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

PRAYER

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

Let us pray.

God, our Father, we thank You for the presence of Father McDonnell in the Senate yesterday and for his prayer which reminded us of that which is fundamental to our national life. We regret the ease with which we forget these fundamentals until tragedy brings us back to reality. Forgive us for weak connections with our roots. Renew in us the vital convictions which guarantee our future as they have for 200 years.

Thank You, Father, for the recess, for the work accomplished, the renewed relationships with constituents, time with family and safe travel. We have 18 working days until the August recess and a staggering load of legislation. Save the Senate from futile battles which are mere shadow boxing—from victories in which there are no winners—and prevent the Senators from being their own worst enemies as they struggle to make the democratic process work. Make them aware of Your availability, Your wisdom, Your strength, your direction at all times and in every situation. In the name of the Lord, we pray. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. DOLE. Mr. President, under the standing order, the leaders have 10 minutes each, to be followed by a special order in favor of the distinguished Senator from Wisconsin [Mr. PROXMIRE] for not to exceed 15 minutes, and routine morning business until noon, with statements limited therein to 5 minutes each. At noon, we have the policy luncheons on both sides from 12 to 2 p.m.

Then, at 2 p.m., the Senate, by unanimous consent obtained on June 24, will begin consideration of S. 49, the McClure-Volkmer Gun Control Act. Rollcall votes can be expected throughout today's session in regard to that bill. It is my hope we can complete action on that bill fairly early this evening, by 7 or 8 o'clock. I think we should be able to do that unless there is something that occurs that the leader is not aware of.

On tomorrow, I believe we will convene at 11 o'clock and begin a live quorum at noon, under the provisions of rule XXII. Following the live quorum, the Senate will proceed to vote on the cloture motion relating to S. 985, the South Africa bill. If cloture is invoked, it is the majority leader's intention to continue the debate on the motion to proceed, and votes are expected throughout the day.

We also hope to dispose of that bill on Wednesday or sometime on Thursday.

Then, on Friday, we will turn to the consideration of other Legislative or Executive Calendar items.

I might indicate that I have just had a leadership meeting with the President. He is very concerned about the fact that a number of his nominees that are on the calendar have not been cleared by the Senate. He would hope very much that we could—I do want to very quickly point out that they are not being held up by anyone on the other side of the aisle. The distinguished minority leader has been most cooperative. I think, without exception, they are prepared to clear nearly every nominee.

But the President is very hopeful we can clear these nominees. Some are Ambassadors to very sensitive and important countries and other positions of importance. It is my hope that sometime this week we can dispose of those nominees. It is the President's hope we can do it today.

The President feels rather strongly that they are his nominees.

They have been thoroughly examined. He feels rather strongly that, being the President, that should be his right. I guess that is mentioned in the Constitution somewhere.

But, in any event, the President is very hopeful we can do that this week.

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

RECOGNITION OF THE MINORITY LEADER

The PRESIDING OFFICER (Mr. NICKLES). Under the previous order, the Democratic leader is recognized.

Mr. BYRD. Mr. President, I thank the Chair.

THE ATHENS-BEIRUT AIRCRAFT HIJACKING AND INTERNATIONAL TERRORISM: LESSONS TO REMEMBER 8 DAYS LATER

Mr. BYRD. Mr. President, 8 days ago, America was gladdened by the release of the 39 hostages seized during the terrorist hijacking of TWA flight 847.

In various ways, all Americans shared with the hostages and their families the harrowing ordeal of their 17 days in captivity. The safe return of these hostages permits our Nation a measure of collective relief.

Yet as we give thanks for the safe return of these 39 individuals, we should remember that 7 more fellow Americans, and 4 citizens of our NATO ally, France, remain terrorist hostages in Lebanon.

As important, we should never forget that one American, a young man who served proudly in the U.S. Navy, was brutally beaten and murdered in cold blood during this terrorist crime.

There is only tragedy for the family of Navy Petty Officer Second Class Robert Dean Stethem, and we can only hope that our condolences and sympathy provide some consolation during its time of grief.

This terrible murder, and the continued captivity of the seven Americans and four Frenchmen, are a sober reality which should place in proper perspective the understandable aura of relief surrounding the release of the 39 other hostages.

This initial relief must be replaced by a somber determination that this Nation, in concert with many other nations, now must do much more to combat international terrorism and to guard against repetitions of these crimes against all civilized peoples.

Our Nation also must redouble its efforts to obtain the freedom of the remaining hostages and to try to find some way to punish the hijackers and murderers who seized TWA flight 847.

In the past several weeks, there has been much public debate about how we should fight international terrorism. Such debate is the hallmark of our democracy.

However, as this debate continues, it is time that we turn our efforts away from unspecified verbal gauntlets and toward more aggressive and specific actions to give those challenges to terrorism more weight and meaning.

That is why I proposed—in Senate Joint Resolution 153—that the United
States initiate a multilateral negotiation aimed at drafting international treaties or agreements containing more effective defenses against terrorism, including more widespread prosecution and extradition of terrorists and more certain sanctions against nations supporting terrorism.

As the President considers my proposal, I hope that the executive branch also is evaluating a full range of other diplomatic, economic, and, if appropriate, military responses to terrorism.

When Vice President Bush convenes the administration's special Terrorism Task Force, the American people and their elected representatives in Congress will expect to hear what further, specific actions the administration intends to propose.

The administration should tell us, within the boundaries of appropriate classification of information, what specific actions it is proposing to other nations to carry out the President's most recent antiterrorism decisions, to free the remaining hostages and to punish those responsible for the TWA hijacking.

In a letter to the President today, I have asked him to provide us with this information as well as to take three further actions to guard against future terrorism and to assist Congress in cooperating effectively with the executive branch in this endeavor.

First, the administration should consider the need to renegotiate the bilateral and multilateral air transport agreements the United States has signed, to determine whether they should be renegotiated to emphasize increased airport and in-flight security.

Second, the executive branch should provide a special report to Congress identifying, at least on a classified basis, those nations that may have interests in future terrorism and to assist Congress in cooperating effectively with the executive branch in this endeavor.

Third, the President should consider and adopt, as soon as possible, in special authorizing and funding legislation, if necessary.

The special report I am requesting from the President would help Congress and the American people to know who are our allies, and who are our enemies, in this battle against international terrorism.

Terrorism possesses no one nationality, Mr. President, as the murder of American marines in Beirut Airport in 1983 demonstrated. And the bombings of airports in Japan and the Federal Republic of Germany have demonstrated recently. While the Middle East has become the principal source of international terrorism, no nation is safe from this threat, and all civilized nations should cooperate against it.

Those nations which have supported terrorism directly, such as Syria and Iran, and those whose policy interests have been promoted indirectly by it, such as the Soviet Union, should recognize that they, too, are vulnerable to attack by terrorists. Some of these nations already have been attacked, and they should realize that their safety rests ultimately in joining the fight against such crimes.

Unfortunately, it is uncertain whether this realization was Syria's motivation for helping to free the hostages from TWA flight 847. Our thanks for this assistance should be tempered by the memory that Syrian complicity, reportedly, at least played an indirect role in the terrorist bombing which killed 241 American marines at Beirut Airport in 1983.

Mr. President, there are two other aspects of this latest terrorist event which the Congress and the American people should think about in the days ahead.

This latest hijacking underscores not only our need to increase our antiterrorist actions, but also the requirement for redoubled efforts to help resolve the underlying problems preventing peace in the Middle East.

Until peace is achieved, this troubled region will continue to be the source of international terrorism.

Finally, we should reflect upon the role of television in this affair and what that role might be in covering future terrorist acts.

The first amendment protects freedom of the press, but it does not guarantee a nation is safe from this threat, and all civilized nations should cooperate against it.

The first amendment protecting freedom of the press is a foundation of our democracy, and that is as it should be. A free press safeguards our basic liberties. Yet the press coverage of the TWA hijacking raises troubling questions about how the media covers such news and whether it becomes so much a part of the event being covered that it unduly influences the event, instead of reporting on the outcome.

The press, in part, is aware of these concerns, and two of its most respected reporters, David S. Broder and Lou Cannon, have presented alternative interpretations of the coverage of the hijacking.

Mr. Broder wrote in the Washington Post, among other thoughts, that:

At some point, many of us watching felt television crossed the line between covering the story and hyping it. The incessant interviews . . . implicitly collapsed all questions to the imperative of a quick release.

He continued:

We cannot reduce international relations to the casualities and bombshell pictures on which television thrives. The problems are more complex. We cannot think straight about foreign policy if our emotions are being jerked up and down by the zoom lenses.

What we saw in this hostage-taking was a President and an America whose policy options might have been constrained or unduly influenced by the coverage of the event. Indeed, Mr. Broder seems to be saying that the almost-daily, emotion-filled interviews with the hostages and their families could have imposed undue pressure on the administration to act precipitously or make concessions to the hijackers simply to obtain the release of the hostages.

Safe release of the hostages was, properly, the first priority of our Government in this incident, but Mr. Broder’s point is a valid one to ponder.

Mr. Broder also states that:

Shiite and Syrian critics of the United States were able to use the American television networks to make their propaganda points.

His comments reflect another concern being raised about the coverage—that the terrorists' negotiating position may have been reinforced by the headlines and the omnipresent cameras and microphones.

Lou Cannon, on the other hand, provides a different viewpoint. He defends the press' performances by writing:

Several freed hostages thanked reporters for keeping the public focus on their plight. And it is also worth noting that the media refrained from publishing or airing information that could have damaged to the hostages.

Mr. Cannon continued:

Beyond the necessary suppression of certain information, television also distorts itself in some positive ways. (Nabih) Berri's frequent appearances on television may have exposed Americans to some self-serving propaganda, but they also gave the Amal leader a highly publicized stake in solving the crisis.

Mr. President, we all know that U.S. Government officials often try to use the press as a means to reach a policy objective, sometimes in a most self-serving manner. Mr. Cannon refers to this in his column, as well. The press also should resist this type of official exploitation.

In addition, we all understand the natural competitiveness which impels news organizations to obtain scoops in the quest for more information, better ratings, more readers or more viewers. True, journalistic coups earn our respect and are a public service when they increase our citizens' awareness.

Furthermore, I am not calling for press self-censorship, or for Congress to legislate any controls on the news media.
I am calling on the news media, however, to reflect more on its behavior in these cases, as Mr. Broder and Mr. Cannon have done, and to be more introspective, so it might consider how best to serve the interests we all share and to protect the safety of any victims of terrorism in the future.

I believe that the networks and the broadcast media, in general, are as aware as the print media of the need for this type of “soul-searching,” as Ron Powers of CBS News called it. In a commentary on “CBS Sunday Morning,” Mr. Powers called for a summit meeting of network and broadcast industry executives to ask questions and come up with answers as to their proper role in reporting the news on acts of terrorism in the future. I wholeheartedly support Mr. Powers’ suggestion.

Mr. President, I look forward to receiving your Report’s recommendations, and I pray that the efforts to seek release of the seven Americans and four Frenchmen still hostage in Lebanon, and to protect the safety of anyAmerican military man by the two hijackers in the TWA hijacking, will not be thwarted. I ask unanimous consent that my letter to President Reagan be printed in the Record, as well as a transcript of the CBS Sunday Morning commentary by Ron Powers on July 7, 1985. There being no objection, the material was ordered to be printed in the Record, as follows:

U.S. SENATE
OFFICE OF THE DEMOCRATIC LEADER

The President,
The White House,
Washington, DC.

DEAR Mr. President: The hijacking of TWA Flight 847 is the seizure of its passengers and their subsequent release, and the continued captivity by terrorists in Lebanon of seven Americans and four Frenchmen. All underscore the necessity for our nation to redouble its efforts to fight international terrorism.

That is why I proposed—in Senate Joint Resolution 153—that the United States initiate a multilateral negotiation aimed at drafting international treaties or agreements containing more effective defenses against terrorism, including more widespread prosecution and extradition of terrorists and more certain sanctions against nations supporting terrorism.

As your Special Terrorism Task Force begins its work, the American people and their elected representatives in Congress will look forward to learning what further, specific actions the Administration intends to propose against international terrorism.

In this regard, and also to assist Congress in cooperating effectively with the Executive branch in the fight against terrorism, I would like to request that your Administration inform us, within the boundaries of appropriate classification of information, what specific anti-terrorist actions are being proposed to other nations to implement your June 18 decisions, to free the remaining hostages and all individuals responsible for the TWA hijacking and murder.

Also, I would ask that you take three other actions which could strengthen significantly our anti-terrorist activities. These are:

1. Conducting a comprehensive review of all the bilateral and multilateral air transport agreements signed by the U.S., to determine whether any should be renegotiated to emphasize increased airport and in-flight security.

2. Providing a special report to Congress identifying, at least on a classified basis, those nations whose major airports represent security risks to American travelers and airlines, any specific actions our government has recommended to those nations to improve their airport security, the responses to those recommendations, any options available to the U.S. government to encourage implementation of these recommendations, including any appropriate sanctions, and if sanctions are an available option toward any country but are not being implemented, the Administration’s reasons for not doing so.

3. Considering still further improvements to U.S. defense capabilities, targeted toward nations assisting terrorists against terrorism, and proposing to Congress as soon as possible in special authority and funding legislation, if necessary.

These reports and other initiatives I am requesting should contribute to our battle against international terrorism.

My thanks in advance for your consideration and cooperation.

Sincerely,

ROBERT C. BYRD.

CBS SUNDAY MORNING, JULY 7, 1985
COMMEN TARY BY RON POWERS

It is time for American broadcasters to commit an act of statesmanship: an act so momentous and so unusual and so utterly improbable that it would be expected as they looked at times during the TWA hijack crisis. They get locked into that role by the two hijackers in the TWA hijacking.

They have an option toward any country but are not being exercised. They have an option toward any country but are not being exercised.

As your Special Terrorism Task Force begins its work, the American people and their elected representatives in Congress will look forward to learning what further, specific actions the Administration intends to propose against international terrorism.

I hope also, Mr. President, that we will never let fade from our view the senseless murder of an American military man by the two hijackers in the TWA hijacking.

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ment, that there is a "clear possibility"— in their words—that such a war would trigger a nuclear winter. Such a combination could constitute the worst environmental disaster for the Earth in the past 65 million years. If nuclear winter were triggered, most of mankind would starve to death. There is the real possibility that our species might become extinct. With this kind of stake in peace, the objective of preventing a nuclear war obviously enjoys a very high priority.

Is there no priority higher than the avoidance of nuclear war? Surprisingly for almost all of us, there is. Since we recognize fully the virtual certainty that such a war would destroy our great country as an organized society, why does not the prevention of such a war constitute our No. 1 objective? And it certainly does not. Can we face the likelihood that in a superpower nuclear war, everyone we hold dearest, including our own children, might perish at once or die a slower but more agonizing death?

Can we say that there are consequences flowing from the policies that would avoid a nuclear war that would be worse than this catastrophe of death that would surely flow from such a war? Indeed there are, for many of us. To understand what one of these consequences is, consider the following fact—one of the 535 Members of Congress—the 435 in the House and the 100 in the Senate—have advocated a unilateral destruction of all of our nuclear arms. No Member of the Congress has said that our President should tell the Soviet Union that we will not retaliate with devastating nuclear weapons. In fact, most Members of Congress believe that such an attack the Soviet may make against us is on any reasonable basis of military policy.

Of course, Members of Congress differ over what nuclear weapons are effective or necessary. We split on the wisdom of the MX, the B-1 bomber, the star wars anti-missile defense. But there is no debate over the issues on any other arms control differences on basic military policy. They hinge on judgments about the effectiveness of the weapons, the cost, the incremental value of adding or not adding more nuclear weapons to an arsenal already big enough to blow the Soviet Union off the face of the Earth.

Given this remarkable consensus in Congress, why is there no outcry from the press, from the universities, from some segment of the public generally? This country glories in dissent. We thrive on differences of opinion. We recognize that it is debate and discussion that makes our country strong. What is the basic difference between this great democracy and totalitarian nations such as the Soviet Union? It is our welcome of the challenge of disagreeing.

Aside, you have the most serious threat to survival the world has ever faced, we speak as one.

Think of it. The Catholic bishops have reminded us that ours is the first generation since Genesis that has the power to end life on Earth. The bishops have called on our people and our Government to use all our material and spiritual resources to prevent a nuclear war. But how much time, how much effort, how much consideration of the options have we given to this most critical question of this or any age?

Mr. President, the American people, in State after State, in referendum after referendum, have told us that they want this country to work to negotiate an end to the arms race with the Soviet Union. The people in this country cry out for nuclear weapons arms control. We have, over the past 22 years, forged five major arms control treaties with the Soviet Union. But the nuclear weapons arms race streaks on, blasting ahead stronger than ever. In spite of the meetings going on now in Geneva between representatives of the two superpowers, the outlook for effective arms control progress is dimmer now than it has been at any time in the 30 years that the United States has been engaged in arms control. Without action, little or no progress will be made in the present round of meetings.

MYTH OF THE DAY: THAT ENVIRONMENTAL POLICIES HAVE IMPROVED SINCE SECRETARY WATT LEFT

Mr. PROXMIRE. Mr. President, for several days now, I have delivered to the floor of the Senate what I call my myth of the day.

My 10th myth of the day has been a product more of expectation than a Presidential or administration statement. When James Watt left the Reagan administration as Secretary of the Interior, Americans who put a priority on the environment heaved a mass sigh of relief. The general public still persisted in the feeling that we could expect to breathe clean air, drink pure water, and that the Nation's marvelous environmental legacy was home free. Unfortunately, that general belief is a myth. The environment suffers the same problems of exploitation and neglect it suffered under Watt. Consider:

First, the Reagan administration still has no acid rain program, preferring unlimited "further study" to taking action. Meanwhile our lakes and forests continue to be damaged and degraded. Scientific studies show the problem is spreading to new geographic areas like Far West.

Second, in first 5 years of Superfund Program the Federal Government totally failed to clean up 30 sites—six—out of the thousands of dangerous, abandoned, hazardous waste dumps nationwide.

Third, EPA managed to reregister just 1 percent of all pesticides standards. Even worse the vast majority of older pesticides on the market are missing vital test data for determining whether they cause cancer, birth defects or mutations.

Fourth, the Interior Department has continued implementing Watt's policy of weakening the landmark Alaska Lands Act including his attacks on Alaskan national parks and refuges.

Fifth, the Surface Mining Program is still not enforced. The Interior Department is owed hundreds of millions in uncollected fines from scofflaw mining companies.

Sixth, Interior is still implementing Watt's controversial Coal Leasing Program, Interior still clings to his giveaway policies which encourage speculation.

Seventh, despite some cosmetic changes in Watt's controversial Coal Leasing Program, Interior still clings to his giveaway policies which encourage speculation.

Eighth, Interior has not backed down from Watt's controversial areawide mass leasing of offshore oil and gas lands.
beach, which fronts costly condominiums and haughty hotels in Miami Beach. The corps is really sand-bagging the taxpayers with this one because one large storm could easily sweep away all this sand. The corps' efforts are making it easier for those staying in these pleasure palaces to bathe but the average taxpayer is taking the heat.

The corps is in the midst of a costly, never ending, and futile effort to rebuild the beach in front of Miami Beach. They are dredging sand offshore and pumping it onto the beach to widen it. Natural geologic forces are eroding the beach, but the corps is attempting to thwart those forces. Taxpayers can pour in the millions,贝are is really sand-bagging the beach it never ending, and futile effort to re- becomes Miami seawall. Expert geologists and marine scientists want to protect their investment in this work to protect the investment of developers who built high-rise condominiums and hotels along an unstable beach.

Once this type of work starts, finding a time to say "Enough, already," is next to impossible. The corps is now rebuilding about 10 miles of beach, but is ready to start work on another 2.5 miles because "Local interests desire extension of the northern limit." Where does the corps stop—Palm Beach, Fort Lauderdale, or Maine?

The money for this extension is hidden away in the supplemental appropriations bill recently debated by Congress, which appropriates an initial $1 million as a downpayment on a $6 million a mile to underwrite this effort.

Are these efforts futile? Here is a quote from "Living With the East Florida Shore," a book written by ecologists and marine scientists: "Shoreline engineering destroys the beach it was intended to save." Taxpayers can pour in the millions, the corps can pump ton upon ton of sand, but research demonstrates that the best that can be hoped for is that Miami Beach will become Miami seashell. If local interest want to protect their investment and reimburse the corps for the total cost, fine, but the taxpayer should not be handed even part of the bill.

Make no mistake: The corps is doing this work to protect the investment of developers who built high-rise condominiums and hotels along an unstable beach. Without that sand, could they charge $150 a night for a room or $1 million for that condo? The corps sows the sand, but developers reap the beach.

We laugh today at the story about Xerxes, an ancient Persian Shah who ordered his army to whip the sea after a great flood. We laugh too hard, however, the taxpayers should consider what the corps—a modern-day Xerxes—is doing for Miami Beach.

SOVIET JEWS AND THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, the saga of Jews fighting for basic human rights in the Soviet Union offers an excellent example of why the United States needs to ratify the Genocide Convention.

While the conditions that Soviet Jews currently face do not constitute genocide, it is important to remember the signal that American ratification of this landmark treaty would send to the Soviet Union regarding our commitment to human rights.

America's failure to approve the Genocide Convention has frequently been used as a weapon by the Soviet Union to impugn the motives of the United States with regard to human rights. Our moral credibility in criticizing Soviet treatment of its Jewish population would be greatly enhanced if the Soviets could not deride us for failing to approve such a basic declaration of human rights as the Genocide Convention.


The book concentrates on the so-called refuseniks—Jews seeking and denied the right to emigrate to Israel. Mr. Gilbert describes the despicable devices that the Soviet Government has used to harass the refuseniks.

Gilbert's book comes from interviewing a number of the more prominent refuseniks during his trip to the Soviet Union in 1983. "The Jews of Hope" is an examination of resistance, in spite of dire situations and constant surveillance, arrests, frame-ups, terms in the Gulag, and anti-Semitic propaganda.

The plight of the refuseniks is indeed a tragic one as described by Martin Gilbert. The United States has repeatedly criticized these violations, yet the Soviet Union continually responds by pointing to America's failure to ratify the Genocide Convention.

Mr. President, I urge the Senate to ratify this fundamental statement of human rights to convince the world of our commitment to the sanctity of human life.

REFORMING MEDICARE REIMBURSEMENT TO HOSPITALS

Mr. PROXMIRE. Mr. President, the most important reform in the history of Medicare was enactment of a prospective payment system for inpatient hospital care.

This new payment system has helped to turn the industry upside down. The old cost-based reimbursement system provided hospitals with every incentive to increase both costs and charges, increase the intensity and number of services provided to patients, and increase their length of stay. The incentives for efficiency or good management were minimal, at best.

By contrast, Medicare's new prospective payment approach is based upon a price list of 470 different diagnosis related groupings, hospital suppliers have slashed prices as they are finding backward price pressure from a newly competitive hospital industry. And, in some cases, patients are finding discounts for the first time as hospitals begin to market their most cost-effective services.

As with any system, the DRG system which Medicare maintains both good incentives and ones which bear watching. For example,
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the incentives for economic efficiency also contains the possibility for under-service of Medicare patients, such as long-term care or prema-ture discharge and it is important that Medicare monitor these developments very closely.

And it is important to recognize that DRG's are a somewhat blunt tool, subject to very legitimate criticisms, which we need to address as we move along.

For example, critics have pointed out that the DRG's themselves are not clinically precise and may need to be reformulated as we go along to assure that the system makes better clinical sense and properly accounts for the lowering of quality of care or DRG's are a somewhat blunt tool, Medicare monitor these developments that the system makes better clinical

In my view, the Congress must send a clear and unambiguous signal to the industry that we remain committed to implementing the prospective payment concept and any delay would undermine that message. The types of se-

While they have a tendency to over-state their case, the hospital associations have raised a valid point. But in proposing a freeze of implementing the DRG system, they are dead wrong. These critics contend that the dual structure of reimbursement would require that, at full implementa-

While most of these issues cannot be addressed just yet, the legislative package before us today is designed to attack three problems that stem from the prospective payment system and the dual structure of reimbursement hospitals face.

In addition, while the Health Care Financing Administration is currently exploring the possibilities for extending the prospective payment concept to other areas of health care services, hospitals are currently left partially under prospective payment—for inpa-

Dartmouth University.

For hospitals in regions which would benefit even more from a one-year freeze, rather than my blend proposal, I would point out that the certainty of continued implementation of the DRG system, even at a blended rate, offers far more security than the unpredict-

Mr. President, pressure has been increasing on easy-to-treat cases but loses major windfall profits and catastrophic losses to institutions and we need to take that into account.

That is why my bill will provide for a one year freeze. And as long as the specter of windfall profits and catastrophe losses remain, the possibility of further attacks on the implementa-

My bill is designed to be budget neutral. It is not intended to increase Medicare's expenditures but is intended to be implemented by the Department of Health and Human Services to preclude any increase in outlays.

Mr. President, I ask unanimous consent that the text of the bill be printed in the Record, as follows:

The advantages of such a blend are clear. It recognizes the fact that costs are not uniform throughout the country and, by providing for an even split between the costs of each region and national costs, this approach eliminates the windfall profits and the catastrophic losses that institutions would otherwise face. But it retains the incentives for efficient management and retains the vital economic linkage of the DRG system: financial reward and financial penalty. Hospitals in all regions would retain incentives to lower costs but the dimensions of those profits and losses would be more reasonably related to their actual management and clinical efficiency.

For hospitals in regions which would benefit even more from a one-year freeze, rather than my blend proposal, I would point out that the certainty of continued implementation of the DRG system, even at a blended rate, offers far more security than the unpredict-

And, finally, by adopting this proposal, we will be providing ourselves with the necessary breathing room to test out the other long-term modifications in the DRG system that are now under development.

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Mr. President, I ask unanimous consent that the text of the bill be printed in the Record.

S. 1400

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) Section 1886(d)(1) of such Act is amended by striking out "subparagraph (A)" and inserting in lieu thereof "subparagraph (A):" and

The DRG rate itself is a blend of the appropriate regional rate—and there are nine of them based upon the nine census regions—and the national DRG rate. With each year, the DRG rate is increasingly based upon the national DRG rate at full implementation, hospitals will be reimbursed solely on the DRG rate schedule for urban and rural hospitals and rates will be based solely on national prices. It is that inexorable march to a DRG price schedule based solely on national prices that has generated great concern among hospital administrators that the system may make better clinical

Security Act is amended to read as follows:

S. 1400

If the DRG system is to work, it must be both fair and equitable and perceived as fair and equitable: the re-

in-and we have just passed the half-

way point—hospitals are receiving a decreasing portion of their payment based upon their actual costs and an increasing portion based upon a pro-

spectively determined DRG rate. The DRG rate itself is a blend of the appropriate regional rate—and there are nine of them based upon the nine census regions—and the national DRG rate. With each year, the DRG rate is increasingly based upon the national

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S. 1400

M. President, pressure has been mounting on the Congress to delay the 3-year phase-in of the DRG system. When there are a number of issues that contribute to this pressure, one of the most recurring themes is the con-

Mr. President, pressure has been mounting on the Congress to delay the 3-year phase-in of the DRG system. When there are a number of issues that contribute to this pressure, one of the most recurring themes is the concern with the march to a national urban and a national rural DRG rate. The course of the 3-year phase-in and we have just passed the half-

way point—hospitals are receiving a decreasing portion of their payment based upon their actual costs and an increasing portion based upon a pro-

spectively determined DRG rate. The DRG rate itself is a blend of the appropriate regional rate—and there are nine of them based upon the nine census regions—and the national DRG rate. With each year, the DRG rate is increasingly based upon the national
S. 1401, HOSPITAL WAGE INDEX ADJUSTMENT

Mr. PROXMIRE. Mr. President, the second amendment I will introduce today will not increase Medicare's outlays either but will redress a major imbalance in the wage index used by Medicare to compute hospital reimbursement.

In implementing the DRG system, the Department was forced to rely upon data collected by the Bureau of Labor Statistics in order to determine the average wages paid at each institution. There were a number of problems with this ES 202 data set but the key problem was that while it tabulated total hospital wages and the total number of employees, it did not account for the contribution of part-time employees. That meant that for States like Wisconsin which relied heavily upon part-time employees the wage level was significantly understated.

Medicare had no way of knowing how many full-time equivalents the reported number of employees equaled.

That is why the Congress mandated the creation of a new wage index, based upon a more complete accounting of the contributions of part-time employees and directed that the new wage index be implemented retroactive to October 1, 1983. The Department has now computed a new index and announced its intention to implement the wage index this October 1.

But the Department's report highlighted the tremendous shifts in reimbursement that will result from the application of the retroactive provisions of the law: Shifts which might mean millions of dollars in collections from hospitals in some areas for the purpose of redistribution to other areas that had been underpaid in the past. It is clear to hospitals in winner States, like Wisconsin, as well as loser States that enforcing the provisions retroactively would simply cause financial havoc for no good purpose. That is why the American Hospital Association and the Wisconsin Hospital Association have proposed repeal of the retroactive provision and I agree.

My bill would repeal that provision, provide for the application of the new wage index prospectively beginning October 1, and direct the Secretary of HHS to make periodic updates in the index.

The importance of implementing the new wage index on schedule cannot be overstated and that is why I am delighted to join Congressman HAL DAUB in offering this proposal.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1401

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) that the Secretary of Labor adjust the wage index. Section 2316(b) of the Deficit Reduction Act of 1984 (Public Law 98-369) is amended:

1. by striking out "for hospitals for cost reporting periods beginning on or after October 1, 1983" and inserting in lieu thereof "for discharges occurring on or after October 1, 1983, and"

2. by striking out the second sentence and inserting in lieu thereof the following: "For discharges occurring during fiscal year 1986, any such changes in the wage index shall be derived from total gross hospital wages."

(b) AUTHORIZING PERIODIC UPDATING OF INDEX.—Section 2316(a) of such Act is amended by adding at the end the following new sentence: "The Secretary shall provide for such periodic adjustments in the appropriate wage index as may be necessary, taking into account changes in the wage differences of full time and part time workers.

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall be effective as if they had been included in the Deficit Reduction Act of 1984 as originally enacted.

S. 1492, HOME HEALTH CARE REIMBURSEMENT REFORM

Mr. PROXMIRE. Mr. President, the third bill I am introducing has a very simple purpose: to assure that all home health agencies, whether they are based in a hospital or a storefront down the street, will face the same cost limits for their area and the same cost reporting requirements when seeking Medicare reimbursement.

In reimbursing home health agencies, Medicare has always treated hospital-based home health units differently from all other home health care providers.

One aspect of this difference has been in the area of cost reporting. Since Medicare requires hospitals to spread their overhead costs to home health claims, Medicare has always treated hospital-based home health agencies as separate from other home health providers.

Because of the great discretion that hospitals can exercise in allocating their overhead costs, it has always been necessary that a hospital agency's claims be handled by the hospital's fiscal intermediary as part of their review of all hospital service claims.

In addition, Medicare has recognized higher cost limits for hospital-based providers of home health services. With the adoption of the Tax Equity and Fiscal Responsibility Act of 1982, Congress mandated the development of a single cost-based home health fee schedule by the intermediary and hospitals but required the Department to recognize the impact of the Medicare cost allocation formula through an add-on to this general cost limit. In practice, this has meant that for hospital-based home health agencies, Medicare's cost limit which, on average, is 13-percent higher than a free-standing provider for the very same service.

The application of the Medicare cost adjustment formula to hospital services other than inpatient care is generally quite appropriate and, in cases such as reimbursement of skilled nursing home care, is even more appropriate in light of empirical findings that hospital-based home care units often treat patients who are most severely ill.

But in the case of home health care, where only a small percentage of the activity is taking place on the hospital grounds, there are a number of legitimate policy reasons for changing the present arrangement.

First, by requiring hospital-based home health care units to follow the same cost reporting and claims policies as other health units, we will improve the quality and consistency of home health claims review.

The inconsistencies of Medicare intermediaries in reviewing home health care claims has been a recurring problem. The difficulty in improving the system has been the fact that for most Medicare fiscal intermediaries, home health claims have represented a small percentage, both in volume of claims and in total dollars, of their total production and they were never able to devote sufficient resources to this area in order to develop proper expertise. That is why the Congress mandated that all home health claims should be channeled to a handful of so-called regional intermediaries. In this way a few intermediaries will handle all home health care claims and, by reducing the number of intermediaries making decisions and increasing the volume of claims they review, the possibility of consistency in decision-making is significantly enhanced.

Unfortunately, as long as hospital-based home health care units file their home health claims as they currently do, these claims will be exempt from that system since they will have to be reviewed by the hospital's own intermediary. In a few cases, the hospital's own intermediary may be one of the regional home health reviewers but, in most cases, they will not. This means that claims from 20 percent of all providers will be exempt from this regional intermediary review system and that will undercut its possibility of success. Even more important, the hospital's intermediary will be handling even fewer home health claims than it currently does. The possibility for erratic and inappropriate decisions is increased on those claims.

HHS
In my view it is in the interest of Medicare, the beneficiary and the hospital to see that their home health claims are handled by the newly designated regional intermediaries.

Second, by requiring all home health agencies to file the same cost reports, the Congress and the Department will be in a better position to compare costs between freestanding facilities and hospital-based units and among hospital-based units. Currently that simply cannot be done because of the variability in how hospitals allocate their overhead costs. With home health care costs increasing at a more rapid pace than any other Medicare-covered service, and the possibility of applying prospective payment to home health care still many years away, it is essential that we maintain solid, and comparable, cost data in the interim. With my bill, we will be able to do that.

Third, there has been a rush into home health care services by all sorts of providers but the most astounding increases have come from for-profit agencies. It is especially true in the freestanding facilities. While all hospital-based providers reaching a decision to enter the home health care market know that they will face the same general cost limits from Medicare, a hospital faces in a situation in which is 15 percent higher. That skews the economic incentives facing an administrator who is attempting to decide whether his or her hospital should create a home health agency, enter a joint venture with an existing provider or simply contract with existing providers to meet their patients' home health needs. There seems to be little reason to encourage hospitals to enter the home health market in light of the phenomenal number of providers who have recently entered the field and the inherent incentives a hospital has to decrease costs. As all providers should choose to enter the market on the same grounds as any other provider: they can meet the prevailing Medicare price.

Finally, it is important to remember that the overwhelming portion of home health services activity takes place far from the hospital's grounds. It does not take place on the hospital's campus. And in an era in which a hospital is prospectively reimbursed under the DRG system for inpatient care yet cost-reimbursed for all other costs, the appeal of using the cost allocation formula for cost-shifting is growing. And in this area, where the justification for the application of the cost allocation formula is least strong, it's time that we reassess its validity in light of the other policy considerations I have outlined.

Mr. President, I fully recognize that some hospital-based providers may face extraordinary costs as a result of being a sole community provider, peculiarities of geographic location, or the necessity of paying a premium for necessary, but difficult to attract personnel, and that is why my bill does not affect the Secretary's authority to grant exceptions to the cost limits on a case-by-case basis where the hospital-based agency, or any other home health provider, can make its case. And the comparable data base that can be developed from all providers filling the same reports will better enable the Secretary to assess the validity of those requests for exceptions.

Mr. President, my bill offers the possibility of improving the consistency and quality of claims decisions, better cost data, increased competition and savings of several million dollars a year for Medicare.

Mr. President, I ask unanimous consent 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:

S. 1402

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 1861(v)(1)(L) of the Social Security Act is amended by striking out the period at the end thereof and inserting the following:

"(b) The amendment made by subsection (a) shall be effective with respect to services furnished after the date of the enactment of this Act.

(c) The amendment made by subsection (a) shall be effective with respect to services furnished after the date of the enactment of this Act.

THE PRESIDING OFFICER.

Routine Morning Business

Mr. Dixon, Mr. President, all of us rejoice that the hostages from TWA flight 847 are safely back on American soil. We are thankful for their return.

There have been innumerable expressions of happiness across our land during the last few days, and over the Fourth of July holiday. We in Illinois are especially grateful, Mr. President, because there were several Illinois citizens among the flight 847 hostages who returned home.

At the same time, all of us were saddened at the untimely and unnecessary death of Robert Stethem. This courageous young American truly deserves our respect, and we remember his family in our prayers.

There is an additional note of sadness related to the events in Lebanon. On the Fourth of July, I met with the family of Father Lawrence Jenco, a 51-year-old Catholic priest and native of Joliet, Ill, who is a hostage still being held in Lebanon. He is, in fact, one of seven Americans, Mr. President, who were left behind when the other hostages were released. The other Americans still being held as prisoners in Lebanon. We are determined that they, too, will be returned to the United States to once again share the freedom that we as Americans all enjoy.

The tragedy of these seven hostages is that none of them was doing any harm to Lebanon or its citizens. They all were in Lebanon for good reasons, and many of them were on missions of mercy. Many of them were there to help ease the suffering of the people in that war-torn land. All of the seven were innocent victims who were plucked from the streets of Beirut by the terrorists.

Father Jenco was in Lebanon as director of the Catholic Relief Services in Beirut. He dedicated himself to the goal of helping to rebuild strife-torn Lebanon. He was abducted January 8, 1985.

Shortly after his disappearance, more than 10 of Father Jenco's relatives visited with Senator Paul Simon, Congressman George O'Brien, and me to discuss his plight. More than anything else, they requested that we, as their representatives in Congress, remember Father Jenco and the other hostages still being held in Lebanon, and that we continue to press the State Department to make every effort to insure the safe release of all of the hostages. Since that time, Senator Simon, Congressman O'Brien, and I have been in constant touch with the State Department to press home the point that the United States cannot rest or be at ease until all of the hostages are freed and safely back on American soil.

Father Jenco's family's hopes were raised because of assurances they received that our Government was trying to include the seven hostages in the effort to release the Americans from flight 847. Father Jenco's relatives were devastated when they learned that he and six others were left behind, but they are not forgotten. I assured the Jenco family that we will make every effort to free Father Jenco. The other Americans still being held as prisoners in Lebanon. We are determined that they, too, will be returned to the United States to once again share the freedom that we as Americans all enjoy.

Because I understand how dejected they are, I invited more than 30 of Father Jenco's relatives to join me in Illinois on July 4 to remind all Americans that the hostage crisis is not yet over. I suggested that we keep Syria involved in the situation there, with the hope that President Assad can be as helpful with the seven left behind as he was with those from TWA flight 847. We must also press
We will miss his presence as we continue in our deficit reduction efforts this year, and in years to come.

TRIBUTE TO LT. GEN. THOMAS HERREN

Mr. HEFLIN. Mr. President, it is with great sadness that I rise today to speak in honor of the news of the recent passing of one of our country's outstanding military leaders, Lt. Gen. Thomas W. Herren, who died on June 4, 1985.

General Herren's death was brought to my attention by his 15-year-old granddaughter, Lisa, who lives in Bethesda, MD. Lisa sent a letter to me at my apartment in Washington and enclosed an obituary stating many of her grandfather's accomplishments, but, as she put it, "yet not half so many as those that are in my heart. He meant a lot to me, a grandfather above the rest."

General Herren was not only a grandfather above the rest, but also a patriot above the rest. General Herren was a veteran of three wars, and commanded the Military District of Washington from 1950 to 1952. He served with the field artillery in France during World War I, and was an assistant commander of the 70th Infantry Division in Europe during World War II. General Herren served as deputy commanding general for civil affairs of the 8th Army and as a commanding general of Korean Zone Communications during the Korean war.

After leaving Korea, he served in West Germany and served as commanding general of the 1st Army, based in New York, before retiring from active duty in 1957. His decorations included two Legions of Merit and the Distinguished Service Medal.

General Herren was a native of Dadeville, AL, and graduated from the University of Alabama in 1917. Later that year, he joined his Army commission. Before World War I and World War II, he graduated from the Cavalry School and the Command and General Staff College.

The outbreak of World War II found him a cavalry instructor at Fort Benning, GA. He spent 1 year as commanding cadet of the Cavalry School at Fort Riley, KS, before going to France with the 70th Division in 1944. He landed in Marseille with the division's three infantry regiments, which, as "Task Force Herren," fought on the Rhine and in the Battle of the Bulge.

After that war, he held staff posts in South Korea and Japan before going to Washington in 1949 as the Army's Chief of Special Services. A noted pre-World War II polo player, the general, in his post, supervised the Army's special program for sports.

Thomas Herren will be greatly missed by his State, his country, and
probably most of all, by his granddaughter, Lisa Herren. I wish to extend my condolences to General Herren's wife, the former Lillian Corcoran, his two sons, retired Army Lt. Col. Thomas W. Herren, Jr., of Falls Church, VA, and retired Army Col. John D. Herren, of Bethesda, MD, and his four other grandchildren.

THE UNIQUE ROLE OF BLACK COLLEGES AND UNIVERSITIES

Mr. HEFLIN. Mr. President, on June 19, 1985, I joined my friend and colleague, Senator PAUL SIMON, in introducing the Title III Amendments of 1985.

I am particularly pleased that Senator Simon has agreed to address one of my concerns, which is, that as this legislation develops in the Senate, there may be a future need to alter the bill. A major change would include an enhancement provision pertaining to future judicial consent decrees affecting our historically black colleges. It is my hope that the Committee on Labor and Human Resources would consider this potential need during the markup session of the bill. This type of provision pertaining to our historically black colleges would build on the existing rationale that the unique role of black colleges and universities must be maintained.

It is conceivable, Mr. President, that our historically black colleges would be required not only to upgrade their facilities, but also to establish professional schools. Certainly, if this is to be successfully accomplished, these colleges and universities will need help from the Federal Government to carry out their “access” mission. The Title III Program is the only source of direct institutional assistance to historically black colleges and universities.

The legislation we introduced on June 19, 1985, contains a special provision for “eligible or graduate” institutions, such as Tuskegee Institute and Schools of Veterinary Medicine. I commend Senator Simon for recognizing the important role institutions of higher education, like Tuskegee Institute, play in educating the majority of black veterinarians throughout the country. However, in the future, new demands may be placed upon other universities such as Alabama State University in Montgomery and Alabama Agricultural and Mechanical University in Huntsville. These universities may be required to establish new, innovative and professional programs on campus.

Mr. President, in my judgment, the Title III Program is the best Federal resource for meeting the future needs of these universities. It is critical that the Federal Government do all that it can to support continued positive development of these institutions as new demands are placed upon them.

I urge my colleagues to act swiftly in adopting this legislation.

FURTHER INFORMATION ON THE EFFECTS OF PCP

Mrs. HAWKINS. Mr. President. I did not think it necessary to hear anything more grotesque than the things I’ve already heard about the effects of the drug PCP. But an article which recently appeared in the Washington Post’s Health Section brings new, even more horrifying, revelations to light. To provide an idea of the kind of verifiable information it contains, this article is entitled, “PCP Users Don’t Feel Pain When Their Bones Break.”

This is how the author, the chief psychologist in the department of psychiatry at the District of Columbia General Hospital, begins his remarkable article: “His mother threatened to sue me. She did not want her son to go to St. Elizabeth’s. However, this was the second time in 2 weeks that he attempted to set the house on fire and assault his family. Now all he would do was remain quiet or sit up in bed staring into space. He had a history of using PCP.”

Dr. Brown, the author’s article indicates in this hard-hitting statement of the effects of this man-made drug, that “more than any other substance of abuse, PCP adversely and irreversibly affects our youth.” The doctor states that PCP has created an entire new kind of public menace and a whole new population of mentally disturbed individuals. This is due in part to the fact that PCP is easy to make and cheap to buy, but it is also due to the fact that PCP can cause irreversible brain damage. In fact, it is estimated that more than 50 percent of admissions to emergency rooms in New York, Los Angeles, Boston and the District of Columbia are drug related.

This statistic alone attests to the uniqueness of this drug. The difference between PCP and other drugs starts with its history. Phencyclidine was originally developed as a surgical anesthetic; however, after being used for a short time, it was observed that patients recovering from surgery where this narcotic was used displayed bizarre, psychotic behavior. Subsequently, the drug was banned, and now is obtainable only by buying what is manufactured in clandestine laboratories with no control over the ingredients. This makes a substance with unpredictable results even more dangerous.

It is recognized that PCP greatly reduces or eliminates awareness of physical pain and recent memory, and it increases strength. As a result, it has become as common to hear of patients who break out of handcuffs or leather restraints, suffering broken bones and serious cuts in the process—all the while totally oblivious to the pain. Additionally, these persons generally do not remember the events that caused the injuries.

PCP can be smoked with marijuana. It can also be ingested by smoking it with tobacco; by mixing and snorting it with cocaine; by swallowing it with alcohol in its liquid form; or by injecting it with heroin. When it is taken in the more extreme forms (for example, injection), it is almost impossible to predict whether the drug will act as stimulant, as a depressant, or as an hallucinogen. Even a one-time use of PCP can trigger an underlying psychiatric problem, or cause irreversible destructive or self-destructive behavior.

The doctor gives us two rather common examples of such behavior: “jumping off a building or gouging out eyes.”

Another unique feature of this narcotic is that rather than being metabolized or excreted in the liver, PCP or marijuana, PCP is absorbed in body and brain fat tissue, where it accumulates. These fat deposits serve as sources of continued PCP facility, creating symptoms ranging from recurring psychotic episodes, to those of brain injury. The latter includes: Speech is slow and slurred; certain words become difficult to pronounce; and abilities to concentrate, organize, and think in abstraction become impaired. These symptoms endure for an indefinite period of time after use of the drug is discontinued. One of the most dangerous aspects of abuse of this drug is that discontinued use does not assure that psychotic symptoms will end, or not recur.

Dr. Brown relates another anecdote involving a PCP user: “A doctor recently requested that handcuffs be taken off a patient who had injured himself as a result of being on PCP. He seemed to be calm, and the officer unlocked the handcuffs. A few minutes later he attacked the doctor, and with the handcuffs, beat the officer who was trying to restrain him. It took eight men to subdue him. The patient suffered broken ribs but did not feel any pain and did not remember what happened. The officer required surgery.”

Mr. President, more medical care is involved with PCP abuse than with any other illicit narcotic because use of the drug results in respiratory and cardiovascular disfunctions, seizures, and convulsions. Also, there are many accidents, and self-inflicted injuries. Suicide has become a common problem in chronic PCP users.

What more need to be said to inform potential PCP users of the incredible danger of even an initial use of this drug? It negates the acquisition of information such as what is contained in this article, young minds
and young bodies are continuing to be malmed and destroyed through use of this drug. As chairman of both the Senate Subcommittee on Children, Family, Drugs and Alcoholism and the Senate drug enforcement caucus, I will continue to do all I can to provide for enhanced prevention and education efforts directed at killing the demand for PCP.

PIFTIETH ANNIVERSARY OF THE CONGRESSIONAL RESEARCH SERVICE’S BILL DIGEST

Mr. MATHIAS. Mr. President, today I should like to congratulate and honor the Library of Congress on the occasion of the 50th anniversary of the Digest of Public General Bills and Resolutions. This publication is compiled by the Bill Digest Section of the American Law Division in the Congressional Research Service. Digesters and indexers in this section also provide us with information for our legs and scorpion data bases. They have been fulfilling their legislative mandate since 1935, making the Digest one of the oldest legislative publications of the Library of Congress.

The first volume of the Digest appeared in direct response to the congressional need for legislative information. The 1935 committee report authorizing appropriations for the Digest stated:

The purpose is to furnish in the form of a brief synopsis the essential features of the introduced public bills and resolutions and a little fuller digest of reported measures in order that Members may have a weekly file from which they may follow the legislation.

This often takes more time than the pressure of business in most offices will permit.

The goal of the 73d Congress with regard to the provision of digests to Members has grown over the years, so that the Bill Digest Section today not only provides digests, but indexing terms, titles, revised digests, sponsor indexes, identical bill indexes, and a myriad of other legislative materials and pieces of information. In addition, the Bill Digest Section is responsible for the list of terminating programs and the preparation of data bases for the last six Congresses.

It is a privilege to bring to the attention of my colleagues in the U.S. Congress the 50 years of outstanding work of this important section of the Congressional Research Service. In light of these accomplishments, it is fitting that on this 50th anniversary we pay specific tribute to the group of dedicated employees who make it all possible. No salute would be complete without mention of Joseph E. Ross, Chief of the American Law Division, and Terry G. Guertin, editor and head of the Bill Digest Section. I would also like to share with you the names of the other members of the Bill Digest Section staff: Assistant Editor Katherine R. Overton; unit supervisors Liane Mei Eng, Jack Foley, and Randolph Hansen; support staff supervisor Carolynn Agee; legislative indexing coordinator Andrew Mendelson; legal and paralegal: James M. Benton, Anson S. Carpenter III, J. Clarke, Ellen D.A. Duvall, Audrey F. Fuffer, Marc R. Lewis, Elliott Madsen, Paul Alan Mitchell, Holly J. Reppert, Russell C. Richardson, Jr., Sharon Kearney Rowe, Keith Sakelhine, Elizabeth Seinger, Edna J. Spence, Jill Swed; and the support staff: Denise H. Agee, Pauline T. Burton, Beverly Campbell, Juanita M. Campbell, Ralph O. Eads, S.M. Everett, Amanda Finner, R. B. Finner, L. Henderson Winnifred Henderson, Audrey E. Miller, Paula M. Moore, Peggy Murphy, JoAnne O’Bryant Carolyn Rhone, and Frank Spigel.

RETRIEVAL OF ROBERT E. TRIPP

Mr. WEICHER. Mr. President, Robert E. Tripp, of Alexandria, VA, recently retired from the Department of Labor Budget Office after 15 years of service there.

Bob is a native of Washington, DC, having been born within the Federal City in the old Providence Hospital here on Capitol Hill. He has spent most of his life in the Washington area, except for military service, and schooling at the University of Denver, where he received his bachelor’s degree.

Bob’s entire Federal career spanned 22 years, including 15 years in military service, and posts at the Civil Service Commission—now Office of Personnel Management—at the National Aeronautics and Space Administration, at the Commerce Department’s Office of Foreign Direct Investment, and at the Office of Economic Opportunity. While his career was varied, and indicative of the multiple talents of the man, Bob’s last tour of duty, in the Department of Labor Budget Office, was the longest, and the position in which he became most known for his invaluable service not only to the President but also to the 4th Congressional Appropriations Committee staffs for the last eight congressional sessions.

Those who have dealt with Bob know him to be a most competent and professional civil servant. His assignment in the Budget Office was the Department’s employment and training programs, which have undergone extensive changes in format and funding levels over the period of Bob’s tenure.

He never failed to provide expert assistance in the understanding of the complicated budget numbers for these programs, and became known as “the expert” on the detailed appropriations for these accounts.

Bob, speaking on behalf of the members of the Appropriations Subcommittee and its staff members whom you have so ably assisted over the years, thank you not only for a job well done, but for a job done superbly with consistent professionalism. Good luck in your future endeavors.

Mr. PROXMIRE. 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. DOLE. 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 REFERRAL OF NOMINATION OF S. BRUCE SMART, JR.

Mr. DOLE. Mr. President, as in executive session, I ask unanimous consent that the nomination of S. Bruce Smart, Jr., to be Under Secretary of Commerce for International Trade, be jointly referred to the Committees on Finance and Banking, Housing and Urban Affairs.

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

SCHEDULE

Mr. DOLE. Mr. President, the Senate will be recessing from 12 until 2 p.m., as indicated earlier, for the policy luncheons of the Republicans and Democrats. At 2 p.m. we will be on the Gun Control Act. The principal sponsor is Senator McClure, and there are a number of sponsors on each side.

It is my hope that we can conclude action on that bill by 7 or 8 p.m. this evening.

Then tomorrow at some time shortly after noon we will be voting on the closure motion on the motion to proceed on the South African bill. I believe we can safely predict we will be able to take that bill up sometime tomorrow.

I also indicate that, as I said earlier, the President is very hopeful that we will permit the Senate to take action on some 28 State Department nominees that are on the Executive Calendar.

RECESS UNTIL 2 P.M.

The PRESIDING OFFICER. Under the previous order, the hour of 12 noon having arrived, the Senate will now stand in recess until the hour of 2 p.m.
CONGRESSIONAL RECORD—SENATE

July 9, 1985

Thereupon, the Senate, at 11:59 a.m., recessed until 2 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. WALLOP].

FEDERAL FIREARMS OWNERS PROTECTION ACT

The PRESIDING OFFICER. The clerk will report S. 49.

The assistant legislative clerk read as follows:

A bill (S. 49) to protect firearms owners' constitutional rights, civil liberties, and rights to privacy.

The Senate resumed consideration of the bill (S. 49).

The PRESIDING OFFICER. Who yields time?

Mr. MCLURE. Mr. President, I suggest the absence of a quorum, with time to be equally divided.

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

The bill clerk proceeded to call the roll.

Mr. HATCH. 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. MCLURE. Mr. President, in the heat of hammering out a piece of legislation as complex and controversial as the Firearms Owners Protection Act, it sometimes happens that the real reason for such an effort is forgotten. That reason is to protect honest firearms owners and dealers from the kind of abuse we have seen in the past. A bad law is like an accident waiting to happen. Real people have suffered, and we need to pause and remember a few of those real people.

Herb Van Buren, of Arizona, a collector, was persuaded to sell agents six firearms at several gun shows. Van Buren had no idea that, under various circumstances, this could be considered "engaged in the business" of dealing in guns, which requires a license. He clearly had no criminal intent; he told one agent that he didn't even want to know anyone who would misuse a gun. He was convicted on Federal felony charges of dealing without a license.

Richard Boulin was a licensed gun dealer and private collector, veteran and former policeman. He was convicted of selling his private firearms without recording them in his business records. He was told by BATF agents that sales from private collection did not need to be recorded; while he was awaiting trial, the head of BATF made the same statement in a letter to Senator Hayakawa. He was convicted of an innocent act, and sentenced to six years in prison. Even BATF'S Senator thought it was legal.

The home of Bob Wampler, a Virginia corporate executive, was raided by BATF. The BATF confiscated his '70-gun collection—25 of which were antique, and the remainder engraved, or gold inlaid. No criminal charges were brought. For 2½ years he kept pushing for their return; BATF at one point threatened to prosecute if he didn't let them go. Nearly 3 years later, they returned them—all without any charges being filed.

David Jewell, of Denver, CO, had his expensive collection confiscated from his vehicle. The collection included a shotgun valued at $7,000. BATF, based on three sales over a period of months, charged him with dealing without a license. Although they dropped the charges in 1978, they did not return his guns until 1980.

These are only a few of the people who have suffered because of a law that was supposed to do. The Gun Control Act of 1968 is snake oil. It is medicine that does not solve the ill of violent firearms abuse. It is about time we changed the dose. The subsidies and the present Federal firearms law has been chronically again and again. I have seen documented evidence in Senate hearings that makes very clear that when a law is loosely written, it can provide an irresistible temptation for the authorities to overstep the bounds of proper law enforcement, and seize citizen's property without due process, ruin them financially with endless red tape and litigation, and violate their constitutional rights.

We need to redirect law enforcement efforts away from what amounts to paperwork errors and toward willful firearms law violations that will lead to violent crime; for example, selling stolen guns, or selling firearms to people who have no business owning firearms. I have introduced the Firearm Owner's Protection Act, S. 914. I should like to point out some of the things this bill will do, once enacted into law:

1. Mandate an element of criminal intent for persistence or conviction of Federal firearms laws violations.
2. Clarify procedures for dealer sales of firearms from private collection.
3. Permit inspection of dealer's records for reasonable cause.
4. Require mandatory penalties for the use of a firearm during a Federal crime.
5. Limit seizure of firearms only to those specifically involved in a criminal transaction.
6. Provide for the return of seized firearms, and grant attorney's fees in opportunistic suits.

Allow the Secretary to grant relief from disability, and provide for judicial review of certain adverse findings.

Remove requirement for affidavit for purchase of less than 50 pounds of black powder for sporting purposes.

Allow the interstate transportation of unloaded, inaccessible firearms.

Congressman VON OYEN and I worked extensively with the enforcement agencies during the last session of Congress to address their suggestions for changes in the law. The results of these negotiations have been incorporated into S. 49. Here are the most important:

"Importer" for the purposes of requiring a license is defined.

Until a pardon expressly states that no firearms rights are granted, set aside, expunged or pardoned, convictions will regain these rights.

In interstate sales, a recipient may be prosecuted if he had reasonable cause to believe that a person violating the law. In a mail sale, parties must have met at least once, face to face except where otherwise permitted. Sales between nondealers not transactioned through a dealer are eliminated.

Presumption is provided that a dealer has knowledge of all published State or local ordinances. This refers to those laws published in the dealer rule book provided by BATF.

A dealer may sell a firearm from his private collection without doing paperwork after 1 year of transfer from his business stock. He cannot do this to evade paperwork. Inspections are permitted for reasonable cause or without warrant for tracing. Inspections for instructing dealers in proper record keeping procedures are permitted once in every 12 months.

An additional, but not mandatory sentence is provided for carrying a firearm during a Federal felony. Mandatory sentences are to be served concurrently. Forfeititure of seized firearms is allowed when criminal charges are not brought, or when they are voluntarily dismissed.

The Secretary may grant relief from disability. Judicial review of relief cases may be brought.

The legislative veto on regulations was dropped.

To wrap everything up, I think the Firearm Owners Protection Act is a measure that will bring us closer to sensible law enforcement, and the proper constitutional protection of honest American gunowners.

Mr. President, I ask unanimous consent that a statement by the distinguished Senator from Wyoming [Mr. WALLOP] be inserted in the RECORD, as if delivered, following my remarks at the opening of this measure.

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

Mr. WALLOP. Mr. President, the need for protections such as those con-
tained in S. 49 is carefully outlined in the January, 1980 issue of the legal journal "Case and Comment." This article shows how many honest firearm collectors were victimized for actions which they believed were legal, and which most of us would probably believe were legal. Since the courts held that a person could be convicted despite the most innocent intent—one court even refused to let a collector prove he had relied on the advice of an attorney that his conduct was proper—many honest collectors were left with the brand of a felony record, a record which left them unable to touch a firearm for the remainder of their lives. I find it especially disturbing to touch a firearm for the remainder of their lives. I find it especially disturbing to know that five to ten firearms sales per year did not constitute acting as a "dealer".

Actually, while the statute has no definition, federal appellate courts have defined "dealer" very broadly. They have repeatedly noted that there is no minimum number of sales necessary; that no minimum level of profit from sales of firearms is essential, and that the sole question is whether the jury believes the accused citizen to have engaged in "any business" of selling firearms. The Bureau has frequently obtained collections on as few as four to six sales per year, and these actions have been universally upheld.

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

**GUN LAWS AND GUN COLLECTORS**

(By David T. Hardy)

If firearm ownership is commonplace in America—and surveys repeatedly indicate that is—then the firearm collector comprise the aristocracy amid the popular movement. These collectors are virtually a "nation unto themselves", with their own shows, at which they compete in display of their finest firearms, their own organizations, their own specialties—one may choose British military firearms 1760-1945, another may strive to obtain all calibers and chamberings of Shotguns in 1895. There are also general collectors, and most specialists have a general collection "on the side," which may be confined to the exquisitely crafted Parker shotguns (which begin at about $400), the Winchester Model 21 (the only American shotgun fitted to the individual's dimensions, the "economy" line starts at $3,500), or scarce "presentation pieces," engraved and inlaid pieces given by inventors and companies to their Eastern and Western national leaders (Samuel Colt, in the 1870's and 1880's created quite a few of these pieces). They have their own magazine now, independent of all other firearms publications in which it is not uncommon for a collector to take out a full page, tastefully illustrated advertisement to attract other collectors for purchase or exchange of information.

Even individuals who support strict firearm regulation might well be tempted to consider the fictitious risk of being the less segment of the population. Persons bent upon robbing a drugstore simply do not seek a Winchester 21, domestic homicides are unlikely to be settled at dawn with a cased pair of Durs Egg flintlock duelling pistols. Indeed, the federal agency which enforces the firearm laws, the Bureau of Alcohol, Tobacco and Firearms (BATF), has repeatedly claimed that criminals predominately use cheap handguns—valued under $50, caliber .32 or less, barrel 3 inches or less. No true collector would even use one of these as a paperweight: the risk of being seen with it by other collectors would be too great.

**LAW ENFORCEMENT AGAINST COLLECTORS**

It is therefore surprising to note that federal agent/enforcers laws have often appeared to devote a large amount of their energies to sending such collectors to jail, and confiscating their collections. It is true that we also believe that the federal government itself is becoming a large-scale collector—its collection established prior to a statute—was appropriated, without compensation, from these collectors.

In part, the collector's very law-abiding qualities make them perfect targets for law enforcement. The BATF has been faced with some unique bureaucratic difficulties of late. Since 1972, the skyrocketing prices of sugar, main component of "moonshine", has drastically curtailed illegal brewing. Between 1972 and 1976, the number of "stillings" reported by BATF dropped from nearly 3,000 to only 361. The Bureau suddenly saw itself faced with obsolescence of its traditional area of enforcement, a rather unique experience in law enforcement (one may imagine the consternation at the Drug Enforcement Administration if the entire drug-using population of America was suddenly turned to meditation or alcohol).

Self-preservation dictated a sudden increase in firearm enforcement. But agents seeking to "wean this body count" arrested and firearms seized were faced with serious problems. To invade fields where firearms are kept is apt to prove quite dangerous; it also takes time, and this is unavailable when Washington makes it clear that arrests in your district must be doubled within the next year. A safe and easy target had to be located.

**DEALER DEFINED**

Agents therefore quickly evolved a method of entrapping collectors, through a technique which I term "implied dealer-ship". This depends upon a clause in the 1968 Gun Control Act which provides that "any business engaged in the business of dealing in firearms must be federally licensed, and makes it a felony to conduct business as a "dealer" in firearms without such license. Private sales of one's own property by a nondealer are not subject to federal licensing.

The statute contains no definition of "dealer". Nor do the Bureau regulations, ostensibly promulgated to clarify and enforce the statute, provide such definition. Since 1972, the Bureau has developed an elaborate system of applications for licensing, in a political move to create an impression of reduction in firearms traffic. Under its regulations, for example, the applicant must have business experience separate from his residence, and must keep regular "business hours". Collectors who reported sales only to other collectors and hours "by appointment" soon found their licenses being revoked. Moreover, a "dealer's" premises are statutorily subject to search, without warrant or probable cause. Collectors, who asked whether licenses were actually needed, were informed that five to ten firearms sales per year did not constitute acting as a "dealer".

The agents thus can easily lead an individual, who all the while believes he is obeying the law, into a felony indictment. Undercover acts are performed at a gun show. Their routine is already choreographed and has been tested in previous undercover events. They sold federal firearms at two purchases at this gun show, followed by a few more at the next gun show, until four to ten sales are obtained. The agents offer a very high price and purchase with little bargaining; thus the collector can easily be shown to have made a profit on their sale. Agents are then in a position of telling the collector into stating that he could obtain an additional firearm from a different collector and thus be acting as a broker for matter not already in his collection.

After the evidence is obtained, the collector is indicted on felony charges. The burden on him is immense. Legal defense costs usually run between $3,000 and $20,000. Conviction on the felony count means total loss of possession of firearms within the United States. It also carries a penalty of 5 years imprisonment and a $5,000 fine.

In an effort to add to these burdens, the Bureau generally confiscates the collector's prize collection. This is done under a provision of the Act which permits confiscation of firearms "involved in or used in or intended to be used in" any violation. The confiscation puts additional financial pressure on a collector who may already be impoverished by the legal costs. These activities have been frequently reported among collectors, but little work to compile and analyze them has been done. Recently, I have had the privilege of serving as project director to a Task Force seeking to compile and analyze data on Burea activities, which report was sponsored by the Second Amendment Foundation. A detailed and comprehensive analysis which was compiled on this particular activity provided compelling, I could not escape the conclusion that the Bureau had carefully probed misinformation as to the status of the law, some of which had been given out by the Bureau's own agents, in order to entrap gun law offenders. It is now clear that the Bureau has confiscated substantial amounts of their private property for the Bureau's own collection!
ENTRAPMENT

First, the Bureau seeks to entrap law-abiding individuals who would not disobey the law, if confronted. (I have no doubt that it is most difficult to tell. One might expect a rational, albeit, ruthless, administrator to favor such a practice because these cases would appear, on paper, to be of greater advantage to the Bureau’s own collection. The underlying practice of encouraging, rather than frequenting, crime can hardly be justified: its exploitation for Bureau property gains, or as part of a vengeance motive, is even more repugnant.)

ENTRAPMENT

A second representative aspect of the BATF attack on collectors is the tendency to focus on large and expensive collections. Confiscations tend to center upon these individuals and their collections. As noted above, they are generally naive sorts who believe that “since I am law-abiding, I have nothing to fear from the law”, are unlikely to be deterred thereby. The Bureau does not necessarily address itself to confiscations of firearms that are, for example, used in small numbers in the course of self-defense, or old-fashioned tin can plinking.

CONCLUSION

In short, it appears that the Bureau of Alcohol, Tobacco and Firearms has devoted a significant portion of its investigative and law enforcement efforts to entrapping naive collectors of firearms, of a type unlikely to be contributing to criminal firearm markets. This campaign has enabled the Bureau to boast of impressive statistics of convictions and seizures, with minimal effort and personal risk. It has also permitted the Bureau to confine its seizures to significantly small numbers of collector items, of which substantial numbers are appropriated, without compensation, for the Bureau’s own collection. The underlying practice of encouraging, rather than frequenting, crime can hardly be justified: its exploitation for Bureau property gains, or as part of a vengeance motive, is even more repugnant.

Mr. SYMMES. Mr. President, Jim McClure and I see eye to eye on many issues. Nowhere are we more staunch allies than in the battle to protect our second amendment rights. Like the majority of Idahoans, we believe that every honest American has the right to keep and use firearms for any legal purpose, whether for hunting, target shooting, collecting, self-defense, or old-fashioned tin can plinking.

We also believe that the Government exists to serve the people, and not the other way around. This is the main theme of the Constitution. Witness the advantage of a badly written law to run roughshod over the constitutional rights of gun dealers and owners, they need to be brought up short, and the only way to do this is to educate the public about the law that gives them leave to violate the Constitution.
The Firearm Owners Protection Act was conceived in the notion that law enforcement needed to be directed at the real criminals, not someone who makes an honest mistake in his bookkeeping. It was obvious that the hastily enacted Gun Control Act of 1968, which Senator McClellan's bill refines, made it easy for overzealous agents of the Bureau of Alcohol, Tobacco, and Firearms to spend a lot of enforcement effort snipping out violations so far removed from the general notion of gun crime that it would be funny, if the results were not so tragic.

The sponsors and proponents of the Gun Control Act of 1968 claimed that it would significantly reduce the rate of crime, particularly crimes involving the use of firearms. It has not. Instead, between 1967 and 1982, the national homicide and handgun-homicide rates rose 80 percent, while robberies and rapes involving the use of firearms have nearly tripled. Clearly, the 1968 act has served to reduce neither the rate of violent crime nor the use of firearms in the commission of crime. It has, however, increased the regulatory burden imposed on law abiding American citizens—gun owners and dealers—and subjected those same citizens to the threat of severe penalties for technical violations of the law caused by inadvertent errors. We saw this clearly in a long series of hearings.

Every point in the Firearm Owners Protection Act is designed to correct a documented problem. Every point is aimed at directing law enforcement toward those violations of Federal firearm and gun law that are most likely to contribute to violent firearms crime—those who knowingly sell to prohibited persons, those who knowingly traffic in stolen firearms. It's just not cost effective to allow law enforcement to follow its old pattern of snooping after the fact and expecting it to result in stolen firearms. It's just not cost effective to allow law enforcement to do its job effectively that is what it has become. The pending legislation will correct many of the abuses which have occurred under the 1968 act.

Mr. President, the right to keep and bear arms has a long and honorable history in the United States. It is, of course, the second amendment to the Constitution and was reckoned as fundamental by our founding fathers. It is an effective way to protect an individual from government infringement of his rights. It is an important matter for self-defense against common criminals who are a constant threat in today's society.

Today, nearly half the households in America own some kind of firearm: estimates suggest that private citizens in this country own between 120 and 140 million guns. Mr. President, these people are not criminals. They are decent, responsible men and women, union members, business executives, doctors, lawyers, teachers, civil servants, elected officials—including a number of U.S. Senators and Representatives, and others too numerous to mention. Their guns are purchased for hunting, sporting activities, collecting, self-defense, and other legal purposes. These American citizens should not be the ones on the outer margins of an armed citizenry. For them, the most important reason for gun ownership was political—that is, armed citizens constituted a bulwark against the government. Fresh from their victory over the British, they had indelibly impressed on their minds the political importance of citizens who owned and knew how to use firearms.

