providing the public with more information about the interests and activities of public officials, but we have some way to go in providing full public disclosure.

I shall continue to support legislation that provides greater ventilation of the way we do business in our Government. In the meantime, I shall continue to make my own full disclosure to my fellow Vermonters.

The financial statement follows:

Summary of 1983 joint Federal income tax return, Robert T. and Helen K. Stafford

Income:	Value
Salary	$64,900.68
Interest	8,758.73
Dividends	5,141.59
Honoraria	38,500.00
Other	14,764.82
Total income	132,065.82
Adjustments to income:	
Allowable congressional expenses not reimbursed	3,000.00
Keough plan	5,775.00
Total adjustments to income	8,775.00
Adjusted gross income	123,290.82
Deductions	13,726.10
Exemptions	4,000.00
Taxable income	105,564.72
Federal income tax due and paid	40,124.02

Statement of financial conditions, Senator and Mrs. Robert T. Stafford, May 15, 1983

Savings account:	Value
Bellows Falls Trust Co	$5,000
Vermont Federal Bank	5,000
Bank of Vermont	5,000
The Howard Bank	5,000
Chittenden Trust-Rutland Branch	5,000
Total	25,000.00
Certificates of deposit:	
Chittenden Trust Co	10,000
First Vermont Bank	10,000
The Howard Bank	10,000
Marble Savings Bank	10,000
Proctor Bank	10,000
Vermont National Bank	10,000
Proctor Bank	10,000
Total	70,000.00
Checking accounts:	
First Virginia Bank	400
Howard Bank	300
Riggs National Bank	13,000
Total	13,700.00
Real estate (estimated market value):	
3541 Devon Dr., Falls Church, Va	$150,000.00
27 Howard Ave., Rutland, Vt	50,000.00
64 Litchfield Ave., Rutland, Vt	100,000.00
Total	300,000.00
Additional assets:	
Contributions to Federal retirement (Dec. 31, 1983)	76,247.83
Law library and office furniture (27 S. Main/Rutland)	2,000.00
Boat and 2 cars	39,000.00
Personal property	25,000.00
Total	142,247.83
Stocks (name and shares):	
NYNX (77 at 61)	4,697.00
AT&T (100 at 16½)	1,650.00
Bellows Falls Trust Co (80 at 60)	4,800.00
Cluett Peabody (20 at 28¾)	575.00
Con Edison of N.Y. (common, 100 at 24¾)	2,475.00
Gillette Co (20 at 47⅝)	947.50
Greyhound Corp (20 at 23¾)	475.00
Howard Bank (1,371 at 25)	34,275.00
International Harvester (20 at 7⅜)	147.50
Manufacturers Hanover Trust (664 at 35⅝)	23,489.00
Monsanto (40 at 72)	2,880.00
N. L. Industries (common, 40 at 15¾)	630.00
National Distillers (40 at 27¾)	1,110.00
Outboard Marine (20 at 47¾)	955.00
Security Pacific Corp (16 at 45½)	728.00
Time, Inc (30 at 37⅝)	1,128.75
Vendo (10 at 5⅜)	53.75
Total	81,016.50
Liabilities: National Permanent Federal Savings & Loan Association (1st mortgage, Devon Dr., Nov. 29, 1983)	2,119.23
Recapitulation:	
Total assets	651,964.33
Total liabilities	2,119.23
Net assets	649,845.10

RELIGIOUS PERSECUTION IN NICARAGUA

● Mr. EAST. Mr. President, in the past few years, I have often met with American Christians who seem to be tragically misinformed about the realities of Nicaragua under the Sandinistas. Recently, I had the opportunity to meet with a young Nicaraguan Christian, Prudencio Baldesano, who tells a very different story about religious persecution under this Marxist dictatorship. Mr. Baldesano, a fundamentalist Christian not connected with the Contras in any way or with any other political group, was falsely accused of aiding the Contras by the Sandinistas. He was tortured and his ears were cut off by a Sandinista officer, and he is now in the United States trying to tell his story. Mr. Baldesano's story is not an isolated one, and the White House Digest of February 29, 1984, contains considerable information on the current state of religious persecution in Nicaragua. I ask that this document be printed in full in the CONGRESSIONAL RECORD, and I commend it to the attention of my colleagues and fellow citizens.

The material follows:

[From the White House Digest]

PERSECUTION OF CHRISTIAN GROUPS IN NICARAGUA

"The religion of the workers has no God, because it seeks to restore the divinity of Man."—Karl Marx.

"Every religious idea, every idea of a god, even flirting with the idea of a god, is unutterable vileness of the most dangerous kind, 'contagion' of the most abominable kind. Millions of sins, filthy deeds, acts of violence, and physical contagions are far less dangerous than the subtle spiritual idea of a god."—Lenin.

History has shown us that Communist regimes inevitably seek to either eradicate the Church or to subvert it. Ideologically, the Church's existence is repugnant to them. Allegiance to God prevents total allegiance to and subjugation by the State, which, according to Marx, is the salvific vehicle for the secular transformation of man into god.

The Communists cannot tolerate this limitation on their absolute power. Thus, in the Soviet Union all but a tiny percentage of churches have been closed and religious affiliation routinely brings the loss of precious privileges and sometimes brings more serious persecution.

In Nicaragua, the self-admitted Marxist-Leninist [1] leaders of the government are following the same path. They are seeking to turn the Catholic Church, by far the largest in Nicaragua, into an arm of the government.

A small number of Catholic clergy have the government's official approval and sponsorship. They are used to generate support for the government, to spread the idea that only Marxists are true Christians, and to defame and divide the mainstream Church.

Meanwhile, the Sandinistas have harassed, persecuted and defamed legitimate church leaders, including Pope John Paul II. Church telecasts are subject to prior censorship and the Sandinistas seek to isolate the Church leadership from the people.

Suppression of minority Protestant groups has been much more brutal. Dozens of Protestant churches have been burned, Protestant leaders have been arrested, beaten, and deported. Certain Protestant churches have been officially denounced as instruments of American imperialism.

THE CHURCH VS. SOMOZA

Under the Somoza dictatorship, which was overthrown in 1979, the Catholic Church had been in the forefront of those forces calling for reform. Indeed, in 1979 the prelate of Nicaragua, Archbishop Obando y Bravo, took the extraordinary step of announcing that the Somoza regime had become intolerable and that Christians could in good conscience revolt against it.

At any time, the revolution against Somoza was broad based and included most of the mainstream leadership of Nicaragua. The revolution was publicly committed to democracy and pluralism. But, shortly after

Footnotes at end of article.

Somoza's ouster, the Communist faction—with the control of the military—began to consolidate its power.

Despite early danger signals, the Catholic hierarchy was initially supportive of the revolutionary government.

THE FIRST STEP

But, in October of 1980, the Sandinistas took their first real step toward the dual Communist goal of a) limiting the Church's influence, and b) co-opting what is left of the influence for the government.

In a publicly promulgated policy on religion, the Sandinistas declared that Christians were not permitted to evangelize within Sandinista organizations. Moreover, only those religious who fully accepted the objectives of the Revolution, as put forth by the Sandinista leadership, were to be permitted to take an active role in public affairs.[2]

The Bishops responded swiftly and firmly, saying that such attempts to limit the influence of the Church were "totalitarian." Totalitarian systems, the Bishops argued, seek to turn the Church into an "instrument" by tolerating only those activities the government finds convenient.[3]

Edgard Macias served the Sandinista government as Vice Minister of Labor, but left Nicaragua when he realized the Sandinistas were intent on establishing a totalitarian Marxist-Leninist regime. Of the Sandinistas' attempt to turn the Church into an "instrument" Macias writes:

"The FSLN (the governing Sandinista organization) has had its plan of action drawn from the beginning, including unremitting harassment and the reduction and suppression of the social programs of the churches. . . . They wish to reduce them [the churches] to a strictly liturgical function, which would be to keep them within their temples . . . the social pastoral of the churches should not exist since it generates an influence that 'interferes' with the unique leadership that the Front pretends to be." [4]

For some time after this exchange between the Bishops and the Sandinistas, the Church went out of its way to say conciliatory things about the regime, hoping to salvage a relationship. The Sandinista leadership is attempting to publicly represent itself as being pro-Church, something the overwhelming majority of the Catholic clergy seriously doubts. The historical record underscores these reservations.

PRIESTS AND POLITICS

In 1981, responding to Pope John Paul II's desire to keep the Church free of political entanglements, the Nicaraguan Bishops called on all Catholic clergy to limit their political activities to something less than full time devotion to the regime, or to any political faction.

A long controversy ensued. The Sandinista clergy refused to leave their posts. The Bishops, stymied, agreed that the Sandinista priests could temporarily remain in government as long as they did not exercise their priestly functions.

These high-ranking Sandinista priests that chose to discontinue their priestly functions while continuing to occupy political office are: Miguel D'Escoto, Minister of Foreign Affairs; Fernando Cardenal, director of Sandinista youth organizations; and his brother Ernesto, Minister of Culture.

Since that time, the Sandinistas campaign to rigorously support church factions responsive to its interests steadily intensified. Priests who have expressed a desire to leave the regime have been told by the Junta that they cannot resign from their posts, according to Edgard Macias.

THE "PEOPLE'S CHURCH"

The first step was to coopt and expand a unique Latin American institution called the Christian base community.