Mr. President, many in Washington today do not want to be reminded of this political function of gun ownership. After saddling the American people with nearly $2 trillion in Federal debt, failing to act effectively to stop the spread of Communist tyranny around the world, and presiding over the destruction of fundamental American values such as innocent human life in the womb, religious liberty, the institution of the family, the neighborhood schools, freedom of speech in general, it is small wonder that the Washington establishment would prefer to ignore the political reasons for the right to bear arms.

But we should not ignore these reasons, and we especially should not ignore them at a time when the Government seems incapable of protecting its citizens against international terrorism. Surely it takes no great wisdom to see that American citizens—with the full freedom to buy, sell, and own firearms—will be safer in their persons and possessions against terrorism than citizens without such freedom.

Mr. President, so that this debate will not occur without reference to the historical foundations for the right to keep and bear arms, I ask unanimous consent that an article by Stephen P. Halbrook, entitled "To Keep and Bear Their Private Arms: The Adoption of the Second Amendment, 1787-1791," appearing in the 19 Northern Kentucky Law Review, 13 (1982), be printed in the RECORD—including footnotes—at this point.

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

TO KEEP AND BEAR THEIR PRIVATE ARMS: THE ADOPTION OF THE SECOND AMENDMENT, 1787-1791

(Stephen P. Halbrook*)

After the Constitution was submitted for ratification in 1787, political writers in state conventions revealed two basic positions: the federalist view that a bill of rights was unnecessary because the national government had no power to deprive individuals of rights, and the anti-federalist contention that a formal declaration of individual rights was necessary to prevent those rights from being invaded by the national government. The anti-federalists feared that the body or the people as a militia would be overpowered by a select militia of standing army unless there was a specific recognition of the individual right to keep and bear arms.

While their sojourns abroad prevented their active involvement in the ratification process, John Adams and Thomas Jefferson, clearly members of the Federalist party, submitted reports on the state ratifications to the Federalists and the anti-Federalists. These reports were the first formal statements of the Federalist and anti-Federalist positions on the right to keep and bear arms.

The Constitution of a Commonwealth (1656) to vindicate a militia of all the people:
"That the people be continually trained up in the exercise of arms, and the militia led on parade, would greatly lessen the chance of their being misled by the whispers of some part of them which are most firm to the interest of liberty, that so the power may rest fully in the hands of their own representatives." The limitation to "That part most firm to the interest of liberty," was inserted here, no doubt to reserve the right of disposing of all the friends of Charles or of the nobles and bishops. Without stopping to enquire into the justice, policy, or necessity of this, it may be generally agreed that it was right.

One consequence was, according to (Nednam), "that nothing could at any time be imposed on the people but by their consent.... As Aristotle tells us, in his fourth book on Politics, the Grecian states ever had special care to place the use and exercise of arms in the people, because the commonwealth is theirs who hold the arms; the sword and sovereignty ever walk hand in hand. This is perfectly just. "Rome, and the territories about it, were trained up perpetually in arms, and the whole commonwealth, by this means, became one formal militia."

After agreeing that all the continental European states had achieved absolutism by following the precedent of keeping "prætorian bands, instead of a public militia," the aristocratic Adams rejected the "savage" martialism of the British and the "monarchy" of the French, and defined the American character from England: "To suppose arms in the hands of citizens, to be used at individual discretion, would subvert the ends of good government, by partial orders of towns... is a dissolution of the government." But for the more radical Thomas Jefferson, individual discretion in the use of arms was not simply for private, but also for public defense. Writing in 1787, Jefferson stressed the link between the use of arms and the right to revolution as follows:

God forbid we should ever be twenty years without such a rebellion. And what country can preserve its liberties, if its rulers are not warned from time to time, that this people preserve the spirit of resistance? Let them take arms... The tree of liberty must be refreshed from time to time, with the blood of patriots and tyrants.

1. THE CONTROVERSY OVER RATIFICATION OF THE CONSTITUTION

A. The Federalist Promise: To Trust The People With Arms

It was characteristic of the times that the federalists were actually in close agreement with Jefferson on the right to arms as a necessary part of the system of self-defense which is paramount to all positive forms of government. In the Federalist No. 46, Madison, contending that the "ultimate authority... resides in the people alone," predicted that the Bill of Rights, by creating a federal standing army, would provoke "[p]lains of resistance" and an "appeal to a trial of force." To a regular standing army, Madison wrote: "would be opposed a militia amounting to near half a million of citizens with arms in their hands," and referring to "the advantages of being armed, which the Americans possess over the people of almost every other nation." Madison wrote: "Notwithstanding the military establishments be in the several kingdoms of Europe, which are carried as far as the public resources will bear, the governments are afraid to trust the people even with a militia..." If the people were armed and organized into militia, "the throne of every tyranny in Europe would be insecure, unless it were supported by the tottering legs of external ambition." 10 If a country were armed and organized into militia, "the tree of liberty must be refreshed from time to time, with the blood of patriots and tyrants."

B. Anti-Federalist Fears: The People Disarmed, A Select Militia

Among the anti-federalist spokesmen, the greatest fear was that without protection by a bill of rights, creation of a select militia would remove most of the people as militia and the consequent oppression of the populace. This fear had been expressed by the prediction of Oliver Ellsworth in the federal convention that the creation of a "select militia... would be followed by a ruinous declension of the great body of the people." John DeWitt contended: "It is asserted by the most respectable writers upon government, that a standing army, the yeomanry of the country, have ever been considered as the bulwark of a free people. Tyrants have never placed any confidence in a militia composed of freemen." 11 DeWitt predicted that Congress "at their pleasure may arm or disarm all or any part of the freemen of the United States, so that when their army is sufficiently numerous, they may put it out of the power of the freemen militia of America to assert and defend their liberties." 12

George Clinton, writing as "Cato," predicted a permanent force because of the "fear of a democratic spirit, some of its parts, and the necessity to enforce the execution of revenue laws (a fruitful source of oppression)...." 13 "A Federal Republican" foresaw an army used "to suppress those struggles which may sometimes happen among a free people, and which tyranny, at home, were not otherwise able to do without the aid of foreign sedition." 14 The admission by some federalists, particularly James Wilson, that a small standing army was anticipated led to a particularly fearful reaction by anti-federalists: "[Freedom revolts at the idea," 15 according to Elbridge Gerry, for the militia would become a mercenary army employed to extort the enormous sums that will be necessary to support the civil
list—to maintain the regalia of power—and the splendour of the most useless part of the state. They may go into foreign countries for the fulfilment of treaties...” 24 Praising the Swiss militia model, Madison admitted, “A standing army is a genius for oppression, by providing that the militia shall always be kept well organized, armed, and disciplined, and in state of constant readiness to be armed; and that all regulations tending to render this general militia useless and defenseless, by establishing select corps of militia, or other body of armed men, no provision for having permanent interests and attachments in the community to be avoided.” 25

Thus, Madison argued that through its “power to provide for organizing, arming, and disciplining the militia” under article I § 8 of the proposed Constitution, would establish the right to a standing army. He wrote, “If the people assembled in regular form in the state, whether they could subdue a nation... that of the right to keep and bear arms, 37 would be a standing army抖 or Congress... when the Brit... fight the British. Are we a standing army when the British invaded our peaceful shores? Was it a government that enrolls its people... and military states. Thus, Lee feared that the new government would “militia to provide for organizing, arming, and disciplining the militia” under article I § 8 of the proposed Constitution, would establish the right to a standing army and “render this general militia useless and defenseless.”

Issues which divided the delegates included whether a written bill of rights guaranteeing the right to keep and bear arms would be included in the Constitution, and whether a provision for organizing, arming, and disciplining the militia was necessary. In the Pennsylvania convention, John Smilie warned: “Congress... the militia... the whole body of the people, and that the militia consists of the select corps known as the National Guard, also existed during the Civil War. However, during the Revolutionary War, the militia was composed of the freeholders, citizen and soldier, in those destined for the defence of the state... Such are a well regulated militia, composed of the freeholders, citizen and husbandman, who take up arms to preserve their property, as individuals, and their rights as freemen.”

The armed citizens would defend not only against foreign aggression, but also domestic tyranny and corruption. Characterizing the military as “the government is only just and perfectly free... where there is also a well organized, armed, and disciplined, and in state of constant readiness to be armed; and that all regulations tending to render this general militia useless and defenseless, by establishing select corps of militia, or other body of armed men, no provision for having permanent interests and attachments in the community to be avoided.”

While the view continued to be expressed that “the militia” had no place in the Constitution, a correspondent of the Virginia Ratification Convention stated: “The right to keep and bear arms shall not be impaired.”

Throughout the state conventions over the ratification of the Constitution, the existence of an armed citizenry was presumed by federalists and anti-federalists alike as requisite to prevent despotism. Issues which divided the delegates included whether a written bill of rights guaranteeing the right to keep and bear arms would be included in the Constitution, and whether a provision for organizing, arming, and disciplining the militia was necessary. In the Pennsylvania convention, John Smilie warned: “Congress... the militia... the whole body of the people, and that the militia consists of the select corps known as the National Guard, also existed during the Civil War. However, during the Revolutionary War, the militia was composed of the freeholders, citizen and soldier, in those destined for the defence of the state... Such are a well regulated militia, composed of the freeholders, citizen and husbandman, who take up arms to preserve their property, as individuals, and their rights as freemen.”

In the debate over the ratification of the Constitution, the existence of an armed citizenry was presumed by federalists and anti-federalists alike as requisite to prevent despotism. Issues which divided the delegates included whether a written bill of rights guaranteeing the right to keep and bear arms would be included in the Constitution, and whether a provision for organizing, arming, and disciplining the militia was necessary. In the Pennsylvania convention, John Smilie warned: “Congress... the militia... the whole body of the people, and that the militia consists of the select corps known as the National Guard, also existed during the Civil War. However, during the Revolutionary War, the militia was composed of the freeholders, citizen and soldier, in those destined for the defence of the state... Such are a well regulated militia, composed of the freeholders, citizen and husbandman, who take up arms to preserve their property, as individuals, and their rights as freemen.”

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shall be passed for disarming the people or for the purpose of killing game; and no law

that would impair the right of the people to keep and bear arms shall be passed. These proposals were seen by some as limiting the power of the state to protect itself. The state conventions were asked to consider these rights as fundamental to the safety of a free state; that standing armies, which must be occasionally raised to defend the same, are dangerous to liberty, and therefore, ought to be avoided.

George Mason's pen was at work in Virginia, which suggested the following provision:

"That the people have a right to keep and bear arms; that a well-regulated militia, consisting of the body of the people trained to arms, is the proper, natural, and safe defence of a free state; that standing armies, being the danger to liberty, and therefore, ought to be avoided."

Mason buttressed Henry's argument by stating that the people's right to keep and bear arms is a basic human right that is not dependent on the state's ability to protect itself. He argued that every man be armed, and that the right to keep and bear arms is an individual right that cannot be infringed upon by the state. He further stated that the people, being the ultimate source of all power, are entitled to keep and bear arms as a means of self-defense.

Throughout the debates Madison insisted on the need for a Bill of Rights, which would be a written declaration of individual rights. He believed that the people have a right to keep and bear arms, and that this right is an individual one that cannot be taken away by the state. He argued that a well-regulated militia, consisting of the body of the people trained to arms, is the proper, natural, and safe defence of a free state.

The objections of the anti-federalist pamphleteers and orators, particularly George Mason and Richard Henry Lee, prompted Madison to propose his own amendments. Mason and Richard Henry Lee, prompted by the purpose of killing game; and no law shall be passed for disarming the people or any of them, unless for crimes committed, or real danger of public injury from individuals.

New Hampshire was the first state to ratify the Constitution and recommended that it include a bill of rights, including a provision that "the people have a right to keep and bear arms." This provision is separate from the general proposition of the right to keep and bear arms as a collective right of the state. The need for a Bill of Rights is particularly clear in the early years of the United States, where the government was still establishing its authority and the individual states were retaining a significant degree of autonomy.

Mason and his colleagues understood the importance of the individual right to keep and bear arms. They believed that the right to keep and bear arms was an individual right that could not be infringed upon by the state.

Fisher Ames wrote: "Mr. Madison has proposed his last amendment... It contains a bill of rights... the right of the people to bear arms." Mason wrote another correspondent as follows: "The right of the people to keep and bear arms, of changing the government, are declared to be inherent in the people." And that the right of the people to keep and bear arms was viewed as among "those amendments which particularly concern several personal rights and liberties."

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The House Committee on Amendments subsequently reported the guarantee in this form: "A well regulated militia, composed of the body of the people, being the best security of free state, the right of the people to keep and bear arms shall not be infringed; but no person religiously scrupulous shall be compelled to bear arms." 24 The House debate on this proposal on August 17 and 20, 1789. Elbridge Gerry, the representative of Massachusetts, proposed this security, and furnish a greater certainty of this purpose. The point was that they are religiously scrupulous, and prevent them from militia duty who have conscientious scruples or perhaps upon their conscience. They can declare who are those religiously scrupulous, and prevent them from bearing arms.

When, sir, is the use of militia? It is to prevent the establishment of a standing army, the bane of liberty. Now, it must be evident to the Committee, that they are religiously scrupulous, and that their scruples are not of a nature to be suspected. They are not to be suspected of the same dispositions and designs as a standing army. They are not to be suspected of any tendency to infringe upon the rights and liberties of the people, they always attempt to destroy the militia, in order to make the militia necessary. The proper occasion for the militia is to be employed, and their scruples are not to be suspected. This was actually done by Great Britain at the commencement of the late revolution. The Committee may be in their right mind to prevent the establishment of an effective militia to the Eastward. The Assembly of Massachusetts, seeing the rapid progress that administration were making in the East, and the people of Massachusetts, having their inherent privileges, endeavored to counteract them by the organization of a militia, which they would not be sufferable by the influence of the Crown. 25

Representative Gerry's argument was that the federal government should have no authority to categorize any individual as unqualified under the amendment to bear arms. "Now, if we give a discretionary power to exclude those from militia duty who have religious scruples, we may as well make no provisions on this head." 26 The point was that the people are in their right of "the people," none of whom should thereby be disarmed under any pretext, such as the government determining that they are religiously scrupulous or perhaps upon their conscience. They can declare who are those religiously scrupulous, and prevent them from bearing arms.

It may well be remembered, that the following amendments to the new constitution of the United States, were introduced into the convention of this commonwealth by . . . SAMUEL ADAMS. . . (Every one of the intended alterations but one (i.e., proscription of standing armies) have been already reported by the committee of the House of Representatives, and most probably will be adopted by the federal legislature. In justice therefore for that long tried Republican, and his numerous friends, you will not be sensible of the sacrifice. Adams' proposal (which contained no militia clause) that Congress could not disarm any peaceable citizens."

"And that the said constitution be never construed to authorize congress . . . to prevent the peaceable citizens of the United States, who are peaceable citizens, from keeping their own arms. . . ." 27

Although many of the proposed amendments were subjected to criticism, what became the second amendment was apparently never attacked, aside from one editori-
wish to be concise, but that its rejection of the proposal to limit the amendment's re-
cognition of the right to keep arms "for the common defense" meant to preclude any
limitation on the individual right to keep and bear arms, e.g., for self-defense or hunting, is evi-
dent in the joint recommendation by the Senate and House of the Amendment to the states. "The conventions of a number of the states having, at the time of their adopting the Constitution, expressed a desire, in or-
der to prevent misconstruction or abuse of its powers, that further declaratory and re-
strictive clauses should be added," was the language of Congress which preceeded the
proposed amendments when submitted to the states. In short, Congress modelled the
Bill of Rights, including the second amendment's implicit definition of militia, the whole people and explicit guarantee of the right to have arms to "the people," on the
proposals submitted by the states which in turn through their adoption thereof made the articles of amendment a part of the Constitution.

The adoption of the amendments by the states was by no means a foregone conclu-
sion, and the ratification struggle ensued through the conventions emanating from the
debate over the controversy: (1) the proposed amendments were adequate, (2) further guarantees were needed, (3) advocates of states' rights had no need of a bill of rights, and (4) states on these respective positions ever called into question that keeping and bearing arms was a basic right. The common ground of all parties was that the proposed bill of rights sought to guarantee personal, unalienable rights, but that unnumbered rights were also retained by the people. Patrick Henry, Richard Henry Lee, and others were pleased with the bill of rights as far as it went, but wanted guarantees against standing
armies and direct taxes. Since these same prominent anti-federalists were among the most vocal in maintaining that recognition the individual right to have arms, it is inconceivable that they would not have objected to what became the second amendment had anyone understood it not to protect personal rights.

The view that the rights of freemen were too numerous to enumerate in a bill of rights was coupled with the argument that the ultimate protection of American liberty would be the armed populace rather than a paper Bill of Rights. Opponents of the amendments, Nicholas Collins argued that the American people would be sufficiently armed to guard the Constitution. "Under the American system the free people have a right to bear arms: That a militia might be formed of those who have a right to bear arms; and the people capable of bearing arms, is the
..."

As more and more states adopted the amendments and debate thereon began to dwindle, even proponents of an anti-stand-
ing army provision conceded that an armed citizenry, as a well regulated militia, would prevent oppression from that quarter. As "A Framer" argued to the "Yeomen of Penn-
sylvania": "Under every government the derner resort of the people, is an appeal to the sword; whether to defend themselves against the open attacks of a foreign enemy, or to check insidious encroachments of domestic foes. Whenever a people ... en-
trust the defence of their country to a regu-
lar, standing army, composed of mercenar-
ies, the power of that country will remain under the direction of the most wealthy citi-
zens. . . . [Y]our liberties will be safe as long as you support a well regulated milita-
..."

CONCLUSION

In recent years it has been suggested that the second amendment protects the "collective" right of states to maintain militias, but not the right of "the people" to keep and bear arms. If anyone entertained this notion in the period in which the Constitution and Bill of Rights were debated and ratified, it remains one of the most closely guarded se-
crets of our history. The great struggle for the right known surviving writing of the 1778-1779 period states that thesis. Instead, "the people" in the second amendment meant the same as it did in the first, fourth, ninth and tenth amendments, i.e., each as a freely free person. A select militia as the only privi-
ileged class entitled to keep and bear arms limits the second amendment's potential flexi-
bility as would be select spokesmen approved by government as the only class entitled to freedom of the press. Nor were those who advocated the Bill of Rights wishing to curtail it with details such as non-political justifica-
tions for the right (e.g., self-protection and hunting), let alone a list of weapons, such as be common arms, such as muskets, scatter-
guns, pistols and swords. In light of contem-
porary developments, perhaps the most striking insight made by those who original-
y opposed the attempt to summarize all the rights of a freeman in a bill of rights was that, whatever its form, any such attempt would not be acknowledged.
principles of the American revolution, arbitrary power must be restrained by arms, if necessary." J. Elliot, Debates in the Several State Conventions 382 (2d ed. Philadelphia, 1836).

"The federal convention of 1787 will have a different aspect. The powers, and the means of enforcing them, are to be greater and more complete. The people of the United States, by adopting this Constitution, are to confer upon their federal government an hereditary, perpetual power, an executive power which shall be able to resist forces and to command troops of the greatest power." J. Elliot, Debates in the Convention which Ratified the Constitution of the United States supra note 15 at 2570.

"The people, in laying down the principles by which they would be governed, have spoken of the right of revolution.

"The right of the people to keep and bear arms... A Slave, Philadelphia Independent Gazetteer, Oct. 6, 1787. The Documentary History of the Ratification of the Constitution supra note 5 at 638.

When the people of the United States were settled in their territories, they were a free people. They always have been left... The right of the people to keep and bear arms... The people who engage and arm in defense of our liberties, because these measures... A Slave, Philadelphia Independent Gazetteer, Oct. 6, 1787. The Documentary History of the Ratification of the Constitution supra note 5 at 638.

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supporting this legislation since the days when I served in the House of Representatives. I have been particularly concerned about the tendency of courts and the Department of Justice to misconstrue some of the provisions of the Federal Firearms Act. That provision, as codified today in title 18, United States Code, section 922(A)(1) provides that:

It shall be unlawful—for any person, except a licensed **.** dealer, to engage in the business of **.** dealing in firearms or ammunition **.**

The act defined “dealer” as including “any person engaging in the business of selling firearms or ammunition.” These persons were required to pay a $10 occupational tax to the Treasury and to maintain records of their firearm inventory and disposition. When Congress enacted that bill it clearly had in mind the ordinary and law-abiding individual person to whom firearms transactions were a business—a regular livelihood, rather than one who owned for his own sport or pride, a firearms collection. It seemed unlikely that so small a burden would pose any serious problems for gun owners. But the sad fact is that these vague legal definitions have created problems for ordinary American gun owners, hobbyists, and collectors.

The statute “requires no minimum number of sales, dollar volume of sales, or number of employees to constitute engaged in the business.” The end result is tremendous confusion over who should possess a FFL license and who need not, and I am glad that this double standard has operated for all these years to this end this nightmare for legitimate gun owners.

Mr. President, I am so concerned about this that I have been called before a judge and been threatened with action against me. I have had threats made against me. I have had calls made against me by Florida businessman Howard Shaw was placed in when the U.S. attorney in Jacksonville, FL, and the FBI, and the Department of Justice decided to go after him for minor inadvertent technical violations of the Gun Control Act of 1968, although President Reagan, Attorney General Meese, former Deputy Assistant Secretary of Treasury Powell and BATF Director Higgins have all made crystal clear that this administration will not make felons out of otherwise law-abiding gun owners and dealers. The U.S. attorney in northern Florida with full knowledge of the administration policy to the contrary chose to prosecute Howard Shaw for negligent and inadvertent recordkeeping errors. The
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July 9, 1985

Department of Justice indicted Mr. Shaw on 88 recordkeeping errors which would have sent him to jail for 440 years and cost him $440,000. Let me say right now that BATF looked at the case with Mr. Shaw and would have nothing to do with it. As a matter of fact internal BATF memorandums state that the "alleged violations were technical and minor and would not have met the ATF standards for a full FFL criminal investigation."

Mr. President, I want to tell the Senate about this Shaw case because hopefully the legislation we pass today will prevent an injustice like this from happening again.

The case began in the summer of 1983 when Shaw, a successful businessman and skeet shooting champion, was called to testify before a grand jury in Tampa investigating political corruption of public officials in north Florida. Shaw, who was not a suspect in the case, had been cited for two of the alleged activities, refused to testify.

Immediately thereafter, the U.S. Department of Justice and agents from the FBI seized Shaw's business records and his records as a federally licensed firearms dealer. In September, a grand jury indicted Shaw, alleging 86 counts of recordkeeping errors and two counts of misconduct, which would have sent him to jail for 440 years in prison and $440,000 in fines.

Mr. President, I ask that this NRA resolution be printed in the Record at the conclusion of my remarks, and I urge speedy adoption of this legislation and its enactment and signing into law by President Reagan. The last thing we want is another Howard Shaw case.

Whereas, Howard Shaw was indicted by a Federal Grand Jury for the Middle District of Florida on 86 counts of violation of the Gun Control Act of 1968, which consisted solely of minor, inadvertent and technical record-keeping errors under the Gun Control Act of 1968, and that none of the counts involved fraud; and

Whereas, The entire prosecution of Mr. Shaw was carried out as a totally criminal matter by the United States District Court for the Middle District of Florida, without following Bureau of Alcohol, Tobacco and Firearms guidelines, and exposed Mr. Shaw to a maximum penalty of 5 years in jail and/or a $5,000 fine.

Whereas, The prosecution of Howard Shaw is a good example of the gross and flagrant abuses which are possible under the current Gun Control Act of 1968; and

Whereas, Mr. Shaw's conviction of all counts not dismissed by the courts; and

Whereas, We believe that this prosecution was contrary to the policies of the President, to the contrary with the Department of the Treasury and Bureau of Alcohol, Tobacco and Firearms, the law enforcement agency with primary jurisdiction over the Gun Control Act of 1968, and constituted a flagrant abuse of prosecutorial discretion; now, therefore, be it

Resolved, That the U.S. Senate Judiciary Committee be urged to hold hearings as to whether the indictment of Mr. Shaw was an abuse of prosecutorial discretion and contrary to the guidelines and policies of the Department of the Treasury and Bureau of Alcohol, Tobacco and Firearms and that the Senate Judiciary Committee make recommendations with a view to taking action against any responsible parties and preventing a recurrence of this or similar actions; and, be it further

Resolved, That NRA transmit this resolution to the President of the United States, Attorney General and Secretary of the Treasury and appropriate United States Senator on the Judiciary Committee, with appropriate covering letters urging action on this matter.

Mrs. HAWKINS. Mr. President, there was an article recently in the National Rifle Association's Monitor magazine which revealed the results of the most recent Department of Justice report on violent crime. These results are horrifying: Last year, nearly 1 in 4 U.S. households was victimized by violent crime.

According to the Bureau of Justice Statistics of the Department of Justice, urban residents fell victim to crime more often than those living in suburban or rural areas. In 1984, 1 out of 53 urban households was victimized by rape, robbery, or aggravated assault, compared to 1 in 111 suburban households. Only 1 in 200 rural households suffered a violent crime in 1984.

As a result of the average number of violent crimes victims decreased in 1984, the Bureau of Justice statistics indicated that the number of households having a member victimized by rape increased by 54,000 compared to 1983.

Mr. President, these statistics represent an unacceptable situation. That is why I am working toward obtaining passage of S. 49, the Firearm Owners Protection Act of 1985. This bill, if passed, considered by the full Senate today, is seen by many as vital to the protection of law-abiding gun owners and dealers throughout the country. With the violent crime that victims of American households, we must make sure that our right to self-protection is guaranteed. Under the present ambiguous language found in the Gun Control Act of 1968, this guarantee is not clearly provided. S. 49 would rectify this situation.

This proposal, introduced by my friend and colleague, Senator
McClure, and cosponsored by me, is designed to accomplish the following:

Define “engaged in the business” of dealing in firearms to clarify who needs a Federal firearms license. Collectors who make occasional sales from their collections would not need a license;

Require that criminal intent be proved before citizens could be prosecuted for inadvertent violations of Federal firearms laws;

Protect against unreasonable search and seizure by requiring that reasonable cause exists before an inspection of dealer records;

Guarantee the return of all confiscated firearms after dismissal or acquittal of charges;

Clarify the law regarding dealer transactions from private collections;

Ease interstate sales of firearms—face-to-face transactions could take place as long as they are legal in the State of transfer and the State to which the gun is to be taken;

Allow interstate transportation of unloaded, inaccssible firearms;

Require minimum prison sentences for those convicted of using a gun during the commission of a crime.

The bill is designed to accomplish the following:

It is not the purpose of this title to place any undue or unnecessary Federal restrictions or burdens on law-abiding citizens with respect to the acquisition, possession, or use of firearms, not to place unnecessary restrictions on law-abiding citizens. The act clearly states this.

The 1968 act has, however, created numerous administrative and enforcement problems because of poor draftsmanship. As outlined in testimony before the Senate Judiciary Committee, the enforcement of the act's restrictions has resulted in infringements of basic individual civil liberties, such as abusive search and seizure practices and unwarranted prosecutions of mere technical violations of the law. S. 49 addresses these problems; it seeks to direct law enforcement efforts toward those firearms transactions most likely to contribute to violent crime.

The Federal Firearms Owners Protection Act of 1985 was designed to redirect the efforts of the Bureau of Alcohol, Tobacco, and Firearms against criminals who misuse guns. The Agency has admitted that only 10 percent of its cases in recent years have been against felons in possession of guns or those selling to them. S. 49 will not weaken existing Federal gun laws, but rather will strengthen provisions that prohibit certain classes of citizens from owning, possessing, or selling firearms. Persons in that class include criminals, adjudged mental incompetents, illegal aliens, dishonorably discharged military personnel, and drug or alcohol abusers.

Mr. President, in total, this worthy proposal will provide all the protections for law-abiding citizens that are missing from existing law. It would also strengthen current law by adding provisions directed against criminals and others who misuse firearms. I urge my colleagues not only to offer their support of S. 49, but also their active efforts to achieve this legislation's expeditious passage.

Mr. LAXALT. Mr. President, the right of Americans to own firearms has been recognized since the founding of our country. It is emphatically guaranteed against Federal encroachments by the Second Amendment. If this right is to be restricted or qualified in any way, the burden of showing the necessity for such qualification and the effectiveness of any proposed solution must be placed on those who propose it.

Consequently, I rise today in support of Senator McClure's proposed legislation to amend the Gun Control Act of 1968 to restore the constitutional rights of honest, legitimate gun owners, and gun dealers. When Congress enacted the Gun Control Act, its purpose was to curtail criminal activity involving the misuse of firearms, not to place unnecessary restrictions on law-abiding citizens. The act clearly states this.

While the historical context of this statement makes such a remark understandable, the intent of Congress and the thinking of the time is clear. All citizens who wish to purchase a firearm for their own use and/or protection. It is currently law that a convicted felon may not own or possess a gun. The measures now in place because of the Gun Control Act of 1968 are not preventing criminals from obtaining firearms. They are, however, harassing and inconveniencing law-abiding citizens who wish to purchase firearms.

This bill seeks to strengthen our constitutionally guaranteed right to keep and bear arms. Richard Henry Lee, who was a delegate to the Continental Congress, initiator of the Declaration of Independence and a member of the first Senate which passed the Bill of Rights, said:

To preserve liberty, it is essential that the whole body of people always possess arms, and be taught alike, especially when young, how to use them.

The merits of this bill are many, and I urge my colleagues to support this much-needed reform.
law-abiding citizens from the question-
able law enforcement practices that
have been used to implement the Gun
Control Act of 1968. S. 49 is designed
to do just that.
The bill has been thoroughly scruti-
nized from every point of view for 6
years. As a result of this extensive
review and the urging efforts of Sen-
ator Moosin, we have a large
piece of legislation that will help to
strike the appropriate balance be-
tween the constitutional rights of law-
abiding gun owners and dealers, on the
one hand, and legitimate law enforce-
ment interests on the other. The bill
represents a major step toward the
modernization of our current laws to
prevent the recurrence of the many
abuses of the law which have been
documented in detail before Judiciary
Committee hearings.
In a time of increasing violent crime,
it is the duty of the Government to
enact and enforce laws that will serve
to protect our citizens through the
imposition of swift, severe, and certain
penalties on people who use firearms
in connection with violent crimes. At
the same time, the laws must be care-
fully fashioned both to protect the in-
terests of law-abiding citizens and to
preserve the necessary tools for effec-
tive law enforcement. S. 49 is the best
effort we have toward accomplishing
that task.
In retrospect, we know that the Gun
Control Act of 1968, although well-inten-
tioned, was rushed into law in an emer-
gency atmosphere. As hearings have shown,
the effect of the Gun Control Act of 1968
has been to subject honest firearms
owners and dealers to unnecessary
harassment while having no discerni-
ble effect on the use of firearms in vio-
lent crime.
Mr. President, the bill would make
many significant changes to our cur-
rent laws. Rather than take the law as
it is, I would like to mention what, in my mind, is one of the most
significant provisions of the bill. That
 provision is section 104, which incorpo-
rates a modification of the so-called preemp-
tive language of the Comprehensive Crime
Control Act of 1984 to provide for a
mandatory, determinate sentence for
any person who uses or carries a fire-
arms in furtherance of a violent crime.
I say that it is a particularly signifi-
cant provision not because it will have
any greater or more significant effect
than the other provisions but because it
embodies the essence of the entire
legislative effort. The redirection of
our law enforcement resources away
from law-abiding gun owners and deal-
ers toward those criminal elements
and events that cause so many citizens
to be afraid to walk the streets at
night.
Mr. President, the bill has received
broad support. It currently has 51 co-
sponsors in the Senate and 125 cospon-
sors in the House. I encourage my col-
leagues to continue to support the bill
in the hope that we can move it swift-
ly through the 99th Congress and
strike a major blow against crime.
Thank you, Mr. President.
Mr. HATCH. Mr. President, I send
an amendment to the desk on behalf
of Senators SYMMSS and METZENBAUM—
or perhaps METZENBAUM and SYMMSS—
and ask for its immediate considera-
tion.
The PRESIDING OFFICER. The clerk
will report.
The bill clerk reads as follows:
The Senator from Utah, (Mr. Hatch), for
Mr. SYMMS and Mr. METZENBAUM, proposes
an amendment.
Mr. HATCH. I ask unanimous con-
sent 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 29, strike out lines 5 through 14
and insert in lieu thereof the following:

TRANSPORTATION OF FIREARMS.
Sec. 47. (a) Chapter 44 of title 18, United
States Code, is amended by inserting be-
tween section 926 and section 927 the fol-
lowing new section:

"926A. Interstate transportation of firearms.
Any person not prohibited by this chap-
ter from transporting, shipping, or receiving
a firearm shall be entitled to transport an
unloaded, not readily accessible firearm in
interstate commerce notwithstanding any
provision of any legislation enacted, or any
rule or regulation promulgated by any State
or political subdivision thereof."

(b) The table of sections for chapter 44 of
title 18, United States Code, is amended by
inserting between the item relating of sec-
tion 926 and the item relating to section 927
the following new item:

"926A. Interstate transportation of fire-
arms."

Mr. SYMMS expressed the Chair.
The PRESIDING OFFICER. The Senator
from Idaho.
Mr. SYMMS. Mr. President, I thank
the distinguished Senator from Utah
for solving a dispute over authorship.
If there has been any misunderstand-
ing over it, it certainly was not the in-
tention of this Senator.
The intent of this amendment that I
have been working on with the distin-
guished floor leader of the bill is to
protect the second amendment rights
of law-abiding citizens wishing to
transport firearms through States
which otherwise prohibit the posses-
sion or transportation of firearms. As
written, S. 49 nullifies all State and local
laws and regulations which prohibit
or have the effect of prohibiting, interstate
transportation of firearms or ammuni-
tion through such States. Such lan-
guage is needed because citizens cur-
rently are unable to transport fire-
arms through those States and local
jurisdictions which ban firearm pos-
session.
Some Senators have expressed con-
cern, however, that the preemptive
language of S. 49 could cause unneces-
sary confusion. They have been con-
cerned that the current language of S.
49 may cloud the applicability of State
and local regulations enacted to pre-
vent the carrying of loaded and con-
cealed weapons.
Therefore, rather than preempt all
State and local regulations that pro-
hibit the transportation of firearms
and ammunition, this amendment
would change section 107 to confer a
right of interstate transportation of
firearms. This amendment will allow
law-abiding citizens to transport fire-
arms safely through any State or mu-
nicipality in the course of interstate
travel. It, therefore, meets the objec-
tive of the preemptive language in S.
49 without causing unnecessary confu-
sion about the ordinances to be pre-
empted.

The PRESIDING OFFICER. The
Senator from Idaho will suspend. The
Senator from Ohio will propose an amend-
ment on interstate transportation would be offered by the Senator from
Ohio (Mr. METZENBAUM). Therefore, the Senator from Idaho is out of
time.
Mr. HATCH. Mr. President, this
agreement, if I recall, if the Chair
will let me intervene, I think provided that
either the Senator from Idaho or the
Senator from Ohio would propose it. I
think I presented the amendment on
behalf of the—if you read the time
agreement—
The PRESIDING OFFICER. The
agreement provides specifically for an
amendment offered by Senator METZ-
ENBAUM modifying the preemption pro-
visions, 1 hour.
Mr. HATCH. Mr. President, I ask
unanimous consent that we handle it
in the way that I sent the amendment
to the desk, and we have both Sena-
ors; both of them should be treated
equally as far as being sponsors of this
amendment. The actual agreement
was for an amendment by Sena-
or METZENBAUM modifying the pre-
emption provisions, 1 hour.
The PRESIDING OFFICER. Does the
Senator from Ohio offer this
amendment?
Mr. METZENBAUM. I would have
to object to that. The fact is that the
Senator from Ohio is in extensive ne-
gotiations with respect to this matter
and agreed not to discuss at great
length the motion to proceed with this
issue. I have no objection to proceed-
ing with the understanding that it is
the Metzenbaum amendment that is
being offered and I would be delighted
to have the Senator from Idaho as a
cosponsor of the Metzenbaum amend-
ment.

The PRESIDING OFFICER. The
Senator will suspend while I state the
agreement. The record shows that this
amendment may be offered by either the Senator from Idaho or the Senator from Ohio but not by the Senator from Utah.

Mr. METZENBAUM. Let me make a parliamentary inquiry whether or not, on page 2 of the Calendar of Business, it does not provide in a unanimous-consent agreement that there be an amendment offered by Senator METZENBAUM modifying the preemption provisions. Is that not controlling?

The PRESIDING OFFICER. The Senate Journal is the final arbiter of Senate procedure. The Senate Journal clearly states that either the Senator from Ohio or the Senator from Idaho [Mr. SYMMS] present the amendment.

Mr. SYMMS. Mr. President, who has the floor?

The PRESIDING OFFICER. At the moment, the Senator from Idaho has the floor.

AMENDMENT NO. 438

(Purpose: To provide a substitute for the preemption provisions)

Mr. SYMMS. Mr. President, I send an amendment to the desk on behalf of myself and the Senator from Ohio and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will state the amendment.

The bill clerks read as follows:

The Senator from Idaho [Mr. SYMMS] for himself and Mr. METZENBAUM, proposes an amendment numbered 438.

On page 29, strike out lines 5 through 14 and insert in lieu thereof the following:

TRANSPORTATION OF FIREARMS

Sec. 107. (a) Chapter 44 of title 18, United States Code, is amended by inserting between section 926 and section 927 the following new section:

"926a. Interstate transportation of firearms"

"Any person not prohibited by this chapter from transporting, shipping, or receiving a firearm shall be entitled to transport an unloaded, not readily accessible firearm in interstate commerce notwithstanding any provision of any legislation enacted, or any rule or regulation promulgated by any State or political subdivision thereof." (b) The table of sections for chapter 44 of title 18, United States Code, is amended by inserting between the item relating to section 926 and the item relating to section 927 the following new item:

"926a. Interstate transportation of firearms."

Mr. SYMMS. Mr. President, I just say that whoever wants credit for this amendment, there are 100 Senators here; I am willing for all Senators to give credit to either Senator from Ohio or to Senator from Idaho [Mr. METZENBAUM] or Senator SYMMS, modifying the preemption provisions. I certainly hope there are no hard feelings.

I ask unanimous consent that I may go on with my remarks. Then I ask unanimous consent that my earlier remarks be added to this speech.

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

Mr. SYMMS. Mr. President, the intent of this amendment that I have been working on with the distinguished floor leader of the bill is to protect the second amendment rights of law-abiding citizens wishing to transport firearms through States which otherwise prohibit this possession of such weapons. As written, S. 49 nullifies all State and local laws and regulations which prohibit or have the effect of prohibiting interstate transportation of firearms or ammunition through such States. Such language is needed because citizens currently are unable to transport firearms through those States and local jurisdictions which ban firearms.

Some Senators have expressed concern, however, that the preemptive language of S. 49 could cause unnecessary confusion. They have been concerned that the current language of S. 49 may cloud the applicability of State and local regulations enacted to prevent the carrying of loaded and concealed weapons.

Therefore, rather than preempt all State and local regulations that prohibit the transportation of firearms and ammunition, this amendment would clarify section 107 to confer a right of interstate transportation of firearms. This amendment will allow law-abiding citizens to transport firearms safely through any State or municipality in the course of interstate travel. It therefore meets the objective of the preemptive language in S. 49 without causing unnecessary confusion about the ordinances to be preempted.

Mr. President, in a June 18, 1985, editorial, the Washington Post called this meritorious provision "an all-or-nothing provision allowing all sorts of dangerous or untrained handgun packers to roam anywhere." I was not surprised by the inaccuracy of the statement.

The problem is that the Post is talking about apples in a bowl of oranges. My amendment and the bill to which it is attached seek to protect the rights of law-abiding citizens wishing to transport firearms which are both unloaded and not readily accessible.

The rationale of my amendment is quite simple. There is no reason for us to offer laws prohibiting and hunters from changing their State of residence or attending a sporting event in another State simply because they are forced to avoid entire States in their travels. That is really what this is all about, Mr. President.

The argument that this amendment will hamper law enforcement efforts is fallacious. A firearm kept in a compartment where it is not readily accessible and not loaded should not be subject to State and local firearm possession restrictions. Of course, once the firearm is loaded and/or removed from the compartment, or otherwise becomes accessible to the carrier, it cannot legally be transported in interstate commerce under this legislation.

Some may argue that an unloaded and inaccessible handgun poses a greater danger than a long gun in the same conditions. However, a hunter's not readily accessible, unloaded handgun constitutes no greater threat than an Olympic marksman's inaccessible, unloaded rifle.

These, Mr. President, are the reasons why I have offered this amendment today. I do not seek to invalidate State and local laws regarding firearm possession. Rather, my amendment confers a right on law-abiding citizens to transport their firearms through States otherwise prohibiting them from possessing such weapons. Nor does it nullify State or local restrictions on the possession of concealed and/or loaded handguns. Handguns which are unloaded and inaccessible pose no danger either to local citizens or law enforcement officials.

The second amendment rights of law-abiding citizens transporting their firearms must be upheld. I believe this amendment accomplishes this goal.

Mr. President, this bill has been a long time coming. My distinguished senior colleague, Senator MCCURDY, certainly deserves the praise and support of all of us, along with the distinguished floor manager of the bill, the Senator from Utah, I compliment both of them. I know, from my personal friendship and working with the distinguished senior Senator from Idaho, that he has worked long and hard and I urge passage of the bill. I urge passage of this amendment. I urge all my colleagues to stay with the leadership and the committee on this legislation because I believe they have done a good job for the individual rights and the protection of the second amendment to the Constitution. It is an important piece of legislation. It will be landmark legislation. I appreciate the work my colleagues have done. I know I speak for the many thousands of constituents in my State—legitimate firearms dealers, sportsmen, and others who are law-abiding citizens who have had unnecessary harassment from BATF in the enforcement of the 1986 Gun Control Act. I think this will put the focus where it should be, on the criminals, and will allow the law-abiding citizen to exercise his constitutional rights.

I say again my compliments to my colleagues who have made this possible. I yield the floor.
Mr. HATCH. Mr. President, I rise in support of this amendment, and I heartily congratulate my colleagues, Senators SYMMS and METZENBAUM, for the leadership they have shown in bringing this amendment to the floor. I congratulate Senator SYMMS for sponsoring this bill with the similar objectives to this amendment, and, of course, both Senators METZENBAUM and SYMMS for offering this amendment to S. 49.

This amendment by Senators METZENBAUM and SYMMS will grant a right of interstate transportation to law-abiding firearms owners who may be traveling with an unloaded firearm which is not readily accessible through a State or local jurisdiction that forbids firearm possession or carrying. Many firearm owners currently travel through Massachusetts or some localities, like New York City, where local laws may forbid possession of firearms and may be used to harass interstate travelers of commerce. These travelers may be on their way to a new home in a distant State. If these travelers are detained in a speeding petition or simply on their way to a moving company, and its employees discover a firearm that is unloaded and not readily accessible, they may still be prosecuted for violation of a local ordinance banning possession or carrying of a firearm. This amendment will correct that injustice.

S. 49, as introduced, dealt with this problem by preempting these State statutes governed intrastate carrying of concealed and loaded weapons while S. 48 concerned only interstate transportation of unloaded and not-readily-accessible weapons. Nonetheless, this amendment creating a right to interstate transportation of unloaded and less accessible firearms. In fact, this original provision would not have nullified any of the 30 or so State statutes regulating carrying of a firearm because these State statutes governed intrastate carrying of concealed and loaded weapons while S. 48 concerned only interstate transportation of unloaded and not-readily-accessible weapons. Nonetheless, this amendment creating a right to interstate transportation is a far more efficient means of achieving a goal for which they and others have worked for years. I commend them again for this worthy amendment and urge my colleagues to approve this amendment.

Mr. President, will the Senator from Idaho join the Senator from Utah in a brief colloquy in order to clarify the scope of his amendment?

Mr. HATCH. I thank the Senator. First, let me say that I am pleased to be a co-sponsor of this amendment. I believe it meets the concerns voiced by some Members regarding the preemptory language in section 107 of the bill. Rather than declaring certain State laws "null and void," this amendment simply confers on all law-abiding citizens a right to transport their firearms in a safe manner in interstate commerce. This is a legitimate and appropriate use of Congress' constitutional delegated authority to regulate interstate commerce.

While the amendment clearly allows, individuals to transport firearms while traveling between States, it is the Senator's understanding that the amendment also would allow an individual to have his or her firearms shipped from one State to another by a commercial moving company? Mr. SYMMS. I thank the Senator for his question and his supportive remarks. It is my understanding that the amendment would allow individuals to ship firearms between States as long as the firearms are unloaded and not readily accessible to the moving company employees responsible for transporting them. The amendment would not require the protection of the local ordinance against unloading the firearms on their way to another State. In the Senator's understanding that the legislation would allow individuals moving from one State to another to have a moving company ship their firearms along with their personal and household belongings?

Mr. HATCH. I thank the Senator for his remarks, and I concur with his understanding of the scope of the amendment.

Mr. SYMMS. Mr. President, we can accept the amendment on this side of the aisle, and I share the Senator's understanding of the applicability of this amendment to individuals shipping firearms by moving van when those firearms are unloaded and not readily accessible.

MR. PRESIDING OFFICER. Has the Senator from Utah yielded the floor?

Mr. HATCH. I yield to the Senator from Ohio.

Mr. METZENBAUM. Mr. President, there seems to be some confusion about this amendment, and the Senator from Ohio will explain his perception of it.

When the leadership of the Senate indicated his intent to move forward with the gun control bill, some Senators including myself, felt very strongly that it was a bad bill—it is still a bad bill. It will be a bad bill when this amendment is accepted—but that it might be made somewhat better. It is a bill that had no hearings. It is a bill that was introduced and held at the desk. And so, when a motion was made to proceed, I had no difficulty in indicating my concerns and that I intended to explain to the Members of the Senate, as well as the people of this country, how we were proceeding in connection with this legislation. As is normal, not unusual, the bill was referred to the Senate, there then developed an extended period of negotiations. Out of these negotiations, the Senator from Ohio and the sponsors of this legislation, as well as Senators from Idaho and Utah, came to an understanding that two amendments would be accepted. One of the amendments had to do with the import of parts for guns that are not to be used for sporting purposes. When the motion to proceed was taken up the other day, I had come to an understanding and agreement, and felt that it was appropriate that I leave to catch a plane. The Senator from Utah was to introduce those amendments on my behalf.

Now with no disrespect to the Senator from Utah, who is my friend and an extremely honorable man, I think some misunderstanding at that point because I think that while the Senator from Ohio was negotiating with some Members of the Senate and the leadership on this issue of section 107, the Senator from Utah was at the same time negotiating with the Senator from Idaho. The Senator from Ohio was not aware of that fact and I guess would have been as surprised as I was today when I came to the floor of the Senate to find that the Senator from Idaho and the Senator from Ohio were so much in accord that we were in disagreement as to who was to offer the amendment, because we do come from a different posture with respect to the overall aspects of the bill. But having said that, let me address myself to the issue itself.

Section 107 of the bill, whether intended or not, has a potentially disastrous effect on State and local laws because it risks invalidation of many of those laws.

In particular, the bill, if enacted in its current form without the amendment, would make null and void any State or local statute or regulation which has the effect of prohibiting the transportation of a firearm or ammunition in interstate commerce through such State when such firearm is unloaded and not readily accessible.

That meant no limits whatsoever except that the firearm could not be loaded.

The effect of this broad language is to drastically alter the current relationship between the States and the Federal Government in the area of regulating firearms because currently section 927 of title 18 of the United States Code provides that no provision of current Federal gun control laws shall be construed as indicating a congressional intent to preempt State laws unless there is an irreconcilable conflict between State and Federal laws.

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In other words, Congress recognized that States and localities may decide to regulate the ownership and transportation of firearms, and the Intent of Congress was that these laws should not lose their effect unless there was no possible way of resolving a conflict between State and Federal law.

S. 49 in its current form, however, would totally nullify State laws under a broad range of circumstances. For example, State licensing laws that prohibit the carrying of firearms without a permit may be construed as prohibiting the transporting of a firearm through the State. In such a case, Section 107 in S. 49 would nullify the law entirely. Consequently, rather than simply create a defense to an individual prosecution, the statute would be nullified in all circumstances.

The purpose of this amendment is to make clear that it is the intention of Congress that State and local statutes and regulations shall remain in effect except that in certain narrow circumstances the existing law may be to be modified or revoked by another State or local law or regulation. A defense is available to prosecutions under State and local gun control laws.

The circumstances under which a defense would be created under this amendment are limited to cases where a person is transporting a firearm in interstate commerce and the firearm is unloaded and not readily accessible. For example, under this amendment a person traveling through a State who keeps an unloaded firearm locked in the trunk of his car would not be liable in a State prosecution under State law for carrying a weapon without a State license. This amendment would not prevent a conviction: First, if the firearm were loaded during the period when the person was traveling through the State; second, if the person reached his destination within the State; third, or if the firearm was moved to an accessible position, for example, into the interior of the automobile. In any of these circumstances required by this amendment are no longer present, State or local laws are fully applicable and no defense to a prosecution under this amendment is available.

This amendment will insure that State and local laws are given their full effect, subject only to the justifiable exception involving the transporting of a firearm through the State when it is unloaded and not reasonably accessible to a potential user.

Mr. President, I ask unanimous consent that a very helpful and thorough analysis of the problems raised by section 107 be printed in the Record, as follows:

ANALYSIS OF SECTION 107 OF MCCLURE-VOLKMER BILL

Section 107 of the McClure-Volkmer Bill, S. 49, provides that the preemption of State laws by federal law is a fundamental restructuring of the present relationship between state and federal authority in one area of federal regulation: the carrying of firearms by persons in interstate commerce. This provision, which would preempt certain restrictions by states on the transportation of firearms in interstate commerce, could have the effect of permitting as many as twenty-one state "license to carry" laws or other state statutes prohibiting the carrying of firearms.

State license to carry statutes require persons wishing to carry handguns, or in a few instances other firearms, within that jurisdiction to obtain a permit before doing so. The comprehensiveness of such schemes varies considerably from state to state. Several states restrict the carrying of a handgun only if concealed on one's person; others contain broader restrictions prohibiting the carrying of a firearm in any manner without a license. Still other statutes contain specific language restricting the vehicular transportation of handguns. Most of the licensing laws, however, exempt from their requirements for certain classes of gun carriers, such as hunters and target shooters, off-duty police personnel, gun dealers or their agents, nonresidents with permits to carry from another state, and individuals traveling from place of purchase or repair. Some states qualify their exemptions with specific requirements as to the manner in which a firearm may be carried.

Currently, all questions relating to federal preemption of state firearms laws are governed by section 927 of Title 18 of the United States Code. This section provides: "(N)o provision shall be construed as indicating an intent on the part of the Congress to occupy the field in which such provision operates to the exclusion of the law of any State on the same subject matter, unless there is a direct and positive conflict between such provision and the law of the State so that the two cannot be reconciled or consistently stand together."

18 U.S.C. 927 (1984). Proposed section 107 of the McClure-Volkmer Bill would create the following exception to section 927:

Provided, however, That any provision of any legislation enacted, or of any rule or regulation promulgated, by any State or political subdivision which prohibits or has the effect of prohibiting the transportation of a firearm in interstate commerce through such State, when such firearm is unloaded and not readily accessible, shall be null and void.

While the intent of proposed section 107 may be only to prevent states from applying their license to carry laws to prohibit interstate travelers from transporting unloaded and inaccessible firearms through such states, its language could be read to extend far beyond the limited purpose. As a result, enactment of section 107 potentially could result in the preemption of state license to carry statutes in their entirety or as they pertain to the transportation of firearm transportation within a vehicle.

Proposed section 107 would render "null and void" "any provision which directly prohibits" the transportation in interstate commerce of an unloaded, not readily accessible firearm, but states that those that are "reasonably limited in effect" are not included. As a result, if any provision of a state license to carry law or other statute prohibiting carrying intrudes to any extent on the federal right to transport firearms created by section 107, that provision will be struck down by section 107, not just as the state statute is applied to restrict the interstate transportation of a handheld or readily accessible firearm, but in its entirety.

Twenty-one of the states with license to carry laws, including those of Texas, Virginia, Pennsylvania, and Massachusetts, have statutes which specifically prohibit the vehicular transportation of a handgun without a license, as well as other forms of carrying, and content exceptions to their proscriptions which may not be broad enough to encompass all conceivable types of interstate transportation of unloaded, not readily accessible firearms. Many of these states, such as New York, New Jersey, and Wyoming, have statutes which simply prohibit the carrying of a handgun or other firearm in any manner without a permit and which contain exemptions for a broad range of circumstances. For example, into the interior of the automobile. In such cases, section 107 could preempt that portion of the statute which restricted the transportation of a firearm in a vehicle.

Several other states, such as New York, New Jersey, and Wyoming, have statutes which simply prohibit the carrying of a handgun or other firearm in any manner without a permit and which contain exemptions for a broad range of circumstances. For example, into the interior of the automobile. In such cases, section 107 could preempt that portion of the statute which restricted the transportation of a firearm in a vehicle.

Three other states—South Carolina, Virginia, and Utah—prohibit the carrying of handguns in general, subject to certain exemptions, and issue permits to carry only to law enforcement personnel or other individuals traveling from place of purchase or repair. Some states qualify their exemptions with specific requirements as to the manner in which a firearm may be carried. Currently, all questions relating to federal preemption of state firearms laws are governed by section 927 of Title 18 of the United States Code. This section provides: "(N)o provision shall be construed as indicating an intent on the part of the Congress to occupy the field in which such provision operates to the exclusion of the law of any State on the same subject matter, unless there is a direct and positive conflict between such provision and the law of the State so that the two cannot be reconciled or consistently stand together."

18 U.S.C. 927 (1984). Proposed section 107 of the McClure-Volkmer Bill would create the following exception to section 927:

Provided, however, That any provision of any legislation enacted, or of any rule or regulation promulgated, by any State or political subdivision which prohibits or has the effect of prohibiting the transportation of a firearm in interstate commerce through such State, when such firearm is unloaded and not readily accessible, shall be null and void.

While the words of section 107 are unambiguous in their creation of a federal right of individuals traveling from place of purchase or repair, prohibiting the carrying of an unloaded, inaccessible firearm, the provision is far too vague to serve as the basis for preempting state laws coming into conflict with that right, particularly since the section operates to nullify any conflicting state provision. For example, section 107 does not define the phrase "transportation in interstate commerce" and, if a nonresident traveler with an unloaded, inaccessible gun in the trunk of his automobile spent the night at a roadside motel in State A and stopped there for a few days to visit friends before reaching his ultimate destination in State B, would State A's statute restricting the license to carry firearms to be preempted by section 107?

Moreover, the plain language of section 107 does not limit its protection of interstate commerce to the transportation of a firearm by residents. What if a resident employed as a common carrier drove "through" his home state while making a
coast-to-coast delivery of a cargo of firearms? Or if a resident who owned a summer cottage in a State A purchased a gun in a State B, and drove "through" her home state, State C, to that summer house, stopp­ ing in State C overnight? Does Section 107 prevent a state from regulating the carrying of firearms in a handbag or gun box by such residents? Indeed, Utah, for example, exempts all nonresidents who transport unloaded firearms in a case, gun box, gun rack, or locked trunk from its prohibition on carry­ ing of a concealed weapon.1 If Section 107 does protect these residents described above, the existence of this type of bi-state exemption for nonresidents would not be sufficient to protect a state scheme from federal preemption.

Finally, what does Section 107 mean by the words "not readily accessible"? Is it enough to keep the guns locked in a box in the driver's compartment? Must they be locked in a box in the trunk? Will locking them in the glove compartment suffice? Some current state statutes contain specific exemptions for vehicular transportation of firearms if a gun is unloaded and secured in a specified manner. In Minnesota, for example, the transportation of a pistol without a permit in a vehicle if the gun is unloaded, and locked in the trunk, or in a securely-tied package.2 In contrast, Michigan creates an exemption for certain hunters, target shooters, and antique gun owners if their pistols are unloaded and placed in a wrapper or container in the trunk of a vehicle.3 South Carolina exempts "agents" (persons hired to transport merchandise; agents who carry firearms as merchandise, an interstate traveler driving through California for some business purpose) as presently drafted could conceivably be construed to restrict the interstate transportation of firearms in these limited instances, it is conceivable that a court could construe Section 107 as presently drafted to nullify that provision of the state statute which prohibits the carrying of a firearm in an automobile, thus, significantly impairing the effectiveness of the statutory scheme as a whole.

COLORADO

Colorado's license to carry scheme provides a "person" from carrying a concealed firearm, on or about the person, whether unloaded or loaded, but creates an affirma­ tive defense for residents if they can obtain a permit to carry. Colo. Rev. Stat. § 18-12-105(1)(b) (1978). The procedure for obtaining this license is available both for residents and persons not within thejurisdic­tion. Colo. Rev. Stat. § 18-12-105.1 (Supp. 1983) A person in a private automobile could conceivably be construed to include a driver who is carrying a weapon for lawful protection while traveling has an affirmative defense and does not need a license to carry. Colo. Rev. Stat. § 18-12-105.2 (Supp. 1978).

It is possible that if the "lawful protec­tion" exemption were literally construed to include these interstate travelers who car­ ried their weapons for sport or business rather than for protection, Section 107 could potentially render Colorado's license to carry scheme invalid. The statute reaches all residents and nonresidents who carry a concealed weapon "on or about the person." This phrase could conceivably be construed to include a traveler who kept an unloaded firearm locked in his glove compartment or in a gunbox in the passenger compartment. If the phrase "not readily accessible" contained in proposed Section 107 were held to be as broad as the Colorado definition, and two definitions thus overlapped, the Colorado statute would in this limited instance, pro­ hibit interstate transportation of a firearm "through" the state. The statute provides that the Colorado statute contains no severable provision which alone would prohibit such transportation. Since the Colorado statute contains no severable provision which alone would prohibit such transportation. Since the Colorado statute contains no severable provision which alone would prohibit such transportation.

APPENDIX—STATE-BY-STATE ANALYSIS OF IMPACT OF SECTION 107 OF MCCURLEY-VOLK­ MEN BILL

ALABAMA

Alabama state law requires that persons obtain an annual permit to carry a pistol in a vehicle or concealed on or about the person, stating in pertinent part: "(1) persons in any vehicle of which a person is occupant on or about his land, in his own abode or fixed place of business without a license." Ala. Code § 13A-11-73 (1982). Although the statute expressly

1 Utah Code Ann. § 76.50-523(b) (1978).

Footnotes at end of article.
their agents carrying a firearm in the "usual and ordinary course of business," would not include individuals who repair firearms as a hobby. Since the prohibition on this form of interstate travel extends not from any specific provision relating to interstate transportation or automobile travel, but rather from the statute as a whole, application of Section 107 as proposed could conceivably result in the preemption of the District of Columbia statute in its entirety.

INDIANA

Indiana's license to carry scheme provides that "a person shall not carry a handgun in any vehicle or on or about his person without a license." Ind. Code Ann. § 35-47-2-1 (Burns 1985). The pertinent exemptions to this statutory scheme are contained in the business of manufacturing, repairing, or dealing in firearms; (2) the agent or representative of such person carrying a handgun in the usual or ordinary course of business; and (3) any person carrying an unloaded handgun in a secure wrapper from place of purchase to his home or place of business, for purposes of repair, or when moving. Ind. Code Ann. § 35-47-2-2(11) (Burns 1985). Although the Indiana statute also requires an ID card in order to carry a nonresident's license to carry, Ind. Code Ann. § 25-47-2-3 (Burns 1985) the statute applies to any "person" which should include other nonresidents as well. Indiana will, however, recognize a nonresident's license to carry issued in another state. Ind. Code Ann. § 35-47-2-21(b) (Burns 1983). Thus the statute specifically provides that no person must obtain a qualified license to carry handguns. Ind. Code Ann. § 35-47-2-4 (Burns 1985).

Despite Indiana's broad exemptions to its license to carry scheme, the statute will still prohibit certain interstate transportation of an unloaded, inaccessible firearm. For example, the exemptions do not reach transportation of a firearm by an interstate hunter or nonresident who wished to transport a handgun to a contiguous state to be used for personal protection. Since there is no severable provision which has only the effect of prohibiting this type of transportation, proposed section 107, as currently drafted, could have the effect of nullifying that provision of Indiana's statute which prohibits the vehicular transportation of a handgun, clearly a critical part of the statutory scheme.

MAINE

Maine's statutory license to carry scheme provides that "no person may . . . conceal about his person any firearm" unless such person has been issued a permit. Me. Rev. Stat. Ann. tit. 25, §§ 2031 (Supp. 1984). The licensing provision explicitly permits both residents and nonresidents to obtain a permit to carry a non-license gun or handgun. In addition, a nonresident is prohibited from doing so without a license to carry. Similarly, the exemption for persons engaged in the "business of manufacturing, repairing or dealing in firearms or

interstate traveler from carrying an unload­
ed, not readily accessible firearm without a license. Since Maine's scheme contains no severable provision relating solely to vehicular travel or to interstate transportation, section 107 as currently drafted could have the effect of nullifying Maine's license to carry scheme in its entirety.

MASSACHUSETTS

The Massachusetts license to carry scheme provides that "whoever . . . carries on his person, or carries on his person or under his control, or on or about his person or vehicle, it would seem clear that in either of these two proscriptions is ambiguous, and it is generally conceded that the exemptions to the vehicular travel provision, the statute would still restrict some forms of interstate transportation of such a fire­arm. For example, the statute prohibits an interstate traveler wishing to carry a fire­arm for personal protection or a hunter without a license to carry from his or her home or place of business to the vehicle or on or about his person, . . . a pistol, without a license, . . . D.C. Code Ann. § 22-3204 (1981). The pertinent exemptions to the license to carry scheme include: (1) any person engaged in the business of manufacturing, repairing, or dealing in firearms, or the agent or representative of any such person carrying a pistol in the usual or ordi­nary course of business; and (2) any person carrying a pistol unloaded in a secure wrapper from place of purchase to his home or place of business, for purposes of repair, or when moving. D.C. Code Ann. § 22-3205 (1981). The statute provides a procedure by which residents or business of business may apply for a concealed pistol permit. D.C. Code Ann. § 22-3204 (1981). The statute, however, would encompass all "persons," including nonresidents who have never held a concealed pistol permit in any state. 9

The potential for preemption of the District of Columbia's license to carry scheme depends on whether the definition of "not readily accessible" in proposed section 107 could conceivably overlap with that of "on or about the person," as contained in the D.C. Code. Ind. Code Ann. § 35-47-2-2(11) (Burns 1985); a firearm locked in a glove compart­ment or in a gun box in the passenger compart­ment were both "about the person" and "not readily accessible." The exemptions in the D.C. scheme would not be broad enough to cover all classes of interstate travelers. For example, the statute provides that a person carrying a firearm in a vehicle, it would seem clear that in either of these two proscriptions is ambiguous, and it is generally conceded that the exemptions to the vehicular travel provision, the statute would still restrict some forms of interstate transportation of such a firearm.

The potential for preemption of the District of Columbia's license to carry scheme depends on whether the definition of "not readily accessible" in proposed section 107 could conceivably overlap with that of "on or about the person," as contained in the D.C. Code. Ind. Code Ann. § 35-47-2-2(11) (Burns 1985); a firearm locked in a glove compart­ment or in a gun box in the passenger compart­ment were both "about the person" and "not readily accessible." The exemptions in the D.C. scheme would not be broad enough to cover all classes of interstate travelers. For example, the statute provides that a person carrying a firearm in a vehicle, it would seem clear that in either of these two proscriptions is ambiguous, and it is generally conceded that the exemptions to the vehicular travel provision, the statute would still restrict some forms of interstate transportation of such a firearm.
about his person, "... or whether concealed or otherwise in a vehicle operated or occupied by him without a license to carry." Mich. Comp. Laws Ann. § 750.227 (West Supp. 1984). Exemptions to the criminal provision include: (1) a person holding a valid license to carry issued by another state, except where the pistol is carried in nonconformity with any restriction appearing on the license; (2) the regular and ordinary transportation of a pistol as machinery by an authorized agent of a person licensed to manufacture firearms; (3) a person carrying a pistol unloaded in a wrapper or in a container or securely-tied package. Minn. Stat. Ann. § 624.714 Subd. 9.

Although the scheme establishes an extensive series of exemptions to the license to carry law, some interstate travelers may nonetheless be prohibited from carrying an unload and inaccessible firearm "through" the state. The exemption for transportation of an unloaded pistol in a gun box, fastened case, or securely-tied package, if literally construed, would not be broad enough to cover two other methods which could conceivably be found to make a firearm "not readily accessible" for purposes of applying proposed Section 107—locking a gun in the trunk or in the glove compartment of a car. An interstate traveler who so carried a handgun and did not fall within any of the other exemptions in the statute, including a common carrier, an interstate traveler who sought to use a handgun for personal protection in its present form could conceivably be found to make a firearm "not readily accessible." Since the statutes are so construed. the statute will nonetheless prohibit transportation of some unloaded, not readily accessible firearms through the state if the term "concealed" is construed to encompass locking a firearm in a trunk or glove compartment.

Despite the inclusion of these exceptions in New York's license to carry scheme, the statute will nonetheless prohibit transportation of some unloaded, not readily accessible firearms through the state if the term "concealed" is construed to encompass locking a firearm in a trunk or glove compartment. If a handgun is locked in a container. the owner of that handgun would not be able to use it as a firearm. The exemption for transportation of an unloaded and inaccessible handgun through New York en route to visit friends in New Jersey, for example, but not placed in a container, the statute would require a permit to carry. New York's entire license to carry scheme.

New Jersey renders it unlawful for "a person (to carry) ... a pistol in a motor vehicle ... or on or about his clothes or person ... without first having obtained a permit to carry." Minn. Stat. Ann. § 624.714 (West Supp. 1984). Although specifically addressing only the procedure by which residents may obtain a license to carry, Minn. Stat. Ann. § 624.714 Subd. 2.(West Supp. 1985), the statute's broad language making it unlawful for "a person" to carry without a license should render the scheme applicable to both residents and nonresidents. Relevant exemptions to the statute include:

1. carrying a pistol from place of purchase to residence or business for purposes of repair or replacement, or from one dwelling house and place of business; (3) carrying a pistol in the woods for purpose of hunting; (4) transporting a pistol in a motor vehicle if the pistol is unloaded and contained in a closed and fastened case or securely-tied package. Minn. Stat. Ann. § 624.714 Subd. 9.
congressional record—senate

north dakota

the north dakota license to carry law provides that "no person shall carry a pistol, either openly or concealed, in any vehicle or on or about his person while engaged in the usual or ordinary course of business; (3) any common carrier; and (4) the carrying of a pistol in an unloaded and secure wrapper from its place of purchase to one's home or business, for repair purposes, or when moving. N.D. Cent. Code § 62-01-07 (Supp. 1983). Although the statute only establishes a procedure to enable residents to obtain a license, as well as nonresidents who already have a license, to carry a pistol issued by another state, N.D. Cent. Code § 62-01-07 (Supp. 1983), the broad language of the statute would clearly apply to nonresidents without such licenses.41 the statute also requires that no person carry concealed "about his person" any loaded or unloaded gun unless to effect a lawful and legitimate purpose. N.D. Cent. Code § 62-03-01 (Supp. 1983).

although the north dakota license to carry law contains several broad exemptions, the statute will in several circumstances prohibit the transportation of an unloaded, inaccessible handgun "through" north dakota. Moreover, a manufacturer's agent transporting a pistol not in the "ordinary course of business" could not avoid the statute under this license. The statute contains no provision which directly prohibits the interstate transportation of an unloaded, inaccessible handgun "through" north dakota. Consequently, a target shooter could conceivably ship a pistol to or from the target range; a shooter going to or from the target range; and a person in control of such vehicle in certain instances.42

oregon

the oregon license to carry scheme provides that it is unlawful for "any person" to "have either openly or concealed upon his person or within any vehicle which is under his control or direction any pistol, revolver, or any other firearm or weapon concealed upon his person, without having a license to carry." Or. Rev. Stat. § 166.250 (1983). Relevant exemptions to the license to carry law include: (1) transportation by any merchant of uninsured firearms for a manufacturer's agent while carrying a firearm without a permit. the statute contains no provision which directly prohibits the interstate transportation of an unloaded, inaccessible handgun "through" oregon for a manufacturer's agent: also will depend upon the scope of the term "usual or ordinary course of business." Because the pen­nsylvania scheme contains several broad exemptions, proposed section 107 could conceivably preempt oregon's law. although the scheme contains numerous exemptions to the requirement that all persons obtain a permit to carry a firearm in a vehicle, certain classes of interstate travelers would appear to be prohibited from carrying even an unloaded and inaccessible firearm "through" the state. for example, a hunter who was not a resident of pennsylvania could not under any circumstance carry an unloaded and not readily accessible pistol while"through" pennsylvania unless he or she was coincidentally traveling "through" the state. for example, a hunter who was not a resident of pennsylvania could not under any circumstance carry an unloaded and not readily accessible pistol while traveling "through" pennsylvania without a permit. the traveler stayed overnight in a roadside hotel or a friend's cottage. if a court were to find the exemption inapplicable in such a case, but were to conclude that the traveler was traveling "through" the state for purposes of applying section 107, rhode island's statute could be found to impermissibly restrict travel of an individual who holds a license to carry in his or her home state. since there is no provision which directly prohibits these forms of interstate travel without a permit, proposed section 107 could conceivably preempt rhode island's license to carry law as it pertains to carrying a handgun in a vehicle, a provision critical to the scheme as a whole.

rhode island

rhode island's license to carry law provides in pertinent part that: "(1) no person shall have a license or permit... carry a firearm without a permit in a vehicle; (2) any person carrying a pistol in a vehicle not having a license to carry or any person engaged in manufacturing, repairing, or dealing in firearms; or (3) the agent or representative of any such person, carrying a firearm in the usual or ordinary course of business; (3) any common carrier; and (4) the carrying of a pistol in an unloaded and secure wrapper from its place of purchase to one's home or business, for repair purposes, or when moving. R.I. Gen. Laws § 11-47-10 (1981). Although the license to carry scheme also exempts a target shooter carrying a pistol or revolver to or from the target range, R.I. Gen. Laws § 11-47-9 (1981). the broad language used in the statute indicates its applicability to all nonresidents.43

although rhode island's license to carry scheme contains several broad exemptions, in several circumstances the statute would still prohibit transportation of an unloaded, inaccessible handgun "through" rhode island for a nonresident. for example, a traveler staying overnight in a roadside hotel or a friend's cottage who holds a license to carry in his or her home state is exempted from the provisions of the law. although the traveler was "through" rhode island while transporting a firearm with no "intent... to detain himself or remain... within the state," it is unclear whether this exemption would still apply if the traveler stayed overnight in a roadside hotel or a friend's cottage. if there were to find the exemption inapplicable in such a case, but were to conclude that the traveler was traveling "through" the state for purposes of applying section 107, rhode island's statute could be found to impermissibly restrict travel of an individual who holds a license to carry in his or her home state. since there is no provision which directly prohibits these forms of interstate travel without a permit, proposed section 107 could conceivably preempt rhode island's license to carry law as it pertains to carrying a handgun in a vehicle, a provision critical to the scheme as a whole.

southern california

southern california's comprehensive statutory scheme provides that "any person" about to carry (any pistol) about the person, whether concealed or not. "S.C. Code Ann. §§ 16-22-20 (Law. Co-op. 1985). Relevant exceptions to this provision include: (1) target shooters going to or from target practice; (2) licensed hunters while engaged in hunting or going to or from hunting expeditions; (3) any pistol in any vehicle where the pistol is secured in a closed glove compartment or closed trunk; (4) any person carrying a pistol loaded and in a secure wrapper from place of purchase to his or her home or business or in the usual or ordinary course of business; (5) any person "regularly engaged in the business of manufacturing, repairing, repossession or dealing in firearms or pistols or her representative while carrying" in the "usual or ordinary course of business." Id. §§ 16-23-20 (3)-(5), (9)-(10). the statute's comprehensive statutory scheme would clearly exempt nonresidents and nonresidents since the broad language of the statute prohibits "anyone" who is not exempted from carrying a pistol.
the state of an unloaded pistol or revolver, even if that exception would not appear to be broad enough to govern. Hence, someone who did not fall within any of the exceptions, such as a person who engaged in gun repair as a hobby or an interstate traveler who wished to use a handgun for protection at his or her ultimate state of destination, could not drive through South Carolina so carrying an unloaded gun. Since there are no provisions specifically prohibiting either this type of interstate transportation or carrying in a vehicle without a permit, this limited class of cases could conceivably result in the total preemption of the South Carolina scheme if proposed Section 107 is enacted in its present form.

**Wyoming**

The South Dakota license to carry law provides that it is unlawful for "any person" to carry a pistol or revolver, loaded or unloaded, concealed in any vehicle operated by himself or herself. § 22-14-2(2) (1979). Such person is also prohibited from carrying a pistol or revolver in any gun case or package while engaged in the regular and ordinary transportation of firearms as merchandise; (2) nonresident or (3) through state provided that any firearm is unloaded, enclosed in a case, gun box, or securely tied package, held securely in a gun box, or securely tied package, or who is lawfully engaged in hunting; or who is lawfully engaged in hunting and the firearm is unloaded and enclosed in a case, gun box, or securely tied package, held securely in a gun box, or securely tied package. § 76-10-512(3)-(4) (1978).

While Utah's exemptions to its statutory scheme extend to almost every possible type of interstate transportation of a firearm, there is one situation in which proposed Section 107 could conceivably preempt the Utah statute. The Utah scheme specifies numerous methods of storing an unloaded firearm which will avoid a violation of the statute, such methods of storage do not include locking a firearm in a glove compartment. If the phrase "not readily accessible" in Section 107 were interpreted to include the firearm in a locked glove compartment, Utah's statutory scheme would prevent an individual who was not in the legal business of carrying a concealed firearm—such as a hunter or a member of a shooting organization—going to or from a shooting range (but only if he or she was a member of the shooting organization), would be precluded from doing so since the statute would require the weapon to be locked in a firearm in the trunk or other closed compartment of the vehicle; or (2) in a closed container which is too large to be effectively concealed on the person or within his clothing. The container may be carried in the vehicle. § 22-14-10 (1979). Because a license can be obtained by "any person," § 22-14-2(3) (1979), the statute's requirements clearly apply to both residents and nonresidents.

Although the South Dakota license to carry scheme contains several broad exemptions, it does so negligently. In one instance, prohibit transportation "through" the state of the unloaded, not readily accessible firearm in a vehicle operated by an individual who is an interstate traveler who kept an unloaded handgun in a small gun container which was "too large to be effectively concealed on the person or within his clothing," § 22-14-10 (1979), in the back seat of a car, must, under the statute, obtain a license to carry. If the words "not readily accessible" in proposed Section 107 were construed to extend to this situation, Section 107 would preclude that critical portion of the state statute which requires a license to carry a handgun within a vehicle, despite the inclusion of these extremely broad exemptions.

**Virginia**

Virginia's statutory scheme prohibits the carrying of a concealed weapon, making it unlawful: "(1) any person (carries) about his person, hidden from common observation, any pistol, revolver or other weapon designed or intended to propel a missile of any kind, . . ." Va. Code § 18.2-308A (Supp. 1984). Relevant exemptions to the scheme include: (1) any regularly enrolled member of a target shooting organization who is at, or going to or from, an established shooting range, provided that the weapon is unloaded and securely wrapped while being transported; (2) any member of a weapons collecting organization who is at, or going to or from, an organized weapons exhibition, provided that the weapon is unloaded and securely wrapped while being transported; (3) any person who carries such weapons between his or her residence and place of purchase or repair or who is engaged in the regular and ordinary transportation of firearms as merchandise; (4) nonresident or (5) through state provided that any firearm is unloaded, enclosed in a case, gun box, or securely tied package, held securely in a gun box, or securely tied package. Va. Code § 18.2-308B (3)-(5) (Supp. 1984).

As long as the word "carried" in Wyoming's statute is held to encompass a condition that also would be found to satisfy the "not readily accessible" requirement—possibly, for example, the placing of a firearm in a gun box trunk, a gun box, or in a securely tied package, or going to or from a shooting range without a permit. This would be true in almost any conceivable situation. Because the prohibition on such interstate transportation would depend from no specific, severable provision, but rather from the statutory scheme as a whole, passage of proposed Section 107 would result in the preemption of Wyoming's entire license to carry scheme.

**People v. Perez, 67 Misc. 2d 911, 915, 325 N.Y.S.2d 183, 184-85, 168 (1975) (upholding constitutionality of applying license to carry laws to nonresident traveler where statute provided no provision by which a nonresident could obtain a license).**

**People v. Perez, 67 Misc. 2d 911, 913, 325 N.Y.S.2d 183, 184-85, 168 (1975) (upholding constitutionality of applying license to carry law to nonresident traveler where statute provided no provision by which a nonresident could obtain a license).**

"As long as the word "carried" in Wyoming's statute is held to encompass a condition that also would be found to satisfy the "not readily accessible" requirement—possibly, for example, the placing of a firearm in a gun box trunk, a gun box, or in a securely tied package, or going to or from a shooting range without a permit. This would be true in almost any conceivable situation. Because the prohibition on such interstate transportation would depend from no specific, severable provision, but rather from the statutory scheme as a whole, passage of proposed Section 107 would result in the preemption of Wyoming's entire license to carry scheme."

"See People v. Perez, 67 Misc. 2d 911, 913, 325 N.Y.S.2d 183, 184-85, 168 (1975) (upholding constitutionality of applying license to carry law to nonresident traveler where statute provided no provision by which a nonresident could obtain a license)."

"See, e.g., People v. Smith, 184 P.2d 857, 858 (Cal. 1947)."

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"Indeed, the fact that the statute contains an exemption for the carrying of a pistol in a secure wrapper when moving provides strong support for the argument that the District of Columbia's statute must be interpreted to encompass the transportation of a firearm in a gun box next to the driver of a vehicle."
July 9, 1985

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cedure by which a nonresident could obtain a li-

cense. The scheme also provides that the New York

2 See also Beck v. State, 414 N.E.2d 970, 973 (Ind. 1981) (defendant not within unloaded and secured weapon with place seated back to auto with cylinder removed since firearm was within reach and could have been reassembled easily).

3 See, e.g., People v. Smith, 164 P.2d 857, 858 (Cal. 1946) (weapon placed in closed glove compartment deemed "concealed").


Some states have defined the term "firearm" to encompass the placing of a pistol in at least some of the locations which would make such firearm "not readily accessible." See also People v. Smith, 164 P.2d 857, 858 (Cal. 1946) (weapon placed in closed glove compartment deemed "concealed").

4 The statutory scheme takes the form of a bill on carrying weapons altogether, subject to numerous qualifications and exemptions as described herein. The statute also authorizes certain law enforcement authorities to issue a license to carry a concealed weapon for "good cause." This licensing provision contains no residuum. See Utah Code Ann. § 76-10-1217 (1987).

5 Although the statute applies only to "concealed" weapons, it is clear from the exemptions to the regular and ordinary transport of firearms as merchandise by a common carrier. The bill before the Senate was identical to the one that was not only reported from the Committee on the Judiciary but also was subjected to extensive markup sessions in that committee; and it was unanimously reported by that committee after those hearings and that markup during the last Congress. There are exceptions, of course, to that proposition to offer an amendment to insert it.

One is a very significant exception, a difference. Senator Kennedy had offered—and I expect will offer again—a provision with respect to the sale of a handgun in a State not the residence of the purchaser. He had offered that amendment in the committee, and it had been adopted in the committee before they voted to report the bill.

In introducing the bill this year, I felt that it should come as close as possible to my own view of what the bill should have in it, and I elected to leave it out and to leave it to the present Senate to offer any amendment that provision may wish to offer an amendment to insert it.

In all honesty, I will oppose it as strenuously as I can, and those on the opposite side will support it as strenuously as they can.
simply on a hunting trip, traveling to a sporting event, or moving. The unfairness of the situation is highlighted by the fact that in some States, such nonresidents cannot even obtain a gun permit.

The amendment is an improvement over S. 48 insofar as it creates a Federal right for such persons to travel interstate with unloaded, inaccessible weapons, as opposed to the provision in the bill, as introduced, which could conceivably result in the invalidation of an entire State or city gun control law on the basis of a single prosecution.

Mr. President, I regret that there was a misunderstanding about the sponsorship of this amendment, but the fact that two Senators with such diverse views would both claim authorship perhaps underscores how valid and sound the amendment is.

The amendment (No. 438) was agreed to.

Mr. METZENBAUM. I move to lay the remainder of my time.

Mr. SYMMS. I yield back my time.

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

The amendment was agreed to.

Mr. HATCH. Mr. President, when Congress enacted the Gun Control Act of 1968 its goal was to reduce violent crime; its goal was not to allow the easy prosecution of and making of cases against law-abiding citizens ignorant of the complexities of the law. As a consequence, significant Federal law enforcement, judicial, and correctional resources, which are already too thinly stretched, have been diverted from attacking violent crime. It is the purpose of this bill to shift the focus of those resources away from the prosecution of technical violations so that the criminal justice system can better deal with violent crime.

Anyone in the Senate who is serious about controlling crime should urge the swift passage of this legislation because it redirects our firearms laws toward control of criminal abuse, rather than technical regulatory violations. For example, under current law, the simplest recordkeeping oversight is a Federal felony, just as is the most severe criminal abuses. The hearings on the amendment have shown that this results in scarce law enforcement resources becoming occupied with prosecuting minor violations instead of focusing on violent crime. For instance, even though the latitude in the hearings with the comment that: "I am very much disturbed by some of the allegations that have been presented to this subcommittee about the alleged enforcement in abuse of the law." This bill will provide a mens rea standard for violations under the code and redirect enforcement efforts toward violent intentional crimes, instead of recordkeeping errors. For example, in New Hampshire the BATF spent 5 days once inspecting a dealer's records only to find a single violation, he was 5 pounds over his black powder storage limit. It would perhaps make more sense to have those officers inspecting crime-infested neighborhoods, for 5 days.

This bill will aid the fight against crime and should have our support. It is true that current gun laws are technical and complex, that they contain numerous exceptions and that the regulations springing from this law are as complex as the law itself. But all these reasons are reasons to simplify and redirect the current law.

Let me give an example that demonstrates why this bill is important. It's not a hypothetical, but a tragic story uncovered by our hearings on this bill. This example involves a retired police officer, a French national who had won his American citizenship by volunteering for military service during the worst of the Vietnam war. While a policeman, he obtained a Federal firearm dealer's license, in order to sell to other police. Another gun collection was hinted at for the purchase of his firearms. Since these were part of his personal collection, he felt he could sell them without the paperwork required of a licensed dealer. When this was uncovered by our investigation, the gun dealer, not being informed that one director had written to complain of prosecutions on arguments that are already relatively thin. The evidence was clear that a change was needed—a fundamental redirection of the law and of its enforcement. That is why I sponsored S. 49, a bill to protect firearm owners' constitutional rights, civil liberties and rights to privacy, S. 49 is hardly revolutionary. It is a reform bill to correct elements of due process to American citizens who choose to own firearms. No longer is honest intent irrelevant; most violations must be proven willful; a person is acquitted, their property cannot be confiscated on the same charges. If a person is acquitted, their property cannot be confiscated on the same charges. If a person is acquitted, their property cannot be confiscated on the same charges. If a person is acquitted, their property cannot be confiscated on the same charges. If a person is acquitted, their property cannot be confiscated on the same charges. If a person is acquitted, their property cannot be confiscated on the same charges. If a person is acquitted, their property cannot be confiscated on the same charges. If a person is acquitted, their property cannot be confiscated on the same charges. If a person is acquitted, their property cannot be confiscated on the same charges.
dent of another State if the sale is completely legal under both State's laws. Regulations imposed must be only those necessary to the purposes of this Act.

These are reasonable reforms, aimed at keeping the law and its enforcement on the right track—aimed at the real criminal. For exactly that reason, this legislation is endorsed by the Fraternal Order of Police and the National Sheriffs' Association, both of which feel it would actually make the Gun Control Act more enforceable—against the real criminal.

The opposition to S. 49 does not come from law enforcement, which supports it. It seems to come mainly from persons who have never read it or its endorsements. Curiously, many of these opponents are the same persons who consider themselves civil libertarians yet they will gladly embrace entrapments, unreasonable search and seizure, and violations of rights so long as these are directed at firearm owners. To such persons, of course, no reforms of the Gun Control Act can ever be good news. To the rest of us—law-abiding gun owners, to law enforcement, and to free men and women in general—it can be nothing but.

Mr. President, I should like to address some frequent questions which have arisen concerning this bill, and then I will answer them, because I think there has been much misconception with regard to this bill by some of the people who have been opponents of the bill throughout the last number of days.

No. 1: Wouldn't this bill allow escaping criminals, felons, and terrorists to get guns? The answer is that 18 U.S.C. 922(g) and (h)—which currently prohibits sales to fugitives from justice, convicted felons, drug abusers, and adjudicated mental incompetents—will be strengthened by this bill. Instead of only licensed dealers being prohibited from selling or transferring to these prohibited persons, anyone who does so is guilty of a felony. The bill is stronger on this point than current law.

No. 2: Wouldn't this bill forbid inspections of dealers except those preceded by advance notice? The answer is that this bill authorizes five different kinds of inspections for tracing, compliance, enforcement, and other purposes. Only one of these, the courtesy visit, is preceded by notice. The others are allowed anytime the Federal officers have reason to believe a law has been violated or need access to records for law enforcement.

No. 3: Wouldn't the bill allow mail-order sales? The answer is that 18 U.S.C. 922(a)(1) and 18 U.S.C. 1715 and 18 U.S.C. 922(c) now ban mail order sales. The bill does absolutely nothing to change those provisions of present law.

No. 4: Wouldn't the bill allow an individual to walk across a border to get a gun his State law prohibits? The answer is clearly no. Interstate sales may be made only when three circumstances are met: First, the sale must be face-to-face with a dealer across his business counter; second, the sale must be subject to recordkeeping for tracing; and third, the sale must comply with the law of both the buyer's and seller's State. Compliance with State law is required by the bill; a violation of this command is a felony.

No. 5: Why not a waiting period? I can say that 34 States have rejected such restrictions. Why should the Federal Government resume to impose others?

We prefer to allow the States to make up their minds and to do whatever they decide is right in this area.

The leading law enforcement agencies--Department of the Treasury and Department of Justice—agree that these waiting periods do little or nothing to deter crime and they oppose a national waiting period. Criminals, of course, do not wait in line and subject themselves to recordkeeping and potential tracing to get a firearm. They steal or get their guns through other unlawful means.

A high percentage of crimes committed are committed with illegally obtained weapons.

Studies have shown that over 80 percentage of all crimes committed with guns were obtained through illegal channels. A waiting period would have little effect on crime but would burden sportsmen and other law-abiding gun owners.

Mr. President, I ask unanimous consent to have printed in the Record a fact sheet on the Firearms Owners Protection Act; a statement of Ferris E. Lucas, Executive Director, National Sheriffs' Association; a statement of Vince McGoldrick, Chairman, National Legislative Committee, Fraternal Order of Police; and a statement by our colleague, Senator Sasser, entitled "Gun Control Act Amendments Needed Now."

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

FACT SHEET: THE FIREARMS OWNERS PROTECTION ACT

1. Engaged in the Business—Existing law requires those engaged in the business of gun sales to register. This bill doesn't ex- 
pressly define "engaged in the business." The result is a hodgepodge of definitional interpretations found in court rulings, inter-
pretations which vary from circuit to circuit. This has led to many collectors being convicted for just a few sales which were made during the regular and normal course of their collecting or hobby activities. The Protection Act expressly defines "engaging in the business" to mean dealing with the intent of making livelihood and profit (business and commercial motives). Hobbyists and collectors who intend only to en-
hance their personal collections or hobby by their activities are specifically protected from the threat of prosecution.

2. State of Mind—For the most part, existing law requires no proof of intent, resulting in felony prosecutions and convic-
tions for acts which were unintended (e.g., unintentional purchase in the business of gun sales) or based on inadvertent violations. The Protection Act makes a demanding intent requirement for each violation of the Gun Control Act generally applicable to persons possessing specialized knowledge of gun laws (e.g., legal machines owned by gun dealers) which contain elements that target real criminals (e.g., transportation of a stolen firearms, knowing or having reasonable cause to be-
lieve that the firearms are stolen) would require a "knowing" criminal intent standard. Those violations susceptible to unintentional commission are governed by the higher "willful" standard. Under these provisions alone, some estimates state that 75% of BATF's victims would have been acquitted.

3. Warrantless Inspection—Current law allows warrantless inspection of dealers' premises anytime during business hours. The Protection Act makes a reasonable cause and an administrative warrant a requirement for inspection of dealers' premises. Limited exceptions are provided: (1) for a court order that a violation has occurred; (2) for regulatory inspection—but only once a year; and (3) for a letter notifying a dealer that he is under investigation. Only after notice may a dealer be on the regulatory inspection except for willful recordkeeping violations and sales to prohibited persons (e.g., convicted felons); (3) for tracing of particular firearms, as a part of a bona fide criminal investigation. Licensed collectors are also protected by the Act. The Protection Act would essentially end mass, random audits.

4. Ammunition Recordkeeping—The Protection Act eliminates the entire set of recordkeeping and the requirement of dealers' licenses for ammunition-only dealers.

5. Pardons, Etc.—The Protection Act provides that a person convicted of a felony who secures a pardon, restoration of civil rights, or whose record has been expunged as is not considered to have the pur-
poses of possessing firearms—courts have held this not true under existing law.

6. Firearms Seizures and Forfeitures—Existing law permits seizure of firearms that are more probably than not "in-
tended to be used" in federal firearms violations. The Protection Act does not exempt return if the owner is acquitted of criminal charges, puts no time limit on their being held, and gives the owner no remedy if he wins return. The Protection Act requires "clear and convincing" evidence that guns are "intended to be used" in federal firearms violations, requires that each gun be individually tied to the violation, that they be returned if the owner is acquitted on the criminal charges, that forfeiture actions be begun within 120 days after seizure, and grants the gun owner an attorney's fee if he sues for their return and wins. Wholesale seizures of entire collections of firearms will be sig-
nificantly limited.

7. Interstate Sales—The Protection Act would allow sale by licensed dealers to non-
residents to non- 

8. Interstate Travel With Firearms—The Protection Act would grant a right to trans-
port firearms despite state and local laws which have the effect of prohibiting the transportation of firearms through state

9. CONGRESSIONAL RECORD-SENATE
or locality when the firearms are unloaded and not readily accessible. This is intended to prevent state or local laws, which may be more restrictive, from interfering with personal possession, or transportation, from being used to harass law-abiding travellers.

9. Dealer Collections.—The Protection Act would require gun dealers to keep records of private sales, transfers, or transportation, from being used to harass law-abiding travellers. Thus all collectors, dealers, and other gun owners convicted of misuse of the law in the past are forever barred from gun ownership. The Protection Act removes this exclusion so they can apply on an equal basis with anyone else—and, given their clean records and technical violations, should be able to obtain relief.

10. Fee for Fast Abuse Victims.—Current law allows a felon to apply for a ‘relief from disability’ which, if granted, enables him to own guns again. But it excludes from this anyone convicted of a Gun Control Act violation. Thus all collectors, dealers, and other gun owners convicted of misuse of the law in the past are forever barred from gun ownership. The Protection Act requires that they apply on an equal basis with anyone else—and, given their clean records and technical violations, should be able to obtain relief.

11. Fee.—As a penalty for abuse and to prevent damage to the innocent, the Protection Act requires judges to award an attorney’s fee to a gun owner if the enforcement so we may enjoy the preserva­tion of life, liberty and the pursuit of happi­ness as these were guaranteed by the Con­stitution.

The National Sheriffs’ Association promotes legislation beneficial to sheriffs na­tionally. The purpose of the Protection Act re­quires that regulations issued be only those necessary to enforcement of the law. (Cur­rent law allows any regulations the Secre­tary feels reasonably necessary, a broader standard).

13. License Revocation.—The Protection Act would provide for violations of the criminal misuse of firearms, and to prevent damage to the innocent; the Protection Act requires judges to award an attorney’s fee to a gun owner if the enforcement so we may enjoy the preserva­tion of life, liberty and the pursuit of happi­ness as these were guaranteed by the Con­stitution.

Mr. Chairman, it is apparent that civilians need to protect themselves. There are not enough sheriffs or police officers to protect law-abiding citizens from the criminals who prey on our society. Therefore, it is no longer enough to rely on local enforcement so we may enjoy the preserva­tion of life, liberty and the pursuit of happi­ness as these were guaranteed by the Con­stitution.

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Accordingly, just as we support obtaining increased resources for our members, we support the removal of increased enforce­ment burdens which either do not hinder criminals or hinder them so indirectly as to be almost useless. McClure/Volkmer is a bill which will have exactly this impact.

For example, the existing Federal Gun laws make it a felony for a private citizen to give or sell a firearm to a resident of a differ­ent state, even though this would violate the laws of neither state. This can have no logical basis; the only reason to prevent an interstate transfer is to prevent the evasion of local laws and if there are no local laws, why is this a federal issue?

A McClure/Volkmer bill would take care of this by prohibiting interstate sales only where it would violate the laws of where the sale was made or where the buyer resides. Likewise, another recent and relatively ineffective piece of legislation of McClure/Volkmer is the addition of the word “willful” to the section outlining the penalties for the “willful” violation of the Gun Control Act. We strongly support the addition of the word “willful” to this section.

The only argument for permitting federal prosecution of an unintentional violation is that it is too much work for federal agents to as­ertain whether the individual acted with illegal intent. Our members, every day we enforce criminal statutes requiring far more detailed proof of intent of this (the require­ment of premeditation and malice of fore­thought for murder is the most obvious one) to the section outlining the penalties for the “willful” violation of the Gun Control Act. We strongly support the addition of the word “willful” to this section.

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CONGRESSIONAL RECORD—SENATE 18181

July 9, 1985

Mr. BASSER. Mr. President, approximately 2 months have passed since the introduction of "A Bill to Protect Firearm Owner's Constitutional Rights, Civil Liberties, and Right to Privacy," a bill which I have cosponsored. I am pleased to be able to say that over half the Senate has, in those 2 months, elected to sign on to this needed legislation. We may look forward to passage of this bill, but I feel that it is desirable to discuss now the need for this legislation and its historical context.

The primary thrust of this bill is aimed at amending the Gun Control Act of 1968 to change its most onerous provisions and institute guarantees of gun owners' civil liberties which were omitted from the act. To understand how those guarantees were omitted, we should examine the historical background of the 1968 law.

What ultimately became the 1968 Gun Control Act originated in 1963, as a relative­ly modest measure to require police background checks before mail-order firearm purchases. Over the following years, as the gun control controversy expanded, so did the proposed legislation. It finally reached the President's desk in 1968 in a politically charged atmosphere. Those who sought extensive Federal regula­tion of firearm owners fought for registration and permit systems; those who opposed it primarily fought against these proposals. The Gun Control Act was not a coordinated piece of legislation, but a hodgepodge of proposals which neither side particularly wanted, inserted piecemeal as the legislative battle saw-sawed back and forth. Nor was it enacted—as part of the Omnibus Crime Control and Safe Streets Act—than a new push was started for amending the bill. A second piece of legislation, entitled the Gun Control Act of 1968, was passed, which amended various provisions of the first bill, making it apply to all firearms, as well as pistols, creating a collectors' licensing system, amending provisions for review of license denials, and generally clouding the original language. The final result was a strange piece of legislation.

Among its other unusual features:

"Four classes of persons are prohibited from purchasing or receiving firearms (sec-

...
The vague and often inconsistent commands of the Gun Control Act would be a serious blow to the citizenry of this Nation, but they are considered by two general problems. The first is that every violation, no matter how trivial or technical, would be punished as a felony, even if only one firearm is involved. Not only those who violate subject to 5-years imprisonment in a Federal institution plus a $10,000 fine, but anyone who engages in a Federal institution plus a $10,000 fine, but anyone who engages in a Federal institution plus a $10,000 fine, but anyone who engages in a Federal institution plus a $10,000 fine, but anyone who engages in a Federal institution plus a $10,000 fine, but anyone who engages in a Federal institution plus a $10,000 fine, but anyone who engages in a Federal institution plus a $10,000 fine, but anyone who engages in a Federal institution plus a $10,000 fine, but anyone who engages in a Federal institution plus a $10,000 fine, but anyone who engages in a Federal institution plus a $10,000 fine, but anyone who engages in a Federal institution plus a $10,000 fine, but anyone who engages in a Federal institution plus a $10,000 fine, but anyone who engages in a Federal institution plus a $10,000 fine, but anyone who engages in a Federal institution plus a $10,000 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obtain a conviction. A technical violation, by one who did not intend to break the law, can ruin one's career. Violations of the Gun Control Act. The vague command that one refrain from engaging in the business would be clarified by a definition of that term as pertaining to engaging in the repetitive sale of firearms for the primary motive of profit, and as expressly excluding firearms hod- byers who do not direct one's business. This more nearly approaches what we commonly think of as a dealer—not a collector who ex- hibits his firearms and swaps or sells in pur- suit of a hobby.

Another provision would recognize that a licensed dealer may have a private firearms collection, separate from his inventory, and as long as he keeps it separate may act as a private collector in acquiring, keeping, and disposing of it. No longer will those with a license be treated as second-class citizens who even dispose of their own property in a manner permitted an ordinary, unlicensed citizen.

Yet another provision would coordinate the different sections listing persons banned from receiving or possessing firearms. As I mentioned earlier, the law in this area is an ill-coordinated hodgepodge of different provisions—persons prohibited from owning guns are prohibited from receiving guns, and vice versa. A pardon may permit a person to possess but not to receive, and so on. This bill coordinates these provisions so that only seven classes of persons, including all convicted felons who have not received pardons, reliefs from disabilities, or expungement of cases, are banned from possessing, owning, receiving or transporting firearms. The same rules on pardons, abilities, and expungement apply to all such restrictions.

Third, this bill would remove the opportu- nity and incentive for harassment and civil rights violations. If a citizen is acquitted of a crime, only where the Bureau can establish that a firearms dealer, like any citizen, is entitled to his fourth amendment protection against search and seizure without probable cause, and with billions of dollars of resources a year, the paperwork burden is enormous.

The provisions of the bill would also address the paperwork burden in a uniform manner, thereby allowing the government to target widespread abuses in a more uniform manner.

Given that the Governmental seizure of valuable private property without compensation, jury trial, requirement of proof beyond a reasonable doubt or any other safeguards normally accorded one whom the Government seeks to punish, is a procedure whose constitutionality is.. upon thin ice to begin with, a limitation to some unspecified later date. This bill would bring charges within 120 days of the sale and the place to which the buyer intends to take it. If it breaks local laws, it is illegal.

Another provision of the bill limits the duration of the seizure to one year. This will help to ensure that the government has a reasonable chance to prove its case before the property is returned to the owner.

In summary, I think this legislation is badly needed to prevent future abuses of this type. It is only the enforcement agency back toward real criminals and away from law-abiding gun owners, and in general to coordinate and add some reason to a hastily drafted and poorly formed statute. I am tired of the abuses which have been com- mitting the other criminals, the public, and the well-informed puns. The act is too broad, lacks definition, and is too confusing. This is a violation of our Constitution and laws in the name of its enforcement.

Mr. HATCH. Mr. President, we have just been discussing the various re- cordkeeping provisions of S. 49 in conjunction with the recordkeeping provi- sions of the current Gun Control Act. Those favoring this amendment— to include the current Bureau of Alco- hol, Tobacco and Firearms regulation (178.126) in S. 49—may not have re- cited in the Senate debate relative to this provision in 1968 after the act passed and regulations were promul- gated to implement it. Thus, let me take the time first to report that Con- gress had no intent to require all law- abiding gun dealers to report all their firearms transactions to the Alcohol and Tobacco Tax (ATT) Division of the Treasury Department (currently BATF). And, the Director of ATT like- wise agreed that it was not their intent either.

I believe it is appropriate at this time to insert in the Record the letter from Harold A. Serr, Director, Alcohol and Tobacco Tax Division to Senator Frank Church clarifying the record in- formation submission requirement for firearms licensees.

Mr. President, I ask unanimous con- sent to have printed in the Record the letter from Harold A. Serr, Director, Alcohol and Tobacco Tax Division, dated December 17, 1968, to our late colleague, Senator Church.

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

Reference:

FRANK CHURCH, Senator from Idaho, U.S. Senate, Washington, D.C.

DEAR SENATOR CHURCH: In response to your inquiry on December 17, 1968, I would like to assure you that under no circum- stances does the Alcohol and Tobacco Tax Division intend to require licensed firearms dealers to submit all records of firearms transactions to a central location. This bill would be in effect gun registration and the Congress clearly showed its desires in this area.

The provisions of Section 178.125 and 178.126 are simply an effort to make work- able the provisions of Section 922(g) of the Gun Control Act of 1968. This section of the statute states that licensees "shall submit to the Secretary such reports and information as the Secretary may require or he may prescribe as necessary to carry out the purposes of this title."

We contemplate the necessity of using these provisions of the statute when we become aware of violations of the law by an unscrupulous dealer. This is a very small mi- nority who are in the firearms business but I would like to cite to you an example where we could have used this in the past. Our investigators learned that a dealer was selling firearms (handguns) to residents of a bordering state whose law prohibited such purchases without a permit. Our agents approached the dealer and asked that if they gave their right names they would get in trouble back home. The dealer stated that he could take care of them and gave us his name Mickey Mouse. Both agents gave their address as Disneyland, California.
When we find out that situations like this exist, we would require the dealer to submit records, not for the purpose of registration, but for the purpose of proceeding against the dealer for a criminal violation of the law.

I wish to assure you again that we have no intention of requiring law-abiding gun dealers to report their firearms transactions to us. What we intend to propose is an amendment in the intent of Congress in this manner but our resources are such that we would be totally inundated with paper if we tried to do otherwise.

If I can be of further assistance please do not hesitate to contact me.

Sincerely yours,

HAROLD A. SERR
Director, Alcohol and Tobacco Tax Division

Mr. HATCH. Mr. President, we are prepared for any further amendments.

Mr. MATSUNAGA. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. MATSUNAGA. How much time is there on the bill itself?

The PRESIDING OFFICER. Seven hours and forty minutes.

Mr. MATSUNAGA. Mr. President, if I may address the bill itself in general, I wish to do so.

The PRESIDING OFFICER. The Senator from Hawaii is recognized.

Mr. MATSUNAGA. I ask unanimous consent that I may proceed for such time as I may require.

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

Mr. MATSUNAGA. Mr. President, I rise to urge my colleagues to approve certain amendments which will be offered to S. 49 to strengthen current law and to correct several provisions of S. 49 which in effect would impede enforcement of the Gun Control Act of 1968.

At the outset, I must say that I am encouraged by the action taken by this body on June 24, 1985, to modify S. 49 in keeping with the intent of the 1968 Gun Control Act. I am referring specifically to the following amendments which were agreed to and which would:

First, tighten the provision allowing gun dealers to operate at temporary locations outside of their shops by defining temporary locations in consistence with current regulations of the Bureau of Alcohol, Tobacco, and Fire Arms covering sales at gun shows, so that gun sales made outside of their shops would be allowed only at gun shows or other events sponsored by legitimate gun organizations;

Second, delete the provision that would have exempted gun dealers from the restrictions on interstate sales for handguns with barrel lengths of less than 3 inches, the so-called snubnoses. S. 49 does not contain this important Judiciary Committee amendment.

Another weakening provision of S. 49 would require advance notice to gun dealers before compliance inspections. At present, agents of the Bureau of Alcohol, Tobacco, and Firearms (BATF) are authorized to conduct surprise visits to inspect sales records maintained by federally licensed gun dealers. Mr. President, this amendment would require the dealer be given reasonable notice before an inspection. With less than 100 BATF agents and over 200,000 handgun dealers in this country, unannounced visits are necessary, if inspection is to serve as a deterrent and be effective in ensuring that weapons are distributed through lawful channels in a traceable manner, that sales to undesirable customers are prevented, and the origin of particular firearms are detected. An amendment to be offered by the Senior Senator from Maryland [Mr. MATHIAS] would retain current law with respect to surprise Federal compliance inspections and should be supported.

The third amendment for which I urge support and acceptance is the provision being offered by my distinguished colleague from Hawaii, Senator INOUYE, and myself, which would require a 14-day waiting period between the time of negotiation for sale of a handgun and its time of delivery. This amendment would require a criminal background check of the purchaser; rather, it would allow State and local authorities to exercise that option. It would also provide an exception from the waiting period for purchasers who present a notarized statement from the local police chief stating that immediate possession of the handgun is necessary for the individual's personal safety.

Such a waiting period, which was recommended by the 1981 Attorney General's Task Force on Violent Crime and which has broad support among the law enforcement community, will go a long way to facilitate background checks to keep handguns out of the wrong hands. It would also serve as a cooling off period for those intent on suicide or crimes of passion. I have supported a waiting period for handgun purchases during consideration of earlier legislation relating to handguns, and I would remind my colleagues that an identical provision was adopted by the Senate Judiciary Committee during markup of similar legislation in 1982.

Mr. President, I am convinced that these amendments to S. 49 which I have discussed briefly, are essential improvements which would enhance law enforcement and prevent handguns from falling into the wrong hands. They would not place undue restrictions on honest citizens with respect to the acquisition, possession, or use of firearms for recreational or other lawful purposes. I strongly urge my colleagues to approve these amendments, which will be offered during consideration of S. 49. Without these amendments, the bill should not be passed.
Mr. JOHNSTON. Mr. President, will the distinguished manager yield me some time?

Mr. HATCH. Mr. President, I am happy to yield as much time as the Senator may need.

Mr. JOHNSTON. I thank the distinguished Senator.

Mr. President, I rise in support of the Firearms Owners' Protection Act, S. 49. The issue of a citizen's right to bear arms and of the State to regulate that right is one which strikes at the heart of our Nation's political and judicial heritage. It is a matter for intense discussion and other heated debate, but this is as it should be. Few laws passed are absolutely perfect; sometimes we must go back and review them in order to resolve any imperfections and clarify the original intent. The bill before us today, the Firearms Owners, Protection Act (S. 49), is designed primarily to correct demonstrated abuses which are embodied in present law. Please allow me to reiterate the numerous reforms which this bill incorporates:

First, it defines, "engaging in the business" in order to clarify whether a Federal firearms license is needed. Second, it liberalizes interstate sales of firearms when such sales are already legal in both the State of sale and the State of purchase. Third, it mandates an element of criminal intention for prosecution and conviction of Federal firearms law violations be present.

Fourth, it clarifies procedures for firearms sales by a dealer from his own private collection.

Fifth, it permits inspection of a dealer's records for reasonable cause.

Sixth, it requires mandatory penalties for the use of a firearm during a Federal crime.

Seventh, it limits the seizure of firearms.

Eighth, it provides for the return of seized firearms, and grants attorney's fees in spiteful or frivolous lawsuits.

Ninth, it allows the interstate transportation of unloaded, inaccessible firearms.

Contrary to popular hearsay, this bill would not allow for mall order or unlicensed pawn shop sales of firearms, nor would it restrict legitimate inspection of dealers' records.

This bill recognizes and reaffirms many of the most important constitutional rights of American citizens: to keep and bear arms, embodied in the second amendment; security from illegal and unreasonable searches and seizures, embodied in the fourth amendment; protection against the uncompensated taking of property; double jeopardy, and the assurance of due process of law as stated in the fifth amendment; and their rights against the exercise of authority, as stated in the eighth amendment.

Furthermore, S. 49 is the result of the beliefs of many that additional legislation is needed in order to correct problems—both actual and potential—within existing firearms statutes and their enforcement policies. The original intent of the Gun Control Act of 1968 was that:

It is not the purpose of this title to place under any undue or unnecessary Federal restraints or restrictions or burdens on law-abiding citizens with respect to the acquisition, possession, or use of firearms appropriate to the purpose of hunting, target shooting, personal protection, or any other lawful activity... to discourage or eliminate the private ownership or use of firearms by law-abiding citizens for lawful purposes.

In essence, this bill seeks to redress inaccuracies and inconsistencies present within current law. More importantly, it is designed to send a clear and powerful message to the owners, both legal and illegal, of firearms and to the agency responsible for the enforcement of our Nation's gun laws (ATF), the rights of honest, law-abiding citizens and those charged with enforcement duties must direct their efforts and attention toward the activities of those violent criminals whose callous disregard for the rights of others is abhorrent. We must remember that our country's Constitution sets forth very clearly the rights of its citizens, and we must turn our attention to the actions of those who violate those rights. Sometimes it is necessary to remind ourselves exactly who are the criminals and who are the victims, both of crimes committed and of imperfect legislation. This bill is such a reminder. I intend to fully support the Firearms Owners Protection Act and I urge my colleagues to do the same.

I thank the distinguished colleagues from Utah for yielding.

Mr. HATCH. I thank my colleague, Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mrs. Kassebaum). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

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

The amendment is as follows:

On page 21, strike out lines 2 through 22 and insert in lieu thereof the following:

"(a) Whoever—

"(A) other than a licensed dealer, licensed importer, licensed manufacturer, or licensed collector knowingly makes any false statement or representation with respect to the information required by the provisions of this chapter to be kept in the records of a person licensed under the provisions of this chapter;

"(B) knowingly makes any false statement or representation in applying for any license or exemption from disability under the provisions of this chapter;

"(C) knowingly violates subsections (a)(4), (a)(6), (f), (g), (h), (i), (l), or (k) of section 922;

"(D) knowingly imports or brings into the United States or any possession thereof any firearm or ammunition in violation of section 922(c);

"(E) knowingly violates any provision of this title; or

"(F) willfully violates any other provision of this chapter,

shall be fined not more than $5,000, or imprisoned not more than five years, or both, and shall become eligible for parole as the Board of Parole shall determine.

"(2) Any licensed dealer, licensed importer, licensed manufacturer, or licensed collector who knowingly—

"(A) makes any false statement or representation with respect to the information required by the provisions of this chapter to be kept in the records of a person licensed under this chapter, or

"(B) violates subsection (m) of section 922, shall be fined not more than $1,000, or imprisoned not more than one year, or both, and shall become eligible for parole as the Board of Parole shall determine.

On page 8, strike out lines 8 and 9 and insert in lieu thereof the following:

"(B) by amending paragraph (3) to read as follows:

"(3) is an unlawful user of or addicted to marihuana or any depressant or stimulant substance or narcotic drug (as those terms are defined in section 102 of the Controlled Substances Act (21 U.S.C. 802));".

On page 8, strike out lines 23 and 24 and insert in lieu thereof the following:

"(B) by amending paragraph (3) to read as follows:

"(3) is an unlawful user of or addicted to marihuana or any depressant or stimulant substance or narcotic drug (as those terms are defined in section 102 of the Controlled Substances Act (21 U.S.C. 802));".

On page 10, strike out lines 1 and 2 and insert in lieu thereof the following:

"(B) by amending paragraph (3) to read as follows:

"(3) is an unlawful user of or addicted to marihuana or any depressant or stimulant substance or narcotic drug (as those terms are defined in section 102 of the Controlled Substances Act (21 U.S.C. 802));".

"(2) knowingly makes any false statement or representation with respect to the information required by the provisions of this chapter to be kept in the records of a person licensed under this chapter, or

"(2) violates subsection (m) of section 922, shall be fined not more than $1,000, or imprisoned not more than one year, or both, and shall become eligible for parole as the Board of Parole shall determine.

On page 8, strike out lines 8 and 9 and insert in lieu thereof the following:

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On page 8, strike out lines 23 and 24 and insert in lieu thereof the following:

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On page 10, strike out lines 1 and 2 and insert in lieu thereof the following:

"(B) by amending paragraph (3) to read as follows:

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"(2) knowingly makes any false statement or representation with respect to the information required by the provisions of this chapter to be kept in the records of a person licensed under this chapter, or

"(2) violates subsection (m) of section 922, shall be fined not more than $1,000, or imprisoned not more than one year, or both, and shall become eligible for parole as the Board of Parole shall determine.

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On page 10, strike out lines 1 and 2 and insert in lieu thereof the following:

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"(3) is an unlawful user of or addicted to marihuana or any depressant or stimulant substance or narcotic drug (as those terms are defined in section 102 of the Controlled Substances Act (21 U.S.C. 802));".

On page 22, line 5, after "such" insert "felony described in the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or section 1 of the Act of September 15, 1980 (94 Stat. 1159; 21 U.S.C. 855a), or any".

On page 22, line 14, strike out "including that imposed for the" and insert in lieu thereof "thereof".

On page 22, line 25, strike out "justice" and insert in lieu thereof "justice".

On page 23, line 1, strike out "such" and insert in lieu thereof "The".

On page 27, line 23, strike out "925" and insert in lieu thereof "926".

On page 30, strike out lines 16 through 19 and insert in lieu thereof the following:

 Sec. 201. Title VII of the Omnibus Crime Control and Safe Streets Act of 1968 (sections 1201, 1202, and 1203 of the appendix to title 18, United States Code) is hereby amended to read as follows:

 Sec. 1201. (a) In the case of a person who violates section 922(g) of title 18, United States Code, and who has three previous convictions by any court referred to in section 922(g)(1) of title 18, United States Code, for robbery or burglary, or both, such person shall be fined not more than $25,000 and imprisoned not less than fifteen years, and, notwithstanding any other provision of law, the court shall not suspend the sentence of, or grant a probationary sentence to, such person with respect to the conviction under section 922(g) of title 18, United States Code, and such person shall not be eligible for parole with respect to the sentence imposed under subsection (b).

(b) As used in this title—

"(1) 'robbery' means any crime punishable by a term of imprisonment exceeding one year and involving the taking or obtaining of property from the person or from the presence of another by force or violence, or by threatening or placing another in fear that any person will be subjected to bodily injury; and

"(2) 'simple carelessness' punishable by a term of imprisonment exceeding one year and consisting of entering or remaining surreptitiously within a building that is property of another with intent to engage in conduct constituting a Federal or State offense."

Mr. HATCH. Madam President, during negotiations in the 98th Congress relating to the border, drug or state of mind requirements, there was a discrepancy between what the parties understood the term "knowing" to mean. Senator McClure, who deserves great credit for his contributions to this legislation, expressed his concern that some courts have diluted "knowing" to mean "belief" or "reckless disregard" rather than "actual cognizance." The simple carelessness language was added to the bill to clarify that the holding and rationale of those cases would not apply to the offenses covered by this bill. Unfortunately, attempting to set aside those cases by the addition of the simple carelessness language creates needless confusion and contradictions in S. 49. According to this objective is more properly handled by the legislative history of the report to accompany S. 914 from the 98th Congress, which is the authoritative source for the intent of the Judiciary Committee, and the clear understanding of the manager and supporters of this bill that these cases are not to be applied as a guide in accerning the meaning of the term "knowingly." In voting or speaking on any aspect of this bill's revisions concerning mens rea, we intend to exclude the following discussions, which represent an interpretation of the meaning of the term "knowingly": U.S. v. Graves, 394 F. Sup. 429 (W.D. Penn. 1975) aff'd, 534 F.2d 65 (3rd Cir. 1976); U.S. v. Murphy, 844 F. 2d 909 (8th Cir. 1973) cert. denied 414 U.S. 912 (1973); U.S. v. Werner, 160 F. 2d 438 (1947); and in addition, any other case or cases which can be construed similarly to hold what these cases have been construed to hold.

With this understanding, however, I must urge the Senate to comply with its earlier time agreement and delete these "simple carelessness" language.

The ambiguity and confusion inherent in the term "simple carelessness" might only be partially overcome by extensive legislative history explaining the wording's plain meaning or purpose and history. It seems far preferable to devote that legislative history to Congress' intent that the cases I have mentioned above not be applied to offenses occurring under this act. This will avoid extensive confusion, yet accomplish our objective just as certainly as devoting legislative history to explanation of the meaning of the term carelessness.

Madam President, I ask unanimous consent to have printed in the Record a letter concerning this question.

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

DEPARTMENT OF THE TREASURY,

WASHINGTON, DC, July 5, 1985.

DEAR SENATOR HATCH: This responds to your request for the Administration's position on the so-called "simple carelessness" defense in S. 49. "A Bill to protect firearms owners' constitutional rights, civil liberties, and rights to privacy."

The provision in question, which appears on page 21 of the bill, lines 20 through 22, specifically states, "that no person shall be prosecuted under this subsection where the conduct of such person involves simple carelessness." The apparent purpose of the provision is to preclude the prosecution and conviction of person for an act of simple carelessness constituting a technical violation of the Gun Control Act, e.g., federally licensed firearms dealers who inadvertently violate the recordkeeping requirements of the Act in some minor or insignificant aspect.

The Administration believes that the defense is unnecessary insomuch as other provisions of the bill with regard to possession of the accused's knowledge or intent in any prosecution under the Gun Control Act. Furthermore, the bill would require, under U.S.C. Section 924(a) to require as an element of proof that certain offenses were "knowingly" committed on the accused's part, while the remaining offenses were committed "willfully". For example, in a prosecution of a licensed dealer for the felony of falsifying records of firearms transactions required to be maintained by the dealer, the Government would have to establish that the
July 9, 1985

DEPARTMENT OF THE TREASURY

Mr. HATCH. Madam President, this amendment makes one important substantive change and several technical changes in the bill. The substantive change involves the penalties to be assessed for a recordkeeping violation by a licensed dealer. Under current law, a knowing failure under 18 U.S.C. 922(m) to make appropriate entries in or to properly maintain the voluminous records required by the 1986 act is a felony. In light of the evidence received by the hearings on this subject, it seems perfectly logical that a penalty for violation of the recordkeeping provisions be reduced to a misdemeanor, and not more than $1,000 or both will be sufficient to encourage recordkeeping.

On the other hand, this amendment reducing a licensed dealer's recordkeeping violations from a felony to a misdemeanor will also respond appropriately to the concern, substantiated by Committee hearings, that a licensed dealer can be subjected to harsh felony penalties for technical violations of the rigid recordkeeping standards. This amendment will also attenuate the need for language is S. 49 excusing willful or knowing violations if committed with simple carelessness.

As I mentioned earlier the other provisions of this amendment are technical. The provisions of current law preventing a drug dealer from obtaining firearms are updated to reflect new definitions of controlled substances. Drug offenses, although perhaps implicitly included in any Senator's list of violent crimes, is explicitly added to the list of violent crimes triggering a mandatory penalty if committed with a firearm. This amends the language of section 923(g) to define marihuana, depressant or stimulant drugs, and narcotic drugs as specified in the Controlled Substances Act, 21 U.S.C. 802.

This amendment also attenuates the need for language in S. 49 excusing any "willful" or "knowing" violation committed with simple carelessness.

2. Redefining drug offenses. See page 3 of amendment changing provisions on page 9 of the concern, substantiated by Committee hearings, that a licensed dealer can be subjected to harsh felony penalties for violations of recordkeeping requirements. 18 U.S.C. 922 (m) is reduced to a misdemeanor for licensed dealers.

3. Drug offenses with firearm trigger mandatory penalty. See pages 3 and 4 of this amendment changing page 21 of S. 49. This amendment adds a firearm as a predicate crime for the application of the offense in 18 U.S.C. 924 (c) for using a firearm during the commission of violent crimes.

4. Technical amendments. On page 1 of S. 49, delete "of citizens" and make conforming grammatical changes because the provision applies to importers who do more than just sell or distribute firearms, specifically, an importer also imports.

On page 5, insert "activity involving firearms, including" because the provision applies to importers who do more than just sell or distribute firearms, specifically, an importer also imports.

On page 7, substitute "distinguished from" for "opposed to" because the concepts described are not in opposition to each other, but only distinguishable.

On page 11, add "in a licensee's personal collection" for the sake of clarity.

On page 12, use the word "transfer" puts the entire paragraph in the same language. There is no substantive difference between a "disposition" and a "transfer", but since "transfer" is used earlier and is a term of art in the 1986 Act, it is preferable to retain that word for the same concept throughout the bill. Moreover, the words "or any acquisition" should be deleted because it is only the transfer of firearms from business inventory into a private collection that gives rise to the evasion of law this language is intended to prevent.

On page 13, replace "explicitly" with "expressly" and the name of S. 49 with this section.

On page 14, the current wording is not clear. Specifically it is difficult to understand the phrase "to inspect or examine . . . for a reasonable inquiry." This substitutes "if the inspection is reasonably related to such investigation" for a better wording of the Senate's intent.

On page 15, since "prohibited persons" is a term not defined by law, it would be better to refer directly to section 922(d), which defines specifically which persons are prohibited.

On page 16, change "or inquiries" to "or examinations" because examinations are the activities authorized by the earlier language of S. 49. Changing terminology could cause confusion. Several changes of this variety are necessary.

On page 17, the term "tracing" is not defined by the statute, this substitution makes clear that the intent of this provision is to determine from whom and to whom a licensee received and disposed of a firearm. Leaving this undefined term could lead to misconceptions about the Senate's intent.

On page 22, this section was rewritten by the Comprehensive Crime Control Act of 1984. This technical amendment clarifies the intent of the provision and makes it conform to current law.

On page 27, change "916" to "918." On page 30, redraft the language which would otherwise inadvertently repeat the recently enacted Armed Career Criminal Act.

Mr. DOLE. Madam President, I am pleased to join in cosponsoring this amendment. In light of the concern, substantiated by committee hearings, that a licensed dealer can be subjected to harsh and bear arms ap­plies also to illegal aliens.

On page 5, insert "activity involving firearms, including" because the provision applies to importers who do more than just sell or distribute firearms, specifically, an importer also imports.

On page 5, substitute "distinguished from" for "opposed to" because the concepts described are not in opposition to each other, but only distinguishable.

On page 7, make a punctuation change, specifically change a colon to a semicolon.

On page 12, add "in a licensee's personal collection" for the sake of clarity.

On page 14, use the word "transfer" puts the entire paragraph in the same language. There is no substantive difference between a "disposition" and a "transfer", but since "transfer" is used earlier and is a term of art in the 1986 Act, it is preferable to retain that word for the same concept throughout the bill. Moreover, the words "or any acquisition" should be deleted because it is only the transfer of firearms from business inventory into a private collection that gives rise to the evasion of law this language is intended to prevent.

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On page 27, change "916" to "918." On page 30, redraft the language which would otherwise inadvertently repeat the recently enacted Armed Career Criminal Act.

Mr. DOLE. Madam President, I am pleased to join in cosponsoring this amendment. In light of the concern, substantiated by committee hearings, that a licensed dealer can be subjected to harsh and bear arms applies also to illegal aliens.
A knowing state of mind is still required for a violation, but the penalty is only a misdemeanor. Anyone who knowingly conceals his criminal history from a licensed dealer in order to acquire a weapon, for example, a convicted felon applying to become a licensed dealer to comply with these recordkeeping requirements. This reduction to a misdemeanor, however, will appropriately reflect the Senate's concern that inadvertent recordkeeping violations not become the basis for harsh criminal penalties.

Mr. KENNEDY. Madam President, I circulated an amendment similar to the one we are accepting today during the Judiciary Committee's consideration of S. 1030 in the 97th Congress. I wish to view this as a much needed change. I am pleased that it is being incorporated into S. 49.

Mr. KENNEDY. Madam President, the Senator from Utah has explained the amendment as I understand it. I hope that with the understanding we have reached, the Senate will accept the amendment.

I think it absolutely essential that we do make this change, and I welcome the fact that the managers have agreed to do so.

The PRESIDING OFFICER. Have all Senators yielded back their time?

Mr. HATCH. Madam President, will the Senator from Utah yield to the Senator from Idaho?

Mr. HATCH. I yield whatever time the Senator from Idaho needs.

Mr. McClure. I thank the Senator for yielding.

Mr. Kennedy, I would have preferred that we keep the original language and the breadth of that original language with respect to the several offenses under the 1968 act.

However, I have been trying to meet the objections of people who were concerned with that new standard which is admittedly more ambiguous than current law, because the injection of a new standard as simple carelessness is an untried and untested standard.

But I would have preferred to do it in the text of the statute rather than to amend the legislative history which specifically says it is our intention to override the court decisions that find to the contrary.

However, the change in the level of penalty with respect to two of the three recordkeeping violations to which the knowing state of mind applies is a sufficient incentive for me to accept the amendment, and the legislative history that has now been entered by the Senator from Utah will apply to the 11 provions of the 1968 Gun Control Act which would, under McClure-Volkmer, only require a knowing violation. Therefore, with that balance between the reduction of penalty and the provisions and the legislative history for the remaining nine, I can accept that compromise.

The inclusion specifically of drug-related offenses among the offenses to which the mandatory minimum applies appears to me to be not only necessary but highly desirable to make very certain that we intend that the provisions of the act extend to that type of violation as well.

I, therefore, support the amendment and urge its adoption.

Mr. Hatch. Madam President, I move the PRESIDING OFFICER. Do Senators yield back their time? Mr. Hatch. We are prepared to yield back our time.

Mr. Kennedy. Madam President, we are prepared to yield back our remaining time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Utah.

The amendment (No. 508) was agreed to.

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

Mr. Kennedy. Madam President, I move to lay that motion on the table. The motion to lay on the table was agreed to.

Mr. Hatch. I thank the Chair.

Is the distinguished Senator from Massachusetts prepared to go ahead with his amendment?

Mr. Kennedy. Madam President, I had understood that the Senator from Maryland [Mr. Mathias] was prepared to move forward with an amendment.

Mr. Hatch. We are just in the process of notifying him. I would hope that there would not be any unnecessary delay. If so, we are prepared to proceed.

So I suggest the absence of a quorum and ask unanimous consent that the time not be charged to either side.

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

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER. Without objection, it is so ordered.
remove unnecessary regulatory burdens on the purchase of firearms by hunters and others for sporting purposes, and by law-abiding citizens seeking to secure a legal possessor for self-protection. We should eliminate excessive red tape and regulations affecting the sale of rifles, shotguns and sporting weapons.

But we must not misuse this worthwhile goal as an excuse to weaken the law as it applies to the narrow category of handguns—especially snubbies and "Saturday Night Specials"—which have not legitimate sporting purpose and which are often used in crime.

Over the past 4 years I repeatedly tried to draw this distinction during the Judiciary Committee's consideration of this bill. Congress can—and should—deal differently with long guns than it does with handguns.

Yet, the pending bill goes far beyond this legitimate goal. Instead, it weakens Federal, as well as State laws governing the control of handguns.

This issue is not a concern of mine alone, Mr. President. It is a concern shared by all the major police and law enforcement associations in the United States.

Let me read from a joint statement issued by them yesterday, delivered by James Sterling, acting executive director, National Troopers Coalition; Thomas J. Iskrzycki, chairman, National Organization of Black Law Enforcement Officials; and Gary P. Hayes, executive director, Police Executive Research Forum.

It is a statement that speaks for itself—a statement that echoes the concerns of local law enforcement officials all across this land over this bill's fundamental weakening of existing handgun control laws—and it is a statement that strongly supports this amendment.

They state:

...Unfortunately, the pending legislation would do away with the interstate sale of handguns thus circumventing state and local laws to regulate handgun commerce. This would impair the ability of state and local law enforcement agencies to prevent handguns from being acquired, carried or possessed illegally.

Although § 49 does make some reforms which meet the legitimate needs of hunters and sportsmen, we, in the law enforcement community, believe that any changes not be enacted in a manner that jeopardizes law enforcement's ability to respond to the use of handguns in violent crime.

Accordingly, we urge that when the Senate considers S. 49, it amend the legislation so that the current law prohibiting the interstate sale of handguns is retained.

That is what this amendment does, Mr. President.

Equally important, we urge the Senate to take advantage of this opportunity to strengthen our federal laws by accepting the recommendation of the 1981 Attorney General's Task Force on Violent Crime and enact a waiting period to facilitate records checks for the sale of handguns.

Those were two provisions that were included in the President's own commission for fighting violent crime.

In short, Mr. President, the law enforcement community in this country—unanimously the State, the police, the chiefs of police, and many other law enforcement officers—have all spoken in support of this amendment to maintain existing law on the interstate sale of handguns.

From their point of view, the issue is pure and simple, it is a law enforcement issue—a crime control issue.

For those who are literally on the firing line, this is not an issue of restricting hunters or legitimate handgun owners in our society. Rather, it is an issue of keeping handguns out of the wrong hands.

Mr. President, let me conclude by saying once again that I have no objection to relaxing current limitations on interstate sales of rifles and long guns but that there is no possible justification for relaxing controls on handguns.

For the record, Mr. President, I would like to read the statement made by Chief John J. Norton of Pittsburgh, PA, on behalf of the International Association of Chiefs of Police:

STATEMENT BY JOHN J. NORTON, FIRST VICE PRESIDENT, INTERNATIONAL ASSOCIATION OF CHIEFS OF POLICE

On behalf of the International Association of Chiefs of Police, I would like to thank you for attending this press conference. The IACP is a voluntary, professional organization established in 1893. It is comprised of chiefs of police and other law enforcement personnel from all sections of the United States and more than 50 nations.

Command personnel within the United States constitute more than seventy percent of all IACP members and manage more than 400,000 law enforcement officers at the Federal, State and local levels. Throughout its existence, the IACP has striven to achieve a higher standard of police work and to promote the highest professional conduct.

Their purpose today is to request that the U.S. Senate act on behalf of the law enforcement community and the citizens of this country when considering amendments to the Gun Control Act of 1968. Specifically, we urge that the Senate remove unnecessary regulatory burdens on the purchase and sale of handguns and ask Congress to enact a waiting period for purchasers.

The IACP supports the rights of all law-abiding U.S. citizens to possess firearms, and the legitimate sporting, hobby and security uses of firearms. However, current Federal, State and local laws are directed at the manufacture, sale and purchase of handguns to various categories of persons. The IACP is a voluntary, professional organization that has been constantly devoted to the steady advancement of the Nation's best welfare and well-being.

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ership laws vary not only from State-to-State but county-to-county and city-to-city. Therefore, it would be virtually impossible for the courts in the different jurisdictions, to make sure that sales to out-of-state purchasers conform to all laws. A compilation of these laws consists of thousands of pages. Even if all the numerical statutes and ordinances may have various applications and interpretations as applied by the courts in the different jurisdictions.

Accordingly, we urge that when the Senate considers S. 49, it amend the legislation so that the current law prohibiting the interstate sale of handguns is retained.

The IACP also urges that the Senate take advantage of this opportunity to strengthen other existing laws by enacting a waiting period for the purchase of handguns. Such a waiting period will encourage the development of effective statewide plans and programs for the screening of prospective purchasers of handguns. It will also allow law enforcement officials the time necessary to carry out these plans and conduct a records check and background investigation for handgun purchasers.

For years and on several different occasions, the IACP membership has passed resolutions urging the creation of a waiting period. In 1981, the Attorney General's Task Force on Violent Crime also recognized the need for a waiting period and recommended that the Gun Control Act of 1968 be amended to provide for a mandatory waiting period. In discussing this recommendation, the task force noted:

"There is, at present, no effective method to verify the purchaser's eligibility. The dealer must know or have reason to believe that the purchaser is ineligible to receive a firearm and to provide a record of this lawfulness. However, this is very difficult to prove. A person purchasing a firearm from a federally licensed dealer is required to sign a form on which he affirms by sworn statement that he is not proscribed from purchasing a firearm. This signature relieves the dealer from any liability for illegal transfer as long as he requests and examines a form of purchaser identification, and the dealer is required to provide a verification by a law enforcement agency to verify the person's name, age, and place of residence.

A waiting period to confirm the afirmation will make the verification and later law enforcement agency to verify the person's eligibility is sensible and necessary for effective law enforcement. In locations such as South Carolina, California, Broward County, Florida, and Columbus, Georgia, where waiting periods are in effect, officials claim great success. Therefore, the IACP urges that the Senate favorably consider an amendment establishing a waiting period to facilitate a records check and background investigation for the purchase of handguns. Although this legislation does make some reforms which meet the legitimate needs of hunters and sportmen, we in the law enforcement community consider it urgent that the law enforcements not be enacted in a manner that jeopardizes law enforcement's ability to respond to the use of handguns in violent crimes.

Thank you.

So, Mr. President, I hope those Senators who are considering whether to support this legislation will really understand the provisions, and those of us who are the frontline of American defense in terms of our homes and security and in terms of our local communities, feel about this legislation and this particular amendment. As I said earlier, we know from recent statistics that handguns are used in more than 60 percent of the crimes of violence, either pistols, Saturday night specials, or snubbies. That has been documented in the very extensive Cox series of newspaper articles.

I ask that the consent it be made a part of the RECORD.

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

HANDGUNS--PREFERRED INSTRUMENTS OF CRIMINALS

Mr. KENNEDY. Mr. President, as sponsor in the Senate of the bill (S. 974) to curb the threat of a terrorist or other person to use deadly weapons means for our society. Indeed, evidence shows that handguns have been the weapon of choice in modern criminal activity.

Small handguns, especially so-called Saturday night specials, have no accurate range beyond a few feet. The weapon is effective at few inches, and is lethal at few feet. It is underlevered for our law enforcement. In locations such as South Carolina, Miami, and Columbus, Georgia, that those changes not be enacted in a manner that jeopardizes law enforcement's ability to respond to the use of handguns in violent crimes.

Mr. President, I urge my colleagues to review their findings, and I urge the Senate to join the excellent series—which appeared in the Miami News—be printed at this point in the RECORD.

The material follows:

[From the Miami News, Sept. 7, 1981]

SUBSIDIES

(By Joseph Albright)

WASHINGTON.—With their slender butts and cute muzzles, they look like toys. One flick on the trigger and out bangs one-third of an ounce of lead at 735 miles per hour, shaped to plow a mushroom cavity into someone's gut.

They are sub-nosed killers; a sub-species of feather-light, extra-short handguns that are inaccurate beyond the range of a card table.

As home-defense devices, they are less humane than animal-killing guns with less reliable than full-sized pistols, and probably less effective than shotguns or German shepherd dogs.

Their advantage is that they leave no sightly bulges when they are concealed. Thus police detectives carry them in arm holsters. Society women keep them in their belts. Mothers pack them in purses.

As this series of articles will show, sub-nosed guns are cheap and expensive, domestic and foreign made—also have proven to be the overwhelming weapon of choice among modern criminals. Indeed, evidence from Atlanta, Miami and other cities indicates that 6 out of 10 assassins in murders, robberies and muggings were "snubbies"—handguns with barrels protruding no more than 3 inches beyond the outer.

Short-barreled guns also run through the history of American assassinations and assassinations. A series of historical records showed that since 1835, 10 out of 15 assassins and would-be assassins have chosen extra-small pistols in their assaults on presidents and other political figures.

The starting point for this series is a reel of computer tape imprinted with detailed descriptions of 14,268 crime guns. The guns were seized by police and federal agents in street crimes in 18 metropolitan areas during the first nine months of 1979. The records were furnished into a Treasury Department computer when local police departments called Washington to have the guns traced back to their manufacturer by contacting Treasury's Bureau of Alcohol, Tobacco and Firearms (ATF).

Under the Freedom of Information Act, Cox News Service reported the tape, after confidential information on the identities on retail gun dealers and gun purchasers had been blacked out. A team of reporters and researchers then sorted the traced guns by makers and models, with the aid of American Management Systems, a computer consulting firm in Rosslyn, Va.

Once assembled, the 250,000 bits of information disclosed in unprecedented detail what kinds of handguns are instruments of crime, where they come from and how long they have been in circulation.

To compile this intelligence report on the weaponry of American crime, reporters also examined 20,000 gun manufacturing and importing records and conducted 75 interviews with U.S. and foreign gun manufacturers, wholesalers, dealers, illegal gun smugglers, law enforcement authorities, legislators and pro- and anti-gun lobbyists.

The study did not cover shotguns and rifle crimes, since nearly all the trade requests involved handguns. In any event, national Department of Justice Department crime surveys indicate that handguns account for more than three-fourths of all gun murders and assaults as well as more than 90 percent of all robberies in which a gun was used.

In describing various handguns, these articles refer to both pistols and revolvers. A pistol is a handgun that is integrally with the barrel. A revolver is a handgun with a cylinder containing multiple chambers that can be discharged in succession.

The official records disclosed that:

The country's leading crime instrument was a short-barreled .22 cal. revolver assembled by the German firm of Roehm GmbH of Miami. The company assembled the guns out of sets of parts shipped from its German affiliate, Roehm GmbH. One out of every seven handguns seized by police in street crime cases was a Roehm-origin gun, one out of twelve was a Roehm .22-cal. pistol. (The RG 14, a 2.5-inch-barrel .22 revolver called the RG 14, was the type of gun which the FBI said was fired by John H. Hinckley Jr., accused of attempting to assassinate President Reagan last March. The gun retail for $39.95. (The Roehm GmbH gun firm described in this story is no longer in business and a better known German company, also called...
Roehm GmbH, which manufactures plastics and pharmaceutical supplies.)