The base community is a neighborhood group of Catholics who meet for prayer and religious services but who also work together for social and political reform. Over the years, most of these groups have not been Marxist, but have worked for reforms that most Americans would recognize as basic.

However, the bishops had long recognized that the base communities have had the potential to become "prisoners of political polarization or fashionable ideologies which want to exploit their immense potential." [5]

The Sandinistas began to exploit that potential. Many base communities have remained loyal to the Catholic hierarchy, but many have been made instruments of the revolution, part of what the Sandinistas refer to as "the People's Church," a church subservient to the government.

The Sandinistas began to speak openly of two churches, one, the "Popular Church" which is the friend of the people, and the other which oppresses the people.

Macias again:

"It is ridiculous to see the 'revolutionary commanders' (who are declared Marxist-Leninists) using Christian terminology and even . . . giving homilies on what the role of religion and the bishops should be. They say that while there is Sandinismo (FSLN) there will be Christianity, letting it be understood that outside of themselves there is no Christianity . . . No better example of how a political group can 'appropriate' religion and model it to its objectives can be found . . . Remember that the structure of the FSLN as a political party is fascist and anti-democratic, where the National Directorate has been artificially mythified . . ." [6]

In reference to the traditional and "popular church", Sandinista junta member Sergio Ramirez stated that one of these "churches" was not revolutionary, but the other church was:

"[A] church of change. This church became the people's ally. This church boosted the revolution and committed itself to this revolution. This church is participating in the revolutionary process and is incorporating the patriotic and revolutionary priests of whom we are very proud into the government." [7]

In response, Archbishop Obando y Bravo has condemned "those who are trying to divide the Church" and spread the idea that there is "one bourgeois church and another church for the poor." The Vatican has become so alarmed at the attempt of the Sandinistas to divide the church in Nicaragua that the Pope issued a Pastoral letter on June 29, 1982 which criticized advocates of the "popular Church" for their ". . . infiltration of strongly ideological connotations along the lines of certain political radicalization of the class struggle, of acceptance of violence for the carrying out of political ends. It is not through a political role, but through the priestly ministry that the people want to remain close to the Church."

THE CHURCH AND THE SECRET POLICE

One of the first steps the Sandinistas took was to combine many of the so-called Sandinista Defense Committees with Christian base communities. The Defense Committees provide a network of informers and neighborhood surveillance, and have the authority to bestow certain privileges, such as internal travel permits or rationed items. These basic units of totalitarian control are also found in the Soviet Union, Eastern Bloc and Cuba.

According to Edgard Macias these "people's churches," made up of the combination of the base communities and the defense committees, are under the supervision of Interior Minister Tomas Borge, whose portfolio includes the internal security/secret police apparatus.

The People's Church accounts for only a minority of Nicaraguan Catholics. But the Sandinista controlled media pays enormous attention to their every action in support of the regime. The government endorses "liberation theology," the doctrine of the People's Church that portrays Christ as a Marxist revolutionary.

An underground publication from Honduras designed for group study, entitled "Reflections of an Honduran Christian Marxist," gives the typical perspective on "liberation theology": "[love for the poor] consists not only in giving them food, but in doing away with the cause of their poverty, that is their capitalist/imperialist system. And in order to do this a Christian not only can be, but must be a Socialist, Marxist-Leninist, violent revolutionary."

Geraldine O'Leary Macias, Edgard's wife, was for many years a Maryknoll missionary in Nicaragua where she worked for social reform. She has seen first hand the Communists' attempt to co-opt genuine Christianity for their own purposes:

"The Marxists have been very astute in using liberation theology to make it appear Marxist, making being a Christian synonomous with being a Sandinista, and defining revolution as Marxism. The only major change in this approach has been brought about by the non-Nicaraguan Marxists. As the Cubans, Bulgarians, and East Germans have taken major roles as advisers to the police, army and militia, their anti-religious fervor has made apparent the very real contradictions between what the people of Nicaragua want and what the Sandinistas want." [8]

CENSORSHIP

While publicizing the People's Church, the Sandinistas, by July of 1981, had begun to cut off the Church's access to the media. Customarily, the Archbishop, or a priest designated by him, had celebrated mass every Sunday on Managua television, giving a sermon in the course of the mass.

But in July 1981, the Sandinistas announced that televised masses would be rotated among Catholic priests. The Archbishop, seeing that pro-Sandinista "priests" would be chosen, refused. The televised masses were cancelled.

According to Macias:

"The Archbishop's television mass was suppressed when Commander Tomas Borge, Minister of the Interior, decided to impose a system that would eliminate his presence, substituting him for Sandino-Christian priests. The strategy was to substitute the authority of the Archbishop and his faculty of leadership of his faithful with the authority of the Supreme Chief of State Security [Borge] and his small group of loyal priests." [9]

Catholic Radio has since fallen under heavy daily censorship. Since March 1982, the independent newspaper La Prensa, through which the Archbishop also communicated with the people, has fallen under censorship at times far more severe than

that of the Somoza dictatorship. However, the Archbishop is still permitted to publish his homily in La Prensa. [10]

By Easter of 1982, church leaders were required to submit their homilies to the Ministry of the Interior to be approved for broadcasting.