Contrary to popular myth, most street guns are not cheap, low-caliber, foreign-origin "Saturday Night Specials." Of the 6.2 million handguns reviewed in the Cox Newspapers study, only two were Roehm .22 and the Tanfoglio .25 Titan—fit that exact description. Ten of the 15 leading crime guns were made in America out of U.S. gun parts. Of the American-made guns, seven were made by Smith & Wesson, Colt and Chiappa, the makers of the_tactical, relatively expensive guns. Seven of the 15 crime guns retailed for less than $100. The eight others ranged from $117 to $320. Ten of the 15 had bullet size of .38 or .357 caliber, the rest were smaller.

The second-ranking crime instrument was the ubiquitous American-made Smith & Wesson .38-cal. Chiefs Special. As the country's leading handgun manufacturer, Smith & Wesson advertises the Chiefs Special as a police "back-up" weapon. It also sells the gun to civilians through sporting goods dealers. In 1976, I out of 5 crime guns recovered by police was some kind of a Smith & Wesson. One of 17 was a Smith & Wesson Chiefs Special made entirely of import-quality cal variants. The Chiefs Special, which is less than half the weight of the traditional Colt six-shooter, sells for $170 to $240.

Bettes & Wesson Chief Specials are examples of snub-nosed guns that are statistically more prone to crime than full-sized handgun models. About 4 percent of the handguns in circulation are Roehm-origin .22s, but they represented less than 2 percent of the homicide guns. Of the hundreds of Rays sold by police at crime scenes. Similarly, Smith & Wesson Chiefs Specials make up no more than 3 percent of the stockpile of handguns in the United States. Only 10 percent of the Rays were traced in 5.9 percent of the 14,388 handgun-related crimes.

One of 20 crime guns is a palm-sized .25-cal. automatic pistol—the Tanfoglio—selling for less than $75. The leading source is a pair of factories in Brescia, Italy, owned by Giuseppe Tanfoglio and his four children. Pistol parts from those factories are assembled into guns by two Miami assembly plants—Excam Inc. and Exam Inc. Virtually identical .25 caliber pistols are also made by half a dozen American companies, including Raven Arms Industry, Calif., Baur Firearms of Fraser, Mich., and Sterling Arms of Lockport, N.Y. Guns manufactured by Sturm, Ruger & Co., a firm that specializes in long-barreled target and hunting pistols, are much less prone to become involved in crimes than average handguns. In 1978, the company sold 16 percent of all handguns throughout the United States—roughly the same market share as has held for two decades. Yet only 3 percent of the handguns recovered at crime scenes in 1979 were Rugers. Company president William Ruger said his concern "does not make small pocket revolvers (pistol) piano.

"Ask why, he said: "Partly it was that I thought they were controversial and partly because I saw no sporting purpose in them."

Recently purchased guns are less likely to be used as crime instruments than older guns. An ATF publication shows 10 percent of the crime guns traced in 1979 were a year old or less. The next largest category was 2-year-old guns, representing 10 percent of the crime guns. After that, the percentages trailed off by year—6 percent of the crime guns were 3-year-old and 4 percent of the 5-year-old. It was almost as if guns had a kind of radioactive half-life as crime weapons.

In another indication of the crime-prone tendency of smaller handguns, the main gun used by 100,000 convicted burglars in Miami, Sidney G. Davies, estimated that only about 1 or 2 percent of the Smith & Wessons he distributes are snub-nosed models called the Chiefs Special. The Chiefs Special is a .38-caliber, relatively expensive gun. Yet statistics show that 24 percent of the 157 Smith & Wessons recovered in violent crimes, robberies and assaults were these light-framed "snubnoses."

The attempt assassination of Ronald Reagan will be recorded in history, but not in the gun-cassette industry, relatively expensive guns. Seven of the 15 crime guns retailed for less than $100. The eight others ranged from $117 to $320. Ten of the 15 had bullet size of .38 or .357 caliber, the rest were smaller.

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GROWTH OF HANGUNs—Continued

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<td>34</td>
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Source: Handgun estimates from U.S. Bureau of Alcohol, Tobacco and Firearms. The figures include weapons used by the 700,000 Federal, State, and local authorities who make law enforcement decisions about which foreign weapons are imported into the United States. Figures do not include weapons of the United States military or weapons illegally imported into the United States or regions.

Following are five other cases involving other types of assassination weapons:

President James A. Garfield was shot in the back at a train station in Washington on July 2, 1881, and died the following September. The assassin, Charles J. Guiteau, fired a .44-cal. British Bulldog, a heavy-frame revolver of unknown barrel length.

Former President Theodore Roosevelt was shot and seriously wounded while campaigning for the presidency in Milwaukee on Oct. 14, 1912. The assassin, John Schrank, fired a heavy-frame .38-cal. Colt revolver that was built on a .44-cal. frame. The barrel length is unknown and the gun has been lost.

President Harry S. Truman escaped death on Nov. 1, 1950, when two Puerto Rican nationalists, Griselio Torresola and Oscar Collazo, shot their way into the Blair House in Washington, where Truman was living while the White House was being renovated. The guns taken from the attackers were a German Lugers pistol and a Walter P-38 pistol, both full-sized handguns.

President John F. Kennedy was assassinated while riding in a motorcade in Dallas on Nov. 22, 1963. The attacker, Lee Harvey Oswald, used a Mannlicher-Carcano rifle from the window of the Texas School Book Depository.

President Ronald Reagan was also seen in an escaped assassination attempt on Sept. 5, 1975, in Sacramento when Lynette (Squeaky) Fromme aimed a pistol at him as Ford reached out to shake her hand. The weapon, a small .38-cal. Colt, was a 1911 Army model .45-cal. automatic pistol, which she had secreted under her flowing dress.

[From the Miami News, Sept. 7, 1981]

ASSASSINS HAVE ALWAYS PREFERRED SMALL, SNUB-NOSED GUNS

(By Joseph Albright)

WASHINGTON—Down through American history, the weapons used by would-be assassins and would-be assassins have been among the most readily concealable variety of pistols then available.

Here, compiled from records at a federal agency and at a county bureau, are the 10 instances when small pistols were used:

Robert Gordon McIver was in the rotunda of the U.S. Capitol when an assailant, Richard Lawrence, fired two shots and missed on Jan. 30, 1885. Lawrence, a two-pocket-percussion pistols, which he withdrew from his inside coat pocket.

President Abraham Lincoln was murdered in a那么多一 in Washington, D.C., on April 15, 1865. The assailant, John Wilkes Booth, fired a 44-cal. cap-and-ball Derringer measure.

President William McKinley was assassinated on Sept. 6, 1901, as he was about to shake hands with Leon Cologosse in Buffalo, N.Y. Cologosse shot him with a short-barreled 32-cal. Iver Johnson revolver.

President-elect Franklin D. Roosevelt escaped assassination on Feb. 15, 1933, while riding in an open car in Miami. The assailant, Giuseppe Zangara, fired a 32-cal. revolver. The gun, made by 10 of 15 assassins and would-be assassins, was a concealable weapon designed to shoot a bullet through American skin.

At lunchtime, a siren blares with a sound like a World War II air raid warning. Workers leave tidy, squat, modern buildings, pass through the glass doors of the plant gate and picnic on the grassy bank of a stream just beyond the employees' parking lot.

The setting is far removed from the street violence in America, where the products of the workers' labor are referred to by police authorities as Saturday Night Specials.

Roehm also sells. Roehm sells as a Germany's cheap .22-cal. revolvers and other live ammunition, attained notoriety long before the Berlin Wall came down. John Hinckley Jr., who was shot President Reagan, was hit by a 44-cal. British Bulldog, a heavy-frame revolver of unknown barrel length. Roehm is in America that Roehm's cheap .22-cal. revolvers and other live ammunition, attained notoriety long before John Hinckley Jr., who was shot President Reagan, was hit by a 44-cal. British Bulldog, a heavy-frame revolver of unknown barrel length.

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[From the Miami News, Sept. 7, 1961]

THE ROEHM CONNECTION—W. GERMAN GUN PLANT CONCERNED ITS WEAPON CREATING A BAD IMAGE

(By Henry Eason)

SONTHHEIM, WEST GERMANY—On the outskirts of a Swabian village that rises in Mediterranean quaintness from a sea of swirling wheat of hops, machines roll in a factory that made the parts of the gun which the FBI says was used to shoot President Reagan.

At high noon, a siren blares with a sound like a World War II air raid warning. Workers leave tidy, squat, modern buildings, pass through the glass doors of the plant gate and picnic on the grassy bank of a stream just beyond the employees' parking lot.

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"Yes, we heard about it. Sorry for it," Mack said.

He elaborated. "This man could have attacked the president with a bomb or a knife or anything. The fact that he had no gun makes no difference. Everybody can make crimes with anything. Of course, it's easier to use a gun for crime."

Mack said he assumes that "most of the guns were taken in by the police" but added, "It can be that also some guns are also used for crime."

[From the Miami News, Sept. 7, 1981]

**GUN FIRMS COMPETE IN AN ARMS RACE**

(By Joseph Albright)

SPRINGFIELD, MASS.—Few outside the gun business have heard about the arms race between the Chiefs Special, a palm-sized .38 revolver made by the long-established Smith & Wesson Co., and a look-alike weapon sold by a company that makes nothing but .38 handguns. Smith & Wesson president James L. Oberg explained: "The company sells all of its small handguns, in light of studies by the Federal Bureau of Alcohol, Tobacco and Firearms showing the prevalence of short-barreled guns as crime instruments."

Oberg replied: "I sell the guns that the market is demanding. We don't have any competition for people who want to keep a weapon in their drawer, but we know they do."

Some of his friends have told him they are reluctant to keep full-sized handguns in their homes, Oberg explained.

When asked how Smith & Wesson determines which handguns are 'recreational' mix of standard and short-barreled handguns, Oberg said: "I would have to say that we are focusing on dollars more than anything else. Most of our motivation of what we do here is to supply dollars to our stockholders. For us, a great deal of the motivation is to run a profitable company."

"After the interview," Oberg mailed a revised version of that statement: "Our purposes are to make customers满意度 products which emphasize quality, safety and service. Our mix also has to consider producing an adequate return for our shareholders."

Gunter W. Bachmann, a Smith & Wesson vice president, said the company has no way of knowing whether small handguns such as its Chiefs Special are more likely to be used in crimes than larger handguns.

"Let's face it, they are all concealable," he said.

At the Charter Arms plant in Stratford, Conn., company president David Ecker said he feels "pretty sick" whenever he hears that a Charter Arms Undercover has been found at a crime scene.

"I know I felt a great sigh of relief on hearing that our product wasn't used (in the attempted assassination of President Reagan)," said Ecker. "I don't like to see any of our products used in that way."

One of the roots of the rivalry over the high-sales .38 caliber Undercover is a decision by New York City police in the late 1940s to arm women officers with an experimental light-frame revolver.

Since then, the rivalry has been fed by two unrelated factors. One was that the basic patents for small hand guns expired in the 1960s, leaving small arms manufacturers virtually no protection against plagiarism in gun designs. The other was the rivalry that spread from Watta to Harlem to Detroit in the mid-1960s, generating a huge market for "self-defense" handguns.

In January 1949, a story in the Springfield, Mass., Union recorded a decision by Smith & Wesson, the city's second-largest employer, to begin production of a new so-called light-frame revolver for female police officers in New York.

"The New York police girls carry these guns in shoulder holsters which outwardly appear to be shoulder bags," the newspaper reported. "The light-frame weapon is widely popular among sporting clubs and shooting ranges."

The new version weighed only 19 ounces. Its butt was as skinny as an umbrella handle. They were sold for only five .38 cartridges since it wasn't big enough around for six holes. With its 2-inch barrel, the gun was only 6.5 inches long. It fired .38 Special, the bullet that left the wrist tingly.

The Colt Firearms Division had been selling police a similar-looking, slightly heavier .38 snub-nosed revolver, called the Detective Special, for a decade, but the civil rights sector, Colt sold limited numbers of a comparable snub-nosed gun it called the Banker special. Colt's new police handgun was a rival called the Terrier. A 1965 company catalog said, "This little gun is to be confined to police departments."

And Smith & Wesson was already marketing a rival called the Terrier. A 1965 company catalog said, "This little gun is to be confined to police departments."

"When the votes were counted, the most commonly suggested and appropriate name was the .38 Chiefs Special," Smith & Wesson historian Roy Jinks has written.

"The name was officially adopted."

The Smith & Wesson catalog brimmed with enthusiasm:

"The Chiefs Special was a small sideline for Smith & Wesson, the nation's leading pistol manufacturer. Little attention was ever paid to push snub-nosed gun sales to civilians. At the same time, Colt was content to sell its high-class, short-barreled gun market was a popular field for small guns."

There was an unfilled demand, by 1963 Douglas McClennahan realized it. McClennahan, a young draftsman who had worked at Colt Industries and three other Connecticut gun factories, wrote to design a competing snub-nosed gun. In late 1964 he displayed a fire prototype to a few gun columnists at a National Rifle Association convention in Los Angeles.

It was to become the basis of Charter Arms's new company 76 miles down the Connecticut River valley from Smith & Wesson. Initially, its only product was a snub-nosed .38 revolver weighing three ounces less than the Chiefs Special. At $55, it was $17 cheaper than any snub-nosed gun on the market.

In a press release to gun writers, Charter Arms explained that the purpose of the "Undercover" was to satisfy a need on the part of "all law enforcement officers and home owners."

"The new (Undercover) was well received by writers for Gun Digest. A month later, the magazine recalled later. "Even fussy handgunners were soon admiring and buying the all-steel compact."

Charter Arms picked a fortuitous time to enter into the gun market. As Ecker, the company president, recalled: "You had a great civil rights problem, with riots all across the country. There was a terrific boom in firearms sales. So any firearm that was being manufactured or imported was being sold."

William B. Grunn, then Smith & Wesson president, decided he could not ignore the new .38. He wrote letters to newspapers:

"Back at the Springfield ranch, the S & W President, for a day, was a huge man. The view of the business they were losing and decided he had been in the commercial market again by hustling..."
Rees said the Charter Arms Bulldog .44 "threw 40 percent more lead" than ordinary .38 caliber handguns.

The new gun, Rees wrote, "appealed instantly to many policemen who had a need for a relatively small, easily concealed revolver but who lacked faith in the performance of .38 special loads for serious social use."

A Cox Newspapers computer analysis of gun records found that only about 0.2 percent of guns recovered in 1979 street crimes were Charter Arms Bulldogs, but only 0.8 percent were S & W Combat Magnums.

One who will be remembered for his "serious social use" of a Charter Arms Bulldog is David Berkowitz, now serving a 31-year sentence as New York's "Son of Sam" killer.

[From the Miami News, Sept. 7, 1981]

POWERFUL GUN LOBBY ROLLS OVER OPPOSITION

(BY CHRYL ARVIDSON)

WASHINGTON.—It comes as no surprise to the gun lobby loudly opposing proposals that would impose restrictions on shotguns and rifles, require registration or confiscation of firearms or limit availability of the quality black powder.

But the 2-million-member National Rifle Association also is on the front line defending the losers. It has recently made small handgun—a stand seemingly inconsistent with its 110-year history of promoting firearms safety, marksmanship and hunting. "This attempt at gun control is a complete misinterpretation of firearms. We have effectively eliminated any chance for national legislation to restrict small handguns this year, next year and probably for years to come.

The National Rifle Association, with a $30 million-plus annual budget, is the richest organization of any kind in the nation, because this group refuses to deal with anything that begins to approach a reasonable public policy," Horwitt continued.

"You can't get any kind of reasonable public policy on anything having to do with handguns, which is clearly a problem in this country, without dealing with a whole host of other things," said Sanford Horwitt, a consultant to the National Coalition to Ban Handguns.

"The NRA, unlike any other group in the country, is not only successfully opposing gun control legislation, but it is making sure that the public policy on anything having to do with firearms or limit availability of firearms safety, marksmanship and hunting. "This attempt at gun control is a complete misinterpretation of firearms. We have effectively eliminated any chance for national legislation to restrict small handguns this year, next year and probably for years to come.

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"I've shot bears with handguns with a 3-inch barrel," said Rep. John Dingell, D-Mich., when asked why the association defends gun control. "It's a law enforcement gun." He is a former member of Congress on the board of directors of the association. "When I hunt elk, I carry my .44 Magnum automatic to shoot grizzly. Sometimes it hits and sometimes it misses." He is one of the few gun owners who go around shooting bears with a 3- or 4-inch handgun. It just isn't done. If we're down to that level of gun use, we're down to some pretty flaky people.

Knox, asked about the "redeeming social value" of small handguns, cited his wife's Smith & Wesson Bodyguard, which he gave her for Mother's Day in 1988. "I've carried my wife's handgun with me many a mile while hunting, as a second gun," he said. "I've carried it with me while fishing. I've carried it with me while flying because I did all my flying out in Arizona, and that's some rough country, and a person who doesn't prepare himself... is making a mistake.

Knox, who as chief association lobbyist earns $63,000 a year, calls the small handgun "the best possible gun" for protection. "In a shopping mall you can have that thing concealed right near the door, in a book where it's not visible to your neighbors or to any passerby. You may have that thing in an apple plantation in just a bit strange if you've got a shotgun sitting in the corner by the door. A shotgun by the door, loaded, in my estimation is far more hazardous to your neighbors than is a handgun in a nice, small place of concealment.

Gun supporters also say a small gun is easier for women to shoot, and that the poor can afford a "Saturday night special," but not the larger-handgun, more costly—"snubbies" and full-sized handguns.

"Looking at it from a racial standpoint," says Ashbrook, "the handgun is the only defensive weapon a poor person can afford. You'd think poor blacks, as victims of crime, would want handgun control, but they don't.

"Blacks had handguns solely for defense more than any other group," observes Knox.

Blacks also are the victims of more handgun crimes, but Knox said that is because "blacks commit more crimes against blacks," not because they are more likely to carry the guns.

That reasoning is not upheld by the Congressional Black Caucus, which consistently votes as a bloc against the gun lobby. Money and strong citizen support explain both the association's power and the trouble encountered by anti-gun groups such as Handgun Control Inc. and the National Coalition to Ban Handguns.

The association's members will contribute money when asked, write lots of letters and make telephone calls to their congressmen or senators to protest restrictive legislation or government regulations. They turn out in large numbers at rallies or public meetings where gun control is being discussed. The association's budget is 30 times larger than that of Horvitt's National Coalition to Ban Handguns.

"They'll vote on this issue," said a former aide in the Carter White House. "I daresay there'll be issue on you and I would vote, no one issue alone. That's what makes these groups strong.

Some anti-gun lobbyists contend the power of the association is overrated, but the group's reputation is so formidable that whether the power is real becomes almost irrelevant. A House staffer recalls lobbying congressmen on gun control legislation and citing public opinion polls showing a majority of Americans were in favor of gun control. He only had to remember the respondents, "It doesn't matter. If they (the gun lobby) only control 3 percent of the vote in my state, that's enough because the margin of victory is only 5 or 6 percent."

Russo believes much of the association's strength comes from its ability to convince members that "as soon as they take the handguns, the next thing is your shortguns, shotguns. So, that you know, the Russians will come and you won't have any way of defending yourselves."

"They portray, inaccurately I think, every issue as if the question is whether or not Mrs. Jones who lives in rural Florida is going to be able to have her gun to protect herself from the night rider," said Richard Davis, who was the Treasury official overseeing the Bureau of Alcohol, Tobacco and Firearms in the Carter years.

The association and other pro-gun groups often do raise the confiscation spectre in their mailings. Anti-gun groups point to this as coming across as a represen­
tation and distortion, but Knox says that confiscation is exactly what handgun control is all about. The confiscation argument is one that sells well among gun owners because of a basic distrust of government.

"If we only thought (handgun control) was an honest effort to do this and nothing more, we might agree," Ashbrook said.

Mr. KENNEDY. Only about 5 percent of the homicides in the United States are from long guns, rifles, or shotguns. On the other hand and from Federal intervention or State and local intervention, that this amendment is prepared—to see that we remove some of the kinds of restrictions that exist in current law that hinder or cause some inconvenience to hunters if we are able to keep existing law on handguns, snubbies, and Saturday night specials.

Mr. President, I hope there are those who will be listening in their offices—you and those in the Senate—to this debate this afternoon because one of the reasons that this legislation is on the floor is because those who support it want to reduce red tape for all individuals who want to hunt in this country.

The supporters of this bill want to reduce the burden on those small shopkeepers from the Federal hand and from Federal intervention or inspection. But without this amendment, what does this legislation provide with regard to handguns?

Without this amendment, this legislation, on page 7, says in deleting clause A, paragraph 3, and inserting in lieu thereof the following: (a) Shall not apply to the sale of, delivery of any firearm to a resident of a State other than a State in which the licensing place of business is located if the sale and delivery and receipt fully comply with the legal conditions of sale in both such States; that is, where it is legitimate in the State where the sale will take place and legitimate in the State where the individual is from.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. KENNEDY. I yield myself 5 more minutes.

Let's say that dealer makes the mistake. Say he does not know, for example, that if he sells to someone in Maryland that there is a 7-day waiting period, or in Nevada at the current time if that person lives in Las Vegas, it is 72 hours, or if the person is from Wyoming it is a 48-hour time limitation, et cetera.

Then what happens to that dealer? It says over here on page 21 that anyone who violates the provisions of this chapter shall be fined not more than $5,000, or imprisoned not more than 5 years. That person commits a felony.

If you do not accept this amendment, you are saying to every dealer out in the West and the South that if they do not know everything that happens to be in these two books at least as of the time that they were produced in the record show that there is more than 2,000 pages here—if they do not know it, they can be penalized for $5,000 and commit a felony.

I hope we accept this amendment, which responds to the legitimate law enforcement issues that have been raised by those that know more about it than any single Member of this body and who are, day in and day out, faced with the force of violence in our society—and we bear a great deal about that issue internationally and locally, they know what it means, and they have seen their colleagues that have been brutalized and murdered. They know the families that are growing up with orphaned children. They understand that issue, and they are here to tell us that we ought to retain the existing law which they know, understand, and which has been tried and tested.

So, Mr. President, I just hope that in our concern both for law enforcement, in our concern about the regulatory burden on the small shops, and individuals dealers, and in our concern about the role of the Federal Government reaching out and providing inspections into all of these little, small towns, communities, and dealers all over this country—and the dangers which they are going to have, the burden that is going to be placed upon all of them—that the Senate go on record and support this amendment.

Finally, I want to stress, Mr. President, that this amendment applies only to handguns—the snubbies, the Saturday night specials. There are no hunting purposes whatsoever. For hunting purposes whatever—for a Saturday night special. I have listened to those Members of the Senate try to make that case in the quiet of a committee meeting, and I have heard the wishers of those who would support...
such a Senator's amendment because there is no legitimate sporting purpose for a snubbie. You cannot hit anything accurately beyond a few feet. Then we hear about how Bambi is hurt in the woods and they have to go up and use a Saturday night special in order to save Bambi from its misery. I hope we are not going to hear that laughable argument on the floor of the U.S. Senate this afternoon, Mr. President.

The final point that I will make is that we will hear very shortly how we cannot really keep pistols and Saturday night specials out of the hands of the criminals. So why should we inconvenience the legitimate sportsman? You can use that argument. But I hope they will address that and maybe suggest some changes in the law’s controls on prohibitive drugs. You cannot stop illegal drugs in our society. Then why not make those illegal drugs available to others as well? The American mind is so much in a sense to swallow such arguments, Mr. President. We do not possibly suggest because we pass a law against murder that we stop all murders. Of course we do not.

But what we hope to do is be able to reduce to some extent, and the chief enforcement officials understand this law and understand it so well that they believe we can have some impact to some extent in reducing the handgun terror that exists in so many parts of this country and on the city streets and special out of the hands of the criminals.

Mrs. HATCH addressed the Chair. The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. I would also like to explain not only in opposition to the amendment which will retain the current ban on interstate sales of handguns. As is typical of many provisions of the 1968 law under revision today, the ban on interstate sales of firearms is far more restrictive than necessary to accomplish the objectives of the law. The purpose of the interstate sales restrictions in the 1968 act was to guarantee compliance with firearm laws in the States. It was feared that a State’s firearm laws could be easily circumvented by buyers who crossed State lines to acquire weapons they could not purchase in their own State of residence. To prevent circumvention of State law, the 1968 act, as I have mentioned, prohibited almost all interstate sales of handguns, which were very narrow and specific. Unless you were in another State and your sporting gun was lost or stolen or you were in a State contiguous to your residence that specifically by law authorized such sales, you could not purchase that perfect firearm for which you had shopped for years if you happened to find it while traveling out of State.

This harsh restriction is simply not necessary to uphold the original purpose of the 1968 act. S. 49 permits out-of-State purchases, but also guarantees that the laws of the buyer’s as well as the seller’s State will be scrupulously obeyed. S. 49 requires those interstate sales of all firearms—deer rifles, shotguns, and handguns—to comply with requirements that will guarantee that the objective of the 1968 act is met; namely, that all State laws will be upheld. To accomplish this, S. 49 requires the following:

First, all interstate sales of firearms, including handguns, must take place over the counter. This allows the dealer to identify and make inquiries of the purchaser, thus preventing sales to felons and others prohibited from acquiring firearms.

Second, all interstate sales of firearms, including handguns, must be recorded in the dealer’s records, thus permitting tracing.

Third, all interstate sales of firearms, including handguns, must comply with the laws of both the buyer’s and the seller’s State. The licensed dealer is legally responsible for knowing those laws which are printed in the dealer’s manual of firearms that are to be distributed to all dealers. The dealer is held accountable for any sales in violation of applicable State or local laws. And the dealers understand these books and can easily turn to the pages that will define these laws and can easily explain them.

These requirements of S. 49 carry out the objective of the 1968 act. State or local laws may not be circumvented by interstate purchases. A State or locality remains free to impose very strict controls on handguns or other firearms, and these restrictions will be upheld. In that respect, the amendment will not affect the objective of the 1968 act. And it is not necessary to impose any further restrictions on the amended law will not differ from current policy.

At the same time, law-abiding citizens, citizens whose purchase of a firearm would comply completely with the laws of their residence, are not barred from purchasing a firearm out of State by a Federal regulation that has absolutely no effect on arms control.

Prohibiting a citizen from purchasing a firearm in another State that he could buy at home has no effect whatever on crime. It is needless restriction on lawful firearm ownership and acquisition. And it is not necessary to uphold the intent of the 1968 act. For that reason, I will oppose this amendment.

I would also like to note that the Department of the Treasury, which is charged with the responsibility of enforcing that the objectives of the 1968 act are carried out, supports the view that the amendment will not advance crime control. In a June 24, 1985 letter to me in my capacity as manager of this bill, the Department states:

The administration opposes this proposal. We believe that the Federal regulations imposed by S. 49 with respect to licensees’ sales of handguns to out-of-state residents are adequate from a law enforcement standpoint, e.g., sales must be made only where the buyer is identified and information concerning their eligibility to purchase firearms, sales history, and local laws. Furthermore, a State or municipality may, if it chooses, impose more stringent regulations on handgun transactions by its citizens. Requirement for Notice before Inspection of Importer, manufacturer, dealer and collector. S. 49 proposes that importers, manufacturers, and licensed dealers be required by ATF before an annual compliance inspection is made. This compliance, or courtesy, visit, is made routinely to assure that licensees are in compliance with Federal recordkeeping requirements on the acquisition and transfer of firearms. This differs from a visit in the course of a criminal investigation where there is reasonable cause to believe that a recorded or unrecorded firearm has been illicitly transferred or stolen. These visits are made without prior notice, and the inspection and warrant. Without notice. Therefore, the Administration would retain the notice requirement in accordance with the law, as it would not adversely impact on law enforcement.
forecement. The Administration supports the language in § 49.

Narrowing the “gun show” provision. The Administration has no objection to such an amendment. The Department's definition of a gun show is broadened to include the entire definition appearing in the regulations, but such events sponsored by national, State or local firearms organizations, but such events sponsored by other organizations and entities.

Limit preemption provision to longguns. Language in § 49 would provide that persons transporting weapons unloaded and not readily accessible would be protected from restrictive local and State laws. The Administration supports such a provision, but such events sponsored by national, State or local firearms organizations and entities.

Require a 14-Day Waiting Period for Handgun Sales. The Administration has stated earlier that waiting periods for purchases of handguns should be a matter for the States and local governments to decide. The Administration does not advocate a national preemption provision.

Armor Piercing Bullets. The Administration endorses proposed legislation as articulated by the Senate and House of Representatives, for police and military use, of ammunition commonly termed armor-piercing. The bill defines bullets as armor-piercing if they are solid or contain cores of certain hard metals. We would have no objection to the inclusion of § 104 in § 49.

Prohibition of parts for short barrel handguns (snubbies). The 1968 Gun Control Act amended prior law which regulated the importation of gun parts. Congress, at that time, felt that such regulation was not practical. Numerous problems would exist relating to the restriction of importable or nonimportable firearms, since many parts of a given manufacturer will be assembled in a variety of firearms configurations.

Conversions of semi-automatic weapons to machineguns. The 1968 act, 26 U.S.C. Section 3945(b), the term machineguns includes “any combination of parts designed and intended for use in converting a weapon into a machinegun.” The definition of machinegun in the Treasury's definition of machinegun in the Treasury Department’s regulations and in the statute. We have opposed a provision in the amendment that the Department has also classified certain semi-automatic weapons as machineguns because they possessed design characteristics of machineguns and were easily converted to fire automatically. The Administration may already regulate as machineguns the types of weapons and firearms parts that concern the proponents of the amendment. Nevertheless, in the interest of clarity, an amendment relating to machineguns would not be inappropriate. The amendment as it relates to silencers would strengthen existing law and enforcement efforts to combat the illegal manufacture of and trafficking in silencers.

The proposed requirement that machinegun manufacturers submit design plans for their weapons to the Government prior to manufacture is unnecessary, in our opinion. Under current law, the firearms industry is presumed to know the provisions of the National Firearms Act relating to their business and is responsible for compliance with the law. As a practical matter, the firearms industry constantly seeks advice of the Department relative to the classification of weapons without any legal requirement to do so. We believe that most manufacturers designed new weapons to seek such advice as a sound business practice. To mandate the industry's submission of plans in advance of production would be burdensome to the industry, and on the administration from an administrative standpoint.

Finally, we would advise that the language of the amendment dealing with the definition of machineguns and silencers is problematic. Therefore, we would be glad to provide assistance in redrafting the language to better accomplish the objectives of the amendment.

We appreciate the opportunity to discuss these issues and stand by for further assistance if requested.

Sincerely,

BRUCE E. THOMPSON, JR., Assistant Secretary (Legislative Affairs).

THE SNUBBIE MYTHS

Mr. HATCH. Mr. President, since we have heard a great deal about so-called "snubbies" or Saturday Night Specials, I would like to urge us to reconsider some of the arguments about small handguns. In the first place, I would like to quote again from section 101 of the Gun Control Act of 1968. This section outlines many of the appropriate uses for firearms in the following terms:

It is not the purpose of this Title to place any undue or unnecessary Federal restrictions or burdens on law-abiding citizens who use firearms, for hunting, trapshooting, target shooting, or any other lawful activity.

The 1968 act explicitly states that personal protection and other lawful activities ought not to be encumbered by Federal law. Accor...
Let me first give a brief explanation of the problem which the underlying language of McClure-Volkmer seeks to address.

Under current law, a resident of one State cannot purchase a firearm directly from a resident of another non-contiguous State. Say a resident of Idaho wants to buy a firearm from a resident of New Hampshire. Assume, also, that this firearm is not locally available and that it is only available through purchase from a resident of another State, such as the State of New Hampshire.

Under current law, the resident of New Hampshire would have to go through a licensed dealer in New Hampshire, who would transfer the weapon to a licensed dealer in Idaho, who would transfer the weapon to the ultimate purchaser.

Gunowners have correctly pointed out that there is no valid reason for this bureaucratic morass. So long as either the seller or the buyer is a licensee, there is just as much of an ability to trace the disposition of the weapon in an interstate sale as with an intrastate sale. So the original language of McClure-Volkmer would have allowed an interstate sale of a weapon from a licensee to a nonlicensee, so long as the transaction complied with the law of the State of sale and the State in which the purchaser resided.

In committee, the Senator from Massachusetts attacked the McClure-Volkmer language on the grounds that it would require a gun dealer to be responsible for knowing the law of the State of any prospective purchaser. In effect, each dealer would have to have access to all of the gun laws of all 50 States. And, while the original bill provided for publication by BATF of a handbook summarizing State gun laws, the Senator from Massachusetts persisted in his objections.

So, the Senator from Delaware proposed an amendment which would remedy the problems of the Senator from Massachusetts. Under the proposal of the Senator from Delaware, which was approved unanimously by the Senate Judiciary Committee, interstate sales of longer guns—that is, guns with barrel lengths of greater than 3 inches—could be made, so long as they complied with the law of the State of sale. Although the buyer would be liable for fines and imprisonment if he made a purchase in violation of the law of the State of residence, neither the out-of-State dealer nor the Federal Government would be required to enforce that State’s laws for it. The rationale for this position was, as the Senator from Massachusetts pointed out in committee, the extremely onerous burden which would place a local dealer with respect to an interstate sale.

In exchange for loosening up the circumstances under which a longer gun could be sold interstate, the provisions governing interstate sales of shorter guns—that is, guns with barrel lengths of less than 3 inches—was to be tightened, so that they would more restrictive than those contained in McClure-Volkmer. In essence, interstate sales of shorter guns would continue to be governed by current law. They would be transferred from the seller to a licensed dealer in his State to a licensed dealer in another State to the ultimate seller.

Even though the continuance of this labyrinthine process really posed no new law enforcement benefits, even when the laws of one State, most gun groups readily agreed to maintain current law governing shorter guns, in exchange for a loosening of restrictions on longer guns.

The problem which arose from the fact that the language of the amendment was not available to the committee at the time it agreed to this compromise. The language, which was not approved by the Committee, when it became available, from the committee agreement in one pivotal respect:

In the language which was produced, the interstate sales of a longer gun would only have to comply with the laws of both the State of purchase and the State of the residence of the purchaser. This was, of course, not what the committee agreed to. In fact, it pointedly ignored the problem which triggered the amendment in the first place—the difficulty that a dealer would have in trying to keep track of all the laws of all 50 States. Now, I have an amendment which would embody the agreement made in the Senate Judiciary Committee last year. And, if my tabling motion is successful, I would have that amendment. But, frankly, Mr. President, I would hope that we could avoid this entire mess.

The compromise contained in the version of McClure-Volkmer under consideration has been approved by the two relevant departments of the administration—Justice and Treasury—and by all of the major gun groups, in addition to all of the major sponsors of the legislation. It is the language of the Baker amendment on the continuing resolution, which was sustained against procedural objections by votes of 51 to 31 and 77 to 20. I ask unanimous consent that relevant portions of the committee equipment be printed in the Record at this point.

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

EXCEPT

(The debate 80 pages printed page 30 of the transcript, with Kennedy calling up the attached amendment. He initially implies that the amendment would subject concealable weapons to all provisions of current law—not just those provisions dealing with inter-State sales—and that Hatch would exempt long guns from all provisions of current law. This is clearly not what his amendment would do, however, and Hatch correctly summarizes the nature of the Kennedy amendment. Kennedy then, on page 36, summarizes the difference between the two relevant departments of the administration, Hatch and Hatch as revolving around whether a Nevada resident purchasing a long gun in South Carolina would have to comply with Nevada law, as well as South Carolina law. He holds up his book of statutes compiled from those states respectively on the Judiciary Committee and chastises Hatch for failing to learn that enormous mass of statutes, in addition to the statutes of his own state. Hatch tries to assert that this would be no problem, since the licensee would have the new book of state laws compiled by the Justice Department, but Kennedy persists. At this point, Biden begins asking questions about the nature of the Kennedy amendment.)

Biden. What does your amendment do with regard to long guns? Does it keep the existing law, or does it lift all exemptions on long guns?

Kennedy. It lifts all exemptions on long guns.

Biden. So, my staff just told me that, if I walked into—let us take Vermont, they have nothing there, zero. Now ... if I go up to St. Johnsbury and I go into a gun store and I want to buy a shotgun, I can put my money down and walk out of that store with that shotgun? My staff says no. And I —

Kennedy. Yes.

Biden. No, not current law; under—

Kennedy. Current law.

Biden. [continuing]. Under your amendment—

Kennedy. Yes.

Biden. Under your amendment you would be able to walk out. Okay. Good.

Kennedy. All I am saying is that—it what it does is . . . it upholds and sustains State laws.

Biden. All right. And it requires them to meet the laws of both States—

Biden. It seems to me that ... you (Senator Kennedy) are saying this book will no longer needed because, in fact, you will keep the existing law as it relates to the small handgun, the small snubbies. Okay?

Kennedy. Yes.
Biden. And existing law says you cannot buy them in interstate.

KENNEDY. Right. Biden calculates all other laws relating to the interstate sales as it relates to the handgun—I mean the long gun. Is that right?

KENNEDY. The Senator is correct. Yes, I guess the—there are some, some States have some on restrictions. I mean the States.

Biden. No. I understand that. But the State of Vermont has no restriction on anything.

KENNEDY. You are right.

Biden. So, in Vermont you could walk in, buy the gun, and go hunting that morning. Kennedy. Right. The Senator as applied to interstate—re­lates to handguns, leave it alone. . . . and as it has been on the books ... as it re­lates to handguns, as it relates to the handgun—! mean the long gun. Is that right?

KENNEDY. Right.

Biden. On the interstate sale. And the answer is yes.

KENNEDY. Mr. DODD. Mr. President, I rise in strong opposition to this legislation in its present form. While I have many concerns of the Senate today, I believe it is still, possible, with the approval of certain crucial amendments, to enact a responsible bill.

This legislation, as proposed, turns back the clock of Federal protection against handgun crime in seeking to overturn the provisions of the modest Gun Control Act of 1968, as passed in the wake of the assassinations of Martin Luther King, Jr., and Robert F. Kennedy. This measure would weaken our national firearms laws and effectively take, as the National Rifle Association has called it, "the first step toward repealing the 1968 Gun Control Act."

The Gun Control Act of 1968 was intended to keep handguns out of the wrong hands—the felon, the minor, the unlawful drug user, the mental incompetent—and to punish harshly those who use handguns in crime. The law was, as the broadest prohibition of interstate commerce in firearms by unlicensed, private citizens. The legislation we consider here today eliminates that prohibition, allowing once again the mail order access to guns by criminals and would-be assassins.

My father, the late Senator Thomas Dodd, dedicated much of his Senate service to putting an end to such easy availability of firearms. My father was chairman of the Senate's Judiciary Committee last year to prohibit the interstate sale of "snubbies"—handguns with barrel lengths less than two inches. It has been documented that 11 of 15 handguns most often used in the commission of murder, armed robbery, and other street crimes had snub-nosed barrels of 2.5 inches or less. Criminals favor concealability. Short barrels mean inaccuracy at anything beyond point blank range. They should therefore be of little interest to legitimate hunters, sportsmen, and target-shooters.

I also would have liked to have seen a waiting period included in this bill, a provision adopted by the Senate Judiciary Committee in the 98th Congress. The Gun Control Act of 1968, while setting forth categories of persons to whom firearms may not be sold, does not require verification of the purchaser's eligibility. A person purchasing a firearm from a federally licensed dealer is only required to sign a form on which he affirms by sworn statement that he is not proscribed from purchasing a firearm. I would expect, this "honor system" of verification has done little to prevent pro-
scribed persons from obtaining firearms.

The 1981 Attorney General's Task Force on Violent Crime addressed this loophole in Federal gun laws and recommended that "a waiting period be required of one of the purchasers of handguns to allow for a mandatory records check to ensure that the purchaser is not one of the categories of persons who are proscribed by existing Federal law from receiving a handgun." A number of States and municipalities, including my home State of Connecticut, have enacted waiting period laws which have proven to be effective in keeping handguns out of the wrong hands.

The idea of a waiting period has broad public support. The law enforcement community, including the International Association of Chiefs of Police and the National Association of Attorneys General, supports a waiting period for handgun purchases. Moreover, a 1981 Gallup poll showed that 91 percent of American people support a 21-day waiting period for handgun purchases with a background check.

I am also concerned that this legislation would, in its present form, pre-empt Connecticut's restrictions on automobile transportation of a firearm without a license, clearly an intrinsic part of my home State's license-to-carry law. This represents a derogation of the rights of States to regulate firearms within their own borders, a policy contrary to the intent of the Gun Control Act of 1968. I believe this goes too far. The interstate transportation of hunting rifles and shotguns does not pose the same law enforcement problem that the transportation of handguns does. In my view, an amendment to the bill could meet the needs of both hunters and law enforcement by restricting the provision allowing interstate transportation to long guns.

Mr. President, I have a number of other concerns with this bill, but in the interests of time, I will reserve my comments for the present. I am sure some of my colleagues will be addressing these same concerns as we move forward on this legislation.

Finally, I would urge my colleagues to give serious thought to what is being asked of us here. We are being asked to relax and weaken our already modest Federal protections against handgun crime. In effect, we are being asked to further hinder the ability of law enforcement officers to respond to violent crime. More than 10,000 Americans will be murdered with handguns this year. If we add up the number of Americans killed just with handguns since 1968, the total is a staggering 350,000. Surely, the time has come to consider broad restrictions on criminals' access to handguns.

I urge my colleagues to vote against this bill in its present form. Mr. CHAFEE. Mr. President, passage of the Gun Control Act of 1968 was an important step toward effective control over the unlawful trafficking of firearms in order to reduce the incidence of violent crime in the United States.

The legislation before us today makes changes in the current law intended to reduce unnecessary burdens on law-abiding citizens with respect to lawful use of firearms. I support the bill's goal of easing certain restrictions on the purchase and strengthening laws for hunting and sporting purposes. However, this legislation does not do enough to halt the proliferation of handguns and could weaken existing laws designed for this purpose.

The United States has more violent crime than other countries which have restrictions on handguns. I have consistently supported efforts to strengthen controls over the purchase and redistribution of handguns.

Handgun control is an essential part of effective law enforcement. The ready availability of concealable handguns undermines efforts to protect citizens from violent crime.

Handgun deaths are a national tragedy. Handguns are used in more than 80 percent of murders in the United States and another 500,000 crimes of violence each year. Small handguns are the overwhelming weapon of choice by street criminals and assassins.

Despite the need to strengthen controls over handguns, the legislation we have before us would have the opposite effect and weaken current law.

Under current law a State has the right to regulate gun ownership among its residents. This legislation places that right in grave jeopardy. It would authorize dealers to make face-to-face firearms sales and out-of-State customers if the sale would be lawful under the laws of the sellers' and buyers' jurisdictions. Since State and city gun laws vary widely, it would be a formidable task for dealers to insure that sales to out-of-State purchasers conform to law. The potential for handguns to fall into the wrong hands would be significantly greater should this provision be retained in the bill before us today.

I believe we can move forward to protect the rights of law-abiding citizens who purchase firearms for recreation, law enforcement, and private security and at the same time, strengthen law enforcement efforts to prevent handguns from falling into the wrong hands. There are three amendments we will consider which will facilitate this goal.

The first and most crucial amendment would relax the ban on the interstate sale of shotguns and private but retain the current prohibition on the interstate sale of handguns. Failure to adopt this amendment would hinder the ability of law enforcement agencies to control the spread of handguns.

Another important amendment would require a 14-day waiting period for purchases of handguns. A waiting period would not only give police the necessary time to determine if a purchaser is prohibited by law from owning a firearm, but also deter individuals who in a moment of desperation purchase a handgun to use in a suicide or a crime of passion. Limiting access to handguns for a period of time is an important intervention for crime prevention.

In addition an amendment to retain current law with respect to surprise Federal compliance inspections of Federal firearms licensees would be offered. The opportunity to conduct surprise visits to check sales records maintained by federally licensed gun dealers is vital to insure that sales are made through regular channels and are traceable. Instead of weakening Federal compliance inspections, we should ensure that enforcement authorities have the necessary to deal with those who criminally misuse guns or who recklessly make it possible for others to do so.

We have an opportunity today to take this measure beyond the protection of the rights of hunters and sportsmen and to move toward reducing the incidence of crime in the United States. I hope my colleagues will join me in supporting the amendments before us.

Mr. KERRY. Mr. President, as we consider S. 49, the McClure-Volkmer Firearms Owners Protection Act, I think it is useful to recall the history of the legislation this act is to provide--the Gun Control Act of 1968, passed in the wake of the assassinations of Martin Luther King and Robert Kennedy by men using handguns.

Sadly, it took these two assassinations to convince Congress after 8 years of debate to pass basic regulations on the interstate sale of firearms. The act was designed to provide support to Federal, State, and local law enforcement officials in their fight against crime and violence." Its passage was in recognition of the fact that gun violence in the United States had grown to alarming proportions. Legislatively, the act shows that one of the principal purposes of the legislation was to provide aid to the States against the "migratory handgun."
ed to restrict handgun possession to only those citizens who could demonstrate a special need to own one.

Such laws were intended to reduce handgun ownership to a tiny fraction of the nation’s total of 40 million guns per 100 households. As it turned out, municipal efforts to restrict handgun possession were vulnerable to the flow of handguns from within the State to other States. And even State efforts were vulnerable to interstate traffic.

A major problem in administering any gun licensing system was the interstate “leakage” of guns. In the mid-1960’s, it was estimated that 87 percent of all firearms used in Massachusetts crime had been purchased first in other States. Two-thirds of a sample of handguns confiscated in New York City had come from other States, and surveys in other States told the same story.

It was to meet this problem directly that the federal legislation was enacted—to stop the frustration of local efforts to license and register ownership of guns.

The centerpiece of the new regulatory scheme was the ban on interstate shipments of firearms from persons who do not possess Federal licenses as dealers, manufacturers, importers or collectors, coupled with the declaration that it was unlawful for any person other than Federal license holders to engage in the business of manufacturing or dealing in firearms. The act thus granted Federal licensees a monopoly on interstate transactions and required Federal licensees to engage in any but isolated intrastate transactions.

While private citizens were to be excluded from commerce in guns, federally licensed dealers were to be much more strenuously regulated. The fees from all Federal licenses were increased. Minimum standards for licenses were set, and the Secretary of the Treasury was given broad power to establish mechanisms for regulating licensed manufacturers and dealers.

Having established Federal regulation of commerce in firearms, the act pursuant its major aims with a series of criminal prohibitions.

Those without Federal licenses were prohibited from shipping guns to other private parties in another State and from transferring guns to persons they knew or had reason to believe were residents of another State.

Dealers were prohibited from shipping to private citizens in other States and from selling to those who the dealers knew or had reason to believe were residents of another State.

All dealers had to sign a form indicating a customer had produced identification showing he was not a resident of another State. This form, which also identified the firearms sold and gave the purchaser’s name, address, and description was retained by the dealer and made available for inspection by the Alcohol, Tobacco, and Firearm agents.

All of this provided a Federal framework for the monitoring of interstate firearms sales to help State local efforts to keep arms away from criminals, to record when they were used to commit crimes. This Federal regulatory system was the heart of the 1968 Gun Control Act.

And yet, the McClure-Volkmer bill, without the amendments we have had placed before us today, will substantially dismantle this regulatory system, and again make it extraordinarily difficult for localities and States to fight crime and violence.

For these reasons, I offer my strong support to the amendment offered by Senator Kennedy to maintain the current interstate sales regulations of handguns. The fact that they were in law enforcement at the local level—and both Senator Kennedy and I were prosecutors in Massachusetts—know that local efforts to monitor and track firearms are exceptionally important. It is simply impossible if the Kennedy amendment is not adopted to maintain existing law in this area.

Senator Kennedy has worked tirelessly on behalf of all those injured by criminals with guns or who lost friends or family through crimes or abuse of firearms. On behalf of law enforcement officials, to make the McClure-Volkmer legislation protect them, as well as gun owners.

I strongly urge this body to adopt the Kennedy amendment.

I am aware of the warnings of law-abiding firearms owners and recognize that McClure-Volkmer may eliminate some unintended consequences of the 1968 law. But law-abiding firearms owners will not be hurt by amendments to this legislation such as the Mathias amendment, which eliminates notification to dealers before Federal compliance inspections. I think it is important that we be given full compliance to establish a Federal regulatory system trying to make sure that the law is followed should have to give a dealer notice before an inspection, to give him time to get his house in order if he has been violating the law. This notification provision does nothing to help those who are law-abiding—it only protects those who are violating the law, by interfering with law enforcement.

Finally, I wish to make special note of the service that Senator Metzenbaum has done Massachusetts, and the other States that currently have laws regulating handguns, with his amendment to modify the preemption provisions that would otherwise void many State and local gun control laws, including the Bartley-Fox law in Massachusetts, a law which has been central to law enforcement in the Commonwealth and ever since its passage.

Bartley-Fox was a milestone in gun control for Massachusetts, passed by the State legislature as the result of a collaboration between two remarkable men: the Speaker of the House, David Hale Bartley, and State Judge John J. Fox, a man who had dedicated himself to seeking out the best methods of dealing with the problem of crime with guns.

The Bartley-Fox prohibits the transportation of a firearm or ammunition through Massachusetts by anyone who does not have a license for the federal government to assume full control for nonresidents under certain circumstances.

Its help to law enforcement officials in the years since its passage has been profound—and Massachusetts wants to keep it.

Senator Metzenbaum’s amendment has allowed Massachusetts to keep Bartley-Fox. Without it, McClure-Volkmer would have repealed it.

This would be unfortunate for Massachusetts, for law enforcement, and for our system of federalism itself, for the reasons set forth in an excellent memorandum written by Judge Fox about the effects of McClure-Volkmer. At this time, I ask unanimous consent that Judge Fox’s memorandum be inserted in the Record at the conclusion of my remarks.

As Judge Fox explains:

The logical implications of what this proposed statute seeks to do would be to permit the federal government to assume full control over a State’s procedures for the administration of its own criminal justice system.

I thank Senator Metzenbaum for his protection of Massachusetts ability to regulate crime as a result of the adoption of his amendment.

There being no objection, the memorandum was ordered to be printed in the Record, as follows:

MEMORANDUM BY JUDGE JOHN J. FOX OF MASSACHUSETTS

CONSIDERATIONS OF FEDERALISM

It is clear that this Bill, in its present form without the Metzenbaum amendment, would preempt such state legislation as Bartley-Fox (and all analogous or cognate state legislative enactments) by making "null and void" any provision in state law which prohibits or has the effect of prohibiting the transportation of a firearm or ammunition in interstate commerce or through a state. (See p. 57 of Sen. Report No. 98-583, 96th Cong. 2nd Session). This blatant attempt to preempt or exclude state regulation effectuated by the problems of crime and violence—interests critically central to the welfare of a State and traditional to the States as the result of a "state or local concern"—intrudes impossibly into state sovereign functions. It clearly proceeds upon a fundamental misunderstanding of the role that state governments should have in our federal system. If a result would not only undoubtedly retard the creative experimentation which bold and progressive state legislatures have gen-
erated but would be antithetical to the wisdom and decency that permeate our Constitutional history. Indeed, such an approach would undermine one of the most valuable aspects of our federalism—the concept of the dual government of the state and federal governments in areas of mutual concern. As one scholar has written "The Constitution of the United States recognizes and preserves the autonomy and sovereignty of the States by giving them the widest latitude in the conduct of their internal affairs and by forbidding Congress to act in any way inconsistent with the Constitution or the laws of any of the States. The Constitution does not authorize Congress to legislate for the States so as to make their legislation subject to any judicial review by the Supreme Court of this nation."

This general rule, bottomed deeply in belief in the importance of state control of the States," the Court explained, "is not absolute. It is not intended to create a road map to the destruction of the States. It simply says that Congress may do this, primarily it has the power to achieve other such ends; e.g., to preempt state court rules of procedure."

If Congress may do this, presumably it has the power to achieve other such ends; e.g., to preempt state court rules of procedure, it is evident that state control of the States is not absolute. It is not intended to create a road map to the destruction of the States. It simply says that Congress may do this, primarily it has the power to achieve other such ends; e.g., to preempt state court rules of procedure. The essential point is that local custom, local tradition, local conditions and circumstances, local law enforcement vary so dramatically that it is neither surprising nor substantive to the autonomy of the States that one provision of federalism is hardly a new development.

For example, in the celebrated Slaughter House cases, the Supreme Court consistently recognized the autonomy of the States. The Court "recognizes and preserves the autonomy and sovereignty of the States" in its constitutional law, "to perform their own affairs and govern their own people." See, e.g., Virginia v. New Jersey, 211 U.S. 78 (1908); Mazzocchi v. Dou, 176 U.S. 581 (1900).

It is clear that a review of the vast generality of Supreme Court cases show that the principle of federalism is the most important aspect of the federal system. For example, in delivering the opinion for the Court in the historic decision in Slaughter House cases, the Court consistently recognized the autonomy of the States. The Court stated that the national government, reposing far from the bucolic hamlet in rural Nebraska, may be true as the proposed law may not effect dramatic changes in the laws and procedures of all States. But it would be difficult to imagine another attempt by the Federal Government to supplant a state procedure which is so traditionally within the purview of state autonomy. If Congress may do this, presumably it has the power to achieve other such ends; e.g., to preempt state court rules of procedure. It is evident that Congress would not do this, primarily it has the power to achieve other such ends; e.g., to preempt state court rules of procedure. The essential point is that local custom, local tradition, local conditions and circumstances, local law enforcement vary so dramatically that it is neither surprising nor substantive to the autonomy of the States that one provision of federalism is hardly a new development. For example, in the celebrated Slaughter House cases, the Supreme Court consistently recognized the autonomy of the States. The Court stated that the national government, reposing far from the bucolic hamlet in rural Nebraska, may be true as the proposed law may not effect dramatic changes in the laws and procedures of all States. But it would be difficult to imagine another attempt by the Federal Government to supplant a state procedure which is so traditionally within the purview of state autonomy. If Congress may do this, presumably it has the power to achieve other such ends; e.g., to preempt state court rules of procedure. It is evident that Congress would not do this, primarily it has the power to achieve other such ends; e.g., to preempt state court rules of procedure.

The Bartley/Fox Law, Massachusetts General Laws, Chapter 269, Sec. 129C(h) and 131G are examples of such a situation. The Bartley/Fox Law, Massachusetts General Laws, Chapter 269, Sec. 129C(h) and 131G are examples of such a situation. Consequently, the existing limitations imposed by Massachusetts on the ability of non-residents to possess firearms, rifles and shotguns while traveling through the Commonwealth, provided that a non-resident may possess a pistol or revolver under certain circumstances, would have curtailed state substantive law. Similarly, equal protection rulings relating to state criminal procedures have consistently noted the importance of leaving the States free to prescribe their "own modes of judicial proceedings." Missouri v. Lewis, 101 U.S. 22 (1879).

In reviewing the Supreme Court's decisions over the last four decades, one of the first and most striking facts to emerge is the obvious importance of the Court's interpretation of the obligations of the provisions of federalism in the development of American criminal law. See, Allen, The Supreme Court, Federalism, and Substantive Criminal Justice, 8 DePaul L. Rev. 213 (1989); Tribe, American Constitutional Law, 232 (1978). If the power sought to be legitimized in this proposed bill is vindicated, then such a principal would, by hypothesis, permit the federal government to assume full control over a State's criminal justice systems. The administration of its own criminal justice system.

This is and must be beyond the power of the federal government if the federal system is to exist in substance as well as form. The right of the State to regulate its own substantive law, to regulate its own procedures, and to be controlled by the population most directly affected; it permits laws to be formulated which are acceptable to local custom and to be enforced by persons who are familiar with local concerns, and it permits a diversity necessary for the survival of pluralism. One of the most obvious advantages of the federal system implies a partnership all over a State's substantive law. The principle of federalism preserves local control of government. This has various advantages. It avoids centralized power and the potential for abuse inherent in the concentration of governmental authority; it promotes democracy by allowing decisions to be controlled by the population most directly affected; it permits laws to be formulated which are acceptable to local custom and to be enforced by persons who are familiar with local concerns, and it permits a diversity necessary for the survival of pluralism. One of the most obvious advantages of the federal system implies a partnership all over a State's substantive law. The principle of federalism preserves local control of government.

The Constitution of the United States recognizes and preserves the autonomy and sovereignty of the States by giving them the widest latitude in the conduct of their internal affairs and by forbidding Congress to act in any way inconsistent with the Constitution or the laws of any of the States. The Constitution does not authorize Congress to legislate for the States so as to make their legislation subject to any judicial review by the Supreme Court of this nation. One of the strongest expressions of this principle was articulated by Mr. Justice Field in his opinion for the United States Supreme Court in In re Debs, 158 U.S. 564 (1900).

"The Constitution of the United States recognizes and preserves the autonomy and sovereignty of the States by giving them the widest latitude in the conduct of their internal affairs and by forbidding Congress to act in any way inconsistent with the Constitution or the laws of any of the States. The Constitution does not authorize Congress to legislate for the States so as to make their legislation subject to any judicial review by the Supreme Court of this nation."

Furthermore, the Constitution contemplates an indestructible
Union, composed of indestructible States, a system in which both the state and national governments retain a "separate and independent existence." Tennessee v. White, 700, 725 (1869); Lane County v. Oregon, 7 Wall. 71, 76 (1869).

According to these principles, the Supreme Court has recognized that the Tenth Amendment restrains congressional action that would impair "a State's ability to function as an autonomous political community." United States v. Long Island R. Co., 455 U.S. 387, 373 (1982); National League of Cities v. U.S. Postal Serv., 453 U.S. 707 (1981). See also City of Lafayette v. Louisiana Power & Light Co., 435 U.S. 389, 423-424 (1978). For example, in National League of Cities v. Usery, supra, the Court held that Congress could not prescribe the minimum wages and maximum hours of state employees engaged in "traditional governmental functions," id., at 852, because the power to set those wages and hours is an "attribute of state sovereignty" that is "essential to a separate and independent existence." Id., at 845 (quoting Lane County v. Oregon, supra at 76).

In 1981 the Supreme Court identified three separate inquiries underlying the result in National League of Cities, supra. Thus, in United Transportation Union v. United States, supra, the Court held that the federal statute involved here did not impinge on state sovereignty.1 See, e.g., United States v. Tower, 244-245 (2d ed. 1980); Friends, Federalism: A Foreword, 86 Yale L.J. 1019, 1034 (1977).

The Court stated that the fifty States do indeed serve as "separate and independent" political entities within the Federal Union. That "the States' independent existence," id., at 853, is one of the happy incidents of American democracy, driving the "new and various experiences of its own situation," id., at 856. As Justice Harlan once explained, our ancestors "were suspicious of every form of all-powerful central authority." Harlan, supra n.16, at 944. To curb this evil they both allocated governmental power between state and national authorities and divided the national power among three branches of government. Unless we zealously protect these achievements of American democracy, we risk upsetting the balance of power among three branches of government.

The Tenth Amendment was enacted to prevent the Federal Government from assuming certain state functions. While the Court has refined the interpretation of this provision, it remains clear that the Tenth Amendment restrains congressional action that would impair state sovereignty and state authority. The Supreme Court has stated that the Tenth Amendment is a cornerstone of American democracy: "It is incontestably true that the love and the habits of republican government in the United States were engendered in the townships and in the provincial assemblies...." (It is this same republican spirit, it is these manners and customs of a free people, which are engendered and nurtured in the different States to be afterwards applied to the country at large.) * A. de Tocqueville, Democracy in America 181 (H. Reeve Trans. 1961).

Citizens, however, cannot learn the lessons of self-government if their local efforts are not adequately valued and sup­ported by a far-away national legislature. If we want to preserve the ability of citizens to participate in local government, citizens must retain the power to govern, not merely administer, their local problems.

18203

As the foregoing examples will illustrate, one of the major justifications advanced for promoting a strong federalism derives from the dangers California where it was mandated that a state should be provided ample room for diversity (and thus experimentation) in both its substantive law and its procedural law. Indeed, the importance of allowing states to experiment in state law was noted early by the Supreme Court in Hurst v. Holsinger. 330 U.S. 584, 597 (1947).

"... the "novel" idea did not bear national fruit for another thirty years. (The Nineteenth Amendment, ratified in 1920, prohibited a state's ability to function as an autonomous political community.)..."

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The Tenth Amendment was enacted to prevent the Federal Government from assuming certain state functions. While the Court has refined the interpretation of this provision, it remains clear that the Tenth Amendment restrains congressional action that would impair state sovereignty and state authority. The Supreme Court has stated that the Tenth Amendment is a cornerstone of American democracy: "It is incontestably true that the love and the habits of republican government in the United States were engendered in the townships and in the provincial assemblies...." (It is this same republican spirit, it is these manners and customs of a free people, which are engendered and nurtured in the different States to be afterwards applied to the country at large.) * A. de Tocqueville, Democracy in America 181 (H. Reeve Trans. 1961).

Citizens, however, cannot learn the lessons of self-government if their local efforts are not adequately valued and supported by a far-away national legislature. If we want to preserve the ability of citizens to participate in local government, citizens must retain the power to govern, not merely administer, their local problems.
If bureaucracy takes over the trade union, if by some of its baser tendencies, suppresses subordination of values of local control, it is still possible to argue that the different can no longer speak of democracy.

The central government's representative runs the city and the province ... then you

Statute seeks to do would be to permit the concentration of its own criminal justice system. The justice systems require standards more appropriate to the needs of their jurisdictions, such as they deem proper.

It is not surprising, then, that this amendment is endorsed by the Nation's major law enforcement organizations, including the International Association of Chiefs of Police, the Police Executive Research Forum, the National Troopers Coalition, the National Organization of Black Law Enforcement Officials, and the Fraternal Order of Police, as well as the American Bar Association and the U.S. Conference of Mayors.

The amendment would not deny the rights of sportsmen, nor broaden the scope of Federal gun control law. It would only preserve an important provision in current law. The Nation's police officers have given this amendment their strong endorsement. I urge my colleagues to support it as well.

Mr. HATCH. Mr. President, I am prepared to yield back the remainder of my time, unless the distinguished Senator from Massachusetts desires to reply.

Mr. KENNEDY. Mr. President, I would like to ask how much time we have.

The PRESIDING OFFICER. The Senator has 15 minutes remaining.
Mr. HATCH. Yes. I am just stating what the law is, and there are three basic requirements: That all interstate sales of firearms including handguns must take place over the counter face to face. This allows the dealer to identify the buyer, and thus it prevents sales to felons and others prohibited from acquiring firearms. Second, all interstate sales of firearms, including handguns, have to be recorded in the dealer's records so that tracing can be readily obtained. Third, all interstate sales of firearms, including handguns, must comply with the laws of both the buyer's and the seller's States. The licensed dealer is legally responsible for knowing those laws. The Senator is correct in stating that the way he has. Those laws are printed in a Treasury Department manual distributed to all dealers. The dealer will be held accountable for any sales in violation of applicable State or local laws, and it is up to the Treasury Department to update those handbooks on a regular basis.

In fact, it is required in the act that they do so. Licensed dealers are familiar with the truth about these handbooks. They know how to use them. They know how to interpret the laws. Frankly, we believe that those are adequate protections under the circumstances. We do not think that the true sportsman should be hampered in his layed often by a year or more. They are made, unless the burden is one thing, but I do think the law enforcement officials, we will take a significant step backward in crime control.

Mr. HATCH. Mr. President, I draw the attention of my colleague, the distinguished Senator from Massachusetts, to section 108(1) of this bill which states that upon the enactment of this act the Secretary shall publish and provide to all licensees a compila­tion of the State laws and published ordinances of which licensees are pre­sumed to have knowledge pursuant to chapter 44 of title 18, United States Code, as amended by this act.

And it goes on from there to answer the distinguished Senator's question.

Now, the licensed dealers are willing to meet this burden, and it is little more than they have to do for long guns anyway. They are familiar with the manual. The Treasury Department is willing to keep the manual up to date and keep them informed. Frankly, it is not going to be the burden on the right to obtain handguns just because there may be an isolated case here and there which some people might find unfair.

Mr. KENNEDY. The Senator saying that if it conforms with what is actually produced by the Bureau of Alcohol, Tobacco and Firearms, it is going to be basically a defense? Because, as the Senator knows all too well, the BATF book of State and local regulations is always out of date—delayed often by a year or more. They are not timely. I would daresay from a casual review of the States which have any of the requirements we have outlined here, they are significantly out of date. A statement was made by the Senator from Utah about the timeliness and accuracy, but in going over those various provisions we found out that even in the States that were represented by the Judiciary Committee, no one except single instance they were not really accurate.

The only point, Mr. President, that I make, unless the Senator has more to add to it, that we are creating a very, very significant additional burden, a good deal of potential vulnerability, and a great deal of additional redtape for dealers. For some of the small communities, in particular small towns, which have not had any alteration made, or have not had this recordkeeping, those States laws and local ordinances are not up to date and keep them informed. Frankly, it is not going to be the burden on the right to obtain handguns just because there may be an isolated case here and there which some people might find unfair.

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Mr. MCCLEURE. Mr. President, I move to table the amendment, and I ask for the yeas and nays.

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

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the amendment. On this question the yeas and nays have been ordered, and the clerk will call the roll. The assistant legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Colorado [Mr. ARMSTRONG], and the Senator from Oregon [Mr. HATFIELD] are necessarily absent.

Mr. CRANSTON. I announce that the Senator from New Jersey [Mr. BRADLEY], the Senator from Louisiana [Mr. LONG], and the Senator from Illinois [Mr. SIMON] are necessarily absent.

The PRESIDING OFFICER (Mr. HATCH). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 69, nays 26, as follows:

[Rollcall Vote No. 139 Leg.]

YEAS—69

Abdnor
Abkins
Baucus
Bentsen
Bingaman
Boschwitz
Bumpers
Burdick
Byrd
Chiles
Cochrane
Coheh
D'Amato
Danforth
DeConcini
Dent
Dole
Donnelly
Durenberger
Eldoport
East
Eskon
Ford

NAYS—26

Biden
Boren
Chafee
Crandon
Dixon
Dodd
Evans
Gleln
Gorton

NOT VOTING—5

Armstrong
Blanche

So the motion to table amendment No. 509 was agreed to.

Mr. HATCH. Mr. President, I move to reconsider the vote by which the motion was agreed to.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 510

(Purpose: To amend the provisions regarding compliance inspections)

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Maryland [Mr. MATHIAS] proposes an amendment numbered 510.

Mr. MATHIAS. 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 14, line 24, after “CB” insert “for routine compliance inspections.”

On page 15, line 28, strike out “,” upon reasonable notice.

On page 15, line 1, strike out “notice.”.

On page 15, line 9, after “A)” insert “for routine compliance inspections.”.

On page 16, line 11, strike out “,” upon reasonable notice.”.

Mr. MATHIAS. Mr. President, this amendment would eliminate an unnecessary and, I believe, a harmful proviso of Senate bill 49 that requires notification before a routine compliance inspection of a dealer, manufacturer, or other licensee under the act. Without this amendment, Senate bill 49 would require enforcement officers to give dealers a reasonable notice—whatever reasonable notice may be—of an upcoming inspection.

The proponents of this requirement advocate it because they say the Bureau of Alcohol, Tobacco, and Firearms has been harassing legitimate dealers by conducting frequent, announced compliance inspections. The Judiciary Committee looked very carefully into this allegation and produced no compelling evidence to indicate that this is, in fact, the case.

However, if, in fact, it were the case, any concerns in this area are fully addressed by the requirement that is already contained in Senate bill 49—a requirement that is not touched by the language of this amendment—that compliance inspections can be conducted no more frequently than once a year.

Clearly, an annual inspection, whether it is announced or whether it is unannounced, cannot be considered to harass the honest businessman.

Currently, we permit announced compliance inspections of various kinds of businesses. Unannounced inspections of liquor distributors and retailers have long been part of both Federal and State regulation of that industry. In fact, the first public report I ever read was as the counsel to a license commissioner. And it was part of the warp and woof of that office that the commissioner would casually drop in on business establishments at all hours of the day and night. The fact that he might do so was anticipated by the licensee.

Similarly, the production of meat, of poultry, and of eggs is regulated by Government, and those regulations are enforced through routine compliance inspections, which are unannounced. The drug industry, the mining industry, for other examples, are treated in the same way. And this is accepted by the industries and expected by the public.

The Congress has long recognized that compliance inspections are critical to enforcement of Federal law. In the case of industries where evidence can be easily concealed or moved or altered, unannounced inspections are a significant deterrent to illegal behavior and a most useful tool in apprehending willful violators.

As Dr. Samuel Johnson, the great English moralist, observed over 200 years ago: “Nothing is so certain to a good conscience as the suspicion of being watched.” Yet, Senate bill 49 would abolish unannounced inspections of the records and inventory of Federally licensed firearms dealers when this amendment was offered. Senate bill 49 would severely restrict the effectiveness of Federal enforcement.