CENSORING THE POPE

In June 1982, the Pope sent a pastoral letter to the people of Nicaragua denouncing the government's attempts to establish a parallel Church, but publication of the letter was initially refused.

Archbishop Obando y Bravo has commented extensively on the Pope's letter. His comments shed light on some of the specific groups and mechanisms the Sandinistas have used to create a parallel church:

"I believe that there is a true internal intention of dividing the Church as is mentioned by His Holiness. When we speak of a 'Popular church' we should understand that in Nicaragua there are several centers that support it. Five centers have been created, all very well supplied and organized: Centro Antonio Valivieso, CEPA, Eje Ecumenico, CEPAD, and the Instituto Historico Centroamericano. Their resources are abundant, they have full-time employees, theologians and laity, recording and printing facilities and abundant international aid. These groups enjoy exclusive access to the State communications network which runs 100% of the television channels, 90% of the radio stations and two out of three newspapers. . . ."

"The virulence of their attacks has already reached the extreme of physical violence against some bishops. Externally the promoters of this popular church have mounted vast international propaganda campaigns . . . Vehicles for this are the international editions of *Barricada . . . also their connections with other organs of Liberation Theology and akin religious groups distributed throughout the world.*" [11] (Italic added.)

Several of the Centers the Archbishop mentioned are often cited in this country.

According to Edgard Macias, the Sandinistas are even trying to create a new religious rite, the Sandino-Christian rite, complete with icons to Augusto Sandino, prayers to a new pantheon of martyred Sandinistas who are to be revered as saints, and even the beginnings of a cult of resurrection:

"Hung on the front of the old cathedral in Managua [was] an enormous picture of General Sandino in his most characteristic pose, but drawn within a white host, which is bordered by the red and black colors of the FSLN flag . . . The Nicaraguans were not over being surprised by this when on radio and television the campaign for the third anniversary of the revolution was spearheaded by a short ad in which the dead are no longer simply Sandinista heroes, but are now 'the Sandinista saints.' One named Navarrito, it is said 'died with worms eating his feet but he arose the same day,' thus comparing him with Jesus Christ, who, as we all know, took three days to do the same."

The most brazen use of the "People's Church" was made during John Paul II's visit to Nicaragua when he said Mass at a huge open square in Managua. Film taken by the Sandinista television network clearly shows that the Sandinistas used the occasion to stage a demonstration against the Pope during Mass.

As happens nearly everywhere the Pope goes, he was received with fervent enthusiasm by the crowd. During his homily he was interrupted again and again by friendly applause and cheers and shouts of "Long live the Pope!" The applause was particularly strong during those parts of his homily in which he denounced the "People's Church."

However, as the Sandinistas' own television film makes obvious, the places in the square nearest to the Pope were reserved for Sandinista activists, preequipped with microphones.

As the Pope came to the end of his homily these activists began to chant political slogans. When the Pope reached the most sacred part of the Mass, the Consecration of the bread and wine, the activists equipped with microphones actually began to make speeches, nearly drowning out the words of Consecration. The speakers demanded that the Pope insert into the Mass a prayer for the Sandinista martyrs—perhaps as part of the plan to legitimize the Sandino-Christian rite.

The nine Sandinista "commandantes," who hold the real power in Nicaragua, stood on a platform near the Pope. They urged the demonstrators on, shouting slogans themselves and raising their fists in the air. At one point, uniformed men led the shouting activists in a protest march around the altar. Later, reliable sources revealed that the microphones used by the activists were actually being controlled by the same Sandinista technicians controlling the Pope's microphone.

UNDERMINING THE CHURCH HIERARCHY

The Sandinistas have begun to interfere with the hierarchy's right to assign priests to parishes. There are reports that replacement priests appointed by the Archbishop have been harassed by Sandinista controlled mobs. These mobs, organized by the Sandinista defense committees and the internal security forces, are referred to as *las turbas divinas*—"the divine mobs."

Priests who do not preach or accept Marxist "theology," have been harassed by the mobs. Especially in the countryside, legitimate priests often have their services interrupted. Sometimes the mobs will turn the Mass into a political meeting.

In Managua the Sandinistas have staged physical attacks against the legitimate clergy, including the Archbishop Bosco Vivas, the auxiliary bishop of Managua, who was shoved and pushed to the ground by a Sandinista mob last August. [12]

The Sandinistas have also mounted campaigns to discredit Church leaders, such as Father Bismark Carballo, the director of Catholic Radio and public spokesman for the Archbishop. Having been called to the home of a parishioner, he was forced to disrobe by security force personnel and then forced into the street in front of T.V. cameras and Sandinista mobs planted in advance.