Prior notification would be of little importance to a legitimate firearms dealer. His records would not, of course, need change or alteration. His inventory would not have to be improved prior to the visit from Federal officials. Thus, the honest dealer would receive no benefit from the legislation.

However, the unscrupulous dealer or manufacturer would be given adequate notice and adequate opportunity to engage in what we might call creative recordkeeping, and the improvement of otherwise illegal inventory, in order to bring his business into temporary compliance and thereby to thwart lawful Federal enforcement.

The Supreme Court has specifically upheld unannounced inspections of licensed gun dealers under the 1934 law. Yet, Senate bill 49 would prohibit, and that this amendment would allow to continue. In the case of the United States versus Biswell, the Court stated that “Inspection is a crucial part of the regulatory scheme since it assures that weapons are distributed through regular channels in a traceable manner and makes possible the prevention of sales to undesirable customers and the detection of origins of particular firearms.”

A brief review of the facts in the Biswell case will show the kind of enforcement actions that will be prohibited by Senate bill 49 unless it is amended as proposed in the pending amendment. This review also indicates the type of dealer who will benefit from the prohibition.
Mr. Biswell has been federally licensed as a dealer in sporting weapons. One afternoon he was visited, unannounced, at his place of business by local policemen accompanied by a Federal Treasury agent who identified himself and conducted an inspection of Mr. Biswell’s books. The record discloses that the Treasury Agent then requisitioned (in the absence of the Mr. Biswell) a locked storeroom. Mr. Biswell at first refused, but the Treasury agent handed Mr. Biswell a copy of title 18, section 923(g) which authorizes such unannounced inspection and the Biswell, deferring to the majesty of the law, opened the storeroom.

There the Treasury agent found two sawed-off rifles which Mr. Biswell was not licensed to possess since he was a licensed dealer only in sporting weapons. As a result, Mr. Biswell was convicted of violating Federal firearms law, and the Supreme Court, in upholding the reasonableness of the unannounced compliance inspection, upheld Mr. Biswell’s conviction.

If we were to enact, as I hope we will not, an amendment without the pending amendment, I wonder what would happen to someone who was placed in the position of Mr. Biswell. I would like to leave Mr. Biswell himself out of it, but I think as to every other agent who might have done or not have done had he had some prior notice of the inspection which resulted in his conviction. But some other dealer in sawed-off weapons would not have been so taken by surprise.

The notice provision will assist the dealer comply with the requirements of the Bill. It is that its purpose is solely to instruct the dealer in this process. Clearly, this provision of S. 49 will promote the flexibility and cooperation between the regulated and the enforcing agencies. Even if there would be no sawed-off rifles to be found by the Federal agent, and the dealer’s business was shining and swept and everything was in order, there would be no sawed-off rifles to be found by the Federal agent, and the dealer’s business would be still in order for the compliance inspection.

Now, the very next day this hypothetical dealer would be able to restore the illegal weapons to the inventory, safe in the knowledge that he would always have adequate notice and adequate opportunity to remove them before the next inspection that would not take place under the law, until at least a year later.

Without the pending amendment, Senate bill 49 will cripple Federal enforcement of the law. Only the dishonest dealer will benefit from the pending amendment. But all of the American people will suffer because of the reduction in enforcement effectiveness. So I urge Senators to consider the effect of this provision of Senate bill 49 and to support the pending amendment to eliminate this undesirable feature, and to restore effective compliance and enforcement.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, a brief explanation of the inspections policy included in S. 49 should answer many of the questions posed by my colleagues. Under the current law, a dealer’s entire inventory and his record is subject to inspection at any time during business hours without prior notice. There are no restrictions on the number of inspections or on the use of information gathered during these inspections. Unannounced searches have become fishing expeditions for inadvertent recordkeeping violations.

In one instance, publicized by our hearings, several BATF agents conducted a thorough search of one dealer over a period of several days only to discover minor recordkeeping violation concerning a few pounds of black powder. Section 49 remedied some of these past problems by codifying the new practices of the BATF. Specifically, S. 49 provides employees at least two different inspection mechanisms for two different purposes.

I can distinguish these two types of inspections by labeling them loosely the warrant and enforcement searches. Compliance inspections, or courtesy visits, as they are sometimes called, are limited to one per year after reasonable notice, and information gathered in these annual routine inspections cannot be used to criminally prosecute the dealer unless the inspection discloses sales to prohibited persons or a willful recordkeeping violation. The reasons for these limitations on the courtesy visit is that its purpose is solely to instruct the dealer in the operation of the law and to help the dealer comply with technical recordkeeping requirements. Even these annual visits and notice restrictions do not apply, however, when Federal law officers are tracing fire on the basis of reasonable suspicion of violations by persons other than the dealer. The notice provision will assist both the Federal officers and the dealer in this process. Clearly, this provision of S. 49 will promote the flexibility and cooperation between the regulated and regulator that is essential to the success of this regulatory scheme. The compliance inspection must be distinguished from the enforcement search, and the enforcement search is conducted in the only restriction being those listed on the warrant issued by a judicial officer on the basis of reasonable cause. A dealer is always subject to searches conducted on this basis. If the Federal officers have reasonable cause to believe a violation of the law may be discovered in the dealer’s premises, they may obtain a warrant and conduct a full search in accordance with the terms of that warrant. Recognizing that S. 49 grants Federal officers access to records as often as is necessary to promote compliance and enforce the law, the Treasury Department states:

The administration would retain the notice requirement in connection with the compliance inspection as it would not otherwise be necessary.

So I think the bill addresses the concerns of the distinguished Senator from Maryland. Furthermore, the Secretary has full access to records for tracing purposes. In addition, the licensee is required by the bill to submit any records necessary for law enforcement to the Secretary of the Treasury. This bill will not hinder in any way enforcement of the law or the ability of the Treasury Department to trace weapons used in crime.

Mr. President, since the majority and the minority leader are down at the White House — so that all of our colleagues will not have to be in the Chamber, I will move that the vote on the amendment be set aside so that we can go to the next amendment with no vote occurring until 6:15. Maybe someone else would like to speak before I make the motion.

Mr. MATHIAS. I think we may have some further discussion on this.

Mr. HATCH. I will withhold that motion until the end of the day.

Mr. MATHIAS. The Senator from Utah has raised a valid argument that there may be harassment if there were unannounced inspections.

But I think it is worthy to note the opinion of Justice White, who, speaking for the majority, said that in the gun control context, "if inspection is to be effective and serve as a credible deterrent, unannounced, even frequent, inspections are essential."

I think that is the crux of this whole question. That is what is at issue in this colloquy. "If inspection is to be effective and serve as a credible deterrent, unannounced, even frequent, inspections are essential." That is Justice White speaking. That is the law enforcement point of view.

Under the bill, there is no possibility of frequent inspections. This amendment does not touch the question of frequency. If inspections can only be conducted with prior notice, then I suspect that they will have very little deterrent purpose and will have no value.

It is interesting to note that the court later stated in its opinion that, It is also plain that inspections for compliance with the Gun Control Act pose only limited threats to the dealer’s justifiable expectations of privacy. When a dealer chooses to engage in this pervasively regulated business and to apply for a Federal license, he does so with the knowledge that his business records, firearms and ammunition are subject to inspection. Each licensee is annually furnished with a
Mr. HATCH. Will the Senator yield?
Mr. MATHIAS. Yes, Mr. Kennedy. Will the Senator yield me 5 minutes?
Mr. MATHIAS. I do.
Mr. KENNEDY. Mr. President, I join in the amendment from Maryland for offering this amendment. He has given a very full and complete explanation of it.

What we are saying in this amendment, Mr. President, is that if we can, if we can permit unannounced inspections for animal welfare, for example, we should be more concerned in having similar inspections for some firearm dealers who are trafficking in illegal weapons, perhaps even for sale to the underworld, or for sale to those involved in drugs.

We permit this kind of inspection, as the Senator from Maryland has pointed out, in a number of different areas of public policy.

Why, Mr. President? It is because we think there is some worthwhile, useful purpose that can be served from such inspections. Certainly, it seems to me that in areas which involve life and death, in the trading and use of weapons, this is a reasonable, sensible, and responsible position to take.

In our earlier discussion, we found out that 83 percent of the children in our society who commit suicide each year are using small firearms. They are killed in terms of suicides are going right through the ceiling. None of us are saying if you put some kind of restriction, some kind of inspection, you are going to resolve that problem. But what we are saying is when you begin to break down the walls of any kind of control or any kind of legitimate inspections, effectively what we are saying is that the availability of these weapons, the use of these weapons, is going to become more significant and more pronounced.

I think the amendment of the Senator from Maryland provides a very important service. We have seen those who have indicated support for this legislation say we are really basically tinkering with the current law just to eliminate the red tape, that we really want to preserve the various benefits of firearms legislation, to ensure the protection, safety, and security of the American people. Yet, we see time in and time out in this bill where we take steps that emasculate any kind of legitimate effort to control the proliferation of handguns.

I had a good opportunity to attend a conference with the Senator from Maryland just the past week in Geneva, where we heard about the proliferation of nuclear weapons, and we heard the President talking about the dangers of nuclear proliferation. No one knows more about that issue than the Senator from Maryland.

But what about the proliferation of weapons here in the cities and in the rural areas of this country that bring death and destruction, just as surely as the explosion of nuclear weapons? Mr. President, in terms of the individual who is dead?

We have, without the acceptance of this particular amendment, just again tinkered with the basic laws of this country who are hurt by handgun crime, and the proliferation of handguns in our society.

They are the ones who are going to be affected and impacted by the continuing cutting away of any kind of sensible, responsible controls.

We are concerned sufficiently about liquor control in our society, so we permit unannounced inspections. We are concerned about the quality of animal welfare, so we permit inspection.

We are concerned about meat and egg production, so we permit inspection.

And in the fashioning and the shaping of drugs in our society, we permit inspection. There has been a solid record made by the health committees over periods of years why these inspections are so important in terms of safety of prescription drugs in our society.

But talk about handguns, Saturday night specials, snubbies, bullets, and school is out. School is out. The NRA wins again.

The PRESIDING OFFICER. The Senator's 5 minutes has expired.
Mr. HATCH. Mr. President, I do not quite know how to interpret the comments of my two esteemed colleagues. There is inspection under this bill. Let me list five inspections that the bill provides for and, hopefully, put this to rest.

There is the courtesy visit with a notice provision attached. That is No. 1.

No. 2, they can inspect any time they have reasonable cause and a warrant, without notice. If you look at the Biswell case, implied in that case is that they had reasonable cause to inspect, and they did.

No. 3, any inspection during a reasonable inquiry during the course of a criminal investigation may be had. There is just no question about that under the bill as it is written.

No. 4, a licensee may be required to submit all records necessary for law enforcement to the Secretary of the Treasury—at any time the Secretary wants to have these records submitted.

No. 5, law enforcement officials could come on the premises and inspect for tracing purposes any time they want to.
I fail to see where the concerns of our esteemed colleagues are not accommodated by the bill. They seem to say that, just because the law enforcement officials do not have an absolute right during a courtesy visit, they cannot enforce the law.

Mr. KENNEDY. WILL the Senator yield for a moment?

Mr. HATCH. I am delighted to yield.

Mr. KENNEDY. Could the Senator indicate where in the course of our hearings on this legislation, we heard what abuse took place, what pattern of abuses are taking place that there has to be this kind of change?

Mr. HATCH. I did cite the one instance in my opening remarks, which was publicized in the committee hearings, where several BATF agents conducted a thorough search of a dealer over a period of several days only to discover a minor recordkeeping violation.

Mr. KENNEDY. Is this the only example where, as I understand it, in response to my question, the Senator said there was an instance in the course of our hearings, where the BATF went in and found recordkeeping violations?

Mr. HATCH. As I understand it, the Senator raises two arguments: first, that warrantless surprise inspections are conducted a thorough search of a dealer over a period of several days only to discover a minor recordkeeping violation.

Mr. KENNEDY. Mr. President, I do not want to interfere with the Senator's presentation, but I daresay I hope that in the Senator's presentation he will give some additional examples. I followed some of those hearings and I just do not believe that case has been made. As a matter of fact, I did not believe that case has been made. Maybe I missed something during the course of the consideration of the matter, but I just do not believe that case has been made about the type of abuses which the Senator has outlined.

Mr. HATCH. Mr. President, let me give one other illustration that came up during the hearings. I understand there were other accusations and complaints being made. But I remember a case where there was a person being inspected before the inspection is conducted. That one inspection which would require reasonable notice is the routine annual inspection which is conducted on legitimate gun dealers with absolutely no showing of wrongdoing.

In support of his amendment, the Senator makes the points: first, that warrantless surprise inspections are constitutional, and second, that warrantless surprise inspections are conducted in a total of five other cases of federal law—only five.

Mr. MATHIAS. If the Senator wants more, we can give them to him, Mr. President.

Mr. MCCLURE. With respect to the question of whether the pending amendment is constitutional, let me say that it probably is. But this is not to say that it represents good policy. The question of whether a form 4473 is properly filled in is a considerably different question from whether a coal mine is about to collapse, or a drug or a milk product is adulterated. In the latter cases, a mistake by the miner or manufacturer could result in the loss of hundreds—perhaps thousands—of lives. Does anyone really believe that the recordkeeping inspections conducted by BATF involves issues of the same magnitude?

Second, I doubt that it is possible to provide a single example of an industry which is subject to the range of inspections and the magnitude of intrusion that is applied to the firearms industry.

For example, are there four different types of inspections which the Federal Government imposes on the coal industry? Or the liquor industry? Or the drug industry? I don't believe it.

Furthermore, I can assure the Senator that the seizure and forfeiture provisions applicable to guns are applied to no other industry in the country. There are only three cases in title 18 in which a property can be forfeited based only on the intent to commit a crime. They are: First, the possession of counterfeit plates; second, the possession of illegal drugs; and third, the drug industry.

But let me say that I strongly oppose efforts to pick and choose between the most onerous aspects of each Federal regulatory scheme, and apply only the strictest aspects of each Federal statute to the firearms industry. And that is what the Senator is attempting to do.

Mr. President, I would also respond to the Senator from Massachusetts who raised the question why the need for this provision. I can tell you why this provision is needed. It is because we have witnessed in the past several years widespread attempts by BATF to harass legitimate gun owners and collectors by constant surprise inspections, not once but twice, not twice but three or four times. This harassment has not just involved efforts to come in and look at records to see that they are in shape, but efforts conducted in a manner which disrupts business constantly. In New Hampshire, BATF went into a dealer's shop with surprise inspections on five successive days. They ultimately charged him for being 5 pounds over on black powder.

We have a history of abuse of the inspection provision under the existing statute. That is why many of the provisions in the McClure-Volkmer bill are there: because we are trying to correct a specific documented abuse in-
volving the over-intensive application of surprise inspections which are not legitimately required to protect the public interest, if that interest is simply to make certain that all of the records are being kept in the appropriate manner and look through the records to come into a legitimate dealer's office, without notice, even without this public interest, if that interest is cause to believe that the crime has been committed, you can get a warrant for human life and welfare.

Now, my good friend from Idaho has said that this is a question merely of looking for some form, some insignificant, minor form that may be improperly filled in. He says that that should not require the right to make an unannounced inspection, that that is not in the same category as a mine shaft that is inadequately structured. Nor, he says, is it in the same category as a dairy product that may be contaminated or meat that may be unwholesome.

But I would suggest to the Senate that we are talking about the question of human welfare. We are talking about questions of human life, of human health, or danger to human beings, whether it is in a mine shaft that is inadequately structured. Nor, he says, is it in the same category as a dairy product that may be contaminated or meat that may be unwholesome.

The fifth inspection that he mentioned is the access by the Secretary of Treasury to the records, and as to that, I would merely refer to the experience of Mr. Biswell. If the Treasury agent who visited Mr. Biswell had stopped his research after he had looked at the records, there would have been no Biswell case. It was only after he had looked through the records, I want to go into your storeroom that he found the illegal sawed-off weapons.

That one experience, although otherwise not proving anything, is adequate to indicate that the mere inspection of the records is not sufficient for law enforcement. That is why so many law enforcement officers around the country are supporting this amendment.

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The first he lists is the courtesy visit, which I do not believe is intended under any circumstances to be an inspection. It is what it appears to be. It is an advisory, educational experience for the enforcement officer and for the licensee. The next three of the so-called inspections that he mentions are, First, that which would follow the issuance of a warrant by an appropriate court; second, that which might take place in the course of a criminal investigation; and third, that which might result from tracing a firearm, presumably after the commission of a crime. All of these inspections require a threshold showing of some independent event that has occurred somewhere, sometime, someplace. The threshold event may or may not involve the license. It may or may not have some relation to the business or to the inspection. But a threshold has to be crossed before any one of those investigations can take place. That is hardly the kind of spontaneous, independent investigation that law enforcement officers want.

The fifth inspection that he mentioned is the access by the Secretary of Treasury to the records, and as to that I would merely refer to the experience of Mr. Biswell. If the Treasury agent who visited Mr. Biswell had stopped his research after he had looked at the records, there would have been no Biswell case. It was only after he had looked through the records, I want to go into your storeroom that he found the illegal sawed-off weapons.

That one experience, although otherwise not proving anything, is adequate to indicate that the mere inspection of the records is not sufficient for law enforcement. That is why so many law enforcement officers around the country are supporting this amendment.

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Mr. HATCH. Mr. President, I believe the distinguished Senator from Hawaii is here and prepared to start on his amendment.

I yield the floor.

AMENDMENT NO. 511

(Purpose: To apply a waiting period to the sale of a handgun except sales between licensed importers, manufacturers, dealers, and collectors)

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

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk reads as follows:

The Senator from Hawaii (Mr. INOUYE), for himself, Mr. METZENBAUM, Mr. MatsuNAGA, Mr. MAYS, Mr. KENNEDY, Mr. MOTTENBERGER, and Mr. KENNY, proposes an amendment numbered 511.

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

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

The amendment is as follows:

On page 10, lines 21 and 22, strike out “a new subsection to read as follows:” and insert in lieu thereof “the following new subsections:”.

On page 11, line 3, strike out the closing quotation marks and final period.

On page 11, between lines 3 and 4, insert the following:

(6) It shall be unlawful for any person to deliver any handgun to any other person after negotiating for the sale of such handgun to such person, before the expiration of the 14-day waiting period after the making of the payment for such handgun is received from the buyer of same, except that the delay period provided for herein shall not apply—

(1) When the chief law enforcement officer of the purchaser’s place of residence certifies, by notated statement to the seller, that the immediate delivery of the handgun to the buyer is, to his knowledge, necessary to protect against a threat of immediate danger to the physical safety of the buyer;

(2) When the purchaser provides proof that he has purchased another handgun within the previous twelve months and that the purchase has complied with the 14-day waiting period; or

(3) To transactions between licensed importers, licensed manufacturers, licensed dealers, and licensed collectors.

14-DAY WAITING PERIOD AMENDMENT TO THE GUN CONTROL ACT

Mr. INOUYE. Mr. President, the amendment that I send to the desk on behalf of myself and Senators Metzenbaum, MatsuNaga, Kennedy, MottNerger,
HAN, and KERRY provides for a 14-day waiting period between the time a sale of a handgun is negotiated and its delivery.

Under existing law, it is unlawful for a licensed dealer to knowingly transfer a firearm to convicted felons, fugitives from justice, drug abusers or addicts, mental defectives or persons committed to mental institutions, illegal immigrants, persons dishonorably discharged from the armed services, and former citizens who have renounced their U.S. citizenship. In what is characterized as a “law enforcement” amendment contained in this bill, this prohibition is extended to all persons. However, neither the bill nor existing law provides for any meaningful mechanism to determine that a purchaser of a handgun is not among these categories.

Today, in most States such persons legally prohibited from possessing a firearm can immediately obtain a handgun merely by signing a form which provides that he is not prohibited from obtaining such a weapon and showing some form of identification to verify his address and birthdate. Unless the seller knows or has reason to believe of a violation, he makes the sale based solely on the buyer’s statement.

mandatory waiting period is, of course, not a new idea. Fifteen States and many local governments impose waiting or registration periods ranging from 3 to 15 days. The adoption of this amendment would therefore only follow the foresight of jurisdictions from Alabama to Wisconsin. And while it is true that all States and localities are free to impose waiting periods, a Federal amendment would ensure national uniformity and reinforce the Government’s commitment to the enforcement of the law.

The widespread acceptance of this concept is due, I believe, to the fact that it is not a gun control measure as much as it is a law enforcement measure.

Virtually everyone who has studied the subject agrees that effective enforcement of existing laws and the punishment of those who violate them are, as, or more, important than weapons controls alone. A law provides neither the opportunity nor means for the enforcement of its simplest and most straightforward prohibition—that weapons shall not be sold to persons who we all agree should not have possession of them. Shopkeepers, salesmen, pawnbrokers, and private citizens are simply left to apply their judgment and understanding of the law based on what is probably a one-time face-to-face transaction.

Even those who may want or require more time, or assistance to conduct an investigation, are not provided a basis for doing so. And if a conscientious seller was to voluntarily offer a sale in order to learn more about the buyer, the handgun purchaser would only have to go elsewhere.

A mandatory waiting period will not keep handguns from the hands of all criminals and other prohibited persons. It will, however, provide law enforcement officials and others who are serious about enforcing existing law with an additional tool. I can see no reason why this too cannot, or should not, be provided.

It will not impose significant additional limitations upon an individual’s alleged right to bear arms. The waiting period would apply only to handguns. The sales of rifles, shotguns, and ammunition would remain unaffected. And while the waiting period would indeed delay the delivery of a handgun in most circumstances, such a delay constitutes only the most minimal intrusion upon any alleged right. Such minimal intrusions are constitutional and practically tolerated with regard to the exercise of virtually all of our recognized rights.

And when the issue is providing someone with an efficient and instantaneous power to kill, I cannot but believe that any burden imposed is far outweighed by our Nation’s interest in keeping weapons from the hands of the irresponsible.

The waiting period would not prevent someone from immediately obtaining a weapon if he or she requires it to protect against an immediate danger to physical safety. The amendment provides for a waiver of the waiting period upon certification of such a need by the chief law enforcement officer of the person’s place of residence.

The amendment would not delay transactions between licensed importers, licensed dealers, and licensed collectors. Existing Federal verification of their eligibility to purchase weapons makes the waiting period unnecessary. Commercial transactions between licensed dealers would therefore be unaffected.

The amendment would not place unwanted additional burdens upon local, State, or Federal law enforcement. No particular action on their part is required. The amendment merely provides them with an opportunity—an opportunity that they are requesting—to conduct checks or otherwise work to prevent prohibited persons from purchasing weapons.

Mr. President, I am not suggesting that a waiting period is a panacea for our Nation’s crime or handgun problem. However, I do believe that if we are serious about enforcing those few restrictions which do exist, the transfer of handguns, something leaving more than an “honor system” is required. The law enforcement community has identified a waiting period as an appropriate tool of enforcement. And if its application results in the commission of one less crime, or in keeping weapons from the hands of one less felon or drug addict, I believe the minimum inconvenience it would impose would be more than justified.

Available evidence indicates that handguns will be kept from far more than a handful of prohibited persons. For example, police in Palm Beach County, FL, credit a 7- to 14-day waiting period enacted last year as being partly responsible for a 200-percent decrease in the homicide rate in the first quarter of 1985.

Police in Columbus, GA, report that the city’s 3-day waiting period and background check catch two felons a week trying to buy handguns. And in law that took effect 6 months after the enactment of a 10-day waiting period in Broward County, FL, credit a 7- to 14-day waiting period enacted last year as being partly responsible for a 200-percent decrease in the homicide rate in the first quarter of 1985.
County, FL, 37 applicants for handguns were found to have past felony arrests or outstanding warrants. On the other end, the spectrum, police in South Carolina, which does not have a waiting period, estimate that 300 to 350 guns per year are sold to people who were found to have past felony arrests or are prohibited by the 90th Congress that own a handgun.

Finally, Mr. President, the proposed waiting period would provide a "cooling off" period which may deter the impulsive criminal or suicidal use of otherwise readily purchasable handguns.

No one here would sanction the sale of a handgun to a person who was enraged or despondent and because of his condition intended to put the handgun to immediate use. Yet, Federal law contains nothing to prevent or prohibit such a sale. A mandatory waiting period would at least have the effect of denying such a person immediate access to a handgun. It would not, and could not, prevent all crimes of passion or acts of self-destruction. It would, however, ensure that gun laws operate as a barrier rather than an accomplice.

The Broward County, FL, waiting period was enacted after two separate murder-suicides were committed using guns purchased on the day of the murder. I hope we do not wait to suffer more such tragedies before we act.

Mr. President, over 2 million handguns are manufactured annually in the United States. According to a 1981 Gallup poll, 91 percent of all Americans favor a 10-day waiting period to keep in these weapons from felons, drug addicts, and the like. The law enforcement community has urged us to adopt such a period, as has the Attorney General of the United States, in order to curb handgun crime. Neither any notion of rights nor practicality mitigate against the imposition of this reasonable restraint. I, therefore, urge my colleagues to vote in favor of the adoption of this amendment.

Mr. TRIBLE assumed the chair.

Mr. HATCH. Mr. President, the 1968 Gun Control Act contains a waiting period. The waiting period was limited by the 90th Congress to mail order sales. The 1968 act, Public Law 90-618, requires a 7-day waiting period for any sale where the buyer "does not appear in person at the licensee's business premises"—18 U.S.C. 922(c). During this waiting period, the licensee notifies local law enforcement officers about the sale to ensure that prohibited persons, such as convicted felons, do not acquire a firearm. Thus, in the instance of mail order sales, the 90th Congress provided a waiting period to prevent such sales to prohibited persons.

A national waiting period for all circumstances as proposed by this amendment, however, was not considered necessary by the Congress that enacted the 1968 Gun Control Act. The reason is quite simple. When sales are conducted face to face and over the counter at the licensee's place of business, there are already adequate safeguards against unwarranted sales. The dealer must make a record of sale, which makes tracing convenient, and the purchaser must establish his eligibility to purchase a firearm. Any knowing misrepresentations by the purchaser are punishable as felonies. In the minds of the 90th Congress and in fact, in practice, there was no need for additional delays for law-abiding citizens wishing to purchase a firearm. Thus, the amendment serves a reasonable purpose.

I, therefore, urge my colleagues to argue against this amendment, purchasers of handguns would be required to wait 14 days between purchase and delivery, which supposedly would allow local police authorities to check criminal and mental records in the hope of screening out prohibited buyers. The main argument is the States will have an opportunity—and I stress opportunity—to do a background check if they so desire. It does not provide for such a check. It merely is intended to give the States the opportunity. The argument is completely specious.

If a State, in fact, desires to have a background check, it can do so now simply by enacting such a waiting period and check as a matter of State law. The only areas which do not have such State waiting periods are obviously States which do not want the opportunity. Thus, the amendment serves absolutely no purpose.

I think the real rationale is something more, simply to serve as an inconvenience in those of our States—the majority, incidentally—which do not want such waiting periods. There is no basis to pretend that all the States, in fact, have the same problems or outlooks.

In some areas, crime may be less or need for prompt defense greater. Some of our States may find arguments unconvincing which others
States, flawed by the fact that, according to voted it down. The opportunity, and to their citizens who have provides such an opportunity to. This is an opportunity to systems which would result in their cause of their criminal record. The amendment is the supposed opportunity to criminals do not buy their firearms through legal commercial channels, particularly if there is a screening system which would result in their being denied a purchase of the gun because of their criminal record.

If pressed, the advocates of such laws acknowledge that active criminals will not go through the elaborate screening procedures we might enact, but the provision that have a positive effect by serving as a cooling-off period, thereby preventing normally law-abiding persons from impulsively buying a gun in the heat of anger and killing a loved one or themselves.

Again, Mr. President, the advocates substitute anecdotes for evidence. While we have all heard of individuals who rushed down to the local gunshop and immediately used it to commit murder or suicide, there are many thousands of transactions where this does not happen. In the hope of preventing that one tragedy, those other thousands of buyers are subjected to governmental procedures that have never achieved a statistically noticeable decrease in either the crime or suicide rates. Waiting period laws are of no moderate purpose.

Such a law is neither moderate nor a compromise. It includes major elements of both gun registration and licensing, the types of laws which Congress has repeatedly refused to enact with good cause. Waiting period laws are presently in effect in States and cities totaling about two-thirds of the Nation's population, including most of the areas with the highest rates of criminal violence. They were one of the types of laws examined for effectiveness in the $287,000 Wright-Rossi study of weapons and violent crime funded in 1974 by the Carter administration's Justice Department. That study found no evidence that any gun control law had reduced the crime or violence rates. The lead researcher, Prof. James Wright, of the University of Arizona, has stated that he began the study with a predisposition toward gun control but "We became less and less convinced that handgun bans and restrictive handgun laws can do anything to prevent crime." I urge Members to obtain a copy of that study.

Such screening laws do not work because they are easily evaded, either by the active criminal or by others. Persons with criminal records, knowing that they would be screened out by a background check, simply bypass such systems. The futility of the scheme is evident in the frequent proposal for the screening system to include a mental records check, though both privacy laws and medical ethics prohibit such records from being made available to the police. The presumed cooling-off benefit assumes that handgun buyers are first-time purchasers. On the contrary, one study has estimated that at least 80 percent of handguns are purchased by persons who own other firearms. Since the overwhelming majority of gun buyers own numerous guns, what possible purpose can there be for making them wait 2 weeks before obtaining another one? While the benefits to a waiting period law are imaginary, the social and financial costs to the taxpayers are real. A waiting period is no more burdensome than a firearms licensing law, since a firearms owner must go through the same procedure with the same multiple trips to the dealer's store, while police agencies must spend the same amount of wasted time and taxpayers' money investigating the background of the same person they may have approved repeatedly in the past. A Federal waiting period law in effect mandates local gun registration since information concerning the gun and its purchaser usually would be required to be given to local police. Despite such flagrant violation of privacy, once police agencies possess that kind of record, it is almost impossible to make them relinquish it.

Mr. President, I think it is useful to make a couple of comparisons about experiences to such waiting periods. I make reference to several States in which in 1965 had one waiting period. They extended the waiting period between 1965 and 1983. In California, GA, the 3-day waiting period and background check is catching felons every week trying to buy handguns, and in the last 5 years, the case of Mr. Hinckley, I am certain if there was a waiting period they would have found in the investigation that he was undergoing psychiatric treatment. Therefore he would have been prohibited from buying a handgun.

I just hope, Mr. President, that we will come to our senses and adopt this reasonable law enforcement amendment.

Mr. President, I yield time now to the distinguished Senator from Massachusetts.

Mr. INOUYE. Mr. President, just a few words of observation. It has been said by the opponents of this amendment that criminals do not risk purchasing guns from legal dealers. An rhetorical question was asked: "What criminals will go through the trouble of filling out forms?" Finally, the benefits of the waiting period are strictly imaginary.

As I tried to indicate in my opening remarks, these police officers have pointed out, for example, that because of the 14-day waiting period in Palm Beach County, FL, there has been a law enforcement measure effective in the first quarter of 1985; in Columbus, GA, the 3-day waiting period and background check is catching felons every week trying to buy handguns, and in the last 5 years, the case of Mr. Hinckley, I am certain if there was a waiting period they would have found in the investigation that he was undergoing psychiatric treatment. Therefore he would have been prohibited from buying a handgun.

Mr. HATCH. Will the Senator withhold?

Mr. INOUYE. Yes.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.
Mr. KENNEDY. Mr. President, just a few comments on this particular amendment. First of all, I want to commend the Senator from Hawaii for bringing this to our attention at this hour, because it gives us the opportunity to co-sponsor it. It is an issue which I think should be given as much attention as it has been in Connecticut, and I think it is an issue which should be given more attention.

As a matter of fact, back in 1982, the Senate Judiciary Committee, which gave full time and attention to this issue, accepted this very amendment by a vote of 8 to 5. So the Judiciary Committee that considered all of the arguments that we are talking about only briefly here this afternoon, considered the law enforcement implications of it, accepted it 8 to 5 in a bipartisan effort.

Still, we find that those who are supporting this bill still refuse to accept it. As a matter of fact, the majority leader of the U.S. Senate at that particular time supported this amendment, and sufficient was the argument that is being made this afternoon by the Senator from Hawaii, to support that amendment. I will welcome his support for this amendment this afternoon, as he supported it in 1982. I am sure the Senator from Hawaii will yield time to hear his support for the amendment he offered and supported in 1982.

Mr. President, I would like to just take a moment of the Senate's time to go back to 1968, when we were first considering gun control legislation. We made it a national policy; we did that. The reason we require them to do it is spelled out in the 1968 law.

It is self-evident as to the reasons why. Under the bill offered by the Senator from Idaho, it comes in without any law enforcement impetus. It is an issue which has been debated in the Senate Judiciary Committee on a previous occasion. As a matter of fact, back in 1982, the Senate Judiciary Committee, which gave full time and attention to this issue, accepted this very amendment by a vote of 8 to 5. So the Judiciary Committee that considered all of the arguments that we are talking about only briefly here this afternoon, considered the law enforcement implications of it, accepted it 8 to 5 in a bipartisan effort.

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In the name of reducing red tape for sportsmen and hobbyists, Senator McClure proposes to water down the 1968 prohibition on gun sales to out-of-state residents. The gun lobbyists contend that this “reform” would eliminate a great inconvenience for, say a New York hunter who damages his rifle while shooting elk in Utah; he could buy the replacement without having to return to New York.

But the McClure bill makes no distinction between legitimate gun enthusiasts and criminals intent on buying handguns who are frustrated by gun laws in their home states. It would permit any gun sale to nonresidents provided they appear in person and are qualified purchasers under the laws of both the seller’s and buyer’s jurisdiction.

The nation’s police and support groups of gun control are properly alarmed. The two-jurisdiction proviso would be virtually unenforceable. Who could possibly check to see that 200,000 gun dealers are obeying the laws of remote localities?

As police groups point out, it’s hard enough to enforce the ban on selling guns to felons, addicts and mental patients. Besides retaining the interstate prohibition, they argue, a 14-day waiting period to permit background checks of purchasers.

Senator Kennedy of Massachusetts is expected to propose an intelligent compromise to relax the interstate sales ban only for rifles and shotguns. It was endorsed last year by the Senate Judiciary Committee but left out of Senator McClure’s bill in the current session.

The Kennedy approach is noteworthy not only because it tackles the traveling hunter’s problem but because it suggests a lasting solution but because it suggests a lasting solution to the problem of gun control.

Another would close a terrible loophole in existing law that allows the importation of parts to make “Saturday Night Specials”—the handgun that criminals, not sportsmen, love to tote.

What more does any senator need to hear before joining to turn a bad bill into an important move against violent crime?

(Congressional Record/Senate, July 9, 1985)

CONTROL HANDGUNS TO STOP THE CARNAGE

Every week: on the average, 384 people are killed with handguns in the USA.

How do they die? In arguments that end in suicide, in murder-suicide and in sudden death. In accidents that end in tragedy. In bouts of depression that end in suicide.

The last two weeks have been typical:

In Rehobeth Beach, Del., two 16-year-old boys, best friends who spent all their spare time together, were fooling around. Robert Jordan found a .45-caliber pistol in his brother’s suitcase. Robert’s friend playfully pointed the gun at Robert—and shot and killed him.

In Youngstown, Ohio, a woman argued with her boyfriend outside a supermarket. She followed him inside, took out a pistol and opened fire—killing a 15-year-old boy who was helping his mother carry home the groceries.

In Los Angeles over the weekend, an ex­parishoner walked into a Baptist church in Chinatown and blasted away at the pulp­it with a .45, killing the deacon and an assistant pastor. The deacon’s worshippers hugged the floor in terror, an off-duty deputy killed the gunman.

The 1.3 million pistols in the USA. About 150,000 are stolen every year. In 1983, 9,000 people were murdered by handguns; another 1,000 were killed accidentally.

Congress made an effort to stop this car­nage in 1968, when it established a system of federally licensed firearms dealers. Next week, the Senate is scheduled to vote on a new law that would seriously weaken the few feeble federal gun control that do exist.

Instead of strengthening gun laws, Congress must act now: Require federal hand­gun registration. Require lengthy wait­ing periods. Require basic records checks before anyone can buy a handgun.

A properly written handgun registration law would not impinge on the legitimate rights of hunters, sportmen, and collectors to pursue their hobbies.

We will ever learn?

Let’s do what we can now to keep the guns out of the hands of the kids and the crim­i­nals and the crazies. If we don’t, then we’re the crazy ones.

Mr. DODD, Mr. President, I commend the Senator from Massachusetts for his comments. I have not risen earlier today to address myself to this particular issue but, since the Senator from Massachusetts has mentioned the act of 1968, I would be somewhat remiss if I did not rise, since it was my father who wrote the section in 1968 of that legislation which required a waiting period. We in Connecticut have a waiting period. We have had one for years and years. People who wish to purchase a handgun are re­quired to go in and fill out the forms. It is usually a wait of 5 or 6 or 7 days.

I always found in my State, when this issue has arisen, that hundreds of sportsmen and target shooters have had no difficulty whatsoever with a waiting period. None whatsoever. It has worked very, very well in our State.

We have no idea how many crimes we have prevented as a result of its existence. It is hard to prove a negative. But it has certainly been no hardship at all to have the minimum required, to ask people just to go through a very basic and simple check to determine whether or not they are competent, whether or not they have a valid reason for a result of convictions or drug addiction, to possess a firearm and the damage that they can cause.

The statistics, of course, as the Senator from Massachusetts has pointed out very adequately and eloquently, show the overwhelming numbers of deaths that occur as a result of crimes of passion, where, in that moment of passion, a person runs out and buys that handgun and the damage occurs. I recall, back in those days of the late 1960’s, that this body in those days felt very strongly that we ought to try to make someone as intelligent in the area of at least reducing the proliferation.

No one ever made an argument that this was going to wipe out crime or stop the determined felon from ac­quiring a handgun or go out and cause mayhem in our streets or in our own homes. No one of any intelligence ever made that argument in any way what­
soever. But to suggest that this is somehow a great burden, a great burden on the gun rights of law-abiding citizens. An opportunity would also be afforded for dealer's records to be available during the cooling off period. The amendment would not require notification of the purchaser's chief law enforcement officer. In mail order transactions the dealer's records are not readily available or accessible to the purchaser's enforcement officials.

The amendment was intended to complement the waiting period required in Section 922(c) of Title 18 of the United States Code. Since the enactment of the Gun Control Act of 1968, a 7-day waiting period has been required before a dealer could ship a firearm in interstate commerce to a purchaser. However, unlike section 922(c) this amendment would not require notification of the purchaser's chief law enforcement officer.

The amendment offered by Senator Inouye rejected the Kennedy approach and adopted my substitute. This year, Senator Kennedy reoffered the substitute that the Committee had previously approved. However, because of continuing criticism of interested sporting groups as well as other provisions of the Hatch substitute which improve capabilities of law enforcement officials to trace the ownership chain of guns that have been criminally misused, the Committee rejected the "cooling off" substitute. While the "cooling off" substitute is preferable to the original waiting period amendment, substantial questions remain as to the feasibility of an approach which would impose additional paperwork burdens on dealers and purchasers as a matter of federal law. Many states now have waiting period and background check provisions in their gun control laws. It may well be that this is sufficient.

Mr. HATCH. Mr. President, let me also mention again seven points relative to waiting periods:

First, criminals do not buy their guns through legal channels. A criminal is simply not likely to walk into a gun store, sign a 4473 form, and subject himself to scrutiny about his eligibility to purchase a firearm, which he may not do if he is a convicted felon. Waiting periods do not deter criminals from getting firearms used in crime.

Second, the Wright-Rossi study (University of Massachusetts), found that more than 80 percent of firearms used in crime were obtained through illegal channels, namely, street or purchased on the black market. They concluded that waiting periods and other gun control measures had not succeeded in reducing violent crime, according to available evidence.

Third, 34 States have considered and rejected a waiting period.

Fourth, waiting periods have not made New York, Washington, DC, or other locales any more safe.

Fifth, crimes of passion, according to voluminous police studies, occur between 10 p.m. and 2 a.m. and usually when the attacker is under the influence of alcohol. Gun purchases would be precluded by these circumstances.

Moreover, the statistics show these crimes are committed with the nearest available object: a knife, a club, or a gun. An impassioned killer does not take the time to shop for a gun before carrying out his impassioned act.

Sixth, 80 percent of handgun buyers already own another gun. This undercuts the chance that a waiting period could serve as a cooling-off time. It also shows that the major effect of this provision will be to encumber the firearms rights of law-abiding citizens.

One hundred twenty to one hundred forty million guns are owned in the United States, over half of all the households possess one.

Seventh, This amendment was rejected by the Judiciary Committee last Congress by a vote of 11 to 3.

Several States have been mentioned by Senator Inouye. I would like to take a few moments to respond:

First, the Senator mentioned South Carolina.

The Palmetto State has the honor of being cited by Senator Inouye for having lax gun laws and by Senator Kennedy for having stringent gun laws. In point of fact, the State's gun laws are tough on the criminal, with mandatory penalties for attempting to commit violent crimes, and that law has led to a 33 percent drop in the homicide rate between 1975 and 1983—comparable to the drops in other Southeastern States adopting such penalties.

Aside from that, police are notified after the transfer of handguns by dealers—so if there are problems, the police ought to have hard data to prove it—and only one handgun can be bought each month. But there is no waiting period and there is no background check.

The Senator also mentioned Palm Beach County, FL. It has been alleged that the number of murders fell 200 percent in Palm Beach County, which would suggest that a waiting period is effective. In fact, West Palm Beach had a waiting period for years and parts of Palm Beach still do not. The homicide rate in early 1984, before the county adopted a waiting period, was
very high, after being fairly low in the previous year; the homicide rate in the quarters since the waiting period have passed have varied, some were just like early 1984 and very high, and some were just like 1983 and lower. The waiting period did not reduce any of these crime rates. In Broward County, the adoption of a waiting period was almost immediately followed by a rise in handgun deaths, particularly the suicides of citizens to buy guns, and it was admitted that many of those whose applications were denied were rejected for arbitrary and improper reasons.

Mr. President, I yield such time as he may need to the distinguished Senator from Idaho.

Mr. McCONNELL. I thank the Senator from Utah.

Mr. President, I rise today in support of the bill introduced by the distinguished Senator from Idaho, and in opposition to the waiting period amendment offered by the distinguished Senator from Hawaii. I am convinced that the bill itself will significantly enhance the legitimate liberties, guaranteed by the Constitution, of firearms owners all across America. At the same time, the bill, I am convinced, will not endanger a single American who would not already have been endangered, and, on the contrary, will see to it fewer Americans will become the tragic victims of lawless violence. Consequently, I am compelled to oppose the amendment seeking to attach a 14-day waiting period to the bill. This 14-day waiting period will not serve its stated purpose. This amendment will not prevent criminals from acquiring firearms. It will not prevent the classic crimes of passion that proponents of the amendment claim it will. Rather, the waiting period amendment would add another obstacle to the already ready over-regulated lives of law-abiding citizens. To the extent that it would have any effect at all, it would deprive law-abiding citizens of their rights, of their liberties, and of their ability to protect themselves.

Mr. President, we should examine closely the premises upon which this amendment is based. When we do, I'm confident that we will find that the theoretical underpinnings of the amendment are ready to collapse.

For example, the notion that imposition of a waiting period will result in fewer crimes of passion, fewer homicides, and even a slight reduction in the incidence of violent crime is based upon the assumption that criminal acquires his weapon through legitimate gun dealers and law-abiding purchasers of guns will have absolutely no ability to protect themselves.

Nor will waiting or cooling-off periods reduce the incidence of the classic crimes of passion. All the evidence is that these crimes usually occur late at night or early in the morning, at times when legitimate gun dealers are not open for business. The evidence also suggests that these crimes are the product of alcohol or drug-induced rage, and are perpetrated with the aid of the closest weapon at hand. In many cases, the weapon is a firearm, but it might just as easily be a knife or a hammer. What is clear, however, is that the weapon is not a gun purchased on the spot in the heat of the moment.

Indeed, studies have demonstrated that the majority of crime is passed over a clearly identifiable build-up period. One study in the Kansas City area indicates that in some 90 percent of the cases, police had been called to intervene in prior domestic disturbances before the crime was committed. Obviously, a waiting period would be totally ineffective in so far as these situations involving patterns of domestic quarrels over an extended period of time are concerned. Thus, it is a simple fact that a waiting period would have little impact on the major problem it would be designed to combat. Conversely, a clear and undeniable relationship exists between the imposition of a waiting period and the ultimate level of violent crime.

Mr. President, let me also mention a particular unconvincing argument that has been made by proponents of this amendment. Some have suggested that a waiting period of the type offered here would lead to a reduction in the incidence of youth suicide, especially among our young people. I know that this suggestion has been made recently, in fact, by representatives of the American Association of Suicidology in testimony before the Subcommittee on Juvenile Justice, of which I am a member. Clearly, the problem of youth suicide is a tragedy, one that I am deeply concerned about, but to suggest that a waiting period on the purchase of handguns will result in a meaningful reduction in the incidence of youth suicide—the tragic response of an adolescent who has fallen victim to the pressures of seemingly insurmountable personal burdens—is to highlight the bankruptcy of the arguments made in support of the amendment.

Waiting periods do not stop suicide. They do not stop other violent crimes of passion, robbery or burglary. Most of all, they do not stop violent crimes committed by violent criminals bent on violating the law and the sanctity of our homes. One noted researcher at Duke University has found that “there has been no convincing empirical evidence that a police check on handgun buyers reduces violent crime.” Most felons and other ineligibles who obtain guns do so not because the State's screening system fails to discover their criminal record, but rather because these people find ways of circumventing the screening system. In short, they get the shot.

No, Mr. President, this amendment to impose a 14-day waiting period on the purchase of firearms will not prevent violent criminals from committing violent crimes. All the evidence tells us that it will not. But it will, without a doubt, prevent many innocent, law-abiding citizens of this great Nation from protecting themselves from those very criminals who will ignore, avoid, or otherwise circumvent the law. Some of these citizens may then become the defenseless victims of those very thugs the amendment is intended to reach, who will be armed not only with the firearms they illegally obtained but also with the knowledge that their victims will be unarmed and unprotected.

I recognize that the proponents of this and other amendments to the bill came with the best of intentions, but I would urge those inclined to support such amendments to consider carefully these and other facts presented here today. This is not the first time I
have considered the merits of legislation directed toward firearms owners. Indeed, while chief executive of Jefferson County, KY, the largest county in the State with a population of some 750,000 people, I rejected an ordinance that would have imposed a waiting period on the purchase of handguns. I did so because I was convinced on the facts, that such a waiting period would not have achieved the admirable goals of its proponents, and would have added needless, useless and divisive, hallucinatory limitations on the rights of law-abiding citizens to acquire and own firearms.

I urge my colleagues to oppose this waiting period amendment for the same reasons that in 1982, the Firearms Owners Protection Act, that would have the same effect.

Mr. President, I wish to make a few observations with regard to the whole waiting period issue. I suspect I am one of the few people in the Senate who uses the appropriate appellation of a police chief. I suspect I am one of the few people in the Senate who has had an opportunity to vote on a local ordinance providing for a waiting period. I want to rely on my personal experience with that waiting period issue from a local government perspective.

In my community, I was the county executive, the mayor of a county, and among my responsibilities was the responsibility to appoint a police chief, which I did. He was a very experienced fellow who had served in the detective division for a number of years and had also been in the patrol division, had come up through the ranks of the police department, and was considered the best police officer we had. After a shooting in one of the local bank branches, there was a great deal of interest in having a waiting period ordinance. One was introduced. At that juncture, I had no preconceived notions. I had no experience with a waiting period legislation and whether or not it would have an impact on crime. I went into it with a completely open mind and listened to the arguments on both sides. I have listened to the passionate arguments of the senior Senator from Massachusetts and others on both sides today.

My police chief came in and said the net effect of a waiting period ordinance would be to increase the number of firearms transfers among individuals and to reduce the number of firearms transfers from gun shops to individuals, thereby making it more difficult, not less difficult, to trace firearms that are used in the course of a commission of a crime.

Frankly, that was what I expected to hear from my own police chief, because I had heard over the years the arguments of all the various law enforcement officers supporting waiting period legislation. I have heard all of those cited again today. I know they support them. I just want to make the point that not everyone in the law enforcement community is unified in the notion that waiting period legislation will necessarily reduce the commission of crimes committed with handguns. I just wanted to make that personal observation of my own experience with that waiting period legislation.

I yield back to the distinguished Senator from Utah.

Mr. HATCH. Mr. President, I am delighted to yield such time as he may need to the distinguished Senator from Idaho.

Mr. McCLURE. Mr. President, I again thank the distinguished Senator from Utah for yielding. I take this time just to read a couple of answers to comments that have been made by people on the other side of the issue, one or two that spring from genuine emotion, but are typical of the misdirection which that emotion gives us.

It has been suggested that Mr. Hinckley's condition would have been discovered by a background check. Frankly, Mr. President, I am appalled at that argument. To the best of my recollection, and perhaps someone can refresh my memory, Mr. Hinckley had been under psychiatric treatment and there was a private physician-patient relationship that guarded the confidentiality of that condition. A 14-day waiting period in Dallas would have pointed out nothing with respect to that condition.

As a matter of fact, Mr. Hinckley also acquired two handguns in California, a State with a 15-day waiting period applying to all handgun transfers, whether through a dealer or not. The emotion may be correct. The facts are that the condition would not have been uncovered by a background check.

The vote on the waiting period amendment was 11 to 3. The reporting of the bill was unanimous.

Mr. President, I oppose this amendment for the strongest reasons.

There are a variety of amendments which have been offered to this bill and although most of them are, in the opinion of this Senator, ill-conceived, few are so anathema to America's gun owners that they would kill the bill. The pending amendment, however, would kill this legislation. Make no mistake about it: The adoption of this amendment will cause S. 49 to be pulled down, leaving the vote on this amendment as the pivotal gun vote of the 99th Congress.

The central compromise of the Gun Control Act of 1968—the sine qua non for the entry of the Federal Government in any form into the gun control discussion was this: Records concerning gun ownership would be maintained by dealers, not by the Federal Government and not by State and local governments. These records would be maintained by dealers—and by dealers only, except in extraordinary circumstances, such as when a dealer goes out of business.

This amendment would destroy that central compromise. And, as such, it would constitute a slap in the face for those gunowners who foolishly signed off on the 1968 act, with the expectation that the antigun movement would not immediately move to destroy the compromises which allowed the act to be passed.

The pending amendment would allow centralized police files containing the names of handgun owners. There is nothing in the amendment which provides for the destruction of
the lists of names after the cross-checks are made, and, in fact, I believe it would be foolish to assume that the names forwarded for cross-checks will not be maintained and computerized.

Once the names of all handgun owners are computerized, the Senators need to understand that there is no prohibition in the pending amendment which would prevent their being accessed by other law enforcement authorities.

In sum, Senators contemplating a vote against tabling this amendment should understand that their vote will be interpreted as a vote against S. 49; a vote in favor of firearms registration; and, an antigun vote.

Mr. President, we can all devise mechanisms which arguably would lead to more effective law enforcement. Mandatory minimum sentences for felony convictions would go further in that direction than any other measure we could enact, in view of the large percentage of violent crimes which are committed by persons who have previously been convicted of such crimes or who are out on bail. Such a measure would have no constitutional problems at all.

But, with respect to guns, Congress decided in 1968 to reject a system of centralized registration. To destroy that pivotal compromise at this time would kill this legislation.

Mr. MOYEUR. Mr. President, since the matter of Mr. Hinckley was brought up by the Senator from Hawaii and commented upon by those who oppose the amendment, I would just like to quote from an interview which was held about 2 years ago. This is the mother of Mr. Hinckley:

I just know that if it had been difficult, John Hinckley did not get the guns and this would not have happened.

And John Hinckley, Senior, the father of the man who attempted to take the life of our President, said:

Yes, if he had to fill out forms and come back twice through some sort of procedure that involved a great deal of effort, I don't think he would have got it.

I thank the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. McClURE. Mr. President, will the Senator yield briefly?

Mr. HATCH. I am delighted to yield to the Senator from Idaho.

Mr. McClure. Mr. President, I understand the statement of the distinguished Senator from Hawaii. The fact is, Hinckley did face a waiting period, did buy two handguns in California subject to a 15-day waiting period. The statement of his mother notwithstanding, this amendment would not have added to the difficulties that he faced in purchasing a handgun, nor would it have resulted in any criminal investigator discovering the fact of his psychiatric examination without a violation of the privacy of medical records between himself and his physician.

It has been estimated by the GAO that a background check, even a rudimentary background check, will cost approximately $50. If there are 2 million handguns per year purchased and each one receives just the minimum rudimentary background check, that is $100 million, and for what reason? To accomplish virtually nothing. Again, I hope the amendment is rejected.

Mr. HATCH. Mr. President, I have enjoyed the debate, but I agree with everything the distinguished Senator from Idaho has said. I might mention the administration has stated earlier that waiting periods for purchases of handguns should be a matter for the States and local governments to decide. The administration does not advise, nor do I believe that the law enforcement agencies, Justice and Treasury, do not either. I am prepared to yield back the remainder of my time if the distinguished Senator from Hawaii is.

Mr. HECHT. Mr. President, I rise in opposition to this amendment. Of the various amendments which we can expect to see, the disposition of this bill, few are so repugnant to America's gunowners that they would kill the bill.

The pending amendment, however, would, in my opinion, kill this legislation. Make no mistake about it: The adoption of this amendment would cause S. 49 to be pulled down, leaving the vote on this amendment as the pivotal gun vote of the 99th Congress.

The reason this amendment would kill the bill is clear: It would constitute a major step toward establishing a system of handgun registration which could be accessed nationally through systems which have been developed or may be developed by the Department of Justice and other law enforcement entities.

The central compromise of the Gun Control Act of 1968 was that records concerning gun ownership would be maintained by dealers, not by the Federal Government and not by State or local governments. By dealers only, except in circumstances such as the closing of a particular dealer's business.

This amendment would destroy that central compromise. It would allow centralized police files containing the names of handgun owners. There is nothing in the act which provides for the destruction of the lists of names after the cross-checks are made, and, consequently, I believe it is reasonable to assume that the names forwarded for cross-checks would be maintained and computerized.

Once the names of all handgun owners are computerized, the Senators need to understand further that there is no prohibition in this amendment which would prevent their being accessed by other law enforcement authorities.

There is simply no viable reason why citizens must register their name to participate in a constitutionally guaranteed freedom. As the Declaration of Independence states, these rights are God given, not government given. That distinction is important, because those who believe certain freedoms are bestowed on us by the Government, may also use the same rationale to restrict them.

This amendment carries the same theme which many other of the amendments to this bill contain: they impute intent to an inanimate object. Because the worst is feared, some would say that guns must be regulated regardless of whether constitutionally guaranteed freedoms are trampled. If the same line of reasoning were followed, regulation might next be considered necessary for a kitchen drawer full of knives.

This amendment has a litany of objectionable, and impractical features. First, because convicted felons are already prohibited from purchasing guns, the law applies only to law-abiding citizens who have no felonious criminal record. Further, the criminal who wanted to obtain a gun illegally could easily do so, with no waiting period.

Second, inherent in the amendment is the assumption that everyone is a criminal, or has, or will have, criminal intent.

Third, the amendment could increase victimization by delaying self-protection for threatened law-abiding citizens.

Fourth, it violates the purpose of the Gun Control Act of 1968 which states:

... it is not the purpose of this title to place any undue or unreasonable restrictions or burdens on law abiding citizens with respect to the acquisition, or use of firearms appropriate to the purpose of hunting, trapshooting, personal protection, or any other lawful activity. . . .

Fifth, it violates the purpose of this bill which is to:

... protect the firearm owners of constitutional rights, civil liberties, and rights to privacy. . . .

Mr. President, we can all devise mechanisms which arguably would lead to more effective law enforcement. Mandatory minimum sentences for felony convictions would go further in that direction than most other measures we could enact, in view of the large percentage of violent crimes which are committed by persons who have previously been convicted of such crimes or who are free on bail.

Finally, with respect to guns, Congress decided in 1968 to reject a system of centralized registration. To
destroy that pivotal compromise at this time would kill this legislation.

Mr. THURMOND. Mr. President, the question is whether there should be a waiting period before a purchaser is allowed to buy a handgun has been the subject of careful consideration by the Judiciary Committee in recent years. Last year, for example, we considered a similar proposal by a vote of 11 to 3.

While there are very strong feelings on the merits of such a waiting period, I believe the real issue is at what level this policy decision is to be made. It is my belief individual States, not the Federal Government, should decide this issue. It is for that reason that I oppose this amendment because it seeks a Federal solution to a policy issue best left to the States.

Mr. KASTEN. Mr. President, I rise in support of S. 49, a bill to protect the constitutional rights, civil liberties, and rights to privacy of firearm owners.

Our proper goal in considering any legislation affecting the public's access to, and use of, firearms is clear. We must aim at striking a careful balance, between the rights of law-abiding citizens on the one hand, and the pressing need for effective law enforcement on the other. I believe S. 49, as amended, meets this test.

S. 49 makes several useful changes in the scope of Federal regulations affecting firearms. These changes both protect the rights of individual gun owners and aid law enforcement, by making it clear that gun owners who only occasionally sell or repair firearms, or who sell all or part of their collections will not have to go through the cumbersome, time-consuming process of obtaining a Federal license. These changes will allow the Bureau of Alcohol, Tobacco, and Firearms to concentrate its scarce resources on those businesses who handle most of the gun traffic.

Another important change in current law made by S. 49 would permit individuals to mail legally owned firearms to a licensed manufacturer, importer, or dealer for repair, customization, or other lawful purpose. This change would not allow mail order sales of firearms by licensees to nonlicensees. Instead, it would remove an unnecessary and awkward impediment to legitimate commerce.

S. 49 also removes another needless barrier to commerce by permitting face-to-face sales by licensees to persons who do not reside in the licensees' State, so that the sales are legal in the respective States of both the buyer and seller. This eliminates the need for a collector, hunter, or other law-abiding citizen to go through the very complicated procedures required by current law. I am opposed to owning a rare or customized firearm from a licensed dealer in another State.

Finally, this bill clarifies existing law to allow the Treasury Department to revoke firearms licenses only in the case of willful violations of the law. This clarification represents a recognition that the paperwork required by the 1968 Gun Control Act is exceedingly complex; even the best-intentioned law-abiding citizens are liable to make inadvertent, technical mistakes. The need for effective and appropriate law enforcement dictates that the Government not spend scare resources prosecuting honest citizens who make mistakes, but the minority who operate in disregard of the law.

Mr. President, I have never believed that the rights of gun owners and the Government's responsibility to enforce the law necessarily need to be in conflict. S. 49, by removing many unnecessary restrictions on the lawful activities of honest citizens, protects individual rights guaranteed in the Constitution. I believe that S. 49 does this without jeopardizing the Government's ability to combat crime—by making the law safer, more carefully tailored. The thrust of the 1968 Gun Control Act, S. 49 enhances the Government's capacity to go after criminals. I urge my colleagues to approve this important legislation.

Mr. STEVENS. Mr. President, the Firearms Owners Protection Act is at long last coming before the full Senate for consideration. This is the most important piece of legislation for gun owners in this century. Since the passage of the Gun Control Act of 1968, the erosion of the right to keep and bear arms has been justified on the basis that rigid gun control laws will reduce the incidence of violent crime. However, the law has been ineffective. It has served to punish the law-abiding rather than criminals, and it has been implemented in a way that discourages gunownership.

S. 49 focuses on areas of regulatory abuse resulting from the Gun Control Act. An entire Federal agency spends a large portion of its effort in prosecuting and harassing gun owners for technical violations of the law. Our tax dollars will be applied more effectively if our law enforcement officials become more involved in detecting and arresting robbers, muggers, rapists, and murderers.

There are a number of amendments which will be offered to S. 49, most of which cloud the issue. For example, the imposition of waiting periods on the sale of firearms do not add any new utility. Proponents of this will continue to skirt an established screening process. The paperwork requirements and effort associated with waiting periods will divert personnel away from true criminals. This effort, even more troubling, is the efforts to make a distinction between handguns and long guns such as rifles and shotguns. If we exempt handguns from the changes being sought by S. 49, we would accept the premise that possession alone is a serious cause of violent crime. Criminals are responsible for the violence in this country. Making a distinction between handguns and other firearms serves to respect the constitutional right of citizens to keep and bear arms without deterring criminal behavior. It sets a dangerous precedent for future exclusion of other firearms classes.

Pervasive regulation is not the answer to the growing incidence of violent crime. The Gun Control Act has been in existence for almost 20 years, but crime has risen steadily. Our law enforcement efforts must be directed at deterring criminal behavior. Strong penalties are required to deter the use of firearms in Federal crimes. There must be an immediate response to acts of violence and treason. I believe the sponsored legislation which calls for death by firing squad when treasonous acts are perpetrated for monetary gain. Senator McClellan be should be commended for taking a stand on the use of firearms to commit crimes. The day career criminals begin to feel the full force of the law for their acts is the day that we can walk the streets in safety.

Mr. MOYNIHAN. Mr. President, I am pleased to support the amendment offered by my friend, Senator Inouye, to require a 2-week waiting period between the purchase of a handgun and its delivery. Such a waiting period, I am convinced, could save hundreds of lives taken annually by these firearms.

Congress passed the 1968 Gun Control Act in response to the assassinations of Martin Luther King, Jr. and Robert F. Kennedy, and wisely prohibited the sale of firearms to certain unreliable people—most notably, convicted felons, fugitives from justice, drug addicts, and mentally incompetent persons. However, the law, as now written, rather naively expects unreliable persons to refrain from trying to buy a gun, or assumes a gun dealer will recognize a customer's background to ensure that he or she is legally qualified to own a gun.

A 14-day waiting period would also provide potential gun purchasers a "cooling off" period. According to the FBI, a criminal who is a serial murderer committed with a handgun in 1983 followed directly from an argument. Far too often an individual, in the heat of passion, or suicidal despair, rushes to purchase a gun and use it to shoot himself or others. Anyone with a legitimate need to buy a gun will not be seriously inconvenienced by a 14-day waiting period.
The PRESIDENT PRO Temp. Mr. President, I move to make the proviso­
ions of the 1968 Gun Control Act more viable. The Nation's law enforce­
ment officers are nearly unanimous in their support for this amendment. I
strongly urge my colleagues to support it as well.
Mr. McCLEURE. Mr. President, par­
liamentary inquiry.
Mr. McCLEURE. Mr. President, I un­
derstand that all of the time on the Mathias amendment was yielded back.
Is that correct?
The PRESIDENT PRO Temp. Mr. President, that is
correct.
Mr. McCLEURE. And now all the time on the Inouye amendment has
been yielded back. Is that correct?
The PRESIDENT PRO Temp. There
remains 2 minutes. The Senator from Hawaii has 1 minute 38 seconds.
Mr. INOUGE. I yield back the re­
maining part of my time.
Mr. HATCH. I yield back all my
time.
The PRESIDENT PRO Temp. All
time has now been yielded back.
Mr. McCLEURE. Under the previous unanimous-consent agreement, would
it be my understanding that we would first move to the consideration of the
Mathias amendment and then the vote with respect to the Inouye
amendment?
The PRESIDENT PRO Temp. The
Senator is correct.
Mr. McCLEURE. Mr. President, I move to table the Mathias amendment
and ask for the yeas and nays.
The PRESIDENT PRO Temp. Is
there a sufficient second? There is a sufficient second.
The yeas and nays were ordered.
Mr. McCLEURE. Mr. President, I ask
unanimous consent that it be in order at this time to move to table the
Inouye amendment, and I ask for the yeas and nays.

So the motion to table amendment No. 510 was agreed to.
Mr. HATCH. Mr. President, I move to reconsider the vote by which the
motion to table was agreed to.
Mr. BYRD. I move to lay that motion on the table.
The motion to lay on the table was agreed to.

Mr. BYRD addressed the Chair.
Mr. HATCH. Mr. President, I move to reconsider the vote by which the
motion to table was agreed to.
Mr. BYRD. I thank the Chair.
Mr. President, the majority leader is not on the floor at the moment. Per­
haps the distinguished assistant Republican leader can answer the ques­
tion—what is the program for the rest of the day, how many rollcall votes may be anticipat­
ed, what will be the program tomorrow, and beyond?

**SCHEDULE**

Mr. SIMPSON. Mr. President, on behalf of the majority leader, I express my colleagues that we will have one more rollcall vote this evening. That will conclude the activities of the day. That will be on final passage on this measure. Then, tomorrow we will have at 12 noon a live quorum to be followed by a cloture vote on the motion to proceed to S. 995 on the issue of South Africa. Rollcall votes will be expected throughout the day, in connection with that measure. That is the schedule for this day and for tomorrow.

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

Mr. SIMPSON. Mr. President, in addition, I say to the distinguished minority leader, we will convene tomorrow at 11 a.m. There will be special orders, and then at noon, we will go to the cloture action.

Mr. BYRD. I thank the distinguished assistant majority leader.

Mr. HATCH. Mr. President, I yield 30 seconds to the distinguished Senator from Idaho.

Mr. McClaURE. Mr. President, I ask unanimous consent that the distinguished Senator from California [Mr. Wilson], be added as a cosponsor of the bill.

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

Mr. HATCH. Mr. President, I yield 30 seconds to the distinguished Senator from Arizona [Mr. DeCONCINI].

Mr. DeCONCINI. I thank the Senator.

Mr. President, I compliment the distinguished Senator from Utah and the distinguished Senator from Idaho for the fine efforts they put forth here today.

I am extremely pleased to have this opportunity to vote in favor of S. 49, the McClure-Volkmer Federal Firearm Owners Protection Act. I have enthusiastically cosponsored the McClure-Volkmer bill throughout my tenure in the U.S. Senate and am pleased it is before the House of Representatives.

I am extremely pleased to have this opportunity to vote in favor of S. 49, the McClure-Volkmer Federal Firearm Owners Protection Act. I have enthusiastically cosponsored the McClure-Volkmer bill throughout my tenure in the U.S. Senate and am pleased it is being acted on now. It is my hope that, with early action by the Senate, the House of Representatives will move expeditiously to approve this necessary legislation.

The McClure-Volkmer bill will correct several flaws in the Gun Control Act of 1968, and will remedy other provisions of the act that have been repeatedly and consistently abused by the Bureau of Alcohol, Tobacco and Firearms (BATF). The remedial provisions incorporated in this legislation are long overdue. Hearings that I held in 1979 and 1980 in the Treasury Subcommittee of the Committee on Appropriations revealed a consistent pattern of harassment at legitimate gun dealers by the BATF. These hearings demonstrated the tremendous need for legislation such as the McClure-Volkmer bill which will offer protection for law-abiding gun dealers and gun-owners without in any way threatening the rights of the people.

The McClure-Volkmer bill does not allow the mail-order sale of handguns. The bill does not provide for the sale of firearms by unlicensed pawnshops. S. 49 does not overturn State laws prohibiting or restricting firearms sales or possession, except in the very limited instance of interstate transportation through a State of an unloaded inaccidental firearm.

S. 49 will restore the constitutional rights of firearms owners and dealers by:

First, permitting licensed importers, manufacturers, and dealers to conduct business at gun shows.

Second, setting out procedures for the storage with GSA and BATF for the records of out-of-business dealers.

Third, spelling out some of the information-gathering procedures for tracing firearms and precluding criminal charges based solely on information provided under those procedures.

Fourth, requiring certain reports relating to multiple sales of pistols and revolvers.

Fifth, applying a knowing state of mind with respect to some offenses and a willful standard to others rather than the present absence of any intent standard.

Sixth, further clarifying what constitutes being "engaged in the business" of dealing of firearms by defining "with the principal objective of livelihood and profit."

Seventh, spelling out circumstances under which the inventory and records of licensed dealers can be inspected.

Eighth, establishing mandatory sentences for the use of armor-piercing ammunition in the commission of a Federal crime of violence; and

Ninth, providing for the seizure of firearms under limited circumstances where they were intended to be used in specified crimes, including crimes of violence.

Mr. President, today is a significant day for tens of millions of American gun owners. The bill we will pass today will assure the rights of citizens to keep and bear arms under the second amendment to the Constitution and their rights to security against illegal and unreasonable searches and seizures under the fourth amendment. I am pleased to have been a part of the effort to achieve passage of this legislation. I shall be pleased to report to Arizona's thousands of gun owners that the Senate has responded to their legitimate concerns and has passed the Firearm Owners Protection Act.

Mr. MATHIAS. Mr. President, will the Senator from Utah yield?
are concerned with the safety of their own officers and the general public.

S. 49. If enacted, would weaken enforcement of existing laws, prohibiting sales of guns to felons, the mentally ill, and others whose possession of a weapon presents a clear danger to society. Because I believe that such prohibitions must be vigorously enforced, in order to redeem our constitutional pledge to maintain domestic tranquility," I shall oppose S. 49.

Mr. DOLE. Mr. President, it was my hope that we could pass an amendment to the National Firearms Act which would tighten restrictions on the sale of kits used to convert semiautomatic weapons into automatics, either as a part of S. 49 or through the prompt passage of separate legislation. This issue was discussed extensively during the negotiations which led to the time agreement on S. 49 and I know it is a change that has broad-based support.

Unfortunately, because the National Firearms Act is a part of the Tax Code, we were advised that if the proposed amendment originated in the Senate, it would be blue-slipped back. As a consequence, we will be unable to address this issue in the context of S. 49 but I would repeat my strong support for amending the National Firearms Act to close this loophole as it applies to conversion kits and will make every effort to promptly pass a bill containing such a change should an appropriate vehicle become available.

MACHINEGUN AMENDMENT

Mr. HATCH. Mr. President, Senator Dole's efforts to clarify laws regarding machineguns would not be an amendment to the Tax Control Act of 1968, but amends the National Firearms Act of 1934. That is a significant point because it could encumber this bill procedurally in the House of Representatives. As the Act is under the jurisdiction of the Judiciary Committee, but the detailed tax and regulatory provisions of the 1934 Act fall under the Ways and Means Committee. I am aware that S. 49 is subject to the potentially fatal procedural obstruction of consideration in two separate committees, I commend the majority leader for dealing with this problem as a separate bill.

In furtherance of a separate bill, I have already participated in meetings with the majority leader and the Treasury Department. Since this subject can be treated in separate legislation, which has the full influence of the majority leader behind it, I commend this action.

Turning now to the amendment to the specific of this problem, the National Firearms Act pertains to machineguns, short or sawed-off shotguns and rifles, and so-called destructive devices—including grenades, mortars, rocket launchers, and other heavy ordnance. Acquisition of these weapons is subject to prior approval and registration by the Secretary of the Treasury. Generally, a one-time tax of $200 is placed on each transfer or manufacturing of a title II weapon.

The bill on which I have worked with the majority leader deals with kits which may be purchased for the purpose of converting semiautomatic firearms into machineguns or fully automatic weapons. The concern addressed by this proposal is that a conversion kit which does not contain all the parts necessary to make a conversion might not be covered by the provisions of the National Act.

My reading of current law indicates that these kits would be covered. The current definition of machineguns covered by the National Firearms Act is any combination of parts designed and intended for use in converting a weapon into a machinegun. A machinegun, by the way, is defined as any weapon "any combination of parts designed and intended for use in converting a weapon into a machinegun." A conversion kit, as defined by the bill, is designed to shoot more than one shot automatically with a single function of the trigger. Based on the broad definition of machinegun, which includes "any combination of parts...intended for use in converting a weapon into a machinegun," a conversion kit is already covered by the National Act. Even if the kit did not contain the total number of parts necessary to effect the conversion, it would still be a combination of parts intended for use in conversion. Therefore, it would be subject to the tax requirements of title II.

This is not the only way that this problem is already being addressed by the current law. As I mentioned earlier, a machinegun is defined as a weapon "designed to" shoot automatically. On the basis of design characteristics, the Treasury Department has classified at least four semiautomatics as machineguns because they were designed to be easily converted to fire automatically. These weapons, too, fall within the ambit of the National Act. Understanding this, I can grasp the significance of the Treasury Department's comment on this conversion kit amendment. The Department said, "current law may already regulate as machineguns the types of weapons and firearms parts that concern the proponents of the amendment."

Although amendment of the National Act to cover conversion would be unnecessary, I am still willing to add clarity to this point in current law. For this reason, I have been working with the majority leader and the administration on legislation with this objective. In the context of S. 49, however, I see this amendment as creating significant problems in the House. This amendment should not be added to a bill amending the Gun Control Act. There seems to be no problem requiring action at this minute. The current National Act seems to handle any potential problems in this area. Conversions to machineguns are being regulated now within the terms of the 1934 act. Amending S. 49 in this manner would make its approval in the House extremely difficult if not impossible.

Mr. EAST. Mr. President, I encourage each of my colleagues to vote in support of S. 49, the Firearms Owners Protection Act. The passage of this bill is of critical importance to our Nation's 60 million firearm owners, and the principles embodied in this legislation are of the utmost concern to all Americans who support the Constitution of the United States.

Today we debate an issue that was resolved by our Founding Fathers nearly 200 years ago. As we approach the Bicentennial of our Constitution in 1987, we should reflect upon the intentions of James Madison, Patrick Henry, Samuel Adams, and the rest of that courageous band of patriots who pledged their lives, property and sacred honor to found a nation dedicated to individual liberty. I am saddened to report that, with regard to the right to keep and bear arms, we have not honored their most deeply held beliefs.

One of the grievances that sparked our forbearers' flight for independence stemmed from British attempts to confiscate their private arms. Despite the guarantees of the English Bill of Rights of 1689, which included the general right of all citizens to retain arms for their protection, the British attempted to disarm the North American colonists in order to solidify political control over the Colonies. In Massachusetts Bay Colony, the cradle of our Nation, the Massachusetts Governor, General Gage, once the colonists were disarmed, British soldiers conducted raids and break-ins, illegal searches, and mass arrests, all in order to prevent the formation of a citizen militia. As former Chief Justice Earl Warren noted:

Among the grievous wrongs of which the colonists complained in the Declaration of Independence were that the King had subverted the civil power to the military; that he had quartered troops among them in times of peace, and that through his mercenaries he had committed other cruelties. Our War of the Revolution was, in good measure, fought as a protest against standing armies. Moreover, it was our civilian army, the militia, and its great Commander-in-Chief was a civilian at heart.

This experience with a governmental confiscation of arms led the colonists to write the guarantee that our Constitution would make it impossible to confiscate arms without the concurrence of the people.
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Mr. President, James Madison once warned that we should take alarm at the first experiment with our liberties. In my view, we should put an end to the most egregious experiments with the second amendment liberties of the American people by passing S. 49, the Firearms Owners Protection Act.

Thank you, Mr. President. I yield the floor.

Mr. DOLE. Mr. President, 6 years ago, the National Firearms Owners Protection Act was first introduced by Senator McCLEURE. Thanks in large part to his tireless efforts on behalf of the legislation, the Senate is finally passing this crucial bill. Senators HATCH and THURMOND have also contributed significantly over the years to building the consensus needed to secure final passage. Law-abiding gun owners, dealers, and manufacturers throughout the country owe these Senators a debt of gratitude for working so hard on their behalf to correct the abuses that occurred under the 1988 Gun Control Act.

As Senator McCLEURE stated on the Senate floor when he first introduced his bill on October 5, 1976: "The legislation was carefully crafted to correct a series of abuses without fundamentally altering the law which had led to those abuses." As we proceed to a final vote on this legislation, it is well to keep those last few words or phrases in mind. This bill does not permit everything from mall order gun sales to street-corner vendors peddling Saturday night specials as some have implied. The truth is this bill maintains the integrity of the 1968 act as it applies to illegal gun manufacture, sales, and purchases. What it will do is put an end to an unfair and unjust enforcement practices, bordering at times, on harassment, undertaken against law-abiding citizens which, if anything, have diverted scarce law enforcement resources away from tracking down and prosecuting the true criminals. It is sound legislation and I am pleased to have played a role in securing its passage as Senate majority leader.

Mr. President, though we may disagree on many of the issues, I would also like to thank Senators KENNEDY and MEZENBAUM for cooperating with us in proceeding to and passing this legislation in an orderly way. I would also like to thank Senator BIDEN for his help in working out the time agreement.

Finally, I would like to thank all the staff who have worked on this bill including Mike Hammond and Nancy Norell with Senator McCLEURE; Randy Rader with Senator HATCH; Steve Dil-lingham with Senator THURMOND; Jerry Tinker with Senator KENNEDY; Scott Green with Senator BIDEN; and Tradition Riddle Correla with Senator MEZENBAUM.

Mr. HATCH. Mr. President, when Congress enacted the Gun Control Act of 1968, its intent was to reduce violent crime, not to encourage prosecution of innocent firearm owners. The second amendment liberties of the people's right to keep and bear arms was so elemental, so obvious to the wise men an inalienable right... all believed that the son said, "the palladium of the liberties and arms was so elemental, so obvious to the public liberty. Suspect every one who approaches that "the framer of the Constitution in 1789 was the first line of defense for a free people.

The debate on whether Americans do have the right to keep and bear arms was a core issue in the 1787 Constitutional Convention. Fully 5 of the 11 States that originally ratified the Constitution in 1789 held an amendment relating to the right to keep and bear arms. The importance of the second amendment was demonstrated particularly in light of the fact that there were only five State proposals for a free press amendment and only three for a free speech amendment.

Thus, as a result of their firm belief that the right to keep and bear arms was the line of defense for a free people, the Founding Fathers guaranteed that right in the second amendment. Indeed, the fundamental importance of the second amendment to the scheme of liberty contained in the Bill of Rights was recognized by Supreme Court Justice Joseph Story when he described the right to keep and bear arms as the "mere recording of words could ever intrude upon the Constitutional recognition of the people's right to keep and bear arms as it was done in 1968." The mere recording of words could ever intrude upon the Constitutional recognition of the people's right to keep and bear arms as "the palladium of the liberties of the republic."

It is ironic that today we should be debating whether Americans do have the right to own and keep firearms. The debate on whether Americans do have the right to keep and bear arms was the core issue in the 1787 Constitutional Convention. Fully 5 of the 11 States that originally ratified the Constitution in 1789 held an amendment relating to the right to keep and bear arms. As a result of their firm belief that the right to keep and bear arms was the line of defense for a free people, the Founding Fathers guaranteed that right in the second amendment. Indeed, the fundamental importance of the second amendment to the scheme of liberty contained in the Bill of Rights was recognized by Supreme Court Justice Joseph Story when he described the right to keep and bear arms as the "the mere recording of words could ever intrude upon the Constitutional recognition of the people's right to keep and bear arms as "the palladium of the liberties of the republic."

The legislation before us is designed to redirect our firearms enforcement efforts away from technical recordkeeping violations and toward violent crime. This bill accomplishes that and deserves our support.

I ask unanimous consent to have printed in the Record an article from the Wall Street Journal of Tuesday, July 9, 1985, regarding this subject.

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

[From the Wall Street Journal, July 9, 1985]

ZEALOUS ENFORCERS TRIGGER RECONSIDERATION OF GUN LAW

(By David T. Hardy)

The Senate is expected to take up this week the so-called Volcker-McCleure Bill. It represents six years of effort to reform the 1968 Gun Control Act, the primary federal law affecting our 200,000 licensed firearms dealers and 80 million firearms owners and collectors. Hastily drafted in the wake of the Jonestown, U.S.A. scare, the original GCA was aimed at preventing felons and other unpleasant sorts from owning guns. Along the way it required persons "engaged in the business" of dealing in guns to obtain a license, required such dealers to maintain records of sales, and imposed felony sanctions, forfeiture of firearms and other sanctions on violators.

Enforcement agencies, like most organizations, seek to grow. Over the dozen years following enactment, the one charged under the GCA grew from an IRS subunit, with 214 agents, to a full Treasury bureau—Alcohol, Tobacco and Firearms—with 1,200 agents on gun-related duties. Such explosive growth required especially impressive results. Unfortunately for the GCA, though it opened the door to easy cases against unsuspecting person: With strict liability, even the most trivial and unintentional misstep would constitute an "engaging in the business" of gun dealing without a license. For variation, any technical recordkeeping error could be inflated into a felony offense.

Agents and informants had but to make a few purchases—all legal—from a collector, then stage him as if "engaged in the business" of gun dealing without a license. For variation, any technical recordkeeping error could be inflated into a felony offense.

The price for originality, however, went to the agents who located persons who...
had received a pardon and charged them with possession of firearms by a felon—Congress having forgotten to take account of executive clemency in defining "felon." The crop of arrests led to a great deal of heartburn later, when the citizens appeared before Senate committees to return the favors.

Among the dozens of cases described, a few stand out:

A Disabled veteran and Boy Scout leader who had registered a New Hampshire gun shop. A BATF informant made him a lucrative and illegal offer. Noting his auto-license number, the gun-shop owner called the BATF to urge prosecution. The bureau instead arrested the gun seller, claiming that one of his firearms was technically illegal. At his trial, his chief character witness was the very sheriff who had accompanied BATF on the raid. The judge dismissed the charges and apologized on behalf of the United States.

A former Maryland policeman who, as a French national, had earned his U.S. citizenship by volunteering for the Army during the Vietnam War. He was a collector who also held a dealer's license and was providing legitimate business having logged both his dealer's records some sales from his personal gun collection. At his trial, he proved that BATF had informed Congress that such a procedure was legal. The court, however, accepted the prosecution's argument that citizens had to stop using guns obtain a license. Many gun collectors, and we will use them instead to prose­cute murderers, rapists, armed robbers, and burglars.

Can the proper needs of law enforcement be reconciled with respect for individual rights? Yes, if policy makers concentrate on details and do not paint with a broad and dangerous brush. Volker-McClure represents exactly the type of detail work that is needed.

Mr. DURENBERGER. Mr. President, I support S. 49, the legislation offered by my distinguished colleague from Idaho [Mr. McClure].

The need for this legislation is well documented and its passage is long overdue.

The primary thrust of this bill is aimed at amending the Gun Control Act of 1968 to change its most onerous provisions and institute guarantees of gun owners' civil liberties which were omitted from the act. To understand how those guarantees were omitted, we should examine the historical background of the 1968 act.

What ultimately became the 1968 Gun Control Act originated in 1963 as a relatively modest measure to require police notification before mail-order firearm purchases. Over the following years, as the gun control controversy expanded, so did the proposed legislation. It finally came to the floor in 1968 in a politically charged atmosphere. Those who sought extensive Federal regulation of gun owners fought for registration and permit systems; those who opposed it primarily wanted, inserted piece­meal as the legislative battle seaseawed back and forth. No sooner was it en­acted, Federal Bureau of Investigation, Crime Control and Safe Streets Act—than a new push was started for amending the bill.

A second piece of legislation, entitled the Gun Control Act of 1968, was passed, which amended various provi­sions of the first bill, making it apply to rifles and shotguns as well as pis­tols, revolvers, and collectors' licensing system, among other things. The bill would redirect the law's focus away from law-abiding Ameri­cans' rights and increase the focus on genuine criminals.

Ms. S. 49 will also enhance the freedom of Minnesota's sportmen who enjoy traveling to other States for recre­ational purposes. State laws that prohibit the interstate commerce of fire­arms and ammunition would be nulli­fied, allowing travelers to transport un­secured and inescapable guns across State lines. And, interstate sales of firearms would be lawful as long as the transaction complies with the legal conditions of sale in both States, making it possible for the out-of-state
hunter to replace a lost or stolen rifle under certain conditions.

This initiative will protect the rights of dealers of weapons and ammunition by specifically defining a manufacturer and his activities, and by reducing Federal regulations with regard to innocent errors in recordkeeping.

Perhaps the provision I support the most in this bill, however, is that one which requires mandatory sentencing for persons convicted of using a firearm in the commission of a Federal crime, and makes stricter the penalties for repeat offenders. We must make it clear that anyone convicted of misusing a firearm is going to prison without exception. As most criminal justice studies demonstrate, it is the swiftness of apprehension and certainty of punishment that deters crime.

Opponents of the legislation have offered, among several amendments, one to impose a waiting period and another to ban snubbies or short-barreled handguns. The questions of what to ban or whether or not one ought to wait should be answered by State policymakers. Some States have adopted a waiting period. Others have rejected it. In April 1982, for instance, Maryland's legislature voted down an extension of its waiting period, and one of the major counties in Kentucky rejected a waiting period ordinance—Kentucky's legislature having earlier rejected a similar bill at the State level. There is no reason to override their decisions and impose a Federal statute to dictate local questions.

It is unfortunate that this bill has been misunderstood and characterized as "pro-gun." I do not view it as being pro- or anti-gun, but rather as a vehicule for protecting the rights of the law-abiding citizens while strengthening penalties for those who violate the law. The reforms set out in my colleagues' legislation are necessary steps to enforce the law. The intent of the 1968 Gun Control Act is for this reason that I am voting in favor of S. 49.

Mr. MATTINGLY. Mr. President, I rise in support of Senate bill 48, the Federal Firearms Owners Protection Act. This legislation is similar to an amendment offered to last year's continuing resolution which I supported along with a clear majority of my colleagues. As a cosponsor of the so-called McClure-Volkmer bill in both the 97th and 98th Congresses and of this measure, I am pleased that at last the Senate will have the opportunity to vote on legislation which is designed to protect the constitutional rights of gun owners and to remove unnecessary Federal burdens and restrictions on law-abiding citizens, while protecting and advancing legitimate law enforcement efforts.

For some years now, momentum has been gathering to reduce these burdens by imposing limits on the agen-

cies' tendency to regulate every activity. If anyone doubts the need for these limits, I suggest that he take a look at the U.S. Code and the Code of Federal Regulations. That comparison alone is enough to demonstrate to me is a disturbing fact—that administrative regulation far outweighs legislation in volume and in detail. This is disturbing, not because it is over, but because it is meant to work. It is not career bureaucrats but individuals elected by the people who are charged with the responsibility of creating the rules which govern the lives of our citizens. But bureaucrats and regulators increasingly have assumed this responsibility.

Gun owners have seen the danger of agency lawmaking. In the last seven years, for example, they were nearly forced into a computerized gun registration devised by an agency. Such a scheme was clearly not the intention of Congress, for Congress had rejected such a registration plan when it enacted the law. Fortunately, the regulation did not take effect, largely because firearm owners protested vocally in some 80,000 comments opposing the rule. Those sheer numbers have something to say to us today. They say that the law-abiding, gun-owning public realizes the danger of administrative lawmaking and chooses to resist it.

Senate bill 49 provides needed guarantees against similar incidents of regulatory overstepping in the future. It alters the existing grant of authority to a Secretary to make whatever rules he deems reasonably necessary to carry out the law. Under S. 49, regulations must be necessary as a matter of fact, not merely reasonably necessary as a matter of judgment. The deletion of the term "reasonably" narrows the boundaries of an agency's discretion, discretion which has been at times exercised in an abusive manner. The purpose of this clarification is to ensure that regulations are necessary to carry out the terms of the law and are in fact based on the law itself. In addition, the provision ensures that when the agency decides the least restrictive method of carrying out the intent of the law, S. 49 subjects the agency rather than the law-abiding citizen to stricter liability. This is as it should be.

Earlier I mentioned the computerized registration incident. The Federal Firearms Owners Protection Act specifically states that it is the intent of Congress that no registration system be established. This in no way will thwart law enforcement's investigation of criminal cases in the future. Record-turn in requirements remain as they are under current law. The fact is, S. 49 will enhance law enforcement. The measure codifies the Treasury's authority to get access to a dealers' records for the purpose of tracing weapons in a criminal investiga-
tion; it clearly states those classes of persons, including felons, the mentally incompetent, and drug abusers, who are prohibited from possession, receipt, transportation, or shipment of firearms, and it establishes higher penalties than those under current law for the use of a firearm in the commission of a felony.

This legislation, which has been the subject of numerous hearings and revision, is a balanced, reasoned approach to protecting citizens' constitutional rights while maintaining and furthering effective, legitimate law enforcement. I urge its adoption.

Mr. SYMMS. Mr. President, when we first considered the Gun Control Act of 1968, we were told that those localities with restrictive gun laws had less crime committed with firearms than areas with more lenient gun laws. Some of that data used to support the lawmaking and opposes it. The proponents of gun control would pick a city here or a State there. The total data base was from 5 or 10 cities in a handful of States.

The same thing is happening now. We were told that in Massachusetts, that they work in the District of Columbia, and that they work in the city of Chicago. We are not told that some of the cities cited in the past—those with less restrictive gun laws, such as Phoenix and Tuscon—are much safer than the District of Columbia or Chicago. Their homicide rates are well below half those of the cities with restrictive gun control laws. Finally, we are not told just what is meant by "gun control laws are working."

Since the 1976 adoption of the Bartley-Pfox restrictive gun law, Massachusetts has gone from the 19th to the 11th most violent. The homicide rate has basically mirrored the rest of the region—except that handguns are involved in 34 percent of Massachusetts' homicides, they are used in only 24 percent of Maine's, 19 percent of Vermont's, and 5 percent of New Hampshire's. As you can see, all those other New England States are significantly safer than Massachusetts. Moreover, studies conducted by the U.S. Justice Department have concluded that the gun law has not worked. The law didn't change the regulation of handgun acquisition or carrying, it merely punished those carrying without a license. And the impact has been negligible in terms of punishing criminals. Fewer criminals than ever are being imprisoned for carrying a weapon. Those few who are imprisoned now are more likely to be persons without serious criminal records while the real criminals make greater use of jury trials, technical arguments against evidence, or merely free on bail.
The only impact has been to increase the number of criminal trials which involve technicalities, or the number of trials which cannot be carried out due to flight from the jurisdiction. The criminal justice process has been increasing over three times as fast as the population, and even though handguns constitute a greater and greater percentage of the firearms market. Not only is the violent crime rate falling, but so is the firearms accident rate and the overall suicide rate.

In Canada, since adopting a tough gun law, the violent crime rates have been rising, and the suicide rate has been rising. I'm not sure exactly what "gun control" laws are supposed to do, but the evidence seems to associate these laws with increases in crime rates. I was under the assumption the goal was to reduce crime.

I think it's time we quit burdening the average law-abiding citizen with laws based on the premise that criminals get their guns through regulated channels—based on the supposition that the average citizen cannot be trusted.

The average citizen can be trusted, and that is the basis of American democracy. The data clearly indicates that the average citizen does not misuse his firearms. Violators of these laws get their guns through regulated channels—based on the supposition that the average citizen cannot be trusted.

The Wright-Rossi survey also shows that criminals in Massachusetts are less likely to be concerned about confronting an armed victim than are felons in other States. They are more likely to own handguns and to carry handguns regularly. Thus, the restrictive Bartley-Fox law has certainly not disarmed the criminal. Rather, it seems to have encouraged street robbery—the type of robbery most likely to occur when citizen self-defense is impeded by law.

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The Wright-Rossi survey also shows that criminals in Massachusetts are less likely to be concerned about confronting an armed victim than are felons in other States. They are more likely to own handguns and to carry handguns regularly. Thus, the restrictive Bartley-Fox law has certainly not disarmed the criminal. Rather, it seems to have encouraged street robbery—the type of robbery most likely to occur when citizen self-defense is impeded by law.
Mr. President, recent statistics published by the FBI, State, and local law enforcement officials, show that there has been a decline in the number of crimes committed in this country. I believe we will see additional progress made in this area with the implementation of the enforcement aspects of this bill. The sentencing provisions of this legislation will put out the notice that we are indeed serious in our commitment as a Nation to combat crime in the United States. The increased penalties make clear this commitment. This is a necessary step since the Comprehensive Crime Control Act of 1983 laid out the foundation for our renewed effort to strengthen our criminal justice system to combat the increased crime against our people and property. Sure and certain punishment as a direct response to criminal action has shown some positive results. Last year, I was pleased to report to the people of my home State of Indiana that the recorded crime rate in the United States Preliminary reports by the FBI for 1984 show a 3-percent decrease in crime as compared to the previous year. I would like nothing more than to be able to continue to make reports in the years to come.

Mr. President, I have one final point that I would like to make on behalf of this bill. There is a difficult balance which we are trying to achieve through these revisions in the Gun Control Act of 1968. We look to protect the rights of our citizens to be free of governmental constraints without ousting our commitment to the battle against crime in this country. I believe that this bill strikes a good balance in these vital interests. Critics have focused upon the first half of this equation, suggesting that people should not have the rights afforded under this legislation. We are a country populated by free men. It is a freedom which makes this country a great Nation. The citizens of this country have a right to be free in their persons and property. The fight against crime should not preclude this freedom. I will be voting in favor of S. 49 as a vote for the protection of our freedoms.

Mr. HIDEN. Mr. President, the subject of considering changes to the 1968 Federal Gun Control Act has been a topic of much debate in the Judiciary Committee for the past several Congresses. Last year alone it took the better part of four committee meetings and 6 months to finally agree on a compromise bill that was unanimously reported by the committee. As the ranking minority member of the Judiciary Committee I believe this issue has received careful scrutiny and this bill is a product of compromise and revision.

Mr. President, in the 97th Congress when this bill was introduced, I had major concerns that it would gut many important law enforcement provisions in the 1968 Gun Control Act. It was for that reason that I raised concerns about provisions that would make it possible for felons to gain access to guns and permit the interstate mail order sales of guns. The Treasury Department and some of my colleagues on both sides of the aisle raised similar concerns and there was agreement to offer substitute language to the original text of the bill. I give credit to Senator HATCH and the National Rifle Association for their willingness to compromise and develop a revised bill that would strike a fair balance between unnecessary restrictions and regulations on lawful ownership of rifles and handguns and the legal argument very carefully before deciding in carrying out their responsibilities. I believe the compromises that are now a part of this bill have resulted in a balanced piece of legislation that provides for the right of gun owners while not infringing on law enforcement's ability to deal with those who misuse guns or violate laws.

During my 12½ years as a Member of this body, I have never believed that additional gun control or Federal registration of guns would reduce crime. I am convinced that a criminal who wants a firearm can get one through illegal, nontraceable, unregistered sources, with or without gun control. In my opinion a national register or ban of handgun registration would be impossible to enforce and may not result in reductions in crime. There will be several amendments offered today that warrant close attention and I will listen to the authors' arguments very carefully before deciding how I will vote. However, on the whole, I am satisfied with the revisions to the bill made in committee, and I believe this bill makes improvements to try to curb crime.

Mr. SASSER. Mr. President, even before the ink was dry after the 1968 Gun Control Act was signed into law, many Members of Congress have second thoughts about the effects of their action.

That action amounted to a sweeping legislation attempt to curtail crime, political assassination, and social upheavals marked by extreme violence. In that climate of "Do something, do anything," firearms and the lawful owners of firearms were made scapegoats in a simplistic attempt to answer exceedingly complex human problems. Only the citizens caught up in the maze of the 1968 Gun Control Act can adequately and persuasively convey the effect this ill-conceived law has had on their lives. Their stories poignantly reveal the end results of a vague and complex law which impacts much more on law abiding citizens who happen to own firearms than it impacts on violent criminals. This Congress must provide, by reform of the Gun Control Act of 1968, protection for scores of Americans who would otherwise fall prey to the misdirected 1968 law.

Although it was touted as a measure to curb crime, the Gun Control Act does not deal, or even purport to deal, with misuse of firearms. It is purely and simply a regulatory statute designed to control the transfer of firearms and to make each transfer a federally recorded and federally controlled transaction. That is the importance of the statute.

That significance has been lost amid all of the rhetoric about the 1968 act and its companion statutes. The Gun Control Act of 1968 is not directed at misuse of firearms, rather it is a highly technical, strict regulatory scheme that thrusts burdensome recordkeeping requirements on all who choose to legally own or engage in the business of selling firearms.

Put another way, most provisions of the Gun Control Act of 1968 deal with regulatory crimes rather than violations of a criminal, moral nature. And whenever you are dealing with regulatory crimes—a wrong only because the law says it's wrong—you will have people who have no intention of breaking the law caught up in the technical maze spawned by the Gun Control Act.

Literally anyone can inadvertently become a victim of the technical requirements of Federal gun laws. Yet any and all violations of that act are felonies, subject to criminal penalties. Under its provisions, no matter how diligently one tries to comply, an innocent technical mistake will result in a criminal record.

Try, if you will, to conjure up any other statute or regulatory law which calls for criminal penalties to be levied for a recordkeeping error. And bear in mind that under the Gun Control Act of 1968, your motives, your intent, matters little.

The Federal gun law can be likened to Government imposed speed limits, artificial numbers set by lawmakers. It doesn't matter what your motives are: If you exceed the speed limit, you have violated the law, no matter how unintentionally. At least in this instance the motorist is given signpost commands every few miles.

However, the Nation's firearms owners and dealers have not been given clear, identifiable signals governing firearms transactions. Instead, firearms owners and dealers must obey the commands of a vague, ill-defined, and arbitrary law. And unlike the motorist caught in a traffic violation, subject to a fine, a citizen charged with a recordkeeping violation under the Gun Control Act is labeled a felon for life.
Mr. President, passage of the McClure bill—S. 49 will be a step in the right direction. It will redirect the law away from a regulatory preoccupation targeting gun dealers and other law-abiding citizens. For this reason, both the National Sheriffs Association and the Fraternal Order of Police testified in support of the bill in committee.

I urge my colleagues to join me in supporting this legislation and other recommendadations for change of the Gun Control Act of 1968 as contained in S. 49.

Mr. GRASSLEY. Mr. President, I want to commend the Bureau of Alcohol, Tobacco, and Firearms and the various private interest groups involved for working with us on crafting a reasonable reform to the Gun Control Act of 1968. That law had led to a number of abuses in the past by officials hostile to the right of law abiding citizens to own guns.

In the 97th Congress, I chaired four committee hearings where witness after witness testified that they had been treated as criminals when they committed technical bookkeeping errors related to firearms. Some of these people had, in fact, been found innocent. Instead of genuine justice, hostile government officials refused or unjustifiably delayed the return of firearms and other property seized for evidence against them.

The McClure-Volkmer bill alleviates many of the problems that exist in the present law. The bill eliminates the ban on interstate sales of firearms and thereby allows gun buyers to travel around for the best bargains. It permits gun dealers to conduct business with out-of-State residents as long as the transaction does not violate either State's laws. At the same time, this bill does not allow mail order handgun sales as some have feared. Nonlicensed persons cannot be expected to know the gun laws of every State and municipality and so the ban on interstate sales by these remains.

The gun tracing powers of the BATF are preserved and, at the same time, because of language that I commend BATF for agreeing to, the possibility of national gun or gunowner registration is forever banned without explicit congressional action.

This bill also defines "engaged in the business," which will preclude the present unwarranted prosecutions of gun collectors and hobbyists for legal gun sales.

This bill also cracks down on real criminals who use firearms while committing a felony. Unlike current law, where criminals are released through probation or parole, McClure-Volkmer imposes mandatory penalties where there is no probation or parole, nor release on any basis for the genuine gun-carrying criminal.

Therefore, Mr. President, I am pleased to be a cosponsor of S. 49, and I recommend an expeditious consideration and passage of this bill.

By request of Mr. DOLE, the following statement was ordered to be printed in the RECORD:

Mr. HATFIELD. Mr. President, the issues touching upon gun control are intensely emotional and highly political. Gun control advocates argue that studies, similar to a 1977 crime victimization report which indicated that handguns were the instruments of 10,000 murders and another 550,000 crimes of violence, point to the complicity of gun control advocates argue that there is no demonstrable evidence to support the claim that stricter gun laws reduce violent crime. For these reasons, Congress has been unsuccessful in enacting any meaningful change in the Gun Control Act of 1968, a law which has been widely criticized for punishing law abiding citizens who own, buy, or sell guns, while at the same time failing to provide the intended support to Federal, State, and local law enforcement officials in their fight against crime and violence. This bill, for example, represents the first major effort to address reported deficiencies in the 1968 act.

For many gun dealers and owners, enactment of the 1968 Gun Control Act has imposed burdens and restrictions on their rights to sell, purchase, and hold firearms which were not intended by Congress. The evidence seems to suggest that a disproportionate number of enforcement activities have focused on gun owners and dealers who have been charged and/or prosecuted for inadvertent and often technical violations of the act. Because of widespread confusion among gun dealers, collectors, and owners about the act's definition of being engaged in the business, individuals have had their collections or inventories confiscated and have been charged for selling firearms without a license. The overwhelming majority of these people were conscientious citizens who because they did not understand that the act's requirements has to pay a heavy price. Despite the fact that in many cases the charges were dropped or the person found not guilty, it was months and even years before the confiscated firearms were returned.

With passage of the 1968 act, Congress made it clear that it is not the purpose of Federal firearms laws to place any undue or unnecessary Federal restrictions or burdens on law-abiding citizens with respect to the acquisition, possession, or use of firearms appropriate to the purpose of—any lawful activity. Rather it is the purpose of such laws to provide support to Federal, State, and local law enforcement officials in their fight against crime and violence. S. 49 is an attempt to bring our Nation's firearms law in line with its stated purpose.

Basically S. 49 would:

First. Eliminate restrictions on the sale of firearms by licensees to out-of-State residents, providing the sale conforms to the laws of the States of both buyer and seller and that the transaction takes place face to face.

Second. Require that criminal intent be proved before individuals could be prosecuted for violation of Federal firearms laws.

Third. Clarify requirements for obtaining manufacturer, importer, and dealer licenses.

Fourth. Exempt ammunition dealers from the act's requirements.

Fifth. Restrict the right of inspection of licensees by Federal agents.

Sixth. Restrict the Treasury Department's authority to require licensees to report on records kept pursuant to the act.

Seventh. Prohibit the issuance of any regulations designed to create a central registry of firearms.

Eighth. Restrict the grounds for seizure for firearms involved in violations of the act.

Ninth. Provide the limited right to carry an unloaded, inaccessible firearm in interstate commerce from one State where possession is lawful to another where possession is also lawful.

Tenth. Permit dealers to sell guns at events sponsored by any national, State or local organization devoted to the lawful uses of firearms. Thus dealers would be allowed to sell guns at responsible, legitimate, organized gun shows where a Federal agent may easily visit and inspect to ensure lawful gun sales.

Eleventh. Close the present loophole in the 1968 act that prohibits the importation of "Saturday Night Specials" but allows the importation of other firearms.

Twelfth. Close the loophole in the National Firearms Act that allows individuals to bypass Federal restrictions on the possession of automatic weapons.

Mr. President, the high level of violent crime in our country is truly a national disgrace. It is estimated that in the United States one murder occurs every 25 minutes, one person is injured every 7 minutes, one robbery every 59 seconds and one aggravated assault every 49 seconds. I am horrified by these statistics and am committed to supporting legislation which protects the sanctity and quality of human life. My record is clear on this fact, and I will continue in my efforts to bring an end to violence both within and between nations, races, and families.

One of the questions before the Senate today is how best to decrease...
the number of handgun deaths in America. I have examined data from cities and counties which have implemented sweeping handgun control measures in an effort to reduce handgun deaths. At this time, I am not persuaded that handgun control legislation would provide the needed assistance to enforcement officials to reduce the number of deaths. However, I will continue to monitor all such data and reexamine my position should such evidence demonstrably point to a successful reduction in handgun deaths.

Additionally, I will continue to support legislative efforts to control the proliferation of "snubbies" and "Saturday Night Specials" now menacing this country. A major study conducted by Cox News Service in 1981 found that snub-nosed guns, both cheap and expensive, domestic and foreign made, were the overwhelming weapon of choice among modern criminals. Evidence from cities included that two out of every three handguns used in violent crimes were handguns with barrels protruding no more than 3 inches beyond the cylinder. Furthermore, the study found that historical records show that since 1835, 10 out of 15 assassins and would-be assassins have chosen extra-small pistols in their assaults on Presidents and other political figures.

Let me also make it clear, however, that my support of legislation to restrict the production or sale of "snubbies" will be predicated on a clear and precise definition of what kind of firearms are to be controlled. I will continue to oppose any definition which is too broad and may infringe upon the public's right to own and use legitimate handguns.

Mr. President, I supported and was a cosponsor of an almost identical measure to S. 49 introduced by the distinguished Senator from Idaho during the 98th Congress and I will support this bill today. As I stated before, this issue is a very emotional one and I commend all Senators involved in negotiations which have led to the Senate's passage of S. 49. In view of this bill's promise to provide for a 14-day waiting period on sales of handguns, the international community shared this concern. That is why they strongly supported the amendment offered by Senator Kennedy which would have retained the existing ban on interstate sales of handguns. The International Association of Police Chiefs, the Fraternal Order of Police, and the National Black Law Enforcement Executives' Association wrote to Members of Congress urging Members to vote to table the Mathias amendment, which would have eliminated the requirement that a reasonable notice be given prior to inspections.

However, the bill goes beyond the question of inspections. In the final analysis the bill will make it easier for individuals to cross State lines, often in order to avoid laws of their own States, to purchase "Saturday Night Specials," weapons which have no legitimate sporting purpose.

I can understand the desire of the Congress to ease excessive burdens on legitimate gun dealers. I can understand the Congress desiring to remove unnecessary impediments on the sale of rifles and long guns. But what I cannot understand is why the Congress would seek to increase the burdens on law enforcement officials by increasing the possibility that criminals will obtain "Saturday Night Specials"--for which there is only one clear purpose—a criminal purpose.

Members of the law enforcement community shared this concern. That is why they strongly supported the amendment offered by Senator Kennedy which would have retained the existing ban on interstate sales of handguns. The International Association of Police Chiefs, the Fraternal Order of Police, and the National Black Law Enforcement Executives' Association wrote to Members of Congress urging Members to vote to table the Mathias amendment, which would have eliminated the requirement that a reasonable notice be given prior to inspections.

The easing of these restrictions was made all the more unacceptable by the defeat of the amendment which would have provided for a 14-day waiting period for those who would purchase handguns. The waiting period was endorsed by many law enforcement organizations, including the Michigan State Troopers and the Chiefs of Police in Ann Arbor, Livonia, Warren, and Detroit, among other Michigan cities.

It is intended to keep handguns out of the hands of persons with records of violence or drug use. Mr. President, we need to assist law enforcement officers in their effort to reduce crime. That is why I am opposing this legislation.
Mr. HATCH. Mr. President, I ask for the yeas and nays on passage of S. 49. The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered. The PRESIDING OFFICER. Has all time been yielded back? Mr. HATCH. I yield back my time. Mr. KENNEDY. Mr. President, I yield back the remainder of our time. The PRESIDING OFFICER. The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is: Shall it pass? On this question, the yeas and nays have been ordered. The clerk will call the roll. The legislative clerk called the roll. Mr. SIMPSON. I announce that the Senator from Colorado [Mr. ARM- Strong] and the Senator from Oregon [Mr. HAYFIELD] are necessarily absent. I further announce that, if present and voting, the Senator from Oregon [Mr. HAYFIELD] would vote 'yes.'

Mr. CRANSTON. I announce that the Senator from New Jersey [Mr. BRADLEY], the Senator from Louisiana [Mr. LONG], the Senator from Illinois [Mr. DODD], and the Senator from Mississippi [Mr. STENNES] are necessarily absent.

The PRESIDING OFFICER (Mr. GRAMM). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 79, nays 15 as follows:

[Rollcall Vote No. 142 Leg.]

YEAS—79

Abdnor
Andrews
Baucus
Boren
Boschwitz
Bumpers
Burdick
Byrd
Chiles
Coehran
Cohn
D'Amato
Danforth
DeConcini
DeDenten
Dixon
Dole
Domenici
Durenberger
Eagleton
East
Evans
Eysen
Ford
NAYS—15

Chafee
Conrad
Dodd
Hart
Inouye

Armstrong
Hatfield
Bradley
Long
Simon

Kasten
Leach
Leahy
Logan
McClellan
McClellan

Matosuna
Petersen
Levin
Sarbanes

NOT VOTING—6

So the bill (S. 49), as amended, was passed as follows:

S. 49

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress finds that the rights to keep and bear arms are under the second amendment to the United States Constitution; that the rights to security against illegal and unreasonable searches and seizures under the fourth amendment; the protections against uncompensated taking of property, double jeopardy, and assurance of due process of law under the fifth amendment; and the rights against unconstitutional exercise of authority under the ninth and tenth amendments; require additional legislation to correct existing firearms statutes and enforcement policies. The Congress further finds that additional legislation is required to reaffirm these rights, as expressed in section 101 of title I of the Gun Control Act of 1968, that it is not the purpose of this title to place any undue or unnecessary Federal restrictions or burdens on law-abiding citizens with respect to the acquisition, possession, or use of firearms appropriate to the purpose of hunting, target shooting, personal or domestic protection, or any other lawful activity, . . . or "to discourage or eliminate the private ownership or possession of firearms by law-abiding citizens for lawful purposes."

TITLE I—AMENDMENTS TO TITLE 18, UNITED STATES CODE (18 U.S.C. 921-922)

AMENDMENTS TO SECTION 921

Sec. 101. Section 921 of title 18, United States Code, is amended—

(1) in subsection (a)(10) by deleting the words "manufacture of" and inserting in lieu thereof the words "business of manufacturing";

(2) in subsection (a)(11)(A) by deleting the words "or ammunition";

(3) in subsection (a)(12) by deleting the words "or ammunition";

(4) in subsection (a)(13) by deleting the words "or ammunition";

(5) by amending subsection (a)(20) to read as follows:

"(20) The term 'crime punishable by imprisonment for a term exceeding one year' shall not include (A) any Federal or State offenses pertaining to the sale, purchase, transportation, or use of firearms; (B) any violations of unfair trade practices, restraints of trade, or other similar offenses relating to the regulation of business practices; or (C) any Federal offense classified by the laws of the States as a misdemeanor and punishable by a term of imprisonment of two years or less: Provided, However, That what constitutes a conviction shall be determined in accordance with the law of the jurisdiction in which the proceedings were had. Provided further, That any conviction which has been expunged, or set aside or for which a person has been pardoned or for which the sentence has been suspended shall not be considered a conviction under the provisions of this Act, unless such pardon, expungement, or restoration of civil rights express provides that the person may not ship, transport, possess, or receive firearms; and

(6) in subsection (a) by inserting new paragraphs (21) and (22) after paragraph (20), to read as follows:

"(21) The term 'engaged in the business of' means

"(22) As applied to a dealer in firearms, a person who devotes time, attention, and labor to manufacturing firearms as a regular course of trade or business with the principal objective of livelihood and profit through the sale or distribution of the firearms manufactured.

"(D) As applied to a manufacturer of ammunition, a person who devotes time, attention, and labor to manufacturing ammunition as a regular course of trade or business with the principal objective of livelihood and profit through the sale or distribution of the ammunition manufactured.

"(C) As applied to a dealer in firearms, as defined in section 921a(1)(A), a person who devotes time, attention, and labor to dealing in firearms as a regular course of trade or business with the principal objective of livelihood and profit through the repetitive purchase and resale of firearms. The term shall not include a person who makes occasional sales, exchanges, or purchases of firearms for the enhancement of a personal collection or hobby, or who sells all or part of his personal collection of firearms.

"(D) As applied to a dealer in firearms, as defined in section 921a(1)(A), a person who devotes time, attention, and labor to importing firearms as a regular course of trade or business with the principal objective of livelihood and profit through the sale or distribution of the firearms imported.

"(F) As applied to an importer of ammunition, a person who devotes time, attention, and labor to importing ammunition as a regular course of trade or business with the principal objective of livelihood and profit through the activity involving firearms, including the sale or other distribution of the ammunition imported.

"(G) The term "with the principal objective of livelihood and profit" means that the intent underlying the sale or disposition of firearms is predominantly one of obtaining livelihood and profit, and not one that is distinguished from other intents, such as improving or liquidating a personal firearms collection.

AMENDMENTS TO SECTION 922

Sec. 102. Section 922 of title 18, United States Code, is amended—

(1) by amending subsection (a)(1) to read as follows:

"(1) As applied to a manufacturer of firearms, a person who devotes time, attention, and labor to manufacturing firearms as a regular course of trade or business with the principal objective of livelihood and profit through the sale or distribution of the firearms manufactured.

"(2) As applied to a dealer in firearms, a person who devotes time, attention, and labor to dealing in firearms as a regular course of trade or business with the principal objective of livelihood and profit through the sale or distribution of the firearms manufactured.

"(2) As applied to a dealer in firearms, a person who devotes time, attention, and labor to dealing in firearms as a regular course of trade or business with the principal objective of livelihood and profit through the sale or distribution of the firearms manufactured.

"(3) As applied to a dealer in firearms, as defined in section 921a(1)(A), a person who devotes time, attention, and labor to dealing in firearms as a regular course of trade or business with the principal objective of livelihood and profit through the sale or distribution of the firearms manufactured.

"(4) As applied to a dealer in firearms, as defined in section 921a(1)(A), a person who devotes time, attention, and labor to dealing in firearms as a regular course of trade or business with the principal objective of livelihood and profit through the sale or distribution of the firearms manufactured.

"(5) As applied to an importer of ammunition, a person who devotes time, attention, and labor to importing ammunition as a regular course of trade or business with the principal objective of livelihood and profit through the activity involving firearms, including the sale or other distribution of the ammunition imported.

"(6) As applied to a dealer in firearms, as defined in section 921a(1)(A), a person who devotes time, attention, and labor to dealing in firearms as a regular course of trade or business with the principal objective of livelihood and profit through the sale or distribution of the firearms manufactured.

"(C) As applied to a dealer in firearms, as defined in section 921a(1)(A), a person who devotes time, attention, and labor to dealing in firearms as a regular course of trade or business with the principal objective of livelihood and profit through the sale or distribution of the firearms manufactured.

"(D) As applied to a dealer in firearms, as defined in section 921a(1)(A), a person who devotes time, attention, and labor to dealing in firearms as a regular course of trade or business with the principal objective of livelihood and profit through the sale or distribution of the firearms manufactured.

"(E) As applied to an importer of firearms, a person who devotes time, attention, and labor to importing firearms as a regular course of trade or business with the principal objective of livelihood and profit through the sale or distribution of the firearms imported.

"(F) As applied to an importer of ammunition, a person who devotes time, attention, and labor to importing ammunition as a regular course of trade or business with the principal objective of livelihood and profit through the activity involving firearms, including the sale or other distribution of the ammunition imported.

"(G) The term "with the principal objective of livelihood and profit" means that the intent underlying the sale or disposition of firearms is predominantly one of obtaining livelihood and profit, and not one that is distinguished from other intents, such as improving or liquidating a personal firearms collection.
tomiting," and inserting in lieu thereof the words "licensed dealer, or licensed collector;";
(3) by amending clause (B) of subsection (a) of section 923 of title 18, United
States Code, by adding the words "licensed importer, licensed manufacturer, and licensed dealer," in
place thereof;
(4) in subsection (b) of the same section, by striking out "and" and inserting in lieu thereof the
words "licensed importer, licensed manufacturer, and licensed dealer," in place thereof;
(5) in subsection (b) of the same section, by striking out "in the course of a reasonable in-
hquiry during the course of a criminal investiga-
tion of a person or persons other than the licensee; or (B) no more than once in
applying this chapter to dispositions by a person other than a licensed manufacturer,
importer, or dealer in firearms or ammunition which had been shipped or trans-
ported in interstate commerce by a person other than a licensed importer, licensed manu-
facturer, licensed dealer, or licensed collector; and
(6) by amending paragraph (4) to read as follows:
(A) by inserting after the word "any" and before the word "person" the words "individ-
ual who is under indictment for a crime punishable by imprisonment for a term exceeding
one year to ship or transport in interstate or foreign commerce, any firearm or ammunition; or to
receive any firearm or ammunition which has been shipped or transported in interstate or foreign
commerce, any firearm or ammunition; and"
(B) by inserting after paragraph (4) the following:
(5) who, having been a citizen of the United States, has renounced his citizen-
ship; and
(6) by deleting the words "licensed importer, licensed manufacturer, licensed dealer," in
place thereof.
REPEALS
(1) by deleting from paragraph (5) of subsection (b) of the same section, the words
"should be unlawful for any person who is under indictment for a crime punishable by imprisonment
for a term exceeding one year to ship or transport in interstate or foreign commerce, any firearm or
ammunition; or to receive any firearm or ammunition which has been shipped or transported in inter-
state or foreign commerce," and
(2) by deleting the words "receive any firearm or ammunition which has been
shipped or transported in interstate or foreign commerce.".
AMENDMENTS TO SECTION 923
Sec. 103. Section 923 of title 18, United States Code, is amended—
(1) in subsection (a)(2), by striking out "who has renounced his citizenship;";
(2) in subsection (b), by striking out "in the course of a reasonable in-
hquiry during the course of a criminal investiga-
tion of a person or persons other than the licensee; or (B) no more than once in
applying this chapter to dispositions by a person other than a licensed manufacturer,
importer, or dealer in firearms or ammunition which had been shipped or trans-
ported in interstate commerce by a person other than a licensed importer, licensed manu-
facturer, licensed dealer, or licensed collector; and
(3) by amending paragraph (4) to read as follows:
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one year to ship or transport in interstate or foreign commerce, any firearm or ammunition; or to
receive any firearm or ammunition which has been shipped or transported in interstate or foreign
commerce, any firearm or ammunition; and"
(B) by inserting after paragraph (4) the following:
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ship; and
(6) by deleting the words "receive any firearm or ammunition which has been
shipped or transported in interstate or foreign commerce.".
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for a term exceeding one year to ship or transport in interstate or foreign commerce, any firearm or
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hquiry during the course of a criminal investiga-
tion of a person or persons other than the licensee; or (B) no more than once in
applying this chapter to dispositions by a person other than a licensed manufacturer,
importer, or dealer in firearms or ammunition which had been shipped or trans-
ported in interstate commerce by a person other than a licensed importer, licensed manu-
facturer, licensed dealer, or licensed collector; and
(3) by amending paragraph (4) to read as follows:
(A) by inserting after the word "any" and before the word "person" the words "individ-
ual who is under indictment for a crime punishable by imprisonment for a term exceeding
one year to ship or transport in interstate or foreign commerce, any firearm or ammunition; or to
receive any firearm or ammunition which has been shipped or transported in interstate or foreign
commerce, any firearm or ammunition; and"
(B) by inserting after paragraph (4) the following:
(5) who, having been a citizen of the United States, has renounced his citizen-
ship; and
(6) by deleting the words "receive any firearm or ammunition which has been
shipped or transported in interstate or foreign commerce.".
any twelve consecutive months, upon reasonable notice, but no criminal charges shall be brought against the licensee based upon such inspection except for willful violations of the recordkeeping requirements of this chapter or sales or other dispositions of firearms to prohibited persons; or (B) when such inspection or examination may be required for determining the disposition of one or more particular firearms in the course of a bona fide criminal investigation. The Secretary may inspect the inventory and records of a licensed collector without such reasonable cause or warrant (A) no more than once in any twelve consecutive month period, upon reasonable notice, but no criminal charges shall be brought against such licensee based upon such inspection except for willful violations of the recordkeeping requirements of this chapter or sales or other dispositions of firearms to prohibited persons; or (B) when such inspection or examination may be required for determining the disposition of one or more particular firearms in the course of a bona fide criminal investigation. TheArchivist may remove such records or other documents stored in a records center maintained and operated by the Archivist only in connection with proceedings in any court or any administrative proceeding of the United States or of any State. The Secretary may remove such records or other documents stored in a records center maintained and operated by the Archivist only in connection with proceedings in any court or any administrative proceeding of the United States or of any State.

(3)(A) Each licensee shall, when requested by the Secretary, and until notified to the contrary in writing by the Secretary, submit on a form specified by the Secretary, at the time specified in such letter, all record information required by this chapter or such lesser record information as the Secretary in his letter may prescribe. (B) The Secretary may authorize the information to be submitted in a manner other than that prescribed in subparagraph (A) of this paragraph when it is shown by a licensee that an alternate method of reporting is reasonably necessary and will not unduly hinder the effective administration of this chapter.

(C) No warrant shall issue nor shall any criminal charges be brought against the licensee based solely upon information provided pursuant to the provisions of this paragraph.

(5)(A) Each licensee shall prepare a report of multiple sales or other disposition whenever the licensee sells or otherwise disposes of, at one time or during any five consecutive business days, two or more pistols, or revolvers, or any combination of pistols and revolvers, or for more than two or more unlicensed persons. The report shall be prepared on a form specified by the Secretary and shall be filed with the Secretary on not later than the close of business on the day that the multiple sale or other disposition occurs. (B) Ten years after receiving any report submitted under subparagraph (A) of this paragraph, the Secretary shall deliver such report to the joint custody of the Archivist of the United States and the Secretary to be stored in a records center maintained and operated by the Archivist, subject to the provisions of section 923(g)(3) and (C) of this title. Notwithstanding any other provision of law, the Archivist shall dispose of the report in the records center under this section ten years after such records are received by the Archivist and the Secretary.

(C) No warrant shall issue nor shall any criminal charges be brought against the licensee based solely upon information provided pursuant to the provisions of this paragraph.

(7) by amending subsection (j) to read as follows:

(1) A licensed importer, licensed manufacturer, or licensed dealer may, under regulations prescribed by the Secretary, conduct business temporarily at a location other than the location specified on the license if such temporary location is the location for a gun show or event sponsored by any national, State, or local organization, or any affiliate of any such organization devoted to the collection, competitive use, or other sporting use of firearms, or an organization or association that sponsors events devoted to the collection, competitive use or other sporting use of firearms, or an organization or association, and such location is in the State which is specified on the license. Records of receipt and disposition of firearms transactions conducted at such temporary location shall include the location of the sale or other disposition and shall be entered in the permanent records of the licensee and retained on the location specified on the license. Nothing in this subsection shall authorize any licensee to conduct business in or from any motorized or towed vehicle.

Notwithstanding the provisions of subsection (a) of this section, a separate fee shall not be required of a licensed or of a business conducted under this subsection. Except for records directly related to receipts, sales, or other dispositions of firearms and ammunition premises within the period of time the licensed importer, licensed manufacturer, or licensed dealer at any location in the United States, including temporary locations, whether established for the purposes of determining from whom the collector sells or otherwise disposes of a firearm. Such collector shall not be required to submit to the Secretary reports and information with respect to such records and the contents thereof, except as expressly required by this section.

(2) Each licensed collector shall maintain in a bound volume the nature of which the Secretary may prescribe, records of the receipt, sale, or other disposition, of firearms. Such records shall include the names and addresses of any person to whom the collector sells or otherwise disposes of a firearm. Such collector shall not be required to submit to the Secretary reports and information with respect to such records and the contents thereof, except as expressly required by this section.

Within thirty days of the absolute discontinuance of the business of a licensee, any records maintained by such licensee under this chapter shall be delivered to the joint custody of the Archivist of the United States and the Secretary to be stored in a records center maintained and operated by the Archivist, unless State law or local ordinance requires delivery to another authority, in which event the Archivist and the Secretary may arrange for delivery to such authority.

(3) No warrant shall issue nor shall any criminal charges be brought against the licensee based solely upon information provided pursuant to the provisions of this paragraph.

Any licensed importer, licensed manufacturer, or licensed dealer under this section;

whoever-

knowingly makes any false statement or representation in applying for any license or exemption or relief from disability under the provisions of this chapter; shall be fined not more than $5,000, or imprisoned not more than five years, or both, and shall become ineligible for parole as the Board of Parole shall determine.
(A) makes any false statement or representation to the information required by the provisions of this chapter to be kept in the records of a person licensed under this chapter, or

(2) by amending subsection (e) to read as follows:

(1) Whoever, during and in relation to any felony, described in the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or section 1 of the Act of September 15, 1980 (94 Stat. 1159; 21 U.S.C. 855a), or any crime of violence, including a crime of violence involving or used in any knowing violation of subsection (a)(4), (a)(6), (f), (g), (h), (i), (j), or (k) of section 922, or knowing importation of or any possession thereof any firearm or ammunition in violation of section 922(1), or knowingly causes or allows any firearm or ammunition to be transported or transferred in violation of any provision of this chapter or any rule or regulation promulgated thereunder, or any violation of any rule or regulation of the criminal law of the United States, commits any firearm of ammunition intended to be used in any offense referred to in paragraph (2), shall be subject to seizure and forfeiture, and all provisions of the Internal Revenue Code of 1984 relating to the seizure, forfeiture, and disposition of firearms, as defined in section 884(a) of that Code, shall, as far as applicable, extend to seizures and forfeitures under the provisions of this chapter. Provided, That upon acquittal of the owner or possessor, or dismissal of the charges against him other than upon motion of the Government prior to trial, the seized firearms or ammunition shall be returned forthwith by the offender to the owner or possessor or to a person delegated by the owner or possessor unless the return of the firearms or ammunition would place the owner or possessor in violation of law. Any action or proceeding for the forfeiture of firearms or ammunition shall be commenced within the hundred and twenty days of such seizure.

(2) In any action or proceeding under the provisions of this chapter, the court, when it finds that such action was without foundation, or was initiated vexatiously, frivolously, or in bad faith, shall allow the prevailing party, other than the United States, a reasonable attorney's fee, and the United States shall be liable therefor.

(B) In any other action or proceeding under the provisions of this chapter, the court shall allow the prevailing party, other than the United States, a reasonable attorney's fee, and the United States shall be liable therefor.

(C) Only those firearms or quantities of ammunition particularly named and individually identified as involved in or used in any violation of the provisions of this chapter or the rules and regulations thereunder, or any other criminal law of the United States, or as intended to be used in any offense referred to in paragraph (2) of this subsection, where such intent is demonstrated by clear and convincing evidence, shall be subject to seizure, forfeiture, and disposition.

(3) The offenses referred to in paragraph (1) and (2)(C) of this subsection are:

(A) any crime described as that term is defined in section 924(c)(2) of this title;

(B) any offense punishable under the Controlled Substances Act (21 U.S.C. 801 et seq.) or the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.);

(C) section 922(a)(1), 922(a)(3), 922(a)(5), or 922(c)(3) of this title, where the firearm or ammunition intended to be used in such offense is involved in a pattern of activities which includes a violation of any offense described in section 922(a)(1), 922(a)(3), 922(a)(5), or 922(c)(3) of this title;

(D) any offense described in section 922(d) of this title where the firearm or ammunition is intended to be used in such offense by the transferor, owner, or possessor of the firearm or ammunition;
in this section shall be deemed to expand or restrict the Secretary's authority to inquire pursuant to a criminal investigation:,” and (5) inserting at the end thereof the following:

“(b) The Secretary shall give not less than ninety days public notice, and shall afford interested parties an opportunity to comment prior to prescribing such rules and regulations.

(6) The Secretary shall not prescribe regulations that require purchasers of black powder under the exemption provided in section 842(a)(5) of title 18, United States Code, to complete affidavits or forms attesting to that exemption.”.

TRANSPORTATION OF FIREARMS

SEC. 107. (a) Chapter 44 of title 18, United States Code, is amended by inserting between section 926 and section 927 the following new section:

“926A. Interstate transportation of firearms

“Any person not prohibited by this chapter from transacting any business or activity involving a firearm shall be entitled to transport an firearm notwithstanding any provision of any legislation enacted, or any repeals) made by this Act shall become effective one hundred and eighty days after the effective date of this Act, the Congress mends that consideration be given to presidential pardons submitted by persons for robbery or burglary, or both, such person shall be fined not less than $25,000, and imprisoned not less than ten years, and, notwithstanding any other provision of law, the court shall not suspend the sentence of, or granting a temporary sentence to, such person with respect to the conviction under section 922(p) of title 18, United States Code, shall not revoke such sentence imposed with respect to the sentence imposed under this subsection.

“(b) As used in this title:

“(1) ‘robbery’ means any crime punishable by a term of imprisonment exceeding one year and consisting of the taking of the person or the presence of another by force or violence, or by threatening or placing another person in fear that any person will imminently be subjected to bodily injury; and

“(2) ‘burglary’ means any crime punishable by a term of imprisonment exceeding one year and consisting of entering or remaining surreptitiously within a building that is property of another with intent to engage in conduct constituting a Federal or State offense.”.

Mr. HATCH. Mr. President, at the conclusion of this historic debate, I pause to express my deep appreciation to those who have been key to this bill to protect vital second amendment rights. First and foremost has to be Senator McClure, who is the author of the bill, who has worked many hours, days, months, and years to bring about these second amendment right protections. Without him, we would not have had the bill on the floor, and I personally express my appreciation to my colleague from Idaho. Senator Thurmond, who devoted tireless hours to hearings and markups in the Judiciary Committee, made this debate possible, and I think he deserves a great deal of credit. Senator Dole was key to the consideration in the Judiciary Committee last year and scheduled it as majority leader this year. I personally very much appreciate and admire the work in the Judiciary Committee were essential to this debate. For instance, Senators Kennedy, Biden, Laxalt, East, Grassley, and others.

On the floor, many others have given us their thanks to Congressman Harold Volkmer, who has for years championed this bill. We appreciate the work he has done, and we hope he feels good about this action today.

We received great assistance from the Reagan administration and the President himself. In particular, we should commend Deputy Assistant Secretary of the Treasury, Ed Steven- son, and general counsel at BATF, Jack Patterson.

Finally, I think we would be remiss to overlook those competent Senate staff members who have devoted years to amending and mastering our complex Federal firearms laws. Steve Ollingon, I, with Senator Thurmond; Scott Green, with Senator Biden; Mike Hammond and Nancy Norell with Senator McClure; Ed Correla, with Senator Metzenbaum, Sheila Bair, with Senator Dole, and last, but not least, my own staffer who has devoted many years of time and effort and expertise to this, Randy Rader. I personally thank him and express my appreciation for the support he has given me on this bill.

Mr. THURMOND. Mr. President, I am most pleased that this legislation has finally passed. It has been hanging around for several years. Senator McClure introduced this bill. We held hearings in the Judiciary Committee finally reported it out several years ago, but it never did pass the Congress. I commend him as the author of this bill for the hard work he has done in connection with it.

I should also like to commend the able Senator from Utah, the member of the Judiciary Committee whom I appointed to handle this bill on the floor of the Senate, for the skilled manner in which he has handled it. He is an able legislator and did a fine job. I also wish to express my appreciation to our able majority leader for scheduling this bill and the excellent cooperation he has given in connection with it.

The Judiciary Committee, I think, is to be commended, various members whose names I will not take time to call. The administration is to be commended and others who had a part in it. I think we have a splendid piece of legislation, and I hope it passes the entire Congress.

Mr. McClure. Mr. President, I know that what I am about to say will be repetitious of what has been said by the distinguished floor manager of the bill, but I cannot help but add my own words of appreciation to those who have made it possible for us to get to the point of passage of this legislation.

Congress, in 1968, passed what was then known as the 1968 Gun Control Law. As I said in my remarks earlier, the title itself says what is wrong with it because it focused attention on the object rather than the misuse of the object.

This bill today is indeed a firearm owner's protection act, but it is also a crime control bill, not a gun control bill. I wish to thank the distinguished Senator from South Carolina, the chairman of the Judiciary Committee [Mr. Thurmond], for his help not just today, not just this year but over the last 2 or 3 years as we worked to get this bill through the committee to the point where we could bring it to the floor where, as has been demonstrated today, it has overwhelming support. I, too, thank my distinguished colleague from Utah, the floor manager of the bill, a member of the Judiciary Committee without whose help it would have been impossible to get to this point.

Mr. President, as you know, there is a great deal of interest among the American people in this area and this bill represents a major step forward for a balanced approach to the problems of gun control.
I very much appreciate the steadfast support we have had and that I have had personally. In fact, it has taken us to get to this point.

Mr. DOLE. Mr. President, I will not take much time of the Senate, but I want to express my thanks to the distinguished chairman of the committee, Senator Thurmond, and to the co-sponsors of the bill, the Senator from Utah (Mr. HATCH) and the Senator from Idaho (Mr. McClure).

I recall discussing this matter less than 30 days ago with the Senator from Idaho, the Senator from Utah, and the Senator from South Carolina in my office and deciding that it was probably time to face up to this issue.

I believe that the overwhelming bipartisan vote indicates the support of this bill has had for probably longer than we would like to think about.

I must say that without the cooperation of Senator Stockman, who in the past has been on the fence or in the middle of the aisle who may have voted against final passage but, nonetheless, voted to give us a time agreement, and such organizations as Handgun Control, Inc., who worked with us to get time agreements on certain areas, we probably could have spent several days or a week or longer on this measure.

It is an effort that involved many Senators, including the distinguished Senator from Massachusetts (Mr. Kennedy), who has a different final view but was willing, with the Senator from Ohio (Mr. Metzenbaum) and others, to let us proceed.

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

Mr. DOLE. I yield.

Mr. McClure. I had intended to include a remark, a portion of which the distinguished Senator from Massachusetts (Mr. Kennedy), who has a different final view but was willing, with the Senator from Ohio (Mr. Metzenbaum) and others, to let us proceed.

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

Mr. DOLE. I yield.

Mr. McClure. I had intended to include a remark, a portion of which the distinguished Senator from Massachusetts (Mr. Kennedy), who has a different final view but was willing, with the Senator from Ohio (Mr. Metzenbaum) and others, to let us proceed.

Mr. DOLE. I underscore the cooperation we have had. The distinguished minority leader has been most helpful. We took care of a number of amendments on this bill prior to the recess, thanks to the minority leader, who worked out for us, and we were able to complete it today.

We have spent a number of hours on this bill, but it is very important legislation, and I believe there should be a clear signal to the House that there is strong bipartisan support. The 79-to-15 vote will indicate that there is a significant majority on each side of the aisle in support of this legislation. I urge my House colleagues not only to look at the vote, but also to look at the debate. There were a number of outstanding debates on this measure during the session today and prior to the recess.

So I am very thankful to my colleagues for asking me to push this legislation. We were pleased to schedule it. It has been a long time coming.

Again, I congratulate the managers of the bill, Senator McClure and Senator Thompson, and the distinguished chairman of the committee, Senator Thurmond, as well as all the staff who worked on it. We sometimes overlook the staff. We recognize each individual and appreciate their assistance.

DAVID STOCKMAN

Mr. DOMENICI. Mr. President, I wish to note the departure of the Director of the Office of Management and Budget, David Stockman, announced earlier today.

Obviously, he will serve the country and the President until the August recess. But today he formally announced that he will be leaving.

I have had the privilege of working very closely with Dave Stockman during what I consider to be his extraordinary term of office. He has served as Director of OMB longer than any person before him. The average term of office for an OMB Director has been about 18 months. Dave has served almost 9 years.

He has brought a great resurgence in the effectiveness of that office or agency during his term.

Frankly, seeing his workload and what he has had to do and what he has had to take, I think I understand why previous OMB Directors have served on average 18 months or less.

I believe that one can say without any fear of contradiction that Dave Stockman has done more to educate America, to educate Congress, and, yes, to educate the administration about the realities of Federal spending than any other man.

He brought to his job some very unique credentials, a combination of practical and analytical abilities that I believe have made him absolutely invaluable to the administration.

That does not mean that he has always recommended things that I approve of. It does not mean that he is not without controversy. But I actually believe that there can be little controversy about the fact that he knows what he is doing and he has been an excellent public servant.

I frankly believe without his work, his dedication, and his tireless devotion to his job, we would have made far less progress in our efforts to slow Federal spending and to educate Congress and the American people on the severe and serious dangers of spending money that comes to us from our people and represents their vital, sincere, and meaningful activities of life and to spend those for almost every-
thing without limit to the point where, instead of being free, we have grown dependent almost to the point where it becomes a blessing if that comes from the benevolent Federal Government.

Since I have worked closely with him for the past 5 years, I think I can say that without him many of the President’s fiscal policies simply would not have materialized.

I know of no one who has the depth of comprehension, the grasp of Federal spending and of the Federal budget as Dave Stockman.

I am constantly amazed by his knowledge and his uncanny ability to analyze the intricacies of the thousands of Federal programs that are now on the registry and part of the inventory of activities of our National Government. I think I can say that in the last 5 years I have seen him explain programs which had previously been understood, almost to the amazement of Senators and staff- ers who have listened and on some occasions where they have been on the committee of jurisdiction for the different programs for as long as 5, 6, and 10 years.

In addition, he has combined his knowledge of the small and microscop- ic parts of the budget with a sound understanding of the much larger picture of the impact of Federal spending and taxing policies on our entire economy. He has been a great help to me in all of our negotiations during the years and I wish him well in the future.

He will indeed be a tough act to follow. I think the administration will sorely miss him. I only hope—because my concern is about fiscal policy as it affects all our people—that whoever follows will indeed do as well as he in terms of understanding what this Na- tional Government’s programs are all about and be able to explain them carefully and lucidly to anyone that wishes to listen.

I repeat, I do not stand here today in praise of Dave Stockman, indicating that I agree with him on everything. I am sure the President has not indicated to him on everything. Sometimes I think maybe the President should have agreed with him on more things, but, nonetheless, that is for them to decide and he works for the President and has done a good job.

But overall I think he has set a high standard for that office. It will be very difficult in the years to come to find someone who can live up to that standard. In that respect, I hope his successor understands the danger of that job, not only with reference to its complexity but to the nature of the man that he succeeds.

Mr. President, I yield the floor.