After the pictures of the incident and the story were printed in the Nicaraguan press, the Sandinistas were badly embarrassed by this transparent attempt to frame a major Church spokesman.

By September 1982 the situation had gotten so serious that Archbishop John R. Roche, the President of the U.S. National Conference of Catholic Bishops, issued a statement criticizing the Sandinistas:

"In recent weeks, institutions and persons of the Church, including bishops, have been subjected to attacks of a serious, at times disgraceful nature . . . We cannot fail to protest in the strongest possible terms, the attempted defamation and acts of physical abuse directed at prominent clerics, the inappropriate exercise of State control over the communications media, including those of the Church, the apparent threats to the Church's role in education, and, most ominous of all, the increasing tendency of public demonstrations to result in bloody conflict." [13]

Edgard Macias sums up well the treatment of the Catholic Church by the Sandinistas:

"It [religion] is something to be provisionally permitted because it already exists and despite their wishes, has to be permitted as a 'lesser evil' that cannot be immediately eliminated. But it has been sentenced to a gradual and progressive extinction." [14]

PERSECUTION OF PROTESTANT GROUPS

Persecution of Protestant groups has been even more direct and brutal because their smaller size has left them more vulnerable.

While the Sandinistas were still consolidating their power immediately after the revolution, they did little to harass the Protestant groups. According to Humberto Belli, a former editor of *La Prensa*, the only independent newspaper in Nicaragua, up through 1981 there was little persecution except for harassment of some village pastors.

Says Belli: "the Protestant pastors . . . were conscious of their vulnerability and tried to abstain from any kind of commentaries touching the political field. Some of them even preferred to reassure the government of their loyalty." [15]

Occasionally groups of "revolutionary Christians" published leaflets attacking Protestant denominations as agents of U.S. imperialism. The government controlled media often propagated these charges.

In 1982 these attacks became direct. According to Belli:

"In March, just a few days before the government cancelled all individual rights and decreed a state of emergency, *Barricada*, the official newspaper of the Sandinistas, published two front-page, 8 column reports on the Protestants, entitled: 'The Invasion of the Sects.' . . . In that Report many Protestant denominations such as the Mormons, the Seventh Day Adventists and the Jehovah's Witnesses were protrayed as groups of fanatics and superstitious people who liked to manipulate people's emotions and were part of a world-wide strategy of cultural penetration orchestrated by U.S. imperialism."

"Shortly after these publications the attacks grew more and more vocal and the first physical threats were issued. Commander Tomas Borge . . . said there would be religious freedom for those who were with the revolution, but for those who were deceiving people and preaching negative attitudes their days were numbered." [16]

On July 30, 1982, Radio Sandino covered a speech on the subject by Borge. According to Radio Sandino:

"Borge said that the religious sects—the Jehovah's Witnesses, the Adventists, the Mormons and other groups opposed to the revolution—are under investigation . . . He noted that a bill is being submitted to the State Council that will require religious sects to register with the authorities before they begin operation." [17]

In a speech on July 17 Borge had said:

"There are a large number of sects that are being funded by the CIA . . . Some of them have mother churches in the United States. The most famous sects—and it is best for the people to know their enemies—are: Jehovah's Witnesses, the Mormons and the Adventists . . . Other sects are the Voice

of Acclamation and the Wesleyan Church, whatever the hell that means . . . It is evident that we have a to make a serious study to counteract their diversionist activity financed by the CIA of the United States and take measures of a police nature according to the laws of the revolution in order to control and neutralize certain activities that disrupt the country's internal order. To begin with, a large number of these sects are not registered with the pertinent government offices, thus making them illegal." [18]

Borge encouraged mob action against the Protestant churches. By August 1982 more than 20 Managua Protestant Churches had been seized by the "divine mobs." Some, but not all, of the confiscated properties were returned, but only on condition that the ministers refrain from criticizing the government.

Among the Christian organizations forced out of Nicaragua is the Salvation Army, whose charitable and religious activities there ended in August, 1980 after "ominous verbal threats from authorities, and, finally, instructions to close up the program and leave the country." [19]

Religious persecution has also affected the small Jewish community in Nicaragua. The community has been so intimidated by Sandinista actions and rehetoric during and after the revolution that virtually the entire community has fled the country. An article by Shoshana Bryen in the Wall Street Journal summed up the situation well when it said:

"There are some who believe the actions taken against Jewish citizens were the result of severe Sandinista anti-capitalism, but the death threats, the immediate confiscation of businesses and private property, the torching of Managua's synogogue (and later its confiscation) and the arrest and harassment of Nicaragua's Jews were not examples of burgeoning socialism . . . Other small, politically vulnerable communities in that area may suffer a fate similar to the Jews in Nicaragua, where the PLO is assisting the Soviet Union in the export of revolution and anit-Semitism." [20]

RELIGIOUS PERSECUTION OF THE INDIANS

Perhaps the most tragic case of persecution perpetrated by the Sandinistas is that inflicted on the Miskito, Sumo, and Rama Indians of Nicaragua's isolated Atlantic Coast.