SOCIAL SECURITY CUTS

Mr. RIEGLE. Mr. President, I just want to comment briefly, if I may, on the news coming out of the White House meeting this afternoon that cuts in Social Security that have been proposed are no longer on the table for negotiation in the effort to reduce the Federal budget. That is wonderful news for the retirees and senior citi- zens in this country.

There has been no justification for trying to cut the cost-of-living adjust- ments for senior citizens. The Social Security Trust Fund is in sound finan- cial shape. A promise was made in the last election by the President, when he was running, that there would be no cuts in Social Security. And so the news that the Social Security pro- posed cuts are off the table is very good news.

All of those who have been involved in the fight on the Senate side here on this side of the aisle, the majority leader and others on the Budget Com- mittee with myself who have fought very hard to protect Social Security, feel some very considerable sense of victory tonight with that news.

I hope now we can move on and find a package solution to the budget defi- cit problem, and hopefully before David Stockman leaves office. I think time is short for us to come up with a deficit reduction package. If it should continue to drift along until he leaves and a new person has to be brought in as Director of Management and Budget, I think it will make the job more difficult.

So I hope now that we could move with a new sense of urgency, now that Social Security has been set to the side, to deal with the remaining issues, come up with the best package we can, reduce the deficit as much as possible and reach that compromise, report it out, bring it back to the House and Senate and try to have that matter re- solved before we leave early in the month of August. I think it is feasible to do that if we make that our No. 1 priority, and I hope that we would.

Mr. DOMENICI. Mr. President, I would not have even been here to have heard the news of what is on and off the table at the budget conference had it not been an accident of my being here. But from what I understand, just so we will have the record straight, it has been off the table, Jim Wright has said it is off the table, and the distinguished minority leader of the U.S. Senate, Robert Byrd, of West Virginia, said it is off the table. I think that is the record. In the case of two from the House, it has been off the table from the beginning.

In the case of two from the House, it was maybe on the table until a couple of weeks ago, but it has been off since then.

So while my friend from Michigan thinks there is rather some explicit news, I do not think it is any different than where we were a couple of weeks ago in the case of two of those that he speaks for, and in the case of another, it is no different than we have had for 2 or 3 months.

We are still in the process of trying to get a budget. If we are going to take $33 billion off the table, we have got to find $33 billion somewhere else. If we take just Social Security—it is $21 billion—we have to find $21 billion somewhere else. So I think we are still in the same position. I do not think things have changed.

Mr. RIEGLE. Mr. President, let me just respond to the Senator from New Mexico and say that my understand- ing of the report I received from the White House meeting was that indeed the three individuals that he cited said it was off the table, but also that David Stockman then said obviously it was off the table, and then there was no dissent to that view, I am told, from the President or from the majority leader or anybody else.

So if there is something that some- body can add that would indicate that that is not the case, it would be well to have it on the record. But the report that I have been given is that that is what took place at the meeting.

Mr. DOMENICI. Let me just say to my friend from Michigan, when you are going to put something in the record you have to know what you are talking about and since I was not there and I have heard three or four different explanations, I cannot clari- fy the record.

I just heard the distinguished major- ity leader, who was there, say it was still on the table; that we had to find the savings for it and the House had no way to give us the savings, that they had no offer of how you would get the savings that were in this budget and, therefore, it was still on the table.

David Stockman is not available. I tried to call him a while ago to ask him about his retirement and he is on a route home, so I cannot confer with him.

I do not care to bother the President about a private meeting he had, so I cannot clarify the record.

All I know is when I go to confer- ence tomorrow we will see what the House has to offer and whatever they put on the table, I think we are going to take $3 billion off the table, we have got to find $33 billion somewhere else. I do not think it is any different than where we were a couple of weeks ago in the case of two of those that he speaks for, and in the case of another, it is no different than we have had for 2 or 3 months.
will be putting back in its place. If they want to take that and some other things off and want to say we will cut something else, we will retain something else, I assure you and those who are worried about the deficit in the House that I anxiously await their offer.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The minority leader.

Mr. BYRD. Mr. President, I am reminded of the poem about the six blind men of Indostan. The distinguished Presiding Officer will probably remember that while the six blind men felt the same elephant, they all pictured it differently—one thought it was like a fan; one thought it was like a rope; one thought it was like a tree, and so on, and so on.

So I guess I have to say that I think both Senators are right—each in his own light—as to interpretations of the White House meeting. The distinguished Senator from New Mexico is correct in saying that the majority leader of the Senate had taken the position that Social Security was off the table and it had never been on the table as far as the minority leader is concerned. When he said that he had heard that the Speaker had said it was "off the table," and the majority leader in the House said it was "off the table," I think that is accurate. I think the Senator was also accurate in indicating that neither the distinguished majority leader of the Senate nor the President himself had said it was "off the table." I think the distinguished Senator from Michigan is accurate when he said he had been told that the OMB Director, Mr. Stockman, conceded that Social Security was off the table. As I remember, that is correct. The OMB Director, after having heard the Speaker [Mr. WAXMAN] and the minority leader of the Senate, I think conceded—and I think he said he conceded that "Social Security is off the table." So I do not see anything in the statements of either of the two kind Senators that is inaccurate as far as I am concerned. I think I will leave it like it is. Mr. DOMENICI. I thank my good friend.

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

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

LEGISLATIVE CALENDAR

Mr. DOLE. I would like to inquire of the minority leader if he is in the position to pass any or all of the following calendar items: Calendar No. 186, Calendar No. 211, and Calendar No. 213.

Mr. BYRD. Mr. President, all of the calendar items enumerated by the distinguished majority leader have been cleared on this side of the aisle.

Mr. DOLE. Mr. President, I ask unanimous consent that the calendar items just identified be considered en bloc, agreed to en bloc, and that all amendments and preambles be considered and adopted en bloc.

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

REDUCTION OF PAPERWORK ASSOCIATED WITH THE OUTER CONTINENTAL SHELF LANDS ACT

The Senate proceeded to consider the bill (S. 1068) to eliminate unnecessary paperwork and reporting requirements contained in section 15(1) of the Outer Continental Shelf Lands Act, and sections 601 and 606 of the Outer Continental Shelf Lands Act Amendments of 1978, which had been reported from the Committee on Energy and Natural Resources, with an amendment to strike out all after the enacting clause, and insert the following:

That this Act may be referred to as the "OCS Paperwork and Reporting Act".

Sec. 2. (a) Section 15(1) of the Outer Continental Shelf Lands Act, as amended (43 U.S.C. 1343(1)), is amended by—

(a) adding the word "and" after "activities;" in paragraph (C);

(b) deleting paragraph (D); and

(c) redesignating paragraph (E) as paragraph (D).

Sec. 3. (a) The Outer Continental Shelf Lands Act Amendments of 1978, as amended (43 U.S.C. 1346), is amended by—

(a) deleting the word "herein" in paragraphs (B)(2) and (E) which further modify the provisions of paragraph (D); and

(b)删除 paragraphs (A) and (D).

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

CONDEMNING THE PASSAGE OF RESOLUTION 3379 IN THE UNITED NATIONS GENERAL ASSEMBLY

The Senate proceeded to consider the bill (S.J. Res. 98) condemning the passage of resolution 3379 in the United Nations General Assembly on November 10, 1975, and urging the U.S. Ambassador and U.S. delegation to take all appropriate actions necessary to erase this shameful resolution from the record of the United Nations, which had been reported from the Committee on Foreign Relations, with an amendment to strike out all after the resolving clause, and insert new language.

Mr. D'AMATO. Mr. President, I rise today on behalf of Senate Joint Resolution 98, a resolution condemning an event which occurred 10 years ago. On November 10, 1965, the United Nations, passed a resolution equating Zionism, the doctrine that Jews have a right to political self-determination in a territorial homeland of their own, with racism and discrimination. Senate Joint Resolution 98 strongly condemns this action of the United Nations General Assembly and calls upon the parliaments of all countries which value freedom and democracy...
to repudiate this shameful U.N. resolution.

It is not surprising that the United Nations is criticized for lacking integrity. UNGA Resolution 3379 on Zionism not only singles out for slanderous attack the national movement which gave birth to the State of Israel, but also as a catalyst for anti-Semitism around the globe. The most striking example of the effect of the U.N. resolution is the Soviet Union's persecution and harassment of its Jewish population. Teachers of Hebrew are severely punished and the number of Jews allowed to emigrate has dropped not only singles out for slanderous attack the national movement which Jewish philanthropies are world renowned for there generosity; just renounced for there generosity; just renounced.

The claim of resolution 3379 is false and is a vicious attack on the Jewish people and the nation of Israel. Ironically, the very racism which resolution 3379 purports to preclude, it actually encourages anti-Semitism, which was the oldest and widely practiced forms of racism in the world. This racism took the lives of over 6 million Jews in Nazi-Europe just 40 short years ago. We must ensure that such racism does not exist in the United Nations.

Unfortunately, UNGA Resolution 3379 was neither the beginning nor the end of a campaign by several United Nations' members to undermine the nation of Israel. Earlier this year, it took a U.S. veto to defeat a U.N. Security Council vote to condemn Israel once again. The purpose of the United Nations was corrupted with passage of UNGA Resolution 3379. Instead of the United Nation being an arena for peaceful solutions to international problems, it has demonstrated that it is a forum where international tensions and crises are created.

Senate Joint Resolution 98 cannot erase the tragedy of 10 years ago. It can, however, rally the opinion of this nation which prides itself on racial and ethnic equality and opportunity and, in turn, rally world opinion. Although we are only one vote in the United Nations, I believe we should make a concerted effort to reverse UNGA Resolution 3379.

PHILLIP BURTON WILDERNESS

The bill (H.R. 1373) to designate the wilderness in the Point Reyes National Seashore in California as the Phillip Burton Wilderness, was considered, ordered to a third reading, read the third time, and passed.

The amendment was agreed to. The joint resolution was engrossed, ordered to a third reading, read the third time, and passed.

The amendment to the preamble was agreed to. The preamble, as amended, was agreed to.

The joint resolution, as amended, and the preamble, as amended, are as follows:

Whereas, on November 10, 1975, the thirtieth session of the United Nations General Assembly adopted Resolution 3379 which sought to legitimate the lie, first perpetrated by the United Nations General Assembly by representatives of the Union of Socialist Soviet Republics in 1963, that Zionism is a form of racism; and

Whereas Resolution 3379 of the thirtieth United Nations General Assembly directly contravenes the most basic principles and purposes of the United Nations Charter and the preamble, as amended, are as follows:

Whereas, on November 10, 1975, the thirtieth session of the United Nations General Assembly adopted Resolution 3379 which sought to legitimate the lie, first perpetrated by the United Nations General Assembly by representatives of the Union of Socialist Soviet Republics in 1963, that Zionism is a form of racism; and

Whereas Resolution 3379 of the thirtieth United Nations General Assembly directly contravenes the most basic principles and purposes of the United Nations Charter and the preamble, as amended, are as follows:

Whereas, on November 10, 1975, the thirtieth session of the United Nations General Assembly adopted Resolution 3379 which sought to legitimate the lie, first perpetrated by the United Nations General Assembly by representatives of the Union of Socialist Soviet Republics in 1963, that Zionism is a form of racism; and

Whereas Resolution 3379 of the thirtieth United Nations General Assembly directly contravenes the most basic principles and purposes of the United Nations Charter and

Whereas the United States Congress sharply condemned the passage of Resolution 3379 ten years ago “in that said resolution encourages antisemitism by wrongly associating and equating Zionism with racism”; Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress—

(1) soundly denounces and condemns any linkage between Zionism and racism.

(2) considers UNGA Resolution 3379 to be a permanent smear upon the reputation of the United Nations and to be totally inconsistent with that organization’s declared purposes and principles.

(3) unequivocally states that the premise of UNGA Resolution 3379 which equates Zionism with racism is itself clearly a form of bigotry, and

(4) formally repudiates UNGA Resolution 3379, and calls upon the Parliaments of all countries which value freedom and democracy to do the same.

MESSAGES FROM THE HOUSE

At 4:35 p.m., a message from the House of Representatives, delivered by Mr. Berry, was received by the Clerk, and the message was read and ordered to be printed, in which the House referred the following, in which it requests the concurrence of the Senate:

H.R. 2401. An act to amend title 5, United States Code, to establish certain reporting requirements applicable in the case of any agency proposing to carry out removals, reductions in grade or pay, or other adverse personnel actions incident to closing, or changing the functions of any of its field offices;

H.R. 2558. An act designating the United States Post Office Building to be constructed on the property on the northwest corner of the intersection of Florence Avenue and Central Avenue in Los Angeles, California, as the “Leaie Nelson Shaw Sr., General Mail Facility of the United States Postal Service”;

H.R. 2072. An act to redesignate the New York International and Bulk Mail Center in Jersey City, New Jersey, as the “New Jersey International and Bulk Mail Center”, and to honor the memory of a former postal employee by dedicating a portion of a street at the New York International and Bulk Mail Center in Jersey City, New Jersey, as “Michael McDermott Place”; and

H.R. 2694. An act designating the United States Post Office Building located at 300 Packerland Drive, Green Bay, Wisconsin, as the “John W. Byrnes Post Office and Federal Building”;

MESSAGES FROM THE HOUSE

The following bills were read and referred to the appropriate committees.

The following bills were read the first and second time by unanimous consent, and referred as indicated:

H.R. 2558. An act designating the United States Post Office Building to be constructed on the property on the northwest corner of the intersection of Florence Avenue and
Central Avenue in Los Angeles, California, as the "Leslie Nelson Shaw Sr., General Mail Facility of the United States Postal Service"; to the Committee on Governmental Affairs.

July 9, 1985

REPORTS OF COMMITTEES

The following reports of committees were submitted by Mr. PACKWOOD, from the Committee on Finance, without amendment:

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-1440. A communication from the Deputy Secretary of Defense, transmitting, pursuant to law, the results of a study on a one year test, under the commission shop­ping privileges for reserve component members: to the Committee on Armed Services.

EC-1441. A communication from the General Counsel of the Treasury, transmitting a draft of proposed legislation to repeal the requirement that United States currency notes be reissued after redemption: to the Committee on Banking, Housing, and Urban Affairs.

EC-1442. A communication from the Acting Secretary of the Federal Maritime Commission, transmitting, pursuant to law, a notice of "Public Interest" determination: to the Committee on Commerce, Science, and Transportation.

EC-1443. A communication from the Secretary of Transportation, transmitting a draft of proposed legislation to modify the fees charged for the guarantee of obligations authorized by Title XI of the Merchant Marine Act, 1936: to the Committee on Commerce, Science, and Transportation.

EC-1444. A communication from the Secretary of Transportation, transmitting, pursuant to law, a certification of expenditures statement on the Lowell National Historical Park: to the Committee on Energy and Natural Resources.

EC-1445. A communication from the Secretary of Commerce, transmitting a draft of proposed legislation to amend the Tariff schedules of the United States to permit the importation of furskins from the Union of Soviet Socialist Republics, and/or other punitive measures: to the Committee on Finance.

EC-1446. A communication from the Secretary of Education, transmitting, pursuant to law, regulations for the Student Assistance General Provisions--Selective Service Registration Requirement; to the Committee on Labor and Human Resources.

S. 1404. An original bill to require the President to respond to unfair trade practices of Japan (with additional views) (Rept. No. 99-102).

Mr. PACKWOOD. Mr. President, the bill I am reporting today requires the President to use his existing authorities to respond to the unfair trade practices of Japan. This is a historic and sobering watershed.

I have, together with many of my Finance Committee colleagues who voted this bill favorably reported on April 3, 1985, worked over the years to defend and improve the international trading system. I believe in the inherent justice and economic benefits of free trade. All nations and people benefit when the rules of comparative advantage are permitted to operate freely. The freedom of these rules to operate depends on open markets.

These principles have not operated as expected in the case of Japan. The existence of complicated and deeply rooted Japanese barriers has altered the forces that normally guide an increasing market economy. Whether these barriers are intended to frustrate foreign competition, they constitute a major hurdle in gaining access to the Japanese market. Years of negotiation, pleas, threats, exhortations, and even talk have not persuaded Japan to undertake the difficult but necessary task of opening its markets in a truly meaningful fashion.

Yes, our exports to Japan have grown over the years, but so slowly and after so much effort, I submit, that cynicism has been generated about the real meaning of one Japanese market opening announcement after another. What is puzzling about this situation is that the Japanese Government should not recognize its own self-interest. A nation as heavily dependent on export markets as is Japan should behave in a manner intended to preserve those markets.

A nation whose exports have benefited from the demands of consumer societies has chosen to deny its own consumers free access to the world's efficient bounty.

Now, I know some people question whether Japan really has barriers. Well, aside from the many visible import barriers which are the subject of current and past trade negotiations, Japan appears to excel in the creation of invisible barriers. The committee report being filed with this bill outlines some of these barriers.

Frankly, I am not interested in the explanation for Japan's endemic resistance to imports. Japan has important international obligations which require that Japan, not the rest of the world, discern a means of opening its markets.

The bill I am filing is the result of years of frustration with Japan. But this bill is a step toward protectionism, nor does it mandate retaliation. Rather, this bill requires that the President eliminate Japanese unfair trade practices, and failing that, offset the effect of those barriers on the industries of the United States. To a minimum, the President's actions must increase U.S. access to the Japanese market by an amount equivalent to Japan's increased access to the U.S. market resulting from an end to Japanese export restraints. To the extent the President fails to achieve such access to the Japanese market, he is required to limit Japanese access to the U.S. market. In that event, the President is directed to retaliate against competitive Japanese exports, including, but not limited to, telecommunications, automobiles, and electronics. The President's actions must be announced 45 days after enactment and be implemented 90 days following enactment.

Mr. President, we all recognize that the entire trade imbalance, or even most of the imbalance with Japan, is a result of Japanese import barriers. But other contributing factors to our deficit with Japan do not ameliorate the effect of Japanese trade barriers. Many other countries experience the same difficulty we do in obtaining access to the Japanese market. Japan is now too important to the trading system, both as a source of imports and as a potential market for exports, to continue its current policies. A country with the immense trade surpluses accumulated by Japan has a special responsibility to liberalize access to its markets. Japan has yet to respond even to its ordinary responsibilities.

I noted at the outset the importance of this bill. I regret that we have come to this point. I would have preferred resolving our differences in a more amiable manner. It is unfortunate that we have been forced to use this weapon in an exasperated effort to open Japan's markets. I am sure my colleagues still hope Japan will respond in a manner that will spare them and us the certain costs of retaliation. The choice is Japan's.

In this regard, I note the Japanese Government's announcement of tariff reductions on a long list of items. This is a beginning, although I see no reduction in tariffs on items of great interest to the United States such as plywood, chocolate, and cigarettes. But these reductions must be followed by an even greater effort to remove the invisible barriers.

I want to commend Senator DANFORTH who initiated this bill, as well as Senators BOREN, BAUCUS, BENSON, and GRASSELY. Although their names are not listed for parliamentary reasons on this original bill reported by the Finance Committee, they should all be listed as sponsors.

July 9, 1985
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. PROXMIRE:
S. 1400. A bill to amend title XVIII of the Social Security Act to provide that the blend of 50 percent regional and 50 percent national prospective payment rates shall be permanent; to the Committee on Finance.
S. 1401. A bill to amend the Deficit Reduction Act of 1984 to make the application of the revised wage index prospective and to provide for periodic updating of that index; to the Committee on Finance.
S. 1402. A bill to amend title XVIII of the Social Security Act to provide that add-ons to the reimbursement limits for home health agencies may no longer be made for hospital-based agencies; to the Committee on Finance.

By Mr. HEINZ:
S. 1403. A bill to extend for three years the existing duty free treatment of certain needlecraft display models, and for other purposes; to the Committee on Finance.

By Mr. PACKWOOD, from the Committee on Finance:
S. 1404. An original bill to require the President to respond to unfair trade practices of Japan; placed on the calendar.

By Mr. HEINZ (for himself, Mr. MITCHELL, and Mr. SYMMS):
S. 1405. A bill to amend the Internal Revenue Code of 1984 relating to the method of payment of taxes on distilled spirits; to the Committee on Finance.

By Mr. DeCONCINI:
S. 1406. A bill to make permanent the formula for determining fees for the grazing of livestock on public rangelands; to the Committee on Energy and Natural Resources.
S. 1407. A bill to provide for the recovery by the United States of the costs of hospital and medical care and treatment furnished by the United States in certain circumstances, and for other purposes; to the Committee on the Judiciary.
S. 1408. A bill to amend the Trading with the Enemy Act in order to terminate the existing duty free treatment of certain hospital-based agencies; to the Committee on Finance.
S. 1409. A bill to amend chapter 31 of title 19, United States Code to provide for the Federal Excise Tax on distilled spirits. The change I propose would simply remove the present bias for imported spirits inherent in the present tax system.

At present, the Government has two systems for collecting FED—one for domestic spirits and one for imports. The Government assesses FED on domestic spirits when the distiller leaves the distillery for the wholesaler. This cost must be borne by the wholesaler until he receives payment from the retailer. However, for imported spirits, the Government assesses the FED only when the spirits reach the retailer.

The costs of stocking domestic spirits is therefore a tremendous burden upon wholesalers. They must prepay the FED on domestic spirits, but they do not have this burden with imported spirits. Most liquor wholesalers are small businessmen who can ill afford the FED on domestic spirits, but they do not have this burden with imported spirits. Most liquor wholesalers are small businessmen who can ill afford the FED on domestic spirits, but they do not have this burden with imported spirits. Most liquor wholesalers are small businessmen who can ill afford the FED on domestic spirits, but they do not have this burden with imported spirits. Most liquor wholesalers are small businessmen who can ill afford the FED on domestic spirits, but they do not have this burden with imported spirits. Most liquor wholesalers are small businessmen who can ill afford the FED on domestic spirits, but they do not have this burden with imported spirits. Most liquor wholesalers are small businessmen who can ill afford the FED on domestic spirits, but they do not have this burden with imported spirits. Most liquor wholesalers are small businessmen who can ill afford the FED on domestic spirits, but they do not have this burden with imported spirits. Most liquor wholesalers are small businessmen who can ill afford the FED on domestic spirits, but they do not have this burden with imported spirits.

This bill would create one system for all spirits, which will remove the present import-bias and defer FED assessment to the time when the wholesalers sell their product to retailers. The Government will receive the same amount of tax, but without hurting U.S. businessmen and products.

Under this bill, payment procedures for the Federal Excise Tax on distilled spirits would be made consistent for both foreign and domestic liquor by broadening the definition of bonded premises to permit the conclusion of the wholesaler and control State warehouse. Currently, only supplier facilities for domestic products and customs bonded warehouses for imported liquor are treated as bonded warehouses. By including wholesaler and control State warehouses as bonded premises, the present procedure of levying Federal Excise Tax on domestically produced or bottled liquor remains intact, but simply occurs at a later point in the distribution process. In addition, suppliers would have the option of transferring goods in bond between spirit producers and wholesalers when collecting a FED obligation. Thus, products would only be subject to FED when removed from a wholesaler's warehouse. Bonded dealers would still be required to post an adequate bond to ensure full payment of FED.

This bill provides an equitable and sound way of removing the preferential treatment afforded to imported spirits while ensuring that the Federal Government still collects the full amount of taxes due. This should alleviate the prepayment burden which is currently carried by small businessmen and control States. I urge my colleagues to join me in cosponsoring this bill and working with me to eliminate this bias against U.S. goods and businessmen.

Mr. President, I ask unanimous consent that a copy of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1405
Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE: AMENDMENT OF 1954 CODE.

(a) SHORT TITLE.—This Act may be cited as the "Distilled Spirits Tax Payment Act of 1985."

(b) AMENDMENT OF 1954 CODE.—Except as otherwise expressly provided, whenever an amendment or repeal is expressed in terms of a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1984.

SEC. 2. TRANSFER OF DISTILLED SPIRITS BETWEEN BONDED PREMISES.

Section 5213 is amended to read as follows:

"Distilled spirits on which the internal revenue tax has not been paid or determined as authorized by law may, under such regulations as the Secretary shall prescribe,"
be transferred in bond between bonded premises without payment of tax. However, for the purposes of this chapter, the removal of distilled spirits for transfer in bond between bonded premises shall not be construed to be a withdrawal from bonded premises.

SEC. 3. ESTABLISHMENT OF DISTILLED SPIRITS PLANT.

Section 5171 is amended by—

(a) striking from subsection (a) the phrase "or processor" and inserting therein "processor or bonded dealer;" and

(b) inserting after subsection (b) the following new paragraph:

"(16) DISTILLED SPIRITS OPERATIONS.—The term 'primary source' means—" processor, or bottler, or an authorized primary United States importer or agent for distilled spirits produced outside of the United States; and a bonded dealer who has been properly licensed as a "distilled spirits plant" as defined in subsection (d) of section 5171 and (c) inserting therefor as a bonded dealer;"

SEC. 4. DISTILLED SPIRITS PLANTS.

Section 5171(a) is amended by adding the following new paragraph after paragraph (4) to read as follows:

"(5) BONDED DEALER OPERATIONS.—

"(A) Any bonded dealer establishing a distilled spirits plant shall, as described in his application for registration, purchase bottled distilled spirits from primary source of supply exclusively for resale at wholesale.

"(B) Any person qualified as a bonded dealer may qualify exclusively to a wholesale dealer in liquor, to an independent retail dealer subject to the limitation set forth in paragraph (3) of this section, or to a bonded dealer with the express written consent of the primary source of supply.

"(C) Each person before establishing premises as a bonded dealer, must maintain an inventory of distilled spirits of at least 10,000 wine gallons. In the event a bonded dealer, once established, fails to maintain such a level of operations the bonded dealer shall cease operations as such, and immediately withdraw the distilled spirits on determination of tax in accordance with a tax payment procedure established by the Secretary.

"(D) Any person who is a bonded dealer shall not be considered as selling to an independent retail dealer if the bonded dealer has a greater than 10 percent ownership interest in, or control of the bonded dealer, or where any person has a greater than 10 percent ownership interest in, or control of both the bonded and retail dealer. For purposes of this subparagraph, ownership interest, control, or ownership, shall be attributed to other persons in the manner prescribed by section 318.

"(E) For purposes of subparagraph (A), the limitation for resale at wholesale to independent retail dealers does not apply to Control States or political subdivisions thereof.

"(F) Any person who is qualified as a bonded dealer may under such regulations as the Secretary shall prescribe, store taxpaid distilled spirits, beer and wine and such other related items and products (products) not subject to tax or regulation under this title on such bonded premises.

SEC. 5. DEFINITIONS.

Section 5002(a) is amended by—

(a) amending subsection (a)(2) to read as follows:

"(a)(2) DISTILLED SPIRITS OPERATIONS.—The term 'distilled spirits operation' means any operation for which qualification is required under subsection B including the operation of a bonded dealer;" and

(b) inserting after subsection (a)(15) the following new paragraphs:

"(16) The term 'bonded dealer' means any wholesale dealer in liquor, to an independent retail dealer has a greater than 10 percent ownership interest, not limited to stock, in, or control of both the bonded and retail dealer; the independent retail dealer if the bonded dealer has not accounted for the proper tax imposed by law on the distilled spirits; or a person who is qualified as a bonded dealer and in any manner interested in the premises of a distilled spirits plant, shall be jointly and severally liable for the taxes imposed by law on the distilled spirits.

SEC. 6. PERSONS LIABLE FOR TAX.

Section 5005(b)(1) is amended to read as follows:

"(1) LIABILITY OF PERSONS INTERESTED IN A DISTILLED SPIRITS PLANT.—Every proprietor or possessor of, and every person in any manner interested in the premises of a distilled spirits plant, shall be jointly and severally liable for the taxes imposed by law on the distilled spirits.

SEC. 7. DETERMINATION OF TAX.

Section 5006 is amended by—

(a) amending subsection (a)(2) to read as follows:

"(a)(2) The credit for wine content and for flavors content provided under section 5010 shall be determined and allowable as a reduction from the amount of tax determined by the following:

SEC. 8. CREDIT FOR WINE CONTENT, ETC., ON COLLECTION OF TAX ON DISTILLED SPIRITS.

Section 5006(a) is amended by adding after paragraph (2) the following new paragraph (3) to read as follows:

"(3) The credit for wine content and for flavors content provided under section 5010 shall be determined and allowable as a reduction from the amount of tax determined by the following:

SEC. 9. LOSS OR DESTRUCTION OF DISTILLED SPIRITS.

Section 5008 is amended by adding the following new sentence to read as follows:

"This section is amended by inserting after the word "processor" at each place it appears the phrase "bonded dealer,"."

SEC. 10. TIME FOR COLLECTING TAX ON DISTILLED SPIRITS.

Section 5001(c) is amended to read as follows:

"In the case of distilled spirits withdrawn from a bonded premise, the last day for filing a return (with remittances) for each semimonthly return shall be the last day of the second succeeding return period; except as provided in paragraph (4), a person who has not accounted for the proper tax imposed by law on the distilled spirits may file their return monthly (with remittances), and the last day for filing shall be the last day of the succeeding month.

SEC. 11. EXEMPTION FROM OCCUPATIONAL TAX NOT APPLICABLE.

Section 5116 is amended by adding immediately after the last sentence the following new sentence to read as follows: "This exemption shall not apply to a proprietor of a distilled spirits plant whose premises are used for operations of a bonded dealer."

SEC. 12. TECHNICAL CONFORMING AND CLERICAL AMENDMENTS.

(a) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Section 5003(c) is amended to delete the term "certain" from the sentence.

(2) Section 5214 is amended by redesignating subsection (b) as (c) and inserting a new subsection (b) to read as follows:

"(b) EXCEPTION.—Subsections (a) (1), (2), (3), (5), (10), (11), and (12) of this section shall not apply to distilled spirits withdrawn from premises used for operations as a bonded dealer;"

(3) Section 5215(a) is amended by inserting a period after the word "plant," and striking the words "for the purposes of denaturation, distillation, reconditioning, or rebottling."

(4) The last sentence of section 5232 is amended to read as follows:

"Distilled spirits imported or brought into the United States, under such regulations as the Secretary shall prescribe, shall be withdrawn from customs custody and transferred to the bonded premises of a distilled spirits plant without payment of the internal revenue tax imposed on such distilled spirits."

(5) Section 5338(b)(8) is amended by adding the following sentence to read as follows:

"This term will not apply to premises used for operations as a bonded dealer."

(6) Section 5551(a) is amended by inserting after the term "processor" at each place it appears the phrase "bonded dealer,".

(7) Section 5801(a) (2), (3), (4), (5), and (b) are amended by inserting "; bonded dealer" immediately before the word "processor" at each place it appears.

(8) Section 5802 is amended by inserting "warehouseman, processor, bonded dealer", immediately after the word "distiller",.

(9) Section 5119, 5180 and 5801 are repealed.

(b) CLERICAL AMENDMENTS.—

(1) The table of sections for part II of chapter A of chapter 51 is amended by striking out the item relating to section 5180.

(2) The table of sections for chapter B of chapter 51 is amended by striking out the item relating to section 5180.

(3) The table of sections for part IV of chapter C of chapter 51 is amended by striking out the item relating to section 5801.

SEC. 13. TRANSITION RULE.

Until December 31, 1985, each wholesale dealer who is required to file an application for registration under section 5171(c) whose bonded premises or warehouses operations are required to be covered by a basic permit under the Federal Alcohol Administration Act (27 U.S.C. 204) and who has received such basic permits as an importer, wholesaler, or as both, and has obtained a bond required under this subsection shall be qualified to operate bonded premises until such time as the Secretary takes final action on the application. This section shall not apply to a person whose bonded distilled spirits inventory is less than 10,000 wine gallons. Any Control
State or political subdivision thereof that has obtained a bond required under this subchapter shall be qualified to operate bonded premises until such time as the Secretary takes final action on the application for registration under section 5171.<ref>

(a) No domestically produced or bottled distilled spirits inventory in the inventory of a bonded dealer on the effective date of this Act on return and the payment of excise tax as which the Federal excise tax has been paid shall be subject to the filing of an excise tax return and the payment of excise tax as required under section 5661.<ref>

(b) Limitation on eligibility for exemption from tax. No person shall be entitled to exemption from the filing of an excise tax return or the payment of excise tax under paragraph (a) unless he has in his possession such evidence of the inventories with respect to which the exemption is claimed as may be required by the Secretary of the Treasury or his delegate under this subsection.

SEC. 15. EFFECTIVE DATE.

The provision of this Act shall take effect on October 1, 1985.

By Mr. DeCONCINI:

S. 1406. A bill to make permanent the formula for determining fees for the grazing of livestock on public rangelands in the 16 contiguous Western States.

The present grazing fee formula was established by the Public Rangelands Improvement Act of 1978 and is scheduled to expire at the end of the current fiscal year. This formula was the result of many years of study and negotiation involving agricultural interests, environmental groups, the executive branch, and Congress. Each year, the formula is adjusted to reflect annual changes in the lease rates for private grazing lands and annual fluctuations in the availability of public grazing lands upward or downward. I am convinced that the formula has worked well during the 7 years it has been in effect.

These are difficult times for agriculture in the United States, and this is no less true for those who depend on livestock production to earn a living. Retaining the present grazing fee formula could mean the difference between making a living or going broke for many ranchers. It is essential that we take steps to ensure that livestock producers are able to stay in business and are treated fairly and equitably.

I recognize that, in the coming weeks and months, negotiations will be taking place on a comprehensive list of rangeland management issues. This legislation is being introduced at this time because I believe that a reasonable grazing fee schedule is essential to the survival of the livestock industry and should be adopted without delay.

By Mr. THURMOND (by request):

S. 1407. A bill to provide for the recovery by the United States of the costs of medical care and treatment furnished by the United States in certain circumstances, and for other purposes; to the Committee on the Judiciary.

S. 1408. A bill to amend the Trading With the Enemy Act in order to terminate the Office of Alien Property, and for other purposes; to the Committee on the Judiciary.

S. 1409. A bill to amend chapter 31 of title 28 of the United States Code; to the Committee on the Judiciary.

S. 1410. A bill to provide for interim designation of U.S. attorneys and U.S. marshals by the Attorney General; to the Committee on the Judiciary.

LEGISLATION RELATING TO REIMBURSEMENT OF CERTAIN MEDICAL CARE AND TREATMENT PROVIDED UNDER SECTION 5171 OF TITLE 28, UNITED STATES CODE.

The first bill is entitled "To provide for the recovery by the United States for the costs of hospital and medical care and treatment furnished by the United States in certain circumstances," and for other purposes."

It provides that in any case where the United States is authorized or required to furnish medical care and treatment to a person as a result of a third party's negligence, the United States has an independent right to recover from the negligent party the reasonable value of those services it furnishes.

The purpose of the next bill is to simplify and consolidate the administration of the accounts maintained by the Justice Department's Office of Alien Property and the Department of the Treasury for the funds received from the disposal of alien property that vested in the United States under the Trading With the Enemy Act. According to the Justice Department, substantially all of the litigation and claims adjudication arising out of the administration of the World War II Alien Property Program have now ended, and the funds should be closed out.

The third piece of legislation would authorize the Attorney General to accept any gift, donation or bequest of real or personal property to aid the Department of Justice in carrying out its functions. No gifts could be accepted if it attaches conditions that are inconsistent with applicable laws or regulations. The bill would also require the Attorney General to promulgate rules for accepting gifts to ensure that no gifts are accepted under circumstances that would create a conflict of interest for the Department.

The final measure would amend sections 546 and 565 of title 28, United States Code, to provide for interim appointments to fill vacancies of U.S. attorneys and U.S. marshals by the Attorney General, rather than the Judges of the U.S. district courts.

Mr. President, I ask unanimous consent that bills I am introducing on behalf of the administration, and letters of transmittal, be printed in the Record.

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


Hon. George Bush, President, U.S. Senate, Washington, DC.

DEAR MR. PRESIDENT: Enclosed for your consideration and appropriate reference is a draft bill entitled "To provide for the recovery by the United States of the costs of hospital and medical care and treatment furnished by the United States in certain circumstances," and for other purposes."

Originally passed in 1962, the Federal Medical Care Recovery Act (the "Act") was enacted primarily as a response to the United States Supreme Court's ruling in United States v. Standard Oil, 332 U.S. 301 (1947), wherein the Court held that absent congressional authority, the Federal Government could not recover the cost of government-furnished medical care or loss of earning power of the personnel caused by the negligence of some third party. Prior to passage of the Act, a significant amount of money was lost each year because of the Government's inability to require reimbursement. Essentially, the Act provides that in any case where the United States is authorized or required to furnish medical care and treatment to a person as a result of a third party's negligence, the United States has an independent right to recover from the negligent party the reasonable value of those services it furnishes.

The purpose of the next bill is to simplify and consolidate the administration of the accounts maintained by the Justice Department's Office of Alien Property and the Department of the Treasury for the funds received from the disposal of alien property that vested in the United States under the Trading With the Enemy Act. According to the Justice Department, substantially all of the litigation and claims adjudication arising out of the administration of the World War II Alien Property Program have now ended, and the funds should be closed out.

The purpose of the enclosed draft bill is to amend the Federal Medical Care Recovery Act, Title 42, United States Code, Section 2651, et seq., so as to remedy various impediments to recovery created by the abatement of tort liability as the basis of a cause of action in certain jurisdictions. In particular, the proposed legislation would raise the issue of indemnification that vested in the United States under the Trading With the Enemy Act, Title 28, United States Code, Section 5461, et seq., so as to remedy various impediments to recovery created by the abatement of tort liability as the basis of a cause of action in certain jurisdictions. In particular, the proposed legislation would raise the issue of indemnification that vested in the United States under the Trading With the Enemy Act, Title 28, United States Code, Section 5461, et seq., so as to remedy various impediments to recovery created by the abatement of tort liability as the basis of a cause of action in certain jurisdictions. In particular, the proposed legislation would raise the issue of indemnification that vested in the United States under the Trading With the Enemy Act, Title 28, United States Code, Section 5461, et seq., so as to remedy various impediments to recovery created by the abatement of tort liability as the basis of a cause of action in certain jurisdictions. In particular, the proposed legislation would raise the issue of indemnification that vested in the United States under the Trading With the Enemy Act, Title 28, United States Code, Section 5461, et seq., so as to remedy various impediments to recovery created by the abatement of tort liability as the basis of a cause of action in certain jurisdictions.
vania has abolished tort liability in favor of a no-fault system, there could be no recovery of the Government's medical expenses. This proposal is the product of discussions with, and information provided by, the various federal agencies currently involved in the Federal Medical Care Recovery Act, i.e., the Veterans Administration, the Department of Health and Human Services, and the Department of Army, Navy, and Air Force.

The amount collected under the Act is of significant economic importance. Reimbursement pursuant to provisions of 26 CFR § 6454, the Department of Justice's Civil Division has responsibility for supervision of all matters arising under the Federal Medical Care Recovery Act. In 1963, the first year of collections under the Act, Federal agencies recovered $239,237.62. Collections have steadily increased since that time, and in calendar year 1981 a total of $22,261,123.74 had been recovered for medical expenses. Between 1964 and 1981, collections under the Act totaled $197,476,250.87.

Much of the increase is undoubtedly the result of an increase in the reasonable cost of medical care in federal facilities as prescribed by the Office of Management and Budget. For example, in 1968 the Department's daily rate for inpatient care was $45.00 per day. Effective January 4, 1962 the cost for the same care was $48.00 per day.

The most significant statistics, however, are in the number of claims asserted and recovered. Since 1968 the in-patient rate has increased nearly 100 percent but the total amount recovered has increased only slightly in excess of 350 percent. In calendar year 1976, recoveries were in excess of $1,000,000.00 less than the year before. In 1980, agencies asserted 916 claims less than in 1979. It appears as if recoveries in recent years are not keeping up with inflation. One reason is that the number of claims that can be successfully asserted under the narrow authority of the Act is steadily decreasing due to recent changes in the insurance industry and state laws governing tort liability as a measure of recovery.

The proposed amendment leaves paragraph (a) of section 2651 intact and merely introduces a new paragraph (b) that extends the reimbursement of medical expenses to circumstances where a state has abolished or limited traditional tort liability as a cause of action, and has in lieu thereof created a system of compensation not grounded upon tort liability. The United States is further deemed to be an insurance carrier or entity responsible, under the medical care expense reimbursement plan as the reasonable and necessary expenses incurred by the person receiving such medical care, and the medical expenses incurred by the party receiving the medical care, under those provisions which make it clear that the United States is intended to be a recipient of any reimbursement benefit afforded by the state's compensation plan and that the recovery is dependent upon the injured party, it makes clear that the injured party has incurred the responsibility of the Government.

Paragraph (c) contains the provision formerly found in paragraph (b) and contains some additional language for clarification as the result of the new paragraph (b). The 'Veterans' Exception,' formerly paragraph (c), is merely redesignated as paragraph (d) and is in those states where reimbursement is dependent upon the injured party, making it clear that the injured party has incurred the responsibility of the Government.

Additionally, the proposed amendment provides for a new section designated as § 2654 and establishes a new deposit and distribution system for funds collected pursuant to the Act or to any other right the United States possesses for the recoupment of medical care costs. The amended procedures authorize the recoupment of funds to the appropriation from which the care or treatment was charged. This would eliminate the current requirement for depositing these monies to general Treasury revenues when they are recovered.

The purpose of this amendment is to provide an incentive for recovery of medical expenses and to allow the billing and credit to hospital commanders and directors of the present practice which requires hospitals to spend its operating funds for required treatment and administrative costs associated with the Federal Medical Care Recovery Act program, but with no opportunity to recover directly any portion of those funds or costs. By amending the Federal Medical Care Recovery Act in the manner set forth in the enclosed proposal, it will be unnecessary to consider proposals that deal with agency recovery authority on a piecemeal, agency-to-agency basis. On behalf of the Attorney General, I recommend prompt and favorable consideration of the enclosed amendment.

The Office of Management and Budget has advised this Department that there is no objection to this legislative proposal to the Congress and that its enactment would be consistent with the objectives of the Administration.

Sincerely,

PHILLIP D. BRADY, Acting Assistant Attorney General.
On behalf of the Attorney General, I recognize that the enclosed proposal receive prompt and favorable action.

The Office of Management and Budget has advised this Department that there is no objection to the submission of this draft bill to the Congress and that its enactment would be in accord with the program of the President.

Sincerely,

PHILLIP D. BRADY,
Acting Assistant Attorney General.

S. 1408

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Trading with the Enemy Act is amended:

Act-

(2) in section 9 (50 U.S.C. App. 39) by striking out subsections (b) through (e) and inserting in lieu thereof the following new subsection:

"(b) The Attorney General shall consider the Treasury, to the credit of miscellaneous receipts, all sums from property vested or transferred to him under this Act—

(1) which he receives after the date of enactment of this section, or

(2) which he receives prior to such date and which, as of such date, he had not covered into the Treasury for deposit in the War Claims Fund, other than any such sums which the Attorney General determines in his discretion are the subject of any judicial action or proceeding; and"

and

in section 2 (50 U.S.C. App. 6) by striking out "law:" and all that follows in such section and inserting in lieu thereof a new section:

S. 1409

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the "Department of Justice Gift Acceptance Act" may be cited as the "Department of Justice Gift Acceptance Act".

Sec. 2. This Act may be cited as the "Department of Justice Gift Acceptance Act".

"(a) The Attorney General is authorized to accept and utilize, on behalf of the United States, any gift, donation, or bequest of real or personal property for the purpose of aiding or facilitating the work of the Department of Justice. No gift may be accepted—

(1) that attaches conditions inconsistent with applicable laws or regulations, or

(2) that is conditioned upon or will require the expenditure of appropriated funds unless such expenditure has been authorized by a statute or the appropriation act authorizing the expenditure of such funds.

(b) The Attorney General shall promulgate rules for accepting gifts to ensure, among other things, that no gifts are accepted under circumstances that will create a conflict of interest for the Department of Justice.

(c) Gifts and bequests of money and the proceeds from sales of property received as gifts or bequests that are not immediately usable by the Department of Justice may be credited to any appropriation or fund that is available for similar purposes, to remain available until expended upon order of the Attorney General.

(d) Gifts, bequests of property, and property acquired from the proceeds credited to appropriations or funds pursuant to subsection (c), and which are no longer required by the Department of Justice for its needs and the discharge of its responsibilities, shall be reported to the Administrator of the General Services Administration for transfer, donation, or other disposal in accordance with the provisions of the Federal Property and Administrative Services Act of 1949.

(e) Property accepted pursuant to this section and the proceeds credited to appropriations or funds pursuant to subsection (c) shall be used, to the extent possible, in accordance with the terms of the gift or bequest.

"(f) For the purpose of Federal income, estate, and gift taxes, property accepted under all paragraphs of this subsection shall be considered a gift or bequest to or for the use of the United States."

(b) The table of sections for chapter 31 of title 5, United States Code, is amended by inserting between the item relating to section 525 and the item relating to section 526 the following new item:

"S. 525A. Department of Justice Gift Acceptance Authority."

Sec. 3. Section 501 of the Controlled Substances Act (21 U.S.C. 871(c)) is hereby repealed.

The Vice President.

WASHINGTON, D.C.

DEAR MR. VICE PRESIDENT: On behalf of the Attorney General, I am submitting for consideration a proposal attached to the section-by-section analysis for your review. This authority would provide for the Attorney General to accept gifts or bequests that are not usable by the Department of Justice under certain circumstances. The Attorney General shall be required to promulgate rules for accepting gifts to ensure that no gifts are accepted under circumstances that will create a conflict of interest for the Department. We look forward to your prompt consideration of this legislation by the Congress.

Sincerely,

PHILLIP D. BRADY,
Acting Assistant Attorney General.

Office of the Assistant Attorney General


The Vice President.

WASHINGTON, D.C.

DEAR MR. VICE PRESIDENT: I have advised that there is no objection from the standpoint of the Administration's program to the submission of this legislation to Congress.

Sincerely,

PHILLIP D. BRADY,
Acting Assistant Attorney General.

GEORGE BUSH,
Vice President, U.S. Senate.

WASHINGTON, D.C.

DEAR MR. VICE PRESIDENT: Enclosed for your consideration and appropriate reference is a draft bill entitled "The Department of Justice Gift Acceptance Act."

The Department of Justice currently has no general statutory authority to accept gifts. The inherent power of the Federal Government to accept gifts is well recognized. United States v. Burnison, 339 U.S. 87 (1950). The proposed legislation, if enacted, would create an independent statutory authority to accept gifts, subject to certain restrictions. The Attorney General, in his discretion, would be authorized to accept gifts of money or property which he deems would be in accord with the program of the Department of Justice. The Attorney General would be specifically authorized to accept gifts in order to bolster the morale and efficiency of Department personnel. The Attorney General is consistently urged to accept gifts or contributions for particular purposes or projects, and is often advised by the Analysis for your review. This authority would permit the Department to accept gifts or bequests that are not usable by the Department of Justice. For example, this authority would permit the Department to accept donations to the Immigration and Naturalization Service (INS) wished to accept donated horses for the use of its Border Patrol, it was necessary for the Department to submit to Congress proposed legislation authorizing the INS to accept gifts. A general gift acceptance authority for the Department would end the need for piecemeal legislative solutions.

There are a variety of ways that the Department would contribute to the Immigration and Naturalization Service to accept gifts. For example, this authority would permit the Department to accept donated materials for use by the Immigration and Naturalization Service. It is probable that there may be many opportunities to accept gifts or bequests of books and it would be unfortunate to have to continue to refuse to accept these benefits. This is particularly important in light of the growing research needs of the Immigration and Naturalization Service.

Under this proposal no gift could be accepted by the Department if it attaches conditions that are inconsistent with applicable laws or regulations. This would also prohibit the acceptance of a gift that requires the expenditure of appropriated funds unless such expenditure has been authorized by an Act of Congress. The Attorney General is required to promulgate rules for accepting gifts to ensure that no gifts are accepted under circumstances that will create a conflict of interest for the Department.

There is enclosed a section-by-section analysis for your review. This authority would provide for the Attorney General to accept gifts or bequests that are not usable by the Department of Justice under certain circumstances. The Attorney General shall be required to promulgate rules for accepting gifts to ensure that no gifts are accepted under circumstances that will create a conflict of interest for the Department. We look forward to your prompt consideration of this legislation by the Congress.

The Office of Management and Budget has advised that there is no objection from the standpoint of the Administration's program to the submission of this legislation to Congress.

Sincerely,

PHILLIP D. BRADY,
Acting Assistant Attorney General.

CONGRESSIONAL RECORD—SENATE

July 9, 1985

Hon. George Bush, Vice President, U.S. Senate.

WASHINGTON, D.C.

DEAR MR. VICE PRESIDENT: Enclosed for your consideration and appropriate reference is a draft bill entitled "The Department of Justice Gift Acceptance Act."

The Department of Justice currently has no general statutory authority to accept gifts. The inherent power of the Federal Government to accept gifts is well recognized. United States v. Burnison, 339 U.S. 87 (1950). The proposed legislation, if enacted, would create an independent statutory authority to accept gifts, subject to certain restrictions. The Attorney General, in his discretion, would be authorized to accept gifts of money or property which he deems would be in accord with the program of the Department of Justice. The Attorney General would be specifically authorized to accept gifts in order to bolster the morale and efficiency of Department personnel. The Attorney General is consistently urged to accept gifts or contributions for particular purposes or projects, and is often advised by the Analysis for your review. This authority would permit the Department to accept gifts or bequests that are not usable by the Department of Justice. For example, this authority would permit the Department to accept donations to the Immigration and Naturalization Service (INS) wished to accept donated horses for the use of its Border Patrol, it was necessary for the Department to submit to Congress proposed legislation authorizing the INS to accept gifts. A general gift acceptance authority for the Department would end the need for piecemeal legislative solutions.

There are a variety of ways that the Department would contribute to the Immigration and Naturalization Service to accept gifts. For example, this authority would permit the Department to accept donated materials for use by the Immigration and Naturalization Service. It is probable that there may be many opportunities to accept gifts or bequests of books and it would be unfortunate to have to continue to refuse to accept these benefits. This is particularly important in light of the growing research needs of the Immigration and Naturalization Service.

Under this proposal no gift could be accepted by the Department if it attaches conditions that are inconsistent with applicable laws or regulations. This would also prohibit the acceptance of a gift that requires the expenditure of appropriated funds unless such expenditure has been authorized by an Act of Congress. The Attorney General is required to promulgate rules for accepting gifts to ensure that no gifts are accepted under circumstances that will create a conflict of interest for the Department.

There is enclosed a section-by-section analysis for your review. This authority would provide for the Attorney General to accept gifts or bequests that are not usable by the Department of Justice under certain circumstances. The Attorney General shall be required to promulgate rules for accepting gifts to ensure that no gifts are accepted under circumstances that will create a conflict of interest for the Department.

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There is enclosed a section-by-section analysis for your review. This authority would provide for the Attorney General to accept gifts or bequests that are not usable by the Department of Justice under certain circumstances. The Attorney General shall be required to promulgate rules for accepting gifts to ensure that no gifts are accepted under circumstances that will create a conflict of interest for the Department.
submission of this proposal from the standpoint of the Administration's program.

Sincerely,

PHILIP D. BRADY,
Acting Assistant Attorney General

Enclosure.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that section 546 of Title 28, United States Code, is amended to read as follows:

"Sec. 546. VACANCIES.

(a) In the case of a vacancy in the office of United States attorney, the Attorney General may designate a United States attorney to perform the functions and act as United States attorney. The Attorney General shall not designate as United States attorney a person to whose appointment by the President to that office the Senate refused to give its advice and consent.

(b) Such person may serve until the earliest of the following events:

(1) the entry into office of a United States Attorney appointed by the President, pursuant to Article II, Section 2 of the Constitution;

(2) the expiration of the thirtieth day following the end of the next session of the Senate;

(3) the expiration of the thirtieth day following the refusal of the Senate to give its advice and consent to the appointment by the President of the person designated by the Attorney General.

Sec. 2. Section 565 of Title 28, United States Code, is amended to read as follows:

"Sec. 565. VACANCIES.

(a) In the case of a vacancy in the office of United States Marshal, the Attorney General may designate a person to perform the functions and act as United States Marshal. The Attorney General shall not designate as United States marshal a person to whose appointment by the President to that office the Senate refused to give its advice and consent.

(b) Such person may serve until the earliest of the following events:

(1) the entry into office of a United States Marshall appointed by the President, pursuant to Article II, Section 2 of the Constitution;

(2) the expiration of the thirtieth day following the end of the next session of the Senate;

(3) the expiration of the thirtieth day following the refusal of the Senate to give its advice and consent to the appointment by the President of the person designated by the Attorney General.

ADDITIONAL COSPONSORS

S. 49
At the request of Mr. McClure, the name of the Senator from Virginia [Mr. Warner] was added as a cosponsor of S. 49, a bill to protect firearm owners' constitutional rights, civil liberties, and rights to privacy.

At the request of Mr. Hatch, the name of the Senator from California [Mr. Wilson] was added as a cosponsor of S. 49, supplanting S. 140.

S. 140
At the request of Mrs. Hawkins, the name of the Senator from Massachussetts [Mr. Kennedy] was added as a cosponsor of S. 140, a bill to amend the Child Abuse Amendments of 1984 to encourage States to enact child protection reforms which are designed to improve legal and administrative proceedings regarding the investigation and prosecution of sexual child abuse cases.

S. 150
At the request of Mr. Hatch, the name of the Senator from Nevada [Mr. Laxalt] was added as a cosponsor of S. 150, a bill entitled the "Freedom of Information Reform Act."

S. 261
At the request of Mr. Moynihan, the names of the Senator from West Virginia [Mr. Byrd] and the Senator from Georgia [Mr. Mathias] were added as cosponsors of S. 261, a bill to amend the Internal Revenue Code of 1984 to make permanent the deduction for charitable contributions by nonitemizers.

S. 426
At the request of Mr. W allof, the names of the Senator from New York [Mr. Moynihan] and the Senator from Oregon [Mr. Packwood] were added as cosponsors of S. 426, a bill to amend the Federal Power Act to provide for more protection to electric consumers.

S. 850
At the request of Mr. Kennedy, the names of the Senator from South Carolina [Mr. Hollings], the Senator from Hawaii [Mr. Inouye], the Senator from Rhode Island [Mr. Pell], and the Senator from Ohio [Mr. Metzenbaum] were added as cosponsors of S. 850, a bill to express the opposition of the United States to the system of apartheid in South Africa, and for other purposes.

S. 885
At the request of Mr. Thurmond, the name of the Senator from Alabama [Mr. Denson] was added as a cosponsor of S. 885, a bill to create a Federal criminal offense for operating or directing the operation of a common carrier while intoxicated or under the influence of drugs.

S. 885
At the request of Mr. Peayor, the names of the Senator from Arkansas [Mr. Bumpers] and the Senator from New Mexico [Mr. Bingaman] were added as cosponsors of S. 885, a bill for the relief of rural mail carriers.

S. 885
At the request of Mr. Mathias, the names of the Senator from Oklahoma [Mr. Boren], the Senator from Florida [Mr. Helms], the Senator from Hawaii [Mr. Bentsen], the Senator from West Virginia [Mr. Packwood], the Senator from Michigan [Mr. Riegle], and the Senator from West Virginia [Mr. Rockefeller] were added as cosponsors of S. 885, a bill to award special congressional gold medals to Jan Scruggs, Robert Dousek, and Jack Wheeler.

S. 887
At the request of Mr. Roth, the name of the Senator from Michigan [Mr. Levin] was added as a cosponsor of S. 887, a bill to amend title XIX of the Social Security Act to provide coverage for hospice care under the Medicaid Program.

S. 989
At the request of Mr. Trickle, the name of the Senator from New York [Mr. Moynihan] was added as a cosponsor of S. 989, a bill to amend title I of the Housing and Community Development Act of 1974.

S. 989
At the request of Mr. McClure, the name of the Senator from Tennessee [Mr. Gore] was added as a cosponsor of S. 989, a bill to provide for limited extension of alternative means of providing assistance under the School Lunch Program and to provide for national commodity processing programs.

S. 1018
At the request of Mr. Gorton, the name of the Senator from Oklahoma [Mr. Boren] was added as a cosponsor of S. 1018, a bill to amend the National Labor Relations Act to clarify the meaning of the term "guard" for the purpose of permitting certain labor organizations to be certified by the National Labor Relations Board as representatives of employees other than plant guards.

S. 1096
At the request of Mr. Pressler, the name of the Senator from New York [Mr. Moynihan] was added as a cosponsor of S. 1096, a bill to direct the cooperation of certain Federal entities in the implementation of the Continental Scientific Drilling Program.

S. 1094
At the request of Mr. Goldwater, the name of the Senator from Oregon [Mr. Packwood], the Senator from Washington [Mr. Gorton], the Senator from West Virginia [Mr. Rockefeller], the Senator from Nevada [Mr. Hacht], and the Senator from North Dakota [Mr. Bentsen] were added as cosponsors of S. 1094, a bill to authorize appropriations of funds for activities of the Corporation for Public Broadcasting, and for other purposes.

S. 1147
At the request of Mr. Hatch, the name of the Senator from South Carolina [Mr. Hollings] was added as a cosponsor of S. 1147, a bill to amend the orphan drug provisions of the Federal Food, Drug, and Cosmetic Act and related laws.

S. 1162
At the request of Mr. Hart, the name of the Senator from Washington [Mr. Gorton] was added as a cosponsor of S. 1162, a bill to amend the Nuclear Waste Policy Act of 1982 to require the Secretary of Energy to incorporate transportation impacts into the selection process for repositories of high-level radioactive wastes.
At the request of Mr. McCleure, the names of the Senator from Maine [Mr. Carper], the Senator from Minnesota [Mr. Durenberger], the Senator from South Carolina [Mr. Hollings], the Senator from South Dakota [Mr. Pascrell], and the Senator from Mississippi [Mr. Durenberger] were added as cosponsors of S. 1224, a bill to limit the importation of softwood lumber into the United States, and for other purposes.

At the request of Mr. Heinz, the name of the Senator from South Carolina [Mr. Hollings] was added as a cosponsor of S. 1250, a bill to amend the Internal Revenue Code of 1984 to extend the targeted jobs tax credit for 5 years, and for other purposes.

At the request of Mr. Thurmond, the name of the Senator from Hawaii [Mr. Bono] was added as a cosponsor of S. 1259, a bill to correct certain inequities by providing Federal civil service credit for retirement purposes and for the purpose of computing length of service to determine entitlement to leave, compensation, life insurance, health benefits, severance pay, tenure, and status in the case of certain individuals who performed service as National Guard technicians before January 1, 1969.

SENATE JOINT RESOLUTION 98
At the request of Mr. D'Amato, the names of the Senator from Indiana [Mr. Lugar], the Senator from Rhode Island [Mr. Pell], and the Senator from Massachusetts [Mr. Kerry] were added as cosponsors of Senate Joint Resolution 98, a joint resolution condemning the passage of Resolution 3379, in the United Nations General Assembly on November 10, 1975, and urging the U.S. Ambassador and U.S. delegation to take all appropriate actions necessary to erase this shameful resolution from the record of the United Nations.

SENATE JOINT RESOLUTION 115
At the request of Mr. Leahy, the name of the Senator from Louisiana [Mr. Johnston] was added as a cosponsor of Senate Joint Resolution 115, a joint resolution to designate 1985 as the "Oil Heat Centennial Year."

SENATE JOINT RESOLUTION 139
At the request of Mr. Hatch, the names of the Senator from Illinois [Mr. Dixon], the Senator from Minnesota [Mr. Durenberger], and the Senator from Michigan [Mr. Levin] were added as cosponsors of Senate Joint Resolution 139, a joint resolution to designate the week of December 1, 1985, through December 7, 1985, as "National Home Care Week."

AMENDMENTS SUBMITTED

ANTIAPARTHEID ACTION ACT

ROTH AND McCONNELL
AMENDMENT NO. 435
(Ordered to lie on the table.)
Mr. ROTH (for himself and Mr. McCon nell) submitted an amendment intended to be proposed by them to the bill (S. 995) to express the opposition of the United States to the apartheid policies of the Government of South Africa and to encourage South Africa to abandon such policies, as follows:

On page 19 after line 21 add the following new section:

TO MAKE UNITED STATES' POLICY TOWARDS SOUTH AFRICA CONSISTENT

Sec. 12. The provisions of this Act, and any rule or regulation issued pursuant thereto, shall not preempt any law, ordinance, rule or regulation of any of the several States, or any subdivision or entity created by any State, or the District of Columbia or any territory or possession of the United States which relates to the goal of peaceful change in South Africa, the reinforcement of United States opposition to apartheid, the ending of the policy of apartheid practiced by the Government of South Africa or any other purpose of this Act.

ROTH AND OTHERS
AMENDMENT NO. 438
(Ordered to lie on the table.)
Mr. ROTH (for himself, Mr. McConn ell, and Mr. Dodd) submitted an amendment intended to be proposed by them to the bill S. 995, supra; as follows:

At the appropriate place in the bill, insert the following:

SOUTH AFRICAN AIRWAYS

SEC. (a) Notwithstanding any other pro visions of law, including any international agreement, the Federal Aviation Adminis tration shall take such action as it deems necessary to assure that no aircraft owned or operated by South African Airways may be permitted to land in the United States on or after a date which is sixteen months after the date of enactment of this legislation.

(b) Notwithstanding the provision of subsection (a), the Federal Aviation Adminis tration shall promulgate regulations to provide for the landing of such aircraft in the event of an emergency.

FIREARMS OWNERS' PROTECTION ACT

SYMMS AND METZENBAUM
AMENDMENT NO. 437
Mr. HATCH (for Mr. Symms, for himself and Mr. Metzenbaum) proposed an amendment to the bill (S. 49) to protect firearms owners' constitutional rights, civil liberties, and rights to privacy, as follows:

On page 29, strike out lines 5 through 14 and insert in lieu thereof the following:
TRANSPORTATION OF FIREARMS

Sec. 107. (a) Chapter 44 of title 18, United States Code, is amended by inserting between section 926 and section 927 the following new section:

"§ 926A. Interstate transportation of firearms

"Any person not prohibited by this chapter from transporting, shipping, or receiving a firearm shall be entitled to transport an unloaded, not readily accessible firearm in interstate commerce notwithstanding any provision of any legislation enacted, or any rule or regulation promulgated by any State or political subdivision thereof."

(b) The table of sections for chapter 44 of title 18, United States Code, is amended by inserting between the item relating to section 926 and the item relating to section 927 the following new item:

"926A Interstate transportation of firearms."

SYMMS (AND OTHERS) AMENDMENT No. 438

Mr. SYMMS (for himself, Mr. METZENBAUM, Mr. HATCH, Mr. McCLEURE, Mr. KERRY, and Mr. KENNEDY) proposed an amendment to the bill S. 49, supra; as follows:

On page 29, strike out lines 5 through 14 and insert in lieu thereof the following:

TRANSPORTATION OF FIREARMS

Sec. 107. (a) Chapter 44 of title 18, United States Code, is amended by inserting between section 926 and section 927 the following new section:

"§ 926A. Interstate transportation of firearms

"Any person not prohibited by this chapter from transporting, shipping, or receiving a firearm shall be entitled to transport an unloaded, not readily accessible firearm in interstate commerce notwithstanding any provision of any legislation enacted, or any rule or regulation promulgated by any State or political subdivision thereof."

(b) The table of sections for chapter 44 of title 18, United States Code, is amended by inserting between the item relating to section 926 and the item relating to section 927 the following new item:

"926A Interstate transportation of firearms."

ANTI-APARTHEID ACTION ACT

SYMMS AMENDMENT Nos. 439 THROUGH 507

(Ordered to lie on the table.)

Mr. SYMMS submitted 69 amendments intended to be proposed by him to the bill S. 995, supra; as follows:

AMENDMENT No. 439

On page 39, line 8, strike out "March 1, 1987" and insert in lieu thereof "March 1, 1987".

AMENDMENT No. 440

On page 39, line 4, strike out "The President" and insert in lieu thereof "The Secretary of State".

AMENDMENT No. 441

On page 39, line 5, strike out "the chairman of the Committee on Foreign Relations of the Senate" and insert in lieu thereof "The Majority Leader of the Senate".

AMENDMENT No. 442

On page 39, line 5, strike out "Speaker of the House of Representatives" and insert in lieu thereof "The minority leader of the House of Representatives".

AMENDMENT No. 443

On page 39, line 20, strike out "unrestricted".

AMENDMENT No. 444

On page 38, line 22, strike out "black" and insert in lieu thereof "non-white".

AMENDMENT No. 445

On page 38, line 17, strike out "abolishing" and insert in lieu thereof "moderating".

AMENDMENT No. 446

On page 39, line 24, insert the following: "(P) ending coerced abortions within South Africa."

AMENDMENT No. 447

On page 39, line 7, strike out "eighteen" and insert in lieu thereof "thirty-seven".

AMENDMENT No. 448

On page 39, line 7, strike out "eighteen" and insert in lieu thereof "thirty-six".

AMENDMENT No. 449

On page 39, line 7, strike out "eighteen" and insert in lieu thereof "thirty-five".

AMENDMENT No. 450

On page 39, line 7, strike out "eighteen" and insert in lieu thereof "thirty-four".

AMENDMENT No. 451

On page 39, line 7, strike out "eighteen" and insert in lieu thereof "thirty-three".

AMENDMENT No. 452

On page 39, line 7, strike out "eighteen" and insert in lieu thereof "thirty-two".

AMENDMENT No. 453

On page 39, line 7, strike out "eighteen" and insert in lieu thereof "thirty-one".

AMENDMENT No. 454

On page 39, line 7, strike out "eighteen" and insert in lieu thereof "thirty".

AMENDMENT No. 455

On page 39, line 7, strike out "eighteen" and insert in lieu thereof "twenty-nine".

AMENDMENT No. 456

On page 39, line 7, strike out "eighteen" and insert in lieu thereof "twenty-eight".

AMENDMENT No. 457

On page 39, line 7, strike out "eighteen" and insert in lieu thereof "twenty-seven".

AMENDMENT No. 458

On page 39, line 7, strike out "eighteen" and insert in lieu thereof "twenty-six".

AMENDMENT No. 459

On page 39, line 7, strike out "eighteen" and insert in lieu thereof "twenty-five".

AMENDMENT No. 460

On page 39, line 7, strike out "eighteen" and insert in lieu thereof "twenty-four".

AMENDMENT No. 461

On page 39, line 7, strike out "eighteen" and insert in lieu thereof "twenty-three".

AMENDMENT No. 462

On page 39, line 7, strike out "eighteen" and insert in lieu thereof "twenty-two".

AMENDMENT No. 463

On page 39, line 7, strike out "eighteen" and insert in lieu thereof "twenty-one".

AMENDMENT No. 464

On page 39, line 7, strike out "eighteen" and insert in lieu thereof "twenty".

AMENDMENT No. 465

On page 39, line 7, strike out "eighteen" and insert in lieu thereof "nineteen".

AMENDMENT No. 466

On page 39, line 8, strike out "twelve" and insert in lieu thereof "twenty-five".

AMENDMENT No. 467

On page 39, line 8, strike out "twelve" and insert in lieu thereof "twenty-four".

AMENDMENT No. 468

On page 39, line 8, strike out "twelve" and insert in lieu thereof "twenty-three".

AMENDMENT No. 469

On page 39, line 8, strike out "twelve" and insert in lieu thereof "twenty-two".

AMENDMENT No. 470

On page 39, line 8, strike out "twelve" and insert in lieu thereof "twenty-one".

AMENDMENT No. 471

On page 39, line 8, strike out "twelve" and insert in lieu thereof "twenty".

AMENDMENT No. 472

On page 39, line 8, strike out "twelve" and insert in lieu thereof "nineteen".

AMENDMENT No. 473

On page 39, line 8, strike out "twelve" and insert in lieu thereof "eighteen".

AMENDMENT No. 474

On page 39, line 8, strike out "twelve" and insert in lieu thereof "seventeen".

AMENDMENT No. 475

On page 39, line 8, strike out "twelve" and insert in lieu thereof "sixteen".

AMENDMENT No. 476

On page 39, line 8, strike out "twelve" and insert in lieu thereof "fifteen".

AMENDMENT No. 477

On page 39, line 8, strike out "twelve" and insert in lieu thereof "fourteen".

AMENDMENT No. 478

On page 39, line 8, strike out "twelve" and insert in lieu thereof "thirteen".

AMENDMENT No. 479

On page 39, line 8, strike out "March 1, 1987" and insert in lieu thereof "March 2, 1987".
On page 39, line 8, strike out "March 1, 1987" and insert in lieu thereof "March 3, 1987".

AMENDMENT No. 481
On page 39, line 8, strike out "March 1, 1987" and insert in lieu thereof "March 4, 1987".