Most of the members of these tribes are members of minority Protestant Churches, especially the Moravian church. Living in isolation from most of Nicaragua, they have had little to do with any government. The Moravian missionaries filled the gap by providing most of the schools, hospitals and support organizations that maintained the area.

The campaign of persecution against the Indians has thus far been directed largely at their religious leaders and institutions. In attacking the Indians' religious leaders, the Sandinistas are attacking their source of unity and strength more than attacking their religion itself.

As Belli explains, "When the Sandinistas came to power in 1979, they immediately announced that their top priority was to 'rescue' the Atlantic Coast." Cuban and Nicaraguan personnel began to flood into the area.

The Sandinistas began a heavy-handed attempt to redesign the lives of the Indians along Marxist lines, and "started to replace the people's own leaders with [the Sandinistas'] own authorities—many of whom were Cuban teachers and strangers." Resentments, repression, and riots followed in short order. Reports Belli:

"The Sandinistas blamed the events on counter-revolutionary and CIA inspired forces, and began attacking the most influential Moravian pastors. Some of them were jailed and others expelled, stimulating new waves of protest and repression. [The government] stepped up its attacks and dismantled the network of charitable organizations that, after a century of work, the Moravians had established." [21]

The Sandinistas sealed off the entire Atlantic coast. Travel to the region was allowed only by special permit. Indians were drafted into the militia. Those who refused were shot or forcibly relocated. Villages were forcibly evacuated and then burned. According to Edgard Macias, by midsummer 1982 the Sandinistas had destroyed 55 Moravian churches.

Ministers who are still allowed to preach in the region must submit their sermons to local Sandinista censors. Indian leaders have been rounded up and jailed. The three-tribe umbrella organization created to represent the Indians' interest to the government was shut down.

Two of the most prominent Moravian leaders, Rev. Norman Bent and Rev. Fernando Colomens had been prevented from staying in the Atlantic Coast area. The Moravian Social Action Committee has been closed by the FSLN.

In November of 1982, the Misurasata Council of Ancients (elders), the legitimate representatives of the people of the three tribes, officially denounced the Sandinista government before the Organization of American States.

In that denunciation the Ancients explained that, despite their "active participation in the struggle for liberation [against Somoza] and our decided support for the revolutionary government headed by the Sandinista National Liberation Front . . . ," their people had been subjected to "intense repression, lack of respect for our religious beliefs and traditions, imprisonment of our leaders, massive captures of peasants, women, the aged and children, rapes, beatings, torture, and the death and disappearance of prisoners . . .

"The situation has progressively worsened . . . They have expelled us from the land we received from our ancestors . . . Thousands of members of our communities are at this time kept, on Nicaraguan territory, in concentration camps under strict military vigilance, while more than 1,500 Indians have been obliged to seek refuge in the sister republic of Honduras . . .

"They live in refugee camps, almost at the mercy of the elements, with grave health and nutrition problems especially amongst the children who walk around practically naked and suffer from parasites and many illnesses."

The details of this persecution are particularly horrifying.

According to the Council of the Ancients, in January and February of 1982: "the FSLN with the pretext of 'spreading national sovereignty' destroyed 49 communities, burning more than 4,000 houses, and then, so that no one could return to their land of origin, cut down the fruit trees, shot all the domestic animals . . . and forced the persons that lived there to begin a forced march that took 11 to 15 days in order to arrive at the different concentration camps . . .

"During the forced march . . . the invalids, lame, blind and paralyzed persons were gathered together in the village of Tulinbilia, they were put inside the Church and they were burned—13 persons thus died."

In February also, Rev. Sandalio Patron, the leader of the Sumo Indians, was imprisoned.

Throughout the year the same story was repeated. In the third week of March, according to the Ancients, four more villages were burned, all the houses, churches, and domestic animals destroyed.

In April, religious leader Rev. Abel Flores and 13 deacons were arrested, mounted into a government helicopter and whisked away. No one is told where they were taken. A community called Suma de Kuahbul was occupied by the military. The villagers were forbidden to leave their homes, making normal life, including food gathering, impossible.

In May all churches in North Zelaya were told they must submit all messages for publication to the approval of State Security. The Indian community of Raity was destroyed; half the population fled to Honduras.

In June the Sandinista troops carried out the massacre of Musawas. Only the direct words of the Council of Ancients can adequately convey what happened in Musawas:

"On June 29, 1982, another military regiment of about 40 men appeared at about 9:00 PM. They captured (abducted) Mrs. Aquilina Robin, Calilda Lopez (and) Virginia Benjamin, and placed them in the church; about 30 minutes after, another group of soldiers brought two girls of 12 years each, (Maria Hernandez and Ledena Lopez) and they too were placed in the church. The women began to scream; about 11 o'clock that night, the relatives of the three women and two girls, filled with indignation and family love, approached the church and asked why they were ill-treating the women. They were also taken prisoners and brutally conducted into the church."

"Sometime around 12 o'clock that night, the Sandinista troop took the women out of the church. The girl, Maria Hernandez, of 12 years, was dragged out; because, after she was violated by the troop, she was unable to walk. . ."

"After the five women were carried outside the church, they were placed face down on the ground; one of the soldiers yelled 'not even as women are they any good; not even satisfaction can they give; I still remain with the desire, stinking daughters of sluts.' Presently a group of soldiers came out of the Church and machine gunned them."

Over the next 24 hours, 15 more villagers were murdered by the troops. "This act dispersed the community of Musawas. They went to the woodland looking how to save their lives. Thirty-three were captured and held hostage."

"The Community of Musawas presently in refugee camp in Mocoron is witness to all that took place at Musawas."

In July martial law was declared in the communities of Tuara, Sisin, Kuaquil, Boomsirpi and Yulotigni. The villagers were not allowed to leave their homes or celebrate religious services. According to the Indian elders, eight armed Sandinistas raped the 12 year old daughter of Rev. Serminio Nicho, a religious leader in Ninayeri Sandebay North.

According to the Ancients, the "months of August, September and October are a true Calvary for the 10 Indian communities of Puerto Cabezas. The communities are put under a state of siege. The villagers are pro-

hibited from fishing in the ocean, communal lands are expropriated, villagers are forbidden to leave the village. Masses and religious services are frequently closed down or can be celebrated only with previous permission."

The tactic of restricting the villagers to the village and of prohibiting them from fishing in the ocean or from using their communal lands is devastating because it can put the villagers on the brink of starvation.[22]

The Indians have given the Organization of American States (OAS) many pages of detailed eyewitnesses accounts of torture and murder by the Sandinistas. There is no need to recount all the gruesome stories here.

CONCLUSION

As the Nicaraguan Defense Minister Humberto Ortega has made clear, "Marxism is the scientific doctrine that guides our revolution . . . our doctrine is Marxism-Leninism."[23] Conforming to that doctrine, the Sandinistas are systematically attempting to coopt religious organizations that might threaten the FSLN's ability to dominate Nicaraguan political and social life.

Due to the strength of the Catholic Church, the Sandinista strategy has been to infiltrate, censor and control, rather than to eradicate outright.

At times, particularly when the weight of foreign opinion has been high, the Sandinistas have backed off, at least overtly, their persecution of the Church. During this five-day period, however, the following actions were taken against the Church:

Midnight, Oct. 29, 1983: Mobs began to demonstrate at twenty-two churches in the Managua area, and at an unknown number of churches outside Managua. The mobs, which ranged in size from 50 to 200 persons, interrupted Masses, chanted at churchgoers, and in several cases threatened priests.

0800 Oct. 30: A mob armed with clubs arrived at Saint Jude church in Managua. According to the pro-government press, the mob was acting against a church planned demonstration against the new national military service law. The mob interrupted Mass, and reportedly struck Father Silvio Fonseca. The mob refused to allow Monsignor Bosco Vivas to enter the Saint Jude area. A second mob prevented the holding of a church bazaar (kermesse) later that day.

1030 Oct. 30: Catholic Church leadership (Curia) decided to cancel Masses for the day. Curia was unable to contact some priests, who carried out scheduled activities.

1700 Oct. 30: A mob armed with clubs interrupted Mass at the San Francisco church in the Bolonia area of Managua, breaking church windows and vandalizing cars.

Night of Oct. 30: A mob gathered in front of the Santa Maria church in the San Juan neighborhood of Managua. Another mob burned a tire on the front steps of the Santa Carmen church.

Oct. 31: The government revoked the residency of two foreign priests, in effect exiling them. The two were Luis Corral Prieto, of Spain, and Jose Maria Pacheco, of Costa Rica, respectively the director and assistant director of Salesian school in Masaya.

Oct. 31: The Government announced the arrest of a Father Antonio (a citizen of Italy) for allegedly preaching against the national military service and advocating counterrevolutionary activities.

Nov. 2: The Catholic Church leadership postponed religious services for November 2, (All Souls' Day), calling instead for a day of fasting and prayer. The postponed masses were held November 3.