AMENDMENT No. 482
On page 39, line 8, strike out "March 1, 1987" and insert in lieu thereof "March 5, 1987".

AMENDMENT No. 483
On page 39, line 8, strike out "March 1, 1987" and insert in lieu thereof "March 6, 1987".

AMENDMENT No. 484
On page 39, line 8, strike out "March 1, 1987" and insert in lieu thereof "March 7, 1987".

AMENDMENT No. 485
On page 39, line 8, strike out "March 1, 1987" and insert in lieu thereof "March 8, 1987".

AMENDMENT No. 486
On page 39, line 8, strike out "March 1, 1987" and insert in lieu thereof "March 9, 1987".

AMENDMENT No. 487
On page 39, line 8, strike out "March 1, 1987" and insert in lieu thereof "March 10, 1987".

AMENDMENT No. 488
On page 39, line 8, strike out "March 1, 1987" and insert in lieu thereof "March 11, 1987".

AMENDMENT No. 489
On page 39, line 8, strike out "March 1, 1987" and insert in lieu thereof "March 12, 1987".

AMENDMENT No. 490
On page 39, line 8, strike out "March 1, 1987" and insert in lieu thereof "March 13, 1987".

AMENDMENT No. 491
On page 39, line 8, strike out "March 1, 1987" and insert in lieu thereof "March 14, 1987".

AMENDMENT No. 492
On page 39, line 8, strike out "March 1, 1987" and insert in lieu thereof "March 15, 1987".

AMENDMENT No. 493
On page 39, line 8, strike out "March 1, 1987" and insert in lieu thereof "March 16, 1987".

AMENDMENT No. 494
On page 39, line 8, strike out "March 1, 1987" and insert in lieu thereof "March 17, 1987".

AMENDMENT No. 495
On page 39, line 8, strike out "March 1, 1987" and insert in lieu thereof "March 18, 1987".

AMENDMENT No. 496
On page 39, line 8, strike out "March 1, 1987" and insert in lieu thereof "March 19, 1987".

AMENDMENT No. 497
On page 39, line 8, strike out "March 1, 1987" and insert in lieu thereof "March 20, 1987".

AMENDMENT No. 498
On page 39, line 8, strike out "March 1, 1987" and insert in lieu thereof "March 21, 1987".

AMENDMENT No. 499
On page 39, line 8, strike out "March 1, 1987" and insert in lieu thereof "March 22, 1987".

AMENDMENT No. 500
On page 39, line 8, strike out "March 1, 1987" and insert in lieu thereof "March 23, 1987".

AMENDMENT No. 501
On page 39, line 8, strike out "March 1, 1987" and insert in lieu thereof "March 24, 1987".

AMENDMENT No. 502
On page 39, line 8, strike out "March 1, 1987" and insert in lieu thereof "March 25, 1987".

AMENDMENT No. 503
On page 39, line 8, strike out "March 1, 1987" and insert in lieu thereof "March 26, 1987".

AMENDMENT No. 504
On page 39, line 8, strike out "March 1, 1987" and insert in lieu thereof "March 27, 1987".

AMENDMENT No. 505
On page 39, line 8, strike out "March 1, 1987" and insert in lieu thereof "March 28, 1987".

AMENDMENT No. 506
On page 39, line 8, strike out "March 1, 1987" and insert in lieu thereof "March 29, 1987".

AMENDMENT No. 507
On page 39, line 8, strike out "March 1, 1987" and insert in lieu thereof "March 30, 1987".

FIREARMS OWNER'S PROTECTION ACT

HATCH (AND OTHERS) AMENDMENT No. 508
Mr. HATCH (for himself, Mr. DOLE, and Mr. MCCLUERE) proposed an amendment to the bill S. 49, supra; as follows:

On page 21, strike out lines 2 through 22 and insert in lieu thereof the following:

"(a)(1) Whoever—

"(A) other than a licensed dealer, licensed importer, licensed manufacturer, or licensed collector knowingly makes any false statement or representation with respect to the information required by the provisions of this chapter to be kept in the records of a person licensed under the provisions of this chapter;

"(B) knowingly makes any false statement or representation in applying for any license or exemption or relief from disability under the provisions of this chapter;

"(C) knowingly violates subsections (a)(4), (a)(6), (f), (g), (h), (i), (j), or (k) of section 922;

"(D) knowingly imports or brings into the United States or any possession thereof any firearm or ammunition in violation of section 922(1);

"(E) knowingly violates any provision of this section; or

"(F) willfully violates any other provision of this chapter,

shall be fined not more than $5,000, or imprisoned not more than five years, or both, and shall become ineligible for parole as the Board of Parole shall determine.

"(2) Any licensed dealer, licensed importer, licensed manufacturer or licensed collector who knowingly—

"(A) makes any false statement or representation with respect to the information required by the provisions of this chapter to be kept in the records of a person licensed under this chapter, or

"(B) violates subsection (m) of section 922, shall be fined not more than $1,000, or imprisoned not more than one year, or both, and shall become eligible for parole as the Board of Parole shall determine.

On page 8, strike out lines 8 and 9 and insert in lieu thereof the following:

"(B) by amending paragraph (3) to read as follows:

"(3) is an unlawful user of or addicted to marijuana or any depressant or stimulant substance or narcotic drug (as those terms are defined in section 102 of the Controlled Substances Act (21 U.S.C. 802));"

On page 8, strike out lines 23 and 24 and insert in lieu thereof the following:

"(B) by amending paragraph (3) to read as follows:

"(3) is an unlawful user of or addicted to marijuana or any depressant or stimulant substance or narcotic drug (as those terms are defined in section 102 of the Controlled Substances Act (21 U.S.C. 802));"

On page 10, strike out lines 1 and 2 and insert in lieu thereof the following:

"(B) by amending paragraph (3) to read as follows:

"(3) is an unlawful user of or addicted to marijuana or any depressant or stimulant substance or narcotic drug (as those terms are defined in section 102 of the Controlled Substances Act (21 U.S.C. 802));"


On page 22, line 8, after "such" insert "felony described in the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or section 1 of the Act of September 15, 1980 (94 Stat. 1156; 21 U.S.C. 855a), or "

On page 22, line 14, strike out "included that imposed for the " and insert in lieu thereof the following: "any firearm or ammunition in violation of section 922(1)

On page 22, line 14, strike out "included that imposed for the " and insert in lieu thereof the following: "any firearm or ammunition in violation of section 922(1)"
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tember 15, 1980 (94 Stat. 1159; 21 U.S.C. 855a), or—

On page 1, line 3, strike out "of citizens".

On page 1, line 7, strike out "their" and insert in lieu thereof the following:

"the".

On page 2, line 2, strike out "their" and insert in lieu thereof the following:

"itself.

On page 5, line 19, strike out "the sale or" and insert in lieu thereof the activity in- volving firearms, including the sale or other:"

On page 5, line 24, strike out "opposed to" and insert in lieu thereof "distinguished from":

On page 1, line 12, strike out the colon and insert in lieu thereof a semicolon.

On page 12, line 13, strike out "is so" and insert in lieu thereof "is in a licensee's per- sonal collection":

On page 12, lines 15 and 16, strike out "disposition or any acquisition" and insert in lieu thereof "transfer":

On page 14, line 3, strike out "explicitly" and insert in lieu thereof "expressly":

On page 14, line 3, beginning with "the Act", strike out through "privy," on line 5 and insert in lieu thereof "this section":

On page 14, line 20, after "inspect" insert "or examining":

On page 14, lines 22 and 23, strike out "for a reasonable inquiry" and insert in lieu thereof "in the course of a reasonable in- quiry":

On page 15, line 4, strike out "to prohibit- ed persons" and insert in lieu thereof "in violation of section 922(d)":

On page 15, line 5, strike out "inspections or inquiries" and insert in lieu thereof "ins-pection or examination":

On page 15, line 15, strike out "inspections or inquiries" and insert in lieu thereof "inspection or examination":

On page 15, line 23, strike out "such pro- cedure" and "insert in lieu thereof "The in- spection and examination authorized by this subsection":

On page 16, line 21, strike out "explicitly" and insert in lieu thereof "expressly":

On page 16, strike out lines 22 and 23 and insert in lieu thereof "this section":

On page 17, lines 8 and 9, strike out "trac- ing firearms" and insert in lieu thereof "de- termining from whom a licensee acquired a firearm and whether such licensee disposed of such firearm":

On page 22, line 19, and 20, strike out "or destructive device":

On page 22, line 21, strike out "the good faith":

On page 22, line 21, insert a comma after "stamped":

On page 22, line 23, insert a comma after "person":

On page 22, strike out line 24 and insert in lieu thereof the following: "court finds that the perceived immediate danger was so perceived in good faith and that a sentence under this subsection would":

On page 22, line 25, strike out "justice and" and insert in lieu thereof "Justice":

On page 27, line 3, strike out "such" and insert in lieu thereof "The":

On page 27, line 22, strike out "925" and insert in lieu thereof "926":

On page 30, strike out lines 16 through 19 and insert in lieu thereof the following: Sec. 201. Title VII of the Omnibus Crime Control and Safe Streets Act of 1968 (sec- tions 1301, 1302, and 1303 of the appendix to title 18, United States Code) is hereby amended to read as follows:

(1) In the case of a person who violates section 922(g) of title 18, United States Code, and who has three previous convictions by any court referred to in section 922(g)(1) of title 18, United States Code, for robbery or burglary, or both, such person shall be fined not more than $30,000 and imprisoned not less than fifteen years; and, notwithstanding any other provision of law, the court shall not suspend the sentence of, or grant a probationary sentence to, any person who has been convicted of such violation under section 922(g) of title 18, United States Code, and such person shall not be eligible for parole with respect to the sentence imposed under this section.

(b) As used in this title—

(1) "robbery" means any crime punishable by a term of imprisonment exceeding one year and consisting of the taking of the property or of another by force or violence, or by threatening or placing another person in fear that any person will imminently be sub­ jected to bodily injury; and

(2) "burglary" means any crime punish­ able by a term of imprisonment exceeding one year and consisting of entering or re­ mains surreptitiously within a building that is property of another with intent to engage in conduct constituting a Federal or State offense.

KENNEDY (and Others)
AMENDMENT NO. 509

Mr. KENNEDY (for himself, Mr. MOYNIHAN, Mr. METZENBAUM, Mr. MAT­ SUNAGA, and Mr. KERRY) proposed an amendment to the bill S. 49, supra; as follows:

On page 7, lines 8 and 9, strike out "fire­ arm" and insert in lieu thereof "shotgun or rifle":

MATHIAS AMENDMENT NO. 510

Mr. MATHIAS proposed an amendment to the bill S. 49 supra; as follows:

On page 14, line 24, after "(B)" insert "for routine compliance inspections.,"

On page 14, line 25, strike out ", upon rea­ sonable":

On page 15, line 1, strike out "notice.,"

On page 15, line 9, after "(A)" insert "for routine compliance inspection":

On page 15, lines 10 and 11, strike out ", upon reasonable notice,."

INOUYE (and Others)
AMENDMENT NO. 511

Mr. INOUYE (for himself, Mr. MAT­ SUNAGA, Mr. KENNEDY, Mr. METZ­ ENBAUM, Mr. MOYNIHAN, and Mr. KERRY) proposed an amendment to the bill S. 49, supra; as follows:

On page 10, lines 21 and 22, strike out "a new subsection to read as follows" and insert in lieu thereof the following new subsections:

On page 11, line 3, strike out the closing quotation marks and final period.

On page 11, between lines 3 and 4, insert the following:

"(1) It shall be unlawful for any person to deliver any handgun to any other person after negotiating for the sale of such hand­ gun to such person, before the expiration of 14 days after the date of the first payment for such handgun is received from the buyer of same, except that the 14 day delay period pro­ vided for herein shall not apply—

(1) When the chief law enforcement offi­ cer of the purchaser's place of residence cer­ thy, by notarized statement to the seller, that the immediate delivery of the handgun to the buyer is, to his knowledge, necessary to protect against a threat of immediate danger to the physical safety of the buyer:—

(2) When the purchaser provides proof that he has purchased another handgun within the previous twelve months and that in such purchase he complied with the 14 day waiting period; or

(3) to transactions between licensed im­ porters, licensed manufacturers, licensed dealers, and licensed collectors.

NOTICES OF HEARINGS
COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. McCLURE. Mr. President, I would like to announce for the information of the Senate and the public the scheduling of a public hearing before the Committee on Energy and Natural Resources.

Wednesday, July 17, 1985, beginning at 9:30 a.m., in room SD-369 of the Dirksen Senate Office Building the committee will consider the following nominations:

Charles A. Trabandt, of Virginia, to be a member of the Federal Energy Regulatory Commission for a term expiring October 20, 1988.

Russell F. Miller, of Maryland, to be deputy inspector general of the U.S. Synthetic Fuels Corporation for a term of 7 years.

Those wishing to testify or to submit written statements for the hearing record should write to the Committee on Energy and Natural Resources, U.S. Senate, Washington, DC 20510.

For further information regarding this hearing, please contact Nan Mor­ rison at 202-224-7143 regarding the nomination of Mr. Trabandt, and Richard Grundy at 202-224-2564 re­ garding the nomination of Mr. Miller.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON NATURAL RESOURCES DEVELOPMENT AND PRODUCTION

Mr. DOLE. Mr. President, I ask unanimous consent that the Subcom­ mittee on Natural Resources Develop­ ment and Production of the Commit­ tee on Energy and Natural Resources be authorized to meet during the ses­ sion of the Senate on Thursday, July 8, to hold an oversight hearing on the impact of the coal industry of the Office of Surface Mining's proposed rulemaking to collect permit application fees.

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

COMMITTEE ON THE JUDICIARY

Mr. HATCH. Mr. President, I ask unanimous consent that the Commit­ tee on the Judiciary be authorized to meet during the session of the Senate on Wednesday, July 10, in order to dis­ cuss and vote on amendments to Senate Joint Resolution 13, proposing an amendment to the Constitution re­
The second poll question confirms this conclusion. This survey asked, "would you like to see the United States trade more with Japan, less, or about as much as it does now?" Thirty-three percent were indifferent, preferring to maintain the status quo; only 21 percent wanted less trade, and 46 percent of those polled wanted to see more trade with Japan.

Finally, a third question asked respondents to vote for restrictions on imports or for encouraging free trade and competition in order to solve our trade problems. An overwhelming majority of 73 percent preferred a "system that let more American goods and services into Japan and Western Europe, and more goods from those countries into the United States."

Unfair foreign trade practices are causing the loss of American jobs and a decline in United States industries. This poll data clearly shows that the American people are fed up with the situation, and they are demanding that we, as Members of Congress, act quickly and authoritatively.

Mr. President, I have over the past weeks proposed a number of pieces of legislation that would constitute such action, most recently S. 1356, the LICIT bill, which would provide a foundation for a new, more aggressive trade policy. I hope all Senators will consider that bill carefully and heed the message contained in the poll data I have clearly presented, and they prefer that it be constructive and market-opening. In future comments I plan to discuss what tactics might best achieve that objective.

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about higher quality in our teacher education programs. Certainly limiting admission to the current state of affairs, as we have stated may give the appearance of an improved program. A more responsible responsive, however, must take into consideration the current state of affairs as well as the problems and the problems in academic programs in secondary schools and the general education quality of the student body. The serious decline it is causing in the number of Black teachers employed in America's school systems. Projections from current statistics indicate that within a decade, there will be a very low percentage of Black teachers in America's schools. A cursory look at current productivity levels, retirements and changes in careers bear out directly to this grievous trend.

As current teachers grow older and retire, the racial composition of the teaching force will change. Since the beginning of the twenty-first century, the percentage of the 1,394 Black students from public institutions who took the NTE in 1979 was 82 percent. In 2001, Florida certified approximately 200 Black teachers out of an overall total of 5,500, a Black representation of 3.6 percent. If pass rates do not improve, projections of 1986 Texas teacher education graduates indicate that Black teachers will constitute less than one percent! (Emphasis mine). (G. P. Smith, AACTE Briefs, November, 1984.)

It is our conviction at the University of Arkansas-Pine Bluff that Black students are intellectually capable of profiting from a college education, but there is a greater need to remove the effects of educational deprivation that result from weak educational programs in secondary schools. The ability to perform well on standardized academic achievement examinations, to make satisfactory progress in college and to achieve a qualifying score on such “follow-on” examinations as the NTE are related to the most part to quality secondary education in public school in a core of courses that include the five “basics”—reading, mathematics, science, social studies, and science—as well as literature, history, philosophy, foreign language, and fine arts—the education on which we supposedly focus from kindergarten through the sophomore year in college.

Rather than merely lament the inevitable, we at UAPB have implemented an ambitious, comprehensive plan designed to make long-term improvements in the situation, at least in one state. As we began our effort, nearly 50 percent of the faculty had Ph.D. or similar degrees, while nearly half had Master of Arts or equivalent degrees. The pre-requisites for acceptance into the university were kept in mind. First, it is absolutely essential that America's education system be improved dramatically, including especially those units which produce teachers. Second, the students who choose to major in teacher education nationally have the capability of profiting from the courses in each high school graduating cohort.

Third, the decline in educational quality in American education, first by 49 percent. It is clear to all faculty and staff that education from kindergarten through the sophomore year in college was assessed directly by the NTE. Further, it was explained that most “follow-on” examinations, such as the NTE, the Nursing Licensure Examination, and the Army ROTC test, are considerably more about the totality of the educational quality of the entire university than they do about a particular aspect.

Step two consisted of a complete academic program review of the entire Teacher Education Division, with a view toward establishing current, relevant curricula, admissions criteria, progression controls, and graduation standards. This allowed staff in teacher education to assure the level of education of each candidate prior to allowing admission into the professional education sequence, and to indicate the areas in which students were required to meet national standards. All professional education courses have been transferred to the Division of Education, with the exception of those professional education methods courses, such as mathematics—education, which formerly were housed in Arts and Sciences. The current educational level of students requires a reduction in courses in methods and pedagogy and an increase in liberal arts courses to produce graduates who are better educated over-all. It is much easier to improve teaching techniques on-the-job than it is to improve basic skills and subject matter content.

In an effort to make certain that sufficient resources were directed into those aspects of teacher education that receive special academic assistance, and to make certain that adequate academic progression safeguards were established, a third step was to organize UAPB into two units, an upper and a lower division. The lower division was named University College. The "college" has administrative responsibility for initial academic assessment, advisement, placement, basic skill development, tutorials, and for assuring that general education requirements and other academic courses and standards are met before students are allowed to move into the upper division, or major academic programs.

The academic chief executive officer became personally involved in coordinating the form the new state educational initiatives would take so that the drive toward excellence would come from the base, and would eliminate situations which prevent Black students from real educational advancement. The Chancellor served on both the committee formed to write new accreditation standards for Arkansas' public schools and the Quality Higher Education Study Committee. On both committees, the Chancellor was an advocate for those standards which would require all students not only to move very far in the school system before having their educational progress assessed and having deficiencies corrected. In particular, standards were recommended to assure that the five basics—reading, mathematics, language arts, social studies and science—as required for competency would be required of all students prior to the ninth grade. Minimum competency assessments administered to students indicated that a college education was possible for 82 percent of the 1,394 Black students from public institutions who took the NTE in 1979. At UAPB, the effort began on campus where the Division of Education, both the Division of Arts and Sciences and the Division of Teacher Education. The chief executive officer made it clear to all faculty and staff that education from kindergarten through the sophomore year in college was assessed directly by the NTE. Further, it was explained that most "follow-on" examinations, such as the NTE, the Nursing Licensure Examination, and the Army ROTC test, are considerably more about the totality of the educational quality of the entire university than they do about a particular aspect.

In addition to the Chancellor's efforts, UAPB's Dean of Students, not UAPB student (the only student appointed) served on the Arkansas Teacher Education, Evaluation and Certification Committee. Step three consisted of the implementation of workshops, seminars, and special courses in test-taking techniques to assist students in translating general knowledge into responses required to perform well not only on the NTE, but also on other standardized examinations of educational competency. Among the measures of those standards to reduce test anxiety by indicating certain routine pitfalls and by simply familiarizing students with a standardized test.

In step six, we instituted UAPB's Educational Warranty, the first TBI to initiate such, and only the sixth university in America to do so. Although the warranty deals primarily with those graduates who have passed the NTE and have been employed in a school system, it must be seen in the entire educational context within UAPB's overall educational initiatives. The warranty is the end of a process that begins when a student enrolls at UAPB. Thus, only after the student has been treated to University College, testing seminars, and workshops, and after they have taken an extensive counseling and interactive system that involves our counseling center, Arts and Sciences Division and the Division of Teacher Education, the warranty will be applied. Students who do not participate in required functions will not be granted the warranty. The specific conditions of the warranty are:

1. The Warranty can be activated by either the student or the school district.
2. The Warranty requires that both the student and the school district make an agreement to either deliver the content or the training team will meet with the student.
3. The teacher training team will be composed of specialists from the Division of Education, student advisor, content specialist from Arts and Sciences and/or procedural specialist from Arts and Sciences and/or procedural
mented.
5. A baseline will thus be established from which a gain improvement will be docu mented.
6. Our Warranty will cover professional aspect of our students for 3 years after grad uation.
Because of the requirement to specify weaknesses in each graduate, principals and superintend ent program is designed to address their evaluation techniques and there will be a decline in arbitrariness and capriciousness. Since school administrators will be required to specify weakness in our "product," we in the University will be able to improve our preservice training, including arts and science components of the total education al curriculum.
In fall 1984, UAPB hosted and co-spon sored a national conference entitled "Educational Excellence and Equity." The primary pur pose of the conference was to communicate among selected individuals some of the fundamental causes of the stall in Black progress in education in Ar kansas. The conference recommended that we begin a plan in which the following conference goals, that individuals would be connected with the university and would be provided with infor mation in a manner necessary to deal in the communities with the multifaceted problems facing Blacks in education.
UAPB initiated also an Advocacy Center for Equity and Excellence in Teacher Edu cation. The center was established with a grant from UAPB's Education Excellence Project. The purpose of the project is to address specifically the poor showing by Blacks on standardized examinations, to increase the number of Black teachers and to improve the performance of Black students and Black teachers in education and on standard ized examinations. The program will be conducted with free workshops for teachers, students and parents and will deal with matters such as test-taking, study skills, core curricula and gifted and talented programs.
CONCLUSION
There are some very strong indicators that our approach is educationally sound. In 1989 and 1981, UAPB pass rates on the Nursing License Examination, at first sittings, were 40% and 55.5% respectively. In the three most recent sitings, the pass rates were 67%, 85% and 100%. Our RCTC students achieved a 100% pass rate on the examination which the Army had predicted would fail 75% of UAPB's students because the passing score was set at the equivalent of 17 on the ACT and UAPB's average last year was 10.5. More specifically for teacher education, our pass rate on the NES in creased from 42% in 1983 to 73% in 1984. UAPB has led the state in enrollment gains, on-campus enrollment in summer 1984, 7.6% in fall 1984, and 4% in spring 1985. We experienced a 17% increase in on-campus enrollment, off-campus enrollment in fall 1984; and in spring 1985, we have 190 more Black students than we had in spring 1984.
3. I would be among the first to state that the quality of education has suffered during the past two decades and that teacher edu cation programs in particular are badly in need of modification. I am convinced also, however, that the problem does not lie solely in one problem by creating another. Educa tional leaders who would claim to be responsi ble would not attempt to improve the quality of education, but rather identify and increase the increasing hurdles required to enter the profession. Not only would program quality remain intact, but also the very well defined objective of improvement cannot be. The objective of decreasing the teacher shortage among Blacks, women, and persons from lower socioeconomic levels cannot be an escalation of the teacher shortage among Blacks, women, and persons from lower socioeconomic levels. If the objective is simply to reduce the number and social, economic and racial spectrum of persons going into the teaching profession, then higher admission, progression, graduation and certification requirements implemented without having made sure that all students have been afforded a quality education will suffice. If, on the other hand, the objective is to improve the quality and quantity of persons going into and remaining in the field, an entirely different set of solutions is in order.
Such improvement cannot be developed by confining one's attention to the University. Not only will the improvement in the quality, quantity and population spectrum remain intact, but also the quality of persons entering the teaching profession will improve. For the University, but also legislatures, public schools, parents and related groups must be involved in the reformation.
CONGRESSIONAL RECORD-SENATE
July 9, 1985
Hon. ROBERT S. Domenici, U.S. Senate, Dirksen Senate Office Building, Washington, DC.
Dear Senator Domenici: We remain trou bled by the so-called I-match proposal contained in the Senate budget reduction pack age which would replace Eximbank's direct loan program. We believe that I-match is an inferior export promotion proposal and would actually widen the deficit. To claim that the budget deficit is reduced by substituting I-match for Exim direct loans takes advantage of accounting prac tices in the budget process which do not rec ognize that Exim will not be repaid in the same manner that it will be on the large loans such as banks, and because they are authorizations of loans that collect interest.
In the same testimony, Mr. Draper went on to estimate that I-match as proposed by the Administration would cost the government $40 billion more annually than the current direct loan program.
In addition, I-match is distinctly inferior to the direct loan program. I-match provides no loan guarantee for the bank and its somewhat increas ingly aggressive use of mixed credits. Real questions exist about the willingness of lenders to fund mixed credits under I-match. Given current world conditions, it will inevitably be a major part of any comprehensive trade program we design. Today, with trade wars threaten ing in the Wake of the East-West economic in creasingly aggressive use of mixed credits. The proposal relies almost completely on the Private Export Funding Corporation (PEFICO), a small financial in stitution designed to supplement Exim's direct lending. And perhaps most objection able, the budget savings supposedly achieved represent little more than accounting gimmickry rather than real budget savings.
A key component of a positive trade program in this country is to maintain a strong Exim direct loan program, certainly until such time that an international agreement plan international trade has been developed with an Export-Import Bank to sup plant Exim's direct lending. And perhaps most objectionable, the budget savings supposedly achieved represent little more than accounting gimmickry rather than real budget savings.
Development of a credible deficit reduc tion package is vital to restoring U.S. inter-
July 9, 1985

CONGRESSIONAL RECORD—SENATE 18255

national competitiveness. We all recognize that the reduction of the federal budget is of paramount importance in dealing with the dollar crisis, and the Eximbank supports that effort. But the U.S. Government is kid-
ing itself if it thinks that this nation’s interests, including efficiency, will be solved simply by deficit reductions. There is a whole range of other policies that are essential to improving trade performance, and the Eximbank direct loan pro-
gram is one of those.

Foreign firms are not likely to give up markets they have gained over the past four years without a fight. In fact, in the event that exchange rate realignment helps to close the competitive gap between U.S. and foreign firms, we can expect to see greater, not less, foreign reliance upon export finan-
cing to maintain their market positions. To give up the proven Eximbank direct loan program, which is universally understood and accepted by domestic and foreign users, for an unknown and more expensive pro-
gram such as I-match makes no sense.

When the Eximbank functions properly, it is an effective tool in U.S. export expan-
sion benefiting not only principal exporters but also their suppliers located throughout the country. It has been made of a critical funding to a large number of major suppliers located nationwide. For example, in a typical nuclear power plant export in the $1 billion range, 52% of the foreign firms, we can expect to see greater, not less, foreign reliance upon export finan-
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however, whether these studies can be projected directly to the human species. The creation of embryonic cells for human beings are necessarily more stringent because of special concern about effects on the human brain and because of ethical considerations.

The second issue raised by freezing is that, in providing an indefinite but reversible development, it offers advantages but also introduces options that many or may not be beneficial. In effect, freezing not only disconnects the embryo from its production cycle in the donor but greatly facilitates transfer to non-donors, thereby expanding the possibilities enormously.

Disconnection from the particular cycle of the donor offers other benefits to the donor as if the first effort has been successful, frozen spare embryos could be used for a second child; in vitro fertilization does not change over an extended period. The connection to the parents may be further attenuated by time. For example, the embryo will periodically undergo substantial biologic changes over a period of 30 years, but the egg donor will be aging and losing the capability to go back for intrauterine nurture. Does the passage of time alter the social, moral, and legal status of the frozen embryo in the donor’s status as mother and decision maker changed?

Another important issue, raised earlier by in vitro fertilization itself, is heightened by embryo freezing: Should research be carried out on early human embryos? Freezing allows accumulation of embryos for later use in research, which is important both logically and for the provision of increased numbers for statistically reliable comparisons. However, the impact of freezing on research is not easily assessed. Britain’s committee of inquiry concluded that the practice of freezing would actually reduce the stocks of embryos available for research. Indeed, this expectation was one justification for the committee’s decision not to recommend embryo freezing to sanction deliberate creation of human embryos for research.

Whether in terms of research or of other possible uses of human embryos, the issues raised by freezing go beyond those of in vitro fertilization itself. Given the potential for indefinite but reversible development, it is desirable to specify permissible uses in advance. Without freezing, options are restricted by the egg donor’s menstrual cycles and limited to research. Thus, freezing may present alternatives months or even years after storage.

Also, these are the matter of the relative independence that is fundamental for the welfare of the embryo. Indeed, the embryo status and rights have been a major issue in connection with abortion. These issues were raised publicly with respect to the rights at all? Embryo status and rights have been a major issue in connection with abortion. Thus, in vitro fertilization is part of a broader front of genetic and developmental techniques.

SOCIAL AND ETHICAL IMPLICATIONS OF FROZEN EMBRYOS

The inheritance rights of the human embryo were raised publicly with respect to the two frozen embryos in Melbourne. But does an external human embryo have any rights at all? Embryo status and rights have been a major issue in connection with abortion. In vitro fertilization presents the issue in a new context, one in which the mother’s rights are not nearly so immediately involved. The frozen embryo, isolated in developmental stasis for an indefinite period, raises a number of difficult questions that appear to be unprecedented.

For example, to whom do such embryos “belong”—to living parents, to the estate of deceased parents, to the state, to the surrogate that maintains them, to the state? If they are not “property,” what are their social relationships? Who is responsible for their welfare? Do they, under some circumstances, become wards of the state? For the first time, we are directly confronting such questions about embryos as immaterial entities that are capable of maturing into adults but are physically independent of their parents and legal persons. It is not the case that freezing embryonic cells for human beings separately becomes viable and susceptible to intervention. Public bodies in several countries agree that the human embryo is entitled to respect, but they have articulated no consensus on what “respect” means as a limit to specific treatment or use. Moreover, changing states in the developmental transition from a fertilized egg to an infant have not been distinguished.

In the United States adults have constitutionally protected rights to reproductive choices without interference by the state. Moreover, an embryo formed from the gametes of an adult couple has a strong continuing relationship to the couple, who are recognized socially and legally as the parents. The role includes a prima facie involvement of genetic parents in decisions about the future of their embryos.

The medical interest in better reproductive health also appears to extend to the mitigation of genetic disease and birth defects. Thus, in vitro fertilization is part of a broader front of genetic and developmental techniques.

POLICY CONSIDERATIONS

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THE IMMEDIATE POLICY OPTIONS

What public-policy steps are needed now to deal with embryo freezing and other foreseeable technical advances? In general, policy options may be differentiated into two categories: Those that might be implemented by sweeping legislative or executive decision, with many intermediate choices . When
constraint is thought to be necessary, a regulatory approach is warranted.

Clinical use of in vitro fertilization, including embryo freezing, began several years earlier in Britain and Australia than in the United States. Those national public-policy initiatives in response to their awareness of this medical advance: gene transfer. This is scientific grounds by the National Institutes of Health, the secretary asked the Ethics Advisory Board to examine all aspects of such a research proposal was accepted on scientific grounds by the National Institutes of Health. The possible involvement in the national community. The committee spelled out a number of conditions and limitations on the report of the Ethics Advisory Board was dissolved not long after it was issued the report. In consequence, a de limitation with respect to these matters began earlier in Britain and Australia than in the United States, unlike Britain, the usual focus of authority for laws relating to reproductive matters is the state, not the national government. It is not unlikely, therefore, that state action will be required to consider regulation of in vitro fertilization or embryo freezing. The possibility is a strong argument for an investigatory body to inform policy development at all levels of government. Such a commission or board would make meaningful recommendations public and private, so that the pluralism of our values can be reflected both in whatever public policy emerges and in the mechanisms and processes by which underlying consensus will be necessary to buttress any public policy in so fundamental a matter as human reproduction.

Assuming that a national focus is being established, are additional steps required? Major concern about freezing centers on the uses to which frozen and thawed embryos might be put, beyond transfer to the uterus of the egg donor. If a national commission were established, it would have several years before recommendations could be made and considered. This has been the timeframe in Britain and Australia. Meanwhile, increasing numbers of frozen embryos may be produced, with increasing uncertainty about their status and use.

To minimize the problem, we suggest the following steps. The clinical community involved with in vitro fertilization should voluntarily limit use of embryo freezing to the cases in which the frozen embryo is a potential for eugenic application. Congressional hearings on this subject were held in 1982. Subsequently, legislation was passed by the Senate but not by the House. The national commission clearly should be to determine whether the government is to be involved at all in decisions about new reproductive options and, if so, at what level. In the United States, unlike Britain, the usual focus of authority for laws relating to reproductive matters is the state, not the national government. It is not unlikely therefore, that state action will be required to consider regulation of in vitro fertilization or embryo freezing. The possibility is a strong argument for an investigatory body to inform policy development at all levels of government. Such a commission or board would make meaningful recommendations public and private, so that the pluralism of our values can be reflected both in whatever public policy emerges and in the mechanisms and processes by which underlying consensus will be necessary to buttress any public policy in so fundamental a matter as human reproduction.

Todd Harrison Rider, a 16-year-old junior at Old Main High School in North Little Rock, was the recipient of several honors in the engineering category, for his project entitled, “How Can Rocketry Staging Be Improved?” Todd sought to design and evaluate a multi-stage rocket system using component re-usable staging. For his efforts, this young man was presented the First Award sponsored by the American Astronautical Society, the National Aeronautics and Space Administration's (NASA) First Award, and the Generous Men ISEF Fourth Award.

In the physics division, 17-year-old Rudolph (Rudy) J. Timmerman, a senior at Wickes High School in Fayetteville, AR, was presented the First Award sponsored by the American Association of Physics Teachers, the General Motors ISEF First Award, and from the American Vacuum Society (Vacuum Technology Division). Yet another First Award. Rudy’s project, involving the Rutherford alpha scattering experiment, performed this process using new techniques to detect and count alpha particles. The Rutherford data was used to verify the Rutherford scattering formula. The magazine, Scientific American, plans to publish Rudy’s project in a later issue. The third Arkansas winner at this year’s competition was also a multiple honoree in the engineering category. Eighteen-year-old Eugene Sargent, of Fayetteville, AR, received First Awards from the Bell Electronic Systems Division, General Motors Corp., the Junior Engineering Technical Society, and the General Motors ISEF Division. This Fayetteville High School senior was also presented a Third Award sponsored by the American Intellectual Property Law Association and the Grand Award from the Patent and Trademark Office/U.S. Department of Commerce. Eugene developed a system for the acquisition of three-dimensional images. The excellence of his project secured his slot as one of two winners of the Glenn T. Seaborg Nobel Prize Award. The recipients of this prestigious honor travel to Stockholm, Sweden, all ex-
penses paid, to attend the Nobel Prize ceremonies in December. I am extremely proud that this outstanding young man captured this top honor especially deserving of our recognition.

Mr. DURENBERGER. Mr. President, I am extremely proud that this outstanding young man captured this top honor especially deserving of our recognition.

In the 1960's and 1970's the public demand for recreation grew and the Federal Government responded by establishing over 125 new units of parks and recreation areas, setting aside bits and pieces of cities, rivers, lakes, hills, mountains, and plains to provide recreational opportunities for the American people. The demand for recreation continues today and it is outdoors where people are doing it. But the Federal Government's response is markedly different. We have come to appreciate the interpolation of an important idea by the establishment of Yellowstone National Park—the first of its type in the Nation—and perhaps the most important idea in its type in the world. You all know the story of the proliferation of the idea—to the point where now there are about 2,618 national parks and equivalent reserves in 137 nations of the world. "One of the greatest ideas we ever had," as I believe Wallace Stegner once said. "Certainly, it is one of the greatest and noblest causes to evolve in the history of humankind. And you—we—are a part of its continuation."

But we must not rest on our laurels. No sooner than the first national park was established as others sprang up, the problems of a building system, problems and threats to their ideals—to their integrity and welfare, became apparent. Clearly, the new laws should not solely govern the National Park Service and its guiding ideal, nor will the old laws or the new laws of the future provide complete safeguards. There will always be eternal vigilance springing from those guardians who care, and that is what is represented by those assembled here today."

I want to talk more about the Yellowstone situation later. But first I want to step back and share some thoughts on the new era. One of the greatest ideas we have ever had, the National Park Service, is with great pleasure and honor that I introduce to you, Mr. President, the brave new Director down at the National Park Service, William Penn Mott. He brings with him the wisdom of experience as well as new ideas—ideas on how to fulfill the Park Service's mandate in a new era. Mr. President, I ask that Mr. Mott's speech at Yellowstone National Park on June 8 be inserted into the Record.
purpose. The act is known well to most of you. Some of you know it by heart.

This being the case, I believe that most who have been through the National Park System—especially the regional directors—are generally agreed that the act boils down quite simply to some point of balance between preservation and public enjoyment. But that still doesn't totally solve the problem. What is the proper balance?

Let me say at the outset that there is an important part of that phrase which hasn't seemed, heretofore, to capture enough attention, and that is the last phrase which says, "...as will leave them unimpaired for the enjoyment of future generations." This phrase needs to be given much more weight in the equation, and by so doing, I want to say that I believe it means exactly what it says—unimpaired for future generations!

Which I translate simply to mean as stewards we must not and should not use up the resource or diminish its inherent natural and historic values. When in any doubt, we must err on the side of preservation. This is a crucially important statement! Be that the case, it should tell us something. The area's geology, in forms that relate to the historic beginning of the Park, must be absolutely assured that we are capable of supplying the appropriate use capacities of the resource that can be supplied. But we must be absolutely assured that we are operating, with no significant, and particularly no irretrievable, loss of resource quality.

There still remains a great challenge in the application of that magic "purpose" phrase of our Organic Act. We must identify the appropriate use capacities of the parks. But the till, if any, must be to the preservation side. If there is any doubt, until we are sure otherwise. I believe the National Park Service has a great and central challenge ahead in assuring that we manage our natural resources in such a manner as to assure that "we leave them unimpaired for the enjoyment of future generations," and I want to provide for public enjoyment for the resource that can be supplied. But we must be absolutely assured that we are operating, with no significant, and particularly no irretrievable, loss of resource quality.

Now I would appear to be totally naive if at this point I were to suggest that we can always provide for more use. But over-use now or in the future will not let us easily make up value that we have once lost. Character which, once gone, is irretrievable. Research can provide the data to establish the carrying capacity of a park limiting its use to protect its natural and cultural values. This is not to say that we cannot and should not provide for public enjoyment of the park. It is my heartfelt commitment to see the NPS provide for the greatest amount of high quality public enjoyment of the resource that can be supplied. But we must be absolutely assured that we are operating, with no significant, and particularly no irretrievable, loss of resource quality.

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the world just how desperate their situation has become. Over the last 10 years, Jewish emigration has dropped drastically. Today, it is virtually nonexistent. Imprisonment for petty or fabricated violations is on the rise. Harrassment and torture are widespread. False hopes for freedom are raised then cruelly destroyed.

Such is the case of the Berengut family from Baku, Russia’s fourth largest city. Three members of the family, Sam, Asya, and their 17-year-old son, Mark, applied for and were granted permission to leave Russia in 1981. They now reside in Memphis, Tennessee.

According to their plan, upon the safe exit of Sam and Asya, the Berenguts’ middle son, Boris and his wife Bachrus would apply for an exit visa. Boris and Bachrus are promising young physicians with one child. In the next stage of the plan Isya, 34, the Berenguts’ elder son, and his wife Katherine, both engineers, would apply for permission to leave Isya and Katherine have two children.

Upon the exit of Sam, Asya, and Mark, Boris and Bachrus applied for and received permission to emigrate. In order for Jews to leave Russia, they must secure an invitation from a first-degree relative in Israel. Israel is the only country to which Russian Jews may emigrate. Three members of this Jewish family aspiring to emigrate must give up their jobs and homes and take their children out of school. In anticipation of their spring departure, Boris and his wife relinquished their professional positions, took their son, Emil, out of school, and sold all their belongings, including furniture.

On April 6 their hopes were shattered. Permission to leave was revoked, without any explanation. Boris and Bachrus were told they would never be allowed to work in Russia again. Their son would not be allowed to continue in school. The family was left without any means of supporting themselves in an apartment without furniture. They survive with the help of Isya, the oldest son, and an aunt who brings them food and gives them money.

The Berengut case is tragic and is, sadly, not unique. It is up to us to alert the world to their plight and to many other people like them, struggling desperately to escape persecution and injustice.

The Berenguts’ application for emigration will be reviewed in September. I urge you to speak out on their behalf in hopes that this year may bring an end to their suffering.

TRIBUTE TO LYDIA VINS

Mr. D’AMATO. Mr. President, on May 19 of this year a brave and noble lady, Mrs. Lydia Vins, passed from our midst. Mrs. Vins was a leader in the Ukrainian Evangelical Baptist movement in the Soviet Union. For her defense of civil rights of Christians in her homeland, she spent 3 years, from 1971-74, in a labor camp. In 1979, she joined her son, Pastor Georgi Vins, in the United States after the United States expelled two Soviet agents for Pastor Vins and four other Soviet human rights activists.

In her new home in Elkhart, IN, Mrs. Vins continued her tireless efforts on behalf of her coreligionists in the Soviet Union. She was active in the International Representation for the Council of Evangelical Baptist Churches of the Soviet Union, founded by Pastor Vins. She also served as director of external representation for the Council of Prisoners’ Representatives, an organization that attempts to aid the families of evangelical Christians imprisoned for their faith in the Soviet Union. Even in her advanced years, Mrs. Vins traveled extensively in the United States drawing attention to the suffering of Christians in the Soviet Union. She worked tirelessly to expose the fraudulent facade of lofty pronouncements behind which Soviet authorities disguise the persecution of those citizens who continue to practice their religious faith.

Lydia Vins’ entire life was one of spiritual devotion and earthly trial. Her husband, Pastor Georgi Vins, was arrested three times in postrevolutionary Russia and finally disappeared in one of Stalin’s labor camps during the great terror of the late 1930’s. Her son, Georgi, served 3 years in a labor camp from 1966-69, another year at mandatory labor in 1970, and was sentenced in 1975 to a total of 10 years in prison camp and exile. Georgi’s eldest son, Peter, spent 10 years in a labor camp and having been a member of the Ukrainian Helsinki Monitoring Group and was beaten and threatened on several occasions by the Stasi.

Mr. President, the persecution of the Vins family and their endurance in the face of this persecution is but one chapter in the tragic experience of the Evangelical Baptist movement in the Soviet Union. It is, unfortunately, an unfamiliar chapter to most Americans. We hear too little of the fates of people like Pastors Gennady Kryuchov, Dmitri Minyakov, and Nikolai Baturin, or Vitaly Varavin and Mikhail Khorev, to name just a few. At last count, the Soviet Union had imprisoned more than 500 Evangelical Baptists.

Through the efforts of Lydia Vins and Pastor Georgi Vins, we have learned much of what we now know about the systematic Soviet persecution of Evangelical Baptists. Now, knowing, we must not remain silent. We must call the Soviet Government to account for these and many other violations of the religious and human rights provisions of the Helsinki accord, and we must demand that the Kremlin live up to past agreements before we accept their signatures on new ones.

The greatest possible tribute to Lydia Vins, in my opinion, would be to further the cause of religious freedom to the best of our ability, so that her dream that her countrymen may someday enjoy the exercise of this fundamental freedom may be realized. After all, if the leaders of the Soviet Union will not keep this basic promise they made to their own people when they signed the Helsinki Final Act, how credible can be any promises they make to us?

The Endangered Species Act

Mr. CHAFEE. Mr. President, one of my top priorities as chairman of the Subcommittee on Environmental Pollution is to have a bill extending the Endangered Species Act (ESA) to include the WSU salmon and steelhead and the WSU grizzly bear. The bear is the subject of some controversy in both the Yellowstone ecosystem and the northern ecosystem. The grizzly is classified under the ESA as a threatened species in the lower 48 States. Since the bear is the subject of some controversy in both the Yellowstone ecosystem and the northern ecosystem, I spent several days in Montana meeting and talking about grizzlies with experts from the U.S. Park, Fish and Wildlife Agency, as well as the Montana Fish and Wildlife Department. Representatives from environmental groups, backcountry guides, local landowners, ranchers, and fishermen all had the opportunity to explain how they thought the law was working and whether the grizzly bear is making a comeback in the northern ecosystem.

As you know, the goal of the ESA is recovery. After identifying a particular species as endangered or threatened, we work on improving the habitat and population of the species so that it can exist on its own without the need for management under the act. In contrast to what I discovered about grizzlies in the Yellowstone ecosystem 2 years ago, the grizzlies from Montana and the Northern Continental Divide ecosystem are encouraging. We are making significant progress.

The ability and willingness of people in that area to coexist with this majestic

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CONGRESSIONAL RECORD—SENATE 18261

July 9, 1985

PENTAGON PURCHASES

Mr. GOLDFWATER. Mr. President, much has been said on the floor of this Senate about the wasteful habits of the Pentagon and so much has been written in the Washington newspapers that I have not always agreed with, but I believe in order to pursue the article written by Mr. Fred Hiatt and Mr. Rick Atkinson, both of the Washington Post, on a subject explaining, in very thorough detail, exactly what has happened to the problems of the Pentagon as a result of some of these over-identified and over-publicized bad mistakes in buying.

No one can understand a $600 toilet seat; a $3,000 pair of pliers, or a $400 hammer. But, in reading this article that I am going to put into the Record, I ask that this article, from the Washington Post of July 4, 1985, be printed in the Record. The article follows:


The Pentagon faces in providing adequate defense. It is imperative that the Defense Department has to supply more than 20,000 pages of detailed justifications for the money requested. Piled atop that were 440 reports and 247 studies demanded by the National Security Council and the President for the 1985 defense budget. Congress asked for a list of priorities. First, the Defense Department had to supply more than 20,000 pages of detailed justifications for the money requested.

And over-publicized bad mistakes in detail, exactly what has happened to the Pentagon faces in providing adequate defense. It is imperative that the Defense Department has to supply more than 20,000 pages of detailed justifications for the money requested. Piled atop that were 440 reports and 247 studies demanded by the National Security Council and the President for the 1985 defense budget. Congress asked for a list of priorities. First, the Defense Department had to supply more than 20,000 pages of detailed justifications for the money requested.

The article follows:

TO PENTAGON, OVERSIGHT HAS BECOME A HAMMER.

(By Fred Hiatt and Rick Atkinson) Along with the Pentagon's wish list in the 1985 defense budget, Congress asked for a list of priorities. First, the Defense Department had to supply more than 20,000 pages of detailed justifications for the money requested. Piled atop that were 440 reports and 247 studies demanded by Congress on such national security issues as "Military Jacket Linings: Protection For Navy and Marine Corps Name and Insignia." "Hawaiian Milk," and the lyrical "Acquisition of Power Operated Collars for Use in Facilities Other Than Printing Plants."

Furthermore, before a dispirited Pentagon stopped counting in 1983, Defense Department officials had cataloged 1,453 hours of testimony before 91 congressional committees and subcommittees. During the last two years, defense officials have received 84,148 written queries from Capitol Hill and 592,150 telephone requests, numbers most government officials believe are on the rise.

As viewed from the Hill, Congress is more problem than solution in the controversial art of arming the armed forces. The Pentagon has to deal with 10 to 15 years. It's anarchy up there, total anarchy," Navy Secretary John F. Lehman Jr. said of Congress. 'It is by no means carrying out its constitutional responsibilities.'

Congress meddles in the defense of the United States to an extent unimaginable in the parlaments of other western democracies, dictating everything from the type of coal the military can burn to which engines can be overhauled and with what kind of fuel they will run. Many critics, including more than a few on Capitol Hill, believe that micromanagement of the military has cost billions of dollars and delayed Congress to scrutinize trees rather than forests, minutiae rather than the broader strategy of American defense.


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much greater cost," according to Pentagon documents.

The Senate version of the 1986 defense budget includes $60 million for 150 Captor mines, which is 150 more than the Navy requested, with the increase due to a Senate amendment by Sen. John Glenn (D-Ohio) insisting that the mine be included in the Senate's version of the defense bill. The Navy and Glenn's amendment assures that its 1,780 Captors on hand are enough. The Senate version, a total of $217 million, is $13 million more than the Senate Appropriations Committee's $204 million passed the extra money as a kind of inverse pork barrel because his constituents dislike the current communications system, a huge and intrusive thicket of wires and antennae called ELF running through vast stretches of the Michigan forest.

Davie hopes that by accelerating blue-green, he can render ELF (for extremely low frequency) obsolete; the Navy says that inventory. Captor mines are made in Akron. The Navy has informally proposed saving $100 million for research into a submarine communications system called blue-green laser. The Pentagon requested only $16 million. Rep. Robert W. Davis (R-Mich.) pushed the extra money as a kind of inverse pork barren because his constituents dislike the marine communications system called ELF. "I mean, the people in Michigan are all for ELF, but the Pentagon on an unchecked rampage." The forklift face-off

When the Founding Fathers designated Congress "to make rules for a government and regulation of the land and naval forces," it is doubtful they ever envisioned anything quite like the Air Force bomb loader. In the late 1970s, the Air Force began buying a glorified forklift to hoist nuclear bomb loads into B52 bombers. Because the B52 bomb loader "was expensive and was a maintenance nightmare," according to Air Force documents, Congress last year insisted the Air Force develop a new bomb loader, who would build the new bomb loader for the B1 and Stealth bombers. The Navy, which had compiled and found a "clear winner" in Pacific Car and Foundry, a firm in Washington State.

The Navy's bomb loader cost $100 million, while the Air Force's cost $125 million. The Senate Appropriations Committee, which doesn't count the independent contractors they hire to do the specific issues.

The competition was shut out, and the issue was not resolved in conference committee with the Senate later this summer.

I don't think it was the most burning issue to every committee," said Rep. Earl Hutto (D-Fla.), "but it's true that nobody wants a base closed." In fact, the Navy has taken extraordinary pains to block Pentagon efforts to close or scale down dozens of bases. Laws have been enacted to prohibit the closing of Fort DeRussy, a sandy patch west of Waikiki Beach in Honolulu, and the U.S. Naval Academy dairy farm.

Mr. HATCH. Mr. President, recently our country celebrated the 21-day period from Flag Day, June 14, to Independence Day, July 4, which had been set aside by a law signed by President Ford to honor America in public gatherings and activities at which the people can celebrate and honor their country in an appropriate manner." (Public Law 94–33.)

This past weekend, Americans everywhere had an opportunity to pay tribute to this country and the ideals for which it stands, and to pause and reflect for a moment upon the significance of our flag and our freedom.

Henry Ward Beecher wrote more than a century ago:

"A thoughtful mind when it sees a nation's flag, a sense of the flag only, but the nation itself; and whatever may be its symbols, its insignia, he reads chiefly in the flag the government, the principles, the truths, the history which belongs to the nation that sets it forth."

The flag which is so prominently displayed during this time of year has
always been the living symbol of our Nation and its people. The Stars and Stripes symbolize the 50 States in the Union and the Original Thirteen Colonies, but the true meaning of the flag is not found in its colors or patterns or fabric, but rather, in the historic legacy of the American people.

As Americans, we can be proud of our heritage. This country was founded upon the principles of freedom, liberty, and justice for all, and our Government was established as a government of the people, by the people, and for the people. Today, these same founding principles which guided the early colonists have made our Nation strong. Over the years—from the first shamrock to our early battles of the American Revolution to later battles fought in Europe, and on the seven seas—the flag has continued to represent a nation comprised of people who have never ceased in their devotion to liberty and freedom and truth. The flag has been a symbol for every generation which has marched and fought and died in order to preserve the sovereignty of this Nation.

As a child, I was thrilled to see the flag waving, as we sang the "Star Spangled Banner," at parades, ball games, and public gatherings. And today, I still have that same thrill here in Congress as I watch the flag flying over the Capitol and realize that as a governing body we are committed to what this country stands for: freedom, equality, opportunity, and most importantly, justice for all.

Our forefathers sacrificed everything to make sure we live in a land of freedom and choice. It is our responsibility to make sure this freedom and opportunity are preserved for our children and our children's children, and are made sure we live in the land of the free and the home of the brave.

W H I T E  H O U S E  M E E T I N G  O N  T H E  D E F I C I T

Mr. DOLE. Mr. President, I would just say as we leave that we had a very good discussion this afternoon at the White House. The distinguished minority leader and myself, the Speaker of the House, the distinguished majority leader, Mr. Wmorr, and the distinguished ranking Republican leader, Mr. Michael, were present. I believe we can correctly state that we left there with some feeling of optimism. But I would also indicate that when you put together a compromise, it is not together until it is together.

So far as this Senate is concerned, there was nothing agreed to. There were disagreements about Social Security COLA's, discussion about defense, the House numbers and the Senate numbers. I think it is fair to say there were statements by some who indicated they would not support COLA freezes, but I believe I correctly made the point that if we are going to talk about something being off the table, we have to find some way to substitute a portion of it, a rather significant portion of it.

I was encouraged by the meeting, when the President of the United States takes 1 hour and 45 minutes and the leaders of the Congress take 1 hour and 45 minutes to sit down and discuss the most important issue in this Nation, the deficit, and everybody comes out with a lot of good feeling. There were no agreements but not too many disagreements, though no positions were stated.

I hope all the conferences will be present tomorrow, all the conferences of the House and the Senate. I hope this is the beginning of a successful conclusion which will bring us meaningful deficit reduction without any increase in taxes. I am very optimistic that we can achieve that goal in the next 10 days.

Mr. President, I have just been reminded that we are going with the conferrees tomorrow.

O R D E R S  F O R  W E D N E S D A Y

OTOS FOR RECESSION UNTIL 11 A.M.

Mr. DOLE. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 11 a.m. tomorrow, Wednesday, July 10.

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

ORDER FOR RECOGNITION OF CERTAIN SENATORS

Mr. DOLE. Mr. President, I ask unanimous consent that following the two leaders under the standing order, it be ordered that the President pro tempore of the Senate from Wisconsin [Mr. Proxmire] and the Senator from California [Mr. Cranston] for not to exceed 15 minutes each.

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

ORDER FOR ROUTINE MORNING BUSINESS

Mr. DOLE. Following the special orders just identified, I ask unanimous consent that there be a period for the transaction of routine morning business not to extend beyond the hour of 12 noon with statements limited there in to 5 minutes each.

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

R E C E S S  U N T I L  T O M O R R O W  A T 1 1  A.M.

Mr. DOLE. Mr. President, there being no further business to come before the Senate, I move that, in accordance with the previous order, the Senate stand in recess until Wednesday, July 10, 1985, at 11 a.m.

The motion was agreed to, and the Senate, at 8:38 p.m., recessed until Wednesday, July 10, 1985, at 11 a.m.

N O M I N A T I O N S

Executive nominations received by the Senate July 9, 1985.

D E P A R T M E N T  O F  S T A T E

Thomas Michael Tolliver Niles, of the District of Columbia, a career member of the Senior Foreign Service, class of Minister Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Canada.

Joe M. Rodgers, of Tennessee, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to France.

I N  T H E  A I R  F O R C E

The following-named officer under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general


I N  T H E  A R M Y

The following-named officer to be placed on the retired list in grade indicated under the provisions of title 10, United States Code, section 1370:

To be lieutenant general


The following-named officers, under the provisions of title 10, United States Code, section 3037, for appointment as the Judge Advocate General and Assistant Judge Advocate General, respectively, U.S. Army, in the grade of major general:


I N  T H E  A I R  F O R C E

The following officers for Reserve of the Air Force (non/EAD) promotion in the grade indicated, under the provisions of section 6371, title 10, United States Code:

L I N E  O F  T H E  A I R  F O R C E

To be colonel

Anderson, Lawrence E., XXX-XXX-XXXX
Chalkley, Craig W., XXX-XXX-XXXX
Ford, Clayton H., XXX-XXX-XXXX
Gay, Roy C., XXX-XXX-XXXX
Goldsmith, Arnold S., XXX-XXX-XXXX
Gonzales, Bobbi L., XXX-XXX-XXXX
Harvey, John F., XXX-XXX-XXXX
Hurley, John A., XXX-XXX-XXXX
Lewin, William T., XXX-XXX-XXXX
Lee, Michael R., XXX-XXX-XXXX
Lorentz, Donald P., XXX-XXX-XXXX
Lucas, James W., XXX-XXX-XXXX
Lyle, Clayton B., XXX-XXX-XXXX
Marr, David R., XXX-XXX-XXXX
Mayhugh, Gilbert M., XXX-XXX-XXXX
Mclnerny, Robert A., XXX-XXX-XXXX
Putnam, Bobby R., XXX-XXX-XXXX

P R O G R A M

Mr. DOLE. At the hour of 12 noon under the provision of rule XXII, the Senate will begin a live quorum to be followed by a cloture vote on the motion to proceed to S. 995, South Africa. Rollcall votes can be expected throughout Wednesday's session in connection with S. 995, the African bill.
The following-named Reserve Officers' Training Corps, cadets for appointment in the Regular Army of the United States, in the grade of second lieutenant, under the provisions of title 10, United States Code, sections 531, 532, 533, 2106, and 2107:

- Algernissom, Francis E.
- Allison, James G.
- Alvareal, John G.
- Ames, Curtis L.
- Anallia, Anthony W.
- Arritt, Anthony C.
- Austin, Douglas R.
- Baird, Hal D.
- Baker, Christopher C.
- Baker, Douglas L.
- Ball, Shawn D.
- Baa, David E.
- Bates, Christopher A.
- Benavides, Joseph H.
- Besso, Michael J.
- Boddie, Joseph H., Jr.
- Boker, John E.
- Bonn, Bart D.
- Bowman, Robert V., Jr.
- Boyd, Leon S.
- Brayle, E. H.
- Bratina, Steven A.
- Brew, Mitchell E.
- Brewer, R. C.
- Brice, Victor J.
- Brown, Frederick
- Bucher, Richard A.
- Buchholz, Bruce A.
- Bullion, John W.
- Burton, Paul S.
- Butch, H. E.
- Butler, Mark L.
- Caddell, Scott J.
- Calender, Dean C.
- Calvo, Mark O.
- Cannon, Malcolm P., Jr.
- Carpio, Lawrence D.
- Carson, Charles A.
- Castrinos, Nicholas L.
- Centenari, Christina M.
- Cepeda, Paul G., Jr.
- Chance, Kenneth A.
- Chapa, Jose G.
- Christopher, Gordon.
- Coleman, Gerald P.
- Coley, David W.
- Colondres, Jose F., Jr.
- Conklin, Dary1.
- Conway, Jay A.
- Cooper, William B.
- Couch, Jeffrey S.
- Cox, Kathleen O.
- Crawford, Anthony F.
- Cruickshank, Steven J.
- Davis, Dina L.
- Dailey, Steven G.
- Darden, Darryl C.
- Davidson, Mark C.
- Deuel, Aliasa B.
- Dick, Michael G.
- Donnelly, Patrick
- Drayton, Anita M.
- Duffy, Colleen E.
- Dunham, James B.
- Duplessis, Kevin E.
- Durham, Stephen J.
- Dyke, Dwayne R.
- Encarnation, Carmen
- Feleine, Victoria J.
- Fennell, Michael D.
- Fisher, Dallen E.
- Fish, Roger C.
- Flowers, James P.
- Fost, Ronald A.
- Gambrel, Mary J.
- Gibba, Richard A.
- Godfrey, Michael
- Godfrey, Michael E.
- Hall, Bruce T.
- Hamm, Michael K.
- Hankins, Luther S.
- Harmo, Mark C.
- Hayden, Paul A.
- Haynes, Ronald N.
- Hearn, Stephen W.
- Henslow, Dexter Q.
- Hernandez, Steven P.
- Herring, Curtis W.
- Hickman, Kyle D.
- Higgins, William D.
- Hildebrand, Jay R.
- Hill, Alex E.
- Hiner, Frank P., Jr.
- Hinkle, John C.
- Holsworth, Donna M.
- Holt, Steven H.
- Hood, Thomas M.
- Hosman, David R., Jr.
- Hunt, Mark W.
- Hurst, Kenneth J.
- Hutchinson, Scott T.
- Ivey, Anthony L.
- Jackson, David M.
- Jackson, Edward A.
- Jaffee, Marilyn A.
- Jennings, Williams M.
- Jimenez, Maria
- Johnson, Barry A.
- Johnson, Thomas M.
- Jones, Dana L.
- Jones, Warren T.
- Jordan, Patrick F.
- Juthe, Phillip E.
- Kelley, Lan
- Kerr, Donald J.
- Kieffer, Chris M.
- Kim, Ben T.
- Kohl, Ernest R.
- Kuehl, Strep R.
- Landman, James J.

- Langford, Robert G.
- Laskey, Thomas J.
- Lavalier, Jeffrey S.
- Leadholm, Jane L.
- Lee, Bobby E., Jr.
- Leister, William F.
- Leong, Bobby D.
- Luck, Gary C.
- Lull, Kenneth J.
- Macartney, Stephen C.
- Mahoney, Michael T.
- Manners, Patrick M.
- Manning, Michael J.
- Markham, Ronald L.
- Martin, John P.
- Marx, Michael J.
- McCoy, John W.
- Mcmillen, Kyle M.
- McParland, Scott D.
- McKirrick, John H.
- McLaughlin, Steven J.
- McNamee, M.
- McPherson, Timothy B.
- Mitchell, Lance R.
- Montioh, Alexander E.
- Montizavas, Cet.
- Moon, Lawrence J.
- Moore, Clarence O.
- Moore, Gary C.
- Moore, Phillip E.
- Moore, Robert R.
- Morales, Robert
- Mountain, Matthew C.
- Mulford, Wayne W., Jr.
- Mulloy, Richard J.
- Murray, Brett D.
- Musgrove, Sean G.
- Neville, Paul R.
- Newton, Clayton T.
- Newton, Lester D.
- O'Day, Steven
- Odonell, Warren N.
- Ozoreski, Joseph M.
- Pak, Chinhak
- Park, Kevin J.
- Patrick, David T.
- Paugh, John D.
- Payne, Collin L.
- Pendergrass, Timothy
- Pfister, Jerald K.
- Phillips, David J.
- Ploof, Shawn M.
- Pirtle, Christine A.
- Pica, Romeo J.
- Poehlitz, Michael W.
- Presnell, Michael C.
- Pustorino, Anthony
- Quinton, Jimmy D.
- Rangel, Gary W.
- Rice, Patrick M.
- Richards, Timothy F.
- Riddle, Thomas C.
- Roberts, Brian F.
- Robertson, Dennis J.
- Robinson, John C.
- Robinson, Kenneth L.
- Ruhl, John E.
- Rush, Edward J.
- Ryan, John T.
- Salvitti, Olga
- Sawyer, Gregory
- Seal, Terrance C.
- Sether, Tod D.
- Shell, Andrew S.
- Shroudt, Ray L.
- Simmons, Gerald R.
- Smith, David F.
Brooks, David A.  
Brooks, Michael Keith  
Brown, Charles W.  
Bruce, Stephen Robert  
Brudelinde, Dennis Raymon  
Budd, James Garrett  
Burback, Brian Merritt  
Burr, Frederic Worthington  
Burroughs, Dennis Philip  
Buschbaum, Dennis E.  
Bussard, Clifford Barry  
Butler, Thomas Albert  
Bynum, Thomas Lee  
Cagle, Jerry Dwight  
Cahill, John J.  
Campbell, Bruce A.  
Capra, Robert Arthur  
Carlin, Stephen Robert  
Carroll, Patrick William  
Carlen, Philip Roy  
Carter, Joseph John, Jr.  
Casey, John Steven  
Chaney, David Allen  
Chespe, John R.  
Childress, George David, II  
Chichfeld, Jon L  
Clark, John Howard  
Clarke, Kathyrn Marie  
Closs, John William  
Colin, Donald Tucker  
Colquitt, Richard Edward, Jr.  
Coty Marshall  
Colton, Roy A.  
Comings, John Raymond  
Connell, Mary Kay  
Conner, Frankie Weldon  
Coolbaugh, Robert John  
Cooley, Byron Lester  
Cooker, Bruce D.  
Costa, John Nicholas Hantse  
Cox, Nolan Mackey  
Cru, Ramon Michael, Jr.  
Culhane, Edward Carroll  
Curtis, Grant Bradley, III  
Cusick, Stephen Kent  
Custer, Robert Christopher  
Damato, Charles Richard, Jr.  
Daniels, David Gray  
Davis, Gregory Evester  
Davis, John D.  
Davis, Leroy William, II  
Dean, Jeffrey Stuart  
Dergo, Charles Albert  
Derenik, Larry Perry  
Dibello, Michael Frank  
Diers, Kenneth A.  
Dies, Gregory Baldr  
Dipadova, Arthur Anthony  
Dixon, Gerald Arthur  
Dodge, Marvin Michael  
Doegee, Jack Brooke  
Doherty, James Edward, Jr.  
Donges, William H.  
Dorsch, Brian Vern  
Dorsey, Danny Eugene  
Downey, Philip Edward  
Dubinsky, Donald Dennis  
Durkee, Kenneth Grove  
Eckstrom, Richard Allan  
Elleson, Stephen D.  
Eills, Joseph C.  
Erickson, Charles Albert  
Esget, James Arthur  
Esteri, Charles Thomas  
Evans, James Tran  
Faanes, William K.  
Farquand, Thomas Walter  
Farrar, David Richard  
Faulder, Robert Carter  
Peleis, Emmet Donald  
Felt, William S., Jr.  
Pershing, Lance Collier, Jr.  
Pershing, James Lester  
Pershing, Jere Claude  
Ferranto, Dale Anthony  
Finch, Randal Craig  
Findley, Lawrence William  
Penser, Elphin Barrett  
Pisher, Raymond Theodore  
Polz, Peggy Diane  
Poust, Gary Lee  
Frame, Terrance Craig  
Francis, David Louis  
Francis, Robert MacKenzie  
Franklin, Nicholas William  
Fransen, Roger Allen  
Frants, Lamar  
Frazee, Ronald Leroy  
Frederick, Lance Andrew  
Freeman, Parker C.  
Fritz, Robert Wayne  
Fry, Richard Lee  
Gannon, Thomas Hugh, III  
Garcia, Frank Charles  
Garden, Bruce William  
Gardner, Brian Martin  
Gaskell, Michael Lee  
Gebhard, Robert Edward, Jr.  
Ged, Karl Edward  
Germann, Glenn Roger  
Gershon, David Lawrence  
Gibson, Richard Duval  
Glisson, Patrick Calvin, Jr.  
Glynn, William Charles  
Goodlatt, Peter R.  
Gorton, Grant John, II  
Gomas, James Allen  
Grant, George Michael  
Green, Gerald Lee Roy  
Gregory, Edward Alexander, Jr.  
Grimard, Gregory Paul  
Grinspoon, Alan Marshall  
Gross, Thomas M.  
Grosup, Richard K.  
Gunter, Wilkin J., Jr.  
Gunther, Donald Louis  
Hall, James Curtis  
Hansen, Philip Raymond  
Happ, David Richard  
Harrer, Max Warren  
Haris, Eldon D.  
Harris, Jodie R., Jr.  
Harris, Wade  
Hawkings, Charles Frederick  
Hawkins, Kenneth Bradley  
Hawley, Robert Lynman, Jr.  
Heath, Donald Edward  
Hebert, Joseph Nelo, III  
Hedman, Kent Sheldon  
Hess, Glenn E.  
Hichak, Michael Joseph  
Hiers, Charles Henry  
Hinz, Donald Eugene  
Hirsh, Louis Meyer  
Hodges, James Edward  
Hofer, Jeffrey Ritter  
Holcombe, James Lawson  
Holeva, Carl  
Holstrom, Marshall V.  
Hooper, James Ernest  
Horal, Brian John  
Howe, David Biais  
Hulsey, Frederick Robert  
Hunt, John Allen  
Hupp, Alfred Reector, Jr.  
Iura, Lee C.  
Hutchins, Stephen Cullen  
Hynes, Michael W.  
Jackson, David Allen  
Jackson, John Adriam  
Janiec, Jan David  
Johns, Joseph Howard  
Johnson, Delbert  
Johnson, Robert Borden  
Johnston, Phillip Lee  
Johnston, Steven A.  
Jones, James Morean, Jr.  
Jones, Roger Alan