Sixty-five years of applied Marxist-Leninist doctrine have shown that communism will not accept co-existence with any religion that does not concede supreme authority to it. To the extent that Marxist-Leninist regimes allow churches to operate they do so because they are forced to, as in Poland, or for tactical reasons aimed at the ultimate objective of eradicating religion from society.

The overwhelming evidence of the widespread persecution of Christian Churches in Nicaragua is a sad reminder of the sometimes forgotten nature of Marxism-Leninism and its total antipathy for freedom of religion.

FOOTNOTES

[1] See for example: August 25, 1981 speech of Humberto Ortega; Managua Domestic Service (Radio) 23 April, 1982 (Foreign Broadcast Information Service (FBIS) 28 April, 1982 p. P9); Managua Radio Sandino 26 February, 1983 (FBIS 28 Feb., 1983 p. P17)

[2] "Communicado Oficial de la Direccion Nacional del FSLN sobre la Religion," *Barricada*, October 7, 1980.

[3] "Contestacion al Communicado del FSLN sobre la Religion (October 17, 1980)," *Revista del Pensamiento Centro-americano*, July-December, 1980.

[4] Macias, Edgard; "The Sandinista Revolution and Religion" presented to the White House Outreach Working Group on Central America; (July, 1983).

[5] "Jesucristo y la Unidad de su Iglesia en Nicaragua," (Carta Pastoral, October 22, 1980), *Revista del Pensamiento Centroamericano*, July-December, 1980.

[6] Macias, op. cit.

[7] Radio Sandino, Managua, June 10, 1981.

[8] Geraldine O'Leary de Macias; "Christians in the Sandinista Revolution," (January, 1983).

[9] Macias, op. cit.

[10] *Washington Times*, July 26, 1983.

[11] Archbishop Obando y Bravo, "Comments on the Papal Letter," *La Prensa*, Managua, August 14, 1983.

[12] Archbishop John R. Roche, comments on the United States Catholic Conference, Washington, D.C., September 9, 1982.

[13] Roche, op. cit.

[14] Macias, op. cit.

[15] Humberto Belli, "Persecution of Protestants in Nicaragua: The Neglected Story," 1983.

[16] Belli, op. cit.

[17] FBIS, Central America, August 2, 1982, p. 7.

[18] FBIS, Central America, July 21, 1982, p. 13.

[19] Letter, September 12, 1983 from Salvation Army LTC Ernest A. Miller.

[20] Shoshana Bryen, *The Wall Street Journal*, August 24, 1983.

[21] Belli, op. cit.

[22] Miskito Indian Council of Ancients of Misurasata. Testimony presented to the Organization of American States, May, 1981-October, 1982.

[23] Humberto Ortega, quoted by Branko Lazitch in *Est et Ouest* (Paris) August 25, 1981.●

Mr. STEVENS. Mr. President, I ask my good friend if there is any further business he wishes to transact.

Mr. BYRD. No, Mr. President; I have nothing.

ORDERS FOR THURSDAY

ORDER FOR RECESS UNTIL 10 A.M. TOMORROW

Mr. STEVENS. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 10 a.m. tomorrow, Thursday, May 17.

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

ORDER FOR RECOGNITION OF SENATOR PROXMIRE AND SENATOR BUMPERS

Mr. STEVENS. Mr. President, I ask unanimous consent that following the time for the two leaders under the standing order, there be special orders for not to exceed 15 minutes each for the Senator from Wisconsin (Mr. PROXMIRE) and the Senator from Arkansas (Mr. BUMPERS).

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

ORDER FOR PERIOD FOR TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. STEVENS. Mr. President, I ask unanimous consent that, following the special orders tomorrow, there be a period for the transaction of routine morning business not to extend beyond the hour of 11 a.m. with statements therein limited to 5 minutes each.

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

H.R. 2163

Mr. STEVENS. Mr. President, it is my understanding that, following the period for routine morning business tomorrow, the Senate will resume consideration of H.R. 2163, the Federal Boat Safety Act.

The PRESIDING OFFICER. The Senator is correct.

RECESS UNTIL 10 A.M. TOMORROW

Mr. STEVENS. Mr. President, if there be no further business to come before the Senate, I ask unanimous consent, in accordance with the previous order, that the Senate stand in recess until the hour of 10 a.m. tomorrow.

There being no objection, the Senate, at 7:36 p.m., recessed until tomorrow, Thursday, May 17, 1984, at 10 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate May 16, 1984:

DEPARTMENT OF STATE

Michael Hayden Armacost, of Maryland, a career member of the Senior Foreign Service, class of Minister-Counselor, to be Under Secretary of State for Political Affairs.

The above nomination was approved subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

DEPARTMENT OF COMMERCE

Joseph F. Dennin, of the District of Columbia, to be an Assistant Secretary of Commerce.